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# INDUSTRY TRADE ADVISORY COMMITTEES

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# ITAC OPERATIONS MANUAL

Prepared Jointly by

The Industry Trade Advisory Center  
U.S. Department of Commerce

and

The Office of the Assistant United States Trade Representative  
for Intergovernmental Affairs and Public Engagement  
Office of the United States Trade Representative

2018

**U.S. DEPARTMENT OF COMMERCE  
AND THE  
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE  
INDUSTRY TRADE ADVISORY COMMITTEES  
OPERATIONS MANUAL**

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# **OPERATIONS MANUAL**

## **FOR THE**

### **INDUSTRY TRADE ADVISORY COMMITTEES**

#### **INTRODUCTION**

The Industry Trade Advisory Committees (ITACs) are an integral link between industry and the United States Government. Jointly administered by the Department of Commerce and the United States Trade Representative (USTR), the ITACs provide a unique public-private forum to ensure industry has a voice in formulating the trade policy of the United States. The industry advisors serving on the ITACs provide valuable input as the Administration advances its trade agenda to improve economic opportunities for America's businesses, workers, and consumers.

U.S. Government policy makers rely on our trade advisors to identify barriers and to provide advice on key objectives and bargaining positions for multilateral, bilateral, and regional trade negotiations, as well as other trade-related policy matters. As a result of these efforts, the United States is able to display a united front when it negotiates trade agreements with other nations. United States negotiating positions are strengthened because they are developed with bipartisan, private-sector input throughout the negotiations.

The ITACs represent the current structure of a system of advisory committees first established by Congress in the Trade Act of 1974, preparatory to the Tokyo Round of Multilateral Trade Negotiations. Following the private-sector advisors' important contributions to the successful conclusion of the Tokyo Round, Congress broadened and extended the mandate for the advisory committees in the Trade Agreements Act of 1979 and the Omnibus Trade and Tariff Act of 1988. The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 provided new "trade promotion authority" to the President to negotiate and enter into multilateral and plurilateral trade agreements and renewed the requirement that the President consult closely with the private sector regarding the progress and outcome of trade negotiations. In addition to providing reports to the Congress at the conclusion of each negotiation, the ITACs provide ongoing advice to the President, through the Secretary of Commerce and the United States Trade Representative, regarding implementation and enforcement of agreements and a wide range of trade policy matters. The current ITAC Roster may be found at **Appendix 1**.

The Industry Trade Advisory Center, located in the Department of Commerce, provides administrative support to the fourteen ITACs and over 350 committee members. The Industry Trade Advisory Center and USTR have jointly prepared this Operations Manual to facilitate the effective operation of the Committees and to provide the setting for meaningful and useful dialogue between the U.S. Government and the private sector on trade policy matters. The Operations Manual is based upon the legal framework created by the 1974 Trade Act, as amended, the Federal Advisory Committee Act, statutes and Executive Orders relating to the

handling of security classified information and public access to information, and the Department of Commerce's Committee Management Handbook.

Additional information regarding the ITACs, the Industry Trade Advisory Center, and this Manual may be obtained by contacting:

The Industry Trade Advisory Center  
U.S. Department of Commerce  
Room 2872  
Washington, D.C. 20230  
Phone: (202) 482-3268  
E-mail: [ITAC@trade.gov](mailto:ITAC@trade.gov)

## I. BACKGROUND

Section 135 of the Trade Act of 1974 (Public Law 93-618), as amended, directs the President to seek information from representatives of the private sector with respect to:

- negotiating objectives and bargaining positions before entering into a trade agreement under section 5(b)(4) of the Congressional Bipartisan Trade Priorities and Accountability Act of 2015, and section 135(e) of the Trade Act of 1974, as amended;
- the operation of any trade agreement once entered into; and
- other matters arising in connection with the development, implementation, and administration of the trade policy of the United States.

Section 135 directs the President to "establish such sectoral or functional advisory committees as may be appropriate," and provides that the United States Trade Representative (USTR) organize and administer these Committees together with the appropriate Cabinet Secretary.

Pursuant to this requirement, the USTR and the Secretary of Commerce (the Secretary) have jointly organized and administer fourteen Industry Trade Advisory Committees (together, ITACs or the Committees).

As federally chartered advisory committees, the ITACs are subject to the requirements of the Federal Advisory Committee Act (FACA). Each ITAC is assigned a Designated Federal Officer, who is responsible for the orderly operation of the Committee, the calling of meetings, preparing minutes of each meeting, and filing FACA-required reports. In addition, the ITACs are subject to the FACA requirement that each committee be fairly balanced in composition. An important exception to the normal FACA requirement is that, if the USTR determines it appropriate, ITAC meetings may be closed to the public. No Committee's charter can exceed four years in duration.

Section 135 instructs the USTR, in conjunction with the appropriate Cabinet Secretary, to develop rules governing the disclosure of classified and trade-sensitive information to Committee members, and to adopt procedures for consultation with and obtaining information and advice from the Committees on a continuing and timely basis. This manual is intended to fulfill that requirement.

Copies of section 135 of the Trade Act of 1974, as amended, and the Federal Advisory Committee Act are at **Appendix 11 and Appendix 12**, respectively.

## II. MEMBERSHIP

### A. Eligibility

Eligibility to serve on an ITAC is limited to U.S. citizens who are not full-time employees of a governmental entity, who represent a U.S. entity, and who are not registered with the Department of Justice under the Foreign Agents Registration Act.

1. *Represent a U.S. entity:* While Committee members are expected to provide advice to the U.S. Government as representatives of their industry sector, each member must also serve, directly or indirectly, as the representative of a U.S. entity that trades internationally and is engaged in the manufacture of a product or the provision of a service (including retailing and other distribution services), or an association of such entities; or a U.S. organization that: trades internationally; represents members that trade internationally; or, consistent with the needs of a Committee as determined by the Secretary and the USTR, represents members who have a demonstrated interest in international trade. This entity will generally be the member's employer or company but may also be his or her client.
2. *U.S. entity:* For purposes of the preceding paragraph, a U.S. entity is a firm incorporated in the United States (or an unincorporated U.S. firm with its principal place of business in the United States) that is controlled by U.S. citizens or by another U.S. entity. An entity is not a U.S. entity if 50 percent plus one share of its stock (if a corporation, or a similar ownership interest of an unincorporated entity) is controlled, directly or indirectly, by non-U.S. citizens or non-U.S. entities. If the member is to represent an entity or corporation with 10 percent or greater non-U.S. ownership, the nominee must demonstrate at the time of nomination that this ownership interest does not constitute control and will not adversely affect his or her ability to serve as a trade advisor to the United States (see Nominations, below).
3. *Trades internationally:* An entity that trades internationally is an entity directly engaged in the import or export of goods, or that sells its services abroad, or represents an entity that provides services in direct support of the international trading activities of other entities.

### B. Selection Criteria

The USTR and the Secretary will select eligible individuals for appointment to Committee membership based upon the following criteria:

1. Industry Representation and Individual Knowledge:



Members are selected to represent their sponsoring U.S. entity's interests on trade matters. A secondary consideration is members' knowledge and expertise of their industry and of trade matters relevant to the work of the Committee.

2. Balanced Industry Representation; Diversity

- (a) The USTR and the Secretary will make every effort to maintain balanced industry representation on each Committee and among Committees. In order to achieve balanced representation, consideration will be given to balance among sectors, product lines, small, medium, and large firms, and geographic areas. In addition, the USTR and the Secretary are committed to achieving diversity in the membership of the Committees to the maximum extent practicable consistent with the need for balanced industry representation and expertise. The USTR and the Secretary may seek additional nominations as necessary to ensure balanced representation, to meet a need for special representation, or to achieve diversity and demographic balance. A U.S. entity may not be represented by more than one member on a Committee, except in rare circumstances to permit adequate representation of a discrete industry subsector or interest. In general, a U.S. entity may not be represented on more than three Committees.
- (b) The USTR and the Secretary may from time to time appoint individuals representing U.S. nongovernmental organizations to one or more Committees. Such individuals must meet the eligibility requirements set forth above and represent a U.S. entity interested in issues relevant to the work of the committee. For purposes of the preceding sentence, a "U.S. entity" is an organization incorporated in the United States (or, if unincorporated, having its headquarters in the United States): (1) that is controlled by U.S. citizens or by another U.S. entity. An entity is not a U.S. entity if more than 50 percent of its Board of Directors or membership is made up of non-U.S. citizens. If the nominee is to represent an organization more than 10 percent of whose Board of Directors or membership is made up of non-U.S. citizens, or non-U.S. entities, the nominee must demonstrate at the time of nomination that this non-U.S. interest does not constitute control and will not adversely affect his or her ability to serve as a trade advisor to the United States; and (2) at least 50 percent of whose annual revenue is attributable to nongovernmental U.S. sources.

C. Nominations

1. Nominations to the ITACs should be made in writing to:

Director  
Industry Trade Advisory Center

Room 2872  
U.S. Department of Commerce  
Washington, D.C. 20230  
e-mail: ITAC@trade.gov

Nominations should include the following information:

- (a) a sponsor letter, which must be on company/organization letterhead (interested parties may also nominate themselves, on either company/organization letterhead or personal letterhead), with a statement regarding the nominee's international trade expertise and qualifications to represent the relevant industry sector;
  - (b) an affirmative statement that: 1) you meet all the requirements as set forth in the Federal Register notice; and 2) you are not registered under the Department of Justice Foreign Agents Registration Act (FARA).
  - (c) a resume, with demonstrated knowledge of international trade as relevant to the work of the committee; and
  - (d) a company or organization profile information or annual report (if consultant, legal advisor, or trade association, a membership list or client list must be included and all non-U.S. entities that are clients or members must be identified, including members that are U.S. subsidiaries of foreign-held companies; if representing a labor organization, the annual LMRDA or LM-II must be submitted).
2. Other information should include the activities, products or services of the U.S. entity to be represented, in addition to the following information, as appropriate:
- (a) Certification of U.S. Entity

The nomination must include a certification that entity to be represented by the nominee is a U.S. entity (see section II.A, above). If the U.S. entity to be represented is more than ten percent foreign-owned, the nominee must demonstrate to the satisfaction of the Secretary and the USTR that the foreign ownership does not constitute control of the U.S. entity and will not adversely affect the nominee's ability to serve as a trade advisor to the United States.

- (b) Identification of Interests Represented by Trade Association Representatives, Consultants, and Legal Advisors

In order that the Secretary and the USTR may properly discharge the responsibility of ensuring balanced industry representation on the Committees, nominations of individuals who are trade association employees or

representatives, consultants, or legal advisors shall include the following information:

- (i) If the nominee is a trade association employee or representative, the nomination shall identify all the members of the association, the percentage of the association's membership that consists of non-U.S. entities, including U.S. subsidiaries of foreign-held firms (see section II.A.2, above), and the association member(s) to be represented by the nominee (if fewer than all the members).
- (ii) If the nominee is a consultant or legal advisor; the nomination shall identify:
  - (a) the U.S. entity or entities to be represented. Each entity so identified must furnish with the nomination a written certification by a responsible official of that entity or entities that the nominee will represent it on the Committee;
  - (b) any current business arrangements relevant to, and clients of the nominee that may have an interest in, the work of the Committee; and
  - (c) the extent to which personal or company/firm income is derived from non-U.S. citizens or entities.

Note: Committee membership lists (which are routinely made available to the public) will indicate only the name of the members' industry affiliation and/or the entity(ies) represented. Membership lists will not reveal members' other business arrangements or clients. However, this information will be made available in aggregated form to other members of the relevant Committee so that they may be aware of the interests of other Committee members.

- 3. Nominations are reviewed initially for completeness, and to determine the eligibility of the nominee, by the Industry Trade Advisory Center. Nominations of eligible candidates are then reviewed jointly by the Department of Commerce and USTR in light of the selection criteria set out above. This review includes input from the Designated Federal Officer of the relevant committee, the relevant Deputy Assistant Secretary and Office Director, and officials of the Office of the USTR.

