

February 28, 2003

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 of Advisory Committee - Lumber and Wood Products for Trade Policy Matters (ISAC 10)* on Chile Free Trade Agreement (FTA), reflecting majority and minority advisory opinions on the proposed Agreement.

Sincerely,

Lyn Withey
Chair
ISAC 10

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

**Report of the
Industry Sector Advisory Committee for Lumber and Wood Products
(ISAC-#10)**

February 2003

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ISAC #10

Advisory Committee Report to the President, the Congress and the United States Trade Representative on Chile 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 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 Industry Sector of Advisory Committee - Lumber and Wood Products (ISAC 10) hereby submits the following report.

II. Executive Summary of Committee Report

ISAC 10 strongly endorses the market access provisions of the U.S.-Chile Free Trade Agreement, which provide for the elimination of tariffs on all wood products immediately on implementation of the agreement. This provision provides equity and reciprocity within the sector –not only on a bilateral basis but also relative to competing suppliers in Canada and Mercosur member countries.

ISAC 10 strongly urges that the market access provisions of the U.S.-Chile agreement serve as a template for future FTA's. In order for subsequent agreements to achieve sectoral equity and reciprocity it is absolutely essential that they provide for the elimination of tariffs on all wood products immediately on implementation.

Majority and minority opinions are expressed throughout this report. The minority opinion is in italics and follows directly after the majority opinion in the body of this report. When the Chilean FTA negotiations were launched, the charter and membership of ISAC-10 differed from

the current charter and membership. For the U.S.-Chile FTAs, the negotiating objectives and priorities were achieved reflecting the advice sought by the U.S. government upon the launching of negotiations. The Charter of ISAC-10 was modified in 2001 allowing an environmental representative to serve as a member. This member may not be in concurrence with the original advice rendered by ISAC-10 when the negotiations were started and those views are designated by italics in the text after the text reflecting inaugural advice to the USG.

III. Brief Description of the Mandate of the Industry Sector Advisory Committee (ISAC 10) on Lumber and Wood Products

The Industry Sector Advisory Committee (ISAC) on Lumber and Wood Products is comprised of environmental and industry representatives from the lumber and wood sector that includes sawmills and planing mills, hardwood veneer and plywood, softwood veneer and plywood, and reconstituted wood products. Representatives serving on the Lumber and Wood Products ISAC provide advice on trade policy matters. The committee charter was changed in 2001 to add an environmental representative and original advice to USTR on negotiating objectives for the FTA with Chile was provided prior to the charter change.

The Committee reports to the Secretary and the USTR, or their designees, through the Commerce Under Secretary for International Trade and the Assistant Secretary for Trade Development (the Assistant Secretary), and USTR's Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison (AUSTR).

IV. Negotiating Objectives and Priorities of the Industry Sector Advisory Committee (ISAC 10) on Lumber and Wood Products

The elimination of global tariffs on wood products remains the overarching priority for the U.S. forest products industry. ISAC-10 supports any bi-lateral, regional or multi-lateral trade negotiations which would advance our core objective of eliminating tariffs on all wood products. The Committee has urged U.S. trade negotiators to avail themselves of the authority provided in the Uruguay Round Agreements Act to pursue the elimination of wood tariffs as an urgent matter whenever opportunities arise.

Without agreements in the Doha Development Round or in regional and bi-lateral trade agreements to achieve total tariff elimination, equitable market opportunities will continue to be denied due to tariff escalation in the wood sector. Tariff escalation undermines the comparative manufacturing advantage of highly productive, internationally competitive exporting industries such as ours with the escalating rates of duty on processed products providing maximum protection to domestic producers of value-added products.

It is the majority opinion of ISAC-10 that USTR fulfilled the instructions originally directed to them by Executive Order 13141 to undertake an environmental review of the impact of the trade provisions of the U.S.-Chilean FTA.

In addition to tariff elimination, the elimination of non tariff barriers is absolutely essential to ensure that the market access benefits of tariff concessions are not offset by existing or new non tariff barriers.

Minority Opinion: Non tariff barriers do not include environmental, safety, labor, or other standards, however.

Additional ISAC-10 negotiating objectives include:

- **Eliminating foreign subsidies for capacity building.** Subsidies not only give foreign competitors price advantages, they also contribute to building uneconomic/unsustainable capacity which further distorts markets for forest products and increases pressure on forest resources. ISAC-10 data indicate that foreign governments--in both developed and developing countries--are providing substantial funding for building wood production capacity in the absence of normal market justification.

Minority Opinion: U.S. subsidies have the same effects and should also be eliminated.

- **Adoption of standards for treatments for wood borne pests that relate to specific species of wood and the pest risks associated with those species.** Adopting a single, universal prescriptive standard could render the use of wood in some applications uneconomical and impractical.

Minority Opinion: Invasive species are estimated to cost the United States at least \$132 billion per year. A combination of species specific approaches and pathway approaches is the most efficient and effective way to minimize transportation of known as well as unknown invasive species. Due to substantial uncertainties with species invasions, including risks from intentional or unintentional introduction of species whose invasive potential has not been recognized or assessed, an approach based solely on controlling known invasives on a species-by-species basis is insufficient and entails unnecessary risks and management costs. Further, the environmental effects of treatment mechanisms need to be analyzed and considered. Environmentally harmful treatments should not be adopted.

- **Support for the current SPS agreement** negotiated in the Uruguay Round. ISAC-10 would oppose any attempts to renegotiate it.

Minority Opinion: SPS agreement should be strengthened to support a more precautionary, pathway-based approach.

