

*Sweeteners and Sweetener Products
Agricultural Technical Advisory Committee*

February 15, 2006

The Honorable Robert Portman
United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Dear Ambassador Portman:

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 supplementary comments of the Sweeteners and Sweetener Products Agricultural Technical Advisory Committee on the US-Peru Free Trade Agreement, reflecting majority and minority advisory opinion(s) on the proposed Agreement. The late availability of the text of the Agreement prevented the Committee from undertaking a thorough review and developing a complete report by the February 1 deadline originally set.

Sincerely,

Jack Roney
Chair

Agricultural Technical Advisory Committee for Sweeteners and Sweetener Products

The U.S.-Peru 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.-Peru 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. However, the full text of the Agreement was only made available to the Committee one day before the February 1 deadline, making preparation of a full report impossible by that date.

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 supplementary comments to its February 1 “placeholder” 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 urge the Administration to focus its efforts on WTO negotiations and to reserve negotiations on sugar exclusively for that forum.

However, given the modest TRQ increase assigned to Peru, the rules of origin and net exporter requirements contained in the Agreement and the fact that the above-TRQ tariff on sugar will be maintained intact under the Agreement, 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 Peru

promotes the economic interests of the U.S. 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.

The **minority** of the Sweeteners ATAC agrees with the majority that the Peru FTA will promote the economic interests of the U.S. and achieves the applicable negotiating objectives. However, these ATAC members note their support for the inclusion of sugar in FTAs, rather than its exclusion, because they share the Administration's view that FTAs should be comprehensive.

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, global 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.

Attempts to negotiate further market access commitments in such FTA agreements will undercut the much more important efforts underway in the WTO to reform the world sugar market and run 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, while Peru is a significant producer of sugar, it has in recent years generally been a net importer. Peruvian sugar production has averaged 872,000 metric tons over the past five years (2001/02-2005/6) while exports averaged 44,800 MT and imports, 92,800 tons; in 3 years of this period, Peru was a net importer. Despite this, Peru benefits from substantial preferential access to the U.S. sugar market under the TRQ provided under WTO rules –about 43,175 metric tons has generally been allocated to Peru in recent years. (This year, reflecting the short U.S. crop, Peru has so far

been allocated 58,922 MT) Thus, there would appear to be little justification for awarding Peru 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 Peru.

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 is prepared to evaluate 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 establishes a duty-free TRQ (in addition to that provided under the WTO) for those sugar and sugar-containing products for which overall TRQ's under the U.S. sugar import program are in operation. This TRQ is set at 9,000 metric tons in year one of the Agreement and rises to 11,250 metric tons in year 15; after year 15 the in-quota quantity grows by 180 MT per year.

Eligibility for this TRQ is, however, limited to the amount of the trade surplus in sugar as defined in paragraph 5(d) of Appendix I of the agreement. This "net exporter" provision is identical to that contained in the CAFTA Agreement; we believe it should serve 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. Thus, we appreciate the Administration's inclusion of this provision in the Peru FTA and urge that it be included in any subsequent FTA involving a sugar-producing country.

In addition to the TRQ described above, a duty-free TRQ of 2,000 MT has been established for specialty sugars. This TRQ does not increase and is not subject to the "net exporter" provision.

As in the case of the CAFTA-DR Agreement, the above-TRQ tariff on sugar and sugar-containing products covered by TRQ's 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 Peru FTA.

We also note that Article 2.19 of the Agriculture chapter of the Agreement (Section G) 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 Peru 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 Peru 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 Peru promotes the economic interests of the U.S. and achieves the applicable overall and principal negotiating objectives of the Trade Act of 2002.

Minority View. Like the ATAC members who signed the majority opinion, the members representing sugar-using and related industries concur that the Peru FTA will not have a significant negative impact on the U.S. sugar industry. Indeed, we believe that the agreement will promote fair competition, provide foreign exchange that can be used to buy American products, and help assure an ample supply of sugar. Likewise, we share the conclusion that the proposed FTA 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 wish to make clear our support for the inclusion of sugar in trade agreements, not its exclusion. Although each proposed FTA should be judged on its merits, we do not agree that sugar should be reserved solely for WTO negotiations. No doubt the Doha Round remains the most important venue for multilateral sugar reform, but since FTAs are fundamentally market-access agreements, to say that market access provisions for some commodities should be off-limits is to say that the United States should not enter comprehensive FTAs. This is, of course, not the position of the Administration, which recently determined not to enter into FTA negotiations with a major European nation because of that country's unwillingness to negotiate comprehensively on agriculture. As part of the overall food and agriculture industry, the companies we represent believe FTAs should be used as vehicles for the advancement of U.S. agricultural exports. Hence we oppose excluding agricultural commodities from these agreements, whether those commodities are produced in the United States or abroad.

With respect to the additional tariff rate quota (TRQ) for Peru, we express our appreciation for the inclusion of this amount, along with the 2,000-ton specialty sugar quota. We note that this extremely modest amount is a substantial compromise from the goal of fully liberalized trade, but find it understandable in light of Peru's sugar trade balance and individual situation. We further note, however, that the related agreements with Colombia and Ecuador will entail the need for substantially more market access.

Finally, we share the producers' skepticism of the "sugar compensation mechanism." It does not appear to have proved reassuring to either producers or users in past debates over proposed FTAs, so we are not certain why it should be included in the Peru FTA.

Again, however, we reach the same conclusion as the producer representatives in the majority with respect to the overall agreement: We find that it does promote the overall economic interest of the United States, and support it.

VI. Membership of the Sweeteners and Sweetener Products ATAC

Agreeing to majority view:

Van Boyette, Smith & Boyette
Ralph Burton, Amalgamated Sugar Company
Sarah Catala, U.S. Sugar Corporation
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 Pepler, Kent Pepler Farms
Don Phillips, American Sugar Alliance
Kevin Price, American Crystal Sugar Company
Jack Roney, American Sugar Alliance
Parks Shackelford, Florida Crystals Corporation
Don Wallace, American Sugar Cane League
Dalton Yancey, Florida Sugar Cane League, Inc.

Agreeing to minority view:

Thomas Earley, Promar International
Randy Green, McLeod, Watkinson and Miller
Patrick Henneberry, Imperial Sugar Company
Fred Hensler, Masterfoods USA
Patrick Lehman, Grocery Manufacturers of America
Ken Lorenze, Kraft Foods
Tiffany Moore, Kellogg Company
Melane Rose, National Confectioners Association

Not participating in this opinion:

Roland Hoch, Global Organics, Ltd.
Martin Muenzmaier, Cargill, Inc.
John Yonover, Indiana Sugars, Inc.