

AGRICULTURAL TECHNICAL ADVISORY COMMITTEE FOR TRADE IN PROCESSED FOODS

March 12, 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 hereby transmit the report of the Agricultural Technical Advisory Committee for Trade in Processed Foods on the U.S.-Australia Free Trade Agreement. The report includes majority and minority advisory opinions on the proposed Agreement.

Sincerely,



Leonard W. Condon
Chairman

Enclosures

U.S.-Australia Free Trade Agreement

**Report of the
Agricultural Technical Advisory Committee for Trade in Processed Foods**

March 12, 2004

AGRICULTURAL TECHNICAL ADVISORY COMMITTEE FOR TRADE IN PROCESSED FOODS

Report to the President, the Congress, and the U.S. Trade Representative on the U.S.-Australia Free Trade Agreement

I. Purpose of the Committee Report

On February 13, 2004, the President notified Congress that he intends to enter into a free trade agreement with Government of Australia. Section 2104 (e) of the Trade Act of 2002 requires that advisory committees provide to the President, U.S. Trade Representative, and Congress 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 Advisory Committee for Trade Policy and Negotiations and each appropriate policy advisory committee must provide 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 must also include advice on whether the agreement provides for equity and reciprocity within the sectoral or functional area.

Pursuant to these requirements, the Agricultural Technical Advisory Committee for Trade in Processed Foods (ATAC) hereby submits its report:

II. Executive Summary of Committee Report

A majority of the Processed Foods ATAC does not support this agreement because of the exclusion of sugar. Others oppose the Agreement because of inadequate safeguards relative to increased access for imports of dairy products. A minority within the Committee supports the Agreement. Minority views are presented in Part VI of this report.

The Committee unanimously regards Australia as a key ally that shares many values and a common language with the U.S., a valued trading partner, and a good place to do business. In fact, many of the companies represented on this ATAC already maintain production and/or sales facilities in Australia. Nearly all members firmly support a comprehensive FTA to further solidify the alliance between the U.S. and Australia. However, a majority believes the proposed Agreement is badly flawed because of the singular exclusion of sugar. The proposed Agreement would establish an undesirable precedent for future FTAs, not provide for equity and reciprocity in all sectors, and not be in the best interests of either the United States or Australia.

III. Brief Description of the Mandate of the Agricultural Technical Advisory Committee for Trade in Processed Foods

The Processed Foods Agricultural Technical 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 ensure that representatives of the private sector have an opportunity to provide input to U.S. Government negotiators regarding all tariff and trade matters. The committee provides a formal mechanism through which the U.S. Government may seek advice and information. It is part of network of statutorily established committees that provide advice on trade negotiations to the President, the Office of the U.S. Trade Representative, the U.S. Department of Agriculture and the U.S. Department of Commerce. The newly created Processed Foods ATAC provides advice and information regarding trade in processed foods, one of the fastest growing segments of U.S. agricultural trade. The Committee furnishes advisory opinions and reports and performs other technical functions that are appropriate or are requested by the U.S. Trade Representative and/or the Secretary of Agriculture. In carrying out its functions, the Committee draws upon the technical competence and experience of its members who represent a broad cross-section of the U.S. processed food industry.

IV. Negotiating Objectives and Priorities of the Agricultural Technical Advisory Committee for Trade in Processed Foods

On November 21, following the third meeting of this newly-charted advisory Committee, I was directed by the Committee to write to the U.S. Secretary of Agriculture and the U.S. Trade Representative outlining the group's trade policy priorities (Enclosure A). This communication expressed the ATAC's opposition to "...any product exclusions from the U.S.-Central American Free Trade Agreement (CAFTA) and other evolving FTAs." The letter clearly identifies a "no exclusions" policy in all FTAs as the Committee's top priority. The letter also reflects ATAC concern about the creation of special rules of origin and stresses the importance of resolving existing sanitary, phytosanitary, and technical barriers to trade in the CAFTA and other pending FTAs. Finally the letter urged a proactive strategy for reinvigorating the Doha Development Agenda. In that regard, we highly commend Ambassador Zoellick for his recent and ongoing efforts to re-start the WTO negotiating process.

V. Advisory Committee Opinion on Agreement

In response to a January 16, 2004, USTR memorandum inviting comment on a proposed U.S. market access offer that made clear U.S. intent to exclude sugar from an FTA with Australia, I sent a follow-up letter on January 21, 2004 (Enclosure B). The letter recalled the strong views of the Processed Foods ATAC on product exclusions expressed in the letter of two months earlier and concluded, "...the Processed Foods ATAC is unlikely to support an U.S.-Australia FTA that excludes sugar and provides minimal additional access and no over-quota tariff relief for beef and dairy products."

