Contents

COMMITTEE ON WAYS AND MEANS
COMMITTEE REPORT
U.S.-CHILE FREE TRADE AGREEMENT

I. INTRODUCTION

A. PURPOSE AND SUMMARY

H.R. 2738 would implement the June 6, 2003 Agreement establishing a free trade area between the United States and Chile.

B. BACKGROUND

The United States-Chile Free Trade Agreement (FTA), signed June 6, 2003, is one of the first trade agreements, together with the United States-Singapore FTA, to be considered by the Congress under the "fast-track" procedures outlined in the Bipartisan Trade Promotion Authority Act (TPA), which was approved by the 107^{th} Congress and signed into law in August 2002 as part of the Trade Act of 2002 (P.L. 107-210).

The U.S.-Chile FTA represents an important advance for U.S. interests in South America. It is the first such agreement with a South American country. The Agreement establishes closer economic ties to one of the most open and reformed economies in South America and one of the fastest-growing economies in the world. Over the last two decades, Chile has established a vigorous democracy, a thriving and open economy built on trade, and a free market society. The U.S.-Chile FTA will help Chile continue its impressive record of growth, development, and poverty alleviation. It will help spur progress in the Free Trade Area of the Americas and will send a positive message throughout the world by demonstrating that the United States will work in partnership with those who are committed to free markets. Currently, U.S. companies are at a competitive disadvantage in Chile because other countries, including Canada, Mexico, and the European Union, already have FTAs with Chile. The U.S.-Chile FTA takes away the advantage that these countries have and should expand U.S. gross domestic product by over $4 billion per year.

The possibility of a U.S.-Chile FTA has been discussed for many years. In December 1994, the leaders of the United States, Canada, and Mexico announced their intention to negotiate Chile's accession to the North American Free Trade Agreement (NAFTA). Talks on possible accession for Chile to the NAFTA formally began in June 1995. However, "fast track" authority had lapsed, and the talks stalled. Since that time, Mexico, Canada, and the European Union have concluded bilateral FTAs with Chile, and U.S. exporters have lost business in Chile as a result to competitors from these countries.

Negotiations for a U.S.-Chile FTA began in December 2000. After two years and fourteen rounds of negotiations, the two countries announced on December 11, 2002 that an agreement had been reached between the United States and Chile. Pursuant to requirements established under TPA, President Bush formally notified the Congress on

January 30, 2003, of his intention to sign the Agreement. On June 6, 2003, United States Trade Representative Robert Zoellick and Chilean Foreign Minister Soledad Alvear signed the FTA at a ceremony in Miami.

The Committee believes that the Agreement meets the objectives and priorities set forth in the Trade Act of 2002. Specifically, the Agreement benefits key U.S. export sectors including agriculture and construction equipment, autos and auto parts, computers and other information technology products, medical equipment, and paper products. More than 85 percent of bilateral trade in industrial and consumer products areas will become tariff free immediately, with most remaining tariffs being phased out over four years. As for agricultural products, 75 percent of U.S. farm exports will enter Chile duty free within four years, and all duties and quotas on U.S. agricultural products will be phased out within 12 years after the implementation of the Agreement. Originating textiles and apparel goods will also be duty free immediately.

The FTA is a state of the art agreement in many areas. In the area of services, the Agreement contains groundbreaking transparency rules and utilizes a trade-enhancing “negative list” approach to ensure maximum market access for services providers. The Agreement also provides protections and non-discriminatory treatment for digital products such as U.S. software, music, text, and videos, and also provides protections for U.S. patents, trademarks, and trade secrets that go beyond past trade agreements. The investment section provides strong protections for U.S. investors in Chile; they will be treated fairly and equitably and will have access to meaningful dispute settlement. These protections cover key sectors such as agriculture, manufacturing, and services. In addition, the Agreement makes improvements to the NAFTA investor-state dispute settlement (“Chapter 11”) model called for in TPA by providing more transparency, public input into the dispute settlement, mechanisms to improve the investor-state process by eliminating frivolous claims, and a place marker for a future appellate body or similar review mechanism. The Financial Services chapter provides strong protections for existing and future U.s. investors and investments in Chile. The Agreement also contains obligations under which each government commits to enforce its domestic labor and environmental laws.