#### D. Appointment and Tenure

- 1. Members are appointed to the Committees jointly by the Secretary of Commerce and the USTR.
- 2. Appointments are made at the chartering of each Committee, and periodically throughout the duration of the Committee charters (which are generally valid for

four years), subject to any changes in the members' representation and eligibility. Appointments to the Committees are generally for the term of the Committee charter; however, members serve at the pleasure of the Secretary and the USTR. The Secretary and USTR may, at their discretion, re-appoint an individual member upon renewing the charter. A member is responsible for immediately notifying the Industry Trade Advisory Center of his/her resignation from the Committee.

3. Members must at all times meet the eligibility requirements for membership set out above. A member must inform the Industry Trade Advisory Center at the Department of Commerce immediately if (1) there is any change in his or her eligibility, employment or company representation; (2) 10 percent or more of the entity he or she represents is acquired by non-U.S. citizens or entities; or (3) there is a material change in the foreign ownership or control of any of the interests identified by a consultant or legal advisor. Any changes in employment or company representation will be assessed in light of the need for balance and appropriate representation within the Committee. If re-appointed, members may be asked to update information contained in their nomination materials and to provide other information considered relevant by the Secretary and the USTR.
4. Members are not compensated for their services or reimbursed for travel expenses.
5. Each ITAC Charter provides for an authorized strength of 50 members, the maximum permitted under the Federal Advisory Committee Act.
6. Appointments to all ITACs are made without regard to political affiliation.
7. The Designated Federal Officer will contact newly appointed members to inform them of upcoming meetings, discuss security requirements, and access to the USTR Advisors' Secure Website. See important information regarding attendance at meetings by newly appointed members in section VI, below.

#### E. Standards of Conduct Applicable to Committee Members

Every new member, and each Committee at the outset of its Charter term, receives a briefing by the Department of Commerce Office of Security and the Office of General Counsel's Ethics Division. In general -

1. Members serve in a representative capacity. Members are not deemed special Government employees, and so are not subject to federal conflict of interest laws or Standards of Conduct governing federal employees. However, members may be considered "public officials" for purposes of certain federal statutes that pertain to the conduct of public officials.
2. Members may not be registered with the Department of Justice under the Foreign Agents Registration Act.

3. Members should not use their membership on the committee for any purpose not related to Committee business and should not use their status as a Committee member to benefit their individual professional or financial interests.
4. Members should not represent that they are officials of the Department of Commerce or the Office of the United States Trade Representative, or that they enjoy a special relationship with these or any other federal agency that results from their membership.
5. The Committees are established to provide advice to the President, through the Secretary of Commerce and the United States Trade Representative. Committee advice typically involves matters “the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions .....” (19 U.S.C. § 2155(f)(2)); is of a pre-decisional nature; and forms an integral part of the deliberative process. It is therefore not appropriate -
  - o for a member to disclose *Committee advice* to any other party;
  - o for a member to present or represent the views of his or her Committee outside the advisory process; or
  - o for a Committee, or any member thereof in his or her capacity as a member, to provide or convey Committee advice to any other party.
6. Members should adhere strictly to the rules governing handling and disclosure of classified and trade-sensitive information by Committee members. See section VI of this Manual, below.

### III. COMMITTEE ORGANIZATION AND STRUCTURE

#### A. Officers

1. Each Committee shall have a Chair and a Vice Chair, and such additional Vice Chairs as the Committee may determine, elected from the membership of the Committee by the members, taking into account the considerations of paragraph 2, below, for a term not to exceed the duration of the Committee charter. If a Committee determines to elect more than one Vice Chair, one must be designated the “Primary” Vice Chair. The Designated Federal Officer shall serve as Chair until a Chair is elected by the members or if the position of Chair becomes vacant.
2. Eligibility
  - (a) The Chair and Vice Chair(s) must be full-time employees of U.S. manufacturing or service companies trading internationally, or of trade associations in which such firms participate and in whose day-to-day operations they are active. Consultants and legal advisors are not eligible to serve as Officers of the Committees.
  - (b) The Secretary and the USTR consider that the Chair and Vice Chair(s) of each Committee, given their continuing and wide-ranging responsibilities, should be individuals (a) whose expertise and interests reflect as much as possible the Committee's area of interest; (b) whose schedules will permit travel to Washington for their ITAC meetings and supplementary consultations, and (c) whose career plans will permit continued participation for the duration of the Committee charter.
3. Election of Officers

At the outset of each Committee’s Charter term, and if the position of an elected Chair or Vice Chair (or, where there are multiple Vice Chairs, the Primary Vice Chair) becomes vacant during the Charter term, the Designated Federal Officer shall serve as Chair and shall call for an election of the Chair and/or Vice Chair, normally with at least 30 calendar days’ advance notice. Members must advise the Designated Federal Officer of their candidacy prior to the meeting at which the election is held. See Guidelines for Committee Elections, at **Appendix 3**.
4. Duties of Officers
  - (a) The Chair of a Committee shall:
    - Preside at meetings of the Committee;

- Certify the accuracy of the minutes of Committee meetings, pursuant to section 10 (c) of the Federal Advisory Committee Act ("FACA");
  - Consult with the Designated Federal Officer regarding scheduling meetings and preparation of meeting agendas by the Designated Federal Officer;
  - Serve as a contact point and information channel between Commerce/USTR and the Committee members;
  - Select the Chair and members of any subcommittee or working group established by the Committee;
  - Facilitate consensus among Committee members while ensuring that dissenting or divergent views are fairly included in formal Committee advice; and
  - Represent the Committee's views and interests in the Committee of Chairs.
- (b) The Chair may delegate, in whole or in part, any of the duties enumerated above to the Vice Chair(s). The Chair may designate either the Vice Chair (or Primary Vice Chair) or other member of the Committee to serve as an alternate at meetings of the Committee of Chairs.
- (c) The Vice Chair(s) of the Committee shall perform such duties of the Chair as may be delegated by the Chair.

#### B. Subcommittees

1. The Chair or Designated Federal Officer may establish subcommittees from among the members of the Committee, subject to the prior approval of the Director, Industry Trade Advisory Center, and the Assistant USTR for Intergovernmental Affairs and Public Engagement, in the form provided in **Appendix 6**.
2. Subcommittees may be formed as task forces, steering groups, working groups, etc., and may be permanent or temporary.
3. The Chair of the Committee shall select the Chair of the subcommittee to serve as the principal functional contact with the Chair of the Committee and shall appoint the members of the subcommittee. The Chair of the Committee shall be an ex-officio member of all subcommittees and shall be advised of all meetings of the subcommittees.

4. Subcommittees are not separately chartered and do not function as advisory committees. Subcommittees do not function independently of the parent Committee. Subcommittees must submit all recommendations to their parent Committees.

#### C. Representation on other ITACs

1. The Chair of each ITAC except the ITACs on (a) Customs Matters and Trade Facilitation, (b) Intellectual Property Rights, and (c) Standards and Technical Trade Barriers may designate one member (or in exceptional circumstances not more than two members) of that Committee to serve as a non-voting representative to each of the above-specified ITACs.
2. The role of the non-voting representative is to represent the views and interests of his or her Committee (not those of his or her sponsoring entity), and to serve as a conduit of information between Committees. The non-voting representative is not a member of the committee to which he or she is designated. Designation as a non-voting representative does not count as additional membership for purposes of applying the limits on representation by sponsoring entities (see section II.B.2).
3. The non-voting representative serves at the pleasure of the Chair of his or her Committee.

#### D. Designated Federal Officer

As required by the Federal Advisory Committee Act, each Committee shall be assigned a Designated Federal Officer. The Designate Federal Officer for the Committee has two basic roles:

- (a) S/he has the legal responsibility for ensuring that the meetings of the committees, any subgroups, subcommittees, and task forces are conducted in accordance with the requirements of the 1974 Trade Act, as amended, FACA, the Department of Commerce Committee Management Handbook, Committee charters, this Manual, and Departmental Security Regulations.
- (b) S/he is assigned to work with the Committee members, the Director and staff of the Industry Trade Advisory Center, and other Government officials on the Committee's work program and meeting agendas, and to ensure that the substantive aspects of the Committee's work are moving forward. Until the Committee elects officers, the Designated Federal Officer chairs the meeting of the Committee.

The Designated Federal Officer shall serve as Chair of the Committee to which she or he is assigned until a Chair is elected, and if the position of Chair becomes vacant. The



Designated Federal Officer is authorized, whenever he determines it to be in the public interest, to adjourn any meeting of the Committee.

For further information regarding the responsibilities and legal role of the Designated Federal Officer, see section VIII of this Manual.

## IV. MEETINGS

### A. Scheduling

1. Committees shall meet at the call of the Designated Federal Officer. The Designated Federal Officer shall entertain requests for the scheduling of meetings from the Committee Chair. Responses to such requests will be determined in light of the issues proposed to be discussed, legal factors, available resources, and possible alternatives for advisory consultations.
2. The ITACs typically meet at least three to four times throughout the year, and some meet more frequently. The Industry Trade Advisory Center updates the meeting schedule weekly for use by members, USTR, and Commerce officials.
3. Committee meetings will normally be held in Washington, D.C. However, as appropriate, Committee meetings may be held in locations other than Washington, D.C., subject to the availability of resources and relevant national security concerns. Where conditions dictate, such as when reports must be submitted at the conclusion of negotiations (see subsection D, below) or on fast-moving issue that the USG needs requires advice, Commerce and USTR may permit meetings to be held telephonically. Special security procedures will apply to such meetings.
4. Commerce and USTR may hold plenary meetings of all Committees, as well as ad hoc policy briefings and special teleconference briefings on issues that are fast-moving, in order to keep advisors updated.

### B. Closed Meetings

Section 135(f) of the 1974 Trade Act, as amended, provides that meetings of the Committees "shall be exempt from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation and public availability of documents), whenever and to the extent it is determined by the President or his designee that such meetings will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions . . ." The President has designated the USTR for this purpose. The USTR may, therefore, determine that all or portions of a Committee meeting or meetings shall be closed to the public and exempt from the above Federal Advisory Committee Act provisions. Such determinations are typically made at the request of the Committee's Designated Federal Officer. FACA applies fully to open or partially open Committee meetings.

### C. Attendance

1. Except as provided below, only members of the Committee, the Designated Federal Officer, the USTR Representative, and the non-voting representatives of other ITACs may attend a closed ITAC meeting.
2. Employees of the Department of Commerce or the Office of the USTR may attend closed meetings if --
  - (a) they are presenters on the agenda for that meeting;
  - (b) they have a need for access to the information to be discussed at the meeting;  
or
  - (c) their attendance is necessary for the orderly administration of the Trade Advisory Program.
3. Members of Congress, Congressional staff members designated by Members, employees of other executive branch agencies, and members of other ITACs or other trade advisory committees established solely or jointly by the USTR may, with the prior approval of the Director of the Industry Trade Advisory Center and the Assistant USTR for Intergovernmental Affairs and Public Engagement, attend closed meetings or portions thereof if --
  - (a) they are presenters listed on the agenda for that meeting and are present only during their presentation; or
  - (b) the Designated Federal Officer, in consultation with the Chair, determines that they have a need for access to the information to be discussed at the meeting;
4. Individuals other than those specified above may, with the prior approval of the Designated Federal Officer and the Director of the Industry Trade Advisory Center, attend a closed meeting or portion thereof upon the invitation of the Chair, for the purpose of making a presentation only.
5. Except for individuals identified in paragraph 4, attendance at any closed meeting or portion thereof is limited to persons with a valid security clearance at the Secret level. For individuals identified in paragraphs 3, 4, and 5, an "Attendance Authorization" form is required. **See Appendix 8.**
6. Committee members must attend committee meetings in person. Alternates are not permitted.

