Agricultural Technical Advisory Committee for Trade in Sweeteners and Sweetener Products

March 19, 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 Sweeteners and Sweetener Products Agricultural Technical Advisory Committee on the US-Central America Free Trade Agreement, reflecting majority and minority advisory opinions on the proposed Agreement.

Sincerely,

Jack Roney
Chair

Agricultural Technical Advisory Committee for Trade in Sweeteners and Sweetener Products

The U.S.-Central American Free Trade Agreement (FTA)

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

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 principal 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 Trade in Sweeteners and Sweetener Products hereby submits the following report.

II. Executive Summary of Committee Report

Majority Opinion: In the opinion of the majority of the Sweeteners ATAC, negotiations on sugar in bilateral or regional FTAs do nothing to advance the principal negotiating objectives of the sugar and sweetener industry, which can only be achieved in the World Trade Organization. On the contrary, the granting of additional market access commitments on sugar in FTAs would have a highly disruptive effect on the U.S. sugar market and would jeopardize the viability of the U.S. domestic program for sugar – while doing nothing to address the pervasive governmental policies that have grossly distorted the world sugar market. Thus, we have long urged the Administration to focus its efforts on WTO negotiations and to reserve negotiations on sugar exclusively for that forum.

The proposed agreement with the five Central American, or CAFTA, countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) would push a substantial additional quantity of sugar onto an already oversupplied U.S. market. It would immediately increase the burden on U.S. sugar producers (who already hold nearly 700, 000 tons of "blocked stocks") to either reduce production or increase stock holdings. On top of the import commitments under the WTO and NAFTA, the commitments in the proposed FTA with CAFTA threaten to make the no-cost domestic sugar program inoperable and are, therefore, inconsistent with the stated Administration position that domestic agricultural support programs will not be negotiated in FTAs. Moreover, the CAFTA commitments cannot be looked at in isolation. The Administration is pursuing FTA negotiations with a formidable number of other countries that are major exporters of sugar. All of these countries will be seeking access to the U.S. sugar market comparable to, or greater than, offered to CAFTA.

In the majority view, CAFTA as it stands does not promote the economic interests of the United States, achieve the negotiating objectives set forth in the Trade Act of 2002, or provide equity and reciprocity within the sugar and sweetener sector. We reiterate the industry's call to the Administration to reconsider and reverse the disruptive additional market access commitments on sugar it has offered in the CAFTA.

Minority Opinion: As members of the Sweeteners ATAC, we support the U.S.-Central America Free Trade Agreement (CAFTA). The CAFTA includes modest but meaningful improvements in market access for Central American sugar in the U.S. market. CAFTA also will provide new opportunities for U.S. farmers, ranchers and food companies to export their products to Central America. One feature of the agreement which causes us concern is the so-called "stocks management," which could distort markets and lead to large taxpayer expenditures in the sugar price support program. Nonetheless, we believe the agreement should be approved by Congress.

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. For two decades, average world sugar market prices have averaged less than half the world average cost of producing sugar. 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 nation's 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.

Negotiation of further market access commitments in FTA agreements would undercut the much more important efforts underway in the WTO to reform the world sugar market, expose the U.S. market to ruinous world dump market prices, and severely disrupt the U.S. sugar import and domestic program.

The U.S. sugar market is already seriously oversupplied, with "blocked stocks" of nearly 700,000 tons being held by U.S. sugar producers pursuant to the mandate of the Farm Bill to maintain a "no-cost" program. The granting of increased market access in FTA negotiations, on top of existing U.S. import obligations under the WTO and NAFTA, would "trigger off" the marketing allocation system underpinning the domestic support program, thus making the domestic program unworkable and causing the forfeiture of hundreds of thousands of tons of sugar now pledged as loan collateral to the Commodity Credit Corporation. Thus, we believe any negotiation of sugar market access in the context of FTAs is inconsistent with the Administration's stated position that domestic support programs will NOT be negotiated in FTAs.

With respect to the last provision cited above, which directs the Administration to recognize the effect of "simultaneous sets of negotiations," we would point out that the Administration continues to evade requests that it put forth a coherent analysis of the impact of its negotiations on sugar in the whole range of FTAs being pursued on the U.S. sugar market and our domestic program and its plan for dealing with this impact. Instead, the Administration insists that each FTA negotiation on sugar must be treated individually (i.e., piecemeal.)

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 while the U.S. is a large net importer of sugar and sugar-containing products (SCPs) and the CAFTA countries, as a whole, are one of the world's largest exporters of sugar, both maintain policies aimed at shielding their domestic producers from the world dump market. The U.S. utilizes a WTO-legal tariff-rate quota system and a no-government-cost commodity loan program. The CAFTA countries maintain domestic sugar prices well above world dump market levels, protected by high tariffs and possibly other measures. It is also worth noting that CAFTA countries have NOT liberalized sugar trade as part of the FTA among themselves. Both the U.S. and CAFTA sugar industries stand to gain from a comprehensive reform of the grossly distorted world sugar market through WTO negotiations.

