

Testimony of

The Honorable Orrin Hatch

July 17, 2003

Statement of Chairman Orrin G. Hatch

Before the Senate Judiciary Committee

Executive Business Meeting

On

TEMPORARY ENTRY PROVISIONS OF THE U.S.-CHILE
AND THE U.S.-SINGAPORE FREE TRADE AGREEMENTS

Next on the agenda today is the Administration's proposed implementing language for the Free Trade Agreements with Singapore and Chile. The portion of the implementing language of S. 1416, Chile, and S.1417, Singapore, that is in the jurisdiction of this Committee addresses the temporary entry of professional workers, treaty traders, intra-company transfers, and business visitors.

These provisions were the subject of a hearing on Monday with the two lead USTR negotiators on these agreements, Regina Vargo for the Chile agreement and Ralph Ives for the Singapore agreement.

Today, we will have a chance to vote for, or against, the portion of the Administration's proposed legislation, but will not be able to amend it. Last year a broad bipartisan group of 66 Senators voted for trade promotion authority. One of the chief reasons for adopting fast track procedures is to prevent trade treaties from death by amendment and delay. All members of this Committee and the Senate retain the ultimate authority to accept or reject any legislation the Administration proposes.

Prior to the Administration's formal submission of the implementing language, there had been substantial interaction between Judiciary Committee staff and USTR staff. It is my understanding that there no less than 6 briefings for Committee staff. I think we have a chart that shows the dates of these briefings.

In addition, USTR provided an expert, Ted Posner, to walk the committee staff through the language last week.

There have been numerous additional informal consultations among Committee staff on both sides of the aisle and between Committee staff and USTR and other Administration officials in the last few weeks.

At the hearing on Monday, Senator Feinstein made it plain that she was not satisfied by delegating these consultations to her staff and would have preferred personal consultation with senior USTR officials. Senator Feinstein has a well-deserved reputation for being personally involved with issues that are important to her and to this Committee, and if senior USTR officials had not been aware of Senator Feinstein's personal concern as of Monday's hearing, they certainly should be aware now and should honor Senator Feinstein's request in all future dealings with this Committee.

Of course, the Office of the USTR should also be recognized for the work it has done to address the concerns expressed by members of this Committee.

As illustrated here on this Chart, as of the USTR briefing last week, there are three main areas of concern that are important to this Committee. They are, first, time limitation on the professional workers' visa; second, numerical limitation on how many of such professional workers may enter the United States; third, protection of American workers; and lastly, the ability to impose additional requirements on the visa provisions. I will not go into all the details now, but it is certain fair to say that the USTR has accommodated most of the concerns this Committee raised. Certainly, the USTR could not have addressed these concerns without having had some meaningful interaction with the staff on this Committee.

No, not every member got every change he or she wanted. Yes, including immigration-related provisions in individual trade agreements that raise general matters of immigration policy is a very, very sensitive issue that this Committee must review carefully. However, overall, these are both good and important bilateral trade agreements and deserve our support. I will work with

Chairman Grassley and others to see that full Senate adopts these measures. I hope this occurs before August recess. I will support the language before us today and urge my colleagues to vote for these measures.

At Monday's hearing, a question was raised about whether the trade statute authorized USTR to negotiate subjects that impinge upon immigration law. That is a fair question. As early as the Friendship, Commerce and Navigation Treaty with Great Britain of 1815, provisions have been included in trade agreements that allowed for the entry of foreign nationals to conduct trade. Moreover, section 2102 of the Trade Act of 2002 calls for the President to reduce barriers to trade in services. Implicit in that authority is the mandate to provide access for U.S. businesses, including small to mid-size businesses, to foreign markets.

Our citizens need to be able to conduct business abroad. Indeed, 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 American companies that conduct business abroad.

Consequently, the United States must reciprocate, within the parameters of sound immigration policy, the courtesy that we expect our trade partners to extend to American citizens working and trading abroad.

In spite of the precedent and the critical role immigration policy plays in the international trade arena, I would urge the Administration to proceed with great caution in the immigration area in the future.

I would note that the lead story in Inside U.S. Trade this week is the headline: House Committee Amends Visa Plan in FTAs, Vows Never to Pass Another. I think that sums up the situation nicely.

I think that a balanced review of the record shows that after extensive discussion with both the Senate staff and the House staff, the Administration satisfactorily addressed the vast majority of the concerns expressed by Democrat and Republican members of this Committee. When all is said and done, these are good trade agreements and this implementing language serves important public purposes.

The Administration has improved the language by working with us. We will need to work even more closely together in the future because these trade agreements are so important to the growth of our economy and to American and foreign workers and their families.

I urge all of you to join me in supporting the temporary entry provisions of S. 1416 and S. 1417 today and on the floor.

