

April 6, 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 Industry Sector Advisory Committee on Energy for Trade Policy Matters (ISAC 6) on the U.S. -Morocco Free Trade Agreement, reflecting consensus advisory opinion(s) on the proposed Agreement.

Sincerely,

(Original Signed)

**Raymond Bragg, Jr.
Chairman
Industry Sector Advisory
Committee on Energy for Trade
Policy Matters (ISAC 6)**

The U.S.-Morocco Free Trade Agreement (FTA)

**Report of the
Industry Sector Advisory Committee on Energy for Trade Policy Matters (ISAC 6)**

March 2004

March 12, 2004

Industry Sector Advisory Committee on Energy for Trade Policy Matters (ISAC 6)

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

I. Purpose of the Industry Sector Advisory Committee on Energy for Trade Policy Matters Report

Section 2104 (e) of the Trade Act of 2002 requires that advisory committees provide the President, the USTR, 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, ISAC 6 hereby submits the following report.

Executive Summary of the Industry Sector Advisory Committee on Energy for Trade Policy Matters Report

ISAC 6 has reviewed the U.S. -Morocco Free Trade Agreement and our members agree that it will lead to improvements in the trade relationship between Morocco and the United States.

ISAC 6 does note, however, a continuing concern about the apparent erosion of treaty and agreement protections for U.S. investors with respect to disputes regarding existing and future investment agreements with other countries. The committee has commented very strongly on this matter in the past. Once again we must object to this continuing pattern.

While the U.S.-Morocco Free Trade Agreement does have investor-state dispute resolution provisions that we believe are crucial, including arbitration mechanisms, such provisions are only prospective. All investment agreements, including existing ones, should be covered. We fail to see any justification for excluding coverage of existing agreements.

Investment is an important element of the Agreement for energy companies given the extensive investments abroad that are necessary for U.S. companies in this sector. We consider it imperative that we pursue the strongest possible protections for U. S. investors in this sector.

III. Brief Description of the Mandate of the Industry Sector Advisory Committee on Energy for Trade Policy Matters

ISAC 6 provides detailed policy and technical advice, information, and recommendations to the Secretary of Commerce and the USTR regarding trade barriers and the 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. ISAC 6 also 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 the Industry Sector Advisory Committee on Energy for Trade Policy Matters

The principal area of negotiated Agreement of interest and concern to ISAC 6 is investment, and the related matter of investor-state dispute resolution.

Other areas of the Agreement appear to be satisfactory.

V. Industry Sector Advisory Committee on Energy for Trade Policy Matters Opinion on Agreement

Investment

The investment chapter of the Agreement includes a number of positive elements, including crucial arbitration provisions, the right to acquire and operate investments in Morocco, U.S. investor due process protection, the right to receive a fair market value for property in the event of an expropriation, and a dispute settlement provision that appears to be transparent. However, as stated in the executive summary above, the committee is concerned that these provisions are only prospective and do not appear to include coverage of existing agreements.

In our letter of December 23, 2003 to Secretary of Commerce Donald Evans and United States Trade Representative Robert Zoellick, we stated our strong position that:

Billions of dollars of U.S. companies' investment across many sectors in other nations warrants the most aggressive U.S. Government position on ensuring international arbitration provisions for investor-state investment agreements in bilateral investment treaties and other agreements.

We are disappointed that this agreement does not go further in dealing with the concerns we have expressed. We continue to believe that this agreement like others will be examined carefully by other countries that are currently negotiating agreements and/or treaties with the United States or that hope to do so in the future. The strength of the investor provisions in this Agreement will influence investment provisions in future free trade agreements and bilateral investment treaties.

VI. Membership of Committee

**1) Mr. Raymond Bragg, Jr., Chair
Consultant
RFB, Inc. (Representing CNG International)
3315 Cummings Lane
Chevy Chase, MD 20815
(301) 913-9012
(301) 913-9041 fax
raybragg@worldnet.att.net**

**2) Dr. William Whitsitt, Vice Chair
President
Domestic Petroleum Council
101 Constitution Ave., NW
Washington, DC 20002-5703
(202) 742-4300
(202) 742-4505 (fax)
wfwhitsitt@aol.com**

**3) Mr. David Burnett
President
Piceance Natural Gas, Inc.
1580 Lincoln Street
Suite 970
Denver, CO 80203
(303) 832-6465
(303) 832-6356 fax
png@orci.com**

**4) Ms. Leslie Coleman
Assistant Vice President, Statistical Services
National Mining Association
101 Constitution Ave., NW
Suite 500 East
Washington, DC 20001
(202) 463-9780
(202) 463-2614 (fax)
lcoleman@nma.org**

**5) Mr. John Easton
Vice President, International Programs
Edison Electric Institute
701 Pennsylvania Ave.
Suite 701**

Washington, DC 20004-2696
(202) 508-5633
(202) 508-5080 (fax)
jeaston@eei.org

6) Mr. Gene Godley
Partner
Bracewell & Patterson, L.L.P. (Representing Gas Processors Association)
2000 K Street, NW
Suite 500
Washington, DC 20006-1872
(202) 828-5870
(202) 857-2109 (fax)
ggodley@bracepatt.com

7) Mr. W. Russell King
Senior Vice President
McMoRan Exploration Company
449 South Capitol Street, SW
Suite 600
Washington, DC 20003
(202) 203-1024
(202) 203-1025 (fax)
rking@joneswalker.com

8) Mr. Maurice McBride
Attorney
National Petrochemical & Refiners Association
1899 L Street, NW
Suite 1000
Washington, DC 20036
(202) 457-0480
(202) 457-0486 (fax)
mcbride@npra.org

9) Ms. Sherry Stephens
President
Petroleum Equipment Suppliers Association (PESA)
9225 Katy Freeway
Suite 310
Houston, TX 77024
(713) 932-0168
(713) 932-0497 (fax)
sstephens@pesa.org

10) Dr. Paula Gant
Director, Energy Policy and Strategy
Duke Energy International, LLC
5400 Westheimer Court
P.O. Box 1642
Houston, TX 77251
(713) 627-4786
(713) 386-4069 (fax)
pagant@duke-energy.com

11) Mr. Bruce Hatton
Consultant
The Livingston Group (Representing McDermott International, Inc.)
499 South Capitol Street
Suite 600
Washington, DC 20003
(202) 289-9881
(202) 289-9877 (fax)
bnhatton@mcdermott.com