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. For CAFTA as a whole, the proposed agreement provides for additional duty-free access for sugar and certain SCP's totaling 99,000 metric tons in the first year of the FTA and rising to 140,340 metric tons by year 15; thereafter, the TRQ provided under the FTA would increase in perpetuity by 2,440 each year. This increased access would be in addition to the access provided under the WTO-bound TRQ, which has traditionally provided the CAFTA countries a minimum of more than 126,000 metric tons annually.

Contrary to the position initially outlined by the Administration, the second-tier tariff (for imports outside of TRQ's) was not eliminated or reduced. We appreciate the Administration's attention to our concerns on this point. We hope that it reflects a recognition of the disastrous impact of such reduction and elimination on the U.S. sugar industry and our domestic program – and the flagrant inconsistency of such an action with the broad Administration policy that domestic support programs will not be negotiated in FTA's.

The increased access through TRQ's described above, however, will by itself have a highly disruptive effect on the U.S. sugar market. As noted previously, the U.S. market is already badly oversupplied, with U.S. producers holding nearly 700,000 tons of "blocked stocks" in accordance with provisions of the marketing allocation program put in place by the 2002 Farm Bill. Despite the imposition of restrictions on domestic marketing of sugar through this program, sugar prices have fallen into the forfeiture range, raising concerns as to whether the program's mandate – that it be operated at no-cost to the government – will be fulfilled. It is very likely that marketing allocations will need to further tightened next year. Under these circumstances, every additional ton of sugar imported means an equivalent decrease in U.S. production or increase in U.S. stockholdings.

We have also witnessed over the past few years a very troublesome decline in U.S. sugar consumption. After nearly fifteen years of growth, averaging 151,000 short tons annually, consumption has declined by an average of 136,000 st over the past three years. The reasons for this decline, and whether they will continue to hold sway, are not yet entirely clear. If the decline continues, however, the difficulty of managing the domestic program, and the burden placed on it by CAFTA, will increase substantially.

We must also point out that the increased import commitment to CAFTA poses a very specific and real threat to the operation of the domestic program in that it is quite likely at some point to "trigger off" the marketing allocation program. The legislation establishing this program provides that the program can only operate as long as imports for domestic use remain below 1,532,000 short tons; if imports rise above that, the marketing allocation program is "triggered off." The TRQ bound in the FTA is set at 1,255, 748, leaving room for only about 275,000 st of additional imports (because a few TRQ beneficiaries do not generally use all their quota the figure is normally somewhat greater.) Because of the provisions of NAFTA, the prospects for resolving the long-standing sweetener dispute with Mexico and re-opening the Mexican market to HFCS (high fructose corn syrup) depends on our ability to offer Mexico virtually all this amount. Even if this dispute is not resolved, NAFTA provisions made it highly likely that Mexican imports will eventually approach this figure. Consequently, if the marketing allocation program is to remain in operation, there is no leeway for the increased access proposed for CAFTA.

While we believe the arguments put forward above convincingly demonstrate the unacceptable damage that would be done to the industry by the CAFTA sugar provisions, CAFTA cannot be looked at in isolation from the broader FTA initiatives of the Administration. The countries with which the U.S. is pursuing FTAs export in total over 27 million tons (23 million excluding Australia), nearly three times U.S. consumption. While it is true that the Administration has excluded sugar from market access negotiations in the proposed FTA with Australia (and we applaud that decision), it is by no means assured that they will take the same position in other FTA negotiations. Indeed the Administration has made clear that sugar remains on the table in all these negotiations and that each negotiation will have to be evaluated individually. The distinction between developed and developing made by Ambassador Zoellick in explaining the decision to exclude sugar from the

Australian talks is hardly reassuring—all other prospective FTA countries are developing countries!

From the perspective of the U.S. sugar industry, the CAFTA agreement sets a terrible precedent. All of the other sugar-exporting FTA countries – the Dominican Republic, South Africa, Thailand, Panama, the Andean countries, along with Brazil and the remaining countries of the FTAA – will seek to equal or better the concessions given in the CAFTA. Additional access granted in these negotiations will greatly exacerbate the disruptive effects described above.

