MOCK MARKUP

EXECUTIVE COMMITTEE MEETING TO REVIEW AND MAKE RECOMMENDATIONS ON PROPOSED LEGISLATION IMPLEMENTING THE U.S.-SINGAPORE AND U.S.-CHILE FREE TRADE AGREEMENT

THURSDAY, JULY 10, 2003

U.S. Senate,

Committee on Finance,

Washington, DC.

The meeting was convened, pursuant to notice, at 9:08 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Charles E. Grassley (chairman of the committee) presiding.

Also present: Senators Hatch, Lott, Snowe, Thomas, Santorum, Smith, Bunning, Baucus, Conrad, and Lincoln.

Also present: Kolan Davis, Republican Staff Director and Chief Counsel; Jeffrey Forbes, Democratic Staff Director; Everett Eissenstat, Chief International Trade Counsel, Republican; Tim Punke, Chief International Trade Counsel, Democratic; Robert B. Zoellick, U.S. Trade Representative; John K. Veroneau, General Counsel, Office of the U.S. Trade Representative; and Carla Martin, Chief Clerk.

OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE

Senator Grassley. Good afternoon, everybody. I obviously welcome Ambassador Zoellick and other members of staff at the table to help us deal with the issue of the U.S.-Chile Free Trade Implementation acts and the U.S.-Singapore Acts.

These are the first two implementing bills the Finance Committee will be considering under trade promotion authority procedures which Congress approved just last year under the capable leadership of Chairman Baucus.

I understand that we have a limited amount of time. I also know that Senators have a lot of competing priorities. To address this, Senator Baucus and I have agreed, informally, among all the committee and committee office staff, to hold a vote on this procedure at 2:15 today, or as soon as we have a quorum.

So as soon as we reach a quorum, I am going to stop proceedings, move that the committee approve the committee's recommendations en bloc, and that we do that subject to modifications that may be voted on here at a later time. I do not expect any modifications, at least to my knowledge, right now.

At the heart of the TPA procedure is consultation. Here, I think President Bush, as well as his able assistant Ambassador Zoellick, have done a very good job. The Congress was closely consulted throughout the negotiation process of both agreements. The result is two solid trade agreements which the vast majority of the Congress should be able to support on a bipartisan basis.

There are a number of steps that the administration and Congress must now take to translate these trade agreements into law. So, we are talking about implementation. First, Congress and the administration need to work closely to develop legislation implementing the two trade agreements.

Under trade promotion authority procedures, the proposed bills must contain provisions approving the trade agreement in the Statements of Administrative Action proposed to implement the agreements.

Further, if changes to federal law are required to implement the agreements, these changes must be limited to only those laws which are necessary or appropriate to implement the agreements.

In my view, the standard of what constitutes necessary and appropriate should be narrowly construed. Trade promotion authority procedures alter the general structure under which the Senate considers legislation.

Trade promotion authority procedures are, in fact, very unique. Because they are unique, their use should be narrowly tailored. Following the consultation on the elements of implementing legislation, the proposed bill is submitted to the committees of jurisdiction for their informal review. This is where we are in the process right now.

While not required by trade promotion authority procedures, the Finance Committee has traditionally conducted this review in an open and public forum, and we are continuing that tradition today.

Today's review of the proposed implementing bills continues and concludes the consultative process which is truly at the heart of trade promotion authority. Once the committee's recommendations on the proposed implementing legislation are sent to the administration, the bills will be formally submitted to Congress for expedited consideration with an up or down vote.

It is our objective to complete consideration of both of these bills prior to the August recess. To facilitate the process, the committee staff has worked closely with legislative assistants from your personal offices to review the substance of bills in how trade promotion authority procedure works.

I trust your legislative assistants shared this

information with you, so I would hope that we would not need any questions of process or procedure.

In order to complete consideration of these implementing bills by August, the administration must formally submit these bills to Congress by next week. Once introduced, the bills will be formally reported by the Finance Committee. Thereafter, they will be considered by the full Senate.

At this point, I would like to call on Senator Baucus, and then we would follow with Ambassador Zoellick. Then following that, we would have staff provide some oral summaries of the implementing bills.

Senator Baucus?

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

Senator Baucus. Thank you very much, Mr. Chairman. I might, at the outset, note what a difference a year makes. One year ago this week, we were getting ready to get into the conference on the Trade Act of 2002, and I believe that our success last year in passing that landmark legislation helps make today's possible.

After the renewal of fast track authority, the Bush administration completed the Singapore and Chile negotiations begun by the Clinton administration. These are the first agreements to be held to the new and progressive standards included in last year's Trade Act.

By and large, I think the two agreements stack up fairly well against the negotiating objectives set out by Congress. They set a new standard as well in many areas.

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

The agreement will also eliminate the 10 percent tariff that puts American wheat growers at an artificial disadvantage when competing with Canadian growers for

sales in Chile.

Does that mean we now have a perfect text for every future agreement? No. There is always room for improvement in trade agreements. There is no one-size-fits-all solution, whether you are talking about agriculture, intellectual property, environmental standards, or services. But those, of course, are issues for another day.

Last month, we held a hearing to consider the Singapore and Chile agreements in some detail. Although the President has already signed both agreements, under U.S. law, they have no domestic force or effect until Congress enacts implementing legislation.

Today our task is to take a hard look at draft implementing bills for the two agreements that have been prepared by the administration in consultation with the committee staff.

As noted by you, Mr. Chairman, today's mark-up is not required by the Trade Act, but it is something the Finance Committee has traditionally done each time it considers implementing legislation for a trade agreement under fast track procedures.

Holding this mark-up, I believe, is critical. It makes the fast track process transparent. Although there are no amendments today, it is the only time committee

members can offer amendments.

I commend you, Mr. Chairman, for honoring this tradition, and, equally important, for opening up today's mark-up to the public. I think it sets the right tone for how we will consider the many future trade agreements now being negotiated.

The two bills before us today are very similar to each other and to the implementation acts for NAFTA and the U.S.-Jordan agreement. They are narrowly tailored to include only what is necessary or appropriate to implement the agreements. Where there are differences between the two bills, they reflect different negotiated outcomes of the two agreements.

I have worked hard to make sure these draft bills meet two criteria. First, I want to make sure the bills accurately reflect the agreements. Second, the bills need to preserve the prerogatives of Congress and this committee for trade policy.

One of my main concerns in the Singapore bill has been implementation of the Integrated Sourcing Initiative. I worked to make sure the bill narrowly reflects the purpose of IS and does not provide unintended benefits to third countries.

The bill achieves that goal by assuring that Congress will have a vote before the list of ISI products can be

expanded. I want to thank the USTR, and you, Mr. Chairman, for working with me to help come up with language that does that job.

One other concern in both bills has been the role of Customs. A few months ago, you, Mr. Chairman, and I came to a temporary agreement with the administration on how to divide authority over Customs between the Departments of Treasury and Homeland Security.

A process is in place to review the initial division of labor in the coming year, so it is critical that nothing in these bills changes the current division or supersedes the review process. Again, I appreciate your willingness, Mr. Chairman, and I also want to thank the administration, for working with us.

Finally, I did have some concerns about whether the ISI could create a loophole in our economic sanctions and global safeguard laws. I appreciate the administration's willingness to think creatively and come up with language in the Statement of Administrative Action that will help avoid those potential problems.

Thank you, Mr. Chairman. I see we are getting close to enough members for a vote. We should take advantage of it as soon as that moment arrives. Thank you.

The Chairman. In the meantime, then, we are going to call on Ambassador Zoellick to make his statement and

any sort of commentary he wants at this point.

STATEMENT OF ROBERT B. ZOELLICK, U.S. TRADE REPRESENTATIVE, WASHINGTON, DC

Ambassador Zoellick. Well, thank you very much, Mr. Chairman, Senator Baucus, and all the members of the committee. I know the focus today is on the legislation to implement this that the President will submit.

But I do just want to start by saying how much I appreciate the efforts of the Senators, their staff, Everet Eisenstat and Tim Punke, in particular. I think this is a good process. You gave us a lot of important ideas, and we really appreciate how this was put together.

I prepared a very brief overview paper that I thought may be of use for you just to have a good sense of what is in these various agreements. With respect to the Chairman's schedule, I just thought I would touch on it very briefly.

Before I do so, I just want to make sure all of you have had a chance to meet John Veroneau, who is the General Counsel of USTR, and also Ralph Ives, who was the negotiator of the Singapore agreement. Regina Vargo, who negotiated the Chile agreement is actually in Latin America right now working on the Free Trade Area of the Americas.

But, just very briefly, I think you have this document in front of you, I hope. In the case of Singapore, this is our first free trade agreement with an Asian nation.

Singapore was the twelfth largest trading partner of the United States in 2002, about $40 billion in two-way trade, more than $27 billion in foreign direct investment from the United States, and some very significant commercial interests in high tech, in services, and others.

Chile will be our first free trade agreement with----

The Chairman. Could you stop? [Laughter].

Senator Baucus. Boy, you got him cold. He just stopped right away.

The Chairman. I move that the committee approve the committee's recommendations en bloc for the proposed implementing bills for the U.S.-Chile and U.S.-Singapore free trade agreements, subject to any modifications that may be offered.

All those in favor, say aye.

[A chorus of ayes]

The Chairman. Those opposed, say no.

[No response]

The Chairman. The ayes seem to have it. The ayes do have it. The recommendations are approved.

Proceed, Ambassador Zoellick.

Ambassador Zoellick. I appreciate that interruption. Chile will be our first free trade agreement with a South America nation. Not only is it one of the most fast-growing economies in the world, but it is also a country that has recovered and reestablished a very strong democracy.

By a study that was done at the University of Michigan, the U.S.-Chile FTA expands the U.S. economy by some $4.5 billion. We are pleased that we have very broad support for these agreements for manufacturers, services, intellectual property, and agriculture.

A word on the consultative process. I appreciate the comments of both the Chairman and Senator Baucus. As you both mentioned, this is the first free trade agreement we established under TPA. We sought to strengthen the consultative procedures. I am sure we can always do better and wed will work with you to do so.

I will try to make sure we provide the draft text to the Congress and your staff before the negotiating rounds. We had some 250 meetings with members and staff and we now are using information technology to make sure we have a secure web site established to facilitate access.

We also work with some 700 cleared advisors on our

advisory committees and at the end of our negotiations we have daily teleconferences. We have a secure web site accessible for them. I am pleased that 31 or 32 advisory committees endorse both FTAs.

I know this is an issue that is important for a number of you, is the transparency. We were able to make the full text public, in the case of Singapore in early March, in Chile in early April.

These agreements really are ones that set a new course for the United States in that they are very comprehensive in scope, they are groundbreaking and state-of-the-art in many areas. They really promote transparency, not only in dispute resolution but in some of the Customs areas and services.

We think, with your guidance, we have come up with an innovative and constructive approach on labor and environment following the TPA guidelines.

Looking real briefly at Singapore first, on day one when the Congress passes this agreement, 100 percent of U.S. goods will have duty-free treatment. You can see what I noted on the page, there are a number of service sectors that are quite important for the United States, telecom, banking, insurance, express delivery retail distribution that gained significantly under this agreement.

In the area of intellectual property, we worked very closely with the industry to try to emphasize state-of-the-art provisions in trademarks, copyright, digital intellectual property, better enforcement.

In terms of transparency, one thing that is particularly novel, is all of us are used to the Administrative Procedures Act, so that if the government puts forward regulations you have to have notice and comment.

That obviously is not the way all countries do things. We have incorporated those principles so that, if they are going to change a regulation, they have to have notice, comment, ability to review, a court process.

Also, in the Customs area, particularly with Singapore, as Senator Baucus mentioned, we not only want to emphasize transparency, but we are able to do some things that help on both the business facilitation side and the homeland security side, I am pleased to note.

In the labor and environment area, we tried to strike the balance that was given us from the TPA guidance about trying to have provisions on labor and environment that do not allow a weakening for trade and investment purposes, but also a commitment to enforce their labor and environmental laws using an innovative process of monetary assessments.

In the case of the Chile agreement, it is very similar to the Singapore one, but obviously you customize each of these agreements for the circumstances. We will have more than 85 percent of our trade in consumer and industrial goods with Chile duty-free immediately and remaining tariffs phased out over four years.

I noted here, just for your reference, back home, some of the sectors that I think will get some particular benefits of this. We worked very closely with this committee, particularly given the number of your interests on the agricultural side.

We have more than 75 percent of U.S. farm goods that will enter Chile duty-free within four years. We noted some of the beneficiaries there: pork, beef, soybeans, durham wheat, feed grains, potatoes, other processed food products.

And something that I know is very important was that, since the European Union and Canada already have free trade agreements with Chile, we made sure that in every product line we do as well or better. Then, also, we have access to the Chilean services market.

The provisions in Chile on intellectual property and transparency are very similar. I would just note that, in addition, in Chile, we are able to achieve a criminalization of bribery issues for government

procurement, which is a goal we are trying to have for the overall hemisphere.

On the environment and labor issues, just one other particular observation. During the course of these negotiations, the Chilean government actually upgraded their labor laws from the old Pinochet era.

In the process, their legislature acknowledged that if we have the provisions that the United States was seeking, those upgraded laws would be subject to these provisions. We are also trying to work on the cooperative side in the environmental area.

So I will conclude, Mr. Chairman, by just thanking this committee as a whole. As Senator Baucus properly reminded us, we worked very hard to get this authority. Senator Lott played a critical role in getting this through the Congress, and we appreciate that. Now we are hoping to start to deliver this process and we have got others on the way. Thank you.

The Chairman. Thank you.

We will have a walk-through by Mr. Eisenstat, then we will have questions or any activity that the each of the members of the committee want to take.

Would you proceed?

Mr. Eisenstat. Yes. Thank you, Chairman Grassley, Ranking Member Baucus, and members of the committee. I

am pleased to have an opportunity to briefly summarize the administration's proposed implementing bills for the U.S.-Singapore and U.S.-Chile free trade agreements.

I will first provide a general overview of the implementing bills. I will then highlight some specific provisions of the bills.

In many ways, these bills are virtually identical. For expediency's sake, I will summarize both bills simultaneously, only departing from the joint summary to point out significant differences between the two bills.

First, an overview. Each bill is divided into four titles. Title 1 approves the bills and establishes the general proclamation authority for the President and the general regulatory authority for the administration to implement the agreements.

Title 2 contains changes to Customs law which are necessary or appropriate to implement the agreements.

Title 3 establishes the bilateral and textile safeguards which are part of the agreements. Title 4, which falls under the jurisdiction of the Judiciary Committee, implements U.S. commitments on the temporary entry of business persons.

That concludes the overview. I will now turn to some of the specific provisions of the bill.

Within Title 1, Section 101 provides for

Congressional approval of the agreements and their accompanying Statements of Administrative Action. Approval of the agreements and statements are necessary elements for the bills to qualify for trade promotion authority procedures.

Section 102 of the bills establishes the relationships of the agreements to federal and State law.

Section 103 authorizes the President to implement tariff modifications by proclamation, subject to the strict consultation and layover procedures which traditionally precede the President's use of this Congressional grant of authority.

Other sections in Title 1 authorize the administration to issue regulations to implement the agreements and to utilize investor-state dispute settlement procedures in particular contract claims.

Title 1 also authorizes the President to designate an office to provide administrative assistance to dispute settlement panels established under the agreements.

I will now turn to Title 2 and briefly summarize the Customs provisions of the proposed implementing bills.

Section 201 of Title 2 authorizes the President to implement, by proclamation, the continuation, modification, or elimination of tariffs, as the President determines to be necessary or appropriate, to carry out

the terms of the agreements.

Section 201 of the U.S.-Chile implementing bill contains additional authority for the Secretary of the Treasury to assess duties in accordance with the agricultural safeguard that is specific to the U.S.-Chile agreement.

Section 203 of the U.S.-Chile implementing bill phases out duty drawback in accordance with Article 3.8 of the U.S.-Chile agreement. There is no corresponding duty drawback phase-out in the U.S.-Singapore implementing bill because Singapore does not currently assess duties on imports.

The remaining sections of Title 2 of the Singapore and Chile implementing bills establish the rules of origin for goods to qualify for preferential treatment under the agreements, eliminate the merchandise processing fee for qualifying goods, establish parameters for the voluntary disclosure of incorrect information, authorize actions to be taken by the administration to enforce the textile and apparel rules of origin, and authorize the Secretary of the Treasury to prescribe regulations as may be necessary to carry out the Customs-related provisions of the agreements.

Title 3 of the Singapore and Chile implementing bills establish the bilateral and textile safeguards for the

agreements. Subtitle A of Title 3 sets forth procedures for the conduct of bilateral safeguard investigations by the International Trade Commission. Subtitle B of Title 3 sets forth procedures for the application of textile and apparel safeguard measures.

Section C of the Singapore implementing bill authorizes the President, in granting global safeguard relief in a Section 201 investigation, to exclude imports from Singapore when certain conditions are present. This exclusion provision is not present in the Chile implementing bill.

Finally, as mentioned before, Title 4 implements the temporary entry provisions of the agreements. Because these provisions are not within the jurisdiction of the Finance Committee, I will not elaborate on them further here.

Mr. Chairman, Ranking Member, that concludes my summary of the implementing bills. I would be happy to answer any questions that you might have. Thank you.

Senator Baucus. Thank you.

According to the list of arrival, Senator Thomas, do you have any questions?

Senator Thomas. Not really. I think it is very well done. I did have an inquiry about the sugar letter and I have not gotten a response on that yet. Could you

fill me in a little bit?

Ambassador Zoellick. Yes, Senator. I think we just got this at the end of last week. We will get you a written answer. But the issue that you were asking about was whether, in our negotiations in the Chile agreement, in particular whether the ability of Chile to export sugar was done on a net basis, in other words, preventing them, for example, to be able to import sugar from Brazil and then to be able to export sugar that they might have grown to the United States.

We did do that on a net basis. Indeed, we broadened it to the sweeteners as well. This is a problem that we encountered, obviously, in the case of NAFTA that we think we have remedied through this provision, but we will give you a written answer as well.

Senator Thomas. Thank you. I appreciate it.

Senator Baucus. I might say, too, that sugar is also important to a lot of folks in my State, and I would just urge you to watch that very closely.

I do not know that we have any other business before the committee. Let me just put us in temporary recess while I check with the Chairman, who is back in the other room here.

[Pause]

The Chairman. I want to thank Senator Baucus for

chairing for me while I was visiting with a high school student from Iowa. I have been told by Senator Baucus there are no further questions, so the meeting stands adjourned.

[Whereupon, at 2:32 p.m. the meeting was concluded.]

I N D E X

UNITED STATES SENATE
COMMITTEE ON FINANCE

Charles E. Grassley, Chairman

Thursday, July 10, 2003
2:00 p.m.
215 Dirksen Senate Office Building

Agenda for Business Meeting

Informal - "No transcript"

1. To review and make recommendations on proposed legislation implementing the U.S. - Singapore Free Trade Agreement.

2. To review and make recommendations on proposed legislation implementing the U.S. - Chile Free Trade Agreement.

U.S. SENATE COMMITTEE ON
Finance
SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN
http://finance.senate.gov

Opening Statement of Charles E. Grassley
Senate Finance Committee Consultative Consideration of
the U.S.-Singapore and U.S. Chile
Free Trade Agreement Implementation Acts
July 10, 2003

Good afternoon. Let me first welcome Ambassador Zoellick to the Finance Committee today. We appreciate your being here. Today we are reviewing two proposed bills – the U.S.-Singapore and the U.S.-Chile Free Trade Implementation Acts. These are the first two implementing bills the Finance Committee will be considering under the Trade Promotion Authority procedures which Congress approved last year. I understand we have a limited amount of time. I also know that senators have a lot of competing priorities today. To address this problem, Senator Baucus and I agreed, in informal discussions among all committee and personal office staff, to hold a vote on the Administration's proposal at 2:15 today, or as soon as we have a quorum. So, as soon as we reach a quorum, I will stop proceedings and move that the Committee approve the Committee's recommendations, subject to any modifications that we may vote on here. And I don't expect any modifications at this point.