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Statement of Chairman Orrin G. Hatch
Before the United States Senate Committee on the Judiciary
Executive Business Meeting
On the Nominations of

JAMES O. BROWNING TO BE U.S. DISTRICT JUDGE
FOR THE DISTRICT OF NEW MEXICO,

KATHLEEN CARDONE TO BE U.S. DISTRICT JUDGE
FOR THE WESTERN DISTRICT OF TEXAS,

JAMES I. COHN TO BE U.S. DISTRICT JUDGE
FOR THE SOUTHERN DISTRICT OF FLORIDA,

FRANK MONTALVO TO BE U.S. DISTRICT JUDGE
FOR THE WESTERN DISTRICT OF TEXAS, AND

XAVIER RODRIGUEZ TO BE U.S. DISTRICT JUDGE
FOR THE WESTERN DISTRICT OF TEXAS

Today we have five district nominees on our agenda. These nominees are very well qualified and enjoy bi-partisan support. I am pleased we are able to consider their nominations and look forward to their swift confirmation. Let me say a few words about each nominee

James O. Browning, our nominee for the United States District Court for the District of New Mexico has a wide variety of legal experience and will make an excellent addition to the federal bench. Mr. Browning graduated magna cum laude from Yale University in 1981. He earned his law degree from the University of Virginia where he served as Editor-in-Chief of the Virginia

Law Review and was a member of the Order of the Coif. After graduating from law school, Mr. Browning was a judicial clerk for the Honorable Collins J. Seitz, Chief Judge of the United States Court of Appeals for the Third Circuit. He then served as a law clerk for United States Supreme Court Justice Lewis F. Powell. In 1987, Mr. Browning joined the New Mexico Attorney General's office as a Deputy Attorney General. Mr. Browning is currently a senior partner and shareholder with the Albuquerque firm of Browning & Peifer. He has been involved in class action litigation, complex federal commercial litigation, securities litigation, and a myriad of other civil litigation matters. Mr. Browning has also volunteered for various pro bono activities during his legal career, and he currently commits several hours a month to the New Mexico Christian Legal Aid group.

Kathleen Cardone has been nominated to the United States District Court for the Western District of Texas. Since 1983, Judge Cardone has served as a state judge in El Paso County, Texas, on numerous courts, including a municipal court, a family law court, and multiple state district courts. In addition to her judicial duties, she has worked as a trained mediator, as well as a teacher of an introductory law course at the El Paso Community College. After graduating from St. Mary's School of Law in 1979, Judge Cardone worked for one year as a briefing attorney for Philip Schraub, a United States Magistrate Judge for the Southern District of Texas. Following this judicial clerkship, she spent ten years in private practice, handling an array of cases involving civil, criminal and family law matters.

Judge James I. Cohn has been nominated to the United States District Court for the Southern District of Florida. Judge Cohn presently serves as a Circuit Judge on the 17th Judicial Circuit of Florida, a position he has held since 1995. After graduating from Cumberland Law School in 1974, Judge Cohn worked for one year as an Assistant Public Defender in the Broward County Public Defender's Office. He then spent three years as an Assistant State Attorney in the Broward State Attorney's Office. Following his tenure in the State Attorney's Office, Judge Cohn joined the Michael Widoff law firm in Fort Lauderdale, Florida where he worked for one year before establishing his own general trial practice in 1979. During his years as a trial attorney, Judge Cohn handled a variety of litigation, including criminal defense, personal injury, medical negligence, and child custody cases. In addition to his legal background, he has been an active member of his community through his participation in the National Guard as well as his membership in the Exceptional Student Education Advisory Council, an organization devoted to special needs children. Judge Cohn's record reflects that of a skilled lawyer, an experienced judge, and an active citizen--characteristics that will make him a valued addition to the federal bench.

Judge Frank Montalvo is another nominee for the United States District Court for the Western District of Texas. Judge Montalvo currently serves as a Judge on the Texas 288th Judicial District Court, a position to which he was first elected in 1994. He was re-elected to this position in 1998 and 2002. After graduating from Wayne State Law School in 1985 he was engaged in private practice in San Antonio, Texas as an attorney at the firms of Groce, Locke & Hebdon and later Ball & Weed. Judge Montalvo litigated complex civil liability cases in state and federal courts. He has been very active outside the court room as well. Through a program sponsored by his local parish, Judge Montalvo has assisted undocumented workers file Immigration Amnesty applications. He also volunteers his time to assist Spanish speaking individuals orient themselves with courthouse services and access to the legal system. I believe Judge Montalvo will make an excellent addition to the Federal District Court in the Western District of Texas.

