Agricultural Technical Advisory Committee for Trade in Sweeteners and Sweetener Products

March 11, 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-Australia 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.-Australia 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.-Australia 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 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 this and other FTAs do nothing to advance the principal negotiating objectives of the sugar and sweetener industry. These can only be achieved in the World Trade Organization. We have long urged the Administration to focus its efforts on WTO negotiations and to reserve negotiations on sugar exclusively for that forum. In this regard, we applaud the Administration's decision to exclude market access commitments on sugar from the U.S.-Australia agreement. We urge that this position be maintained in all future FTA negotiations. We also reiterate the industry's call to the Administration to reconsider and reverse the disruptive additional market access commitments it offered in the Central American Free Trade Agreement (CAFTA).

Minority Opinion: As members of the Sweeteners ATAC, we cannot support the Australia FTA. We believe trade agreements must be comprehensive, and the Australia FTA is not. We believe comprehensive trade agreements should address sugar, one of

the most protected of all commodities, and the Australia FTA does not. We believe trade pacts should avoid precedents which will be harmful to the interests of the United States in future agreements, but unfortunately the Australia FTA sets just such a dangerous precedent. By excluding sugar, this agreement serves notice to all our trading partners that we lack the determination to liberalize our own markets. The agreement tells every future FTA partner that the principle of commodity exclusions is acceptable to the United States. The Australia FTA represents special treatment for a single product, in defiance of the expressed views of the Congressional leadership and a broad swath of U.S. agriculture and business.

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 ensure 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.

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 Australia is one of the world largest exporters of sugar, both countries 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. Australia utilizes a variety of domestic subsidy programs and the Queensland Sugar Limited (QSL), a government-sanctioned state-trading enterprise (STE). Both countries 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. Again, we commend the Administration for taking seriously the concerns outlined above in the FTA negotiations with Australia and for excluding sugar market access commitments from its provisions. We would underscore that this negotiation clearly demonstrates that a comprehensive FTA can be successfully concluded without market access provisions on sugar on terms that the Administration has described as very favorable to the U.S. Assertions by some interests that much greater concessions could have been obtained in certain highly sensitive areas had sugar been included do not, in our view, accord with the hard negotiating realities and are fanciful at best.

We also believe that the provisions of Article 3:1 of the Agriculture Chapter, which call for the U.S. and Australia to work together in WTO agriculture negotiations and, specifically, to seek to develop disciplines that eliminate restrictions on an entity's right to export represent a positive development. Hopefully, the latter commitment will prove helpful in addressing the trade-distorting practices of the QSL and other STE's.

In light of the above, we find that the proposed FTA does 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 do nothing to advance the principal negotiating objectives or economic interests of the sugar and sweetener industry – for the simple reason that these objectives and interests cannot be effectively advanced in FTA negotiations. 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.

With respect to whether the proposed FTA promotes the overall economic interests or negotiating objectives of the U.S., we defer to our colleagues in other ATACs and chartered private sector advisory groups.

Minority Opinion: As ATAC members charged with providing our judgments on the impact of trade agreements on commerce in sweeteners, we cannot support the U.S.-Australia Free Trade Agreement (Australia FTA). Whatever benefits it may otherwise have – and these appear to be modest – the agreement sets the unfortunate precedent of excluding sugar from its provisions. Under this so-called free trade agreement, bilateral trade in sugar will never be free.

We object to the exclusion not only because of the positive benefits that would flow from increased competition in the closed U.S. sugar market, but also because of the adverse precedent that has now been established for future agreements. We believe the exclusion of sugar is inconsistent with stated Administration policies, statutory negotiating objectives and principles of open trade.

A review of the statutory negotiating objectives for agriculture (Sec. 2102(b)(10) of the Trade Act of 2002, 19 U.S.C. 3801 and 3802; Public Law 107-210) demonstrates how the exclusion of sugar defies the explicit will of Congress with respect to trade agreements. The inconsistency of the Australia FTA with these statutory objectives may suggest why the chairmen of the House Committee on Ways and Means and the Senate Committee on Finance – the principal Congressional leaders on trade policy – have been especially critical of the Administration's decision to exclude sugar.