The Director of the Industry Trade Advisory Center should be contacted if there are specific questions on any matters concerning attendance at Committee meetings.

#### D. Meetings at the Conclusion of Negotiations

- (a) Section 135(e) of the 1974 Trade Act, as amended, requires that, at the conclusion of the negotiation of certain trade agreements, each ITAC whose area or sector is affected by the agreement must meet and provide a report to the President, to Congress, and to the USTR. Section 2104(e) of the Bipartisan Trade Promotion Authority Act of 2002 provides that such reports be furnished not later than 30 days following the day on which the President notifies the Congress of his intention to enter into such agreements (because the Committee of Chairs does not represent a distinct sector or functional area, but exists as an administrative liaison between the U.S. Government and each ITAC, it is not required to prepare a report).
- (b) The reports of the ITACs must include an advisory opinion on "whether the agreement provides for equity and reciprocity within the sector or within the functional area."
- (c) Neither the Department of Commerce nor USTR plays any role in the preparation of the reports. It is the responsibility of the Chair of each ITAC to ensure that the Committee fulfills this statutory requirement.
- (d) See **Appendix 8** for special rules governing the preparation of these reports.

## **V. ANTITRUST CONSIDERATIONS**

Membership on a Committee does not provide or confer any exemption from antitrust regulations (e.g., private market-sharing and price-fixing arrangements). However, neither does it subject any member to any special risk of liability under the antitrust laws. Problems of sharing and exchanging information within the context of advisory Committee activities are no different than those encountered in the pursuit of commercial activities. There are no restrictions on advisory Committee members' participation in other meetings within industry or trade associations, except that all members are cautioned not to disclose or discuss confidential or trade-sensitive information and documents, or the business of Committees that is conducted in closed meetings (see Section VI, below.)

Any questions concerning the antitrust laws, or the sharing and exchange of information within the context of advisory Committee activities should be referred promptly to the Director of the Industry Trade Advisory Center, who shall consult with the Office of the Chief Counsel for International Commerce.

## VI. SECURITY CLEARANCES AND CONTROL OF INFORMATION

### A. Personal Security Clearances for Committee Members

The USTR has a statutory responsibility to consult with the private sector, through the trade advisory committee system, throughout the course of negotiations. Because the information disclosed in this process will generally be either national-security classified or highly trade-sensitive (see below), Committee members must be granted a security clearance at the Secret level by the Department of Commerce in order to serve. A security clearance granted by another U.S. agency is not valid for Committee membership. Nominees selected for appointment to a Committee will be requested to provide extensive information as part of the investigative process, which can take several months to complete.

To permit attendance at Committee meetings promptly upon appointment, new members may be granted “temporary eligibility for access” to classified information by the Department of Commerce based on a preliminary background check. A member’s appointment to serve on a Committee is, however, contingent upon completion of a full background investigation and the grant of a final security clearance. Security clearances granted to Committee members expire upon the termination of membership; however, the responsibility to safeguard confidential information does not.

Newly appointed members will not be permitted to attend an ITAC meeting until (1) the Industry Trade Advisory Center has received a signed “Interim Security Declaration,” and (2) the member has received a security briefing and signs a classified non-disclosure agreement with the Department’s Office of Security.

### B. Information Provided in Confidence by the U.S. Government to Committee Members

1. Information provided in confidence by the U.S. Government to Committee members will in general be clearly designated as falling into one of two groups:
  - (a) Security-Classified Information: Information that is security-classified (e.g., “Confidential,” “Secret”) pursuant to Executive Order 12958 (Classified National Security Information) of April 17, 1995 or any succeeding Order.
  - (b) Trade-Sensitive Information: Other information, not security-classified, that the Secretary or the USTR have determined would reasonably be expected to prejudice U.S. trade policy objectives if publicly disclosed.
2. Examples of the types of information that may be provided in confidence by the U.S. Government and require protection from disclosure include the following:
  - Information relating to U.S. negotiating objectives;

- U.S. negotiating strategies and tactics;
- Bargaining positions and fall-back offers;
- Estimates of leverage, trade-offs, and bargaining chips that may be used by U.S. or foreign countries;
- Information relating to the sensitivity of U.S. and foreign-country policies, strategies, etc., and to negotiating pressures; and
- Other information with national security or foreign policy concerns.

### 3. Consultations with Non-Members

In order to provide meaningful advice, it may be necessary for Committee members to consult informally with non-members in the private sector, both in their own firms or elsewhere in industry, who may be affected by proposed trade agreements or trade policy matters.

#### (a) Security Classified Information

Such consultations cannot disclose classified information. Committee members are cautioned that the disclosure of materials or information classified pursuant to Executive Order 12356 or any succeeding Order to persons lacking appropriate security clearance may subject the offender to criminal liability as well as revocation of Committee membership.

#### (b) Trade-Sensitive Information

Information sensitive to U.S. trade policy objectives may afford a basis for consultations with non-members. Nevertheless, care should be taken not to disclose the trade-sensitive information itself. Documents or writings, including personal notes and memoranda of Committee members, that contain any trade-sensitive information must not be distributed to non-Committee members. Such restrictions do not preclude general discussions with non-members from the private sector on matters which may involve trade-sensitive information. For example, while a specific question addressed to a non-member might reveal trade-sensitive information, generally worded request for appraisal of a matter may not.

The following guidelines should be used in discussions with non-members relating to trade-sensitive information:

- o Avoid dealing in specifics;
- o Broaden the question or discussion beyond the issues; and
- o Form remarks and questions as hypothetical and extend the categories of discussion on all sides of the specific issues.

When in doubt as to the propriety of any discussion or question, seek advice from the Committee's Designated Federal Officer; the Director of the Industry Trade Advisory Center; or the Assistant USTR for Intergovernmental Affairs and Public Engagement.

#### 4. Availability and Handling of Information

##### (a) Security-Classified Information

Security-classified information must be stored and handled in accordance with the Commerce Department's Information Security Manual. Any duplication of the materials must be done in accordance with this Manual. For these purposes, duplication includes taking excerpts or personal notes from confidential oral discussions or memorandums.

Committee members are cleared for access to security-classified information only on the premises of a U.S. Government facility. Security-classified material cannot be mailed to advisors. Members are cautioned not to remove classified material from meeting rooms or other authorized storage locations. Classified information will be available for inspection by members at the Industry Trade Advisory Center, U.S. Department of Commerce.

Questions concerning the availability or handling of security-classified materials should be referred promptly to the Director, Industry Trade Advisory Center, who shall consult with the Office of the Chief Counsel for International Commerce.

##### (b) Trade-Sensitive Information

Trade-sensitive information may be distributed to Committee members as appropriate, and will be clearly identified to ensure proper handling. Requirements for storage and handling of trade-sensitive information are neither as specific nor as stringent as for security-classified information, but members are responsible to guard against any such documents' being divulged or disseminated to non-members. The fact that a non-member



may have security clearances other than provided under the program does not mitigate this responsibility.

C. Information Provided in Confidence by the Private Sector to the U.S. Government

The private sector (including individuals, firms, associations and Committee members) may provide information to the U.S. Government in confidence in connection with trade negotiations. Such information may include, for example, industry data regarding productive capacity, labor costs, and marketing strategies; the affects of various negotiating results on firms' financial performance; and final positions in connection with various issues under negotiation.

Information submitted in confidence to the U.S. Government under section 135 of the 1974 Trade Act, as amended, falls into two categories:

1. The first category, "trade secrets and commercial or financial information which is privileged or confidential," may be disclosed only to:
  - officers and employees of the United States directly associated with the trade advisory program or specifically designated by the USTR; and
  - certain members of Congress specifically designated as advisers on trade policy and negotiations and certain designated Congressional staff members.
2. The second category consists of all other information, including advice provided by the Committees themselves. Such information may be disclosed, upon request, to the individuals specified above, as well as to Committee members and, as appropriate, to the members of other Committees.

No information so disclosed may be used for any purpose other than in connection with trade negotiations, the operation of any trade agreement once entered into, and other matters arising in connection with the administration of the trade policy of the United States.

Committee members providing information to the U.S. Government that they believe is sensitive should clearly indicate that the material is submitted in confidence. However, the determination whether such information includes "trade secrets and commercial or financial information which is privileged or confidential," and thus may be withheld from other Committee members, or whether it is less sensitive and may be disclosed to other Committee members, is reserved to the U.S. Government. In making this determination, the Government will use the standard normally employed in connection with Freedom of Information Act requests, *i.e.*, whether the information may be considered as "trade secrets and commercial or financial information which is

privileged or confidential.” In general, the FOIA standard would be met if the disclosure of information submitted in confidence would place an enterprise at a competitive disadvantage vis-a-vis its competitors. Such information will be protected to the extent permitted by law.

Regardless of the determination above, information submitted may be disclosed to a Committee in aggregated form, if aggregation would prevent attribution to any firm or individual and if disclosure would enhance the trade advisory process.

#### D. Minutes and Unclassified Summaries of Committee Meetings

The Federal Advisory Committee Act requires that detailed minutes be prepared and maintained of each advisory committee meeting. Minutes of ITAC meetings are prepared by the Designated Federal Officer, subject to approval by the Chair of the Committee, and are generally available for review in the Industry Trade Advisory Center Reading Room (see below). They are not mailed or e-mailed to members. The Federal Advisory Committee Act also requires that summaries of meetings be prepared and submitted to Congress at least annually. Such summaries may be mailed to members upon request. In addition, minutes of open meetings, or portions thereof are generally available to members and to the public.

#### E. Industry Trade Advisory Center Reading Room

The Industry Trade Advisory Center maintains a Reading Room for advisory committee members to read trade-sensitive or confidential documents that cannot be sent to them electronically. The Reading Room also serves as a reference center for trade information of interest to ITAC members, such as the Tariff Schedule of the United States, the North American Free Trade Agreement, the World Trade Organization, and the Free Trade Agreement of Americas. In addition, the public summary of minutes of meetings of each of the ITACs are kept on file there.

The Reading Room is located in the Industry Trade Advisory Center, Room 4043, at the U.S. Department of Commerce, in Washington, D.C., and is open from 9:00 a.m. to 4:00 p.m. To make an appointment, please call the Industry Trade Advisory Center at (202) 482-3268. Members are encouraged to call in advance to ensure the materials they need are available and that Industry Trade Advisory Center staff will be available for assistance.

#### F. Advisors’ Secure Website

USTR maintains a secure, password-protected website to allow ITAC members to review and comment on confidential trade negotiating documents. The documents posted on the USTR secure website may not be downloaded, printed, or shared outside the trade advisory committee system. Members are solely responsible for protecting any documents from unauthorized disclosure in accordance with the provisions of

Executive Order 12958. Failure to do so is a violation of law and may affect advisors' security clearance. Use of the secure website constitutes acceptance of monitoring by USTR of advisors' logins and documents viewed. The USTR website is accessible at <https://max.omb.gov>.

The Industry Trade Advisory Center will notify the USTR Webmaster to create the accounts for all ITAC members to access secure website when officially appointed to the committees and upon completion of the required security briefing. ITAC advisors should contact the Industry Trade Advisory Center to obtain user/ID and password and will receive a memorandum in their welcoming package on conditions of use.

## VII. THE DESIGNATED FEDERAL OFFICER

A. Pursuant to section 10(e) of the Federal Advisory Committee Act, each Committee is assigned a Designated Federal Officer. The Designated Federal Officer -

1. Ensures that the meetings of the committees, any subgroups, subcommittees, and task forces are conducted in accordance with the requirements of the 1974 Trade Act, as amended; the Federal Advisory Committee Act; the Department of Commerce Committee Management Handbook; the Committee charter; this Operations Manual; and Departmental Security Regulations;
2. Works closely with the Committee Chair and members, the Director and staff of the Industry Trade Advisory Center, and other Government officials on the Committee's work program and meeting agendas, and ensures that the Committee operates effectively and that substantive aspects of the Committee's work move forward; and
3. Serves as Chair of his or her Committee until a Chair is elected from among the membership or until a vacancy of the Chair has been filled.

