

April 22, 2004

**The Honorable Robert B. Zoellick
United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508**

Dear Ambassador Zoellick:

Pursuant to Section 2104 (e) of the Trade Act of 2002 and Section 135 (e) of the Trade Act of 1974, as amended, I am pleased to transmit the report of the Industry Sector Advisory Committee on Energy for Trade Policy Matters (ISAC 6) on the U.S. B Dominican Republic Free Trade Agreement, reflecting consensus advisory opinion(s) on the proposed Agreement.

Sincerely,

(Original Signed)

**Raymond Bragg, Jr.
Chairman
Industry Sector Advisory
Committee on Energy for Trade
Policy Matters (ISAC 6)**

The U.S. B Dominican Republic Free Trade Agreement (FTA)

**Report of the
Industry Sector Advisory Committee on Energy for Trade Policy Matters (ISAC 6)**

April 2004

Industry Sector Advisory Committee on Energy for Trade Policy Matters (ISAC 6)

Advisory Committee Report to the President, the Congress, and the United States Trade Representative (USTR) on the U.S. B Dominican Republic Free Trade Agreement

I. Purpose of the Industry Sector Advisory Committee on Energy for Trade Policy Matters Report

Section 2104 (e) of the Trade Act of 2002 requires that advisory committees provide the President, the USTR, and Congress with reports required under Section 135 (e)(1) of the Trade Act of 1974, as amended, not later than 30 days after the President notifies Congress of his intent to enter into an agreement.

Under Section 135 (e) of the Trade Act of 1974, as amended, the report of the Advisory Committee for Trade Policy and Negotiations and each appropriate policy advisory committee must include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principle negotiating objectives set forth in the Trade Act of 2002.

The report of the appropriate sectoral or functional committee must also include an advisory opinion as to whether the agreement provides for equity and reciprocity within the sectoral or functional area.

Pursuant to these requirements, ISAC 6 hereby submits the following report.

Executive Summary of the Industry Sector Advisory Committee on Energy for Trade Policy Matters Report

ISAC 6 has reviewed the U.S. - Dominican Republic Free Trade agreement and our members agree that it will lead to improvements in the trade relationship between Central America and the United States.

ISAC 6 does note, however, several provisions in the various Annexes that either require concessions, reserve to the nations or otherwise impede and restrict United States investors and participation in various energy sectors and activities. These include restrictions on the transmission, distribution, marketing, and generation of electricity and in mining. Furthermore, the reservation of the right to impose future limitations on the number of service suppliers or requiring joint ventures in the construction or management of hydroelectric power plants, electric transmission projects and distribution or marketing of electricity is not consistent with our mutual trading objectives.

These reservations should be the subject of future discussion for the purpose of further liberalizing national treatment and market access and should not be considered appropriate as precedent for any future trade agreements.

ISAC 6 expresses significant disappointment and serious concern with respect to the agreement's continuation of the movement toward reduced protections for investors who may have disputes with host governments. Specifically, although the agreement includes provisions that provide for international arbitration of investor-state disputes, those provisions do not apply to existing investment agreements.

III. Brief Description of the Mandate of the Industry Sector Advisory Committee on Energy for Trade Policy Matters

ISAC 6 provides detailed policy and technical advice, information, and recommendations to the Secretary of Commerce and the USTR regarding trade barriers and the implementation of trade agreements negotiated under Sections 101 and 102 of the Trade Act of 1974, as amended, and Sections 1102 and 1103 of the 1988 Trade Act. ISAC 6 also performs such other advisory functions relevant to U.S. trade policy as may be requested by the Secretary and the USTR or their designees.

IV. Negotiating Objectives and Priorities of the Industry Sector Advisory Committee on Energy for Trade Policy Matters

Key areas of the negotiated agreement of interest to ISAC 6 members include:

- Market Access;
- National Treatment for Investment;
- Investor-State Dispute Resolution Provisions;
- Various Reservations in the Annexes.

V. Industry Sector Advisory Committee on Energy for Trade Policy Matters Opinion on Agreement

ISAC 6 expresses significant disappointment and serious concern with respect to the agreement's continuation of an apparent drift toward reduced protections for investors which may have disputes with host governments. Specifically, although the agreement includes necessary investor-state dispute resolution provisions, including international arbitration of investor-state disputes, those provisions do not apply to existing investment agreements.

ISAC 6 has commented to the Secretary of Commerce and the United States Trade Representative on multiple occasions previously to the effect that we must ensure that all trade agreements and bilateral investment treaties have the strongest possible protections for investors who are encouraged by our own government to invest in countries that may have evolving, politicized or corrupt legal systems. A key feature of the protections that have been in place in previous agreements B and that other countries include in their treaties and agreements for the benefit of companies that compete with ours B are those that provide for arbitration of investor-state disputes for all investment agreements, not just those that may be negotiated or put into effect after agreement or treaty ratification.

This not only disadvantages U. S. energy and investment interests, but also holds the potential for compromising future bilateral, regional, and multilateral agreements to the detriment of U.S. energy business interests. These reservations should be the subject of future discussions and in any event should not be viewed as a precedent for any future trade agreements.

VI. Membership of Committee

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