

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.-Chile Free Trade Agreement, reflecting consensus advisory opinion(s) on the proposed Agreement.

Sincerely,

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

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

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

February 2003

February 25, 2003

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.-Chile 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.

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

ISAC 6 has reviewed the U.S.-Chile Free Trade Agreement and members agree that the proposed Agreement between Chile and the United States will facilitate the provision of energy services between the two countries. Provisions related to regulatory transparency and investment, except as noted in Section V, will help U.S. energy services firms work under the predictable and consistent rules they need to make the kinds of short, medium, and long term commitments often required.

ISAC 6 does note, however, that national treatment reservation language pertaining to foreign investments under the agreement would allow Chile to unilaterally impose conditions that could discriminate against international companies seeking to participate in the exploration, development, and production of offshore oil and gas resources.

This reservation should be the subject of future discussion for the purpose of further liberalizing the national treatment and investment provisions and should not be considered appropriate as precedent for any future trade agreements.

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

Key areas of the negotiated agreement of interest to ISAC 6 members include:

- Chilean Reservation for Natural Resource Exploitation
- Market Access
- Services, Chapter 11
- National Treatment for Investment, Chapter 10, Page 5

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

Reservation Addressing Hydrocarbons Exploitation

ISAC 6 hereby expresses disappointment and concern regarding the significant concession by the USTR to Chile's national treatment reservation pertaining to investment in a potentially significant portion of its energy sector. The reservation indicates that Chile may subject exploration, exploitation, and processing of liquid or gas hydrocarbons found in ocean waters to administrative concessions or special operations contracts that the President of Chile may apply through Executive Order.

The Chilean apparent claim that it has no offshore hydrocarbon resources has not been verified and cannot be verified absent an active offshore exploration program which has not yet been pursued. Of note, the North Sea was considered bereft of commercial hydrocarbon resources until a U.S. company made the first significant hydrocarbon discovery in the area. Chile may offer similar potential, with consequent opportunities for U.S. oil and gas services companies. At a minimum, the USTR's concession on this issue holds the potential for compromising future regional bilateral and multilateral agreement to the detriment of U.S. energy business interests. This reservation should be the subject of future discussion and in any event should not be viewed as a precedent for any future trade agreements.

Services, Chapter 11

Energy services is not explicitly addressed, while telecom and financial services are. ISAC 6 Strongly encourages that work of the Energy Services Coalition be taken into consideration in future bilateral and multilateral agreements of this nature.

Transparency in the development and application of regulations (see Article 11.08 and 11.09) is a positive step.

Investment, Chapter 10, Page 5

ISAC 6 views national and favored nation treatment for investment favorably.

Government Procurement Provisions

These provisions establish non-discriminatory treatment of suppliers which cover build-operate-transfer contracts and public works concession contracts. ISAC 6 views this favorably.

VI. Membership of Committee

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