Sweeteners and Sweetener Products
Agricultural Technical Advisory Committee

September 20, 2006

The Honorable Susan Schwab
United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Dear Ambassador Schwab:

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 comments of the Sweeteners and Sweetener Products Agricultural Technical Advisory Committee on the US-Colombia Free Trade Agreement, reflecting majority and minority advisory opinion(s) on the proposed Agreement. The Committee appreciates the fact that, unlike the situation with respect to the U.S.-Peru FTA, we were given adequate time to review the Agreement prior to the mandated deadline.

Sincerely,

Jack Roney
Chair

Agricultural Technical Advisory Committee for Sweeteners and Sweetener Products

The U.S.-Colombia Free Trade Agreement (FTA)

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Agricultural Technical Advisory Committee for Sweeteners and Sweetener Products

Advisory Committee Report to the President, the Congress and the United States Trade Representative on the U.S.-Colombia Free Trade Agreement (FTA)

I. Purpose of the Committee Report

Section 2104 (e) of the Trade Act of 2002 requires that advisory committees provide the President, the U.S. Trade Representative, 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, the Agricultural Technical Advisory Committee for Sweeteners and Sweetener Products hereby submits its comments.

II. Executive Summary of Committee Report

In the opinion of the **majority** of the Sweeteners ATAC, negotiations on sugar in this and other FTA's do nothing to advance the principal negotiating objectives of the sugar and sweetener industry. These can only be achieved in the World Trade Organization and we urge the Administration to focus its efforts on WTO negotiations and to reserve negotiations on sugar exclusively for that forum.

While we appreciate the fact that U.S. negotiators resisted the unrealistic demands of their Colombian counterparts on sugar, the establishment of additional TRQ of 50,000 metric tons of sugar for Colombia is nonetheless troubling to the industry when viewed in the context of commitments already made in the WTO, CAFTA, and especially NAFTA as well as those being contemplated in other trade negotiations. Our concerns have been heightened by the recently announced agreement with Mexico which seems to fly in the face of established NAFTA provisions and procedures and seems likely to result in disruptive oversupply of the U.S. market in the coming crop years.

Without a clear understanding of how the Administration intends to manage these commitments in a manner that will avoid serious harm to the U.S. industry and that will permit the maintenance of a viable, no-cost U.S. sugar program in the future, it is impossible for the

producer majority of the ATAC to make a determination as to whether the proposed FTA with Colombia promotes the economic interests of the United States or achieves the overall negotiating objectives of the Trade Act of 2002. We await explanations and assurances from the Administration on these points.

The ATAC members agreeing to the **minority** view support the sugar provisions of the Colombia FTA and urge Congress to approve it. These members believe the economic interests of the United States are best advanced when trade agreements are comprehensive, and in this regard they support the inclusion of sugar in these agreements. The TRQ for Colombia is modest in relation to the size of the U.S. sugar market, but nevertheless respects the precedent of including all agricultural commodities.

III. Brief Description of the Mandate of the ATAC Committee for Trade in Sweeteners and Sweetener Products

The advisory committee is authorized by Sections 135(c)(1) and (2) of the Trade Act of 1974 (Pub. L. No. 93-618), as amended, and is intended to assure that representative elements of the private sector have an opportunity to make known their views to the U.S. Government on trade and trade policy matters. They provide a formal mechanism through which the U.S. Government may seek advice and information. The continuance of the committee is in the public interest in connection with the work of the U.S. Department of Agriculture (USDA) and the Office of the U.S. Trade Representative. There are no other agencies or existing advisory committees that could supply this private sector input.

IV. Negotiating Objectives and Priorities of ATAC Committee for Trade in Sweeteners and Sweetener Products

It is the opinion of the **majority** of the Sweeteners ATAC that, in evaluating whether an agreement promotes the economic interests of the United States and achieves the negotiating objectives of the Trade Act of 2002, several provisions of the Trade Act are of particular importance to the Committee:

- Section 2102(a)(2) establishes as one of the overall U.S. trade objectives: "the elimination of barriers and distortions that… distort U.S. trade;"
- Similarly, Section 2102(b)(1)(A) establishes as one of the principal trade negotiating objectives: "to obtain fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that …distort United States trade;"
- Section 2102(b)(7)(A) sets as a principal negotiating objective regarding the improvement of the WTO the extension of WTO coverage "to products, sectors, and conditions of trade not adequately covered;"
- Section 2102(b)(10)(A)(iii), (vi), (viii) establishes as principal negotiating objectives: the reduction or elimination of subsidies that "unfairly distort agriculture markets to the detriment of the United States;" the elimination of government policies that create price-depressing surpluses; and the development, strengthening and clarification of rules and dispute settlement mechanisms to eliminate practices that distort agricultural markets to the detriment of the U.S., "particularly with respect to import-sensitive products."

