

April 22, 2004

The Honorable Robert B. Zoellick
United States Trade Representative
Executive Office of the President
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 ISAC-7 (Ferrous Ores and Metals) on the United States-Dominican Republic Free Trade Agreement (US-DR FTA), reflecting consensus on the proposed Agreement.

Sincerely,

A handwritten signature in black ink, reading "William J. Pendleton". The signature is written in a cursive style. To the right of the signature is a vertical line.

William Pendleton
Chair, ISAC-7

The U.S.-Dominican Republic Free Trade Agreement (US-DR FTA)

**Report of the
Industry Sector Advisory Committee on Ferrous Ores and Metals
ISAC-7
April 2004**

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Industry Sector Advisory Committee 7 for Ferrous Ores and Metals

Advisory Committee Report to the President, the Congress and the United States Trade Representative on U.S.— Dominican Republic 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.

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 ISAC-7 for Ferrous Ores and Metals hereby submits the following report.

II. Executive Summary of Committee Report

The United States – Dominican Republic FTA reviewed by ISAC-7 does not provide for changes in, or changes in application of, U.S. AD-CVD statutes—ISAC-7'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 ISAC-7 reviewed previously in the FTAs with Singapore, Chile, Australia and Central American countries, and appear to create no particular problems for ISAC-7.

ISAC-7 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. ISAC-7 further concludes that this agreement provides for equity and reciprocity in ISAC-7's sector, ferrous ores and metals.

ISAC-7 qualifies the conclusions stated in the paragraph above however, by observing (i) that the agreement with Dominican Republic covers only a very small proportion of the international trade of the U.S. and (ii) that even that coverage does not relate to ISAC-7's concerns, for

example, with 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.

Finally, ISAC-7 recognizes that the US-DR FTA, upon coming into effect, becomes an integral part of the US-CAFTA agreement, on whose terms ISAC-7 has already reported favorably.

III. Brief Description of the Mandate of ISAC-7 for Ferrous Ores and Metals

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 these 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 ISAC-7 for Ferrous Ores and Metals

Negotiating Objectives and Priorities for Ferrous Ores and Metals 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 US 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 US 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 US producers of ferrous ores and metals. This would include policies which would create any bias against US 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.

V. ISAC-7 Opinion on the Agreement

ISAC-7 (Ferrous Ores and Metals) members have reviewed and discussed the U.S. – Dominican Republic FTA (US-DR FTA) and have concluded unanimously as follows.

1. The DR steel market and domestic steel-producing capacity are both very small (current DR production – all merchant products – is reported at well under half a million metric tons, according to *Iron and Steel Works of the World 2002*). Given the small DR role in world steel trade reflected by these numbers, ISAC-7 finds no reason to object to the terms of the US-DR FTA and is able to report that this FTA 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. ISAC-7 is also able to report its finding that this FTA provides for equity and reciprocity within ISAC-7's sectoral area.
2. The above findings reflect the fact also that the US-DR FTA will upon coming into effect become an integral part of the US-Central America FTA (CAFTA) on which ISAC-7 has already reported favorably.
3. ISAC-7, notwithstanding the forgoing favorable opinion on the US-DR FTA overall, qualifies this finding as follows:

First, the US-DR FTA in its provision on government procurement does not cover, for the first 5 years, procurement of construction grade steel. Puerto Rico, a sub-central entity of the U.S. and DR's neighbor, does likewise. In addition, as regards construction services, this FTA requires U.S. participation to be by way of joint venture with a DR company, with a further requirement that each partner have a maximum "management share" of 50%, or, under certain circumstances, 70%. While the way this would work in practice is not precisely clear, the provision apparently reflects the traditional role of DR government in key sectors like construction. Regardless of such factors, the treatment of construction services in the government procurement provision is discriminatory and in ISAC-7's views a bad precedent, calling for close U.S. government monitoring of the provision's implementation.

Second, the US-DR FTA's treatment of construction grade steel and construction services appears to reflect the inability of U.S. negotiators to deal with continued problems for many U.S. producers arising from the Jones Act, which affects those producers' ability to operate competitively when they ship products by deepwater vessels to domestic buyers.

Thirdly, while ISAC-7 finds favorably on the US-DR FTA overall, given the tiny share of DR in world steel trade, that finding does not alleviate our concerns with such issues as the functioning of the WTO (especially its dispute settlement provisions), which affect 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., DR) 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 FTA's in their totality.

VI. Membership of the Committee

Maurice Carino, Jr.
Representing International Steel Group

Thomas Danjczek
President
Steel Manufacturers Association

Frank Fenton
Counselor, International Trade and Economic Relations
Representing Cold Finished Steel Bar Institute

James Fritsch
Executive Vice President
Commercial Metals Company Steel Group

David Hawley
Consultant
Representing Ryerson Tull

William Hickey
President
Lapham-Hickey Steel, Inc.

Robert Johns
Director of Marketing , Sheet Mill Group
Nucor Corporation

Peter Mulloney
Consultant
Representing GS Industries

William Martin
Vice President
Neenah Foundry Company

Raymond Monroe
Executive Vice President
Steel Founders Society of America

C. Davis Nelsen, II
President and Chief Executive Officer
Nelsen Steel Company

John Nolan
Vice President, Sales and Marketing
Steel Dynamics, Inc.

William Pendleton
International Trade Counsel
Carpenter Technology Corp.

Terrence D. Straub
Senior Vice President-Public Policy
and Governmental Affairs
United States Steel Corporation

Robin K. Weiner
President
Institute of Scrap Recycling Industries