Designated Federal Officers are International Trade Specialists or International Economists at the GS-12 to GS-15 level. They are recommended for appointment by the relevant ITA Deputy Assistant Secretaries, and appointed by the Assistant Secretary for Industry and Services. Designated Federal Officers receive special training regarding their duties and responsibilities, which are carried out under the guidance and program supervision of the Director, Industry Trade Advisory Center. The following sections describe the duties and responsibilities of the Designated Federal Officer.

### B. PREPARING FOR COMMITTEE MEETINGS

1. The Designated Federal Officer schedules all Committee meetings, in consultation with the Committee Chair. Meeting dates and times will be selected that will assure the greatest member participation. The Designated Federal Officer and Chair may wish to poll members before setting meeting dates. Advisory committees shall not hold any meetings except at the call of, or with the advance approval of a designated officer or employee of the Federal Government, with an agenda approved by such officer or employee. See FACA, Appendix 13, page 7.
2. The Designated Federal Officer prepares the agenda for each meeting, in consultation with the Committee Chair and the USTR liaison for the Committee.
  - (a) Closed meetings

- (i) Should the Designated Federal Officer determine, in consultation with the Committee Chair and the USTR liaison, that matters will be discussed at the meeting “the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions,” the Designated Federal Officer may request that the meeting be closed to the public by submitting a “Request for Exemption from Federal Advisory Committee Act Requirements” to the Industry Trade Advisory Center not less than 15 calendar days prior to the scheduled meeting date. The Request should include a list of topics proposed to be discussed at the meeting.
- (ii) The Industry Trade Advisory Center will submit requests for closed meetings, supported by the proposed agenda, to USTR not less than 15 calendar days prior to the meeting (15 calendar days is the period of advance notice requested by USTR to permit orderly consideration of closed-meeting requests. It is not a legal requirement, and may be waived by USTR in special cases).
- (iii) If USTR grants the request, the meeting may be closed to the public and no public notice of the meeting is required. However, thereafter no changes in the agenda for that meeting will be permitted.

(b) Open meetings

If the Designated Federal Officer, in consultation with the Chair and the USTR liaison, determines that all or a portion of the meeting should be open to the public, or if USTR denies a request for a closed meeting, a notice of the meeting must appear in the Federal Register not less than 15 calendar days prior to the date on which the meeting is to be held. In order to ensure timely public notice, notification of a proposed public meeting should be received by the Industry Trade Advisory Center not less than 21 days prior to the proposed meeting date. The Industry Trade Advisory Center can advise regarding the appropriate content and format of such a notification.

(c) Partially Open and Partially Closed Meetings

The Designated Federal Officer, in consultation with the Chair and the USTR liaison, may determine to hold a meeting that is partially open and partially closed to the public. In this event, the requirements of both paragraph (a) and paragraph (b) above must be observed.

3. The Designated Federal Officer will normally notify members and non-member participants of a scheduled meeting by e-mail or fax at least 6-8 weeks in advance

(minimum of three weeks), and follow up with the agenda and other relevant documents as soon as possible.

The Designated Federal Officer should notify the Industry Trade Advisory Center of scheduled meetings, time, and location; and of meeting cancellations and other changes; as far in advance as possible. The Industry Trade Advisory Center prepares the ITACs' weekly advisory committee meeting schedule and e-mails it out to senior DOC/USTR officials and ITAC members every Friday afternoon.

4. The Designated Federal Officer makes all arrangements for speakers and other non-member attendees, including -
  - (a) Contacting officials responsible for key issues early in the agenda decision/discussion process (allow time during the conduct of Committee business to develop recommendations).
  - (b) Contacting appropriate responsible officials for a briefing and for questions and discussions, if needed.
  - (c) Providing background information to the speaker on the Committee and its interests as necessary; encouraging speakers to come with questions and to ask for Committee advice; and ensuring that the speaker is aware of previous Committee positions on the speaker's issue of responsibility. See also section IV.C regarding attendance at ITAC meetings by non-members.
  - (d) The ITAC Ops Manual generally restricts attendance at closed ITAC meetings to the Designated Federal Officer, the USTR Representative to the ITAC, ITAC members, and non-voting representatives of other ITACs, unless prior permission is granted by the Industry Trade Advisory Center and the USTR. The Designated Federal Officer must prepare a "Request for Approval of Outside Attendance at an ITAC Closed Meeting" for review and approval by the Director, Industry Trade Advisory Center, and the AUSTR for Intergovernmental Affairs and Public Engagement on outside attendance, including presenters on the agenda and other executive branch officials. Attendance Request form is at **Appendix 9**.
5. Other Non-Member Participation
  - (a) The Designated Federal Officer advises the Director, Industry Trade Advisory Center, in advance of any proposed Congressional speakers. The Director will discuss with the AUSTR for Intergovernmental Affairs and Public Engagement for clearance and approval, and then will notify ITA's Office of Legislative

Affairs. See section IV.C for rules regarding Congressional speakers and attendance at ITAC meetings by non-members.

- (b) The Designated Federal Officer consults with the Director, Industry Trade Advisory Center, when the Committee wishes to invite individuals other than members, speakers, and DOC or USTR staff.
- 6. The Designated Federal Officer makes meeting room reservations. ITAC meetings are typically held in the USA Trade Center, Ronald Reagan Building. Guidelines and instructions for reserving rooms are at **Appendix 10**.
- 7. The Designated Federal Officer arranges for any refreshments or meals to be served at the meeting. Details regarding ordering and payment from the Domestic Hospitality Fund are at **Appendix 10**.
- 8. The Designated Federal Officer submits the list of all meeting participants to the DOC Security Office at least three days prior to an ITAC meeting (when meetings are held in the Department of Commerce Herbert C. Hoover Building (HCHB)). This document includes the name of Committee, date, location, and time of the meeting; the list of members (name and company) as well as the list of speakers (name and organization). The list should be sent to the Security Office via fax to x4659 or x6244, or via e-mail to HCHBVisitors@doc.gov. The day before the meeting, the Designated Federal Officer confirms that the list has been received by the Security Office and will be made available to the front desk of the HCHB. The Designated Federal Officer also ensures that appropriate security clearance documentation has been provided to the ITA Security Office in advance, if classified discussion is anticipated. For meetings held in the Ronald Reagan Building USA Trade Center, the Designated Federal Officer should follow the procedures set by the USA Trade Center (See Appendix 9).
- 9. The Designated Federal Officer submits a copy of the final meeting agenda to the Industry Trade Advisory Center not less than 3 days prior to the meeting.

#### C. CONDUCTING COMMITTEE MEETINGS

- 1. The Designated Federal Officer or an authorized substitute must attend all meetings of the Committee. Should the Designated Federal Officer be unable to attend a Committee meeting, the Designated Federal Officer or his or her office should contact the Industry Trade Advisory Center as soon as possible to determine if the Director or other staff is available to serve as an alternate Designated Federal Officer, or if another serving Designated Federal Officer can temporarily be designated for the Committee. In the absence of the Designated Federal Officer or an authorized substitute, the Committee cannot meet.

2. Until the Committee elects officers, the Designated Federal Officer serves as Chair of the Committee and presides at all meetings of the Committee. Following such election, the Designated Federal Officer presides over Committee meetings in the absence of the Chair or Vice Chair or Primary Vice Chair; or when the position of Chair becomes vacant.
3. The Designated Federal Officer is authorized, whenever she or he determines it to be in the public interest, to adjourn any meeting of the Committee to which she or he is assigned.

4. Attendance

- (a) The Designated Federal Officer prepares a record of attendance at each Committee meeting, including members and non-members. A copy of the record should be submitted to the Industry Trade Advisory Center as soon as possible after the meeting (but not later than 3 days after the meeting), as part of the unclassified summary of the meeting (see section VII.D). A duplicate copy of the attendance record and unclassified summary should be maintained by the Designated Federal Officer.

(A member's attendance record is a key factor when considering reappointments to Committees. Designated Federal Officers should periodically remind members that their active participation in the Committee's work is expected if they wish to be considered for reappointment.)

- (b) The Designated Federal Officer ensures that speakers from outside Commerce or USTR participate only in the appropriate portions of the meeting (see Section IV.C). The DFO must all fill out a "Request for Approval of Attendance at ITAC Closed Meetings." See Appendix 9.

5. Security: The Designated Federal Officer -

- (a) Ensures that security during the meeting is in accordance with DOC regulations;
- (b) Monitors the meeting room to ensure that no unauthorized individuals are present;
- (c) Reminds members not to take notes of national security-classified discussions;
- (d) Ensures that uncleared persons leave the meeting when national security-classified discussions occur, and that outside Commerce/USTR speakers or invited guests making presentations leave the meeting when their presentations are completed.



6. The Designated Federal Officer provides name tents for attendees, including a seat at the table for Industry Trade Advisory Center's representative.

#### D. MINUTES OF COMMITTEE MEETINGS

1. The Federal Advisory Committee Act ("FACA") requires that "[detailed minutes of each meeting of each advisory committee shall be kept . . . ." Detailed minutes of closed meetings are, by their nature, trade-sensitive and are not released to the public.
2. Within 3 days after the meeting, the Designated Federal Officer prepares an "unclassified summary" of the meeting and provides a copy to the Industry Trade Advisory Center. The unclassified summary shall include the record of attendance, subjects on which recommendations and advice were rendered (but not the advice itself), and copies of all materials handed out at the meeting. Unclassified summaries may be released to the public on request, and for that reason no classified or trade-sensitive information should be included in an unclassified summary. A sample format of the unclassified summary is at **Appendix 4**.
3. Within 30 days after the meeting, the Designated Federal Officer prepares the required detailed minutes of the meeting (including the text of resolutions, recommendations and advice), has the document properly marked in accordance with DOC regulations and delivered to the Industry Trade Advisory Center. A sample format of the detailed minutes is at **Appendix 5**.
4. The detailed minutes must be signed by the elected Chair (or Vice Chair, if applicable). In the event that the Chair is unable to sign the detailed minutes within the initial 30-day time period, the Designated Federal Officer should deliver the unsigned minutes to the Industry Trade Advisory Center and the Chair's signature should be obtained at the next meeting (the Chair can sign minutes at the Center at any time).

#### E. COMMITTEE OPERATIONS

1. The Designated Federal Officer plays an important role in the makeup and functioning of the Committee membership. The Designated Federal Officer assists in ensuring that the ITAC has balanced representation and, working with DAS and other ITA offices, recruit members where necessary to have all North American Industry Classification System (NAICS) codes covered. The Designated Federal Officer should pass all nominations that she or he directly receives, and refer any

individual expressing interest in membership, to the Industry Trade Advisory Center. See Section II regarding the membership process and eligibility requirements.

## 2. New Members

- (a) The Designated Federal Officer welcomes each newly appointed member to the Committee, advises of the next meeting date, and discusses security requirements. The Designated Federal Officer may suggest that new members read past meeting minutes in the Industry Trade Advisory Center's Reading Room to become familiar with Committee activities.
- (b) The Industry Trade Advisory Center arranges for the required security and ethics briefing for the new member(s). The Center will notify the Designated Federal Officer when new member(s) receives the required security briefing, and signs Form SF-312, Classified Information Non-Disclosure Agreement, prior to participating in a closed ITAC meeting. The Designated Federal Officer should contact the Center for information regarding how to make an appointment with the Office of Security and the Office of General Counsel's Ethics Division. Note: At the start of the new charter, all members reappointed must be provided an updated security and ethics briefing. See important information regarding attendance at meetings by newly appointed members in Section VI.

