

June 6, 2003

The Honorable  
María Soledad Alvear Valenzuela  
Minister of Foreign Relations

Dear Minister Alvear:

I have the honor to confirm the following understanding reached by the delegations of the United States of America and the Republic of Chile in the course of negotiations regarding Section D of Annex 14.3 of the Free Trade Agreement between our two Governments that was signed on this day.

Section D of Annex 14.3 provides for the temporary entry of business persons, as defined in Article 14.9 of the Chapter, under the category of “professionals” into the territories of the Parties. Paragraph 5 of that section permits each Party to require business persons seeking entry as “professionals” to comply with procedures generally applicable to temporary entry of professionals, such as an attestation of compliance with the Party’s labor and immigration laws.

The United States intends to implement its requirement for a labor attestation in a manner similar to the current Labor Condition Application (LCA) required under its “H-1B” (temporary worker) program. Under that program, a U.S. employer is required to submit an LCA to the Department of Labor, and to present evidence of that filing in support of its petition to the Immigration and Naturalization Service. Aliens seeking temporary entry into the United States to perform professional services pursuant to a contract ordinarily do not qualify for an H-1B visa if there is no U.S. employer or agent to submit the LCA and petition.

The Administration will consult with Congress about the possibility of developing a process under which Chilean nationals seeking to enter the United States pursuant to a contract may satisfy U.S. labor attestation that the United States imposes as authorized under Section D, paragraph 5 of Annex 14.3.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments, to enter into force on the entry into force of the Free Trade Agreement.

Sincerely,

Robert B. Zoellick

COURTESY COPY

June 6, 2003

The Honorable  
Robert B. Zoellick  
United States Trade Representative

Dear Ambassador Zoellick:

I am pleased to receive your letter of today's date, which reads as follows:

"I have the honor to confirm the following understanding reached by the delegations of the United States of America and the Republic of Chile in the course of negotiations regarding Section D of Annex 14.3 of the Free Trade Agreement between our two Governments that was signed on this day.

Section D of Annex 14.3 provides for the temporary entry of business persons, as defined in Article 14.9 of the Chapter, under the category of "professionals" into the territories of the Parties. Paragraph 5 of that section permits each Party to require business persons seeking entry as "professionals" to comply with procedures generally applicable to temporary entry of professionals, such as an attestation of compliance with the Party's labor and immigration laws.

The United States intends to implement its requirement for a labor attestation in a manner similar to the current Labor Condition Application (LCA) required under its "H-1B" (temporary worker) program. Under that program, a U.S. employer is required to submit an LCA to the Department of Labor, and to present evidence of that filing in support of its petition to the Immigration and Naturalization Service. Aliens seeking temporary entry into the United States to perform professional services pursuant to a contract ordinarily do not qualify for an H-1B visa if there is no U.S. employer or agent to submit the LCA and petition.

The Administration will consult with Congress about the possibility of developing a process under which Chilean nationals seeking to enter the United States pursuant to a contract may satisfy U.S. labor attestation that the United States imposes as authorized under Section D, paragraph 5 of Annex 14.3.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments, to enter into force on the entry into force of the Free Trade Agreement."

I have the honor to confirm that the understanding referred to in your letter is shared by my

Government, and that your letter and this letter in reply shall constitute an agreement between our two respective Governments, to enter into force on the entry into force of the Free Trade Agreement.

Sincerely,

María Soledad Alvear Valenzuela