At the heart of TPA procedures is consultation. Here I think President Bush and Ambassador Zoellick have done an admirable job. The Congress was closely consulted throughout the negotiating process on both agreements. The result is two solid trade agreements which the vast majority of the Congress should be able to support on a bipartisan basis. Now we turn to implementation. There are a number of steps the Administration and Congress must now take to translate these trade agreements into law. First, Congress and the Administration need to work closely to develop legislation implementing the two trade agreements. Under TPA procedures, the proposed bills must contain provisions approving the trade agreement and the Statements of Administrative Action proposed to implement the agreements. Further, if changes to federal law are required to implement the agreements, these changes must be limited to only those laws which are "necessary or appropriate" to implement the agreements.

In my view, the standard for what constitutes "necessary or appropriate" should be narrowly construed. TPA procedures alter the general structure under which the Senate considers legislation. TPA procedures are unique. Because they are unique their use should be narrowly tailored. Following consultation on the elements of the implementing legislation, the proposed bill is submitted to the committees of jurisdiction for their informal review. That is where we are in the process today. While not required by TPA procedures, the Finance Committee has traditionally conducted this review in an open and public forum. We are continuing that tradition here today.

Today's review of the proposed implementing bills continues and concludes the consultative process which is truly the heart of TPA. Once the Committee's recommendations on the proposed implementing legislation are sent to the Administration, the bills will be formally submitted to Congress for expedited consideration, followed by an up or down vote on each agreement. It is our objective to complete consideration of both of these bills prior to the August recess. To facilitate the process, the committee staff has worked closely with the legislative assistants from your personal offices to review the substance of the bills and how Trade Promotion Authority procedures work. I trust your legislative assistants shared this information with you, so I would hope we would not need any questions on process or procedures. In order to complete consideration of these implementing bills by August, the Administration must formally submit these bills to Congress by next week. Once introduced, the bills will be formally reported by the Finance Committee. Thereafter, they will be considered by the full Senate. At this point, we will hear from our Ranking Member Senator Baucus, followed Ambassador Zoellick. Following Ambassador Zoellick's remarks we will have staff provide an oral summary of the implementing bills.

Committee On Finance

Max Baucus, Ranking Member

NEWS RELEASE **http://finance.senate.gov**

For Immediate Release
Thursday, July 10, 2003

Contact: Laura Hayes
202-224-4515

U.S. SENATE FINANCE COMMITTEE
REVIEW OF U.S.-SINGAPORE AND U.S.-CHILE FREE TRADE AGREEMENT IMPLEMENTATION ACTS

I am pleased to be here this afternoon as we consider legislation to implement our Free Trade Agreements with Singapore and Chile. What a difference a year makes. One year ago this week, we were getting ready to head into conference on the Trade Act of 2002. Our success last year passing that landmark legislation makes today possible.

After the renewal of fast-track authority, the Bush Administration completed the Singapore and Chile negotiations begun by the Clinton Administration. These are the first agreements to be held to the new and progressive standards included in last year's Trade Act.

By and large, I think the two agreements stack up fairly well against the negotiating objectives set out by Congress. They set a new standard in many areas. 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 ten percent tariff that puts American wheat growers at an artificial disadvantage when competing with Canadian growers for sales in Chile.

Does that mean we now have the perfect text for every future agreement? No. There is always room for improvement in trade agreements. There is no one-size-fits-all solution – whether you are talking about agriculture, intellectual property, environmental standards, or services. But these are issues for another day.

Last month we held a hearing to consider the Singapore and Chile Agreements in some detail. Although the President has already signed both agreements, under U.S. law they have no domestic force or effect until Congress enacts implementing legislation.

Today our task is to take a hard look at draft implementing bills for the two Agreements that have been prepared by the Administration in consultation with Committee staff. Today's markup is not required by the Trade Act. But it is something the Finance Committee has traditionally done each time it considers implementing legislation for a trade agreement under fast-track procedures.

Holding this markup is critical. It makes the fast-track process transparent. Although there are no amendments today, it is the only time Committee Members can offer amendments. I want to commend Senator Grassley for honoring this tradition and – equally important -- for opening today's markup to the public. I think it sets the right tone for how we will consider the many future trade agreements now being negotiated.

The two bills before us today are very similar to each other and to the Implementation Acts for NAFTA and the U.S.-Jordan Agreement. They are narrowly tailored to include only what is necessary or appropriate to implement the agreements. Where there are differences between the two bills, they reflect different negotiated outcomes in the two agreements.

I have worked hard to make sure these draft bills meet two criteria. First, I want to make sure the bills accurately reflect the agreements. Second, the bills need to preserve the prerogatives of Congress and this Committee over trade policy.

One of my main concerns in the Singapore bill has been implementation of the Integrated Sourcing Initiative. I have worked to make sure the bill narrowly reflects the purpose of the ISI and does not provide unintended benefits to third countries. The bill achieves that goal by assuring that Congress will have a vote before the list of ISI products can be expanded. I want to thank USTR and Chairman Grassley for working with me to come up with language that does the job.

Another concern – in both bills – has been the role of Customs. A few months ago, Chairman Grassley and I came to a temporary agreement with the Administration on how to divide authority over Customs between the Departments of Treasury and Homeland Security.

A process is in place to review the initial division of labor in the coming year. So it is critical that nothing in these bills changes the current division or supersedes the review process. Again – I appreciate the willingness of Chairman Grassley and the Administration to work with me on this issue.

Finally, I had some concerns about whether the ISI could create a loophole in our economic sanctions and global safeguard laws. I appreciate the Administration's willingness to think creatively and come up with language in the Statement of Administrative Action that will help avoid potential problems.

I look forward to a strong vote here today on these draft bills. I stand ready to work with Chairman Grassley, our colleagues in the House, and the Administration to complete the fast-track process on these bills as quickly as possible.

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Statement of Senator Olympia Snowe
Finance Committee Mark-Up
Implementation of Chile and Singapore Free Trade Agreements
July 10, 2003

Mr. Chairman, thank you for calling this mark-up of implementing legislation for the pending Free Trade Agreements (FTA) with Singapore and Chile. Your willingness to follow this open and fair process is welcome. Congress and this Committee have a constitutional obligation to formulate U.S. trade policy and through the oversight activity of this Committee, and the active participation of the Congressional Oversight Group, this responsibility will be met.

It is well known that I have opposed trade agreements in the past. I did so because I never felt that those agreements struck the proper balance between free and *fair* trade. Last year, I supported Trade Promotion Authority for the President precisely because it *did* strike the appropriate balance, and because of this administration's commitment to aggressively enforce our trade laws so that American workers aren't undermined by unfair trade.

The two agreements before us today have made substantial progress towards meeting those concerns and they come not a moment too soon, as the success of our economy relies more than ever on fair and freer trade – U.S. exports accounted for one-quarter of U.S. economic growth over the past decade – nearly one in six manufactured products coming off the assembly line goes to a foreign customer – and exports support 1 of every 5 manufacturing jobs.

Given these facts, it is an understandable concern that the U.S. has been party to only three Free Trade Agreements ever, while there are more

than 130 worldwide. Since 1995, the WTO has been notified of 90 such agreements while the U.S. only reached one, the Jordan Free Trade Agreement. In contrast, the European Union (EU) has been particularly aggressive, having entered into 27 free trade agreements since 1990 and they are actively negotiating another 15.

Why should these facts raise concerns? Because every agreement made without us poses a threat to American jobs. Nowhere is this better exemplified than in Chile which signed a free trade agreement with Canada, Argentina and several other nations since 1997.

Since that time, the U.S. has lost *one-quarter* of Chile's import market, while nations entering into trade agreements more than captured our lost share. According to the National Association of Manufacturers (NAM), this resulted in the loss of more than $800 million in U.S. exports and 100,000 job opportunities.

One industry especially affected was U.S. paper products, which accounted for 30 percent of Chile's imports but has since dropped to only 11 percent after the trade agreements were signed. The market access provisions of the U.S.-Chile FTA provide for the elimination of tariffs on all forest products immediately upon implementation of the agreement, eliminating the 6% import tariff on U.S. paper and wood products.

Chilean forest products exports, in contrast, already enjoy duty-free access to the U.S. market. Immediate tariff elimination will put U.S. suppliers on equal footing with Chilean producers and with competing suppliers of forest products from Canada and Mercosur countries, and the European Union.

Before the Canadian-Chile FTA went into effect, U.S. paper and paperboard exports to Chile amounted to 156,000 metric tons, with a value

of $99 million and represented 30% of Chilean imports (in 1997). However, U.S. exports were only 19,000 metric tons, with a value of $26 million, which represented just 8.3 % of Chile's paper and paperboard imports last year. As a result of the tariff eliminations in this agreement, the U.S. paper industry will now be able to regain access to the Chilean market.

Chilean salmon has been a controversial issue in the past, but recent steps taken by both the Chilean salmon industry and the Maine salmon industry to work jointly on promoting the value of farm-raised salmon has alleviated this concern. The Maine salmon industry supports this agreement, which is monumental considering their past differences with Chile. I have heard from the Maine Aquaculture Association and Maine salmon producers like Heritage Salmon, which support this free trade agreement and look forward to future opportunities in the Chilean market. These two former rival industries have shown a deep understanding of how to evolve in the era of global trade.

Recognizing the potential effects on another industry in my state, USTR provided me with unequivocal assurances about its position on the unique concerns of rubber footwear, and New Balance has indicated to me that they are pleased that USTR has shown *sufficient sensitivity* to this industry in both the Chile and Singapore FTAs. The rubber footwear section of the agreement provides for six annual reductions of 5%, followed by three of 10% and a final one of 40%. This non-linear phase-out honors Ambassador Zoellick's commitment to me that the unique sensitivity of the rubber footwear industry would be reflected in agreements negotiated under Trade Promotion Authority.

Singapore represents Maine's second largest recipient of exports with almost $250 million in 2002, second only to our neighbor to the north. Most of these exports are from the strong semiconductor industry in Maine. I

have been told by this industry in my own state that they look forward to the closer economic ties that will be formed under the U.S.-Singapore FTA. Hopefully, the 135% growth in Maine exports to Singapore last year alone will continue under this FTA.

In addition, it is my hope that these agreements will offer new export opportunities for Maine agriculture. I have been told by Maine potato farmers and the Maine Farm Bureau that they support these agreements. While they would have preferred a more accelerated phase-out of some of the tariffs on agriculture exports to Chile, the industry hopes this agreement will allow Maine potatoes to regain some of their previous market-share in Chile that was lost after the Chilean FTA was signed with Canada.

As a result of these two agreements before us today, many industries stand to benefit, including the forest and paper, rubber footwear, salmon, lobster, agriculture, semiconductor, precision manufacturing, and electronic industries of my home state. Therefore, I am optimistic that these two agreements, based on this administration's comprehensive approach to FTA's, are sure to gain strong bipartisan support.

Under this administration, the U.S. approach to trade has greatly improved. However, I have several remaining concerns. While I am pleased by some of the steps taken by USTR to address the interests of small businesses, there is much more still to be done. In addition, while the improvements to Trade Adjustment Assistance have been welcome, I still believe we must address the needs of communities that have been negatively impacted by trade, so that retrained workers have new opportunities for employment.

I look forward to working with the Chairman and my colleagues to address these, and other, concerns and to continue our efforts to promote a

U.S. trade policy that benefits all Americans.

Thank you.

STATEMENT FOR SENATOR BUNNING
SENATE COMMITTEE ON FINANCE
Implementation of Free Trade Agreements with Singapore and Chile
10 July 2003

Thank you, Mr. Chairman.

As I have examined the details of the two agreements that are before us today, I have been quite pleased with one particular aspect of the agreements – that the rate of tariff reductions agreed to by each party are implemented on very similar and coordinated time schedules. This fact is in happy contrast to some previous trade agreements that I have had the opportunity to examine during my long Congressional career. All too often, I have found agreements that appear to grant full access to the strong and large American marketplace while limiting reciprocal access for American exports.

Important to my state of Kentucky is the fact that both of these agreements treat the exportation of tobacco products like other commodities. I was particularly please to see that the report of the Agricultural Technical Advisory Committee for Cotton, Peanuts, Planting Seeds and Tobacco, which included as a member Mr. Marshall Coyle representing the Kentucky Farm Bureau, found these agreements to be fair regarding tobacco trade. I hope and expect that this will continue to be the case with any other trade agreements that this Committee is asked to examine.

I was also pleased to see that, as part of this agreement, Chile has agreed to phase out its luxury tax on automobiles which I understand has been quite an impediment to American cars attempting to gain access to the Chilean market. As the representative of a state in which thousands of cars are built every year, I am looking forward to seeing these cars driving on the streets of Santiago, Puente Alto, and Antofagasta in the very near future.

I appreciate the efforts that the Administration has made to work closely with this Committee as the negotiation processes of these two agreements have developed during the last few months. As I have stated in the past, our trade representatives must continue to push for – and to require – market access for our exported goods. I expect this to be the over-reaching theme in all of our trade negotiations and it appears that the two agreements before us today meet this criteria. If, as expected, more free trade agreements come before this Committee over the coming months, I will examine each of them in light of this same criteria.

Thank you.

Statement of Everett Eissenstat
Chief International Trade Counsel
Senate Finance Committee Consultative Consideration of
the U.S.-Singapore and U.S.-Chile
Free Trade Agreement Implementation Acts
July 10, 2003

Thank you Chairman Grassley, Ranking Member Baucus, and Members of the Committee.

I am pleased to have an opportunity to briefly summarize the Administration's proposed implementing bills for the U.S.-Singapore and U.S.-Chile Free Trade Agreements.

I will first provide a general overview of the implementing bills.

I will then highlight specific provisions of the bills.

In many ways the bills are virtually identical.

For expediency's sake, I will summarize both bills simultaneously, only departing from the joint summary to point out significant differences between the two proposed bills.

First, an overview. Each bill is divided into four titles.

Title I approves the bills and establishes the general proclamation authority for the President, and the general regulatory authority for the Administration, to implement the Agreements.

Title II contains changes to customs law which are necessary or appropriate to implement the Agreements.

Title III establishes the bilateral and textile safeguards which are part of the Agreements.

Title IV, which falls under the jurisdiction of the Judiciary Committee, implements U.S. commitments on the temporary entry of business persons.

That concludes the overview. I will now turn to some specific provisions of the bills.

Within Title I, Section 101 provides for Congressional approval of the Agreements and their accompanying Statements of Administrative Action. Approval of the Agreements and Statements are necessary elements for the bills to qualify for Trade Promotion Authority procedures.

Section 102 of the bills establishes the relationship of the Agreements to federal and state law.

Section 103 authorizes the President to implement tariff modifications by proclamation, subject to the strict consultation and layover procedures which traditionally precede the President's use of this Congressional grant of authority.

Other sections in Title I authorize the Administration to issue regulations to implement the Agreements and to utilize investor-state dispute settlement procedures for some contract claims.

Title I also authorizes the President to designate an office to provide administrative assistance to dispute settlement panels established under the Agreements.

I will now turn to Title II and summarize the Customs provisions of the proposed implementing bills.

Section 201 authorizes the President to implement by proclamation the continuation, modification or elimination of tariffs as the President determines to be necessary or appropriate to carry out the terms of the Agreements.

Section 201 of the U.S.-Chile implementing bill contains additional authority for the Secretary of the Treasury to assess duties in accordance with the agricultural safeguard that is specific to the U.S.-Chile Agreement.

Section 203 of the U.S.-Chile implementing bill phases out duty drawback in accordance with Article 3.8 of the U.S.-Chile Agreement.

There is no corresponding duty drawback phase-out in the U.S.-Singapore implementing bill because Singapore does not assess duties on imports.

The remaining sections of Title II of the Singapore and Chile implementing bills:

establish the rules of origin for goods to qualify for preferential treatment under the Agreements;

eliminate the merchandise processing fee for qualifying goods;

establish parameters for the voluntary disclosure of incorrect information;

authorize actions to be taken by the Administration to enforce the textile and apparel rules of origin;

and authorize the Secretary of the Treasury to prescribe regulations as may be necessary to carry out customs-related provisions of the Agreements.

Title III of the Singapore and Chile implementing bills establish the bilateral and textile safeguard provisions of the Agreements.

Subtitle A of Title III sets forth procedures for the conduct of bilateral safeguard investigations by the International Trade Commission,

authorizes the President to provide relief under the bilateral safeguard provisions,

terminates the President's authority following appropriate transition periods,

and authorizes the President to provide trade compensation when the United States imposes relief through bilateral safeguard actions.

Subtitle B of Title III sets forth procedures for the application of textile and apparel safeguard measures.

Under the textile safeguard, determinations for relief will be made by the President, not the International Trade Commission. The Statement of Administrative Action provides that the Committee for the Implementation of Textile Agreements will make this determination.

Subtitle B also sets forth maximum periods of relief under the Agreements;

exempts articles from relief if relief has been previously granted under these safeguards;

and establishes the rate of duty on imports of textile and apparel articles after relief is terminated.

Subtitle C of the Singapore implementing bill authorizes the President, in granting global safeguard relief in a section 201 investigation, to exclude imports from Singapore when certain conditions are present. This exclusion provision is not present in the Chile implementing bill.

Finally, Title IV implements the temporary entry provisions of the Agreements. Because these provisions are not within the jurisdiction of the Finance Committee, I will not elaborate further on them here.

Mr Chairman, that concludes my summary of the implementing bills.

I will be happy to answer any questions that you, or the Members of the Committee, may have.

Thank you.

AMBASSADOR ROBERT ZOELLICK RESPONSES TO QUESTIONS SUBMITTED FOR THE RECORD BY SENATOR KENT CONRAD OF NORTH DAKOTA SENATE FINANCE COMMITTEE JULY 10, 2003

1. **Chile Sugar Provisions.** Ambassador Zoellick, as you well know, the details of trade agreements are critically important. I want to have on the record an understanding of how the sugar provisions in the Chile agreement work, so I have a series of questions on this issue.

First, my general understanding is that this agreement gives Chile preferential access to the US sugar market, but only if and to the extent that Chile has a net trade surplus in sugar. Is that correct?

More specifically, my understanding is that the agreement defines a net trade surplus in sugar as total exports of sugar, sugar containing products and high fructose corn sweetener minus total imports of these products, except that Chilean imports of HFCS from the US don't count. Is that correct?

Third, my understanding is that unless Chile has a net trade surplus in sugar, Chile will not get any preferential access under the agreement, and not just during the 12 year phase in, but in perpetuity. Is that correct?

Fourth, my understanding is that if Chile does have a net trade surplus in sugar, the agreement gives Chile up to 2000 tons of duty free access immediately, gradually increasing to up to 3258 tons in year 11 of the agreement. Is that correct?

Fifth, to the extent that Chile's net trade surplus is less than the TRQ limit, my understanding is that Chile's duty free access would be limited to the amount of its trade surplus in sugar. Is that correct?

Sixth, my understanding is that the agreement gradually reduces the over quota duty to 0 over the 12 year phase in period. Is that correct?

Seventh, my understanding is that this preferential over quota duty rate would be limited by the amount of Chile's net trade surplus, and any imports above this would be subject to the MFN rate. Is that correct?

Finally, after the end of the 12-year transition period, my understanding is that Chile's duty free access to the US would be limited to the amount of its net trade surplus in sugar. Is that correct?

Response:

With respect to trade in sugar and sugar-containing products (SCPs), we are pleased that we were able to reach agreement with Chile on provisions to address our industry's concern that the FTA not operate as a vehicle for the transshipment of sugar produced in third countries. Accordingly, each side agreed that its access to the other's market under the agreement will be limited to the amount of its net trade surplus in specified products.