Two other provisions of the agreement warrant our comments:

- Paragraph 3(d) of Annex 3.3 limits duty free treatment under the FTA to the amount of the trade surplus in sugar as defined in that paragraph. We would note that, while this provision might have some effect if applied to other countries, it will not exercise a constraint on any of the five CAFTA countries.
- Article 3.15 of the chapter on Agriculture establishes a "sugar compensation mechanism" which allows the U.S. to compensate CAFTA exporters in lieu of according duty-free access to all or part of the TRQ established by the FTA. Little detail is provided about this mechanism except that the compensation "shall be equivalent to the economic rents" exporters would have enjoyed as a result of sales to the U.S. and that the U.S. must provide 90 days notice and be willing to enter into consultations on the matter. We have grave doubts about the efficacy of this provision. Will the compensation be provided in cash or goods? If the former, will Congress provide such funding? If the latter, will this upset commercial trade and possibly raise WTO concerns? While it may be helpful to deal with a slight excess of imports, this device could not be effectively used over the long run to avoid disruption of the domestic sugar program if the expected imports from Mexico materialize and/or if additional access is granted in other FTA negotiations.

In light of the reasons detailed above, we find that the proposed FTA does NOT provide for equity and reciprocity in the sugar and sweetener sector. With respect to the broader question of whether it promotes the economic interests of the U.S. and achieves the applicable overall and principal negotiating objectives of the Trade Act of 2002, we must again point out that this and other FTAs can do nothing to advance the principal negotiating objectives or economic interests of the sugar and sweetener industry. These objectives 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. On the contrary, we believe that CAFTA will seriously harm the economic interests of the U.S. sugar industry and by extension those agricultural, business and community interests whose livelihood is closely linked to the health of our industry; and that it will undercut our broader negotiating objectives.

Thus, we find that CAFTA as it stands does NOT promote the overall economic interests or negotiating objectives of the U.S. We again urge the Administration to reconsider and reverse the disruptive additional market access commitments offered in CAFTA.

<u>Minority Opinion</u>: As members of the Sweeteners ATAC, we support the U.S.-Central America Free Trade Agreement (CAFTA). The CAFTA includes modest but meaningful improvements in market access for Central American sugar in the U.S. market. CAFTA also will provide new opportunities for U.S. farmers, ranchers and food companies to export their products to Central America. One feature of the agreement which causes us concern is the so-called "stocks management," which could distort markets and lead to large taxpayer expenditures in the sugar price support program. Nonetheless, we believe the agreement should be approved by Congress.

First, we commend the Administration for including sugar in this agreement. It is clear that the agreement could not have been successfully concluded without sugar. Indeed, the failure to offer more sugar market access was reportedly one factor in Costa Rica's decision to abandon the discussions temporarily.

Central American countries resisted liberalizing a number of their sensitive agricultural products. In taking this position, Central American negotiators were able to cite U.S. reluctance to liberalize sugar. In fact, some commodities such as white corn will be permanently restricted by a tariff rate quota under CAFTA, an arrangement parallel to the perpetual (though steadily increasing) quotas on Central American sugar.

If the United States had excluded sugar completely from CAFTA, sensitive Central American agricultural commodities would almost certainly have been excluded, to the detriment of efficient U.S. agricultural producers. Similarly, the United States will need to include sugar in upcoming FTAs with the Andean nations, Panama, Thailand, the Southern Africa Customs Union and potentially other countries. In all these cases, the United States will seek additional access for our export-competitive agricultural goods, and may be unable to obtain this access without making concessions on sugar among other products.

Second, we believe the agreement unnecessarily constrains Central American sugar access and could have been substantially more liberal. Over-quota tariffs will be maintained in perpetuity, while the initial tariff rate quotas (TRQs) for the Central American countries are quite small, commencing at 99,000 metric tons and growing only slowly to some 140,000 metric tons by the 15th year of the agreement, with continued slow growth after that.

Third, we nonetheless commend the Administration for accommodating the CAFTA countries with successively more liberal offers. The initial U.S. offer of additional access was unrealistically small, and was reported in the trade press to be only an additional 13,000 tons. The final starting point, while still modest, is a quantity of commercially meaningful proportions.

Fourth, we believe the CAFTA TRQs will convey numerous benefits. Central American sugar trade will be beneficial on several levels:

- The new TRQs for CAFTA nations will **encourage additional competition** in an industry where the supply side is rapidly consolidating – a trend that usually alarms policy makers when it occurs in other segments of agriculture, but has occasioned little discussion as it takes place in sugar.
- CAFTA imports will offer at least some hope of **slowing one of the most unfortunate effects of the current sugar program**: By increasing input costs for sugar-containing goods made in the United States compared to those made in other countries with access to world-priced sugar, the U.S. sugar program encourages the movement of U.S. food manufacturing jobs offshore. A recent study for the Sweetener Users Association by Promar International showed that some 7,500-10,000 jobs in recent years have been lost or foregone because of the sugar program.
- CAFTA imports will permit our Central American trading partners to **earn hard currency that can be used to purchase U.S. products**, including our farm and food exports – which will now enjoy a competitive advantage in Central American markets as those nations reduce their tariffs and other trade barriers.
- CAFTA imports offer **a potential new source of throughput for the struggling U.S. cane refining industry.** That industry has been harmed by a sugar program that survives by ratcheting down imports of raw cane sugar, so that refinery after refinery has been forced to shut down.

