Sweeteners and Sweetener Products
Agricultural Technical Advisory Committee

April 25, 2007

The Honorable Susan Schwab
United States Trade Representative
600 17th Street, N.W.
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 comments of the Sweeteners and Sweetener Products Agricultural Technical Advisory Committee on the US-Panama Trade Agreement, reflecting majority and minority advisory opinion(s) on the proposed Agreement.

Sincerely,

Jack Roney
Chair

Agricultural Technical Advisory Committee for Sweeteners and Sweetener Products

The U.S.-Panama 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.-Panama 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 Technical Advisory Committee for Sweeteners and Sweetener Products hereby submits its 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 again urge the Administration to pursue a sector-specific approach on sugar in the WTO negotiations that would effectively address all of the myriad trade-distorting foreign policies that significantly impact on the world sugar market and to reserve negotiations on sugar exclusively for that forum.

However, given the modest TRQ increases assigned to Panama, the fact that the bulk of the increased market access will be in the form of raw sugar, the fact that the above-TRQ tariff on sugar will be maintained intact under the Agreement, and the inclusion of certain other desirable provisions, the agreement would appear unlikely to have a significant negative impact on the U.S. sugar and sweeteners market. On that basis, and based on our understanding of the benefits to other sectors of U.S. agriculture and the U.S. economy,

we conclude that the proposed FTA with Panama promotes the economic interests of the U.S. and achieves the applicable negotiating objectives of the Trade Act of 2002. It is important, however, that the various requirements of the Agreement be strictly enforced and that the Administration be vigilant to any attempts to circumvent our sugar import program.

We believe that this positive outcome is due, in large part, to the close consultations the U.S. negotiating team maintained with industry representatives during the final stages of the negotiations.

The ATAC members signing on to the **minority** view concur that the proposed FTA with Panama promotes the economic interests of the U.S., but disagree with the reasoning by which the majority reaches this conclusion. These ATAC members support the inclusion of all products in comprehensive trade agreements, and appreciate the inclusion of sugar in the Panama FTA, while noting that the quantities involved are quite modest.

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, sector-specific 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 such FTA agreements tends to undercut the prospects for WTO reform of the world sugar market and runs 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 Sweeteners ATAC has outlined its views to the Administration on this matter on numerous occasions.

V. Advisory Committee Opinion on Agreement

Majority View. The producer members of the Sweeteners ATAC, constituting a majority of the Committee, note that Panama already benefits handsomely from its preferential access to the U.S. under the TRQ established under the WTO. Panamanian

sugar production has averaged about 165,000 MT over the past three years and exports of sugar about 40,000 MT. A very high proportion of these exports, about 75 percent, go to the United States. Panama's share of the minimum TRQ required by the WTO is 30,538 MT ; in years of short supply, it has been considerably higher. For example, in 2005/06, when the U.S. had a very poor crop, Panama's TRQ allocation was set at 52,104 MT. Thus, there would appear to be little justification for awarding Panama additional quota.

The U.S., for its part, is a large net importer of sugar and sugar-containing products (SCP's) and has no prospects for exporting sugar to Panama.

In light of the positions previously outlined, our preference would have been to exclude sugar from the market access negotiations of this FTA. However, the U.S. sugar industry has evaluated this agreement in the context of the extent of any practical harm to our industry.

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. The proposed FTA would establish three separate duty-free TRQ's for Panamanian sugar and/or certain sugar-containing products (in addition to that provided under the WTO):

(1) A TRQ of 505 MT (year one) covering those sugar and sugar-containing products for which TRQ's under the U.S. sugar import program are in operation: this quota increases by 5 MT every year thereafter. Eligibility for this TRQ is, however, limited to the amount of the trade surplus in sugar as defined in paragraph 6(d) of Appendix I of the agreement.

(2) A separate TRQ of 6,060 MT (year one) covering only raw sugar (170111150); this amount increases by 60 MT each year through the first 10 years but is then capped at 6,600 MT. The "net exporter" provision described above does not apply to this TRQ.

(3) A fixed TRQ (no annual increase) of 500 MT per year for specialty sugars. The "net exporter" provision does not apply to this TRQ either.