As noted above, this legislation is being considered under the Bipartisan Trade Promotion Authority Act of 2002. Under TPA, new trade pacts that the President negotiates in close consultation with Congress can be approved and implemented through legislation that Congress considers using streamlined procedures. Pursuant to TPA requirements, the President is required to provide written notice to Congress of the President’s intention to enter into the negotiations. Throughout the negotiating process, and prior to entering into an agreement, the President is required to consult with Congress regarding the ongoing negotiations.

The President must notify the Congress of his intent to enter into a trade agreement at least 90 calendar days before the agreement is signed. Within 60 days after entering in the Agreement, the President must submit to the Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the Agreement. After entering into the Agreement, the President must also submit to the Congress the formal legal text of the agreement, draft implementing legislation, a statement of administrative action proposed to implement the Agreement, and other related supporting information as required under section 2105(a) of TPA. Following submission of these documents, the implementing bill is introduced, by request, by the Majority Leader in each chamber. The House then has up to 60 days to consider implementing legislation for the Agreement (the Senate has up to an additional 30 days). No amendments to the legislation are allowed under TPA requirements.

C. LEGISLATIVE HISTORY

On November 29, 2000, the President first notified Congress of his intent to negotiate an FTA with Chile. The President provided formal notification to Congress of the negotiations with Chile as required under TPA (which was enacted subsequent to the start of the U.S.-Chile FTA negotiations) on August 22, 2002. During and after the negotiations, the President continued his consultations with Congress pursuant to the letter and spirit of the TPA requirements.

Following the June 6, 2003 signing of the U.S.-Chile FTA, in accordance with TPA requirements, President Bush submitted to Congress on July 3, 2003 a description of the changes to existing U.S. laws that would be required to bring the United States into compliance with the agreement.

On June 10, 2003, the Subcommittee on Trade of the Committee on Ways and Means held a hearing on the United States-Chile and United States-Singapore FTAs. The Subcommittee received testimony supporting these Agreements from the Administration and Members of Congress. The Subcommittee also heard testimony from numerous U.S. private sector companies and organizations.

On July 10, 2003, the Committee on Ways and Means considered in an informal markup session draft implementing legislation for the Singapore and Chile FTAs concerning matters within the jurisdiction of the Committee.

On July 15, 2003, President Bush formally transmitted to Congress the formal legal text of the U.S.-Chile FTA, draft implementing legislation, a statement of administrative action proposed to implement the Agreement, and other related supporting information as required under section 2105(a) of TPA. Following this transmittal, on July 15, 2003, Majority Leader DeLay, along with Congressman Rangel, introduced, by request, H.R. 2738 to implement the U.S.-Chile FTA. The bill was referred to the Committee on Ways and Means and the Committee on the Judiciary.

On July 17, 2003, the Committee on Ways and Means formally met to consider H.R. 2738. The Committee ordered H.R. 2738 favorably reported to the House of Representatives by a roll call vote of 33-5. Under the requirements of TPA, amendments were not permitted.

SECTION-BY-SECTION SUMMARY

TITLE I: APPROVAL AND GENERAL PROVISIONS

Section 101: Approval and Entry into Force

Current Law:

No provision.

Explanation of Provision:

Section 101 states that Congress approves the U.S.-Chile Free Trade Agreement and the Statement of Administrative Action and provides that the Agreement enters into force when the President determines that Chile is in compliance with its agreement obligations and has exchanged notes with the United States. Section 101 provides that the date of entry into force will be no sooner than January 1, 2004.

Reason for Change:

Approval of the Agreement and the Statement of Administrative Action is required under the procedures of section 2103(b)(3) of the Bipartisan Trade Promotion Authority Act of 2002. The remainder of section 101 provides for entry into force of the Agreement.

Section 102: Relationship of the Agreement to U.S. and State Law

Current Law:

No provision.

Explanation of Provision:

Section 102 provides that U.S. law is to prevail in a conflict between the Agreement and such law. It also states that the Agreement does not preempt state law that may conflict with the Agreement. Only the United States is entitled to bring a court action to resolve a conflict between a state law and the Agreement.