## 3. Changes in Sponsorship; Resignation

- (a) The Designated Federal Officer periodically reminds the members that changes in employment or sponsorship can directly affect their eligibility for continued service. The Designated Federal Officer immediately notifies the Industry Trade Advisory Center of any changes in a member's status or contact information (e.g., change in title, business address, resignation, etc.).
- (b) The Designated Federal Officer advises resigning members that resignations must be submitted in writing to the Director of the Industry Trade Advisory Center. It is imperative that the Center's staff be notified immediately of any member who resigns their appointment. The Industry Trade Advisory Center will then notify Commerce's Office of Security to de-activate member's security clearance and notify USTR to de-activate member's access to confidential information on the USTR's secure website.

## 4. Issues and Advice

The Designated Federal Officer -

- (a) Keeps the Chair and members advised of developments on issues of interest to the Committee, advises the Chair of matters that require the Committee's advice, and follows up on oral and written recommendations and resolutions by members, ensuring that wherever possible a response is provided;
- (b) Provides the Industry Trade Advisory Center with copies of all written advice, including reports and correspondence;
- (c) Reminds the Chair that written advice provided by the Committee should be addressed jointly to the Secretary of Commerce and to the USTR and signed by the Chair on behalf of the Committee. ITAC advisors are not authorized to advise other federal agencies and may not submit written advice to other agencies. The Chair, on behalf of the Committee, can respectfully request the Secretary and the USTR to forward the letter, but the decision belongs solely to the Secretary and the USTR. ITAC logos or ITAC stationery are not permitted; written advice may be submitted on plain paper or on the corporate letterhead of the Chair; and
- (d) Encourages Committees to provide advice in writing. Written advice is more easily documented, lends itself to proper dissemination to interested parties, and is more likely to generate a formal response.
- (e) Ensures that all proposed requests for informal comments and information from ITAC members are submitted to the Industry Trade Advisory Center for review. Such requests should be in the format provided in **Appendix 11**. Before submitting to the Center, the Designated Federal Officer should obtain prior approval from their appropriate counter-part at the USTR. The Director of the Industry Trade Advisory Center will review with the AUSTR for Intergovernmental Affairs and Public Engagement and distribute to the advisors. When advisors respond to information requests for comments, they do so as an individual, not on behalf of the Committee. Advisors should provide a courtesy copy of their comments to the Industry Trade Advisory Center via email: ITAC@trade.gov.

## 5. Subcommittees

- (a) The Designated Federal Officer approves in advance the establishment of all subcommittees, working groups, and other subdivisions of the Committee (ultimate approval authority lies with the Director of the Industry Trade Advisory Center and the Assistant USTR for Intergovernmental Affairs and Public Engagement). The Designated Federal Officer also may establish subcommittees, in consultation with the Chair, and with the prior approval of the Director of the Industry Trade Advisory Center and the Assistant USTR for Intergovernmental Affairs and Public Engagement.

- (b) The Designated Federal Officer notifies the Director of the Industry Trade Advisory Center of the Committee's intention to establish a Subcommittee, and the Center will prepare the document formally establishing the subcommittee, a template for which is at **Appendix 6**.

#### 6. Reports at the Conclusion of Negotiations

The Designated Federal Officer ensures that his or her Committee timely meets and files the reports required by section 135(e) of the 1974 Trade Act and section 2104 of the Bipartisan Trade Promotion Act of 2002. See section IV.D.

### F. REPORTS REQUIRED BY THE FEDERAL ADVISORY COMMITTEE ACT

Sections 6 and 10 of the Federal Advisory Committee Act (FACA) require that the following reports be submitted annually:

#### 1. President's Annual Report to the Congress on Advisory Committees

Program, financial, and membership information must be submitted to GSA on fiscal year basis. This information is used by GSA to compile the President's Annual Report to the Congress on Advisory Committees.

#### 2. Report on Closed Meeting Activities

Each committee that held a closed or partially closed meeting during the year must issue a report of the activities during the closed portion of the meeting. A separate report must be prepared for each subgroup which held meetings or portions of meetings closed to the public.

Designated Federal Officers are responsible for preparing their committee's section of the report and submitting it to the Center, which will compile the overall report for submission.

## **VIII. THE INDUSTRY TRADE ADVISORY CENTER**

- A. The Industry Trade Advisory Center (Center) is responsible for the overall programmatic administration and operation of the Industry Trade Advisory Committees on behalf of the Secretary of Commerce and the United States Trade Representative.

The Center --

1. Oversees and coordinates the recruitment, nomination, selection and appointment of all Committee members;
  2. Provides program supervision and work guidance to the Designated Federal Officers;
  3. Maintains all records – including correspondence, written advice, reports, minutes – generated by the Committees;
  4. Provides for the orderly and efficient operation of the Trade Advisory System by formulating and promoting uniform procedures and rules for the timely submission of committee advice;
  5. Ensures that Committee advice is summarized and forwarded in reports to the Under Secretary and Assistant Secretaries; and
  6. Prepares all reports and other documentation for the system required by law or regulation.
- B. In order to fulfill its mission, the Center requires that Designated Federal Officers --
1. Provide to the Center copies of all documents generated in connection with the work of their Committee in a timely fashion, for its files;
  2. Timely record and file with the Center detailed minutes of meeting as well as unclassified summaries thereof;
  3. Timely provide information necessary for the submission of statutorily required reports.

## **APPENDICES**

1. ITAC Roster
2. Model ITAC Charter
3. Guidelines for Committee Elections
4. Model Unclassified Summary of ITAC Meeting
5. Model Detailed Minutes of ITAC Meeting
6. Model Subcommittee Authorization
7. Model Closed Meeting Notice
8. Model Documents Relating to Meetings and Reports  
at Conclusion of Negotiations
9. Request for Approval of Outside Attendance at an ITAC Closed Meeting
10. Meeting Room Reservation Procedures
11. Hospitality Fund Procedures
12. Requests for Informal Comments and Information
13. Section 135 of the 1974 Trade Act, as amended
14. Federal Advisory Committee Act, as amended

**INDUSTRY TRADE ADVISORY CENTER  
ROSTER OF INDUSTRY TRADE ADVISORY COMMITTEES**

|         |  |
|---------|--|
| ITAC 1  | Aerospace Equipment  |
| ITAC 2  | Automotive Equipment and Capital Goods                                   |
| ITAC 3  | Chemicals, Pharmaceuticals, Health/Science Products and Services         |
| ITAC 4  | Consumer Goods   |
| ITAC 5  | Forest Products, Building Materials, Construction, and Nonferrous Metals |
| ITAC 6  | Energy and Energy Services   |
| ITAC 7  | Steel  |
| ITAC 8  | Digital Economy  |
| ITAC 9  | Small and Minority Business  |
| ITAC 10 | Services   |
| ITAC 11 | Textiles and Clothing  |
| ITAC 12 | Customs Matters and Trade Facilitation                                   |
| ITAC 13 | Intellectual Property Rights   |
| ITAC 14 | Standards and Technical Trade Barriers                                   |

**INDUSTRY TRADE ADVISORY CENTER**

**\*MODEL ITAC CHARTER**

U.S. DEPARTMENT OF COMMERCE  
AND THE  
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

CHARTER OF THE  
INDUSTRY TRADE ADVISORY COMMITTEE ON

**1. Committee's Official Designation (Title).**

The Industry Trade Advisory Committee on Chemicals, Pharmaceuticals, Health/Science Products and Services.

**2. Authority.** The Industry Trade Advisory Committee on Chemicals, Pharmaceuticals, Health/Science Products and Services (the Committee) is established by the Secretary of Commerce (the Secretary) and the United States Trade Representative (the USTR) pursuant to the authority of section 135(c)(2) of the Trade Act of 1974, as amended (19 U.S.C. §2155) (the Trade Act), as delegated by Executive Order 11846, as amended. In establishing the Committee, the Secretary and the USTR consulted with interested private organizations and took into account the factors set forth in section 135(c)(2)(B) of the Trade Act. This Committee is being established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App.

**3. Objectives and Scope of Activities.** The Committee shall perform such functions and duties and prepare such reports as may be required by section 135 of the Trade Act with respect to the industry trade advisory committees. The Committee advises the Secretary and the USTR concerning the trade matters referred to in section 135(a)(1) of the Trade Act and is consulted regarding the matters referred to in section 135(a)(2) of the Trade Act.

**4. Description of Duties.** The Committee functions solely as an advisory committee in accordance with the provisions of the FACA, as amended, 5 U.S.C. App., with the exceptions set forth in the Trade Act.

In particular, the Committee provides detailed policy and technical advice, information, and recommendations to the Secretary and the USTR regarding trade barriers, negotiation of trade agreements, and implementation of existing trade agreements affecting its sectors; 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.



- 5. Agency or Official to Whom the Committee Reports.** The Committee reports to the Secretary and the USTR, or their designees, through the Under Secretary of Commerce for International Trade and the Assistant Secretary for Industry and Analysis (the Assistant Secretary), and the Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Engagement (the AUSTR).
- 6. Support.** Commerce and the Office of the USTR established the Industry Trade Advisory Center to jointly administer the sixteen Industry Trade Advisory Committees (ITACs), and the Committee of Chairs of the ITACs. The AUSTR and the Director of the Industry Trade Advisory Center jointly manage the work of the ITACs on behalf of the Secretary, the USTR, and their designees. The Assistant Secretary provides staff support and services for the Committee through the Industry Trade Advisory Center. Except as otherwise provided in this charter, Commerce is responsible for filings and other applicable statutory requirements of the FACA.
- 7. Estimated Annual Operating Costs and Staff Years.** The estimated annual operating cost of the Committee is \$50,000.00, which includes 0.5 person-years of staff support. Members of the Committee will not be compensated for their services or reimbursed for travel expenses.
- 8. Designated Federal Officer.** The Assistant Secretary designates the Designated Federal Officer (DFO) and Secondary DFO from among full-time and permanent part-time employees of the International Trade Administration. The DFO or Secondary DFO will be present at all meetings, and each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO has the responsibility for ensuring that the meetings of the Committee, any subgroups, subcommittees, working groups or task forces are conducted in accordance with the requirements of the FACA and its implementing regulations, the Trade Act, and other applicable laws, regulations, and policies.

The DFO is assigned to work with the Committee members, the Director of the Industry Trade Advisory Center, and other Government officials on the Committee's work program and meeting agendas, and to ensure that the substantive aspects of the Committee's work are moving forward.
- 9. Estimated Number and Frequency of Meetings.** The Committee meets at irregular intervals at the call of the Secretary and the USTR, or their designees, acting jointly.
- 10. Members and Designations.** The Committee consists of not more than 50 members with experience relevant to the chemicals, pharmaceuticals, and health/science products and services industry sectors. Members shall be appointed by the Secretary and the USTR and shall be selected on a clear, standardized basis, in accordance with applicable Commerce guidance. The core criteria used in selecting members are: representation of a sponsoring U.S. entity's or U.S.

organization's and its subsector's (if applicable) interests on trade matters, ability to carry out the objectives of the Committee as set forth in Section 3 (including knowledge and expertise of the industry and of trade matters relevant to the work of the Committee), and ensuring that the Committee is balanced in terms of points of view, demographics, geography, and entity or organization size. Members serve at the discretion of the Secretary and the USTR. The Secretary and the USTR may, at their discretion, reappoint an individual member upon renewing this charter provided that the member proves to work effectively in the Committee and the represented entity's or organization's viewpoint is still needed.

The Committee chair and vice chair or vice chairs, as appropriate, are elected from the membership by the members for a period not to exceed the duration of this charter and may be reelected for one or more additional periods should the charter of the Committee be renewed.

The members will serve in a representative capacity presenting the views and interests of a U.S. entity or U.S. organization and its subsector (if applicable) in the chemicals, pharmaceuticals, and health/science products and services industry sectors; they are, therefore, not Special Government Employees.