Your understanding of these provisions is correct. To summarize:

During the transition period, Chile's duty-free access for specified sugar products and SCPs will be limited to the lesser of the specified in-quota quantity or the amount of Chile's net trade surplus. Chile's net trade surplus will be based on the difference between Chile's imports and exports of sugar, SCPs, and high fructose corn syrup (HFCS), not including imports of HFCS from the United States.

During the transition period, if Chile's net trade surplus exceeds the specified in-quota quantity, then a declining over-quota tariff will be applied on the amount by which the net trade surplus exceeds the specified in-quota quantity.

After the transition period, Chile's duty-free access will be limited to the amount of its net trade surplus.

During and after the transition period, any imports in excess of Chile's net trade surplus would be subject to our prevailing normal trade relations/most-favored-nation tariff rate.

2. **Implications for Other FTAs**. Ambassador Zoellick, I would also like to raise a concern I have regarding the implication of these sugar provisions for the other FTAs that are being negotiated. Frankly, Chile is a tiny producer of sugar, and it is extremely unlikely that it will ever be a net exporter of any significance. But the same is not true for Australia, Central America, South Africa, or Thailand, all of which are being considered for FTAs. The Chile provisions, if they were included in these other agreements, would devastate our sugar industry.

U.S. producers are highly efficient, and U.S. consumers enjoy some of the lowest prices in the developed world. The fact is that sugar is one of the most distorted commodity markets in the world, with subsidies, protected markets and all sorts of non-tariff, non-traditional barriers to free trade. Unless we address these issues on a global basis and eliminate these distortions, I fear that these FTAs will wipe out our efficient sugar industry to the benefit of less efficient, highly subsidized producers in other countries. Can you assure me that you do not intend to just take the Chile provisions and apply them to these other countries but will instead look to some other approach that takes into account the amounts of sugar these countries are capable of exporting into our country?

Response:

As reflected in the outcome of the Chile negotiations, we are sensitive to our industry's concerns. We recognize that each negotiating partner has a different capacity for trade in sugar, and we will continue to consult with our industry and Congress as we move forward in our other negotiations. We also remain strongly committed to addressing global distortions that affect sugar trade in the WTO negotiations, and we will continue to consult closely with Congress and the sugar industry on these issues.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

July 8, 2003

The Honorable Charles Grassley
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

Dear Chairman Grassley:

I am submitting for Senate Finance Committee consideration, the Administration's proposed Statement of Administrative Action required under section 2105(a)(1)C)(ii) for the United States - Singapore Free Trade Agreement.

Sincerely,

John K. Veroneau
General Counsel

cc: The Honorable Max Baucus

Draft [July 8, 2003; 4:20 pm]

THE UNITED STATES-SINGAPORE FREE TRADE AGREEMENT IMPLEMENTATION ACT

STATEMENT OF ADMINISTRATIVE ACTION

This Statement of Administrative Action is submitted to the Congress in compliance with section 2105(a)(1)(C) of the Bipartisan Trade Promotion Authority Act of 2002 ("TPA Act") and accompanies the implementing bill for the United States-Singapore Free Trade Agreement ("Agreement"). The bill approves and makes statutory changes necessary or appropriate to implement the Agreement, which the President signed on May 6, 2003.

This Statement describes significant administrative actions proposed to implement U.S. obligations under the Agreement.

In addition, incorporated into this Statement are two other statements required under section 2105(a) of the TPA Act: (1) an explanation of how the implementing bill and proposed administrative action will change or affect existing law; and (2) a statement setting forth the reasons why the implementing bill and proposed administrative action are necessary or appropriate to carry out the Agreement. The Agreement does not change the provisions of any agreement the United States has previously negotiated with Singapore.

For ease of reference, this Statement generally follows the organization of the Agreement, with the exception of grouping the general provisions of the Agreement (Chapters 1 and 19 through 21) at the beginning of the discussion.

For each chapter of the Agreement, the Statement describes the pertinent provisions of the implementing bill, explaining how the bill changes or affects existing law, and stating why those provisions are necessary or appropriate to implement the Agreement. The Statement then describes the administrative action proposed to implement the particular chapter of the Agreement, explaining how the proposed action changes existing administrative practice and stating why the changes are necessary or appropriate to implement the Agreement.

It should be noted that this Statement does not, for the most part, discuss those many instances in which U.S. law or administrative practice will remain unchanged under the Agreement. In many cases, U.S. laws and regulations are already in conformity with the obligations assumed under the Agreement.

Finally, references in this Statement to particular sections of U.S. statutes are based on those statutes in effect as of the date this Statement was submitted to the Congress.

Chapters:
One (Initial Provisions and Definitions)
Nineteen (Transparency)
Twenty (Administration and Dispute Settlement)
Twenty-One (General and Final Provisions)

1. Implementing Bill

a. Congressional Approval

Section 101(a) of the implementing bill provides Congressional approval for the Agreement and this Statement, as required by sections 2103(b)(3) and 2105(a)(1) of the TPA Act.

b. Entry into Force

Article 21.9 of the Agreement requires the United States and Singapore to exchange written notifications that their respective internal requirements for the entry into force of the Agreement have been fulfilled. The exchange of notifications is a necessary condition for the Agreement's entry into force. Section 101(b) of the implementing bill authorizes the President to exchange notes with Singapore to provide for entry into force of the Agreement on or after January 1, 2004. The exchange of notes is conditioned on a determination by the President that Singapore has taken measures necessary to comply with those of its obligations that take effect at the time the Agreement enters into force. Some provisions of the Agreement, such as certain rules pertaining to intellectual property rights, become effective at prescribed times after the Agreement's entry into force.

Article 5.10 of the Agreement contemplates that those provisions of the Agreement pertaining to trade in textile and apparel goods (*i.e.*, Chapter 5, as well as related provisions of other Chapters, including Chapter 2 (market access) and Chapter 3 (rules of origin)), may take effect after the date on which the Agreement enters into force. This article reflects an appreciation that special concerns surround trade in textile and apparel products and that particular care must be taken to ensure that officials have ample authority to detect, deter, and penalize fraudulent claims for preferential tariff treatment under the Agreement in this sector. In light of these concerns, the Agreement commits the two governments to consult for the purpose of ensuring that requisite legislation is in place before the Agreement's textile and apparel provisions take effect.

Before exchanging notes implementing the Agreement's textile and apparel provisions, the Administration will carefully assess whether Singapore has made requisite changes to its customs legislation to ensure that it fully satisfies Singapore's obligations under Chapter 5 and other pertinent provisions of the Agreement. In making that assessment, the

Administration will consult with the Congress and solicit advice from U.S. industry.

c. Relationship to Federal Law

Section 102(a) of the bill establishes the relationship between the Agreement and U.S. law. The implementing bill, including the authority granted to federal agencies to promulgate implementing regulations, is intended to bring U.S. law fully into compliance with U.S. obligations under the Agreement. The bill accomplishes that objective with respect to federal legislation by amending existing federal statutes that would otherwise be inconsistent with the Agreement and, in certain instances, by creating entirely new provisions of law.

Section 102(a) clarifies that no provision of the Agreement will be given effect under domestic law if it is inconsistent with federal law, including provisions of federal law enacted or amended by the bill. Section 102(a) will not prevent implementation of federal statutes consistent with the Agreement, where permissible under the terms of such statutes. Rather, the section reflects the Congressional view that necessary changes in federal statutes should be specifically enacted rather than provided for in a blanket preemption of federal statutes by the Agreement.

The Administration has made every effort to include all laws in the implementing bill and to identify all administrative actions in this Statement that must be changed in order to conform with the new U.S. rights and obligations arising from the Agreement. Those include both regulations resulting from statutory changes in the bill itself and changes in laws, regulations, rules, and orders that can be implemented without a change in the underlying U.S. statute.

Accordingly, at this time it is the expectation of the Administration that no changes in existing federal law, rules, regulations, or orders other than those specifically indicated in the implementing bill and this Statement will be required to implement the new international obligations that the United States will assume under the Agreement. This is without prejudice to the President's continuing responsibility and authority to carry out U.S. law and agreements. As experience under the Agreement is gained over time, other or different administrative actions may be taken in accordance with applicable law to implement the Agreement. If additional action is called for, the Administration would seek legislation from Congress or, if a change in regulation is required, follow normal agency procedures for amending regulations.

d. Relationship to State Law

The Agreement's rules generally cover state and local laws and regulations, as well as those at the federal level. There are a number of exceptions to, or limitations on, this general rule, however, particularly in the areas of government procurement, investment, and trade

in services.

The Agreement does not automatically "preempt" or invalidate state laws that do not conform to the Agreement's rules -- even if a dispute settlement panel were to find a state measure inconsistent with the Agreement. The United States is free under the Agreement to determine how it will conform with the Agreement's rules at the federal and non-federal level. The Administration is committed to carrying out U.S. obligations under the Agreement, as they apply to the states, through the greatest possible degree of state-federal consultation and cooperation.

Section 102(b)(1) of the bill makes clear that only the United States is entitled to bring an action in court in the event that there is an unresolved conflict between a state law, or the application of a state law, and the Agreement. The authority conferred on the United States under this paragraph is intended to be used only as a "last resort," in the unlikely event that efforts to achieve consistency through consultations have not succeeded.

The reference in section 102(b)(2) of the bill to the business of insurance is required by virtue of section 2 of the McCarran-Ferguson Act (15 U.S.C. 1012). That section states that no federal statute shall be construed to supersede any state law regulating or taxing the business of insurance unless the federal statute "specifically relates to the business of insurance." Certain provisions of the Agreement (for example, Chapter 10, relating to financial services) do apply to state measures regulating the insurance business, although "grandfathering" provisions in Chapter 10 exempt existing inconsistent (*i.e.*, "non-conforming") measures.

Given the provision of the McCarran-Ferguson Act, the implementing act must make specific reference to the business of insurance in order for the Agreement's provisions covering the insurance business to be given effect with respect to state insurance law. Insurance is otherwise treated in the same manner under the Agreement and the implementing bill as other financial services under the Agreement.

e. Private Lawsuits

Section 102(c) of the implementing bill precludes any private right of action or remedy against a federal, state, or local government, or against a private party, based on the provisions of the Agreement. A private party thus could not sue (or defend a suit against) the United States, a state, or a private party on grounds of consistency (or inconsistency) with the Agreement. The provision also precludes a private right of action attempting to require, preclude, or modify federal or state action on grounds such as an allegation that the government is required to exercise discretionary authority or general "public interest" authority under other provisions of law in conformity with the Agreement.

With respect to the states, section 102(c) represents a determination by the

Congress and the Administration that private lawsuits are not an appropriate means for ensuring state compliance with the Agreement. Suits of this nature may interfere with the Administration's conduct of trade and foreign relations and with suitable resolution of disagreements or disputes under the Agreement.

Section 102(c) does not preclude a private party from submitting a claim against the United States to arbitration under Chapter 15 (Investment) of the Agreement or seeking to enforce an award against the United States issued pursuant to such arbitration. The provision also would not preclude any agency of government from considering, or entertaining argument on, whether its action or proposed action is consistent with the Agreement, although any change in agency action would have to be consistent with domestic law.

f. Implementing Regulations

Section 104(a) of the bill provides the authority for new or amended regulations to be issued, and for the President to proclaim actions implementing the provisions of the Agreement, as of the date the Agreement enters into force. Section 104(b) of the bill requires that, whenever possible, all federal regulations required or authorized under the bill and those proposed in this Statement as necessary or appropriate to implement immediately applicable U.S. obligations under the Agreement are to be developed and promulgated within one year of the Agreement's entry into force. In practice, the Administration intends, wherever possible, to amend or issue the other regulations required to implement U.S. obligations under the Agreement at the time the Agreement enters into force. The process for issuing regulations pursuant to this authority will comply with the requirements of the Administrative Procedures Act, including requirements to provide notice and an opportunity for public comment on such regulations. If issuance of any regulation will occur more than one year after the date provided in section 104(b), the officer responsible for issuing such regulation will notify the relevant committees of both Houses of the delay, the reasons for such delay, and the expected date for issuance of the regulation. Such notice will be provided at least 30 days prior to the end of the one-year period.

g. Dispute Settlement

Section 105(a) of the bill authorizes the President to establish within the Department of Commerce an office responsible for providing administrative assistance to dispute settlement panels established under Chapter 20 of the Agreement. This provision enables the United States to implement its obligations under Article 20.2.1(a) of the Agreement. This office will not be an "agency" within the meaning of 5 U.S.C. 552, consistent with treatment provided under the North American Free Trade Agreement and the U.S.-Canada Free Trade Agreement. Thus, for example, the office will not be subject to the Freedom of Information Act or the Government in the Sunshine Act. Since they are international bodies, panels established under Chapter 20 are not subject to those acts.

Section 105(b) of the bill authorizes the appropriation of funds to support the office established pursuant to section 105(a).

h. Effective Dates

Section 107(b) of the bill provides that the first three sections of the bill as well as Title I of the bill go into effect when the bill is enacted into law. It also provides that section 205 of the bill, which authorizes special enforcement action relating to trade in textile and apparel goods, takes effect on the date on which the textile and apparel provisions of the Agreement take effect pursuant to Article 5.10 of the Agreement. This anticipates the possibility that the textile and apparel provisions may take effect after the Agreement enters into force, as discussed in item (b), above.

Section 107(a) provides that the other provisions of the bill and the amendments to other statutes made by the bill take effect on the date on which the Agreement enters into force. Section 107(c) provides that the provisions of the bill and the amendments to other statutes made by the bill will cease to be effective on the date on which the Agreement ceases to be in force.

2. Administrative Action

No administrative changes will be necessary to implement Chapter 1 or 21.

Article 19.2.1 of the Agreement requires each government to designate a contact point to facilitate bilateral communications regarding the Agreement. The Office of the United States Trade Representative (USTR) will serve as the U.S. contact point for this purpose.

Before the Agreement enters into force, the United States and Singapore will agree on a "Contingent List" of qualified individuals to chair dispute settlement panels if the FTA partners cannot agree on a chair. USTR will consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate as it develops the Contingent List.

Chapter Two (National Treatment and Market Access for Goods)

1. Implementing Bill

a. Proclamation Authority

Section 201(a) of the bill grants the President authority to implement by proclamation U.S. rights and obligations under Chapter 2 of the Agreement through the application or elimination of tariffs and tariff rate quotas. Section 201(a) authorizes the President to:

- modify or continue any duty,
- keep in place duty-free or excise treatment; or
- impose any duty

that the President determines to be necessary or appropriate to carry out or apply Articles 2.2, 2.5, 2.6, and 2.12, and Annex 2B of the Agreement

The proclamation authority with respect to Article 2.2 authorizes the President to provide for the phase-out and elimination, according to the U.S. schedule in Annex 2B, of tariffs on imports from Singapore that meet the Agreement's rules of origin.

The proclamation authority with respect to Articles 2.5 and 2.6 authorizes the President to provide for the elimination of tariffs on particular categories of imports from Singapore. Article 2.5 pertains to the temporary admission of certain goods, such as commercial samples, goods intended for display at an exhibition, and goods necessary for carrying out the business activity of a person who qualifies for temporary entry into the United States. Article 2.6 pertains to the importation of goods (1) that had been exported to Singapore for repair or alteration in Singapore, or (2) that have been imported from Singapore for repair or alteration in the United States.

The proclamation authority with respect to Article 2.12 authorizes the President to provide preferential tariff treatment to certain textile and apparel goods that do not qualify as "originating goods" (*i.e.*, products that satisfy the Agreement's rules of origin). However, this treatment may be applied only up to annual quantitative limits set forth in that article and the treatment will be phased-down and eventually eliminated over a nine-year period. While goods subject to this provision may receive preferential tariff treatment, they will remain subject to the U.S. merchandise processing fee when they are imported. (*See* item (b) in this section.)

Section 201(b) of the bill authorizes the President, subject to the consultation and

layover provisions of section 103(a) of the bill, to:

- modify or continue any duty;
- modify the staging of any duty elimination under the Agreement pursuant to an agreement with Singapore under Article 2.2.3;
- keep in place duty-free or excise treatment; or
- impose any duty

by proclamation whenever the President determines it to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Singapore provided by the Agreement.

Section 103(a) of the bill sets forth consultation and layover steps that must precede the President's implementation of any tariff modification by proclamation. This would include, for example, tariff modifications under section 201(b) of the bill. Under the consultation and layover provisions, the President must obtain the advice of the private sector (pursuant to section 135 of the Trade Act of 1974) and the U.S. International Trade Commission (ITC) on the proposed action. The President must submit a report to the House Committee on Ways and Means and the Senate Committee on Finance setting forth the action proposed, the reasons therefor, and the advice of the private sector and the ITC. The bill sets aside a 60-day period following the date of transmittal of the report for the Committees to consult with the President on the action. Following the expiration of the 60-day period, the President may proclaim the action.

The President may initiate the consultation and layover process under section 103(a) of the bill on enactment of the bill, but, under section 104(a), any modifying proclamation cannot take effect until the Agreement enters into force. In addition to tariff modifications, these provisions apply to other Presidential proclamation authority provided in the bill subject to consultation and layover, such as authority to implement a proposal to modify the Agreement's specific rules of origin pursuant to an agreement with Singapore under Article 3.18.4 of the Agreement.

Section 201(c) of the bill provides for the conversion of existing specific or compound rates of duty for various products to *ad valorem* rates for purposes of implementing the Agreement's tariff reductions. (A compound rate of duty for a good would be a rate of duty stated, for example, as the sum of X dollars per kilogram plus Y percent of the value of the good.)

b. Customs User Fee

Section 203 of the bill implements U.S. commitments under Article 2.8 of the Agreement, regarding customs user fees on originating goods, by amending section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c). The amendment provides for the immediate elimination of the merchandise processing fee for goods qualifying as originating goods under Chapter 3 of the Agreement. Processing of goods qualifying as originating goods under the Agreement will be financed by money from the General Fund of the Treasury. This is necessary to ensure that the United States complies with obligations under the General Agreement on Tariffs and Trade 1994 by limiting fees charged for the processing of non-originating imports to amounts commensurate with the processing services provided. That is, fees charged on such non-originating imports will not be used to finance the processing of originating imports.

2. Administrative Action

As discussed above, section 201(a) of the bill authorizes the President to proclaim duty-free treatment for certain goods to carry out Article 2.5 (temporary admission of certain goods) and Article 2.6 (repair or alteration of certain goods) of the Agreement. Implementing the proclamation will require regulations, which will be issued by the Secretary of the Treasury.

Chapter Three (Rules of Origin)

1. Implementing Bill

a. General

Section 202 of the implementing bill codifies the general rules of origin set forth in Chapter 3 of the Agreement. These rules apply only for the purposes of this bill and for the purposes of implementing the tariff treatment provided under the Agreement. An originating good of Singapore for the purposes of this bill would not necessarily be a product of or import from Singapore for the purposes of other U.S. laws or regulations.

Under the general rules, there are two basic ways for a good of Singapore to qualify as an "originating good," and therefore be eligible for preferential tariff treatment when it is imported into the United States. First, a good is an originating good if it is "wholly obtained or produced entirely in the territory of Singapore, the United States, or both." The term "goods wholly obtained or produced entirely in the territory of Singapore, the United States, or both" is defined in section 202(n)(4) of the bill and includes, for example, minerals extracted in either country, products from animals born and raised in either country, and waste and scrap derived from production of goods that takes place in the territory of either or both countries.

The term "goods wholly obtained or produced entirely in the territory of Singapore, the United States, or both" includes "recovered goods." These are parts resulting from the disassembly of used goods, which are brought into good working condition, in order to be combined with other recovered goods and other materials to form "remanufactured goods." The term "remanufactured goods" is separately defined to mean goods listed in Annex 3C of the Agreement that (1) are comprised entirely or partially of recovered goods; (2) have the same life expectancy and meet the same performance standards as new goods; and (3) enjoy the same factory warranty as such new goods.