Reason for Change:

Section 102 is necessary to make clear the relationship between the Agreement and federal and state law, respectively.

Section 103: Consultation and Layover for Proclaimed Actions

Current Law:

No provision.

Explanation of Provision:

Section 103 provides that where the President is given proclamation authority subject to consultation and layover, he may proclaim action only after he has: obtained advice from the International Trade Commission and the appropriate private sector advisory committees; submitted a report to the House Ways & Means and Senate Finance Committees concerning the reasons for the action; and consulted with the Committees. The President may proclaim the proposed action after 60 days have elapsed.

Reason for Change:

The bill gives the President certain proclamation authority but requires extensive consultation with Congress before such authority may be exercised. The Committee believes that such consultation is an essential component of the delegation of authority to the President and expects that such consultations will be conducted in a thorough manner.

Section 104: Implementing Actions in Anticipation of Entry into Force and Initial Regulations

Current Law:

No provision.

Explanation of Provision:

Section 104(a) provides that after the date of enactment, the President may proclaim actions and agencies may issue regulations as necessary to ensure that any provision of this Act that takes effect on the date that the Agreement enters into force is appropriately implemented, but not before the effective date.

Section 104(b) establishes that regulations necessary or appropriate to carrying out the actions proposed in the Statement of Administrative Action shall, to the maximum extent feasible, be issued within one year of entry into force of the agreement or the effective date of the provision, as the case may be.

Reason for Change:

Section 104 provides for the issuance of regulations. The Committee strongly believes that regulations should be issued in a timely manner in order to provide maximum clarity to parties claiming benefits under the Agreement. As noted in the Statement of Administrative Action, the regulation-issuing agency will provide a report to Congress not later than thirty days before one year elapses on any regulation that is going to be issued later than one year.

Section 105: Administration of Dispute Settlement Proceedings

Current Law:

No provision.

Explanation of Provision:

Section 105 authorizes the President to establish an office within the Commerce Department responsible for providing administrative assistance to any state-to-state dispute settlement panels that may be established under the Agreement and authorizes appropriations for the office and for payment of the U.S. share of expenses.

Reason for Change:

The Committee believes that the Commerce Department is the appropriate agency to provide administrative assistance to panels.

Section 106: Arbitration of Claims

Current Law:

No provision.

Explanation of Provision:

Section 106 authorizes the United States to resolve certain claims covered by the investor-state dispute settlement procedures set forth in the Agreements and specifies that all U.S. government contracts are to contain a choice of law provision for resolving any breach of contract claim.

Reason for Change:

This provision is necessary to meet U.S. obligations under Article 10.21 of the Agreement.

Section 107: Effective Dates; Effect of Termination

Current Law:

No provision.

Explanation of Provision:

The effective date of this Act is the date of entry into force of the Agreement. However, sections 1-3 and Title I take effect upon enactment. The Act shall cease to be effective on the date on which the Agreement ceases to be in effect.

Reason for Change:

Section 107 implements U.S. obligations under the Agreement.

TITLE II: CUSTOMS PROVISIONS

Section 201: Tariff Modifications

Current Law:

No provision.

Explanation of Provision:

Section 201(a) provides the President with the authority to proclaim tariff modifications to carry out the Agreement.

Section 201(b) gives the President the authority, subject to consultation and layover procedures, to proclaim further tariff modifications as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Chile provided for by the Agreement.

Section 201(c) allows, in addition to any duty ordinarily collected on Chilean imports, the assessment of a duty on an "agricultural safeguard good" if the unit import price of the good when it enters the United States is less than the trigger price for that good in the Agreement. However, no additional duty may be assessed if the good is subject to a safeguard measure under the Agreement or under Title II of the Trade Act of 1974. The authority to apply such an agriculture safeguard to a good terminates on the earlier of the date on which that good first receives duty-free treatment under the Agreement or twelve years after the Agreement's entry into force.

Reason for Change:

Section 201(a) is necessary to put the United States in compliance with the market access provisions of the Agreement. Section 201(b) gives the President flexibility to maintain the trade liberalizing nature of the Agreement. The Committee expects the President to comply with the letter and spirit of the consultation and layover provisions of this Act in carrying out this subsection.

