

Testimony of

The Honorable Patrick Leahy

July 17, 2003

Statement of Senator Patrick Leahy
Free Trade Agreements with Chile and Singapore
Executive Business Meeting
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We were scheduled today to hold a so-called "mock markup" of legislation proposed by the Bush Administration to implement Free Trade Agreements ("FTAs") between the United States and Chile and Singapore. Unfortunately, that process was short-circuited by the Administration's high-handed decision to transmit implementing legislation to Congress two days before this committee's scheduled debate, before responding to written questions from this committee's members. Indeed, the Administration's response to these questions - which we received only this morning - are now rather academic since, as the responses point out, "the implementing bill cannot be modified after its introduction."

The Administration apparently views this committee simply as an obstacle to be overcome as quickly as possible, and not as a source for possible improvements to its legislative proposals. As a result of the Administration's undue haste - and this committee's failure to begin consideration of these measures early enough to guarantee that we could have meaningful input - we were deprived of the opportunity to propose changes in the implementing legislation. Instead, the Chairman wants the committee to sign off on final passage of this implementing legislation today, only two days after its introduction.

The legislation that the Administration transmitted on Tuesday did not accommodate the serious concerns expressed by Senator Feinstein at Monday's hearing. The senior Senator from California eloquently expressed her strong objections to the inclusion of immigration provisions in these agreements. I share her concern that the United States Trade Representative should not be in the business of amending domestic immigration laws, as these treaties do. In addition, I agree with the objections raised in the letter Senators Feinstein, Graham, and Sessions sent yesterday to President Bush, which would enter in the Record.

The decision to include immigration provisions was not only unauthorized but also unnecessary to achieve the Administration's stated goals. Congress has already created the H-1B program, which allows foreign workers with specialized skills to work in the United States. That program was established after a lengthy process of public hearings, debate, and negotiation, and it has worked to help meet labor shortages and strengthen our economy. If the Administration feels that program needs to be changed, or a new visa category created, it should have sought to do so through the ordinary legislative process.

This matter is of particular concern because these agreements are widely viewed as the template for future trade agreements, many of which are being negotiated as we speak. I can only hope that the Administration has gotten the message from the House Judiciary Committee - which did manage to hold a "mock markup" that featured bipartisan criticisms of their proposals - and from the reservations expressed by Senators Feinstein and Graham on Monday that Congress does not intend to delegate its power over our immigration system to the executive branch.

I do not oppose these treaties as a whole. They contain important provisions covering intellectual property and the serious problem of international piracy, an issue that I continue to urge my colleagues in the Senate to address. The United States is the world's leading creator and exporter of intellectual property. But that also means we are the world's leading target for piracy of copyrighted works. New technology has made piracy cheap and easy, and everything from music to films, from books to software is susceptible to this kind of theft.

We have worked very hard on the Judiciary Committee, and in the Senate as a whole, to ensure that copyright holders have the tools they need to face the challenges of new technology. We must continue to respond to these challenges. One of the things we must do is augment international enforcement of intellectual property rights. People in Asia, in Eastern Europe, and elsewhere are stealing billions of dollars from American copyright holders by making illegal copies of American works. The fact that what is being stolen is not tangible should not undermine our conviction to end this wholesale theft

In addition, the agreements go a long way to harmonize the intellectual property laws of Singapore and Chile with those of the United States. This is important because intellectual property is increasingly an international business, one that needs an international approach to many of its problems. I look forward to working on these issues to ensure the continued vitality of the American intellectual property industries, and to facilitate the development of thriving industries in the countries with which we have free trade agreements. A healthy global environment for the development and marketing of intellectual property will redound to everyone's benefit, and as the world leader in the creation of that property, we should also be at the forefront of its sensible use and reasonable protection.

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