

amended, in specific cases. Also transmitted for the information of the Senate is the report of the Department of State with respect to the Protocol.

The Protocol would bring the existing Convention into closer conformity with current U.S. tax treaty policy. As modified by the Protocol, the Convention would be similar to tax treaties between the United States and other developed nations. The Protocol was concluded in recognition of the importance of the United States' economic relations with the Netherlands.

The Protocol would modify the treatment of certain cross-border dividend payments and would modernize the Convention's anti-treaty-shopping provisions. The Protocol also would liberalize provisions in the existing Convention regarding the mutual recognition of each country's pension plans. Other provisions in the Protocol update the Convention to take account of changes in law in the two countries over the last 10 years. The exchange of notes with an attached Understanding provides guidance to taxpayers and each government regarding the intended interpretation of certain provisions of the existing Convention, as amended.

I recommend that the Senate give early and favorable consideration to this Protocol, and that the Senate give its advice and consent to ratification.

GEORGE W. BUSH.

#### HAITI ECONOMIC RECOVERY OPPORTUNITY ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 2261 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2261) to expand certain preferential trade treatment for Haiti.

There being no objection, the Senate proceeded to consider the bill.

Mr. DEWINE. Mr. President, I am very pleased we are moving forward today with passage of the Haiti Economic Recovery Opportunity Act. Congressman CLAY SHAW in the House and I have been working on Haiti trade legislation for some time. I thank Congressman SHAW for his support. I also want to give my sincere thanks to Senators LINDSEY GRAHAM and ERNEST HOLLINGS. Without their help and support we would not have been successful in our efforts today. Let me take a moment to mention all of our cosponsors as well: Senators BIDEN, BREAUX, CHAFEE, COLEMAN, DASCHLE, DODD, DURBIN, BOB GRAHAM, HAGEL, JEFFORDS, LAUTENBERG, LIEBERMAN, LUGAR, BILL NELSON, GORDON SMITH, SUNUNU, and VOINOVICH. I thank them for their support and their efforts in getting this bill passed.

This bill can really change things for Haiti. Once it is signed into law, it will

make a very real, very lasting difference in a country that is the poorest in our hemisphere—and one that has an 80-plus percent unemployment rate and a less than \$400 per capita income for individuals.

This bill is going to use trade incentives to encourage the post-Aristide government to make much needed reforms, while encouraging foreign direct investment—the most powerful, and yet underutilized, tool of development. This bill, quite simply, will create thousands of jobs—one of the most important things for the Haitian people right now.

The people of Haiti want to work. They are good workers—they are hard workers. They are industrious. This bill is going to give them the chance to have jobs. It is going to give them a chance at economic recovery through economic opportunity. In the last decade, Haiti has gone from over 100,000 assembly jobs to less than 30,000 today. Our bill helps create jobs by providing duty-free entry to apparel articles assembled in Haiti contingent upon Presidential certification that the new government is making significant political, economic, and social reforms.

The bill also caps the amount of duty-free articles at 1.5 percent of the total amount of U.S. apparel imports, growing to 3.5 percent over 7 years. Currently, Haiti accounts for less than .5 percent of all U.S. apparel imports, and although these provisions seem modest by U.S. standards, in Haiti they are substantial.

This bill is not the "silver bullet" for Haiti, because there is no silver bullet for Haiti. Rebuilding Haiti is going to require time, attention, and determination on the part of the people of Haiti, the countries in the region, and ultimately the entire international community. But, passage of the Haiti Economic Recovery Opportunity Act is a powerful indicator that Haiti has the support necessary to move forward.

I yield the floor.

Mr. DODD. Mr. President, I rise today to speak about an initiative that is long overdue. Thanks to the efforts of Senator DEWINE, Senator BOB GRAHAM, and to the other cosponsors of the pending measure, the Haiti Economic Recovery Opportunity, or HERO Act, of 2004 is finally getting the attention it deserves.

Haiti has endured intense strife over the course of the last 3 years. Most recently, floods have devastated much of the country, and armed gangs have destabilized cities and terrorized rural areas, ultimately forcing the elected president from office.

Although much more support will be necessary in the near future, the HERO Act is an excellent first step in the process of establishing stability and security in Haiti.