- **The principal U.S. agricultural negotiating objective is "to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets *substantially equivalent to the competitive opportunities afforded foreign exports in United States markets …"* (**Emphasis added.) By providing absolutely *no* additional market access for an Australian agricultural product – sugar – the United States has given implicit permission to our future FTA partners to exclude their sensitive agricultural commodities. If we seek only to gain, for our farm goods, access that is "substantially equivalent" to what we give others -- and then give others *no* access -- we risk raising the flag of surrender in the struggle to open new markets for U.S. agriculture.
- **The principal U.S. agricultural negotiating objective also states as its purpose the achievement of "fairer and more open conditions of trade in bulk, specialty crop, and value-added commodities …"** Clearly, a status-quo result on sugar fails to create "more open" conditions of trade, because Australia will obtain absolutely no additional access.
- **With respect to import-sensitive products, Congress told the Administration to seek "reasonable adjustment periods."** The clear import of this language is that after such an adjustment period – which may be quite lengthy – trade in the affected products will be open, or at least more open than before the agreement. But for sugar in the Australia FTA, the adjustment period is infinite. In no sense can this be considered "reasonable."
- The overall U.S. trade negotiating objectives also demonstrate how the Australia FTA's sugar provisions fall short. **These objectives, found in Sec. 2101(a) of the**

Trade Act of 2002, call for "more open, equitable, and reciprocal market access." Yet the exclusion of sugar fails the test of increased openness because it leaves our market closed; fails the test of equity because it ignores the needs of the rest of U.S. agriculture and industry; and fails the test of reciprocity because Australia maintains no comparable barriers against U.S. agricultural products.

- **These overall objectives also call for "obtain[ing] reciprocal tariff and nontariff barrier elimination agreements …"** Again, the Australia FTA fails to fulfill this objective. It leaves intact the non-tariff barrier of the U.S. sugar tariff rate quota (TRQ), and correspondingly leaves intact the tariff barrier of the U.S. over-quota tariff on sugar.
- **The overall objectives also stress the need to "foster economic growth, raise living standards, and promote full employment in the United States …"** Yet the current U.S. sugar program – by maintaining an unnaturally wide gulf between U.S. and world sugar prices – has encouraged the movement of food manufacturing capacity offshore, along with associated jobs, and has by common consent contributed to a sharp rise in imports of sugar-containing products. The Australia FTA does nothing to address this situation and therefore ignores the jobs lost and the economic activity forfeited because of the way the present U.S. sugar program is constituted. Promar International has estimated that the sugar program has had an "overall negative impact on employment in sugar-using industries [of approximately] 7,500-10,000 jobs eliminated or foregone." The Australia FTA, by abandoning any movement toward more competitive sugar trade, ignores both the job losses caused by the sugar program and the stated objectives of Congress in this regard.

The exclusion of sugar from the Australia FTA sets a bad precedent for the other FTAs now under negotiation. Undoubtedly, U.S. actions during the final stages of the Australia FTA will teach our trading partners an unfortunate lesson: They will gain nothing by offering to open their markets, as the Australians did. Instead, they will have every motivation to withhold concessions on their sensitive products until the very end, as the Central American nations did. The Administration has just given a perverse incentive to every FTA partner nation to adopt a more protectionist stance with respect to its sensitive products.

For U.S. agriculture, that is no small problem. The nations with whom the United States is or soon will be engaged in FTA talks are major buyers of American farm commodities, but could buy substantially more if their markets were more open. With few exceptions, these same nations are major sugar exporters. The implications are so obvious that nearly all other U.S. farm organizations – besides sugar grower groups – opposed the exclusion of sugar from the Australia FTA, as did many Members of Congress. The Administration chose to ignore them, and the consequence is an agreement that does not merit support.

Of the world's top sugar-exporting countries, the United States intends to negotiate FTAs with a large number, including Thailand, South Africa, Colombia and Swaziland.

It is imperative that the Administration follow the precedent, not of Australia where sugar was excluded, but of the CAFTA and the NAFTA where sugar was included and liberalized. Otherwise, there will be little reason for export-oriented U.S. farmers, ranchers and food-related businesses to support these FTAs. Yet all controversial FTAs, past, present and future, have relied on farm support for Congressional passage. This was true of NAFTA and it will be true of CAFTA – as well as the FTAs now underway.

We have stated that the Australia FTA is inconsistent with the direction of Congress. It is also inconsistent with our views as advisers.

- We believe trade agreements must be comprehensive, and the Australia FTA is not.
- We believe comprehensive trade agreements should address sugar, one of the most protected of all commodities, and the Australia FTA does not.
- We believe trade pacts should avoid precedents which will be harmful to the interests of the United States in future agreements, but unfortunately the Australia FTA sets just such a dangerous precedent. By excluding sugar, this agreement serves notice to all our trading partners that we lack the determination to liberalize our own markets.

This agreement tells every future FTA partner that the principle of commodity exclusions is acceptable to the United States. The Australia FTA represents special treatment for a single product, in defiance of the expressed views of the Congressional leadership and a broad swath of U.S. agriculture and business. As members of the Sweeteners ATAC, we cannot support the Australia FTA.

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	McLeod, 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.