

Testimony of

The Honorable Orrin Hatch

July 14, 2003

Opening Statement of Chairman Orrin G. Hatch
Before the United States Senate Committee on the Judiciary
Hearing on

"PROPOSED UNITED STATES-CHILE AND
UNITED STATES-SINGAPORE FREE TRADE AGREEMENTS"

We are here today for the Committee's first hearing, of what I hope will be many, on international trade agreements and implementing language related to those areas in the agreement that concern matters under the jurisdiction of the Judiciary Committee.

Specifically, today we will examine some of the provisions in the proposed bilateral Free Trade Agreements between the United States and Chile and the United States and Singapore.

I would like to commend the Administration in reaching these agreements with Chile and Singapore. Both Chile and Singapore are countries that represent economic stability and growth in their respective regions. The trade agreements will provide new market access for American products including agricultural, manufactured products, telecommunications equipment and other high technology products.

Both of these agreements contain chapters on matters of longstanding interest to this Committee. These include immigration, intellectual property, antitrust, e-commerce, and telecommunications. In all of these areas, except immigration, no changes in any U.S. laws under this Committee's jurisdiction require amendment. In many ways, the substance of the negotiations on matters of Judiciary Committee concern with respect to these two important treaties has focused on ways to encourage our trading partners to harmonize their law with current U.S. standards. We should be proud of this dynamic.

Today, I expect the Committee will focus its attention on the provisions in the agreements that relate to legislative language being drafted to implement the immigration aspects of the treaties. Key issues include provisions that relate to the temporary entry of investors, visitors for business, and temporary professional workers.

As I understand it, over the last several months on six occasions the Office of the United States Trade Representative has briefed the Committee on immigration issues related to these agreements.

I want to acknowledge and thank USTR for consulting with the Committee. We need to continue this spirit of cooperation as we move forward on these and other trade agreements. In the last week, USTR staff and Committee staff have worked closely together as the

immigration language has been circulated and revised. Last Wednesday, Committee staff and a representative from USTR, Ted Posner, met to identify and attempt to resolve issues related to immigration. Many of us know and respect Ted from his days as one of Senator Baucus' trade counsels on the Finance Committee. I should also mention the good work of Kent Shigetomi on the immigration portions of these agreements.

In any event, since the Wednesday meeting that walked through the proposed language, a series of informal staff-level consultations have occurred.

In fact, it was my hope that the Committee would be able to hold what is known as a mock mark-up last Thursday. But as anyone who follows the Judiciary Committee knows, we spent another 10 hours on asbestos and we were unable to get to the trade agreements.

My colleagues on the Committee will recall that Senator Grassley, who in addition to serving on this Committee, chairs the Finance Committee, urged us to take up these trade matters in the hope that the full Senate can adopt these treaties before the August recess.

I wholeheartedly agree with Chairman Grassley that the full Senate should act on the Chile and Singapore Free Trade Agreements before we adjourn in August, if it is at all possible.

Under the Trade Promotion Act of 2002, implementing legislation for trade agreements are fast-tracked, which means that once the Administration transmits the language, we can vote for or against it but cannot amend it.

The TPA legislation also calls for close consultation between the Administration and Congress. This consultation takes place in a number of forms. It includes the statutorily created Congressional Oversight Group on Trade, on which Senator Leahy, Senator Cornyn and I serve, to represent the interests of our Committee.

The informal staff briefings between USTR and other agencies and Congressional staff are another type of constructive interaction. While not statutorily required, the so-called mock mark-up is another prudent mode of inter-branch of government communications. This amounts to an occasion for the relevant Committees to give the Administration its informal advice, in the very formal setting of an Executive Business meeting, on any implementing language that the Administration is developing for subsequent submission to the Hill under the fast track procedures.

Unfortunately, we were unable to reach the mock mark item on last Thursday's agenda. We have had the benefit of several more Judiciary Committee-staff and USTR-staff interactions over the last several days.

I would suggest that another function of today's hearing will be for members of this Committee to convey any unresolved concerns they would have raised on Thursday, directly to the senior USTR officials responsible for negotiating these two agreements.

I have heard, and to some extent share, the concerns that some members of the Committee,

including Senator Feinstein, have about the truncated schedule we are operating under, and the somewhat fluid nature of the language over the last week.

I do appreciate U.S. Trade Representative Robert Zoellick's attempt to gain our views and to keep this Committee informed of the status of progress on these agreements and the development of the implementing language that the Administration plans to introduce shortly.

I want to emphasize that Members of this Committee will expect satisfactory answers and resolution to the questions and concerns that may be raised during today's hearing. If there are reasons why our input cannot be accommodated, we will expect to know why.

We live in a global economy where free trade is vital to our nation. An integral part of this global economy is the flexibility to move essential personnel from one country to another in order to provide much-needed support of the companies that conduct business abroad. Further, if we want our trading partners to allow American citizens to enter their borders to conduct business, we must also reciprocate by granting their citizens the same type of privileges.

While I support the principle of free trade and understand the benefits of agreements such as these to the U.S. economy and job market, I will never agree to legislation that does not reflect sound immigration policy. Just as I would never agree to any compromise of national security for the sake of selling more products overseas, I would never sacrifice the well-being of the hardworking Americans and their families by weakening our immigration laws.

Prior to today's hearing, members of this Committee raised several concerns about a variety of immigration issues. These include the potential for indefinite stay by the foreign workers and the risk that foreign workers may be brought into the United States to interfere with labor disputes.

Another concern that I have heard is whether this agreement and implementing language could be viewed as circumventing the existing, sensitive numerical limits on H1-B professional workers' visas.

I understand that many of our colleagues on the House Judiciary Committee have made it clear that trade agreements may not be the best place to change immigration law and policy.

I want to make sure that our two representatives from USTR today, Ms. Vargo and Mr. Ives, will go back and give Ambassador Zoellick a message: Presenting the Judiciary Committee with implementing language related to particular trade agreements that raise general issues of immigration policy may not be the best path to travel in future trade agreements.

Having said that, I wish to emphasize that many on this Committee have worked together, and with USTR to resolve their concerns with, and improve, the immigration implementing legislation.

I am hopeful that when the Administration transmits its formal legislative package, members of the Judiciary Committee will be satisfied with the outcome with our consultations with USTR.

Despite that fact that we were unable to hold a mock mark-up last Thursday, I hope that today's real hearing can serve that same type of formal mechanism for the Judiciary Committee to give the Administration our informal comments before the fast track procedures are initiated.

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