

February 25, 2003

The Honorable Robert B. Zoellick  
United States Trade Representative  
600 17<sup>th</sup> 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 Sweeteners and Sweetener Products Agricultural Technical Advisory Committee on the U.S.-Chile Free Trade Agreement, reflecting majority and minority advisory opinion(s) on the proposed Agreement.

Sincerely,

Jack Roney  
Chair, Agricultural Technical  
Advisory Committee for Trade in  
Sweeteners and Sweetener  
Products

Agricultural Technical Advisory Committee for Sweeteners and Sweetener Products

The U.S.-Chile 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.-Chile 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 Trade Advisory Committee for Sweeteners and Sweetener Products hereby submits the following report.

**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.

**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 Sugar and Sweetener ATAC has outlined its views to the Administration on this matter on numerous occasions.

## **V. Advisory Committee Opinion on Agreement**

### **Majority Opinion**

We would note that both Chile and the U.S. are significant net importers of sugar and sugar-containing products (SCP's) and both maintain import policies aimed at shielding their domestic markets from the world dump market. Thus, there would appear to be no legitimate commercial interest on either side in the inclusion of sugar in FTA market access negotiations. In fact, as we understand it, all of Chile's other FTA's effectively exclude sugar.

In light of the above, our strong preference would have been to exclude sugar from the market access negotiations of this FTA, and the ATAC consistently presented this majority position to the Administration. As the Administration was unwilling to exclude sugar from this FTA, however, the U.S. sugar industry has sought to work with the Administration to achieve an outcome that would avoid practical harm to our industry.

We would also note that the failure of the Administration to release publicly the text of the Chile agreement (or that of Singapore) has hindered our ability to consult with the much broader range of industry representatives not on the ATAC and with trade experts and advisors. This severely limits our ability to present an informed and broadly representative report on this agreement. We would strongly urge the Administration to make the texts of any future agreement public at the time Congress is notified that the negotiations have been completed.

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. As noted above, Chile is a substantial net importer of sugar; moreover, its domestic prices are above world market prices. Thus, our major concern

was to prevent the “substitution” of domestically consumed Chilean sugar by imports of foreign sugar at world dump market prices so as to free up Chilean-produced sugar for export to the U.S. Such an arrangement would enable unscrupulous traders to circumvent FTA rules of origin and would be tantamount to transshipment of third country sugar through Chile to the U.S. Though hardly the sort of economic efficiency intended by an FTA, such trade would, because of the discrepancy between U.S. and world dump market prices, prove very attractive financially.

We commend the Administration for taking these concerns seriously and for making considerable efforts to address them.

The text of the Chilean FTA provides for the establishment of a TRQ of 2,000 metric tons (covering SCP’s as well as sugar) which will rise to 3,258 tons in year 11 and then be eliminated; second-tier, or above quota, tariffs on sugar and SCP’s steadily decline to zero over this period. As the U.S. market for sugar is already saturated and the Chilean FTA does nothing to advance our key objective of achieving drastic reform of the world sugar market through WTO negotiations, these provisions would in themselves be objectionable. However, Chile’s ability to derive the benefits of these provisions is contingent on its becoming a net exporter of sugar and SCP’s and this limitation, as we understand it, will continue in effect even after the 12-year transition period.

Thus, subject to the caveats below, it would appear unlikely that Chile will gain any preferential access to the U.S. market as a result of the FTA and, thus, this “net export surplus” provision would appear to address the U.S. sugar industry’s concerns. (A similar provision would prevent the U.S. sugar and SCP exports from gaining preferential access to the Chilean market.)