Second, the general rules of origin provide that a good is an "originating good" if those materials used to produce the good that are not themselves originating goods are transformed in such a way as to cause their tariff classification to change or meet other requirements, as specified in Annex 3A of the Agreement.

In addition, Article 3.2 provides that a good listed in Annex 3B of the Agreement is considered to be an "originating good" if it is imported into the territory of the United States from the territory of Singapore. The goods listed in Annex 3B are information technology goods and certain other goods for which the current United States NTR/MFN duty rate is zero. Thus, imports of these goods into the United States would receive duty-free treatment regardless of origin. As "originating goods" under the Agreement, they also will be exempt from the merchandise processing fee. (*See* discussion under Chapter Two, above.)

The Agreement provides that a product listed in Annex 3B (an Integrated Sourcing Initiative or ISI product) is an "originating good" only if it is shipped from one Agreement Party to the other. If the product is shipped from a non-Agreement party to Singapore – but is not shipped between Singapore and the United States – it does not meet the criteria for treatment as an originating good under the Agreement. The ISI provisions of the Agreement do not affect the applicability of normal rules of origin, except in the limited situation of shipments between Singapore and the United States.

A product on the ISI list that is shipped from a non-Agreement country and used as an input for the manufacture of a final product (such as a machine tool) in Singapore does not count as originating for purposes of a regional value content (RVC) calculation. An ISI material, component, product, or other input does not attain originating status simply by being imported into Singapore or the United States. The only way that the ISI material, component, product, or other input would affect a RVC calculation would be if an ISI product from a non-Agreement party were first shipped to the United States, held there without undergoing any processing that would affect its treatment under the rules of origin, then is shipped to Singapore, and then manufactured there into a non-ISI good without undergoing any intermediate production steps that would affect treatment of the product under the rules of origin.

The remainder of section 202 of the implementing bill sets forth specific rules related to determining whether a good meets the Agreement's requirements under the second way to qualify as an originating good. For example, section 202(b) provides that a good is not disqualified as an originating good if it contains *de minimis* quantities of non-originating materials that do not undergo a tariff transformation. Section 202(d) implements provisions in Annex 3A of the Agreement that require certain goods to have at least a specified percentage of "regional value content" to qualify as "originating goods." Section 202(d) prescribes alternative methods for calculating regional value content. Other provisions in section 202 address valuation of materials and determination of the originating or non-originating status of fungible goods and materials.

b. Proclamation Authority

Section 202(o)(1) of the bill authorizes the President to proclaim the specific rules of origin in Annexes 3A, 3B and 3C of the Agreement, as well as any additional subordinate rules necessary to carry out the tariff provisions of the bill consistent with the Agreement. In addition, section 202(o)(2) gives authority to the President to modify certain of the Agreement's specific origin rules by proclamation, subject to the consultation and layover provisions of section 103(a) of the bill. (*See* discussion under item 1.a of Chapter Two, above.)

Various provisions of the Agreement expressly contemplate modifications to the rules of origin. Article 3.18.3 calls for the two governments to consider within six months of the Agreement's entry into force modifying Annex 3A (product-specific rules of origin) and Annex

3C (origin rules for remanufactured goods). In addition, Article 3.18.4(a)(i) calls for the United States and Singapore to consult at either government's request to consider whether rules of origin for particular textile and apparel goods should be revised in light of the availability of fibers, yarns, or fabrics in their respective territories.

Section 202(o)(2) of the bill expressly limits the President's authority to modify by proclamation specific rules of origin pertaining to textile and apparel goods (listed in Chapters 50 through 63 of Annex 3A of the Agreement). Those rules of origin may be modified by proclamation in only two circumstances: first, to implement an agreement with Singapore pursuant to Article 3.18.4(c) of the Agreement to address commercial availability of particular fibers, yarns, or fabrics; and second, within one year of enactment of the implementing bill, to correct typographical, clerical, or other non-substantive technical errors.

Section 202(o)(2) also precludes the modification by proclamation of provisions of Annex 3B of the Agreement (the ISI provisions).

c. Correction of Invalid Claims

Under Article 3.14.4(a) of the Agreement, neither government may impose a penalty on an importer who makes an invalid claim for preferential tariff treatment under the Agreement if, after discovering that the claim is invalid, the importer promptly and voluntarily corrects the claim and pays any duty owing. Article 3.14.4(b) provides for importers to have at least a one-year grace period after submitting an invalid claim in which to correct it.

Section 204 of the bill implements this requirement for the United States by amending section 592(c) of the Tariff Act of 1930 (19 U.S.C. 1592(c)).

2. Administrative Action

The rules of origin in Chapter 3 of the Agreement are intended to direct the benefits of tariff elimination under the Agreement principally to firms producing or manufacturing goods in Singapore and the United States. For this reason, the rules ensure that, in general, a product is eligible for benefits under the Agreement only if it is (1) wholly produced or obtained in one or both countries or (2) undergoes both substantial processing and substantial change in one or both countries.

a. Claims for Preferential Tariff Treatment

Section 206 of the bill authorizes the Secretary of the Treasury to prescribe regulations necessary to carry out the tariff-related provisions of the bill, including the rule of origin provisions. The Treasury Department will use this authority in part to promulgate any regulations necessary to implement the Agreement's provisions governing claims for preferential

treatment. Under Article 3.13.1 of the Agreement, an importer may claim preferential treatment for particular goods if the importer knows or possesses information that the goods satisfy the Agreement's rules of origin. Under Article 3.13.2, an importer may be requested to explain in writing the basis for its claim. Article 3.14 requires that a claim for preferential treatment be granted unless customs officials have information that the claim is invalid or the importer fails to satisfy the Agreement's origin rules. Article 3.14 also requires that a written determination, with factual and legal findings, be provided if a claim is denied.

b. Verification

Under Article 3.16, customs officials may use a variety of methods to verify claims that goods imported from Singapore satisfy the Agreement's origin rules. Similarly, Article 3.16 authorizes Singapore's customs authorities to conduct their own verification procedures, including by visiting exporter and producer facilities in the United States. Article 5.4 sets out special procedures for verifying claims that textile and apparel goods imported from Singapore meet the Agreement's rules of origin and for verifying the accuracy of "product of Singapore" markings for such goods.

Current U.S. law provides authority for U.S. customs officials to apply each of the verification procedures listed in Articles 3.16 and 5.4 of the Agreement. For example, section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) provides authority to examine records and issue summonses to determine liability for duty and ensure compliance with U.S. customs laws.

Regulations will be issued as necessary to describe (1) the procedures that U.S. officials will follow in using questionnaires, letters, or visits to conduct an origin verification of a Singaporean exporter or producer or (2) procedures for notifying the appropriate parties of a determination of origin and for applying that determination to current and future importations of identical goods. The procedures described in Articles 3.16 and 5.4 of the Agreement will be used to verify the applicable rate of customs duty for an "originating good" in accordance with the Agreement's origin rules.

Chapter Four (Customs Administration)

1. Implementing Bill

No statutory changes will be required to implement Chapter 4.

2. Administrative Action

a. Inquiry Point

Article 4.1.2 of the Agreement requires each government to designate an inquiry point for inquiries from interested persons on customs matters. The U.S. Bureau of Customs and Border Protection will serve as the U.S. inquiry point for this purpose. Consistent with Article 4.1.2, the U.S. Bureau of Customs and Border Protection will post information on the Internet at "www.cbp.gov" on how interested persons can make customs-related inquiries.

b. Advance Rulings

Treasury regulations for advance rulings under Article 4.3 of the Agreement (on classification, valuation, origin, and qualification as an "originating good") will parallel in most respects existing regulations in Part 177 of the Customs Regulations for obtaining advance rulings. For example, a ruling may be relied on provided that the facts and circumstances represented in the ruling are complete and do not change. The regulations will make provision for modifications and revocations as well as for delaying the effective date of a modification where the firm in question has relied on an existing ruling. Advance rulings under the Agreement will be issued within 120 days of receipt of all information reasonably required to process the application for the ruling.

Chapter Five (Textiles and Apparel)

1. Implementing Bill

a. Enforcement Against Circumvention

In addition to lowering barriers to trade in textile and apparel goods, the Agreement includes strict anti-circumvention provisions designed to deter false claims that textile and apparel goods are "originating goods" and false marking of such goods as "products of Singapore." Under Chapter 5 of the Agreement, the United States may impose trade penalties to combat circumvention of customs rules and procedures relating to trade in textile and apparel goods from Singapore. As defined in Article 5.11.1 of the Agreement, "circumvention" means "providing a false declaration or false information for the purpose of, or with the effect of, violating or evading" laws relating to trade in textile or apparel goods.

As set out in Articles 5.4.5, 5.5.5, and 5.8.2 of the Agreement, the United States may respond to circumvention and certain actions that impede the detection of circumvention by excluding textile and apparel shipments from particular producers or exporters, by denying preferential tariff treatment under the Agreement to specific textile or apparel goods, or by limiting imports of textile and apparel goods from Singapore more generally. In particular, the Agreement authorizes the United States to impose sanctions with respect to trade in textile and apparel goods in three circumstances.

First, under Article 5.4.5 of the Agreement, the United States may deny entry to textile or apparel goods produced or exported by a Singaporean enterprise, where a responsible person at that enterprise has refused permission for U.S. officials to conduct a site visit for purposes of verifying origin. The United States may continue to apply this sanction until U.S. officials determine that the enterprise's production of and capability to produce textile or apparel goods is consistent with claims that textile or apparel goods it produces or has produced are originating goods or products of Singapore.

Second, under Article 5.5.5(b) of the Agreement, the United States may deny entry to textile or apparel goods produced or exported by a Singaporean enterprise, where the United States finds that the enterprise has engaged in intentional circumvention. In the case of an initial finding, this sanction may apply for up to six months. In the case of a second finding, it may apply for up to two years. In the case of a subsequent finding, it may apply for up to two years, starting from the date on which any previous sanction expires.

Third, under Article 5.8.2 of the Agreement, where the United States and Singapore have engaged in consultations on circumvention, the consultations have failed to yield a mutually satisfactory solution, and the United States has presented to Singapore clear evidence that circumvention has occurred, the United States may impose two types of sanctions. It may

reduce the quantity of textile and apparel goods imported from Singapore by an amount up to three times the quantity of goods involved in the circumvention. Additionally, it may deny preferential tariff treatment to the goods involved in the circumvention, and it may deny such treatment (for up to four years) to any textile or apparel goods produced by an enterprise found to have engaged in such circumvention, including any successor of the enterprise and any other entity owned or operated by a principal of the enterprise that produces textile or apparel goods.

Authority to reduce the quantity of textile and apparel goods imported from Singapore in the circumstances described in Article 5.8.2 of the Agreement already exists under current law, in section 204 of the Agricultural Act of 1956 (7 U.S.C. 1854) as amended.

Authority to impose the other textile and apparel sanctions provided for in the Agreement is established in section 205 of the implementing bill. Section 205 provides the President with authority to apply these measures in the circumstances described in Chapter 5 of the Agreement. In particular, the new provision authorizes the President to bar textile and apparel goods from an exporter or producer that has engaged in intentional circumvention or refused permission for U.S. officials to conduct a verification visit at its facilities in Singapore. It also authorizes the President to take action against circumvention that has not been addressed through bilateral cooperation by denying preferential tariff treatment for the goods subject to the circumvention and for other textile and apparel goods produced by the enterprise found to have engaged in the circumvention (as well as any successor enterprise and any other entity owned or operated by a principal of the enterprise, if the principal also is a principal of the other entity).

b. Textile and Apparel Safeguard

Article 5.9 of the Agreement establishes a special procedure and remedies available to domestic textile and apparel industries that have sustained or are threatened by serious damage from imports of textile and apparel goods that enjoy preferential tariff rates under the Agreement. The Administration does not anticipate that the Agreement will result in injurious increases in textile and apparel imports from Singapore. Nevertheless, the Agreement's textile and apparel safeguard procedure will ensure that relief is available if needed.

The safeguard mechanism applies when, as a result of the reduction or elimination of a customs duty under the Agreement, textile or apparel goods from Singapore are being imported into the United States in such increased quantities, in absolute or relative terms, and under such conditions as to constitute a substantial cause of serious damage or actual threat thereof to a U.S. industry producing like or directly competitive products. In these circumstances, Article 5.9 permits the United States to suspend duty reductions on the imported goods or to increase duties on the goods to a level that does not exceed the lesser of the prevailing U.S. normal trade relations/most-favored-nation ("NTR/MFN") duty rate for the good or the U.S. NTR/MFN duty rate in effect at the time the Agreement entered into force.

Subtitle B of Title III of the bill (sections 321 through 328) implements the Agreement's textile and apparel safeguard.

Section 321(a) establishes that an interested party may file with the President a request for a textile and apparel safeguard measure. The President is to review a request initially to determine whether to commence consideration of the request on its merits. If the President determines that the request contains information necessary to warrant consideration on the merits then, under section 321(b), the President must provide notice in the *Federal Register* stating that the request will be considered and seeking public comments on the request. The notice will contain the request itself and the dates by which comments and rebuttals must be received.

If the President considers a request under section 321, section 322(a) of the bill provides for the President to determine, pursuant to a request by an interested party, whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Singaporean textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions that imports of the article constitute a substantial cause of serious damage or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article. This determination corresponds to the determination required under Article 5.9.1 of the Agreement.

Section 322(a) of the bill includes criteria for determining serious damage or actual threat thereof, consistent with Article 5.9.2 of the Agreement. It also includes a definition of "substantial cause," consistent with Article 5.9.8(a) of the Agreement.

Section 322(b) of the bill identifies the relief that the President may provide to a U.S. industry that the President determines is facing serious damage or actual threat thereof. Such relief may consist of a suspension of tariff reductions or an increase in tariffs to the lower of: 1) the NTR/MFN duty rate in place for the textile or apparel article at the time the relief is granted; or 2) the NTR/MFN duty rate for that article on the day before the Agreement enters into force.

Section 323 of the bill provides that the initial period of relief under the textile and apparel safeguard shall be no longer than two years. That period may be extended if the President determines that an extension is necessary to remedy or prevent serious damage and to facilitate adjustment, and that the domestic industry is, in fact, adjusting to import competition. The total period of relief, including any extension, may not exceed four years.

Section 324 of the bill provides that relief may not be granted to an article under the textile and apparel safeguard if relief previously has been granted to that article under this safeguard.

Section 325 of the bill provides that the duty rate applicable to a textile or apparel article after a safeguard expires will be the duty rate that would have been in force on that date, but for application of the safeguard.

Section 326 of the bill provides that authority to provide relief under the textile and apparel safeguard will expire ten years after the textile and apparel provisions of the Agreement take effect pursuant to Article 5.10 of the Agreement.

Under Article 5.9.5 of the Agreement, if the United States provides relief to a domestic industry under the textile and apparel safeguard, it must provide Singapore "mutually agreed trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the [safeguard]." If the United States and Singapore are unable to agree on trade liberalizing compensation after 30 days of consultations, Singapore may take countermeasures (*i.e.*, increase tariffs) on U.S. textile and apparel articles. However, Singapore may not exercise that right during the first 24 months that a textile and apparel safeguard measure is in place, provided that measure has been imposed due to an absolute (as opposed to relative) increase in imports of the subject article.

Section 123 of the Trade Act of 1974 (19 U.S.C. 2133), as amended, authorizes the President to provide trade compensation for global safeguard measures taken pursuant to chapter 1 of title II of the Trade Act of 1974. Section 327 of the implementing bill extends that authority to measures taken pursuant to the Agreement's textile and apparel safeguard provisions.

Finally, section 328 of the bill provides that business confidential information submitted in the course of consideration of a request for a textile and apparel safeguard may not be released absent the consent of the party providing the information. It also provides that a party submitting business confidential information in a textile and apparel safeguard proceeding must submit a non-confidential version of the information or a summary of the information.

2. Administrative Action

a. Enforcement Against Circumvention

The Committee for the Implementation of Textile Agreements ("CITA"), an interagency entity created by Executive Order 11651 that carries out certain textile trade policies for the United States, will exercise the authority to impose sanctions established in section 205 of the implementing bill and in current U.S. law. Where customs officials find that a Singaporean enterprise has engaged in circumvention or failed to cooperate in a verification, they will refer the matter to CITA, which will determine the appropriate response (*e.g.*, denial of preferential tariff treatment, denial of entry, or other sanction authorized under the Agreement and U.S. law), after consultations with the Government of Singapore and instruct U.S. customs officials

accordingly.

b. Textile and Apparel Safeguard

The function of receiving requests for textile and apparel safeguard measures under section 321 of the bill, making determinations of serious damage or actual threat thereof under section 322(a), and providing relief under section 322(b) will be performed by CITA, pursuant to a delegation of the President's authority under the bill.

Chapter Six (Technical Barriers to Trade)

1. Implementing Bill

No statutory changes will be required to implement Chapter 6.

2. Administrative Action

Article 6.2.2 of the Agreement calls for each government to designate an official to coordinate with interested parties in its territory on bilateral cooperative initiatives regarding technical barriers to trade ("TBT") and to communicate with the other government on such matters. An official of the Office of the United States Trade Representative responsible for TBT matters or trade relations with Singapore will serve as the U.S. Chapter 6 coordinator.

Article 6.3.1 of the Agreement calls for each government to take steps to implement Phase I and Phase II of the APEC Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment with respect to the other Party. To fulfill U.S. obligations under the article, the Office of the United States Trade Representative will enter into an exchange of letters with the Government of Singapore specifying procedures to be followed for the mutual acceptance of test data from each country.

Chapter Seven (Safeguards)

1. Implementing Bill

Subtitle A of Title III of the bill implements in U.S. law the bilateral safeguard provisions set out in Chapter 7 of the Agreement. Subtitle C of Title III of the bill implements the global safeguard provisions in Chapter 7 of the Agreement. (As discussed under Chapter Five, above, Subtitle B of Title III of the bill implements the textile and apparel safeguard provisions of Chapter 5 of the Agreement.)

a. Bilateral Safeguard Measures

Sections 311 through 316 of the bill authorize the President, after an investigation and affirmative determination by the U.S. International Trade Commission ("ITC"), to suspend duty reductions or impose duties temporarily at NTR/MFN rates on "Singaporean articles" when, as a result of the reduction or elimination of a duty under the Agreement, the article is being imported into the United States in such increased quantities and under such conditions as to be a substantial cause of serious injury or threat of serious injury to a domestic industry that produces a like or directly competitive product. The standards and procedures set out in these provisions closely parallel the procedures set forth in sections 201-204 of the Trade Act of 1974.

Section 301(2) defines the term "Singaporean article" for purposes of the safeguard provisions to mean a good qualifying as an "originating good" under section 202(a) of the bill.

Section 301(3) defines the term "Singaporean textile or apparel article" as an article listed in the Annex to the WTO Agreement on Textiles and Clothing that is also a Singaporean article, as defined in section 301(2).

Section 311 provides for the filing of petitions with the ITC and for the ITC to conduct bilateral safeguards investigations. Section 311(a) provides that a petition requesting a bilateral safeguard action may be filed with the ITC by an entity that is "representative of an industry." As under section 202(a)(1) of the Trade Act of 1974, the term "entity" is defined to include a trade association, firm, certified or recognized union, or a group of workers.

In addition, section 311(a) permits a petitioning entity to request provisional relief as if the petition had been filed under section 202(a) of the Trade Act of 1974.

Section 311(a) requires that any claim of "critical circumstances" with respect to a surge of imports from Singapore be included in the petition for relief. A claim of critical circumstances is a necessary element in a claim for provisional relief under Article 7.3 of the Agreement. It also is a necessary element in a claim for provisional relief under section

202(d)(2) of the Trade Act of 1974, which is made applicable to bilateral safeguards under the Agreement through section 311(c) of the bill.

