

September 20, 2006

The Honorable Susan C. Schwab
United States Trade Representative
Executive Office of the President
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 report of the ITAC-12 (Steel) on the United States-Republic of Colombia Trade Promotion Agreement (TPA), reflecting consensus on the proposed Agreement.

Sincerely,

A handwritten signature in black ink, reading "William J. Pendleton". The signature is written in a cursive style and is positioned to the left of a vertical line.

William J. Pendleton
Chair, ITAC-12

The U.S.-Colombia Trade Promotion Agreement (U.S.-Colombia TPA)

Report of the
Industry Trade Advisory Committee on Steel
ITAC-12
September 2006

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Industry Trade Advisory Committee 12 for Steel

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

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) 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, ITAC-12 Steel hereby submits the following report.

II. Executive Summary of Committee Report

The United States-Colombia TPA reviewed by ITAC-12 does not provide for changes in, or changes in *the* application of, U.S. AD-CVD statutes, which is ITAC-12's most important concern in regard to trade remedy laws. And, as regards AD-CVD, each party retains its rights and obligations under WTO. Provisions on safeguards and government procurement reflect the "boiler plate" texts ITAC-12's predecessor, ISAC-7, and ITAC-12, reviewed previously in the FTAs with Singapore, Chile, Australia, Central American countries, including the Dominican Republic, Bahrain, Oman and Peru, and appear to create no particular problems for ITAC-12.

ITAC-12 observes that the agreement with Colombia covers only an extremely small proportion of the international trade of the U.S. and (ii) that even that coverage does not relate to ITAC-12's other priority concerns, for example, with exchange rate policies or the

functioning of the WTO (especially dispute settlement provisions), which certainly affect our sector's economic interests and the equity and reciprocity for the U.S. overall that we seek in U.S. trade agreements. A re-statement of ITAC-12's priority concerns is shown below.

While ITAC-12 finds favorably on the US-Colombia TPA overall, given Colombia's tiny share in world steel trade this finding, this support is dampened *by* specific concerns that we have about the rules of origin (ROO) provisions for steel in this agreement. These concerns are described in more detail in Section V of this report.

Despite these concerns, however, ITAC-12 formally concludes that the U.S. - Colombia TPA does promote both our economic interests and the equity and reciprocity for the United States overall that we seek in trade agreements. However, ITAC-12 also concludes that it will unanimously oppose the U.S. - Korean FTA and any other future FTAs if they do not contain the preferred steel NAFTA rule of origin provisions.

ITAC-12 BASIC NEGOTIATING PRIORITIES

1. The current international trade rules with regard to the right to initiate trade actions against the unfair trade activities of foreign producers and the prosecution thereof must be preserved. Any proposed changes to the rules must improve, and not weaken in any way, the disciplines on unfair trade practices and the right to initiate trade actions against them.
2. The disparity in the treatment of direct and indirect taxes under WTO rules with regard to border adjustability, which is one of the most egregious distortions facing US producers in both US and export markets, should be eliminated.
3. A precondition to entering into any trade agreement should be the clear absence of any governmental currency intervention or manipulation, as well as the development of an appropriate form of review process to eliminate any governmental subsidies.
4. The current WTO Dispute Settlement system, particularly as it can dilute US laws and sovereignty, is in critical need of reform. A primary example of the need for reform is the dispute in the WTO over the US Continued Dumping and Subsidies Offset Act (CDSOA), which should be settled through negotiation, rather than by Congressional repeal.
5. Foreign non-tariff barriers (NTB's) that prevent or deter fair access to foreign markets by US producers should be eliminated.
6. Agreements must be entirely free of language that facilitates circumvention (such as changes to rules of origin) or in any way prevents or limits the redress of violations of agreements.

III. Brief Description of the Mandate of ITAC-12 for Steel

The Committee shall perform such functions and duties and prepare reports, as required under Section 135 of the Trade Act of 1974, as amended, with respect to this sector and functional advisory committees.

