



Legislative Bulletin.....July 23, 2003

Contents:

- H.R. 2738**—United States-Chile Free Trade Agreement Implementation Act
- H.R. 2739**—United States-Singapore Free Trade Agreement Implementation Act
- H.R. 1707**— Prison Rape Reduction Act of 2003
- H.Res. 323**— Supporting the goals and ideals of National Marina Day
- Bishop (NY) Motion to Instruct Conferees on H.R. 1308**—the All-American Tax Relief Act

H.R. 2738—United States-Chile Free Trade Agreement Implementation Act (DeLay)

Order of Business: The bill is scheduled to be considered on Wednesday, July 23rd, subject to a closed rule. Under Trade Promotion Authority (Public Law 107-210), bills implementing trade agreements are not amendable (either in committee or on the House floor).

Summary by Title: H.R. 2738 would approve and implement the U.S.-Chile Free Trade Agreement (FTA), finalized on June 6, 2003 and submitted to Congress on July 15, 2003. The Agreement would be implemented no earlier than January 1, 2004, provided that Chile has taken the necessary compliance steps. The Agreement would reduce and eventually eliminate virtually all barriers to trade in goods and services and to investment. Goods originating from Chile would have preferential tariff treatment in the United States and vice versa. Highlights of H.R. 2738 are as follows:

Title I—Approval of, and General Provisions Relating to, the Agreement

- Makes U.S. law paramount to any provision in the Agreement that conflicts with U.S. law. States that the Agreement would not modify any U.S. law.
- A state law that conflicts with any provision in the Agreement could only be declared invalid by federal government action.
- Prevents private legal actions against any provision of the Agreement.
- Authorizes “such sums” as may be necessary for the President to establish an office within the Department of Commerce to administer the Agreement.

Title II—Customs Provisions

- Allows the President to modify any tariffs or tariff-free treatment in the Agreement and to create additional tariffs as necessary (subject to certain limitations).
- Terminates the designation of Chile as a beneficiary developing country for purposes of the Trade Act of 1974.
- Allows for additional tariffs on “agricultural safeguard goods,” under certain pricing conditions and exceptions over the next twelve years.
- Defines in detail what an “originating good” is (originating from either the United States or from Chile) and what “originating materials” are, as they relate to preferential tariff treatment under the Agreement.
- A good that has undergone production necessary to qualify as an “originating good” would not be considered to be an “originating good” if, subsequent to that production, the good undergoes further production or any other operation outside the territory of Chile or the United States, other than unloading, reloading, or any other process necessary to preserve the good in good condition or to transport the good to the territory of Chile or the United States.
- Provides for the assessment of duties on exports and imports between the two countries not subject to the Agreement (such as those described in the previous bullet point).
- Allows antidumping duties to be imposed on imported goods, as necessary.
- Prohibits customs user fees from being charged with respect to “originating goods” under the Agreement.
- Allows importers (without penalty) to voluntarily correct mistaken claims that a good qualifies under the Agreement, as long as they pay the proper duties. Also allows exporters to evade penalty if they “immediately” provide written notice that they issued a Chile Free Trade Agreement Certificate of Origin that was based on incorrect information.
- Applies penalties on U.S. exporters for fraudulent or negligent claims of qualification of an exported good under the Agreement.
- Authorizes the denial of preferential tariff treatment for importers who repeatedly file false or suspicious claims that their goods qualify under the Agreement.
- Requires that any person who completes and issues a Chile FTA Certificate of Origin for a good exported from the United States would have to make, keep, and render for examination and inspection all records and supporting documents related to the origin

of the good (including the Certificate or copies thereof) for at least five years (subject to fines for noncompliance).

- Authorizes the temporary suspension of entry into the U.S. textiles and apparel from a Chilean exporter under investigation under the Agreement (by request of the Secretary of the Treasury) and the permanent termination of preferential tariff treatment/of entry into the U.S. for the textiles and apparel of a Chilean exporter for which there remains insufficient information to make a determination of qualifying under the Agreement.