Fourth, we are concerned about the "compensation mechanism" contemplated in Article 3.15. The United States would, in effect, pay its CAFTA partners not to ship sugar to this country. There are several problems with this approach.

- **First, we find it curious that under a free trade agreement, we would pay another country not to trade with us.** We had thought that the purpose of FTAs was more trade rather than less.
- **Second, we are concerned that the "compensation" mechanism could be costly to taxpayers.** In early March, the difference between the nearby months of the world and domestic sugar futures contracts was approximately 14.5¢ per pound. Allowing 1.5¢ per pound for transportation, the implied quota rent would be approximately 13¢. This is equal to about $287 per ton, or over $28 million in the first year of the agreement, and potentially much more in future years as the TRQ increases. It is widely speculated that U.S. farm programs could be the target of deficit-reduction efforts in coming years. Thus, we do not understand how policy makers could justify **spending $28 million per year in support of the sugar program, with checks being written to overseas interests,** at the same time that other commodity programs may be squeezed at home.
- **Third, we are concerned about the legality of the "mechanism."** CAFTA sugar that is not shipped to the United States will still find a home somewhere. Logically, that home will probably be the world sugar market. This market is already artificially depressed, as the American Sugar Alliance has repeatedly stated. Additional supplies in that market, diverted from the U.S. market by the terms of CAFTA, could only depress prices compared to the levels they would otherwise have obtained. The United States could very well be subject to a legal challenge at the World Trade Organization from aggrieved non-CAFTA exporting nations.

For these reasons, while recognizing that the "compensation mechanism" is part of the agreement, we urge that it not be used.

Fifth, we wish to reiterate that the CAFTA sugar provisions are modest in scope. The furious rhetoric from the agreement's opponents would make the casual observer suppose that a flood of imports lay ahead. Of course, that is not the case.

The initial quantity of CAFTA imports is only about 1% of the U.S. market. It is only about half the sugar quota already held by the largest quota-holding country. It is substantially less than TRQs provided in the early part of this decade to Mexico under the North American Free Trade Agreement, and less than half the amounts reportedly discussed by U.S. sugar interests in private negotiations with their Mexican counterparts that are aimed at settling outstanding trade disputes.

The Administration did not negotiate the sugar price support program. As requested by U.S. sugar producers, the Administration has withheld the price support program for the Doha Development Round of multilateral talks. Only tariffs and quotas were negotiated in CAFTA.

Yet in a letter to the President, the U.S. sugar industry stated: "It is essential that negotiations on market access for sugar be reserved for the global WTO negotiations." If "market access" issues like tariffs and quotas cannot be negotiated in FTAs – which are by definition all about tariffs, quotas and other market access issues – then there can be no FTAs.

Such an outcome might be perceived by some as a short-term benefit for segments of the sugar industry, but it would be profoundly detrimental to the interests of virtually every other U.S. agricultural commodity, as well as to agricultural processors, food manufacturers and others.

The Central America Free Trade Agreement will convey a wide range of benefits to U.S. agriculture. These benefits include somewhat more open trade in sugar. Recognizing the agreement's limitations, we support it and urge its approval by Congress.

VI. Membership of the Sweeteners and Sweetener Products ATAC

Agreeing to Majority Opinion:

Ms. Margaret O. Blamberg	American Cane Sugar Refiners' Association
Mr. Van R. Boyette	Okeelanta Corporation
Ms. Sarah A. Catala	U.S. Sugar Corporation
Mr. Otto A. Christopherson	Christopherson Farms
Mr. Troy Fore	American Beekeeping Federation, Inc.
Mr. Benjamin A. Goodwin	California Beet Growers Association, Ltd.
Mr. Patrick D. Henneberry	Imperial Sugar Company

Mr. James Johnson	U.S. Beet Sugar Association
Mr. Kent Peppler	Kent Peppler Farms
Mr. Don Phillips	American Sugar Alliance
Mr. Kevin Price	American Crystal Sugar Company
Mr. Jack Roney	American Sugar Alliance
Mr. Charles Thibaut	Evan Hall Sugar Coop., Inc.
Mr. Don Wallace	American Sugar Cane League
Mr. Dalton Yancey	Florida Sugar Cane League, Inc.

Agreeing to Minority Opinion:

Mr. Thomas C. Earley	Promar International
Mr. Robert R. Green	McLoed, Watkinson and Miller
Mr. Alfred Hensler	Masterfoods USA
Mr. Roland E. Hoch	Global Organics, Ltd.
Mr. Kenneth Lorenze	Kraft Foods

Member not Participating in this Opinion:

Ms. Linda K. Thrasher	Cargill, Inc.