Trade Facts

Office of the United States Trade Representative ***www.ustr.gov***
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CHILE AND SINGAPORE FTAs: TEMPORARY ENTRY OF PROFESSIONALS

- The Chile and Singapore Free Trade Agreements contain provisions allowing the temporary entry of business professionals into the other party, to facilitate trade in services.

- Since services now account for 65% of the U.S. economy and 28% of the value of U.S. exports, the international mobility of business professionals – particularly as employees providing services – has become an increasingly important aspect of competitive markets for suppliers and consumers alike. Facilitating the movement of professionals allows trade partners to more efficiently provide each other with services such as architecture, engineering, consulting, and construction.

- TPA establishes that the principal negotiating objective regarding trade in services is to reduce or eliminate barriers to international trade in services. Each trade negotiation the United States enters, like Chile and Singapore, is approached individually to determine if the inclusion of a temporary entry chapter will benefit U.S. trade in services and, if so, whether a section on temporary entry of professionals is needed in the agreement.

- Pursuant to the agreements with Chile and Singapore, the movement of Chilean and Singaporean professionals in the United States will be provided by the H-1B1 visa.

- The number of U.S. professionals allowed entry into Chile and Singapore is not limited under these FTAs, while the number of Chilean professionals in the United States is limited to 1400 and the number of Singaporean professionals to 5400.

- The United States will be able to collect fees for professionals allowed entry. Both agreements have language that requires Parties to set fees so that they do not "unduly impair or delay trade in goods or services."

- The agreements permit the United States to require attestations modeled after core elements of the Labor Condition Application of the current U.S. H-1B visa program to certify that the employer sponsoring an applicant will:

    - Pay the prevailing wage or higher
    - Notify employees of intent to hire a foreign worker
    - Provide a safe working environment
    - Certify there is no strike or lockout in place at the worksite

THE CHILE AND SINGAPORE FTA IMPLEMENTING LEGISLATION:

- Ensures that the Chile and Singapore professionals categories come under the H-1B umbrella, as H-1B1.

- Clarifies that the Chile and Singapore H-1B1 professionals categories are capped, and that these individuals will count under the overall H-1B program cap.

- Ensures that the same level fees can be charged for H-1B and H-1B1 visas.

- Confirms that the attestation requirements are modeled on the Labor Condition Application provisions in the H-1B program, allowing a party to require certification of compliance with a party's labor and immigration laws prior to entry.

- Requires that, similar to the H-1B program, a new attestation must be filed every 3 years for each H-1B1 professional.

- Mandates that after 5 renewals, any subsequent renewal for an H-1B1 professional will count against the overall H-1B cap.

- Requires all Singaporean and Chilean H-1B1 professionals to overcome the presumption of immigrant intent, which is a higher threshold than H-1B visa holders meet.

- Provides important protections regarding labor disputes by allowing the United States to deny temporary entry to a Chilean or Singaporean business person whose activities in the United States require employment authorization, if admission might interfere with an ongoing labor dispute.

THE CHILE AND SINGAPORE STATEMENTS OF ADMINISTRATIVE ACTION:

- Clarify that "specialty occupation" in the H-1B1 program will be interpreted in a manner similar to the way the term "specialty occupation" is defined in the H-1B statute.

- Acknowledge that with sections of the H-1B program set to expire in September 2003, if the Congress extends or modifies provisions of the H-1B program, the Congress may make corresponding modifications to the amendments to the Immigration and Nationality Act made by the implementing bills, to the extent consistent with the obligations of the United States under these free trade agreements.