Title III—Relief from Imports

- Authorizes the filing (with the U.S. International Trade Commission) by an entity, including a trade association, firm, certified or recognized union, or group of representative workers, of a petition requesting adjustment to the obligations of the United States under the Agreement. The Commission would then have to investigate whether “a substantial cause of serious injury or threat thereof to [a] domestic industry” is occurring as a result of the Agreement with Chile (subject to certain exceptions).
- If the Commission finds injury or threat of injury, it would then have to recommend the amount of import relief necessary to correct or prevent harm. Further, the Commission would have to facilitate the efforts of the domestic industry to make a “positive adjustment to import competition.”
- The President would not have to provide import relief if doing so would have greater economic and social costs than benefits.
- Import relief could entail increasing duties or suspending their reductions and would have to occur progressively in intervals if the relief is to last more than one year.
- Import relief is not to last more than three years, subject to extension under certain circumstances.
- No import relief could be commenced after the Agreement has been in force for ten years (subject to an exception).
- Enacts similar, yet more stringent, provisions for import relief for the textile and apparel industries (for example, import relief would *have* to take the form of an increased duty).

Title IV—Temporary Entry of Business Persons

- Allows Chilean traders and investors (and their families) to obtain nonimmigrant visas to enter the United States for business purposes for one year (subject to extension in one-year increments). No more than 1400 of these visas could be issued in any fiscal year.

- No nonimmigrant visa with an occupational classification could be issued unless the U.S. employer certifies that it is paying the nonimmigrant alien the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the employment in question OR **the prevailing wage level** for the occupational classification in the area of employment (subject to back-pay and penalties for noncompliance). The Secretary of Labor would be charged with verifying the labor-related information attested to by employers with nonimmigrant businessmen from Chile. A nonimmigrant visa could be denied if there is an ongoing labor dispute at the intended place of employment.

Additional Background: For a summary of the Agreement, visit this webpage:
http://www.ustr.gov/regions/whemisphere/samerica/2002-12-11-chile_summary.pdf

To access the actual text of the Agreement, visit this webpage:
<http://www.ustr.gov/new/fta/Chile/text/index.htm>

Committee Action: On July 16, 2003, the House Judiciary Committee marked up and favorably reported H.R. 2738 by voice vote. On July 17, 2003, the Ways & Means Committee marked up and favorably reported the bill by a vote of 33-5. The five “no” votes were all Democrats.

Cost to Taxpayers: CBO estimates that implementing the U.S.-Chile Free Trade Agreement would reduce revenues by \$5 million in FY2004 and by \$39 million over the FY2004-2008 period. Additionally, implementing the Agreement would yield a net increase in mandatory spending of less than \$500,000 per year. Lastly, spending subject to appropriation would likely be about \$500,000 in FY2004 and \$3.1 million over the FY2004-FY2008 period.

Does the Bill Create New Federal Programs or Rules?: The bill would implement the U.S.-Chile Free Trade Agreement, which would lower and eliminate tariffs (and other barriers to trade) between the two countries.

Constitutional Authority: The Ways & Means Committee, in House Report 108-224, cites constitutional authority in Article I, Section 8, Clause 1 (the congressional power to “lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States”).

Outside Organizations: The U.S. Chamber of Commerce has issued a notice that it will consider including a vote on the Chile Free Trade Agreement in its annual ratings of Members of Congress.

RSC Staff Contact: Paul S. Teller, paul.teller@mail.house.gov, (202) 226-9718

H.R. 2739—United States-Singapore Free Trade Agreement Implementation Act (DeLay)

Order of Business: The bill is scheduled to be considered on Wednesday, July 23rd, subject to a closed rule. Under Trade Promotion Authority (Public Law 107-210), bills implementing trade agreements are not amendable (either in committee or on the House floor).

Summary by Title: H.R. 2739 would approve and implement the U.S.-Singapore Free Trade Agreement (FTA), finalized on May 6, 2003 and submitted to Congress on July 15, 2003. The Agreement would be implemented no earlier than January 1, 2004, provided that Singapore has taken the necessary compliance steps. The Agreement would reduce and eventually eliminate virtually all barriers to trade in goods and services and to investment. Goods originating from Singapore would have preferential tariff treatment in the United States and vice versa. Highlights of H.R. 2739 are as follows:

Title I—Approval of, and General Provisions Relating to, the Agreement

- Makes U.S. law paramount to any provision in the Agreement that conflicts with U.S. law. States that the Agreement would not modify any U.S. law.
- A state law that conflicts with any provision in the Agreement could only be declared invalid by federal government action.
- Prevents private legal actions against any provision of the Agreement.
- Authorizes “such sums” as may be necessary for the President to establish an office within the Department of Commerce to administer the Agreement.

