

February 25, 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 Sweeteners and Sweetener Products Agricultural Technical Advisory Committee on the U.S.-Singapore Free Trade Agreement, reflecting majority and minority advisory opinion(s) on the proposed Agreement.

Sincerely,

Jack Roney
Chair, Agricultural Technical
Advisory Committee for Trade in
Sweeteners and Sweetener
Products

Agricultural Technical Advisory Committee for Sweeteners and Sweetener Products

The U.S.-Singapore 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.-Singapore 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 Agricultural Trade Advisory Committee for Sweeteners and Sweetener Products hereby submits the following report.

II. Executive Summary of Committee Report

Pending definitive information and analysis on the application of the rules of origin requirements of this FTA on sugar-containing product exports from Singapore, the Sweeteners ATAC is not in a position to evaluate the impact of the FTA on the U.S. sugar industry. Thus, at this point, we are unable to offer a majority opinion as to whether the FTA agreement with Singapore promotes the economic interests of the U.S. and achieves the applicable overall and principal negotiating objectives of the Trade Act of 2002 or whether it provides for equity and reciprocity in the sugar and sweetener sector. The ATAC has requested such analysis, but, inexplicably, the USDA has responded it would not be “appropriate” to share its analysis on this fundamental issue with the Committee.

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.

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 Opinion

We would note that both Singapore and the U.S. are significant net importers of sugar and sugar-containing products (SCP's). Thus, there would appear to be no legitimate commercial interest on either side in the inclusion of sugar in FTA market access negotiations.

In light of the above, our strong preference would have been to exclude sugar from the market access negotiations of this FTA, and the U.S. sugar industry advised the Administration of this position. As the Administration was unwilling to exclude sugar from this FTA, however, the U.S. sugar industry must examine this agreement with a view towards determining whether it will result in any practical harm to our industry.

Before presenting our opinions on this agreement, we would note, however, that the failure of the Administration to release publicly the text of the Singapore agreement (or that of Chile) has hindered our ability to consult with the much broader range of industry

representatives not on the ATAC and with trade experts and advisors. Such restrictions severely limit our ability to present an informed and broadly representative report on this agreement. In particular, the consultative restrictions have weakened our ability to examine and analyze highly technical issues such as rules of origin. Furthermore, the Administration has declined to share with the ATAC its analysis on this issue. We would strongly urge the Administration to make the texts of any future agreement public at the time Congress is notified that the negotiations have been completed, and to share its market-impact analysis with the affected industries.

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. As noted above, Singapore is a substantial net importer of sugar; it, of course, produces no raw sugar but does refine about two-thirds of its sugar needs (about 200,000 tons.)

As we understand it, rules of origin (ROO) requirements will prevent Singapore from shipping any refined sugar to the U. S. under the preferential terms of the agreement. Thus, our major concerns are: (1) whether ROO requirements will prevent Singapore from exporting sugar-containing products (SCP's), especially those covered by TRQ's, to the U.S. under the preferential terms of access provided by the FTA agreement and (2) whether there are any provisions to prevent the "substitution" of domestically produced refined sugar by imports of foreign refined sugar so as to free up Singaporean-produced sugar for incorporation into SCP's exported to the U.S.

If such loopholes exist, they could facilitate the development of a "bogus" trade - - the sole object of which would be to circumvent the U.S. sugar import program. Though hardly the sort of economic efficiency intended by an FTA, such trade would, because of the discrepancy between U.S. and world dump market prices, prove attractive financially. We would also point out that the facilitation of such trade would be in conflict with Section 5203 of the Trade Act of 2002 (the so-called "Breux language") and would worsen the circumvention problems that this legislation was designed to correct.

As best we can determine, the text of the Singapore FTA provides establishment of a TRQ of 15,000 kg for sugar and sugar-containing products (SCP's) which will rise in uneven increments to 22,162 kg in year 9 and then be eliminated in year 10; second-tier, or above quota, tariffs on sugar and SCP's steadily decline to zero over this period, apparently.

While it appears that the ROO requirements will prevent Singapore from taking advantage of the preferential access granted by these provisions for sugar and other products falling under Chapter 17 of the U.S. tariff schedule, it is unclear whether they will prevent such access for TRQ categories under Chapters 18, 19 and 21; indeed it appears to us that most of these products would be able to meet ROO requirements and benefit from preferential access.

Moreover, there appear to be no provisions in the agreement that would prevent or impede substitution schemes such as those described above. Thus, there would appear to be a significant risk that the Singapore FTA could worsen circumvention problems. If this indeed turns out to be the case, we would urge that the Administration to revisit the provisions in the agreement affecting sugar and SCP's, which have little or no real commercial importance to our Singaporean partners.

Pending definitive information and analysis on the application of the ROO requirements of this FTA on SCP exports from Singapore, this ATAC is not in a position to evaluate the impact of the FTA on the U.S. sugar industry. Thus, at this point, we are unable to offer an opinion as to whether the FTA agreement with Singapore promotes the economic interests of the U.S. and achieves the applicable overall and principal negotiating objectives of the Trade Act of 2002 or whether it provides for equity and reciprocity in the sugar and sweetener sector. The ATAC has requested such analysis, but, inexplicably, the USDA has responded it would not be "appropriate" to share its analysis on this fundamental issue with the Committee.

We would also point out again that negotiations on sugar in this and other FTA's do nothing to advance the principal negotiating objectives of the sugar and sweetener industry, which have been set forth above. These can only be achieved in the WTO and we again urge the Administration to focus its efforts on those negotiations and to reserve negotiations on sugar exclusively for that forum.

Minority Opinion (Submitted by members Nick Kominus, Alfred Hensler, Ken Lorenze, Roland Hoch)

We support free and open trade and strongly support the Administration's goal of liberalizing markets for all agricultural commodities, including sugar. We appreciate the hard work, dedication and skill of negotiators at the Office of the U.S. Trade Representative and the U.S. Department of Agriculture in successfully concluding the U.S.-Singapore Free Trade Agreement and endorse passage by Congress of legislation to implement it. While understanding the considerations that led to the structural design of the U.S.-Singapore FTA's sugar provisions, and applauding the inclusion of sugar in that agreement, we do not necessarily regard the specific provisions as models for subsequent agreements.

VI. Membership of the Sweeteners and Sweetener Products ATAC

Mr. Ronald Anderson	Louisiana Farm Bureau Federation	Ethel, LA
Mr. O. Al Christopherson	Minnesota Farm Bureau	Pennock, MN
Mr. Troy Fore, Jr.	American Beekeeping Federation, Inc.	Jesup, GA
Mr. Benjamin Goodwin	California Beet Growers Association	Stockton, CA
Ms. Ardis Hammock	Frierson Farm, Inc.	Clewiston, FL
Mr. Alfred Hensler	M&M/Mars	Hackettstown, NJ
Mr. Roland Hoch	Global Organics, Inc.	Arlington, MA
Mr. Nathan Holleman	National Honey Board	Longmont, CO

Mr. James Johnson	U.S. Beet Sugar Association	Washington, DC
Mr. Nicholas Kominus	U.S. Cane Sugar Refiners' Association	Washington, DC
Mr. Kenneth Lorenze	Kraft Foods	Tarrytown, NY
Mr. Jerome McKee	Laurel Valley Plantation, Inc.	Thibodaux, LA
Mr. Kent Pepler	Farmer	Platteville, CO
Mr. Kevin Price	American Crystal Sugar Company	Moorhead, MN
Mr. Jack Roney	American Sugar Alliance	Arlington, VA
Mr. Dalton Yancey	Florida, Texas and Hawaii Sugar Growers	Washington, D.C.