- Finally, we would note that Section 2102(b)(10)(A)(xvi) directs the Administration to recognize "the effect that simultaneous sets of negotiations may have on United States import-sensitive commodities (including those subject to tariff-rate quotas)."

The above-mentioned provisions are of special importance to the U.S. sugar and sweetener industry because the world sugar market is generally acknowledged to be the most distorted commodity market in the world. It is a market characterized by chronic dumping, where for two decades average prices have averaged less than half world average production costs. This pervasive dumping has been facilitated by government policies, some of them well known and transparent, others opaque and poorly understood. Virtually every sugar producing government has provided a heavy dose of trade-distorting government intervention and support to its industry. The U.S. sugar import program was developed to buffer U.S. producers against the disastrous impact of such dumped and subsidized competition.

U.S. sugar producers believe that this highly dysfunctional market can only be restored to health by comprehensive, global negotiations in the WTO that cover the whole range of trade-distorting policies that affect the world sugar market, indirect and/or non-transparent as well as policies and practices of a more direct and transparent nature. Thus, we believe that negotiations on sugar should be reserved exclusively for the WTO and should not be pursued in the negotiation of bilateral or regional trade agreements.

Attempts to negotiate further market access commitments in such FTA agreements will undercut the much more important efforts underway in the WTO to reform the world sugar market and run the risk of exposing the U.S. market to ruinous world dump market prices and of severely disrupting the U.S. sugar import and domestic program. The Sweeteners ATAC has outlined its views to the Administration on this matter on numerous occasions.

V. Advisory Committee Opinion on Agreement

Majority View. The producer members of the Sweeteners ATAC, constituting a majority of the Committee, note that Colombia is one of the world's largest sugar exporters, averaging 1.14 million metric tons over the past five years (2001/02-2005/06). Colombia already benefits from preferential access to the U.S. sugar market under the TRQ provided under WTO rules and is able to export at minimum 25,273 metric tons per year to the U.S. under this program. However, the flexibility of this program allows for greater amounts when domestic supplies are inadequate. This year, reflecting the short U.S. crop, Colombia has so far been allocated 43,121 metric tons, a 71 percent increase.

In light of the positions previously outlined, our preference would have been to exclude sugar from the market access negotiations of this FTA. However, the U.S. sugar industry is prepared to evaluate this agreement in the context of the extent of any practical harm to our industry.

Our comments on the specific elements of the text are limited to the chapter on agriculture and, more specifically, to those provisions affecting sugar and sugar-containing products. The proposed FTA establishes a duty-free TRQ (in addition to that provided under the WTO) for those sugar and sugar-containing products for which overall TRQ's under the U.S. sugar import program are in operation. This TRQ is set at 50,000 metric tons in year one of the Agreement

and rises to 60,500 metric tons in year 15; after year 15 the in-quota quantity grows by 750 MT per year.

Eligibility for this TRQ is limited to the amount of the trade surplus in sugar as defined in paragraph 5(d) of Appendix I of the agreement. This "net exporter" provision is identical to that contained in the CAFTA and Peru Agreements; we believe it should serve as a useful safeguard against the development of artificial trade flows based on the substitution of cheap, imported "dump market" sugar for domestic production so as to free up such production for export to the U.S. Given that Colombia is a very large exporter, this provision is highly unlikely to come into play in this Agreement; nonetheless, we appreciate its inclusion and urge that it be included in any subsequent FTA involving a sugar-producing country.

As in the case of the CAFTA-DR and Peru Agreements, the above-TRQ tariff on sugar and sugar-containing products covered by TRQ's will not be reduced or eliminated. Again, we appreciate the Administration's attention to our concerns on this point and hope that it reflects recognition of the disastrous impact of such reduction or elimination on U.S. sugar policy.