Title II—Customs Provisions

- Allows the President to modify any tariffs or tariff-free treatment in the Agreement and to create additional tariffs as necessary (subject to certain limitations).
- Defines in detail what an “originating good” is (originating from either the United States or from Singapore) and what “originating materials” are, as they relate to preferential tariff treatment under the Agreement.
- A good that has undergone production necessary to qualify as an “originating good” would not be considered to be an “originating good” if, subsequent to that production, the good undergoes further production or any other operation outside the territory of Singapore or the United States, other than unloading, reloading, or any other process necessary to preserve the good in good condition or to transport the good to the territory of Singapore or the United States.
- Allows certain information-technology goods to be considered of Singaporean origin when transshipped through Singapore to the United States.

- Provides for the assessment of duties on exports and imports between the two countries not subject to the Agreement (such as those described in the previous bullet point).
- Prohibits customs user fees from being charged with respect to “originating goods” under the Agreement.
- Allows importers (without penalty) to voluntarily correct mistaken claims that a good qualifies under the Agreement, as long as they pay the proper duties.
- Authorizes the denial of preferential tariff treatment for exporters in Singapore who deny a U.S. request for a site visit and/or who repeatedly (and knowingly) try to circumvent the Agreement.

Title III—Relief from Imports

- Authorizes the filing (with the U.S. International Trade Commission) by an entity, including a trade association, firm, certified or recognized union, or group of representative workers, of a petition requesting adjustment to the obligations of the United States under the Agreement. The Commission would then have to investigate whether “a substantial cause of serious injury or threat thereof to [a] domestic industry” is occurring as a result of the Agreement with Singapore (subject to certain exceptions).
- If the Commission finds injury or threat of injury, it would then have to recommend the amount of import relief necessary to correct or prevent harm. Further, the Commission would have to facilitate the efforts of the domestic industry to make a “positive adjustment to import competition.”
- The President would not have to provide import relief if doing so would have greater economic and social costs than benefits.
- Import relief could entail increasing duties or suspending their reductions and would have to occur progressively in intervals if the relief is to last more than one year.
- Import relief is not to last more than two years, subject to extension under certain circumstances (and not for more than an additional two years in aggregate).
- No import relief could be commenced after the Agreement has been in force for ten years (subject to an exception).
- Enacts nearly identical provisions for import relief specifically for the textile and apparel industries.

- Allows the President to exclude imports from Singapore when implementing a global safeguard action, if the Singaporean imports are not a substantial part of the harm to domestic industry that triggers the safeguard action.

Title IV—Temporary Entry of Business Persons

- Allows Singaporean traders and investors (and their families) to obtain nonimmigrant visas to enter the United States for business purposes for one year (subject to extension in one-year increments). No more than 5400 of these visas could be issued in any fiscal year.

Additional Background: For a summary of the Agreement, visit this webpage:
http://www.ustr.gov/regions/asia-pacific/2002-12-13-singapore_facts.pdf

To access the actual text of the Agreement, visit this webpage:
<http://www.ustr.gov/new/fta/Singapore/final.htm>

Committee Action: On July 16, 2003, the House Judiciary Committee marked up and favorably reported H.R. 2739 by voice vote. On July 17, 2003, the Ways & Means Committee marked up and favorably reported the bill by a vote of 32-5. The five “no” votes were all Democrats.

Cost to Taxpayers: CBO estimates that implementing the U.S.-Singapore Free Trade Agreement would reduce revenues by \$55 million in FY2004 and by \$411 million over the FY2004-2008 period. Additionally, implementing the Agreement would yield a net increase in mandatory spending of less than \$500,000 per year. Lastly, spending subject to appropriation would likely be about \$500,000 in FY2004 and \$3.1 million over the FY2004-FY2008 period.

Does the Bill Create New Federal Programs or Rules?: The bill would implement the U.S.-Singapore Free Trade Agreement, which would lower and eliminate tariffs (and other barriers to trade) between the two countries.

Constitutional Authority: The Ways & Means Committee, in House Report 108-225, cites constitutional authority in Article I, Section 8, Clause 1 (the congressional power to “lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States”).