The Chair of the Committee may select one member (in exceptional instances, not more than two members) to serve as a non-voting representative, representing the views and interests of the Committee, to each of the following ITACs: Customs Matters and Trade Facilitation, Intellectual Property Rights, and Standards and Technical Trade Barriers. The selected member(s) will serve for a period not to exceed the duration of the ITAC charter and may be re-selected for one or more additional periods should the charter be renewed.

**11. Subcommittees.** Commerce and the Office of the USTR may establish subcommittees or working groups as may be necessary, and consistent with the FACA and other applicable laws, regulations, and policies. Such subcommittees or working groups may not work independently of the chartered committee and must report their recommendations and advice to the Committee for full deliberation and discussion. Subcommittees or working groups have no authority to make decisions on behalf of the Committee nor can they report directly to the Secretary, the USTR, or their designees.

**12. Recordkeeping.** The records of the Committee, formally and informally established subcommittees, or other subgroups of the Committee, shall be handled in accordance with General Records Schedule 26, Item 2, or other approved agency records disposition schedule. These records shall be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. 552. The Industry Trade Advisory Center at Commerce will maintain all files required by the FACA and other applicable laws, regulations, and policies.

**13. Duration/Termination.** The need for the Committee is continuing. Pursuant to section 135(f)(2) of the Trade Act, this charter shall expire four years from the date indicated below unless it is earlier revoked or extended by proper authority by appropriate action.

---

Chief Financial Officer and  
Assistant Secretary for Administration  
U.S. Department of Commerce

---

Assistant U.S. Trade Representative  
for Intergovernmental Affairs  
and Public Engagement  
Office of the U.S. Trade Representative

---

Date

---

*\*All ITAC charters follow this model (with minor differences for the ITACs representing functional areas).*

**INDUSTRY TRADE ADVISORY CENTER  
GUIDELINES FOR COMMITTEE ELECTIONS**

- o The Chair and Vice Chair(s) of the ITACs are elected by the membership.
- o At the outset of each four-year Charter term, and if the position of an elected Chair or Vice Chair (or, where there are multiple Vice Chairs, the Primary Vice Chair) becomes vacant, the Designated Federal Officer shall serve as Chair and shall call for an election of the Chair and/or Vice Chair to be held as soon as is reasonably practicable, at a time and date determined by her/him.
- o The Designated Federal Officer will normally provide at least 30 calendar days' advance written notice of the election; however, the Designated Federal Officer may waive this requirement if no member objects.
- o Eligibility to serve as Chair or Vice Chair of the sectoral ITACs is limited to full-time employees of U.S. manufacturing or service companies trading internationally, or of trade associations in which such firms participate and in whose day-to-day operations they are active. Consultants and legal advisors are not considered employees for this purpose.  
See Section II.C
- o Nominations for offices of the Committee should be requested at the time elections are announced. Nominations, including self-nominations, may be made by any committee member at any time prior to the election. To the extent possible, the Designated Federal Officer will advise the members of candidates for office in advance of the election meeting.
- o Elections will be conducted during a meeting of the Committee. The Designated Federal Officer will announce the names of the candidate(s) and call for nominations from the floor from among the members present. Candidates must be present in order to be elected, and members must be present in order to vote.
- o If there is only one candidate for an office, the Designated Federal Officer may move that the candidate be elected by acclamation.
- o If there is more than one candidate for an office, the election for that office will be conducted by secret ballot. Each member may vote for only one candidate.

## **APPENDIX 3**

### **Page 2**

- An official count will be made by the Designated Federal Officer and USTR representatives. The individual receiving a majority of the votes cast will be declared the winner.
- If no candidate receives a majority of the votes cast, a second secret ballot will be held, limited to the two candidates receiving the most votes in the first ballot.
- o A committee may determine in advance to elect more than one Vice Chair. If so, the candidate receiving the most votes will be designated the Primary Vice Chair. The remaining Vice Chairs will be filled, in order by number of votes received, until the predetermined number of seats is filled.
- o The Designated Federal Officer should make every effort to ensure that all newly appointed members understand the election process and have the opportunity to participate. New members may be nominated for Chair and Vice Chair. There is no length-of-service requirement for officers.

If the Chair resigns, the members can choose to have the Vice Chair temporarily fulfill the role as Acting Chair until new elections are held. In absence of a Vice Chair, the Designated Federal Officer will resume the Chair until new elections are held.

## **APPENDIX 4**

### **SAMPLE MODEL FORMAT**

#### **UNCLASSIFIED SUMMARY**

#### **MEETING OF INDUSTRY TRADE ADVISORY COMMITTEE ON \_\_\_\_\_**

**(DATE)**

The meeting was held from : am to : pm in Room of the Department of Commerce. Proceedings were closed to the public in accordance with the formal Notice of Determination.

(Summary should include)

1. Titles or topics of reports or other information presented to the committee;
2. General description of the discussion of each agenda item; and
3. General description of any actions taken (e.g., recommendations submitted to the Secretary and USTR) if the Designated Federal Officer determines that they are not sensitive.

#### **NOTE:**

Unclassified summaries must be made available the public on request. Please DO NOT include business proprietary, trade sensitive, or other sensitive information in the summary.

**SAMPLE FORMAT OF MODEL DETAILED MINUTES**

**SENSITIVE, BUT UNCLASSIFIED**  
**MINUTES OF**  
**MEETING OF INDUSTRY TRADE ADVISORY COMMITTEE**  
**ON \_\_\_\_\_**  
**(DATE)**

DATE: mm/dd/yy

PLACE: Room , Department of Commerce

ATTENDEES: See attachment (include ITAC members and Government attendees)

The Chairman called the meeting to order at : am. Proceedings were closed to the public in accordance with the formal Notice of Determination.

1. Time and place of the meeting.
2. Name of the Federal officer or chair presiding.
3. A detailed description of matters discussed, actions taken and conclusions reached.
4. A listing (with copies attached) of all reports and papers received, issued, or approved by the committee. Attach copies of all handouts.

The meeting was adjourned at : p.m.

(SKIP 10-15 SPACES before the certification paragraph)

Also, attach list of those members who participated in the meeting.

**APPENDIX 5**  
**Page 2**

I certify that I was present at the above reported meeting and that the summary of the meeting is accurate.

\_\_\_\_\_  
Chairman, (ITAC #)

\_\_\_\_\_  
Date

If applicable: (Please note that each paragraph above must be marked.)

CLASSIFIED BY: \_\_\_\_\_

REASON: \_\_\_\_\_

DECLASSIFY ON: \_\_\_\_\_

Attachments



## APPENDIX 6

### MODEL SUBCOMMITTEE AUTHORIZATION

#### AUTHORIZATION FOR SUBCOMMITTEES

In compliance with the provisions of Part II, Chapter I, Section E.1 of the Department's Committee Management Handbook and the charters of the Industry Advisory Committees for Trade Policy Matters, we hereby approve the establishment of the following Subcommittee:

[Committee number and Full Name] – [Name of Subcommittee]

Subcommittees, or their equivalents, are authorized to be formed under the terms of the Committees' charters, which were issued pursuant to Subsection 135 (f) of the Trade Act of 1974 (Public Law 93-618) as amended, and the Federal Advisory Committee Act (Public Law 92- 463).

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Director  
Industry Trade Advisory Center  
International Trade Administration  
U.S. Department of Commerce

---

Assistant U.S. Trade Representative  
for Intergovernmental Affairs and  
Public Engagement  
Office of the U.S. Trade Representative

---

Date

---

Date

**MODEL CLOSED MEETING NOTICE** (*print on ITA Stationery*)

MEMORANDUM FOR:                    (*Insert name of AUSTR*)  
   Assistant United States Trade Representative  
   for Intergovernmental Affairs and Public Engagement

FROM:                                    (*Insert name of the Director*)  
   Director  
   Industry Trade Advisory Center

SUBJECT:                               Request for Determination to Exempt Advisory  
   Committee Meeting from FACA Requirements

Advisory Committee:                Industry Trade Advisory Committee on (*insert name and*  
   *ITAC #*)

Meeting Place:

Meeting Time:

Contact:                                Name of DFO for ITAC #, Phone #

We request that part of the advisory committee meeting described above be exempted from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act under the authority delegated to you by the U.S. Trade Representative for the reasons stated below. The purpose of the meeting is to discuss policy developments and receive guidance to the Government for strategies and policies the Government should adopt with respect to:

*Sample Language*

- **Transatlantic Trade and Investment Partnership (T-TIP)** – *The Committee members will be briefed on...and will provide advice as issues impact their industry sector.*
  
- **Deliberations on Draft Letter of Recommendation on** (*insert topic*) – *The Committee members will deliberate on and finalize a draft letter of recommendation on.... If the letter is adopted out of Committee, it will go forward to the Secretary of Commerce and The United States Trade Representative.*
  
- **Pre-Decisional Draft Statutory Report on** (*insert name of Trade Agreement*): *The Committee members will deliberate on their advisory committee report on the (insert name of Trade Agreement) in accordance with section 105(b)(4) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and section 135(e) of the*

## APPENDIX 7

Page 2

*Trade Act of 1974, as amended. The Committee members will 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, as well as an advisory opinion as to whether the agreement provides for equity and reciprocity within the sector or functional area. If the report is finalized and adopted out of Committee, it will go forward to the United States Trade Representative (w/copy to the Industry Trade Advisory Center on behalf of the Secretary of Commerce).*

A copy of the agenda is attached.

Exemption of this meeting is necessary because it will be concerned with matters the disclosure of which would seriously compromise the development by the U.S. government of trade policy, priorities, negotiating objectives, or bargaining positions with respect to the operation of any trade agreement and other matters arising concerning the development, implementation, and administration of the trade policy of the United States.

Exemption Authorized \_\_\_\_\_ Date \_\_\_\_\_

Concurrence of General Counsel's Office \_\_\_\_\_

Exemption not Authorized; let's discuss \_\_\_\_\_

**INDUSTRY TRADE ADVISORY CENTER**  
**GUIDELINES AND TEMPLATE FOR REPORTS**  
**AT THE CONCLUSION OF NEGOTIATIONS**

Section 135(e)(1) of the Trade Act of 1974 requires that each ITAC meet at the conclusion of negotiations of major trade agreements and provide the President, the United States Trade Representative (USTR), and Congress with a report regarding that agreement. Each ITAC report must include an advisory opinion as to “whether the agreement provides for equity and reciprocity within the sectoral or functional area” represented by the Committee. The reports must be submitted not later than 30 days after the President notifies Congress of his intent to enter into such an agreement.

**A. Guidelines for Chairs and Designated Federal Officers:**

Because of the unique nature of these reports, the following guidelines have been established to facilitate their timely submission:

1. The Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Engagement and the Director of the Industry Trade Advisory Center will inform the Designated Federal Officers and ITAC Chairs when the President notifies the Congress of his or her intent to enter into a trade agreement to which the reporting requirement applies.
2. The Designated Federal Officer will normally inform the Chair of the date by which the reports must be submitted. However, the Designated Federal Officer should encourage his or her Committee to begin work on the reports as soon as possible, and prior to the beginning of the actual 30-day period if feasible.
3. Drafts of the report may be circulated either by mail or e-mail. The draft report ***must be clearly marked "For Cleared Advisors Only of the (name of ITAC); Not to be Circulated Beyond Committee Membership."***
4. Committee members should communicate their comments directly to the Chair or designated drafter of the report – not to the Designated Federal Officer.