The limitation of the bulk of the market access granted in these TRQ's to raw sugar is, in our view, a valuable precedent which will serve the U.S. refining industry and U.S. users of sugar well. Given the uncertainty concerning future U.S. sugar consumption, we also applaud the capping of annual increases for the raw sugar TRQ. On the other hand, we believe that "net exporter" provision (which is identical to that contained in the CAFTA, Peru, and Colombian agreements) should, in general, be applied across the board to any new market access commitments on sugar. This provision serves as a useful safeguard against the development of artificial trade flows based on the substitution of cheap, imported "dump market" sugar for domestic production so as free up such production for export to the U.S. and we urge that it be included in any subsequent FTA involving a

sugar-producing country. Given the overall balance achieved in this agreement, however, we find the partial deviation from the "net exporter" provision acceptable.

As in the case of the CAFTA-DR Agreement and the proposed Peru and Colombian FTA's, the above-TRQ tariff on sugar and sugar-containing products covered by U.S. sugar import program will not be reduced or eliminated. Again, we appreciate the Administration's attention to our concerns on this point and hope that it reflects recognition of the disastrous impact of such reduction or elimination on U.S. sugar policy.

The rules of origin (ROO) requirements for sugar and sugar-containing products appear to be essentially the same as contained in other FTA's and should be adequate to prevent transshipment and/or the abuse of the preferential access conferred by the Panama FTA.

We also note that Article 3.18 of the Agriculture chapter of the Agreement provides for a "sugar compensation mechanism" identical to that in the CAFTA-DR FTA. While we have been skeptical about the efficacy of such provisions, in light of the commitments made to Congress during the deliberations on CAFTA approval and the exploratory efforts underway in the field of sucrose ethanol production, we believe that inclusion of provisions for such a mechanism in the proposed Panama FTA (and other FTA's with sugar-exporting countries) is advisable and could provide a potentially useful policy tool.

Overall, it appears that the proposed FTA with Panama is unlikely to have a significant negative impact on the U.S. sugar industry and, on that basis and based on our understanding of the benefits to other sectors of U.S. agriculture and the U.S. economy, we conclude that the proposed FTA with Panama promotes the economic interests of the U.S. and achieves the applicable overall and principal negotiating objectives of the Trade Act of 2002. Finally, we would like to express our appreciation for the close and timely consultations with industry representatives conducted by the U.S. negotiating team and for their strenuous efforts to achieve a reasonable and acceptable negotiating outcome.

Minority View. The ATAC members signing on to the minority view concur that the proposed FTA with Panama promotes the economic interests of the U.S. and achieves the applicable overall and principal negotiating objectives of the Trade Act of 2002. However, we disagree with the reasoning by which the majority reaches this conclusion. The majority's view appears to be that only those agreements that involve the minimal degree of sugar liberalization are acceptable. By contrast, we favor comprehensive trade agreements that include all products. Therefore, we commend the Administration for the inclusion of sugar in the Panama FTA.

The omission of rice from the recent South Korea FTA is a reminder that when the United States legitimizes commodity exclusions -- as in the FTA with Australia -- we lose some of our moral authority to prevent exclusions of those products which we export. In a similar way, FTAs with minimalist market access for sugar, though far

preferable to outright exclusions, also serve to legitimize continued quotas and lengthy transition periods for products in which our producers have an export interest.

In summary, we favor the Panama FTA not despite its inclusion of sugar but because of it -- as well as the other significant trade opportunities created by the agreement.

VI. Membership of the Sweeteners and Sweetener Products ATAC

Agreeing to majority view:
Van Boyette, Smith & Boyette
Ralph Burton, Amalgamated Sugar Company LLC
Otto Christopherson, Christopherson Farms
Wallace Ellender, Ellender Farms, Inc.
Troy Fore, American Beekeeping Federation, Inc.
Benjamin Goodwin, California Beet Growers Association, Ltd.
James Johnson, U.S. Beet Sugar Association
Luther Markwart, American Sugarbeet Growers Association
Kent Peppler, Kent Peppler Farms
Don Phillips, American Sugar Alliance
Kevin Price, American Crystal Sugar Company
Jack Roney, American Sugar Alliance
Parks Shackelford, Florida Crystals Corporation
Dalton Yancey, Florida Sugar Cane League, Inc.

Agreeing to minority view:
Thomas Earley, Promar International
Liz Gorski, The Coca-Cola Company
Randy Green, McLeod, Watkinson and Miller
Patrick Henneberry, Imperial Sugar Company
Fred Hensler, Masterfoods USA
Roland Hoch, Global Organics, Ltd
Ken Lorenze, Kraft Foods
Martin Muenzmaier, Cargill, Inc.

Not participating in this opinion:
John Yonover, Indiana Sugars, Inc.