July 16, 2003

Dear Representative/Senator:

Last week, the House Ways and Means Committee, the House Judiciary Committee, and the Senate Finance Committee held "mock" markups of the implementing legislation for the U.S.-Chile and U.S.-Singapore Free Trade Agreements. For those who have not experienced trade votes under fast track, "mock" markups were held because once the implementing legislation is introduced it cannot be amended. Instead, the committees sent "recommendations" to the USTR on the draft implementing legislation, which included, among other things, some changes to the visa programs and the Singapore Agreement's Integrated Sourcing Initiative.

Unfortunately, some Members of Congress are now stating that those recommendations addressed our concerns with the two Agreements and that Members should have no reservations about voting in favor of them. That is inaccurate. The recommendations did not address a number of our concerns with the two Agreements, as described below, and, in contrast to what our opponents are stating, the International Brotherhood of Teamsters will still score the two votes! It's time that our Local Unions know who really stands with their members and who does not.

First, neither the draft implementing legislation nor the recommendations that the committees sent back to the USTR address the Agreement's inadequate labor provisions. Under the Chile and Singapore Free Trade Agreements, only one workers' rights provision is enforceable through dispute settlement – the obligation that a country enforce its own labor laws, no matter how inadequate those laws may be. This means a country can gut or simply get rid of their labor laws in order to gain a trade or investment advantage and face no consequences whatsoever. Even for the one obligation that can be brought to dispute settlement, the remedies available for violations are far weaker than the remedies available for commercial disputes: Under the agreements, labor obligations are enforceable through fines, not sanctions, unlike their commercial obligations, and those fines are payable to

the country that violated the workers' rights provisions in the first place. That's absurd!

Moreover, we know for a fact that this Administration is pursuing the EXACT same labor language in the CAFTA Agreement and the FTAA. A vote in support of this language now would only bolster their position and send a signal to this Administration that they are on the right track when it comes to negotiating trade agreements. Furthermore, a vote in support of this language will put you in a difficult situation when it comes time to vote on CAFTA, the FTAA, or any other agreement that contains this language because you supported it in the Chile and Singapore Free Trade Agreements.

On a separate issue, the temporary entry provisions in the agreements, even with the minor modifications the Judiciary Committee was able to make, are far from acceptable. The agreement still allows workers from Chile and Singapore to obtain one-year visas that are renewable FOREVER. Under the H-1B program, workers are granted a three-year visa that can be renewed only once. The implementing legislation provides no guidance on the differing timeline. Therefore, it is possible that employers could renew their employees' visas each and every year under the Chile and Singapore Free Trade Agreements, with no limits, while also bringing in new entrants to fill up the annual numerical limit for new visas. This would rob the program of its supposedly temporary nature, at a time when our economy is suffering and unemployed workers are chasing down every job vacancy here in the U.S.

In addition, the Judiciary Committee attempted to "fix" the two Agreements' avoidance of H1B labor conditions, such as employers' requirement to certify that foreign workers won't displace U.S. workers. However, the Bush Administration objected, stating that the two Agreements' legally binding terms would not allow key H1B certifications to be included in the implementing bills. Thus, the Committee could not and did not "fix" the problem with the Agreements' visa chapter. To explain further, the Agreements state: "*Neither party may, as a condition for temporary entry, require prior approval procedures, petitions, labor certification tests or other procedures of similar affect.*" Therefore, any provisions in the U.S. implementing bill that violate the rules set forth in the Agreements are subject to challenge through dispute resolution.

Separately, the Singapore Free Trade Agreement contains provisions that allow electronic, computer, and other high tech products made outside of Singapore to be marked Made in Singapore and sent to the United States duty-free. The U.S. Trade Representative initially stated that this provision was for two islands named Bintan and Batam, but, in fact, upon reviewing the language, the Agreement makes no mention of the two islands and, therefore, allows transshipment of the products from countries that are signatories to the WTO Information Technology Agreement (ITA). This would, therefore, allow some countries that do not have FTAs with the United States to ship products to the U.S. through Singapore without having to comply with any of the obligations in the U.S.-Singapore Free Trade Agreement, including the meager labor and environmental provisions.

Finally, the Chile and Singapore Agreements' provisions on investment, procurement, and services will constrain our ability to regulate in the public interest, pursue responsible procurement policies, and provide public services. Moreover, investment rules fail to ensure that foreign investors are granted no greater rights than domestic investors, violating Congressional negotiating objectives.

NAFTA gave corporations the right to challenge our laws before arbitration panels, and to demand compensation from governments if those laws infringe on their rights. Multinational corporations have exploited NAFTA's flawed investment chapter to challenge legitimate government regulations designed to protect the environment, shield consumers from fraud, deliver public services, and safeguard public health. The rights granted to foreign investors under NAFTA exceed the rights guaranteed to domestic investors under our Constitution, and Congress directed the USTR to remedy this problem in future trade agreements.

The Trade Act of 2002 directs our trade negotiators to ensure "that foreign investors in the United States are not accorded greater substantive rights with respect to investment protections than United States investors in the United States." Yet the investment chapters of the Chile and Singapore Agreements contain large loopholes that allow foreign investors to claim rights above and beyond those that our domestic investors enjoy.

It's important to note that the implementing legislation is silent on this issue.

Clearly, these Agreements are unacceptable. They will only lead to the same deteriorating trade balances, lost jobs, trampled rights, and inadequate economic development that NAFTA has created. Congress should, therefore, reject the Chile and Singapore Agreements, and send the USTR a clear message that enough is enough. The bleeding of U.S. jobs to unfair trade has to stop now.

Sincerely,

Chuck Harple
Political Director