The Committee advises the Secretary and the USTR concerning trade matters referred to in Sections 101, 102, and 124 of the Trade Act of 1974, as amended; with respect to the operation of any trade agreement once entered into; and with respect to other matters arising in connection with the development, implementation and administration of the trade policy of the United States including those matters referred to in Reorganization Plan Number 3 of 1979 and Executive Order 12188, and the priorities for actions thereunder.

In particular, the Committee provides detailed policy and technical advice, information, and recommendations to the Secretary and the USTR regarding trade barriers and implementation of trade agreements negotiated under Sections 101 and 102 of the Trade Act of 1974, as amended, and Sections 1102 and 1103 of the 1988 Trade Act, which affect the products of its sector; and performs such other advisory functions relevant to U.S. trade policy as may be requested by the Secretary and the USTR or their designees.

IV. Negotiating Objectives and Priorities of ITAC-12 for Steel

Negotiating Objectives and Priorities for Steel in the currently suspended multilateral Al-Doha Round and in bilateral Free Trade Agreements such as this FTA include the preservation and strengthening of international trade rules with regard to the right to initiate trade actions against unfair trade activities by foreign producers. The paramount objective is to ensure that the availability and enforceability of trade remedies provided under U.S. law are not in any way, shape or form weakened by, or as a result of, this or other negotiated trade agreements.

Another key and related objective is the reform of the current WTO dispute settlement process, particularly as it dilutes U.S. laws and sovereignty. It is critical that neither this nor any other FTA compromise this objective.

A third key objective is the elimination of non-tariff trade barriers (NTB's) that prevent or deter fair foreign market access by U.S. producers of steel and steel-containing goods manufactured in the United States. This would include policies which would create any bias against U.S. exports. It is critically important that all FTAs move in the direction of supporting the elimination of NTB's.

A fourth, equally important objective is to ensure that, in the implementation of trade agreements, currency exchange rates are determined by market forces, without any governmental manipulation.

Fifth, the disparity in treatment of direct and indirect taxes under WTO rules with regard to border adjustability must be eliminated, immediately and effectively. At a minimum, agreements should have provisions for adjustments made to foreign countries' border adjustable/value added tax systems for their export advantage that could change (and have changed) post agreement.

Sixth, agreements must be entirely free of language that facilitates circumvention (such as changes to rules of origin) or in any way prevents or limits the redress of violations of agreements.

The above ITAC-12 objectives/priorities are crystallized in the text of Part II above.

V. ITAC-12 Opinion on the Agreement

ITAC-12 (Steel) members have reviewed and discussed the U.S. – Colombia TPA and have concluded as follows:

1. ITAC-12 is compelled to draw the U.S. Government's and Congress's attention yet again to an issue that arose in previous FTA negotiations concerning the steel ROO provisions that were to be agreed upon. ITAC-12 has emphasized that, in future FTA negotiations in which steel ROO provisions come up for consideration, U.S. negotiators must firmly resist any form of provision that results, under the guise of ROO "simplification," in any liberalization or weakening of the NAFTA steel ROO.
2. ITAC-12 finds that the ROO provisions for steel in the US-Colombia TPA, once again, breach this principle. Our concern is that the Colombia TPA's more flexible, looser steel ROO have become the "model" for all future U.S. FTAs – notwithstanding the strong and consistent support of ITAC 12 for the NAFTA steel ROO and our repeated expressions of concern about U.S acceptance of less rigorous or looser steel ROO in post-NAFTA FTAs. ITAC-12 plans to submit a letter to the Secretary of Commerce and the U.S. Trade Representative describing as clearly as possible the technical nature of the steel ROO issue.
3. Despite this concern, however, ITAC-12 concludes that, given Colombia's minimal role in world steel trade reflected by this report, the U.S.-Colombia TPA does promote the economic interests of the United States, achieves the applicable overall and principal negotiating objectives set forth in the Trade Act of 2002 and provides for equity and reciprocity within ITAC-12's sectoral area.
4. However, ITAC-12 also concludes that it will unanimously oppose the U.S. – Korea FTA and any other future FTAs if they do not contain the NAFTA steel ROO.

VI. Membership of the Committee

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