

Non-Ferrous Founders' Society

1480 Renaissance Drive • Suite #310 • Park Ridge, IL 60068
Phone: 847-299-0950 • Fax: 847-299-3598 • E-mail: staff@nffs.org • <http://www.nffs.org>



July 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, the Commerce Department Industry Trade Advisory Committees have an obligation to comment on proposed Free Trade Agreements such as the U.S./Bahrain Free Trade Agreement currently being negotiated. As a member of ITAC 9, the committee on Non-Ferrous Ores and Building Materials, I believe that the ITACs also have a moral (if not a charter) obligation to comment not only on trade negotiation language but also on such other circumstances, such as security of U.S personnel and interests, that may also affect the trade relationship of a nation with the United States.

On Monday, July 5th, U. S. Central Command ordered 650 U.S. military dependents to leave Bahrain "within days." This order was issued following the receipt of "credible intelligence" that this Persian Gulf state could become the next site of a terrorist kidnapping or other attack against Americans. According to a senior military official, the action was taken in response to a question of whether it is prudent to keep American military family members in the country in light of growing insecurity and instability at this time. The news report announcing this action also cited a senior State Department official as saying the recent release of terror suspects by that government leaves the United States "quite concerned about Bahrain's commitment" to fight terror.

In my opinion, Free Trade Agreement negotiations cannot be conducted in a vacuum. Moreover, the economic benefits that such agreements provide to our trading partners should be reserved for those nations that demonstrably share - and protect – our nation's economic goals and interests. Accordingly, and as a member of the industry advisory committee system since 1988, I respectfully express my belief that any FTA discussions with the Bahraini government should be suspended pending the resolution of this situation.

I acknowledge that some members of my committee might argue that the suspension of FTA negotiations in the face of terrorist threats or activities might be viewed as an embarrassment to the Bahraini government and a victory for the terrorist agenda. However, I would argue that continuing to negotiate this FTA despite threats to U.S. interests and in the face of concerns over that government's commitment would reflect poorly on our national commitment to combat terrorism on a global basis. It would also, I believe, send an inappropriate and inaccurate message that governments can ignore U.S. concerns and interests and still be economically rewarded.

I respectfully suggest that pursuing this FTA at this time could place the State Department in a difficult foreign policy negotiating position, and achieving Congressional approval of an FTA with Bahrain could prove difficult as long as the current political situation remains unresolved.

Sincerely,

A handwritten signature in black ink, appearing to read "James L. Mallory", is written over a circular stamp or seal that is partially obscured by the signature.

James L. Mallory, Executive Director
Non-Ferrous Founders' Society
Member – ITAC 9, Nonferrous Ores and
Building Materials

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

**Majority Report of the
Industry Trade Advisory Committee on
Non-Ferrous Metals and Building Materials (ITAC-9)**

July 14, 2004
(revised version)

July 14, 2004 -- (revised version)

**INDUSTRY TRADE ADVISORY COMMITTEE ON
NON-FERROUS METALS AND BUILDING MATERIALS
FOR TRADE POLICY MATTERS (ITAC-9)**

**Advisory Committee Report to the President, the Congress and the United States Trade
Representative on the United States-Bahrain 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.

This report is based on the draft of the FTA made available to Committee members for review in preparation of this report.

Pursuant to these requirements, the Industry Trade Advisory Committee on Non-Ferrous Metals and Building Materials (ITAC-9) hereby transmits the following report.

II. Executive Summary of Committee Report

ITAC-9 concludes that the U.S.-Bahrain Free Trade Agreement 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 ITAC-9 have been satisfactorily addressed.

III. Brief Description of the Mandate of ITAC-9

The mandate of ITAC-9 is to provide advice and information on trade policy and trade negotiations issues that affect the non-ferrous metals and 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. ITAC-9 represents all non-ferrous metals and a variety of building materials. The building materials include such items as wood buildings, mobile homes, cement, ceramic tile, aluminum windows, other miscellaneous metal products, builders' hardware, plumbing fittings, fixtures and supplies, and heating equipment. The non-ferrous metals elements of the Committee represent the aluminum, copper, zinc, precious metals, powder metals and other metals including mining processing, fabrication of basic shapes, manufacture of semi-fabricated products and recycling activities.