Unemployment is a major factor in the instability of the country. More than two-thirds of eligible workers cannot find jobs in the formal economy. The HERO Act begins to address

that need by providing living-wage jobs in the apparel industry for thousands of Haitians.

Again, I want to stress how important it is to view this as only the first part of a large program to address the abject poverty and political chaos that has beleaguered Haiti. With this kind of forward-looking initiative, we can help our neighbors to overcome these difficult times. Only through concrete and meaningful U.S. assistance on a scale commensurate with Haiti's needs can we ever hope to reverse the misery, suffering, and hopelessness that have become commonplace in the lives of close neighbors—8 million of them.

I strongly support this legislation and was pleased to be a cosponsor. The people of Haiti have waited too long for the HERO Act to become law. It is time for the United States to demonstrate its concern for its suffering Haitian neighbors. Now that the Senate has acted, I hope that the Bush administration will finally make this a priority and urge the House leadership to act on this measure before the August recess.

Mr. FRIST. Mr. President, I ask unanimous consent that the DeWine substitute amendment be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, en bloc, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3565) was agreed to, as follows:

(Purpose: To provide a substitute amendment to ensure violations of laws relating to circumvention are enforced)

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Haiti Economic Recovery Opportunity Act of 2004".

#### SEC. 2. TRADE BENEFITS TO HAITI.

(a) IN GENERAL.—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 213 the following new section:

#### "SEC. 213A. SPECIAL RULE FOR HAITI.

"(a) IN GENERAL.—In addition to any other preferential treatment under this Act, beginning on October 1, 2003, and in each of the 7 succeeding 1-year periods, apparel articles described in subsection (b) that are imported directly into the customs territory of the United States from Haiti shall enter the United States free of duty, subject to the limitations described in subsections (b) and (c), if Haiti has satisfied the requirements and conditions set forth in subsections (d) and (e).

"(b) APPAREL ARTICLES DESCRIBED.—Apparel articles described in this subsection are apparel articles that are wholly assembled or knit-to-shape in Haiti from any combination of fabrics, fabric components, components knit-to-shape, and yarns without regard to the country of origin of the fabrics, components, or yarns.

"(c) PREFERENTIAL TREATMENT.—The preferential treatment described in subsection (a), shall be extended—

"(1) during the 12-month period beginning on October 1, 2003, to a quantity of apparel articles that is equal to 1.5 percent of the aggregate square meter equivalents of all apparel articles imported into the United

States during the 12-month period beginning October 1, 2002; and

“(2) during the 12-month period beginning on October 1 of each succeeding year, to a quantity of apparel articles that is equal to the product of—

“(A) the percentage applicable during the previous 12-month period plus 0.5 percent (but not over 3.5 percent); and

“(B) the aggregate square meter equivalents of all apparel articles imported into the United States during the 12-month period that ends on September 30 of that year.

“(d) ELIGIBILITY REQUIREMENTS.—Haiti shall be eligible for preferential treatment under this section if the President determines and certifies to Congress that Haiti is meeting the conditions of subsection (e) and that Haiti—

“(1) has established, or is making continual progress toward establishing—

“(A) a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets;

“(B) the rule of law, political pluralism, and the right to due process, a fair trial, and equal protection under the law;

“(C) the elimination of barriers to United States trade and investment, including by—

“(i) the provision of national treatment and measures to create an environment conducive to domestic and foreign investment;

“(ii) the protection of intellectual property; and

“(iii) the resolution of bilateral trade and investment disputes;

“(D) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, promote the development of private enterprise, and encourage the formation of capital markets through microcredit or other programs;

“(E) a system to combat corruption and bribery, such as signing and implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; and

“(F) protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

“(2) does not engage in activities that undermine United States national security or foreign policy interests; and

“(3) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities.

“(e) CONDITIONS REGARDING ENFORCEMENT OF CIRCUMVENTION.—

“(1) IN GENERAL.—The preferential treatment under subsection (b) shall not apply unless the President certifies to Congress that Haiti is meeting the following conditions:

“(A) Haiti has adopted an effective visa system, domestic laws, and enforcement procedures applicable to articles described in subsection (b) to prevent unlawful transshipment of the articles and the use of counterfeit documents relating to the importation of the articles into the United States.