Section 201(c) implements the agriculture safeguard provisions of article 3.18 of the Agreement and provides important security to U.S. farmers.

Section 202: Rules of Origin

Current Law:

No provision.

Explanation of Provision:

Section 202 codifies the rules of origin set out in Chapter 4 of the Agreement. Under the general rules, there are three basic ways for a good of Chile to qualify as an "originating good," and therefore be eligible for preferential tariff treatment when it is imported into the United States. A good is an originating good if: (1) it is "wholly obtained or produced entirely in the territory of Chile, the United States or both"; (2) those materials used to produce the good that are not themselves originating goods are transformed in such a way as to cause their tariff classification to change or meet other requirements, as specified in Annex 4.1 of the Agreement; or (3) it is produced entirely in the territory of Chile, the United States, or both exclusively from originating materials.

Under Chapter 4 rules, an apparel product must generally meet a tariff shift rule that implicitly imposes a "yarn forward" requirement. Thus, to qualify as an originating good imported into the United States from Chile, an apparel product must have been cut (or knit to shape) and sewn or otherwise assembled in Chile from yarn, or fabric made from yarn, that originates in Chile or the United States. There is a limited amount of apparel that may enter the United States duty free, subject to tariff preference level (TPL) caps if it does not meet the rule of origin.

The remainder of section 202 of the implementing bill sets forth more detailed rules for determining whether a good meets the Agreement's requirements under the second method for qualifying as an originating good. These provisions include rules pertaining to *de minimis* quantities of non-originating materials that do not undergo a tariff transformation, and the alternative methods for calculating regional value content.

Other provisions in section 202 address valuation of materials and determination of the originating or non-originating status of fungible goods and materials.

Reason for Change:

Rules of origin are needed in order to confine Agreement benefits, such as tariff cuts, to Chilean goods to prevent third-country goods from being transshipped through Chile and claiming benefits under the Agreement. Section 202 puts the United States in compliance with the rules of origin provisions of the agreement.

Section 203: Drawback

Current Law:

Current law under several sections of the Tariff Act of 1930 and the Foreign Trade Zones Act provides for the availability of duty drawback and other duty refund or deferral mechanisms.

Explanation of Provision:

Section 203 of the bill implements Article 3.8 of the Agreement, which begins a 3-year, phased elimination of duty drawback and duty deferral programs between the United States and Chile eight years after the entry into force of the Agreement. Specifically, eight years after the Agreement enters into force, the United States will reduce the refund, waiver, or remission of duties subject to duty drawback or duty deferral programs by the following formula: 75 percent during the first year period; 50 percent in the following year; and 25 percent during the final year. The formula will be applied to drawback claims for duties paid on imported goods that are subsequently exported, as well as duties for which the payment has been deferred because of their introduction into a foreign-trade zone or other duty deferral program.

Section 203(c) of the bill makes clear that no amendment contained in section 203 authorizes the refund, waiver, or reduction of countervailing or antidumping duties imposed on a good imported into the United States. This provision is consistent with Article 3.8(2)(a) of the Agreement and current U.S. law.

Reason for Change:

The Administration maintains that some free trade agreements should include the elimination of duty drawback to ensure that neither country becomes an “export platform” for materials produced in other regions of the world. Accordingly, the Agreement phases out drawback rights, and section 203 is necessary to put the United States in compliance with those provisions of the agreement. Committee Members, however, have expressed concern about this strategy and note approvingly that the

Administration has recently requested public comment on the subject and will seek comments from formal trade advisory committees.

Section 204: Customs User Fees

Current Law:

Section 58c of the Title 19lays out various user fees applied by customs officials to imports, including the Merchandise Processing Fee, which is applied on an ad valorem basis subject to a cap.

Explanation of Provision:

Section 204 of the bill implements U.S. commitments under Article 3.12(4) of the Agreement, regarding the exemption of the merchandise processing fee for originating goods. This provision is similar to the one in the implementing legislation for the North American Free Trade Agreement (NAFTA). The provision also prohibits use of funds in the Customs User Fee Account to provide services related to entry of originating goods in accordance with U.S. obligations under the General Agreement on Tariffs and Trade 1994.