Outside Organizations: The U.S. Chamber of Commerce has issued a notice that it will consider including a vote on the Singapore Free Trade Agreement in its annual ratings of Members of Congress.

RSC Staff Contact: Paul S. Teller, paul.teller@mail.house.gov, (202) 226-9718

H.R. 1707—Prison Rape Reduction Act of 2003 (Wolf)

Order of Business: The bill is scheduled for consideration on Wednesday, July 23rd, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1707 contains a variety of findings, including:

- “Experts have conservatively estimated that at least 13 percent of the inmates in the United States have been sexually assaulted in prison;
- “Most prison staff are not adequately trained or prepared to prevent, report, or treat inmate sexual assaults; and
- “The high incidence of sexual assault within prisons involves actual and potential violations of the United States Constitution.”

H.R. 1707 requires the Department of Justice (through the Bureau of Justice Statistics) to annually conduct a “comprehensive statistical review and analysis of the incidence and effects of prison rape.” Such statistics must include the common characteristics of the victims and perpetrators of prison rape, as well as the common characteristics of the prisons and prison systems with a high incidence of prison rape.

DoJ must also:

- Solicit views from State departments of correction, county and municipal jails, juvenile correctional facilities, former inmates, victim advocates, researchers, and other experts in the area of sexual assault’
- Use a random sample of not less than 10 percent of all Federal, State, and county prisons, and a representative sample of municipal prisons, including at least one prison from each State; and
- Ensure the confidentiality of each survey participant.

The bill also establishes a Review Panel on Prison Rape, consisting of three members appointed by the Attorney General in consultation with the Secretary of Health and Human Services. The purpose of the panel is to hold public hearings on the prisons with the highest and lowest incidence of prison rape to find common characteristics.

H.R. 1707 authorizes \$15 million for each of fiscal years 2004-2010 for the statistics collection requirements and the new Review Panel on Prison Rape.

Additional major provisions:

- Establishes a national clearinghouse within the National Institute of Corrections (NIC) for the provision of information and assistance to Federal, State, and local authorities responsible for the prevention, investigation, and punishment of instances of prison rape.
 - Requires NIC to conduct training and education programs for Federal, State, and local authorities.
 - Authorizes \$5 million for each of fiscal years 2004-2010 for these purposes.

- Authorizes one-year grants to States for personnel, training, technical assistance, data collection, and equipment to prevent and prosecute prisoner rape. Grants are authorized to States “to assist those States in ensuring that budgetary circumstances (such as reduced State and local spending on prisons) do not compromise efforts to protect inmates (particularly from prison rape) and to safeguard the communities to which inmates return.”
 - A State must adopt or consider adopting national prison rape standards to be eligible and specify its application how budget circumstances are affecting the State and its prisons.
 - Authorizes \$40 million for each of fiscal years 2004-2010.
- Establishes a National Prison Rape Reduction Commission consisting of nine members (appointments divided between the President, House majority and minority, and Senate majority and minority). The Commission is required to carry out a “comprehensive legal and factual study of the penalogical, physical, mental, medical, social, and economic impacts of prison rape in the United States.” The Commission must also provide the Attorney General and the Secretary of Health and Human Services with recommended national standards for enhancing the detection, prevention, reduction, and punishment of prison rape. Such recommendations should not “impose substantial additional costs compared to the costs presently expended by Federal, State, and local prison authorities.” The Commission would terminate 60 days after issuing the reports required in the bill to be issued within 2 years of the Commission’s first meeting. The bill authorizes “such sums” for the activities of the Commission.
- Requires the Attorney General to publish a final rule adopting national standards for the detection, prevention, reduction, and punishment of prison rape within 1 year of the Commission issuing its report. The standards shall not “impose substantial additional costs compared to the costs presently expended by Federal, State, and local prison authorities.” State grant awards would be reduced by 5 percent if the State did not comply with national standards or agree to use at least 5 percent of any federal grant money for prisons to maintain their compliance with the national standards.
- Requires accrediting organizations to have standards for facilities seeking accreditation related to the detection, prevention, reduction, and punishment of prison rape in order for the accrediting organization to be eligible for federal funds.

Additional Background: The Senate passed legislation (S. 1435) similar to H.R. 1707 by unanimous consent on July 21.