Our final district court nominee is Xavier Rodriguez, also nominated for the Western District of

Texas. Mr. Rodriguez graduated from the University of Texas School of Law in 1987 and joined the prestigious firm of Fulbright & Jaworski, where he currently is a partner. In 2001, Justice Rodriguez was appointed to the Texas Supreme Court, where he served until 2002 before returning to private practice. He has served as past president of the South San Antonio Chamber of Commerce, as vice chair of the State Board for Educator Certification, and as an advisory board member to the dean of St. Mary's University School of Law. He was commissioned as an officer in the U.S. Army Reserve in 1983 and served in the Judge Advocate General's Corps.
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July 17, 2003 Contact: Margarita Tapia, 202/224-5225

Statement of Senator Orrin G. Hatch, Chairman
Before the United States Senate Judiciary Committee
Executive Business Meeting
On the Nomination of

CHRISTOPHER WRAY FOR
ASSISTANT ATTORNEY GENERAL OF THE CRIMINAL DIVISION
IN THE UNITED STATES DEPARTMENT OF JUSTICE

Let me turn to the nomination of Christopher Wray to serve as the Assistant Attorney General of the Criminal Division in the Justice Department.

Christopher Wray is a well-qualified nominee for the position of Assistant Attorney General for the Criminal Division at the Justice Department. Since 2001, Mr. Wray has distinguished himself as the Principal Associate Deputy Attorney General, where he has played a leadership role by overseeing the Criminal Division, the 94 U.S. Attorney's Offices operating across our Nation, and the FBI. He has devoted significant attention to counter-terrorism coordination, the President's Corporate Fraud Task Force and Project Safe Neighborhoods, and the Administration's gun violence reduction initiative.

With the confirmation of the former head of the Criminal Division, Michael Chertoff, to the Third Circuit Court of Appeals, it is important for the Committee to forward Mr. Wray's nomination to ensure that the Justice Department's important work on criminal matters, including terrorism, cyber-crime, drug trafficking, violent crime, and other critical issues, continues with as little disruption as possible.

Let me take a moment to highlight three important letters the Committee has received in support of Mr. Wray's nomination.

First, in a letter dated June 24, 2003, Griffin Bell, former Attorney General and partner at King & Spalding states, "When Chris [Wray] was at our firm, we considered him to be a rising star, and his record since then has proven that our judgment was correct. Although some might question his youthfulness as a reflection of inexperience, I can vouch that Chris has a maturity in judgment well beyond his years. I feel certain that he will do a superb job for our country as the Assistant Attorney General for the Criminal Division."

Second, in a letter dated June 23, 2003, Kent Alexander, a former U.S. Attorney for the Northern District of Georgia in Atlanta under the Clinton Administration, states that he "enthusiastically" supports Mr. Wray's nomination, citing Mr. Wray's "legal acumen, sound judgment and effectiveness." Mr. Alexander explains that Mr. Wray's judgment was "always sound and balanced."

Third, in a letter dated June 23, 2003, Mary Jo White, former United States Attorney for the Southern District of New York from June 1993 to January 2002, states that she "had the privilege of working personally with Mr. Wray, in his capacity as Principal Associate Deputy Attorney General, on a variety of issues, including on counterterrorism matters involving Al Qaeda and Osama bin Laden. In my view, Christopher Wray would be an outstanding Assistant Attorney General who would bring intelligence, experience, and exceptional judgment to this important position at a particularly critical time for our nation and the criminal justice system."

I agree wholeheartedly with Mr. Bell, Ms. White and Mr. Alexander's assessment: Mr. Wray is to be commended for his experience, his successes and his efforts in protecting our country from deadly terrorist attacks, bringing to justice corporate scammers who have ripped off the American public, and for promoting aggressive enforcement of federal gun laws to reduce gun violence in our communities. Mr. Wray's experience shows that he has the qualifications, and the ability to lead the Criminal Division in the Justice Department.

I urge my colleagues to support Mr. Wray's nomination.

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JACK LANDMAN GOLDSMITH III
TO BE ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL COUNSEL, UNITED
STATES DEPARTMENT OF JUSTICE

In addition to our judicial nominees, we have the nomination of the Jack Goldsmith to be Assistant Attorney General, Office of Legal Counsel, at the Department of Justice. Mr. Goldsmith has an excellent background and will bring to the Department skills and experience that are needed in today's environment.

He clerked for Judge J. Harvie Wilkinson on the Fourth Circuit, Justice Anthony M. Kennedy at the Supreme Court and for the Iran-U.S. Claims Tribunal in the Netherlands. He then entered private practice with the distinguished firm of Covington & Burling. In 1994, Mr. Goldsmith turned to teaching, first as an Associate Professor at the University of Virginia School of Law, and in 1997 as a Professor at the University of Chicago Law School. He currently serves as Special Counsel to the General Counsel of the Department of Defense.

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