Reason for Change:

As with other free trade agreements, the Agreement eliminates the merchandise processing fee on qualifying goods from Chile. Other customs user fees remain in place. Section 204 is necessary to put the United States in compliance with the user fee elimination provisions of the Agreement. The Committee expects that the President, in his yearly budget request, will take into account the need for funds to pay expenses for entries under the Agreement given that MPF funds will not be available.

Section 205: Disclosure of Incorrect Information

Current Law:

No provision.

Explanation of Provision:

Section 205 of the bill implements Articles 4.16(4) and 4.16(5) of the Agreement. The provision prohibits the imposition of a penalty upon an importer who makes an invalid claim for preferential tariff treatment under the Agreement if the importer acts promptly and voluntarily to disclose the error. If an importer so acts more than once, falsely or without substantiation, U.S. authorities may suspend preferential treatment with respect to identical goods imported by that importer.

Reason for Change:

Section 205 is necessary to put the United States into compliance with Articles 4.16(4) and 4.16(5) of the Agreement.

Section 206: Reliquidation of Entries

Current Law:

No provision.

Explanation of Provision:

Section 206, in accordance with Article 4.12 of the Agreement, provides authority for customs officials to reliquidate an entry to refund any excess duties (including any merchandise processing fees) paid on a good qualifying under the rules of origin for which no claim for preferential tariff treatment was made at the time of importation if the importer so requests within one year of the date of importation. Current law provides similar authority for NAFTA entries.

Reason for Change:

Article 4.12 of the Agreement anticipates that private parties may err in claiming preferential benefits under the Agreement and provides a one-year period for parties to make such claims for preferential tariff treatment even if the entry of the goods at issue has already been liquidated, i.e., legally finalized by customs officials. Section 206 is necessary to put the United States into compliance with Article 4.12 of the Agreement.

Section 207: Recordkeeping Requirements

Current Law:

No provision.

Explanation of Provision:

Section 207 of the bill, in accordance with Article 4.14 of the Agreement, provides that an exporter or producer claiming that a good is an originating good for the purposes of the Agreement shall maintain, for a period of five years after the date of issuance of a certificate of origin, a copy of the certificate and other information demonstrating that the good qualifies as originating.

Reason for Change:

Section 207 is necessary to put the United States in compliance with the recordkeeping requirement provisions of the Agreement at Article 4.14.

Section 208: Enforcement of Textile and Apparel Rules of Origin

Current Law:

No provision.

Explanation of Provision:

Section 208 of the bill implements the verification provisions of the Agreement at Article 3.21 and authorizes the President to take appropriate action while the verification is being conducted, including suspending the application of preferential tariff treatment to the textile or apparel good for which a claim of origin has been made or for textile or apparel goods exported or produced by the person subject to a verification. If the President is unable to make a determination within 12 months of the date of the request, the President may take appropriate action, including denial of entry to the textile or apparel goods subject to the verification, to similar goods exported or produced by the person that exported or produced the good, or to any textile or apparel goods exported or produced by the person subject to the verification.

Reason for Change:

In order to avoid textile transshipment, special textile enforcement provisions were included in the Agreement. Section 208 is necessary to authorize these enforcement mechanisms for use by U.S. authorities.

Section 209: Conforming Amendments

Current Law:

No provision.

Explanation of Provision:

Section 209 makes conforming technical amendments to the Tariff Act of 1930 related to the changes in the drawback statute in section 203.

Reason for Change:

Section 203 makes various changes to the duty drawback statutes that require conforming technical amendments to existing law. Like section 203, section 209 is thus necessary to put the United States in compliance with the drawback provisions of the Agreement.

Section 210: Regulations

Current Law:

No provision.

Explanation of Provision:

Section 210 provides that the Secretary of the Treasury shall issue regulations to carry out provisions of this bill related to duty drawback, rules of origin, and Customs user fees.

Reason for Change:

Because the implementing bill involves lengthy and complex implementation procedures by customs officials, section 210 is necessary in order to authorize the Secretary of the Treasury to carry out provisions of the implementing bill through regulations.

TITLE III: RELIEF FROM IMPORTS

Subtitle A: Relief from Imports Benefiting from the Agreement (Sections 311-316)

Current Law:

No provision.