5. Each Committee must meet to deliberate on and approve its report. The draft report should be either complete or near complete prior to the meeting so that it can be deliberated on and approved during the meeting.
6. It is the practice of USTR to request that all reports be submitted directly to the Assistant USTR for Intergovernmental Affairs and Public Engagement for further submission to the Congress. The Chair should also provide two copies to the Designated Federal Officer, one of which is retained by him or her, and the other forwarded to the Industry Trade Advisory Center for their records.
7. Because of the short time frames involved, special procedures, including conference calls, may be adopted for meetings held to approve the reports. If a meeting by conference call is permitted, the following rules will normally apply to such a meeting:
  - wireless/cell phones are not permitted;
  - speaker phones are not permitted (if desired, a conference call meeting can be arranged so that advisors located in Washington can participate by speaker phone from a room at the Commerce Department);
  - advisors not participating from Commerce's Hoover Building should be located in their personal office only (door closed - no one else permitted); and,
  - the deliberations should exclude any substantive references to specific text, unless the text has already been made public.

If you or your Chair has any questions, she or he should call the Director of the Industry Trade Advisory Center at (202) 482-3268.

**B. Report Template**

Attached is a template for the "Statutory Advisory Committee Reports on Trade Agreements," and further instructions on how to prepare the reports.

**SAMPLE COVER LETTER**

The Honorable [*insert name of the United States Trade Representative*]  
United States Trade Representative  
600 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20508

Dear Ambassador [*insert name*]:

In accordance with section 5(b)(4) of the Bipartisan Trade Priorities and Accountability Act of 2015, and section 135(e) of the Trade Act of 1974, as amended, I am pleased to transmit the report of the (Name of the Committee) on the (Name of the Agreement), reflecting consensus ((1) majority and minority; (2) majority and additional) advisory opinion(s) on the proposed Agreement.

[additional material optional at the discretion of the Committee]

Sincerely,

Chair (or Designated/Acting Chair)  
(Committee)

**SAMPLE COVER SHEET**

The Trade Agreement with Mexico and Potentially Canada

Report of the  
Industry Trade Advisory Committee on *(insert name of the ITAC)*

December 2018

**SAMPLE REPORT TEMPLATE**

(Date)

(Committee)

(Title) **Advisory Committee Report to the President, the Congress and the United States Trade Representative on (Name of Agreement)**

• **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..

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 (Name of Committee) hereby submits the following report.

• **Executive Summary of Committee Report**

**III. Brief Description of the Mandate of (Committee)**

(from committee charter)

**IV. Negotiating Objectives and Priorities of (Committee)**



**V. Advisory Committee Opinion on Agreement**

(May comment overall or on specific elements or chapters of an agreement, e.g. Market Access, Agriculture, Services, Intellectual Property, Government Procurement, Investment, Dispute Settlement, etc. Committees may also indicate “no position” if appropriate.)

Market Access

Agriculture

Services

etc.

**VI. Membership of Committee**

## APPENDIX 9

### REQUEST FOR APPROVAL OF OUTSIDE ATTENDANCE AT AN ITAC CLOSED MEETING

I understand that Section IV of the ITAC Operations Manual generally restricts attendance at closed ITAC meetings to members of the Committee, the Designated Federal Officer, the USTR Representative to the ITAC, ITAC members, and non-voting representatives of other ITACs, unless prior permission is granted by the Industry Trade Advisory Center and USTR.

I request that the following individual(s) be permitted to attend a closed meeting of ITAC on

\_\_\_\_\_: *[Insert Justification]*

*Name*

*Title*

*Agency or Company*

*Phone Number*

*E-Mail Address*

- The named individual will be a presenter listed on the agenda for that meeting and will be present only during their presentation.
- I have determined, in consultation with the Chair, that the named individual has a need for access to the information to be discussed at the meeting.
- A valid security clearance at the Secret level has been granted to the named individual, and this has been certified by the Department of Commerce Office of Security.

Signed:

\_\_\_\_\_  
DFO, ITAC \_\_\_\_\_  
(date)

**APPROVAL GRANTED:**

\_\_\_\_\_  
Director  
Industry Trade Advisory Center  
International Trade Administration  
U.S. Department of Commerce

\_\_\_\_\_  
Assistant U.S. Trade Representative  
for Intergovernmental Affairs and  
Public Engagement  
Office of the U.S. Trade Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**INDUSTRY TRADE ADVISORY CENTER**

**PROCEDURES FOR ROOM RESERVATIONS**

1. The Designated Federal Officer (DFO) makes room reservations for all ITAC meetings.
2. Training Room "C" of the USA Trade Center located at the Ronald Reagan Building has been reserved for all ITACs to use when they are meeting at the Ronald Reagan Building.
3. To reserve a meeting room, the DFO should complete the Meeting Room Reservation Form, a copy of which is reproduced below, and return it to the USA Trade Center staff at **(202) 482-3433 or (202) 482-3432**. No reservation is final until confirmed by the USA Trade Center personnel. The DFO should call the USA Trade Center staff at (202) 482-3433 within three days after making the request to confirm their reservation. Indicate on the Meeting Room Reservation Form the exact time of event and if additional time will be required to set up or dismantle the room arrangement.
4. Food and beverage deliveries for meetings in the USA Trade Center (USATC): Deliveries of food and beverages from the HCHB cafeteria to USATC conference rooms must use the RRB freight elevators in the Ronald Reagan Building. RRB elevator passes are required to operate the elevators. The DFO should contact USA Trade Center staff. (RRB food court vendors have their own freight access.)
5. If the DFO is unable to obtain a room at the RRB-USATC, then the DFO can make arrangements for their meetings to be held at the Department of Commerce Herbert C. Hoover Building, by contacting the HCHB Customer Service Desk. Hours are from 8:00 a.m. to 4:30 p.m.
6. Contact numbers for submitting requests to schedule the auditorium, lobby, conference rooms and for audiovisual/multimedia support are listed below.

**HCHB Customer Service Desk**

**Telephone: (202) 482-3460**

**Facsimile: (202) 501-1275**

**E-mail: [roomreservations@doc.gov](mailto:roomreservations@doc.gov)**

**INDUSTRY TRADE ADVISORY CENTER**

**PROCEDURE FOR USING DOMESTIC HOSPITALITY FUND**

1. Obtain the Industry Trade Advisory Center's prior approval for use of the Domestic Hospitality Fund, using the Concurrence Sheet, CD-464 Request for Hospitality, and the Justification Memorandum format on the following page. Prior approval from the Office of Management and Finance must be given before placing an order.
2. Decide on menu and vendor.
3. Instruct your office bank card holder to order the menu you chose (we recommend verifying in advance that vendors accept bank card transactions). You may need to request an increase in your monthly limit to accommodate increased activity.
4. When the food is delivered to your meeting, make sure you receive an itemized invoice marked paid.
5. Provide a copy of the invoice, marked paid, to the Center (Room 4043) immediately following the meeting to ensure that the amount is properly logged against the Center's authorization. (The Center must update weekly the Domestic Hospitality Budget and submit to OOMS by noon each Friday).
6. When your office receives the bank card statement, the person who processes the statement should write the domestic hospitality appropriations code on the statement next to each charge for food orders for your meetings. A copy of the blanket hospitality request must be attached to your bank card statement when it is sent forward for payment.
7. Make a copy of the bank card statement, highlight "ITAC-related charges to the Domestic Hospitality Fund," and attach a copy of the itemized invoice from the vendor. Submit copies of the form CD-464 and any pertinent receipts for purchases you receive to the Hospitality email box.

If you have any questions on this procedure, please call the Center at (202) 482-3268.

INDUSTRY TRADE ADVISORY CENTER  
SAMPLE DOMESTIC HOSPITALITY JUSTIFICATION MEMO

[Date]

DECISION

MEMORANDUM FOR *(INSERT NAME)*

Director  
Office of Planning and Coordination

THROUGH: *(Name)*  
Director  
Office of Advisory Committee Programs

FROM: Ingrid V. Mitchem  
Director  
Industry Trade Advisory Center

SUBJECT: Justification for Request to Provide Lunch for [Name of Committee]  
Meeting on [Date of Meeting]

On behalf of the [Name of Committee], I would like to request an exemption under domestic hospitality to provide lunch at the next meeting of the [Name of Committee] on [Date of Meeting].

The meeting is scheduled from [Time of Meeting] to accommodate advisors' travel schedules. [Name of Committee] meets only [Number] times a year. Because the [Name of Committee] has a full agenda planned with briefings by USG officials to fulfill statutory requirement due to anticipated conclusion of the [Name of Free Trade Agreements] free trade agreements (FTAs), the only time available to caucus and prepare draft reports is during a working lunch session. During the regular monthly conference call with the Chairs, AUSTR Chris Padilla directed that it is critical for all the ITACs to focus on these reports as soon as possible.

Total amount requested = [Dollar Amount or Cost of Food].

**Approve:** \_\_\_\_\_

**Not Approve:** \_\_\_\_\_

**Let's Discuss:** \_\_\_\_\_

Our committee consists of [Number] members and at least [Number] government officials will also attend.

Food for [Name of Committee]

Order from [**Organization Purchasing the Food From**]

Food order:

Gallons of Coffee

\$# X quantity =

Platter of Cookies = \$

# assorted sodas

\$# X quantity = \$

# Bottles of Water

\$# X quantity = \$

# Fruit juices

\$# X quantity = \$

Penn Station Boxed Sandwiches for # people

\$# X quantity =

Total \$

Attendees at the Meeting:

[List names of U.S. Government officials and advisors attending meeting; need to include name, title, organization.]

**SAMPLE REQUEST FOR COMMENTS**

*(Insert Date)*

**MEMORANDUM FOR THE MEMBERS OF THE INDUSTRY TRADE ADVISORY COMMITTEES (ITACS)**

**FROM:** *(Insert Name of AUSTR)*  
Assistant U.S. Trade Representative  
for Intergovernmental Affairs and Public Engagement

*(Insert Name of Director)*  
Director  
Industry Trade Advisory Center

**SUBJECT: WTO Trade Policy Review - Gambia**

The following WTO documents on Trade Policy Review of Gambia have been placed in the Industry Trade Advisory Center (TAC) and the USTR Reading Rooms for review only by cleared advisors:

- A. Report by the Government (WT/TPR/G/127)**
- B. Report by the Secretariat (WT/TPR/S/127).**

***The documents should be treated as confidential and may not be photocopied or taken from the reading room, or shared outside the advisory committees.***

The WTO regularly examines Member countries' trade policies and practices to ensure that Members adhere to the rules, disciplines and commitments made under the WTO agreement. The documents are the result of the examination of Gambia's trade regime by the WTO and a policy statement by the Government of Gambia. The documents will be discussed at the review session scheduled on February 4 and 6, 2004, in Geneva. The advisors may review these documents and submit comments or questions, if any, to the Office of the U.S. Trade Representative.

Please submit your comments or questions by Friday, January 23, 2004, to:

*(List name of person to receive comments, with phone and e-mail address and if published in the Federal Register, attach a copy of the FR notice)*

## **APPENDIX 12**

**Page 2**

Please provide a courtesy copy of comments to the Industry Trade Advisory Center via fax at: (202) 482-4452 or via e-mail at: [Trade\\_Advisory\\_Center@ita.doc.gov](mailto:Trade_Advisory_Center@ita.doc.gov).

Thank you.



**TITLE 19 - CUSTOMS DUTIES**

**CHAPTER 12 - TRADE ACT OF 1974**

**SUBCHAPTER I - NEGOTIATING AND OTHER AUTHORITY**

**Part 3 - Hearings and Advice Concerning Negotiations**

**Sec. 2155. Information and advice from private and public sectors**

**(a) In general**

(1) The President shall seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to -

(A) negotiating objectives and bargaining positions before entering into a trade agreement under this subchapter or section 2902 of this title;

(B) the operation of any trade agreement once entered into, including preparation for dispute settlement panel proceedings to which the United States is a party; and

(C) 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 Numbered 12188, and the priorities for actions thereunder.

To the maximum extent feasible, such information and advice on negotiating objectives shall be sought and considered before the commencement of negotiations.

(2) The President shall consult with representative elements of the private sector and the non-Federal governmental sector on the overall current trade policy of the United States. The consultations shall include, but are not limited to, the following elements of such policy

(A) The principal multilateral and bilateral trade negotiating objectives and the progress being made toward their achievement.