ITAC-9 and its members have provided advice on a range of issues including 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 as well as several recent bi-lateral free trade agreements.

IV. Negotiating Objectives and Priorities of ITAC-9

ITAC-9 advocates the following objectives and priorities in negotiating free trade agreements:

- **Coverage.** ITAC-9 has advocated adherence to the WTO requirement that free trade agreements include “substantially all” trade between the parties.
- **Staging of Tariff Elimination.** ITAC-9 urges U.S. negotiators to consider carefully competitive conditions in import-sensitive sectors before agreeing to schedules for the phase-out of tariffs in a free trade agreement. For certain non-ferrous metals and building products where foreign competition is intense, 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. At the same time, ITAC-9 advocates early opening of foreign markets for products that compete in export markets.
- **Rules of Origin.** Unless rules of origin are properly specified, trade agreements can have serious unintended consequences that disadvantage U.S. exporters. ITAC-9 advocates that all trade agreements include sector-specific rules of origin at least as rigorous as those contained in the North America Free Trade Agreement.
- **Standards.** Product standards and related licensing, testing, marking, product descriptions, and other technical regulation issues have become major barriers to U.S. exports of products which the Committee seeks to eliminate.

V. Advisory Committee Opinion on Agreement

ITAC-9 concludes that the U.S.-Bahrain Free Trade Agreement promotes the economic interests of the United States and achieves the primary objectives set forth in the Trade Act of 2002.

- **Staging of Tariff Elimination.** ITAC-9 is satisfied with the agreement’s approach to tariff reduction and elimination in a reciprocal manner, so that U.S. tariffs will not be reduced or eliminated prior to or independent of the respective tariff reduction and elimination by Bahrain. The Agreement also appears to provide a sufficient tariff phase-out period to allow sufficient time for import-sensitive materials to adjust to increased foreign competition. However, ITAC-9 is disappointed with the slow phase-out of Bahrain’s tariff rates for products that are not even manufactured in Bahrain. For example, Bahrain’s 20% duty on aluminum screen (Harmonized Code 7616.91) would be phased out over 10 years, while the U.S. duty (2.5%) would be eliminated immediately. Since both Bahrain and the United States produce aluminum screening, ITAC-9 believes duty elimination should be achieved immediately, or over a maximum phase-out period of five years.

- Rules of Origin. Because U.S. exporters depend on clear and uniform rules of origin, ITAC-9 would have preferred more sector-specific rules of origin such as those incorporated in the Free Trade Agreements with Chile and CAFTA.
- Environmental/Labor Issues. The committee supports side-agreements, as opposed to a chapter in the text of the FTA, which encourage private-sector cooperation toward furthering the advancement of environmentally sustainable economic development and equitable labor standards. The Committee is also concerned about suggestions in the Agreement that appear to approve use of measures to achieve environmental goals in the context of multilateral environment agreements (MEAs). While theoretically laudable, this language contains no counterbalance to assure that these trade measures are the least disruptive necessary to meeting those goals. There are also likely to be situations where either the U.S. or Bahrain is not a party to the MEA in question. Use of trade measures by the Party to achieve the goals of the MEA under those circumstances would not be acceptable to the non-Party.
- Dispute Settlement. A cooperative dispute settlement procedure, aimed at encouraging compliance with the provisions of the FTA is essential.
- Standards. The Committee supports the provisions in the Agreement for cooperation on technical regulations, standards, and conformity assessment procedures – including the creation of Chapter 7 coordinators. Standards and related licensing, testing, marking, product descriptions, and other technical regulation issues are major barriers to U.S. exports of products of Committee members.
- General Provisions. The Committee believes that the allocation of the resources of the USTR and the Department of Commerce and the ITAC trade advisory process should be reviewed. The multiplication of bilateral trade negotiation, in many cases with countries of very limited general trade potential for most economic sectors, has the potential of diverting attention from multilateral negotiations of overriding importance to U.S. trade and prosperity. While the efforts and performance of government agencies in pursuit of bilateral agreements have been commendable, a reassessment of negotiating priorities and reevaluation of the overall benefits of current efforts could lead to expanded progress in global trade liberalization.

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

**Additional Advisory Opinion of
Mr. James L. Mallory
Member ITAC-9**

July 14, 2004