Activities that the Justice Department is currently engaged in related to prison rape include:

- Prison Rape Working Group (since 2001)
- Statistical analysis on prison sexual assault victims and victimization using \$13 million appropriated for FY 2003

Committee Action: H.R. 1707 was introduced on April 9 and referred to the Judiciary Committee. The bill was approved by voice vote by subcommittee on June 12 and approved by voice vote by the full committee on July 9.

Administration Position: A representative of the Department of Justice testified on April 29 that the Department “is supportive of the principles of the legislation; however, ambiguity and concern over just a few provisions still exist.” The Committee did make changes to the legislation to address the Department’s concerns.

Cost to Taxpayers: CBO estimates that implementing H.R. 1707 would cost \$18 million in FY 2004 and \$236 million over the 2004-2008 period.

Does the Bill Create New Federal Programs or Rules?: Yes, as described above.

Constitutional Authority: The Judiciary Committee, in House Report 108-219, cites Article I, but does not cite a specific section or clause.

Staff Contact: Lisa Bos, lisa.bos@mail.house.gov, (202) 226-1630

H.Res. 323— Supporting the goals and ideals of National Marina Day (Porter)

Order of Business: The resolution is scheduled for consideration on Wednesday, July 23rd, under a motion to suspend the rules and pass the bill.

Summary: H.Res. 323 resolves that the House:

- “(1) supports the goals and ideals of National Marina Day;
- “(2) recognizes America's marinas for their many contributions to their local communities; and
- “(3) urges all Americans to become more aware of the overall contributions marinas make to the well-being of the United States.”

Additional Background: The Marina Operators Association of America has proclaimed August 9, 2003, to be National Marina Day. The first National Marina Day was in 2002.

Committee Action: The resolution was introduced on July 17 and referred to the Committee on Transportation and Infrastructure. The Committee did not consider the resolution.

Cost to Taxpayers: The resolution authorizes no expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

Staff Contact: Lisa Bos, lisa.bos@mail.house.gov, (202) 226-1630

Bishop (NY) Motion to Instruct Conferees on H.R. 1308—the All-American Tax Relief Act

Order of Business: Rep. Timothy Bishop (D-NY) notified the House on July 22, 2003, of his intention to offer a motion to instruct conferees on H.R. 1308—the All-American Tax Relief Act.

Text of Motion: The text of the Bishop motion is as follows:

1. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment, not included in the House amendment, that provides immediate payments to taxpayers receiving additional credit by reason of the bill in the same manner as other taxpayers were entitled to immediate payments under the Jobs and Growth Tax Relief Reconciliation Act of 2003.
2. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment, not included in the House amendment, that provides families of military personnel serving in Iraq, Afghanistan, and other combat zones a child credit based on the earnings of the individuals serving in the combat zone.
3. The House conferees shall be instructed to include in the conference report all of the other provisions of the Senate amendment and shall not report back a conference report that includes additional tax benefits not offset by other provisions.
4. To the maximum extent possible within the scope of the conference, the House conferees shall be instructed to include in the conference report other tax benefits for military personnel and the families of astronauts who died in the *Columbia* disaster.
5. The House conferees shall, as soon as practicable after the adoption of this motion, meet in open session with the Senate conferees, and the House conferees shall file a conference report consistent with the preceding provisions of this instruction, not later than the second legislative day after adoption of this motion.

Additional Background: Substantively identical motions to instruct failed on four separate occasions recently, and a fifth (that was debated yesterday) is likely to fail when voted on today:

DeLauro Motion, July 16th: 206-220

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=370>

Michaud Motion, July 17th: 202-214

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=390>

Bell Motion, July 18th: 188-201

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=396>

Van Hollen Motion, July 21st: 193-212

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=398>

Ross Motion, *To be voted on today*

Bishop (NY) Motion, *Likely to be offered today*

To view the RSC Legislative Bulletin on H.R. 1308, as it was considered in the House, go to this webpage: <http://www.house.gov/burton/RSC/LB61203A.pdf>

Cost to Taxpayers: Any motion to instruct conferees is non-binding and thus would have no effect on the cost of the underlying legislation.

RSC Staff Contact: Paul S. Teller, paul.teller@mail.house.gov, (202) 226-9718