Members of the Processed Foods ATAC are pleased to acknowledge that, as a result of the FTA, many processed foods such as soups, bakery products, frozen french fries, and distilled spirits would benefit from immediate tariff elimination. However, the modest tariff relief granted on those products is overshadowed by the dangerous precedent established by the exclusion of sugar. Because sugar was excluded, a majority of the Processed Foods ATAC does not support the proposed Agreement.

The 2002 Trade Act specifically references “import sensitive” agricultural products like sugar and notes that there should be:

“reasonable adjustment periods for United States import-sensitive products, in close consultation with the Congress on such products before initiating tariff reduction negotiations”

Accordingly, sugar sector should not have been excluded from the negotiations. Rather, as is the case with all other import sensitive commodities, there should be an adequate adjustment period for tariff reductions. Longer phase-outs for tariff reductions, coupled with other mechanisms, such as safeguards and transitional tariff rate quotas have historically been the most effective way to deal with import sensitivities. The theory underlying this approach is that open markets foster competition, innovation and growth in all sectors, but that there should be adequate time for less competitive industries to adjust to new imports. By excluding one and only one sector, the U.S. has now called into question this approach and risks sending a disturbing message that open markets are only appropriate when we have a competitive advantage over our trading partners.

The exclusion of sugar lacks economic justification and raises questions about the equity of the agreement for the processed food sector, since it favors a small minority interest over the larger economic benefits to the food industry. A fact sheet released by USTR on January 26, 2004, indicates that sugar is produced on less than one-half of one percent of all U.S. farms. In contrast, U.S. value added processed food products account for over 40% of all U.S. agricultural exports. It is a growing export sector with significant potential in Australia and Southeast Asia.

Sugar is a key ingredient in many processed food products. Limiting access to world-priced sugar increases U.S. food manufacturer costs and reduces the global competitiveness of U.S. products. The maintenance of US sugar prices at three times the world price has forced many food manufacturers off-shore and has cost sugar using sectors an estimated 10,000 jobs and perhaps as many as 26,000 jobs over the last six years alone. According to the U.S. International Trade Commission, sugar producers and processors have lost some 5,455 jobs since the implementation of the U.S. sugar program in 1982. Clearly, the extreme protectionism applied to sugar has had, and continues to have, enormous negative consequences for employment in the U.S. and should not be perpetuated in an FTA with Australia, nor with any other country.

Regrettably, the intimidation of a small, but vocal, minority forced the abandonment of a fundamental principle that degrades the quality of the U.S.-Australia Agreement. This exclusion establishes a dangerous precedent with potential adverse economic impact on the U.S. processed food industry and its global market competitiveness, but more significantly, could have damaging long-term consequences for agricultural policy reform in this country and around the world.

Excluding sugar from this agreement signals to all our trading partners that we lack the determination to liberalize our own markets. The proposed Agreement implies to every future FTA partner that the principle of commodity exclusions is acceptable to the United States. Further, the exclusion of sugar undermines U.S. credibility in the Doha Development Agenda negotiations by implying that U.S. commitment to reduce market access barriers and domestic support may not apply to products of keen export interest to many developing countries.

In addition to the view stated by the majority of the ATAC members regarding the exclusion of sugar, two members of the Committee do not support the agreement because they believe that U.S. dairy interests are not adequately protected under the terms of the proposed Agreement and will be irreparably harmed by the access for dairy products granted to Australia.

The Committee also wishes to reiterate its concern about special rules of origin and the vetting process for proposed special rules of origin. The Committee continues to believe it is not being adequately consulted on special rules of origin for processed foods. U.S. efforts in this regard are too often biased towards protecting against imports, rather than facilitating exports. Exports of processed foods and beverages are an increasingly important component of U.S. agricultural exports. The Committee urges USDA/USTR to recognize the overall negative impact of special rules of origin on the food processing industry and stresses that, in the future, U.S. negotiators should consult more closely with food processors when considering any special rules.

Finally, the Committee notes that Australia maintains sanitary and phytosanitary measures that continue to restrict market access for several key agricultural products, including processed food products. The Committee stresses the importance of addressing and resolving these SPS issues.

VI. Minority Views

The U.S. distilled spirits industry strongly supports the U.S.-Australia FTA. The immediate elimination of Australia's five percent tariff on U.S.-origin spirits will afford a significant advantage to U.S. spirits in a market characterized by stiff international competition. Moreover, the spirits industry is extremely pleased that Australia has agreed to recognize Bourbon and Tennessee Whiskey – by far, the leading U.S. spirits exports – as products that may be produced only in the United States. The U.S. wine industry also is very satisfied with the outcome of these negotiations and supports this agreement.

The spirits industry shares the concerns expressed by the majority of the Committee regarding sugar and urges that such wholesale sector exemptions not be permitted in any future trade agreements. The spirits industry agrees with the concerns expressed by the majority of the Committee regarding special rules of origin.

VII. Membership of Committee

Enclosure C is a list of members of the Agricultural Technical Advisory Committee on Processed Food with their respective affiliations.