Explanation of Provision:

Sections 311-316 authorize the President, after an investigation and affirmative determination by the U.S. International Trade Commission, to impose specified import relief when, as a result of the reduction or elimination of a duty under the Agreement, a Chilean product is being imported into the United States in such increased quantities and under such conditions as to be a substantial cause of serious injury or threat of serious injury to the domestic industry.

Section 311(c) defines "substantial cause" in the same manner as Section 201 of the Trade Act of 1974.

Section 311(d) exempts from investigation under this section Chilean articles that have previously received relief since entry into force under this safeguard or if, at the time the petition is filed, the article is subject to import relief under the global safeguard provisions in section 201 of the Trade Act of 1974.

Under section 312(b), if the ITC makes an affirmative determination, it must find and recommend to the President the amount of import relief that is necessary to remedy or prevent serious injury and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

Under section 313(a), the President must provide import relief to the extent that the President determines is necessary to remedy or prevent the injury found by the ITC and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. Under section 313(b), the President is not required to provide import relief if the President determines that the relief will not provide greater economic or social benefits than costs. Section 313(c) sets forth the nature of the relief that the President may provide as: a suspension of further tariff reductions for the article; or an increase of tariffs to a level that does not exceed the lesser of the existing most favored nation (MFN)/normal trade relation (NTR) rate or the MFN/NTR rate in effect when the Agreement entered into force. The provision further states that if the President provides relief for greater than one year, the relief must be subject to progressive liberalization at regular intervals over the course of its application.

Section 313(d) states that the import relief that the President is authorized to provide may not exceed three years. If the President provided an initial period of relief of less than three years, the President may extend the relief under certain circumstances, but the aggregate period of relief, including extensions, may not exceed three years.

Section 314 provides that no relief may be provided under this subtitle after ten years from the Agreement's entry into force, unless the tariff elimination for the article under the Agreement is twelve years, in which case relief may not be provided for that article after twelve years from entry into force.

Section 315 authorizes the President to provide compensation to Chile consistent with Article 7.4 of the Agreement.

Section 316 provides for the treatment of confidential business information.

Reason for Change:

The Committee believes that it is important to have in place a temporary, extraordinary mechanism if a U.S. industry experiences injury by reason of increased import competition from Chile in the future, with the understanding that the President is not required to provide relief if the relief will not provide greater economic or social benefits than costs. The Committee intends that administration of this safeguard be consistent with U.S. obligations under Chapter 8 of the Agreement.

Subtitle B: Textile and Apparel Safeguard (Sections 321-328)

Current Law:

No provision.

Explanation of Provision:

Section 321 provides that a request for safeguard relief under this subtitle may be filed with the President by an interested party. The President is to review the request and determine whether to commence consideration of the request. If the President determines to commence consideration of the request, he is to publish a notice commencing consideration and seeking comments. The notice is to include the request itself.

Section 322(a) of the Act provides for the President to determine, pursuant to a request by an interested party, whether, as a result of the elimination of a duty provided under the Agreement, a Chilean textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article. Section 322(a) defines "serious damage," directing the President to examine the effect of increased imports on the domestic industry producing the article that is like, or directly competitive with, the imported article.

Section 322(b) identifies the relief that the President may provide, which generally will be an increase in tariffs to the MFN/NTR duty rate for the article at the time relief is granted. Section 323 of the bill provides that the initial period of relief will be no longer than three years, although if the initial period for any import relief is less than three years, the President may extend the total relief for a period of up to three years under certain circumstances. Section 324 provides that relief may not be granted to an article under the textile safeguard if relief has previously been granted under Subtitle A of this title safeguard. Under section 325, after the safeguard expires, the article that had been subject to such action shall be subject to duty-free treatment.

Section 326 of the bill states that the authority to provide this safeguard relief expires eight years after the textile and apparel provisions of the Agreement take effect. Section 327 of the Act gives authority to the President to provide compensation to Chile if he orders relief. Section 328 provides for the treatment of business confidential information.

Reason for Change:

The Committee intends that the provisions of subtitle B be administered in a manner that is in compliance with U.S. obligations under Article 3.19 of the Agreement. In particular, the Committee expects that the President will implement a transparent process that will serve as an example to our trading partners.

III. VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the vote of the Committee on Ways and Means in its consideration of the bill, H.R. 2738.

MOTION TO REPORT THE BILL

The bill, H.R. 2738, was ordered favorably reported by a roll call vote of 33 yeas to 5 nays (with a quorum being present). The vote was as follows:

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thomas................	√			Mr. Rangel..............	√		
Mr. Crane....................	√			Mr. Stark.................		√	
Mr. Shaw....................	√			Mr. Matsui..............	√		
Mrs. Johnson..............	√			Mr. Levin................	√		
Mr. Houghton.............	√			Mr. Cardin..............	√		
Mr. Herger..................	√			Mr. McDermott.......	√		
Mr. McCrery...............	√			Mr. Kleczka............		√	
Mr. Camp....................	√			Mr. Lewis (GA).......		√	
Mr. Ramstad...............	√			Mr. Neal..................	√		
Mr. Nussle..................	√			Mr. McNulty...........		√	
Mr. Johnson................	√			Mr. Jefferson...........			
Ms. Dunn....................	√			Mr. Tanner..............	√		
Mr. Collins..................	√			Mr. Becerra.............	√		
Mr. Portman................	√			Mr. Doggett............			
Mr. English.................	√			Mr. Pomeroy...........	√		
Mr. Hayworth.............	√			Mr. Sandlin………..	√		
Mr. Weller..................	√			Ms. Tubbs Jones….		√	
Mr. Hulshof................	√						
Mr. McInnis................	√						
Mr. Lewis (KY)..........	√						

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Foley....................	√						
Mr. Brady...................							
Mr. Ryan....................	√						
Mr. Cantor…………..	√						

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of this bill, H.R. 3009 as reported: The Committee agrees with the estimate prepared by CBO which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that enactment of H.R. 3009 would reduce customs duty receipts due to lower tariffs imposed on goods from Chile.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided.

[INSERT HERE]

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee, based on public hearing testimony and information from the Administration, concluded that it is appropriate and timely to consider the bill as reported. In addition, the legislation is governed by procedures of the Trade Agreements Act of 2002.

CONGRESSIONAL BUDGET OFFICE
U.S. Congress
Washington, DC 20515

Douglas Holtz-Eakin, Director

July 21, 2003

Honorable William "Bill" M. Thomas
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2738, a bill to implement the United States-Chile Free Trade Agreement.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Annabelle Bartsch, who can be reached at 226-2680.

Sincerely,

Douglas Holtz-Eakin

Enclosure

cc: Honorable Charles B. Rangel
Ranking Member

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

July 21, 2003

H.R. 2738
A bill to implement the United States-Chile Free Trade Agreement

As ordered reported by the House Committee on Ways and Means on July 17, 2003

SUMMARY

H.R. 2738 would approve the free trade agreement (FTA) between the government of the United States and the government of Chile that was entered into on June 6, 2003. It would provide for tariff reductions and other changes in law related to implementation of the agreement, such as provisions dealing with dispute settlement, rules of origin, and safeguard measures for textile and apparel industries. The bill also would allow the temporary entry of certain business persons into the United States.

The Congressional Budget Office estimates that enacting the bill would reduce revenues by \$5 million in 2004, by \$38 million over the 2004-2008 period, and by \$109 million over the 2004-2013 period, net of income and payroll tax offsets. The bill would not have a significant effect on direct spending or spending subject to appropriation. CBO has determined that H.R. 2738 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2738 is shown in the following table.

	By Fiscal Year, in Millions of Dollars				
	2004	2005	2006	2007	2008
CHANGES IN REVENUES [a]					
Reductions in Tariff Rates	-5	-7	-8	-9	-10
Civil Penalties for Attestation Violations	*	*	*	*	*
Total	-5	-7	-8	-9	-10

a. H.R. 2738 also would affect direct spending and spending subject to appropriation, but the amounts of those changes would be less than $500,000 a year.

* = Less than $500,000.

