

The U.S.-Peru Free Trade Promotion Agreement (U.S.-Peru FTA)

Report of the  
Industry Trade Advisory Committee on Steel  
ITAC-12  
January 2006

January 18, 2006

Industry Trade Advisory Committee 12 for Steel

**Advisory Committee Report to the President, the Congress and the United States Trade Representative on U.S.-Peru Free Trade Promotion Agreement (TPA)**

**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) 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 ITAC-12 Steel hereby submits the following report.

**II. Executive Summary of Committee Report**

The United States – Peru TPA reviewed by ITAC-12 does not provide for changes in, or changes in application of, U.S. AD-CVD statutes, which is ITAC-12’s most important concern in regard to trade remedy laws. And, as regards AD-CVD, each party retains its rights and obligations under WTO. Provisions on safeguards and government procurement reflect the “boiler plate” texts ITAC-12’s predecessor, ISAC-7, and ITAC-12, reviewed previously in the FTAs with Singapore, Chile, Australia, Central American countries, including the Dominican Republic, Bahrain, and Oman, and appear to create no particular problems for ITAC-12.

ITAC-12 also concludes from its review of this agreement that it promotes the economic interests of the United States and achieves the applicable overall and principal negotiation objectives set forth in the Trade Act of 2002. ITAC-12 further concludes that this agreement provides for equity and reciprocity in ITAC-12’s sector, steel.

ITAC-12 qualifies the conclusions stated in the paragraph above however, by observing (i) that the agreement with Peru covers only an extremely small proportion of the international trade of the U.S. and (ii) that even that coverage does not relate to ITAC-12's other priority concerns, for example, with exchange rate policies or the functioning of the WTO (especially dispute settlement provisions), which certainly affect our sector's economic interests and the equity and reciprocity for the U.S. overall that we seek in U.S. trade agreements. A re-statement of ITAC-12's priority concerns is shown below.

### **ITAC-12 BASIC NEGOTIATING PRIORITIES**

1. The current international trade rules with regard to the right to initiate trade actions against the unfair trade activities of foreign producers and the prosecution thereof must be preserved. Any proposed changes to the rules must improve, and not weaken in any way, the disciplines on unfair trade practices and the right to initiate trade actions against them.
2. The disparity in the treatment of direct and indirect taxes under WTO rules with regard to border adjustability, which is one of the most egregious distortions facing US producers in both US and export markets, should be eliminated.
3. A precondition to entering into any trade agreement should be the clear absence of any governmental currency intervention or manipulation, as well as the development of an appropriate form of review process to eliminate any governmental subsidies.
4. The current WTO Dispute Settlement system, particularly as it can dilute US laws and sovereignty, is in critical need for reform. A primary example of the need for reform is the dispute in the WTO over the US Continued Dumping and Subsidies Offset Act (CDSOA), which should be settled through negotiation, rather than by Congressional repeal.
5. Foreign non-tariff barriers (NTB's) that prevent or deter fair access to foreign markets by US producers should be eliminated.

### **III. Brief Description of the Mandate of ITAC-12 for Steel**

The Committee shall perform such functions and duties and prepare reports, as required under Section 135 of the Trade Act of 1974, as amended, with respect to this sector and functional advisory committees.

The Committee advises the Secretary and the USTR concerning trade matters referred to in Sections 101, 102, and 124 of the Trade Act of 1974, as amended; with respect to the operation of any trade agreement once entered into; and with respect to other matters arising in connection with the development, implementation and administration of the trade policy of the United States including those matters referred to in Reorganization Plan Number 3 of 1979 and Executive Order 12188, and the priorities for actions thereunder.

In particular, the Committee provides detailed policy and technical advice, information, and recommendations to the Secretary and the USTR regarding trade barriers and 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, which affect the products of its sector; and 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 ITAC-12 for Steel**

Negotiating Objectives and Priorities for Steel in the multilateral Doha Round and in bilateral Free Trade Agreements such as this FTA include the preservation and strengthening of international trade rules with regard to the right to initiate trade actions against unfair trade activities by foreign producers. The paramount objective is to ensure that the availability and enforceability of trade remedies provided under U.S. law are not in any way, shape or form weakened by, or as a result of, this or other negotiated trade agreements.

Another key and related objective is the reform of the current WTO dispute settlement process, particularly as it dilutes U.S. laws and sovereignty. It is critical that neither this nor any other FTA compromise this objective.

A third key objective is the elimination of non-tariff trade barriers (NTB's) that prevent or deter fair foreign market access by U.S. producers of steel. This would include policies which would create any bias against U.S. exports. It is critically important that all FTAs move in the direction of supporting the elimination of NTB's.

A fourth, equally important objective is to ensure that, in the implementation of trade agreements, currency exchange rates are determined by market forces, without any governmental manipulation.

Fifth, the disparity in treatment of direct and indirect taxes under WTO rules with regard to border adjustability must be eliminated, immediately and effectively.

The above ITAC-12 objectives/priorities are crystallized in the text of Part II above.

## **V. ITAC-12 Opinion on the Agreement**

ITAC-12 (Steel) members have reviewed and discussed the U.S. – Peru TPA and have concluded unanimously as follows.

1. The steel market and domestic steel-producing capacity of Peru are both extremely small. Given Peru’s minimal role in world steel trade reflected by this report, ITAC-12 finds no reason to object to the terms of the US-Peru TPA and is able to report that this TPA promotes the economic interests of the U. S. and achieves the applicable overall and principal negotiating objectives set forth in the Trade Act of 2002. ITAC-12 is also able to report its finding that this TPA provides for equity and reciprocity within ITAC-12’s sectoral area.
2. ITAC-12 wishes to draw the U.S. Government and Congress’s attention, however, to an issue that arose in negotiations of this TPA concerning the rules of origin (ROO) provisions that were to be inserted in the agreement. While ITAC-12 has no specific problem with the ROO provisions finally agreed to for the U.S.-Peru TPA, we emphasize that in future FTA or TPA negotiations, in which ROO provisions come up for review, U.S. negotiators must firmly resist any form of provision that results in weakening of NAFTA Rules of Origin to the detriment of U.S. steel producers.
3. ITAC-12, notwithstanding the foregoing favorable opinion on the U.S.-Peru TPA overall, fully qualifies this finding as follows:

While ITAC-12 finds favorably on the US-Peru TPA overall, given the tiny share of Peru in world steel trade, that finding does not alleviate our concerns with such issues as the treatment of exchange rate issues or the functioning of the WTO (especially its dispute settlement provisions), which affect both our sector’s economic interests and the equity and reciprocity for the U.S. overall that we seek in U.S. trade agreements. This is a problem that arises inherently from the process of negotiating trade agreements country-by-country and illustrates the difficulties of judging whether, in steel’s case, any FTA with a single country (e.g., Peru) or a small group of countries (e.g., CAFTA) can be judged to provide “equity” or “reciprocity” or “promotes the economic interests of the United States” overall. This problem can only be solved when Congress reviews the effect of all FTAs in their totality.

## **VI. Membership of the Committee**

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