“(B) Haiti has enacted legislation or promulgated regulations that would permit the Bureau of Customs and Border Protection verification teams to have the access nec-

essary to investigate thoroughly allegations of transshipment through such country.

“(C) Haiti agrees to report, on a timely basis, at the request of the Bureau of Customs and Border Protection, on the total exports from and imports into that country of articles described in subsection (b), consistent with the manner in which the records are kept by Haiti.

“(D) Haiti agrees to cooperate fully with the United States to address and take action necessary to prevent circumvention.

“(E) Haiti agrees to require all producers and exporters of articles described in subsection (b) in that country to maintain complete records of the production and the export of the articles, including materials used in the production, for at least 2 years after the production or export (as the case may be).

“(F) Haiti agrees to report, on a timely basis, at the request of the Bureau of Customs and Border Protection, documentation establishing the country of origin of articles described in subsection (b) as used by that country in implementing an effective visa system.

“(2) DEFINITIONS.—In this subsection:

“(A) CIRCUMVENTION.—The term ‘circumvention’ means any action involving the provision of a false declaration or false information for the purpose of, or with the effect of, violating or evading existing customs, country of origin labeling, or trade laws of the United States or Haiti relating to imports of textile and apparel goods, if such action results—

“(i) in the avoidance of tariffs, quotas, embargoes, prohibitions, restrictions, trade remedies, including antidumping or countervailing duties, or safeguard measures; or

“(ii) in obtaining preferential tariff treatment.”.

“(B) TRANSSHIPMENT.—The term ‘transshipment’ has the meaning given such term under section 213(b)(2)(D)(iii).”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after October 1, 2003.

(2) RETROACTIVE APPLICATION TO CERTAIN ENTRIES.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the United States Customs Service before the 90th day after the date of the enactment of this Act, any entry or withdrawal from warehouse for consumption, of any goods described in the amendment made by subsection (a)—

(A) that was made on or after October 1, 2003, and before the date of the enactment of this Act, and

(B) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal,

shall be liquidated or reliquidated as though such amendment applied to such entry or withdrawal.

The bill (S. 2261), as amended, was read the third time and passed.

#### ORDERS FOR MONDAY, JULY 19, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m. on Monday, July 19. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time

for the two leaders be reserved for their use later in the day, and the Senate then proceed to executive session to consider Executive Calendar No. 603, the nomination of William Myers; provided further, that the time until 5 p.m. be equally divided for debate only between the chairman and ranking member or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THIS WEEK IN THE SENATE

Mr. FRIST. Mr. President, this week we began with the consideration of a constitutional amendment on the institution of marriage, an important dialog, I felt, for this body. We had a good debate on both sides of the aisle on the definition of marriage. I thank my colleagues for keeping the debate on the subject, very civil, and handled in a very respectable way.

I personally was disappointed we did not succeed in getting to the consideration of the text of the amendment. As to the timing of the amendment, people kept questioning again and again, Why did you bring it up now? It was clearly determined by the fact that we had activist judges, beginning in the middle of May, in Massachusetts who radically redefined what marriage over the thousands of years has been interpreted to be.

Right now there are lawsuits pending in 11 other States, and it is just a matter of time before the definition of marriage between a man and a woman will be destroyed in all 50 States. Amending the Constitution to protect marriage is the only viable option left to Congress. It is a debate we did not seek, but it was one that was brought to us by another branch of Government by activist judges who determined what that definition is.

It is important for the legislative branch, directly elected by the American people, to express itself on this issue. We simply are not going to shirk from our responsibility to protect marriage, and we deserve to have a say in the matter. Although we were blocked from bringing it to the floor, I can assure everyone it will be back. The issue is not simply going away.

In addition, we completed last night the Australia free-trade bill, a very important bill managed by Chairman GRASSLEY. The outcome of the vote was 80 to 16 last night on final passage.

The significance of this bill was stated on the floor last night and it centers on the fact that two-way trade between the United States and Australia is at a level of about \$28 billion each year. We have a little over \$89 billion surplus with Australia, which is the greatest with any nation. More than 99 percent of our exports from Australia will enter duty-free once this agreement goes into effect.

The agreement we approved yesterday in this body is expected to produce an increase of about \$2 billion annually in trade for both nations. That means the bill we passed last night will result