Citizens Trade Campaign

P.O. Box 77077 Washington, D.C. 20013-7077 Phone: (202) 778-3320 Fax: (202) 293-5308

Re: U.S.-Chile and U.S.-Singapore Free Trade Agreements are bad policy as they stand

July 22, 2003

Dear Member of Congress:

You will soon be asked to vote on HR 2738 "The United States-Chile Free Trade Implementation Act", and HR 2739 "The United States-Singapore Free Trade Implementation Act." **The Citizens Trade Campaign, and the labor, environmental, family farm, consumer, and religious organizations that comprise the coalition urge you to reject these agreements.**

The Singapore and Chile Free Trade Agreements will be the first trade agreements to come before Congress under the 2002 grant of Fast Track negotiating authority. With these agreements, the Administration clearly has overstepped the authority Congress provided Executive Branch negotiators under Fast Track by negotiating immigration policy and a high tech products duty-free transshipment policy with third, non-party countries.

In addition, the Administration has demonstrated a blatant disregard for the Congressional mandates provided in Fast Track on several key issues, including labor and environmental standards, investment rules, and public health.

Much concern has been raised over the fact that these agreements are being touted by the Bush Administration as models for future agreements including the Central American Free Trade Agreement (CAFTA) and the Free Trade Area of the Americas (FTAA). Despite numerous demands by Members of Congress that these two agreements not be used as models for future pacts, the Administration has tabled the same language in CAFTA, and the draft FTAA text includes similar terms in many areas including labor and immigration. The Office of the United States Trade Representative (USTR) has proved that its long-term policy intentions remain on this course regardless of Congressional will.

Moreover, these agreements are bad policy in and of themselves, regardless of any establishment of future precedent. Major flaws of the U.S-Chile and U.S.-Singapore Agreements include the following:

No Meaningful Protection for Workers or the Environment

The Chile and Singapore Agreements fail to provide parity of enforcement between labor and environmental provisions and commercial provisions. Whereas violations of commercial provisions result in trade sanctions, the remedies provided for the only enforceable labor and environmental provision in the agreement are fines capped at levels insufficient to serve as deterrents. Additionally, any fines assessed for labor violations are paid by the violating country back to itself, rather than to the complainant, amounting to nothing more than a budgetary transfer.

Further, the only enforceable labor and environmental provision in either pact is that countries enforce their own existing standards- meaning that Singapore and Chile are free to maintain labor laws that do not meet the core ILO standards, or can eliminate or weaken existing domestic labor and environmental laws in order to attract investment or trade with no threat of fines or sanctions.

Temporary Entry Programs that are an Egregious Overreach of Authority
Undoubtedly the most startling element of these agreements is their provisions establishing new U.S. immigration policy. Both Agreements create new visa programs for the temporary entry of professionals, which differ from the U.S. H-1B visa program established by Congress. Even after changes the Judiciary Committee was able to make via the implementing legislation, the immigration provisions in these agreements provide an indefinitely renewable work visa for 5400 Singaporean and 1400 Chilean workers to come to the U.S. Even with the implementing legislation changes these agreements fail to include all of the H-1B labor certifications, lending the program to abuse by employers. Immigration policy is a completely separate issue from trade policy and under the current Fast Track, the Administration has been granted no authority from Congress to negotiate changes to immigration law through trade agreements.

Transshipment Provisions/ISI
Although Fast Track provided no authority to do so, the Singapore Agreement includes an Integrated Sourcing Initiative (ISI) allowing electronics, computer, and other high tech manufactured products made outside of Singapore to be labeled "Made in Singapore" and to enter the U.S. duty free. Countries transshipping their goods under this provision would not be obligated to meet even the meager labor provisions within the Singapore agreement.

Restrict Access to Affordable Medicines
Last year, the United States made a commitment during the Doha WTO Ministerial to provide greater flexibility in drug patent policy to governments seeking to meet serious public health needs by granting access to cheaper medicines. In contrast, the Chile and Singapore Agreements contain provisions that restrict countries' abilities to use compulsory licensing and erect additional barriers to market entry of generic drugs. These provisions provide new protections for drug companies not existing even in the WTO agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). This flies in the face of both the U.S. commitment at Doha on these issues and the terms of Fast Track negotiating authority to respect the Doha Declaration. The Intellectual Property Rights provisions in the Singapore and Chile Agreements on access to medicines threaten the ability of developing countries to provide access to crucial lifesaving medicines, but also increase the cost of medicines for U.S. consumers. In addition, the intellectual property rules pose a serious threat to biodiversity by failing to allow governments an exemption provided in the WTO TRIPS Agreement, thereby requiring countries to issue patents on plant and animal life forms.

Grant Greater Rights to Foreign Investors
Investment provisions in both agreements would subject domestic laws to increased challenges by foreign corporations and set a dangerous precedent for future agreements. The investment rules in these agreements are similar to those in NAFTA's Chapter 11, enabling inappropriate challenges by foreign corporations to be brought against non-discriminatory federal, state and local government regulatory policies. In doing so, the agreements fail to meet the standard

established in Fast Track that foreign investors should receive "no greater substantive rights" than those provided to U.S. investors under U.S. law.

The threat of costly challenges posed by these provisions has a great chilling effect on the ability of governments at all levels to act in the interest of public health and the environment. Multinational corporations have exploited NAFTA's flawed investment chapter to challenge legitimate federal, state, and local government regulations designed to protect the environment, shield consumers from fraud, and safeguard public health. In addition, the Singapore and Chile Agreements' investment rules include a definition of investment that is even broader than NAFTA, making the pact's rules cover derivatives, options, and futures.

Restrict Use of Capital Controls
The investment provisions of both agreements also exceed those of NAFTA by prohibiting capital controls, tools of responsible development that have proven essential to developing nations to avoid the economic havoc of speculative capital flows. Both agreements lack an important exclusion in NAFTA allowing governments to use capital controls in the case of financial turmoil. As trade economists such as Columbia University's Jagdish Bhagwati have emphasized, this exclusion is essential if we are to avoid regional economic meltdowns like the Asian financial crisis.

Prohibit Performance Requirements on Services
Additionally, we have serious concerns with provisions of the Chile and Singapore Agreements which prohibit limits on government regulation of the service sector. These rules constrain state and local services regulation in addition to the federal laws agreements such as NAFTA have covered in the past. This expansion will have negative impacts on the ability of governments to enact and maintain procurement policies as well as other domestic public interest regulations. The services rules also lack an exception for conservation of natural resources as is found in the General Agreement on Tariffs and Trade (GATT).

Particularly in light of the fact that Singapore's tariffs on U.S. goods are already mostly at zero, these two agreements provide measurable negatives with no real positives for sustainable economic or social development.

For these reasons, the Citizens Trade Campaign opposes the U.S.- Singapore and U.S. – Chile Free Trade Agreements and urges you to VOTE NO. If you have any questions, or need additional information, please do not hesitate to call CTC director Gretchen Gordon at (202) 778-3313.

Sincerely,

United Steelworkers of America
Public Citizen
Defenders of Wildlife
Communications Workers of America
National Family Farm Coalition
Friends of the Earth
International Brotherhood of Teamsters
Union of Needletrades Industrial and Textile Employees