The rules of origin (ROO) requirements for sugar and sugar-containing products appear to be essentially the same as contained in other FTA's and should be adequate to prevent transshipment and/or the abuse of the preferential access conferred by the Colombia FTA. As with our other trade agreements, it is important that these provisions be strictly enforced and that the Administration be vigilant to any attempts to circumvent the sugar import program.

We also note that Article 2.19 of the Agriculture chapter of the Agreement provides for a "sugar compensation mechanism" identical to that in the CAFTA-DR and Peru FTA's. While we have been skeptical about the efficacy of such provisions, in light of the commitments made to Congress during the deliberations on CAFTA approval and the exploratory efforts underway in the field of sucrose ethanol production, we believe that inclusion of provisions for such a mechanism in the proposed Colombia FTA (and other FTA's with sugar-exporting countries) is advisable and could provide a potentially useful policy tool.

As noted in the summary, however, the producing-industry members find the establishment of additional sugar TRQ, initially set at 50,000 MT, to be troubling in light of the very substantial commitments already made in the WTO, CAFTA, and especially NAFTA, as well as those being contemplated in other trade negotiations. As the sugar industry has advised the Administration in other representations, such concerns have been heightened by the recently announced agreement with Mexico, which seems to fly in the face of established NAFTA provisions and procedures and seems likely to result in disruptive oversupply of the U.S. market in the coming crop years.

Without a clear understanding of how the Administration intends to manage these commitments in a manner that will avoid serious harm to the U.S. industry and that will permit the maintenance of a viable, no-cost U.S. sugar program in the future, it is impossible for the producer majority of the ATAC to make a determination as to whether the proposed FTA with Colombia promotes the economic interests of the United States or achieves the applicable negotiating objectives of the Trade Act of 2002. We await explanations and assurances from the Administration on these points.

Minority View. The ATAC members agreeing to the minority view support the sugar provisions of the Colombia FTA and urge Congress to approve it. These members believe the economic interests of the United States are best advanced when trade agreements are comprehensive, and in this regard they support the inclusion of sugar in these agreements. The TRQ for Colombia is modest in relation to the size of the U.S. sugar market, but nevertheless respects the precedent of including all agricultural commodities.

As noted in the majority opinion, many aspects of the sugar provisions in this FTA are similar to those in other recent agreements, including the rules of origin and a 'sugar compensation mechanism.' As past ATAC reports have indicated, both growers and users have at times been skeptical of this provision. The signers of the minority view stress the importance of honoring both the letter and the spirit of consultation with Colombia should the mechanism be used, and also urge USTR and USDA to consult closely with all segments of the U.S. industry before exercising this authority.

VI. Membership of the Sweeteners and Sweetener Products ATAC

Agreeing to majority view:
Van Boyette, Smith & Boyette
Ralph Burton, Amalgamated Sugar Company, LLC
Sarah Catala, U.S. Sugar Corporation
Otto Christopherson, Christopherson Farms
Wallace Ellender, Ellender Farms, Inc.
Troy Fore, American Beekeeping Federation, Inc.
Benjamin Goodwin, California Beet Growers Association, Ltd.
James Johnson, U.S. Beet Sugar Association
Luther Markwart, American Sugarbeet Growers Association
Kent Peppler, Kent Peppler Farms
Don Phillips, American Sugar Alliance
Kevin Price, American Crystal Sugar Company
Jack Roney, American Sugar Alliance
Parks Shackelford, Florida Crystals Corporation
Dalton Yancey, Florida Sugar Cane League, Inc.

Agreeing to minority view:
Melane Rose Boyce , National Confectioners Association
Thomas Earley, Promar International
Liz Gorski, The Coca-Cola Company
Randy Green, McLeod, Watkinson and Miller
Patrick Henneberry, Imperial Sugar Company
Fred Hensler, Masterfoods USA
Ken Lorenze, Kraft Foods
Martin Muenzmaier, Cargill, Inc.

Not participating in this opinion:
John Yonover, Indiana Sugars, Inc.
Roland Hoch, Global Organics, Ltd