



March 5, 2004

The Honorable Robert B. Zoellick  
United States Trade Representative  
600 17<sup>th</sup> 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 Building Products and Other Materials for Trade Policy Matters (ISAC-9) on the United States-Australia Free Trade Agreement, reflecting a consensus advisory opinion on the proposed Agreement.

Sincerely,

A handwritten signature in black ink that reads 'Stephen P. Farrar'. The signature is written in a cursive style with a large, prominent 'S' and 'F'.

Stephen P. Farrar  
Chair  
ISAC-9

March 1, 2004

**INDUSTRY SECTOR ADVISORY COMMITTEE ON BUILDING PRODUCTS  
AND OTHER MATERIALS FOR TRADE POLICY MATTERS (ISAC-9)**

**Advisory Committee Report to the President, the Congress and the United States Trade Representative on the United States-Australia Free Trade Agreement**

**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 Industry Sector Advisory Committee on Building Products and Other Materials (ISAC-9) hereby transmits the following report.

**II. Executive Summary of Committee Report**

ISAC-9 concludes that the U.S.-Australia Free Trade Agreement, taken as a whole, promotes the economic interests of the United States and achieves the negotiating objectives set forth in the Trade Act of 2002. All of the priority issues of ISAC-9 have been satisfactorily addressed.

**III. Brief Description of the Mandate of ISAC-9**

The mandate of ISAC-9 is to provide advice and information on trade policy and trade negotiations issues that affect the building products and related products sector. These issues include market access problems; barriers to trade; tariff levels; discriminatory foreign procurement practices; information, marketing and advocacy needs of the sector; and other important trade issues. The building products and other materials sector includes such items as wood buildings, mobile homes, cement, miscellaneous metal products, ceramic tile, builders'

hardware, flat glass products, plumbing fittings and supplies, and heating equipment. The building products and other materials sector saw exports in excess of \$6.0 billion in 2000, and shipment values over \$192 billion.

The ISAC on Building Products and Other Materials and its members have provided advice on a range of issues that have included: recent negotiations on the North American Free Trade Agreement (NAFTA); the World Trade Organization (WTO); the Asia Pacific Economic Cooperation (APEC); the Organization for Economic Cooperation and Development (OECD); trade relations with China, the Philippines, Eastern Europe, and the former Soviet Union; trade and labor issues; and environmental agreements.

#### **IV. Negotiating Objectives and Priorities of ISAC-9**

The members of ISAC-9 support the President's trade strategy of negotiating free trade agreements with a wide range of countries to the extent that they contribute to and are consistent with the purpose and objective of achieving a fair, balanced, and inclusive multilateral trading regime, as contemplated by the original purposes of the U.S. negotiating mandate for the Doha Round of the World Trade Organization and for the Free Trade Area of the Americas (FTAA) negotiations. In addition to providing possible leverage in the Doha Round and FTAA negotiations, these bilateral and sub-regional FTAs should be crafted to overcome the competitive disadvantage U.S. exporters and investors face abroad due to the many existing bilateral and regional trade agreements in which this country is not a participant. ISAC-9 advocates the following objectives and priorities in negotiating free trade agreements:

- Coverage. ISAC-9 has advocated adhering to the WTO requirement that free trade agreements include "substantially all" trade between the parties.
- Staging of Tariff Elimination. ISAC-9 has urged U.S. negotiators to consider carefully the competitive conditions in highly import-sensitive and impacted sectors before agreeing to schedules for the phase-out of tariffs in a free trade agreement. ISAC-9 advocates early opening of foreign markets for U.S. building products that compete in export markets. At the same time, for certain building products where foreign competition is intense and already dominant in our domestic market, such as ceramic tile (where imports account for 80% of the U.S. market), an extended adjustment period is essential to ensure that the U.S. industry is able to remain competitive. In certain cases, exemption may be justified to a comparable extent already recognized for highly sensitive agricultural sectors and in many existing bilateral agreements among our trading partners.
- Rules of Origin. Unless rules of origin are properly specified, trade agreements can have serious unintended consequences that disadvantage U.S. exporters. ISAC-9 has advocated that all trade agreements include sector-specific rules of origin at least as rigorous as those contained in the North America Free Trade Agreement. We also are concerned that cumulation concepts should not generally be instituted or recognized among our different FTA trading partners. They are highly subject to misuse, and have no justification in

circumstances where different tariff reduction levels or schedules exist among different bilateral FTA trading partners or even among different members of the same plurilateral agreement (such as still exist, for example, under NAFTA). Cumulation also would create difficult issues of proof as to production cost calculations in future unfair trade action against just one of the cost-cumulated countries.