There are, however, two practical questions that need to be addressed in evaluating the possible impact of this FTA on the U.S. sugar industry; thus far, the information at our disposal has not enabled us to answer them in a satisfactory manner:

- What is the potential for further increase in Chilean consumption of high fructose corn syrup (HFCS) through either increased Chilean production of HFCS or increased imports of HFCS from the U.S.? While the agreed formula for the calculation of net export surplus includes HFCS from third countries, it does not include, despite our urgings, HFCS produced in Chile or that imported from the U.S. We need to have an informed analysis of the potential for increased HFCS from these two sources to properly evaluate the likely effectiveness of the net export surplus constraint.
- What is the potential for increased sugarbeet production in Chile? The acceptability of the provisions described above is contingent on the belief that Chile will remain a net importer of sugar but we have, as yet, seen no serious analysis of this point.

We continue to urge the Administration to present to us the information or analysis at its disposal on these two points; if such information is lacking, we would suggest that they request the USITC to examine these questions as part of their mandated review of the FTA. The U.S. sugar industry will, for its part, continue to examine these questions. If the potential for large Chilean sugar exports to the U.S. proves to be considerable, then the relevant provisions of the FTA will need to be revisited.

Subject to satisfactory resolution of the above concerns, on the other hand, and despite the fact that we see no particular benefit to the U.S. sugar producing industry, the majority of the Sweetener ATAC would be of the opinion that the FTA agreement with Chile promotes the economic interests of the U.S. and achieves the applicable overall and principal negotiating objectives of the Trade Act of 2002, and that it provides for equity and reciprocity in the sugar and sweetener sector.

In rendering this opinion, however, we would emphasize that, while the provisions of the Chile FTA on sugar may prove an appropriate model for the negotiation of FTA's with other sugar-importing countries or regions (depending on the specific circumstances of the sugar industry in those countries and regions), they can in no way be viewed as a precedent for negotiations with sugar-exporting countries or regions.

We would also point out again that negotiations on sugar in this and other FTA's do nothing to advance the principal negotiating objectives of the sugar and sweetener industry, which have been set forth above. These can only be achieved in the WTO and we again urge the Administration to focus its efforts on those negotiations and to reserve negotiations on sugar exclusively for that forum.

**Minority Opinion (Submitted by members Nick Kominus, Alfred Hensler, Ken Lorenze, Roland Hoch)**

We support free and open trade and strongly support the Administration's goal of liberalizing markets for all agricultural commodities, including sugar. We appreciate the hard work, dedication and skill of negotiators at the Office of the U.S. Trade Representative and the U.S. Department of Agriculture in successfully concluding the U.S.-Chile Free Trade Agreement and endorse passage by Congress of legislation to implement it. While understanding the considerations that led to the structural design of the U.S.-Chile FTA's sugar provisions, and applauding the inclusion of sugar in that agreement, we do not necessarily regard the specific provisions as models for subsequent agreements.

**VI. Membership of the Sweeteners and Sweetener Products ATAC**

Mr. Ronald Anderson	Louisiana Farm Bureau Federation	Ethel, LA
Mr. O. Al Christopherson	Minnesota Farm Bureau	Pennock, MN
Mr. Troy Fore, Jr.	American Beekeeping Federation, Inc.	Jesup, GA
Mr. Benjamin Goodwin	California Beet Growers Association	Stockton, CA
Ms. Ardis Hammock	Frierson Farm, Inc.	Clewiston, FL
Mr. Alfred Hensler	M&M/Mars	Hackettstown, NJ

Mr. Roland Hoch	Global Organics, Inc.	Arlington, MA
Mr. Nathan Holleman	National Honey Board	Longmont, CO
Mr. James Johnson	U.S. Beet Sugar Association	Washington, DC
Mr. Nicholas Kominus	U.S. Cane Sugar Refiners' Association	Washington, DC
Mr. Kenneth Lorenze	Kraft Foods	Tarrytown, NY
Mr. Jerome McKee	Laurel Valley Plantation, Inc.	Thibodaux, LA
Mr. Kent Pepler	Farmer	Platteville, CO
Mr. Kevin Price	American Crystal Sugar Company	Moorhead, MN
Mr. Jack Roney	American Sugar Alliance	Arlington, VA
Mr. Dalton Yancey	Florida, Texas and Hawaii Sugar Growers	Washington, D.C.