Section 311(b) sets out the standard to be used by the ITC in undertaking an investigation and making a determination in bilateral safeguard proceedings.

Section 311(c) makes applicable by reference several provisions of the Trade Act of 1974. These are the definition of "substantial cause" in section 202(b)(1)(B), the factors listed in section 202(c) applied in making determinations, the provisional relief provisions in section 202(d), the hearing requirement of section 202(b)(3), and the provisions of section 202(i) permitting confidential business information to be made available under protective order to authorized representatives of parties to a safeguard investigation.

Section 311(d) exempts from investigation under this section Singaporean articles that have been the basis previously for according relief to an industry, after the Agreement's entry into force, under: the bilateral safeguard provisions; the textile and apparel safeguard provisions set out in Subtitle B of Title III of the bill; the global safeguard provisions in chapter 1 of title II of the Trade Act of 1974; Article 6 of the WTO Agreement on Textiles and Clothing; or Article 5 of the WTO Agreement on Agriculture.

Section 312(a) establishes deadlines for ITC determinations following an investigation under section 311(b). The ITC must make its injury determination within 120 days of the date on which it initiates an investigation (or 180 days if critical circumstances are alleged).

Section 312(b) makes applicable the provisions of section 330(d) of the Tariff Act of 1930, which will apply when the ITC Commissioners are equally divided on the question of injury or remedy.

Under section 312(c), if the ITC makes an affirmative determination under section 312(a), it must find and recommend to the President the amount of import relief that is necessary to remedy or prevent the serious injury and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The relief that may be recommended by the ITC is limited to that authorized in section 313(c). Similar to procedures under the global safeguards provisions in current law, section 312(c) of the bill provides that only those members of the ITC who agreed to the affirmative determination under section 312(a) may vote on the recommendation of relief under section 312(c).

Under section 312(d), the ITC is required to transmit a report to the President not later than 30 days after making its injury determination. The ITC's report must include: the ITC's determination under section 312(a) and the reasons therefor; if the determination under section 312(a) is affirmative or may be considered to be affirmative by the President, any

findings and recommendations for import relief and an explanation of the basis for each recommendation; and any dissenting or separate views of ITC Commissioners. Section 312(e) requires the ITC to publish its report promptly and to publish a summary of the report in the Federal Register.

Under section 313(a) of the bill, the President is directed, subject to section 313(b), to take action not later than 30 days after receiving a report from the ITC containing an affirmative determination or a determination that the President may consider to be an affirmative determination. The President must provide import relief to the extent that the President determines is necessary to remedy or prevent the injury found by the ITC and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. Under section 313(b), the President is not required to provide import relief if the President determines that the relief will not provide greater economic and social benefits than costs.

Section 313(c) sets forth the nature of the relief that the President may provide. In general, the President may take action in the form of:

- a suspension of further reductions in the rate of duty to be applied to the articles in question; or

- an increase in the rate of duty on the articles in question to a level that does not exceed the lesser of the existing NTR/MFN rate or the NTR/ MFN rate of duty imposed at the time the Agreement entered into force.

If the relief the President provides has a duration greater than one year, the relief must be subject to progressive liberalization at regular intervals over the course of its application.

Section 313(d) provides that the initial period for import relief under the bilateral safeguard will not exceed two years. The President may extend the period of import relief if the President determines that continuation of relief is necessary to remedy or prevent serious injury and to facilitate adjustment to import competition, and that there is evidence that the industry is making a positive adjustment to import competition. That determination must follow an affirmative determination by the ITC to the same effect. However, the aggregate period of import relief, including extensions, may not exceed four years.

Section 313(e) specifies the duty rate to be applied to Singaporean articles after termination of a bilateral safeguard action. It provides that the rate of duty shall be the rate that would have been in effect on the date of termination of the action, but for the safeguard action.

Section 314 provides that the President's authority to take action under the bilateral safeguards provision expires ten years after the date on which the Agreement enters into force. The President may take action under the bilateral safeguards provision after the ten-year

period, but only to the extent the President determines that the Government of Singapore consents.

Section 315 allows the President to provide trade compensation to Singapore, as required under Chapter 7 of the Agreement, when the United States imposes relief through a bilateral safeguard action. Section 315 provides that for purposes of section 123 of the Trade Act of 1974, which allows the President to provide compensation for global safeguards, any relief provided under section 313 will be treated as an action taken under the global safeguard provisions of U.S. law (sections 201-204 of the Trade Act of 1974).

Section 316 amends section 202(a) of the Trade Act of 1974 to provide that the procedures in section 332(g) of the Tariff Act of 1930 with respect to the release of confidential business information are to apply to bilateral safeguard investigations.

The Administration has not provided classified information to the ITC in past safeguard proceedings and does not expect to provide such information in future proceedings. In the unlikely event that the Administration provides classified information to the ITC in such proceedings, that information would be protected from publication in accordance with Executive Order 12958.

b. Global Safeguard Measures

Section 331 of the bill implements the global safeguard provisions of Article 7.5 of the Agreement. It authorizes the President, in granting global import relief under sections 201-204 of the Trade Act of 1974, to exclude imports from Singapore when certain conditions are present.

Section 331(a) requires the ITC to make special findings with respect to imports from Singapore if the ITC makes an affirmative determination in a global safeguard investigation under section 202(b) of the Trade Act of 1974. In that case, the ITC must find and report to the President whether imports from Singapore are a substantial cause of serious injury or threat thereof. Under section 331(b), if the President in turn finds that imports from Singapore are not a substantial cause of serious injury, the President may exclude imports from Singapore from a global safeguard action. The term "imports from Singapore" as used in this section differs from the terms "originating good" and "Singaporean article" used elsewhere in the implementing bill. The Administration intends to interpret "imports from Singapore" in the same manner as it interprets "imports from Jordan" as provided in section 221 of the United States-Jordan Free Trade Area Implementation Act and "imports from a NAFTA country" as provided in section 312 of the NAFTA Implementation Act.

2. <u>Administrative Action</u>

No administrative changes will be required to implement Chapter 7.

Chapter Eight (Cross-Border Trade in Services)

No statutory or administrative changes will be required to implement Chapter 8.

Chapter Nine (Telecommunications)

No statutory or administrative changes will be required to implement Chapter 9.

Chapter Ten (Financial Services)

No statutory or administrative changes will be required to implement Chapter 10.

Chapter Eleven (Temporary Entry of Business Persons)

1. Implementing Bill

Title IV of the bill implements U.S. commitments under Chapter 11 of the Agreement, which governs the temporary entry of business persons. In general, Chapter 11 is consistent with existing provisions of the Immigration and Nationality Act ("INA"). The four categories of persons eligible for admission under the Agreement's expedited procedures correspond to existing INA nonimmigrant and related classifications.

In order to provide for the admission of business visitors and intra-company transferees, no changes in U.S. statutes are required. Limited technical changes are needed to provide for the admission of traders and investors and professionals. Legislation is also required to implement Article 11.4.2 of the Agreement regarding labor disputes.

a. Traders and Investors

Under Section II of Annex 11A of the Agreement, citizens of Singapore are eligible for temporary entry as traders and investors. This category provides for admission under requirements identical to those governing admission under INA section 101(a)(15)(E) (8 U.S.C. 1101(a)(15)(E)), which permits entry for persons to carry on substantial trade in goods or services or to develop and direct investment operations.

Section 101(a)(15)(E) currently conditions admission into the United States upon authorization pursuant to a treaty of commerce and navigation. Since the Agreement is not a treaty of commerce and navigation, and no such treaty exists between the United States and Singapore, legislation is necessary to accord treaty trader and investor status to Singaporean citizens qualifying for entry under Section II.

Section 401 of the bill does not amend section 101(a)(15)(E). Instead, it uses a mechanism similar to that provided in section 341(a) of the North American Free Trade Agreement Implementation Act, which in turn was based upon the Act of June 18, 1954 (68 Stat. 264, 8 U.S.C. 1184a). The Act of June 18, 1954 conferred treaty trader and investor status upon nationals of the Philippines on a basis of reciprocity secured by an agreement entered into by the President of the United States and the President of the Philippines.

b. Professionals

Section 402 of the bill amends paragraph (8) of section 214(g) of the INA, as added by the bill implementing the United States-Chile Free Trade Agreement. New INA section 214(g)(8) lists trade agreements pursuant to which certain aliens are entitled to enter the United States as nonimmigrant professionals. Their status as nonimmigrant professionals and the

conditions that apply to that status are described in new INA section 101(a)(15)(W), also added by the bill implementing the United States-Chile Free Trade Agreement. New INA section 214(g)(8) also identifies annual numerical limits on approvals of initial applications by aliens for admission to the United States under section 101(a)(15)(W).

Section 402 of the United States-Singapore Free Trade Agreement Implementation bill adds the United States-Singapore Free Trade Agreement to the agreements listed in INA section 214(g)(8). It also adds to INA section 214(g)(8) the annual numerical limit for approvals of initial applications under the United States-Singapore Free Trade Agreement.

What follows is an explanation of the amendments to the INA made by the bill implementing the United States-Chile Free Trade Agreement ("the Chile bill"). This explanation is provided for convenience, in light of the expectation that the bill implementing the United States-Chile Free Trade Agreement will be considered concurrently with the bill implementing the United States-Singapore Free Trade Agreement.

Section 402(a) of the Chile bill amends section 101(a)(15) of the INA (8 U.S.C. 1101(a)(15)), which defines categories of persons entitled to enter the United States as nonimmigrants. Section 402(a) of the bill inserts new subparagraph (W) at the end of INA section 101(a)(15). Subparagraph (W) establishes a new category of aliens entitled to enter the United States temporarily as nonimmigrants. These aliens are citizens of countries with which the United States has entered into free trade agreements listed in INA section 214(g)(8)(A), as amended by the Chile bill, and who seek to come to the United States temporarily to engage in business activities at the professional level. Entry into the United States under subparagraph (W) would be subject to annual numerical limits established by the Secretary of Homeland Security as provided for in the applicable agreement, and as set forth in INA section 214(g)(8)(B), as added by the Chile bill. The Department of Labor will also issue regulations governing temporary entry of professionals under this new provision of law. This amendment to the INA implements Section IV of Annex 11A of the Agreement.

New INA section 101(a)(15)(W) also provides for the entry of spouses and children accompanying or following to join business persons entering under this category. The purpose of this provision is to grant express authorization for the admission of such persons, but not allow them to be employed in the United States unless they independently meet all applicable INA requirements.

Persons seeking temporary entry into the United States under section 101(a)(15)(W) will be:

- considered to be seeking nonimmigrant status;
- subject to general requirements relating to admission of nonimmigrants,

including those pertaining to the issuance of entry documents and the presumption set out in INA section 214(b) (8 U.S.C. 1184(b)); and

- accorded nonimmigrant status on admission.

This treatment also codifies current practice.

It should be noted that while there are many similarities in the way professionals would be treated under section 101(a)(15)(W) of the INA, as added by this bill, and the way H-1B professionals are treated, a determination of admissibility under subparagraph (W) will neither foreclose nor establish eligibility for entry as an H-1B professional. Further, section 101(a)(15)(W) does not authorize a professional to establish a business or practice in the United States in which the professional will be self-employed.

c. Numerical Limitations

Paragraph 7 of Section IV of Annex 11A of the Agreement permits the United States to establish an annual numerical limit on temporary entries under the Agreement of Singaporean professionals. Under new paragraph (8) of INA section 214(g) as added by section 402(a) of the Chile bill, the Secretary of Homeland Security will issue regulations establishing an annual limit of up to 5,400 new temporary entry applications from Singaporean professionals, as provided in Appendix 11A.3 of the Agreement.

d. Labor Attestations

Under an exchange of letters between the United States and Singapore that accompanies the Agreement, the United States may require that an attestation of compliance with labor and immigration laws be made as a condition for the temporary entry of Singaporean professionals. This provision allows U.S. labor and immigration officials to ensure that U.S. employers are not hiring Singaporean professionals as a way to put pressure on U.S. employees to accept lower wages or less favorable terms and conditions of employment.

Section 402(b) of the Chile bill implements an attestation requirement consistent with the exchange of letters between the United States and Singapore. Section 402(b) of the Chile bill amends section 212 of the INA (8 U.S.C. 1182) by adding a new subsection (t) to the end of that section.

INA section 212(t)(1), as added by section 402(b) of the Chile bill, requires a U.S. employer seeking a temporary entry visa for a Singaporean professional to file an attestation with the Secretary of Labor. The attestation will consist of four core elements similar to those required for attestations under the "H-1B" visa program. *See* 8 U.S.C. 1182(n)(1)(A)-(C). Thus, an employer must attest that:

- It will pay the employee the higher of (a) the actual wage paid to all other individuals with similar experience and qualifications for the specific employment in question, or (b) the prevailing wage level for the occupational classification in the area of employment.

- It will provide working conditions for the employee that will not adversely affect the working conditions of workers similarly employed.

- There is no strike or lockout in the course of a labor dispute in the occupational classification at the place of employment.

- The employer has provided notice of its attestation to its employees' bargaining representative in the occupational classification in the area for which the employee is sought or, absent such a representative, has otherwise notified its employees.

The remainder of new INA section 212(t) contains provisions for enforcing the labor attestation requirement. Like the contents of the attestation itself, the enforcement requirements are based on requirements under the "H-1B" visa program.

INA section 212(t)(2)(A) requires an employer to make copies of labor attestations (and such accompanying documents as are necessary) available for public examination at the employer's principal place of business or worksite.

INA section 212(t)(2)(B) requires the Secretary of Labor to compile a list of all labor attestations filed including, with respect to each attestation, the wage rate, number of alien professionals sought for employment, period of intended employment, and date of need. These lists will be available for public examination at the Department of Labor in Washington, D.C.

INA section 212(t)(2)(C) provides that the Secretary of Labor shall accept a labor attestation within seven days of filing and issue the certification necessary for an alien to enter the United States as a nonimmigrant under INA section 101(a)(15)(W), unless the attestation is incomplete or obviously inaccurate.

INA section 212(t)(3)(A) requires the Secretary of Labor to establish a process for the receipt, investigation, and disposition of complaints respecting an employer's failure to meet a condition specified in a labor attestation or an employer's misrepresentation of material facts in such an attestation. Section 212(t)(3) also sets forth penalties that may be imposed for violation of the labor attestation requirements, including monetary fines and denial of applications for visas under INA section101(a)(15)(W) for specified periods.

INA section 212(t)(4) defines certain terms used in INA section 212(t).

e. Labor Disputes

Article 11.4.2 of the Agreement establishes an important safeguard for the domestic labor force in the United States and Singapore, respectively. It permits either government to refuse to issue an immigration document authorizing employment where the temporary entry of a business person might affect adversely the settlement of a labor dispute or the employment of a person involved in such dispute. Article 11.4.2 thus allows the United States to deny temporary entry to a Singaporean business person whose activities in the United States require employment authorization if admission might interfere with an ongoing labor dispute. If the United States invokes Article 11.4.2, it must inform the business person in writing of the reasons for its action and notify Singapore.

Section 403 of the Chile bill amends INA section 214(j) (8 U.S.C. 1184(j)), designating current subsection (j) as paragraph (1) and inserting a new paragraph (2). The amendment made by the Chile bill, described below, is consistent with Article 11.4.2 of the United States-Singapore Free Trade Agreement. Accordingly, no further amendment is required to implement that provision.

New paragraph (2) of INA section 214(j) provides authority to refuse nonimmigrant classification under specified circumstances to a Singaporean business person seeking to enter the United States under and pursuant to the Agreement. In particular, nonimmigrant classification must be refused if there is a strike or lockout affecting the relevant occupational classification at the Singaporean business person's place of employment or intended place of employment in the United States, unless that person establishes, pursuant to regulations issued by the Secretary of Homeland Security after consultations with the Secretary of Labor, that the business person's entry will not adversely affect the settlement of the strike or lockout or the employment of any person involved in the strike or lockout.

[[New paragraph (2) of INA section 214(j) makes an exception with respect to an employer's attestation under new INA section 212(t)(1) that there is no strike or lockout in the course of a labor dispute in the occupational classification at the place of employment. Where an employer has made such an attestation, section 214(j)(2) will not apply.]]

New paragraph (2) also requires the provision of notice to the affected Singaporean business persons and to Singapore of a determination to deny nonimmigrant classification, as required under Article 11.4.3 of the Agreement.

INA section 214(j)(2) as inserted by the Chile bill applies only to requests for temporary entry by traders and investors, intra-company transferees, and professionals — *i.e.*, the categories of nonimmigrants that require employment authorization under U.S. law (corresponding to Sections II, III, and IV of Annex 11A of the Agreement). Employment in the U.S. labor market is not permitted for business visitors, as defined in INA section 101(a)(15)(B)

(8 U.S.C. 1101(a)(15)(B)) (corresponding to Section I of Annex 11A of the Agreement); violations of status under that provision that involve labor disputes are fully redressable under existing law.

Section 214(j)(2) is similar to existing INA provisions that prohibit admission in certain circumstances where interference with a labor dispute may result. For example, under INA section 212(n)(1)(B) (8 U.S.C. 1182(n)(1)(B)), the U.S. employer sponsoring an alien for admission must certify that there is no strike or lockout in the occupational classification at the place of employment. Additionally, section 214(j)(2) will supplement INA section 237(a)(1)(C) (8 U.S.C. 1227(a)(1)(C)) and related INA provisions that now authorize deportation of an alien admitted under a particular nonimmigrant category if the alien ceases to perform the type of work permitted under that category or misrepresented the nature of the work at the time of admission. The Department of Labor will provide strike certifications to the Department of Homeland Security, as it has provided to the Immigration and Naturalization Service under existing provisions, pursuant to 8 C.F.R. 214.2(h)(17).

2. Administrative Action

Singapore will be added to the list of countries, maintained by the Department of State, whose citizens are eligible for treaty trader and treaty investor status under INA section 101(a)(15)(E).

With respect to professionals provided for under Section IV of Annex 11A of the Agreement, in all cases where a state license is required to engage in a particular activity in the United States, such professionals will be required to obtain the appropriate state license.

Pursuant to INA section 101(a)(15)(W) as added by section 402(a) of the Chile bill, the Secretary of Homeland Security will issue regulations implementing the numerical limits set forth in Appendix 11A.3 of the Agreement. The Secretary of Labor will issue regulations implementing the labor attestation provisions in new subsection (t) of INA section 212. The administrative agencies responsible for administering the other amendments to the INA described above will promulgate regulations to implement those amendments.

Article 11.7.1 of the Agreement calls for each government to designate a temporary entry coordinator. The Department of Homeland Security will serve as the U.S. coordinator.

Chapter Twelve (Anticompetitive Business Conduct, Designated Monopolies, and Government Enterprises)

No statutory or administrative changes will be required to implement Chapter 12.

Chapter Thirteen (Government Procurement)

1. Implementing Bill

No statutory changes will be required to implement Chapter 13.

2. Administrative Action

Annex 13A of the Agreement establishes thresholds for procurements above which U.S. Government procuring entities must allow Singaporean suppliers to bid in accordance with the rules set forth in Chapter 13 of the Agreement. These thresholds are lower than the thresholds under the WTO Agreement on Government Procurement (to which both the United States and Singapore are party). The Office of the United States Trade Representative will notify the Federal Acquisition Regulation (FAR) Council of the new thresholds. The FAR Council will then incorporate the new thresholds into the FAR.

Chapter Fourteen (Electronic Commerce)

No statutory or administrative changes will be required to implement Chapter 14.