- Standards. Product standards and related licensing, testing, marking, product descriptions, and other technical regulation issues have become major barriers, and often the most significant barriers, to U.S. exports of building products.
- Competition. The members of ISAC-9 have advocated using the leverage provided in free trade agreements to promote competitive markets in partner countries. In many countries, anticompetitive behavior remains a significant obstacle to market access, especially in more traditional manufacturing industries.

## V. Advisory Committee Opinion on Agreement

ISAC-9 concludes that the U.S.-Australia Free Trade Agreement generally promotes the economic interests of the United States and in major part achieves the primary objectives set forth in the Trade Act of 2002.

- Coverage. ISAC-9 is concerned that the exclusion of sugar from the agreement could create a precedent for future agreements that will enable other countries to exclude sectors of export interest to U.S. producers. In the committee's view, threshold exclusions should not be initiated in the absence of specific compelling circumstances, such as a highly import sensitive or impacted product.
- Staging. As noted above, a priority of ISAC-9 has been ensuring that tariff phase-out schedules provide: 1) Import-sensitive building materials sufficient time to adjust to increased foreign competition; and 2) Export-oriented products with early access to the market of our foreign partner country or countries.
  - The Committee recommends a phase-out period for highly import-sensitive and impacted industrial products such as ceramic tiles (HTS 6907 and 6908) longer than the eight years provided, especially in light of the 18-year delayed above-quota phase out period for beef and the very slow liberalization for dairy.
  - During the staging period, it will be important to ensure that sensitive products imported by Australia are not reclassified into categories bearing higher tariff rates and slower staging periods. Within recent months, for example, a woven screening product of interest to ISAC-9 has been reclassified by Australia from HS 5404.1000 to HS 5407.7100, causing the duty rate to increase from 5% to 15%.

- Rules of Origin. ISAC-9 supports the sector-specific rules of origin included in the Agreement. Because U.S. exporters depend on clear and uniform rules of origin, the Committee recommends that U.S. negotiators incorporate the same approach in all future free trade agreements.
- Standards. The Committee supports the provisions in the Agreement for cooperation on technical regulations, standards, and conformity assessment procedures. Despite the lack of a formal consultation mechanism, such as the joint Committee on Technical Barriers to Trade created in the U.S.-Chile Free Trade Agreement, the Committee expects that standards will continue to be a priority issue. Standards and related licensing, testing, marking, product descriptions, and other technical regulation issues are major barriers to U.S. exports of building products.
- Competition. The Committee applauds the inclusion of competition provisions in the Agreement. Similar provisions should be included in all future free trade agreements. Diligent follow-up is essential if the provisions are to have their intended impact. In particular, the effectiveness of the provisions will depend on the extent to which the Antitrust Division in the Department of Justice is successful in establishing a meaningful dialogue and understanding with its Australian counterpart.

## **VI. Membership of Committee**

<b>FIRST NAME</b>	<b>LAST NAME</b>	<b>TITLE</b>	<b>COMPANY/ORGANIZATION</b>
<b>Chairman</b> Mr. Stephen	Farrar	Director, International Business	Guardian Industries Corporation
Mr. Kent	Sorensen	President and Chief Executive Officer	American Homes International, Inc.
Mr. Robert	Bell	Director of Governmental Affairs	USG Corporation
Mr. John	Bruce	Howrey & Simon	Representing Tile Council of America
Ms. Barbara	Higgins	Executive Director	Plumbing Manufacturers Institute
Mr. K. Gordon	Lawless	President, Almerica Overseas, Inc.	Representing Phifer Wire Products, Inc.
Mr. Marcus	Lyons	International Manager	American Cast Iron Pipe Company
Mr. Anthony	Mudford	Vice President	Detex Corporation
Mr. Robert	Randall	President and Chief Executive Officer	TRACO
Mr. Charles	Santomeno	President	Isolatek International