BASIS OF ESTIMATE

Revenues

Under the United States-Chile agreement, all tariffs on U.S. imports from Chile would be phased out over time. The tariffs would be phased out for individual products at varying rates according to one of several different timetables ranging from immediate elimination to partial elimination over 10 years. According to the U.S. International Trade Commission (USITC), the U.S. collected $24 million in customs duties in 2002 on about $3.6 billion of imports from Chile. These imports consist mostly of edible fruits and nuts, articles of wood or copper, fish and crustaceans, and certain organic chemicals. Based on these data, CBO estimates that phasing out tariff rates as outlined in the U.S.-Chile agreement would reduce revenues by $5 million in 2004, by $38 million over the 2004-2008 period, and by $109 million over the 2004-2013 period, net of income and payroll tax offsets.

This estimate includes the effects of increased imports from Chile that would result from the reduced prices of imported products in the United States, reflecting the lower tariff rates. It is likely that some of the increase in U.S. imports from Chile would displace imports from other countries. In the absence of specific data on the extent of this substitution effect, CBO assumes that an amount equal to one-half of the increase in U.S. imports from Chile would displace imports from other countries.

H.R. 2738 would also allow the Secretary of Labor to assess civil monetary penalties on employers for violations of the labor attestation process with respect to certain workers from

Chile. CBO expects that any additional revenues collected as a result would amount to less than $500,000 in any year.

Direct Spending

Title IV of the bill would establish a new nonimmigrant category for certain professional workers from Chile. The legislation would limit the number of annual entries under this category to 1,400, plus spouses and children. The Bureau of Citizenship and Immigration Services (BCIS) would charge fees of about $100 to provide nonimmigrant visas, so CBO estimates that the agency would collect less than $1 million annually in offsetting receipts (a credit against direct spending). The agency is authorized to spend such fees without further appropriation, so the net impact on BCIS spending would not be significant.

Under current law, the Department of State also collects $100 application fee for nonimmigrant visas. These collections are spent on border security and consular functions. CBO estimates that the net budgetary impact would be less than $500,000 a year.

Spending Subject to Appropriation

Title I of H.R. 2738 would authorize the appropriation the necessary funds for the Department of Commerce to pay the United States' share of the costs of the dispute settlement procedures established by the agreement. Based on information from the agency, CBO estimates that implementing this provision would cost $100,000 in 2004, and $250,000 in each of the following years, subject to the availability of appropriated funds.

Title III would require the International Trade Commission (ITC) to investigate claims of injury to domestic industries as a result of the FTA. The ITC would have 120 days to determine whether a domestic industry has been injured, and if so, would recommend the necessary amount of import relief. The ITC would also submit a report on its determination to the President. According to the ITC, similar FTAs have resulted in only a handful of cases each year, at an average cost of about $200,000 per investigation. Based on this information, CBO estimates the bill would have no significant effect on spending subject to appropriation.

SUMMARY OF EFFECT ON REVENUES AND DIRECT SPENDING

The overall effects of H.R. 2738 on revenues and direct spending are shown in the following table.

	By Fiscal Year, In Millions of Dollars										
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Changes in receipts	0	-5	-7	-8	-9	-10	-11	-13	-14	-16	-18
Changes in outlays	*	*	*	*	*	*	*	*	*	*	*

* = Less than $500,000.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

The bill contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

ESTIMATE PREPARED BY:

Federal Revenues: Annabelle Bartsch (226-2680)

Federal Spending:
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Immigration -- Mark Grabowicz (226-2860), Christi Hawley-Sadoti (226-2820), and Sunita D'Monte (226-2840)

Impact on State, Local, and Tribal Governments: Melissa Merrell (225-3220)

Impact on the Private Sector: Paige Piper/Bach (226-0207)

ESTIMATE APPROVED BY:

G. Thomas Woodward
Assistant Director for Tax Analysis

Peter H. Fontaine
Deputy Assistant Director for Budget Analysis

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article 1 of the Constitution, Section 8 (`The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and to provide for * * * the general Welfare of the United States.')

VI. CHANGES IN EXISTING LAW SECTION

[TO BE SUPPLIED BY THE OFFICE OF LEGISLATIVE COUNSEL]

VII. EXECUTIVE CORRESPONDENCE

[INSERT HERE]

VIII. VIEWS

[TO BE SUPPLIED]