- **Monetary and trade policies that lead to a dollar exchange rate that supports the global competitiveness of U.S. forest products and other manufacturing industries.** The committee has consistently urged that the Administration recognize the devastating effect of inequitable exchange rates on U.S. based manufacturing industries, such as the wood products industry. Provisions of Trade Promotion Authority provide for consultations regarding the potential for exchange rate movements to offset the balance of benefits

achieved in trade agreements. The U.S. Treasury should identify countries that manipulate their currencies to gain competitive advantage and pursue actions to end such practices.

- **Rules of origin delineation**, which provides for transformations at the four-digit level of Chapter 44 wood products, regardless of the country of origin of the primary raw material.
- **Mutual recognition of trademark licenses** and that their sovereignty be maintained as a high priority. Counterfeit usage of licensed trademarks can destroy market confidence and in the case of structural wood products provide health and safety concerns to the consumer.
- **International harmonization and mutual recognition of product standards and accreditation procedures.**
- **Eliminating lower environmental standards, and especially illegal logging, as a basis for competition in the forest products industry.** The Committee has expressed particular concern about illegal logging practices and associated illegal border trade in forest products.

V. Advisory Committee Opinion on Agreement

The consensus opinion of industry representatives of the Industry Sector Advisory Committee for Lumber and Wood Products (ISAC-10) is to strongly support the FTA with Chile and opinions on those relevant sections of the agreement follow. The minority views of the environmental representative of ISAC-10 are noted throughout in italics.

Market Access

In comments submitted to USTR in February 2001, ISAC-10 urged the U.S. government to insist that all wood tariffs be reduced to zero immediately upon the FTA going into effect and be bound at that level. The committee noted that staging tariffs cuts over a period of years would be unacceptable to the U.S. wood products industry as this would further erode U.S. export competitiveness vis-à-vis other countries such as Canada and Mexico that already enjoy zero tariff status with Chile.

The US industry also worked closely with our counterpart forest industry groups in Chile to ensure that the Chilean government would adopt this approach in the market access discussions.

ISAC-10 is satisfied with the results of the negotiation as the agreement calls for tariffs to fall to zero immediately for all of Chapter 44 once the agreement goes into effect. Current Chilean tariffs on forest products are 6% so this outcome will benefit US industry.

The agreement on wood product tariff elimination also sets a precedent for other FTA negotiations, FTAA market access approaches and a zero for zero agreement on wood tariff elimination in the Doha Development Agenda in the WTO.

Minority Opinion: Urges the direct, indirect, and cumulative environmental consequences of tariff modifications resulting from a U.S.-Chile FTA be thoroughly analyzed under Executive Order 13141.

Rules of Origin

ISAC-10 advice on rules of origin was accepted in the US-Chilean FTA agreement. This sets an important precedent for other negotiations in the hemisphere and in the WTO. ISAC-10 had requested that rules of origin for the Chilean FTA be based on NAFTA rules of origin and we would request the same approach in other negotiations. We recommended that transformations at the four-digit level of Chapter 44 wood products such as these listed qualify under Rules of Origin, regardless of the country of origin of the primary raw material.

Intellectual Property Rights/Trademark Licensing

ISAC-10 advice on IPR had sought the recognition of the sovereignty of trademarks licensed to specific products being traded between the respective markets. In the past, counterfeit marks have been used to gain market entry by foreign manufacturers and have destroyed market confidence when structural wood products were misrepresented and failed to address health and safety concerns of the consumer. Article 2.4 of the US-Chilean Free Trade Agreement includes a statement that enforcement of trademark usage will not be extended "beyond the sector of the public that deals with the goods." ISAC-10 believes that inclusion of this clause by the Chilean negotiating team defeats the intent of trademark licensing, allowing promoters of end-use markets (e.g. housing developers) to make false claims relative to competitive foreign or domestic materials. In this context, housing developers could be argued to be outside the primary public sector dealing with the disputed goods (e.g. wood product importers/distributors). Therefore, ISAC-10's advice on IPR was not fully implemented, but other clauses on trademarks and geographical indications satisfied our original requests.

International Harmonization of Product Standards and Accreditation Procedures

The U.S.-Chile FTA addresses these issues by referencing the WTO TBT requirements, encouraging the adoption of internationally recognized standards and mutual recognition of each country's accreditation procedures unless this is proven to be less restrictive than the country's current law. Arbitration options are provided for to neutralize these disputes. Access to the standards and conformity documents are provided for both in printed and electronic format. Also formal public notification of changes to standards and accreditation procedures is required as well as mutual access to comment on these changes; although the time frames for public comment are not defined. ISAC-10 is comfortable with the stated process as agreed to in the FTA but reserves judgment on the eventual effectiveness of their enforcement.

VI. Membership of the Industry Sector Advisory Committee on Lumber and Wood Products (ISAC 10)

- 1) Lyn Withey - CHAIR
International Paper Company

- 2) Ernest Altman - VICE CHAIR
Hardwood Plywood & Veneer Association
- 3) Edward Elias
APA-The Engineered Wood Association
- 4) John Grunwald
Representing the Indiana Hardwood Lumberman's Association
- 5) Edward Heidt, Jr.
The Penrod Company
- 6) Jerry L. Hingle
Southern Forest Products Association
- 7) Paul Houghland, Jr.
National Hardwood Lumber Association
- 8) Michael Leahy, Esq.
Defenders of Wildlife
- 9) Paul E. McKay
PMG & Associates
- 10) Thomas Searles
American Lumber Standards Committee
- 11) Robert Taylor
Weyerhaeuser
- 12) C. Richard Titus
Kitchen Cabinet Manufacturers Association
- 13) Elizabeth Ward
American Forest & Paper Association