Chapter Fifteen (Investment)

1. Implementing Bill

Section 106 of the bill authorizes the United States to use binding arbitration to resolve claims covered by Article 15.15.1(a)(i)(C) or Article 15.15.1(b)(i)(C) of the Agreement. Articles 15.15.1(a)(i)(C) and 15.15.1(b)(i)(C) implicate disputes over government contracts, and section 106 of the bill clarifies that the United States consents to the arbitration of such disputes. No statutory authorization is required for the United States to engage in binding arbitration for other claims covered by Article 15.15. Provisions allowing arbitration of contract claims have regularly been included in U.S. bilateral investment treaties over recent decades.

Section 106 also states that all contracts executed by any agency of the United States on or after the date of entry into force of the Agreement shall contain a clause specifying the law that will apply to resolve any breach of contract claim in the event such a claim is submitted to binding arbitration.

2. Administrative Action

The Administration will examine the need for additional regulatory or other administrative measures that may be necessary to ensure that contracts to which the United States is a party include appropriate choice of law provisions.

Chapter Sixteen (Intellectual Property Rights)

No statutory or administrative changes will be required to implement Chapter 16.

Chapter Seventeen (Labor)

1. Implementing Bill

No statutory changes will be required to implement Chapter 17.

2. Administrative Action

Article 17.4.2 of the Agreement calls for each government to designate an office to serve as the contact point for implementing the Agreement's labor provisions. The Department of Labor's Bureau of International Affairs will serve as the U.S. contact point for this purpose.

Chapter Eighteen (Environment)

No statutory or administrative changes will be required to implement Chapter 18.

108TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To implement the United States-Singapore Free Trade Agreement.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "United States-Singapore Free Trade Agreement Implementation Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to approve and implement the Free Trade Agreement between the United States and the Republic of Singapore entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002;

(2) to strengthen and develop economic relations between the United States and Singapore for their mutual benefit;

(3) to establish free trade between the 2 nations through the reduction and elimination of barriers to trade in goods in services and to investment; and

(4) to lay the foundation for further cooperation to expand and enhance the benefits of such Agreement.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term "Agreement" means the United States-Singapore Free Trade Agreement approved by Congress under section 101(a).

(2) HTS.—The term "HTS" means the Harmonized Tariff Schedule of the United States.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), Congress approves—

(1) the United States-Singapore Free Trade Agreement entered into on May 6, 2003, with the Government of Singapore and submitted to Congress on [_____, 2003]; and

(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on [_____, 2003].

(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Singapore has taken measures necessary to bring it into compliance with those provisions of the Agreement that take effect on the date on which the Agreement enters into force, the President is authorized to exchange notes with the Government of Singapore providing for the entry

into force, on or after January 1, 2004, of the Agreement for the United States.

SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

(2) CONSTRUCTION.—Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States, or

(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the

United States for the purpose of declaring such law or application invalid.

(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term "State law" includes—

(A) any law of a political subdivision of a State; and

(B) any State law regulating or taxing the business of insurance.

(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

(1) shall have any cause of action or defense under the Agreement or by virtue of congressional approval thereof; or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State on the ground that such action or inaction is inconsistent with the Agreement.

SEC. 103. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

(a) CONSULTATION AND LAYOVER REQUIREMENTS.—If a provision of this Act provides that the imple-

mentation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

(1) the President has obtained advice regarding the proposed action from—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974; and

(B) the United States International Trade Commission;

(2) the President has submitted a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that sets forth—

(A) the action proposed to be proclaimed and the reasons therefor; and

(B) the advice obtained under paragraph (1);

(3) a period of 60 calendar days beginning on the first day on which the requirements of paragraphs (1) and (2) have been met has expired; and

(4) the President has consulted with such Committees regarding the proposed action during the period referred to in paragraph (3).

(b) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under subsection (a) may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

SEC. 104. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

(a) IMPLEMENTING ACTIONS.—

(1) PROCLAMATION AUTHORITY.—After the date of enactment of this Act—

(A) the President may proclaim such actions, and

(B) other appropriate officers of the United States Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date of entry into force.

(2) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction in section 103(b) on the taking effect

of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force of any action proclaimed under this section.

(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date of entry into force of the Agreement. In the case of any implementing action that takes effect on a date after the date of entry into force of the Agreement, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 20 of the Agreement. Such office may not be considered to be an agency for purposes of section 552 of title 5, United States Code.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2003 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 20 of the Agreement.

SEC. 106. ARBITRATION OF CERTAIN CLAIMS.

(a) SUBMISSION OF CERTAIN CLAIMS.—The United States is authorized to resolve any claim against the United States covered by article 15.15.1(a)(i)(C) or article 15.15.1(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section C of chapter 15 of the Agreement.

(b) CONTRACT CLAUSES.—All contracts executed by any agency of the United States on or after the date of entry into force of the Agreement shall contain a clause specifying the law that will apply to resolve any breach of contract claim.

SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.

(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date the Agreement enters into force.

(b) EXCEPTIONS.—

(1) Sections 1 through 3 and this title take effect on the date of enactment of this Act.

(2) Section 205 takes effect on the date on which the textile and apparel provisions of the Agreement take effect pursuant to article 5.10 of the Agreement.

(c) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement ceases to be in force, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to be effective.

TITLE II—CUSTOMS PROVISIONS

SEC. 201. TARIFF MODIFICATIONS.

(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—The President may proclaim—

(1) such modifications or continuation of any duty,

(2) such continuation of duty-free or excise treatment, or

(3) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 2.2, 2.5, 2.6, and 2.12 and Annex 2B of the Agreement.

(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 103(a), the President may proclaim—

(1) such modifications or continuation of any duty,

(2) such modifications as the United States may agree to with Singapore regarding the staging of any duty treatment set forth in Annex 2B of the Agreement,

(3) such continuation of duty-free or excise treatment, or

(4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Singapore provided for by the Agreement.

(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States set forth in Annex 2B of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

SEC. 202. RULES OF ORIGIN.

(a) ORIGINATING GOODS.—For purposes of this Act and for purposes of implementing the tariff treatment provided for under the Agreement, except as otherwise provided in this section, a good is an originating good if—

(1) the good is wholly obtained or produced entirely in the territory of Singapore, the United States, or both;

(2) each nonoriginating material used in the production of the good—

(A) undergoes an applicable change in tariff classification set out in Annex 3A of the Agreement as a result of production occurring entirely in the territory of Singapore, the United States, or both; or

(B) if no change in tariff classification is required, the good otherwise satisfies the applicable requirements of such Annex; or

(3) the good itself, as imported, is listed in Annex 3B of the Agreement and is imported into the territory of the United States from the territory of Singapore.

(b) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

(1) IN GENERAL.—Except as provided for in paragraphs (2) and (3), a good shall be considered to be an originating good if—

(A) the value of all nonoriginating materials used in the production of the good that do not undergo the required change in tariff classi-

fication under Annex 3A of the Agreement does not exceed 10 percent of the adjusted value of the good;

(B) if the good is subject to a regional value-content requirement, the value of such nonoriginating materials is taken into account in calculating the regional value-content of the good; and

(C) the good satisfies all other applicable requirements of this section.

(2) EXCEPTIONS.—Paragraph (1) does not apply to the following:

(A) A nonoriginating material provided for in chapter 4 of the HTS or in subheading 1901.90 of the HTS that is used in the production of a good provided for in chapter 4 of the HTS.

(B) A nonoriginating material provided for in chapter 4 of the HTS or in subheading 1901.90 of the HTS that is used in the production of a good provided for in heading 2105 or in any of subheadings 1901.10, 1901.20, 1901.90, 2106.90, 2202.90, and 2309.90 of the HTS.

(C) A nonoriginating material provided for in heading 0805, or any of subheadings 2009.11.00 through 2009.39, of the HTS, that is used in the production of a good provided for in any of subheadings 2009.11.00 through 2009.39 or in subheading 2106.90 or 2202.90 of the HTS.

(D) A nonoriginating material provided for in chapter 15 of the HTS that is used in the production of a good provided for in any of headings 1501.00.00 through 1508, 1512, 1514, and 1515 of the HTS.

(E) A nonoriginating material provided for in heading 1701 of the HTS that is used in the production of a good provided for in any of headings 1701 through 1703 of the HTS.

(F) A nonoriginating material provided for in chapter 17 of the HTS or heading 1805.00.00 of the HTS that is used in the production of a good provided for in subheading 1806.10 of the HTS.

(G) A nonoriginating material provided for in any of headings 2203 through 2208 of the HTS that is used in the production of a good

provided for in heading 2207 or 2208 of the HTS.

(H) A nonoriginating material used in the production of a good provided for in any of chapters 1 through 21 of the HTS, unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

(3) GOODS PROVIDED FOR IN CHAPTERS 50 THROUGH 63 OF THE HTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a good provided for in any of chapters 50 through 63 of the HTS that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 3A of the Agreement shall be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

(B) CERTAIN TEXTILE OR APPAREL GOODS.—

(i) TREATMENT AS ORIGINATING GOOD.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of Singapore or the United States.

(ii) DEFINITION OF TEXTILE OR APPAREL GOOD.—For purposes of this subparagraph, the term "textile or apparel good" means a product listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

(c) ACCUMULATION.—

(1) ORIGINATING GOODS INCORPORATED IN GOODS OF OTHER COUNTRY.—Originating materials from the territory of either Singapore or the United States that are used in the production of a good in the territory of the other country shall be considered to originate in the territory of the other country.

(2) MULTIPLE PROCEDURES.—A good that is produced in the territory of Singapore, the United

States, or both, by 1 or more producers is an originating good if the good satisfies the requirements of subsection (a) and all other applicable requirements of this section.

(d) REGIONAL VALUE-CONTENT.—

(1) IN GENERAL.—For purposes of subsection (a)(2), the regional value-content of a good referred to in Annex 3A of the Agreement shall be calculated, at the choice of the person claiming preferential tariff treatment for the good, on the basis of the build-down method described in paragraph (2) or the build-up method described in paragraph (3), unless otherwise provided in Annex 3A of the Agreement.

(2) BUILD-DOWN METHOD.—

(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-down method:

$$\text{RVC} = \frac{\text{AV}-\text{VNM}}{\text{AV}} \times 100$$

(B) DEFINITIONS.—For purposes of subparagraph (A):

(i) The term "RVC" means the regional value-content, expressed as a percentage.

(ii) The term "AV" means the adjusted value.

(iii) The term "VNM" means the value of nonoriginating materials that are acquired and used by the producer in the production of the good.

(3) BUILD-UP METHOD.—

(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-up method:

$$\text{RVC} = \frac{\text{VOM}}{\text{AV}} \times 100$$

(B) DEFINITIONS.—For purposes of subparagraph (A):

(i) The term "RVC" means the regional value-content, expressed as a percentage.

(ii) The term "AV" means the adjusted value.

(iii) The term "VOM" means the value of originating materials that are acquired or self-produced and are used by the producer in the production of the good.

(e) VALUE OF MATERIALS.—

(1) IN GENERAL.—For purposes of calculating the regional value-content of a good under subsection (d), and for purposes of applying the de minimis rules under subsection (b), the value of a material is—

(A) in the case of a material imported by the producer of the good, the adjusted value of the material;

(B) in the case of a material acquired in the territory in which the good is produced, except for a material to which subparagraph (C) applies, the adjusted value of the material; or

(C) in the case of a material that is self-produced, or in a case in which the relationship between the producer of the good and the seller of the material influenced the price actually paid or payable for the material, including a material obtained without charge, the sum of—

(i) all expenses incurred in the production of the material, including general expenses; and

(ii) an amount for profit.

(2) FURTHER ADJUSTMENTS TO THE VALUE OF MATERIALS.—

(A) ORIGINATING MATERIALS.—The following expenses, if not included in the value of an originating material calculated under paragraph (1), may be added to the value of the originating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material to the location of the producer.

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Singapore, the United States, or both, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-product.

(B) NONORIGINATING MATERIALS.—The following expenses, if included in the value of a nonoriginating material calculated under paragraph (1), may be deducted from the value of the nonoriginating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material to the location of the producer.

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Singapore, the United States, or both, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-product.

(iv) The cost of processing incurred in the territory of Singapore or the United States in the production of the nonoriginating material.

(v) The cost of originating materials used in the production of the nonoriginating material in the territory of Singapore or the United States.

(f) ACCESSORIES, SPARE PARTS, OR TOOLS.—

(1) IN GENERAL.—Subject to paragraph (2), accessories, spare parts, or tools delivered with the good that form part of the good's standard accessories, spare parts, or tools shall—

(A) be treated as originating goods if the good is an originating good; and

(B) be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo an applicable change in tariff classification set out in Annex 3A of the Agreement.

(2) CONDITIONS.—Paragraph (1) shall apply only if—

(A) the accessories, spare parts, or tools are not invoiced separately from the good;

(B) the quantities and value of the accessories, spare parts, or tools are customary for the good; and

(C) if the good is subject to a regional value-content requirement, the value of the accessories, spare parts, or tools is taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

(g) FUNGIBLE GOODS AND MATERIALS.—

(1) IN GENERAL.—

(A) CLAIM FOR PREFERENTIAL TREATMENT.—A person claiming preferential tariff treatment for a good may claim that a fungible good or material is originating either based on the physical segregation of each fungible good or material or by using an inventory management method.

(B) INVENTORY MANAGEMENT METHOD.—In this subsection, the term "inventory management method" means—

(i) averaging;

(ii) "last-in, first-out";

(iii) "first-in, first-out"; or

(iv) any other method—

(I) recognized in the generally accepted accounting principles of the country in which the production is performed (whether Singapore or the United States); or

(II) otherwise accepted by that country.

(2) ELECTION OF INVENTORY METHOD.—A person selecting an inventory management method under paragraph (1) for particular fungible goods or

materials shall continue to use that method for those fungible goods or materials throughout the fiscal year of that person.

(h) PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 3A of the Agreement and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

(i) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing materials and containers in which a good is packed for shipment shall be disregarded in determining whether—

(1) the nonoriginating materials used in the production of a good undergo an applicable change in tariff classification set out in Annex 3A of the Agreement; and

(2) the good satisfies a regional value-content requirement.

(j) INDIRECT MATERIALS.—An indirect material shall be considered to be an originating material without regard to where it is produced, and its value shall be the cost registered in the accounting records of the producer of the good.

(k) THIRD COUNTRY OPERATIONS.—A good shall not be considered to be an originating good by reason of having undergone production that satisfies the requirements of subsection (a) if, subsequent to that production, the good undergoes further production or any other operation outside the territories of Singapore and the United States, other than unloading, reloading, or any other operation necessary to preserve it in good condition or to transport the good to the territory of Singapore or the United States.

(l) SPECIAL RULE FOR APPAREL GOODS LISTED IN CHAPTER 61 OR 62 OF THE HTS.—

(1) IN GENERAL.—An apparel good listed in chapter 61 or 62 of the HTS shall be considered to be an originating good if it is both cut (or knit to shape) and sewn or otherwise assembled in the territory of Singapore, the United States, or both, from fabric or yarn, regardless of origin, designated in the manner described in paragraph (2) as fabric or yarn

not available in commercial quantities in a timely manner in the United States.

(2) DESIGNATION OF CERTAIN FABRIC AND YARN.—The designation referred to in paragraph (1) means a designation made in a notice published in the Federal Register on or before November 15, 2002, identifying apparel goods made from fabric or yarn eligible for entry into the United States under subheading 9819.11.24 or 9820.11.27 of the HTS. For purposes of this subsection, a reference in the notice to fabric or yarn formed in the United States is deemed to include fabric or yarn formed in Singapore.

(m) APPLICATION AND INTERPRETATION.—In this section:

(1) The basis for any tariff classification is the HTS.

(2) Any cost or value referred to in this section shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the country in which the good is produced (whether Singapore or the United States).

(n) DEFINITIONS.—In this section:

(1) ADJUSTED VALUE.—The term "adjusted value" means the value of a good determined under articles 1 through 8, article 15, and the corresponding interpretative notes of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act, except that such value may be adjusted to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the good from the country of exportation to the place of importation.

(2) FUNGIBLE GOODS AND FUNGIBLE MATERIALS.—The terms "fungible goods" and "fungible materials" mean goods or materials, as the case may be, that are interchangeable for commercial purposes and the properties of which are essentially identical.

(3) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—The term "generally accepted accounting principles" means the recognized consensus or substantial authoritative support in the territory of Singapore or the United States, as the case may be, with respect to the recording of revenues, expenses, costs, and assets and liabilities, the disclosure of in-

formation, and the preparation of financial statements. The standards may encompass broad guidelines of general application as well as detailed standards, practices, and procedures.

(4) GOODS WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF SINGAPORE, THE UNITED STATES, OR BOTH.—The term "goods wholly obtained or produced entirely in the territory of Singapore, the United States, or both" means—

(A) mineral goods extracted in the territory of Singapore, the United States, or both;

(B) vegetable goods, as such goods are defined in the Harmonized System, harvested in the territory of Singapore, the United States, or both;

(C) live animals born and raised in the territory of Singapore, the United States, or both;

(D) goods obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of Singapore, the United States, or both;

(E) goods (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with Singapore or the United States and flying the flag of that country;

(F) goods produced exclusively from products referred to in subparagraph (E) on board factory ships registered or recorded with Singapore or the United States and flying the flag of that country;

(G) goods taken by Singapore or the United States, or a person of Singapore or the United States, from the seabed or beneath the seabed outside territorial waters, if Singapore or the United States has rights to exploit such seabed;

(H) goods taken from outer space, if the goods are obtained by Singapore or the United States or a person of Singapore or the United States and not processed in the territory of a country other than Singapore or the United States;

(I) waste and scrap derived from—

(i) production in the territory of Singapore, the United States, or both; or

(ii) used goods collected in the territory of Singapore, the United States, or both, if such goods are fit only for the recovery of raw materials;

(J) recovered goods derived in the territory of Singapore, the United States, or both, from used goods; or

(K) goods produced in the territory of Singapore, the United States, or both, exclusively—

(i) from goods referred to in any of subparagraphs (A) through (I); or

(ii) from the derivatives of goods referred to in clause (i).

(5) HARMONIZED SYSTEM.—The term "Harmonized System" means the Harmonized Commodity Description and Coding System.

(6) INDIRECT MATERIAL.—The term "indirect material" means a good used in the production, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including—

(A) fuel and energy;

(B) tools, dies, and molds;

(C) spare parts and materials used in the maintenance of equipment or buildings;

(D) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

(F) equipment, devices, and supplies used for testing or inspecting the good;

(G) catalysts and solvents; and

(H) any other goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production.

(7) MATERIAL.—The term "material" means a good that is used in the production of another good.

(8) MATERIAL THAT IS SELF-PRODUCED.—The term "material that is self-produced" means a material, such as a part or ingredient, produced by a producer of a good and used by the producer in the production of another good.

(9) NONORIGINATING MATERIAL.—The term "nonoriginating material" means a material that does not qualify as an originating good under the rules set out in this section.

(10) PREFERENTIAL TARIFF TREATMENT.—The term "preferential tariff treatment" means the

customs duty rate that is applicable to an originating good pursuant to chapter 2 of the Agreement.

(11) PRODUCER.—The term "producer" means a person who grows, raises, mines, harvests, fishes, traps, hunts, manufactures, processes, assembles, or disassembles a good.

(12) PRODUCTION.—The term "production" means growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

(13) RECOVERED GOODS.—

(A) IN GENERAL.—The term "recovered goods" means materials in the form of individual parts that are the result of—

(i) the complete disassembly of used goods into individual parts; and

(ii) the cleaning, inspecting, testing, or other processing of those parts as necessary for improvement to sound working condition by one or more of the processes described in subparagraph (B), in order for such parts to be assembled with other parts, including other parts that have undergone the processes described in this

paragraph, in the production of a remanufactured good described in Annex 3C of the Agreement.

(B) PROCESSES.—The processes referred to in subparagraph (A)(ii) are welding, flame spraying, surface machining, knurling, plating, sleeving, and rewinding.

(14) REMANUFACTURED GOOD.—The term "remanufactured good" means an industrial good assembled in the territory of Singapore or the United States, that is listed in Annex 3C of the Agreement, and—

(A) is entirely or partially comprised of recovered goods;

(B) has the same life expectancy and meets the same performance standards as a new good; and

(C) enjoys the same factory warranty as such a new good.

(15) TERRITORY.—The term "territory" has the meaning given that term in Annex 1A of the Agreement.

(16) USED.—The term "used" means used or consumed in the production of goods.

(o) PRESIDENTIAL PROCLAMATION AUTHORITY.—

(1) IN GENERAL.—The President is authorized to proclaim, as part of the HTS—

(A) the provisions set out in Annexes 3A, 3B, and 3C of the Agreement; and

(B) any additional subordinate category necessary to carry out this title consistent with the Agreement.

(2) MODIFICATIONS.—

(A) IN GENERAL.—Subject to the consultation and layover provisions of section 103(a), the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than—

(i) the provisions of Annex 3B of the Agreement; and

(ii) provisions of chapters 50 through 63 of the HTS, as included in Annex 3A of the Agreement.

(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 103(a), the President may proclaim—

(i) modifications to the provisions proclaimed under the authority of paragraph (1)(A) that are necessary to implement an

agreement with Singapore pursuant to article 3.18.4(c) of the Agreement; and

(ii) before the 1st anniversary of the date of enactment of this Act, modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the HTS, as included in Annex 3A of the Agreement.

SEC. 203. CUSTOMS USER FEES.

Section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is amended by inserting after paragraph (12) the following:

"(13) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States-Singapore Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.".

SEC. 204. DISCLOSURE OF INCORRECT INFORMATION.

Section 592(c) of the Tariff Act of 1930 (19 U.S.C. 1592(c)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) PRIOR DISCLOSURE REGARDING CLAIMS UNDER THE UNITED STATES-SINGAPORE FREE TRADE AGREEMENT.—

"(A) An importer shall not be subject to penalties under subsection (a) for making an incorrect claim that a good qualifies as an originating good under section 202 of the United States-Singapore Free Trade Agreement Implementation Act if the importer, in accordance with regulations issued by the Secretary of the Treasury, voluntarily and promptly makes a corrected declaration and pays any duties owing.

"(B) In the regulations referred to in subparagraph (A), the Secretary of the Treasury is authorized to prescribe time periods for making a corrected declaration and paying duties owing under subparagraph (A), if such periods are not shorter than 1 year following the date on which the importer makes the incorrect claim that a good qualifies as an originating good.".

SEC. 205. ENFORCEMENT RELATING TO TRADE IN TEXTILE AND APPAREL GOODS.

(a) DENIAL OF PERMISSION TO CONDUCT SITE VISITS.—

(1) IN GENERAL.—Subject to paragraph (2), if the Secretary of the Treasury proposes to conduct a site visit at an enterprise registered under article 5.3 of the Agreement, and responsible officials of the enterprise do not consent to the proposed visit, the President may exclude from the customs territory of the United States textile and apparel goods produced or exported by that enterprise.

(2) TERMINATION OF EXCLUSION.—An exclusion of textile and apparel goods produced or exported by an enterprise under paragraph (1) shall terminate when the President determines that the enterprise's production of, and capability to produce, the goods are consistent with statements by the enterprise that textile or apparel goods the enterprise produces or has produced are originating goods or products of Singapore, as the case may be.

(b) KNOWING OR WILLFUL CIRCUMVENTION.—

(1) IN GENERAL.—If the President finds that an enterprise of Singapore has knowingly or willfully engaged in circumvention, the President may exclude from the customs territory of the United States tex-

tile and apparel goods produced or exported by the enterprise. An exclusion under this paragraph may be imposed on the date beginning on the date a finding of knowing or willful circumvention is made and shall be in effect for a period not longer than the applicable period described in paragraph (2).

(2) TIME PERIODS.—

(A) FIRST FINDING.—With respect to a first finding under paragraph (1), the applicable period is 6 months.

(B) SECOND FINDING.—With respect to a second finding under paragraph (1), the applicable period is 2 years.

(C) THIRD AND SUBSEQUENT FINDING.—With respect to a third or subsequent finding under paragraph (1), the applicable period is 2 years. If, at the time of a third or subsequent finding, an exclusion is in effect as a result of a previous finding, the 2-year period applicable to the third or subsequent finding shall begin on the day after the day on which the previous exclusion terminates.

(c) CERTAIN OTHER INSTANCES OF CIRCUMVENTION.—If the President consults with Singapore pursuant to article 5.8 of the Agreement, the consultations fail to

result in a mutually satisfactory solution to the matters at issue, and the President presents to Singapore clear evidence of circumvention under the Agreement, the President may—

(1) deny preferential tariff treatment to the goods involved in the circumvention; and

(2) deny preferential tariff treatment, for a period not to exceed 4 years from the date on which consultations pursuant to article 5.8 of the Agreement conclude, to—

(A) textile and apparel goods produced by the enterprise found to have engaged in the circumvention, including any successor of such enterprise; and

(B) textile and apparel goods produced by any other entity owned or operated by a principal of the enterprise, if the principal also is a principal of the other entity.

(d) DEFINITIONS.—In this section:

(1) GENERAL DEFINITIONS.—The terms "circumvention", "preferential tariff treatment", "principal", and "textile and apparel goods" have the meanings given such terms in chapter 5 of the Agreement.

(2) ENTERPRISE.—The term "enterprise" has the meaning given that term in article 1.2.3 of the Agreement.

SEC. 206. REGULATIONS.

The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

(1) subsections (a) through (n) of section 202, and section 203;

(2) amendments made by the sections referred to in paragraph (1); and

(3) proclamations issued under section 202(o).

TITLE III—RELIEF FROM IMPORTS

SEC. 301. DEFINITIONS.

In this title:

(1) COMMISSION.—The term "Commission" means the United States International Trade Commission.

(2) SINGAPOREAN ARTICLE.—The term "Singaporean article" means an article that qualifies as an originating good under section 202(a) of this Act.

(3) SINGAPOREAN TEXTILE OR APPAREL ARTICLE.—The term "Singaporean textile or apparel article" means an article—

(A) that is listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); and

(B) that is a Singaporean article.

Subtitle A—Relief From Imports Benefiting From the Agreement

SEC. 311. COMMENCING OF ACTION FOR RELIEF.

(a) FILING OF PETITION.—

(1) IN GENERAL.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

(2) PROVISIONAL RELIEF.—An entity filing a petition under this subsection may request that provisional relief be provided as if the petition had been filed under section 202(a) of the Trade Act of 1974 (19 U.S.C. 2252(a)).

(3) CRITICAL CIRCUMSTANCES.—Any allegation that critical circumstances exist shall be included in the petition.

(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Singaporean article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Singaporean article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

(1) Paragraphs (1)(B) and (3) of subsection (b).

(2) Subsection (c).

(3) Subsection (d).

(4) Subsection (i).

(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Singaporean article if, after the date that the Agreement enters into force, import relief has been provided with respect to that Singaporean article under—

(1) this subtitle;

(2) subtitle B;

(3) chapter 1 of title II of the Trade Act of 1974;

(4) article 6 of the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); or

(5) article 5 of the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

SEC. 312. COMMISSION ACTION ON PETITION.

(a) DETERMINATION.—Not later than 120 days (180 days if critical circumstances have been alleged) after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section.

(b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C.

1330(d) (1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to the relief described in section 313(c). Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), sepa-

rate views regarding what action, if any, should be taken to remedy or prevent the injury.

(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

(1) the determination made under subsection (a) and an explanation of the basis for the determination;

(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

(e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

SEC. 313. PROVISION OF RELIEF.

(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

(b) EXCEPTION.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

(c) NATURE OF RELIEF.—

(1) IN GENERAL.—The import relief (including provisional relief) that the President is authorized to provide under this section with respect to imports of an article is as follows:

(A) The suspension of any further reduction provided for under Annex 2B of the Agreement in the duty imposed on such article.

(B) An increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

(C) In the case of a duty applied on a seasonal basis to such article, an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles for the immediately preceding corresponding season; or

(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization (described in article 7.28 of the Agreement) of such relief at regular intervals during the period of its application.

(d) PERIOD OF RELIEF.—

(1) IN GENERAL.—Subject to paragraph (2), the import relief that the President is authorized to provide under this section may not exceed 2 years.

(2) EXTENSION.—

(A) IN GENERAL.—Subject to subparagraph (C), the President, after receiving an affirmative determination from the Commission under subparagraph (B), may extend the effective period of any import relief provided under this section if the President determines that—

(i) the import relief continues to be necessary to prevent or remedy serious injury and to facilitate adjustment; and

(ii) there is evidence that the industry is making a positive adjustment to import competition.

(B) ACTION BY COMMISSION.—

(i) Upon a petition on behalf of the industry concerned, filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date on which any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

(ii) The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

(iii) The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

(C) PERIOD OF IMPORT RELIEF.—The effective period of any import relief imposed under this section, including any extensions thereof, may not, in the aggregate, exceed 4 years.

(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date the relief terminates.

(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on any article that has been subject to import relief, after the entry into force of the Agreement, under—

(1) this subtitle;

(2) subtitle B;

(3) chapter 1 of title II of the Trade Act of 1974;

(4) article 6 of the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); or

(5) article 5 of the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

SEC. 314. TERMINATION OF RELIEF AUTHORITY.

(a) GENERAL RULE.—No import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force.

(b) EXCEPTION.—Import relief may be provided under this subtitle in the case of a Singaporean article after the date on which such relief would, but for this subsection, terminate under subsection (a), if the President determines that Singapore has consented to such relief.

SEC. 315. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act.

SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)) is amended in the first sentence—

(1) by striking "and"; and

(2) by inserting before the period at the end ", and title III of the United States-Singapore Free Trade Agreement Implementation Act".

Subtitle B—Textile and Apparel Safeguard Measures

SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

(a) IN GENERAL.—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include the request and the dates by which comments and rebuttals must be received.

SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

(a) DETERMINATION.—

(1) IN GENERAL.—Pursuant to a request made by an interested party, the President shall determine whether, as a result of the reduction or elimination of a duty under the Agreement, a Singaporean textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions that imports of the article constitute a substantial cause of serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

(B) shall not consider changes in technology or consumer preference as factors sup-

porting a determination of serious damage or actual threat thereof.

(3) SUBSTANTIAL CAUSE.—For purposes of this subsection, the term "substantial cause" means a cause that is important and not less than any other cause.

(b) PROVISION OF RELIEF.—

(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as described in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry.

(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is—

(A) the suspension of any further reduction provided for under Annex 2B of the Agreement in the duty imposed on the article; or

(B) an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

SEC. 323. PERIOD OF RELIEF.

(a) IN GENERAL.—Subject to subsection (b), the import relief that the President is authorized to provide under section 322 may not exceed 2 years.

(b) EXTENSION.—

(1) IN GENERAL.—Subject to paragraph (2), the President may extend the effective period of any import relief provided under this subtitle if the President determines that—

(A) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment; and

(B) there is evidence that the industry is making a positive adjustment to import competition.

(2) LIMITATION.—The effective period of any action under this subtitle, including any extensions thereof, may not, in the aggregate, exceed 4 years.

SEC. 324. ARTICLES EXEMPT FROM RELIEF.

The President may not provide import relief under this subtitle with respect to any article if import relief previously has been provided under this subtitle with respect to that article.

SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date the relief terminates.

SEC. 326. TERMINATION OF RELIEF AUTHORITY.

No import relief may be provided under this subtitle with respect to an article after the date that is 10 years after the date on which the provisions of the Agreement relating to trade in textile and apparel goods take effect pursuant to article 5.10 of the Agreement.

SEC. 327. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of such Act.

SEC. 328. BUSINESS CONFIDENTIAL INFORMATION.

The President may not release information which the President considers to be confidential business information unless the party submitting the confidential business

information had notice, at the time of submission, that such information would be released by the President, or such party subsequently consents to the release of the information. To the extent business confidential information is provided, a nonconfidential version of the information shall also be provided, in which the business confidential information is summarized or, if necessary, deleted.

Subtitle C—Cases Under Title II of the Trade Act of 1974

SEC. 331. FINDINGS AND ACTION ON GOODS FROM SINGAPORE.

(a) EFFECT OF IMPORTS.—If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974, the Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930), the Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether imports of the article from Singapore are a substantial cause of serious injury or threat thereof.

(b) PRESIDENTIAL DETERMINATION REGARDING SINGAPOREAN IMPORTS.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974, the President shall determine

whether imports from Singapore are a substantial cause of the serious injury or threat thereof found by the Commission and, if such determination is in the negative, may exclude from such action imports from Singapore.

TITLE IV—TEMPORARY ENTRY OF BUSINESS PERSONS

SEC. 401. NONIMMIGRANT TRADERS AND INVESTORS.

Upon the basis of reciprocity secured by the Agreement, an alien who is a national of Singapore (and any spouse or child (as defined in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) of the alien, if accompanying or following to join the alien) shall be considered as entitled to enter the United States under and in pursuance of the provisions of the Agreement as a nonimmigrant described in section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)), if the entry is solely for a purpose described in clause (i) or (ii) of such section and the alien is otherwise admissible to the United States as such a nonimmigrant.

SEC. 402. NONIMMIGRANT PROFESSIONALS; LABOR ATTESTATION.

(a) NONIMMIGRANT PROFESSIONALS.—

(1) Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended by—

(A) deleting "or" at the end of subparagraph (U);

(B) deleting the period at the end of subparagraph (V) and inserting "; or"; and

(C) adding at the end the following new subparagraph:

"(W) subject to section 212(s), an alien who is entitled to enter the United States under and in pursuance of the provisions of an agreement listed in section 214(g)(8) (and any spouse or child (as defined in subsection (b)(1)) of the alien, if accompanying or following to join the alien) and who is engaged in a specialty occupation requiring—

"(i) theoretical and practical application of a body of specialized knowledge; and

"(ii) attainment of a bachelor's or higher degree in the specific specialty (or the equivalent of such a degree) as a minimum for entry into the occupation in the United States.".

(2) Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended by adding at the end the following new paragraph:

"(8)(A) The agreement referred to in section 101(a)(15)(W) is the United States-Singapore Free Trade Agreement.

"(B) The Secretary of Homeland Security shall establish annual numerical limits on approvals of initial applications by aliens to qualify under section 101(a)(15)(W), which shall not exceed 5,400 for citizens of Singapore.

"(C) An application to qualify under section 101(a)(15)(W) shall be valid for 1 year at a time and shall be renewable.".

(b) LABOR ATTESTATIONS.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by adding at the end the following new subsection (s):

"(s) ATTESTATION OF COMPLIANCE FOR PROFESSIONALS UNDER THE UNITED STATES-SINGAPORE FREE TRADE AGREEMENT.—

"(1) No alien may be admitted or provided status as a nonimmigrant under section 101(a)(15)(W) in an occupational classification unless the employer has filed with the Secretary of Labor an attestation stating the following:

"(A) The employer—

"(i) is offering and will offer during the period of authorized employment to aliens admitted or provided status under section 101(a)(15)(W) wages that are at least—

"(I) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question; or

"(II) the prevailing wage level for the occupational classification in the area of employment,

whichever is greater, based on the best information available as of the time of filing the attestation; and

"(ii) will provide working conditions for such a nonimmigrant that will not adversely affect the working conditions of workers similarly employed.

"(B) There is not a strike or lockout in the course of a labor dispute in the occupational classification at the place of employment.

"(C) The employer, at the time of filing the attestation—

"(i) has provided notice of the filing under this paragraph to the bargaining representative (if any) of the employer's employees in the occupational classification and area for which aliens are sought; or

"(ii) if there is no such bargaining representative, has provided notice of filing in the occupational classification through such methods as physical posting in conspicuous locations at the place of employment or electronic notification to employees in the occupational classification for which nonimmigrants under section 101(a)(15)(W) are sought.

"(D) The attestation shall contain a specification of the number of workers sought, the occupational classification in which the workers will be employed, and wage rate and conditions under which they will be employed.

"(2)(A) The employer shall make available for public examination, within 1 working day after the date on which an attestation under this subsection is filed, at the employer's principal place of business

or worksite, a copy of each such attestation (and such accompanying documents as are necessary).

"(B)(i) The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the attestations filed under this subsection. Such list shall include, with respect to each attestation, the wage rate, number of aliens sought, period of intended employment, and date of need.

"(ii) The Secretary of Labor shall make such list available for public examination in Washington, D.C.

"(C) The Secretary of Labor shall review an attestation filed under this subsection only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that an attestation is incomplete or obviously inaccurate, the Secretary of Labor shall provide the certification described in section 101(a)(15)(W) within 7 days of the date of the filing of the attestation.

"(3)(A) The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting the failure of an employer to meet a condition specified in an attestation

submitted under this subsection or misrepresentation by the employer of material facts in such an attestation. Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

"(B) Under the process described in subparagraph (A), the Secretary of Labor shall provide, within 30 days after the date a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make

a finding concerning the matter by not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

"(C)(i) If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(B) or a substantial failure to meet a condition of paragraph (1) (C) or (D), or a misrepresentation of material fact in an attestation—

"(I) the Secretary of Labor shall notify the Secretary of State and the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

"(II) the Secretary of State or the Secretary of Homeland Security as appropriate shall not approve applications filed with respect to that employer under section 204, 214(c), or 101(a)(15)(W) during a period of at least 1 year for aliens to be employed by the employer.

"(ii) If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a condition of paragraph (1), a willful misrepresentation of material fact in an attestation, or a violation of clause (iv)—

"(I) the Secretary of Labor shall notify Secretary of State and the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate; and

"(II) the Secretary of State or the Secretary of Homeland Security, as appropriate, shall not approve applications filed with respect to that employer under section 204, 214(c), or 101(a)(15)(W) during a period of at least 2 years for aliens to be employed by the employer.

"(iii) If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a condition of paragraph (1) or a willful misrepresentation of material fact in an attestation, in the course of which failure or misrepresentation the employer displaced a United States worker em-

ployed by the employer within the period beginning 90 days before and ending 90 days after the date of filing of any visa application supported by the attestation—

"(I) the Secretary of Labor shall notify Secretary of State and the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $35,000 per violation) as the Secretary of Labor determines to be appropriate; and

"(II) the Secretary of State or the Secretary of Homeland Security as appropriate shall not approve applications filed with respect to that employer under section 204, 214(c), or 101(a)(15)(W) during a period of at least 3 years for aliens to be employed by the employer.

"(iv) It is a violation of this clause for an employer who has filed an attestation under this subsection to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this clause, includes a former employee and an applicant for employment) because the employee has

disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of this subsection, or any rule or regulation pertaining to this subsection, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of this subsection or any rule or regulation pertaining to this subsection.

"(v) The Secretary of Labor and the Secretary of Homeland Security shall devise a process under which a nonimmigrant under section 101(a)(15)(W) who files a complaint regarding a violation of clause (iv) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

"(vi)(I) It is a violation of this clause for an employer who has filed an attestation under this subsection to require a nonimmigrant under section 101(a)(15)(W) to pay a penalty for ceasing employment with the employer prior to a date agreed to by the nonimmigrant and the employer. The Secretary of Labor shall determine whether a required pay-

ment is a penalty (and not liquidated damages) pursuant to relevant State law.

"(II) If the Secretary of Labor finds, after notice and opportunity for a hearing, that an employer has committed a violation of this clause, the Secretary of Labor may impose a civil monetary penalty of $1,000 for each such violation and issue an administrative order requiring the return to the nonimmigrant of any amount paid in violation of this clause, or, if the nonimmigrant cannot be located, requiring payment of any such amount to the general fund of the Treasury.

"(vii)(I) It is a failure to meet a condition of paragraph (1)(A) for an employer who has filed an attestation under this subsection and who places a nonimmigrant under section 101(a)(15)(W) designated as a full-time employee in the attestation, after the nonimmigrant has entered into employment with the employer, in nonproductive status due to a decision by the employer (based on factors such as lack of work), or due to the nonimmigrant's lack of a permit or license, to fail to pay the nonimmigrant full-time wages in accordance with paragraph (1)(A) for all such nonproductive time.

"(II) It is a failure to meet a condition of paragraph (1)(A) for an employer who has filed an attestation under this subsection and who places a nonimmigrant under section 101(a)(15)(W) designated as a part-time employee by the employer in the attestation with respect to the nonimmigrant, after the nonimmigrant has entered into employment with the employer, in nonproductive status under circumstances described in subclause (I), to fail to pay such a nonimmigrant for such hours as are designated on the attestation required in paragraph (1) consistent with the rate of pay identified on such attestation.

"(III) In the case of a nonimmigrant under section 101(a)(15)(W) who has not yet entered into employment with an employer who has had approved an attestation under this subsection with respect to the nonimmigrant, the provisions of subclauses (I) and (II) shall apply to the employer beginning 30 days after the date the nonimmigrant first is admitted into the United States or 60 days after the date the nonimmigrant becomes eligible to work for the employer (in the case of a nonimmigrant who is present in the United States on the date of the ap-

proval of the application filed with the Secretary of Homeland Security).

"(IV) This clause does not apply to a failure to pay wages to a nonimmigrant under section 101(a)(15)(W) for nonproductive time due to non-work-related factors, such as the voluntary request of the nonimmigrant for an absence or circumstances rendering the nonimmigrant unable to work.

"(V) This clause shall not be construed as prohibiting an employer that is a school or other educational institution from applying to a nonimmigrant under section 101(a)(15)(W) an established salary practice of the employer, under which the employer pays to nonimmigrants under section 101(a)(15)(W) and United States workers in the same occupational classification an annual salary in disbursements over fewer than 12 months, if—

"(aa) the nonimmigrant agrees to the compressed annual salary payments prior to the commencement of the employment; and

"(bb) the attestation of the salary practice to the nonimmigrant does not otherwise cause the nonimmigrant to violate any condition of

the nonimmigrant's authorization under this Act to remain in the United States.

"(VI) This clause shall not be construed as superseding clause (viii).

"(viii) It is a failure to meet a condition of paragraph (1)(A) for an employer who has filed an attestation under this subsection to fail to offer to a nonimmigrant under section 101(a)(15)(W), during the nonimmigrant's period of authorized employment, benefits and eligibility for benefits (including the opportunity to participate in health, life, disability, and other insurance plans; the opportunity to participate in retirement and savings plans; and cash bonuses and noncash compensation, such as stock options (whether or not based on performance)) on the same basis, and in accordance with the same criteria, as the employer offers to United States workers.

"(D) If the Secretary of Labor finds, after notice and opportunity for a hearing, that an employer has not paid wages at the wage level specified under the attestation and required under paragraph (1), the Secretary of Labor shall order the employer to provide for payment of such amounts of back pay as may be required to comply with the requirements of

paragraph (1), whether or not a penalty under subparagraph (C) has been imposed.

"(E) The Secretary of Labor may, on a case-by-case basis, subject an employer to random investigations for a period of up to 5 years, beginning on the date on which the employer is found by the Secretary of Labor to have committed a willful failure to meet a condition of paragraph (1) or to have made a willful misrepresentation of material fact in an attestation. The authority of the Secretary of Labor under this subparagraph shall not be construed to be subject to, or limited by, the requirements of subparagraph (A).

"(F) Nothing in this subsection shall be construed as superseding or preempting any other enforcement-related authority under this chapter (such as the authorities under section 274B), or any other Act.

"(4) For purposes of this subsection:

"(A) The term 'area of employment' means the area within normal commuting distance of the worksite or physical location where the work of the nonimmigrant under section 101(a)(15)(W) is or will be performed. If such worksite or location is within a Metropolitan

Statistical Area, any place within such area is deemed to be within the area of employment.

"(B) In the case of an attestation with respect to 1 or more nonimmigrants under section 101(a)(15)(W) by an employer, the employer is considered to 'displace' a United States worker from a job if the employer lays off the worker from a job that is essentially the equivalent of the job for which the nonimmigrant or nonimmigrants is or are sought. A job shall not be considered to be essentially equivalent of another job unless it involves essentially the same responsibilities, was held by a United States worker with substantially equivalent qualifications and experience, and is located in the same area of employment as the other job.

"(C)(i) The term 'lays off', with respect to a worker—

"(I) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract; but

"(II) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

"(ii) Nothing in this subparagraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

"(D) The term 'United States worker' means an employee who—

"(i) is a citizen or national of the United States; or

"(ii) is an alien who is lawfully admitted for permanent residence, is admitted as a refugee under section 207 of this title, is granted asylum under section 208, or is an immigrant otherwise authorized, by this chapter or by the Secretary of Homeland Security, to be employed.".

SEC. 403. LABOR DISPUTES.

Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by redesignating subsection (j) as paragraph (1) of subsection (j) and adding after such paragraph (1), as redesignated, the following new paragraph:

"(2) Notwithstanding any other provision of this Act and subject to regulations promulgated by the Secretary of Homeland Security, an alien who seeks to enter the United States under and pursuant to the provisions of a free trade agreement listed in subsection (g)(8)(A), and the spouse and child of such alien if accompanying or following to join him, shall not be classified as a nonimmigrant under section 101(a)(15)(E), 101(a)(15)(L), or 101(a)(15)(W) if there is in progress a strike or lockout in the course of a labor dispute in the occupational classification at the place or intended place of employment, unless such alien establishes, pursuant to regulations promulgated by the Secretary of Homeland Security, after consultation with the Secretary of Labor, that the alien's entry will not affect adversely the settlement of the strike or lockout or the employment of any person who is involved in the strike or lockout. Notice of a determination under

this subsection shall be given as may be required by such agreement.".

SENATE FINANCE COMMITTEE STAFF
SUMMARY OF THE UNITED STATES-CHILE
FREE TRADE AGREEMENT IMPLEMENTATION ACT*

Sec. 1 Short Title; Table of Contents

This section provides the short title of the Act as the "United States-Chile Free Trade Agreement Implementation Act."

Sec. 2 Purposes

This section sets forth the purposes of the Act, *e.g.*, to approve and implement the U.S.-Chile Free Trade Agreement (the Agreement).

Sec. 3 Definitions

This section provides definitions for the Act.

TITLE I – APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

Title I approves the bill and establishes the general regulatory authority for the President to implement the Agreement.

Sec. 101 Approval and Entry into Force of the Agreement

This section provides Congressional approval for the Agreement and its accompanying Statement of Administrative Action. Section 101 also authorizes the President to exchange notes with Chile to provide for the entry into force of the Agreement on or after January 1, 2004.

Sec. 102 Relationship of the Agreement to United States and State Law

This section establishes the relationship between the Agreement and U.S. law. It clarifies that no provision of the Agreement will be given effect under domestic law if it is inconsistent with federal law.

Section 102 also clarifies the relationship between the Agreement and state law and precludes any private right of action or remedy against a federal, state, or local government, or against a private party, based on the provisions of the Agreement.

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* NOTE: This summary covers only those provisions in the bill that are within the jurisdiction of the Committee on Finance.

Sec. 103 Consultation and Layover Provisions for, and Effective Date of, Proclaimed Actions

This section sets forth traditional consultation and layover steps that must precede the President's implementation of any tariff modifications by proclamation. Under the consultation and layover provisions, the President must obtain the advice of the private sector and the U.S. International Trade Commission (ITC) on a proposed action. The President must submit a report to the Senate Committee on Finance and the House Committee on Ways and Means setting forth the action proposed, the reasons therefore, and the advice of the private sector and the ITC. The Act sets aside a 60 day period following the date of transmittal of the report for the Committees to consult with the President on the action.

Sec. 104 Implementing Actions in Anticipation of Entry into Force and Initial Regulations

This section provides the authority for new or amended regulations to be issued, and for the President to proclaim actions implementing the provisions of the Agreement, on the date the Agreement enters into force.

Sec. 105 Administration of Dispute Settlement Proceedings

This section authorizes the President to establish or designate within the Department of Commerce an office responsible for providing administrative assistance to dispute settlement panels established under Chapter 22 of the Agreement. This section also authorizes the appropriation of funds to support this office.

Sec. 106 Arbitration of Certain Claims

This section authorizes the United States to utilize the Investor-State Dispute Settlement Procedures to arbitrate claims covered by the Agreement that involve government contracts.

Sec. 107 Effective Dates; Effect of Termination

This section provides effective dates for the Act. Section 107 also provides that the provisions of the Act will no longer be in effect should the Agreement cease to be in force.

TITLE II – CUSTOMS PROVISIONS

Title II authorizes changes to U.S. customs law which are necessary or appropriate to implement the Agreement.

Sec. 201 Tariff Modifications

This section authorizes the President to implement by proclamation the continuation, modification or elimination of tariffs as the President determines to be necessary or appropriate to carry out the terms of the Agreement.

Section 201 also authorizes the Secretary of the Treasury to assess duties in accordance with the agricultural safeguard provisions of the Agreement.

Sec. 202 Rules of Origin

This section provides the rules of origin of the Agreement. This section also authorizes the President to modify certain of the Agreement's specific rules of origin by proclamation, subject to the consultation and layover provisions of Section 103 of the Act.

Sec. 203 Drawback

This section implements Article 3.8 of the Agreement, which will phase out duty drawback and duty deferral programs between the United States and Chile over three years, beginning eight years after the Agreement enters into force.

Sec. 204 Customs User Fees

This section provides for the immediate elimination of the merchandise processing fee for goods qualifying for preferential treatment under the terms of the Agreement.

Sec. 205 Disclosure of Incorrect Information; Denial of Preferential Tariff Treatment; False Certificates of Origin

This section provides that the United States may not impose a penalty on an importer who makes an invalid claim for preferential tariff treatment under the Agreement if, after discovering that the claim is invalid, the importer voluntarily corrects the claim. This section also authorizes penalties for fraud and abuse.

Sec. 206 Reliquidation of Entries

This section permits an importer to claim preferential tariff treatment for originating goods within one year of their importation.

Sec. 207 Recordkeeping Requirements

This section sets forth the requirement that a U.S. exporter or producer issuing a Chile FTA Certificate of Origin keep a copy of the certificate for a period of five years from the date of issuance of the certificate.

Sec. 208 Enforcement of Textile and Apparel Rules of Origin

If, per the terms of the Agreement, the Secretary of the Treasury requests that Chile conduct a verification with respect to a Chilean exporter or producer to determine whether claims of origin are accurate, this section authorizes the President to direct the Secretary of the Treasury to take "appropriate action" while the verification is being conducted. Such appropriate action includes suspending the liquidation of entries of textile and apparel goods, publishing the identity of the person subject to the verification, and, in certain circumstances, denying the entry of goods into the United States.

Sec. 209 Conforming Amendments

This section makes conforming amendments to the Tariff Act of 1930 to reflect changes in paragraph numbering as a result of amendments resulting from the Agreement.

Sec. 210 Regulations

This section requires the Secretary of the Treasury to prescribe such regulations as may be necessary to carry out provisions of the Agreement concerning rules of origin, drawback, and customs user fees.

TITLE III – RELIEF FROM IMPORTS

Title III establishes bilateral and textile and apparel safeguards.

Sec. 301 Definitions

This section provides definitions for this title.

SUBTITLE A – RELIEF FROM IMPORTS BENEFITING FROM THE AGREEMENT

Sec. 311 Commencing of Action for Relief

This section sets forth provisions regarding the commencement of bilateral safeguard investigations. Pursuant to the terms of the Agreement, Section 311 also exempts from investigation, under this section, Chilean articles that have been the basis previously for according relief to an industry under the Agreement's bilateral safeguard provisions, or that are subject at the time the petition is filed to relief under the global safeguard statute in Chapter 1 of title II of the Trade Act of 1974 (Section 201).

Sec. 312 Commission Action on Petition

This section establishes deadlines for U.S. International Trade Commission (ITC) determinations following the initiation of a bilateral safeguard investigation. Section 312

also provides that, if the ITC makes an affirmative determination or a determination that the President may consider to be an affirmative determination, the ITC must find and recommend to the President the amount of import relief that is necessary to remedy or prevent the serious injury and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

Sec. 313 Provision of Relief

This section authorizes the President to provide relief under the bilateral safeguard provisions of the Act.

Sec. 314 Termination of Relief Authority

This section terminates the President's authority to take action under the bilateral safeguard provision at the end of the appropriate "transition period", which is ten years for most goods, and twelve years in the case of goods with a duty phase-out of twelve years.

Sec. 315 Compensation Authority

This section authorizes the President to provide trade compensation to Chile when the United States imposes relief through a bilateral safeguard action.

Sec. 316 Confidential Business Information

This section incorporates procedures regarding the release of confidential business information to apply in bilateral safeguard investigations.

SUBTITLE B – TEXTILE AND APPAREL SAFEGUARD MEASURES

Sec. 321 Commencement of Action for Relief

This section sets forth procedures regarding the commencement of action for relief under the Agreement's safeguard mechanism available to domestic textile and apparel industries.

Sec. 322 Determination and Provision of Relief

This section sets forth provisions regarding the President's determination as to whether a U.S. industry is eligible for relief under the textile and apparel safeguard mechanism.

Sec. 323 Period of Relief

This section provides that the maximum period of relief under the textile and apparel safeguard shall be three years.

Sec. 324 Articles Exempt from Relief

This section exempts textile and apparel articles from relief under the textile and apparel safeguard if relief previously has been granted to such articles under this safeguard.

Sec. 325 Rate After Termination of Import Relief

This section provides that, on termination of import relief, the rate of duty on imports of the textile or apparel article that had been subject to the safeguard action will be duty-free.

Sec. 326 Termination of Relief Authority

This section provides that the authority to grant relief under the textile and apparel safeguard with regard to Chilean textile and apparel goods will expire eight years after the duties such goods are eliminated.

Sec. 327 Compensation Authority

This section authorizes the President to provide trade compensation for actions taken pursuant to the Agreement's textile and apparel safeguard provisions.

Sec. 328 Business Confidential Information

This section sets forth provisions concerning the release of business confidential information submitted to the President in connection with the request for action pursuant to the textile and apparel safeguard provisions.

TITLE IV – TEMPORARY ENTRY OF BUSINESS PERSONS

Title IV of the Act implements U.S. commitments under Chapter 14 of the Agreement, which governs the temporary entry of business persons. These provisions are within the jurisdiction of the Committee on Judiciary.

Singapore and Chile FTAs

United States Senate

Committee on Finance

Robert B. Zoellick

United States Trade Representative

July 10, 2003

Singapore, Chile FTAs

Singapore:

- First U.S. free trade agreement with an Asian nation
- Enhances strong and thriving economic relationship in key region
  - Singapore was 12th largest U.S. trading partner in 2002; $40 billion in two-way trade in 2002
  - U.S. foreign direct investment more than $27 billion in 2001
  - Significant U.S. commercial interests in services, high-tech

Chile:

- First U.S. free trade agreement with a South American nation
- Chile among the fastest-growing economies in the world; strong democracy, free market orientation
- University of Michigan/Tufts study estimates a U.S.-Chile FTA will expand U.S. GDP by $4.2 billion, Chilean GDP by $700 million
- Broad support from U.S. manufacturers, farmers, services firms

A Consultative Process Under TPA

With Congress:

- 1st FTAs finalized under TPA
- Proposed draft texts provided to Congress prior to negotiating rounds
- More than 250 meetings with Members and staff
- Secure website established to facilitate access to texts
- Draft final text made available to Congress in January 2003

With approximately 700 cleared advisors:

- Proposed draft text shared with advisors for comments throughout talks
- FTAs were discussed at scores of advisory committee meetings
- Daily teleconference briefings during final rounds
- Secure website established to facilitate access to texts
- 30 of 31 advisory committees endorsed both FTAs

With the public: full texts made public in March (Singapore) and April (Chile)

FTAs for the 21st Century

The Singapore and Chile FTAs:

- Are comprehensive
  - All sectors are covered; no exclusions
- Are groundbreaking and state-of-the-art
  - Provisions to deal with new, cutting-edge trade issues
  - Set new standards of market access in many areas
- Promote transparency
  - Increased transparency in dispute settlement, but also in customs administration, services regulation, and government procurement
- Are innovative and constructive on labor and environment
  - Following TPA guidance to create positive approaches to encourage labor and environmental protections

U.S.-Singapore FTA

Comprehensive:

- 100% of U.S. goods have duty-free status locked in
- 92% of Singapore goods enter duty-free immediately
- All services and investment sectors are open unless specifically excluded
- Significantly expands U.S. access in banking, insurance, financial services, express delivery, telecommunications, professional services, computer services, retailing and distribution

State of the Art:

- Strong protections for trademarks, copyrights and patents (including bio-patents)
- Digital copyright protection: "temporary downloads"; protection for "technical protection measures" on DVDs and CDs
- Extended copyright term protection
- Better IPR enforcement through tough penalties for piracy and counterfeiting, possibility of monetary damages
- Followed TPA guidance on policies and procedures to protect investors

U.S.-Singapore FTA

Promotes Transparency:

- Regulatory measures require advance notice, public comment, publication
- Streamlined customs procedures and a customs cooperation agreement (positive for both business facilitation and for homeland security)
- Services regulators must be transparent in development and application of rules
- Government procurement must be open, transparent, non-discriminatory
- Impartial authority to hear complaints on procurement

Innovative, Constructive Approach on Labor/Environment:

- Strong provisions on labor and environment in core text of agreement
- Standards not to be weakened to encourage trade or investment
- Commitment to effectively enforce labor/environmental laws, enforceable through dispute settlement
- Innovative use of monetary assessments to encourage compliance

U.S.-Chile FTA

Comprehensive:

- More than 85% of trade in consumer/industrial goods duty-free immediately; remaining tariffs phased out over four years
  - Key sectors benefit: construction equipment, autos/auto parts, IT products, medical equipment, paper and forest products
- More than 75% of U.S. farm goods enter Chile duty-free within 4 years; all tariffs phased out within 12 years
  - Key products to benefit: pork, beef, soybeans, durum wheat, feed grains, potatoes, and processed food products
- U.S. products get treatment as good (or better) than European and Canadian goods under their FTAs
- Access to fast-growing Chilean services market
  - All services liberalized unless specifically limited
  - New access to banking, financial services, telecom, express delivery, audiovisual, construction and other services
  - U.S. firms may offer financial services in Chile's privatized pension system
  - Secure, predictable legal framework for U.S. investors in Chile

U.S.-Chile FTA

State of the Art:

- Strong protections for trademarks, copyrights and patents
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- Extended copyright term protection
- Better IPR enforcement through tough penalties for piracy and counterfeiting, possibility of monetary damages
- Followed TPA guidance on policies and procedures to protect investors

Promotes Transparency:

- Criminalizes bribery in government procurement, furthering a Hemispheric goal
- Regulatory measures require advance notice, public comment, publication
- Streamlined customs procedures and a customs cooperation agreement
- Services regulators must be transparent in development and application of rules
- Government procurement must be open, transparent, non-discriminatory
- Impartial authority to hear complaints on procurement

U.S.-Chile FTA

Innovative, Constructive Approach on Labor/Environment:

- Strong provisions on labor and environment in core text of agreement
- Standards not to be weakened to encourage trade or investment
- Commitment to effectively enforce labor/environmental laws, enforceable through dispute settlement
- Innovative use of monetary assessments to encourage compliance
- Chile upgraded its labor laws during the negotiations
- Environmental cooperation projects recently agreed