(B) The implementation, operation, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes.

(C) The actions taken under the trade laws of the United States and the effectiveness of such actions in achieving trade policy objectives.

(D) Important developments in other areas of trade for which there must be developed a proper policy response.

(3) The President shall take the advice received through consultation under paragraph (2) into account in determining the importance which should be placed on each major objective and negotiating position that should be adopted in order to achieve the overall trade policy of the United States.

(b) Advisory Committee for Trade Policy and Negotiations

(1) The President shall establish an Advisory Committee for Trade Policy and Negotiations to provide overall policy advice on matters referred to in subsection (a) of this section. The committee shall be composed of not more than 45 individuals and shall include representatives of non-Federal governments, labor, industry, agriculture, small business, service industries, retailers, nongovernmental environmental and conservation organizations, and consumer interests. The committee shall be broadly representative of the key sectors and groups of the economy, particularly with respect to those sectors and groups which are affected by trade. Members of the committee shall be recommended by the United States Trade Representative and appointed by the President for a term of 2 years. An individual may be reappointed to committee for any number of terms. Appointments to the Committee (FOOTNOTE 1) shall be made without regard to political affiliation.

(FOOTNOTE 1) So in original. Probably should not be capitalized.

(2) The committee shall meet as needed at the call of the United States Trade Representative or at the call of two-thirds of the members of the committee. The chairman of the committee shall be elected by the committee from among its members.

(3) The United States Trade Representative shall make available to the committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

(c) General policy, sectoral, or functional advisory committees

(1) The President may establish individual general policy advisory committees for industry, labor, agriculture, services, investment, defense, and other interests, as appropriate, to provide general policy advice on matters referred to in subsection (a) of this section. Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, service, investment, defense, and other interests, respectively, including small business interests, and shall be organized by the United States Trade Representative and the Secretaries of Commerce, Defense, Labor, Agriculture, the Treasury, or other executive departments, as appropriate. The members of such committees shall be appointed by the United States Trade Representative in consultation with such Secretaries.

(2) The President shall establish such sectoral or functional advisory committees as may be appropriate. Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, or service interests (including small business interests) in the sector or functional areas concerned. In organizing such committees, the United States Trade Representative

and the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, shall -

(A) consult with interested private organizations; and

(B) take into account such factors as -

(i) patterns of actual and potential competition between United States industry and agriculture and foreign enterprise in international trade,

(ii) the character of the non-tariff barriers and other distortions affecting such competition,

(iii) the necessity for reasonable limits on the number of such advisory committees,

(iv) the necessity that each committee be reasonably limited in size, and

(v) in the case of each sectoral committee, that the product lines covered by each committee be reasonably related.

(3) The President -

(A) may, if necessary, establish policy advisory committees representing non-Federal governmental interests to provide policy advice -

(i) on matters referred to in subsection (a) of this section, and

(ii) with respect to implementation of trade agreements, and

(B) shall include as members of committees established under subparagraph (A) representatives of non-Federal governmental interests if he finds such inclusion appropriate after consultation by the United States Trade Representative with such representatives.

(4) Appointments to each committee established under paragraph (1), (2), or (3) shall be made without regard to political affiliation.

(d) Policy, technical, and other advice and information

Committees established under subsection (c) of this section shall meet at the call of the United States Trade Representative and the Secretaries of Agriculture, Commerce, Labor, Defense, or other executive departments, as appropriate, to provide policy advice, technical advice and information, and advice on other factors relevant to the matters referred to in subsection (a) of this section.

(e) Meeting of advisory committees at conclusion of negotiations

(1) The Advisory Committee for Trade Policy and Negotiations, each appropriate policy advisory committee, and each sectoral or functional advisory committee, if the sector or area which such committee represents is affected, shall meet at the conclusion of negotiations for each trade agreement entered into under section 2902 of this title, to provide to the President, to Congress, and to the United States Trade Representative a report on such agreement. Each report that applies to a trade agreement entered into under section 2902 of this title shall be provided under the preceding sentence not later than the date on which the President notifies the Congress under section 2903(a)(1)(A) of this title of his intention to enter into that agreement.

(2) The report of the Advisory Committee for Trade Policy and Negotiations and each appropriate policy advisory committee shall 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 section 2901 of this title, as appropriate.

(3) The report of the appropriate sectoral or functional committee under paragraph (1) shall include an advisory opinion as

to whether the agreement provides for equity and reciprocity within the sector or within the functional area.

(f) Application of Federal Advisory Committee Act

The provisions of the Federal Advisory Committee Act apply -

(1) to the Advisory Committee for Trade Policy and Negotiations established under subsection (b) of this section; and

(2) to all other advisory committees which may be established under subsection (c) of this section; except that the meetings of advisory committees established under subsections (b) and (c) of this section shall be exempt from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or his designee that such meetings will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to matters referred to in subsection (a) of this section, and that meetings may be called of such special task forces, plenary meetings of chairmen, or other such groups made up of members of the committees established under subsections (b) and (c) of this section.

(g) Trade secrets and confidential information

(1) Trade secrets and commercial or financial information which is privileged or confidential, and which is submitted in confidence by the private sector or non-Federal government to officers or employees of the United States in connection with trade

negotiations, may be disclosed upon request to –

(A) officers and employees of the United States designated by the United States Trade Representative;

(B) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are designated as official advisers under section 2211(a)(1) of this title or are designated by the chairmen of either such committee under section 2211(b)(3)(A) of this title and staff members of either such committee designated by the chairmen under section 2211(b)(3)(A) of this title; and

(C) members of any committee of the House or Senate or any joint committee of Congress who are designated as advisers under section 2211(a)(2) of this title or designated by the chairman of such committee under section 2211(b)(3)(B) of this title and staff members of such committee designated under section 2211(b)(3)(B) of this title, but disclosure may be made under this subparagraph only with respect to trade secrets or commercial or financial information that is relevant to trade policy matters or negotiations that are within the legislative jurisdiction of such committee;

for use in connection with matters referred to in subsection (a) of this section.

(2) Information other than that described in paragraph (1), and advice submitted in confidence by the private sector or non-Federal government to officers or employees of the United States, to the Advisory Committee for Trade Policy and Negotiations, or to any advisory committee established under subsection (C) of this section, in connection with matters referred to in subsection (a) of this section, may be disclosed upon request to -

(A) the individuals described in paragraph (1); and

(B) the appropriate advisory committee established under this section.

(3) Information submitted in confidence by officers or employees of the United States to the Advisory Committee for Trade Policy and Negotiations, or to any advisory committee established under subsection (C) of this section, may be disclosed in accordance with rules issued by the United States Trade Representative and the Secretaries of Commerce, Labor, Defense, Agriculture, or other executive departments, as appropriate, after consultation with the relevant advisory committees established under subsection (C) of this section. Such rules shall define the categories of information which require restricted or confidential handling by such committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice the development of trade policy, priorities, or United States negotiating objectives. Such rules shall, to the maximum extent feasible, permit meaningful consultations by advisory committee members with persons affected by matters referred to in subsection (a) of this section.

**(h) Advisory committee support**

The United States Trade Representative, and the Secretaries of Commerce, Labor, Defense, Agriculture, the Treasury, or other executive departments, as appropriate, shall provide such staff, information, personnel, and administrative services and assistance to advisory committees established under subsection (C) of this section as such committees may reasonably require to carry out their activities.

**(I) Consultation with advisory committees; procedures;**

nonacceptance of committee advice or recommendations

It shall be the responsibility of the United States Trade Representative, in conjunction with the Secretaries of Commerce,



Labor, Agriculture, the Treasury, or other executive departments, as appropriate, to adopt procedures for consultation with and obtaining information and advice from the advisory committees established under subsection (C) of this section on a continuing and timely basis. Such consultation shall include the provision of information to each advisory committee as to -

- (1) significant issues and developments; and
- (2) overall negotiating objectives and positions of the United States and other parties;

with respect to matters referred to in subsection (a) of this section. The United States Trade Representative shall not be bound by the advice or recommendations of such advisory committees, but shall inform the advisory committees of significant departures from such advice or recommendations made. In addition, in the course of consultations with the Congress under this sub-chapter, information on the advice and information provided by advisory committees shall be made available to congressional advisers.

(j) Private organizations or groups

In addition to any advisory committee established under this section, the President shall provide adequate, timely and continuing opportunity for the submission on an informal basis (and, if such information is submitted under the provisions of subsection (g) of this section, on a confidential basis) by private organizations or groups, representing government, labor, industry, agriculture, small business, service industries, consumer interests, and others, of statistics, data and other trade information, as well as policy recommendations, pertinent to any matter referred to in subsection (a) of this section.

(k) Scope of participation by members of advisory committees

Nothing contained in this section shall be construed to authorize or permit any individual to participate directly in any negotiation of any matters referred to in subsection (a) of this section. To the maximum extent practicable, the members of the committees established under subsections (b) and (c) of this section, and other appropriate parties, shall be informed and consulted before and during any such negotiations. They may be designated as advisors to a negotiating delegation, and may be permitted to participate in international meetings to the extent the head of the United States delegation deems appropriate. However, they may not speak or negotiate for the United States.

(l) Advisory committees established by Department of Agriculture

The provisions of title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to any advisory committee established under subsection (C) of this section.

(m) "Non-Federal government" defined

As used in this section, the term "non-Federal government" means -

(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof; or

(2) any agency or instrumentality of any entity described in paragraph (1).

(Pub. L. 93-618, title I, Sec. 135, Jan. 3, 1975, 88 Stat. 1996;  
Pub. L. 96-39, title XI, Sec. 1103, July 26, 1979, 93 Stat. 308;  
Pub. L. 98-573, title III, Sec. 306(c)(2)(B), Oct. 30, 1984, 98  
Stat. 3011; Pub. L. 99-514, title XVIII, Sec. 1887(a)(2), Oct. 22,

1986, 100 Stat. 2923; Pub. L. 100-418, title I, Sec. 1631, Aug. 23,  
1988, 102 Stat. 1264; Pub. L. 103-465, title I, Sec. 127(f), 128,  
Dec. 8, 1994, 108 Stat. 4836.)

**Federal Advisory Committee Act, as amended**

**5 U.S.C. Appendix 2**

**§ 1. Short title**

This Act may be cited as the "Federal Advisory Committee Act".

**§ 2. Findings and purpose**

(a) The Congress finds that there are numerous committees, boards, commissions, councils, and similar groups which have been established to advise officers and agencies in the executive branch of the Federal Government and that they are frequently a useful and beneficial means of furnishing expert advice, ideas, and diverse opinions to the Federal Government.

(b) The Congress further finds and declares that--

(1) the need for many existing advisory committees has not been adequately reviewed;

(2) new advisory committees should be established only when they are determined to be essential and their number should be kept to the minimum necessary;

(3) advisory committees should be terminated when they are no longer carrying out the purposes for which they were established;

(4) standards and uniform procedures should govern the establishment, operation, administration, and duration of advisory committees;

(5) the Congress and the public should be kept informed with respect to the number, purpose, membership, activities, and cost of advisory committees; and

(6) the function of advisory committees should be advisory only, and that all matters under their consideration should be determined, in accordance with law, by the official, agency, or officer involved.

**§ 3. Definitions**

For the purpose of this Act--

(1) The term "Administrator" means the Administrator of General Services.

(2) The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof (hereafter in this paragraph referred to as "committee"), which is--

(A) established by statute or reorganization plan, or

(B) established or utilized by the President, or

(C) established or utilized by one or more agencies, in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government, except that such term excludes (i) any committee that is composed wholly of full-time, or permanent part-time, officers or employees of the Federal Government, and (ii) any committee that is created by the National Academy of Sciences or the National Academy of Public Administration.

(3) The term "agency" has the same meaning as in section 551(1) of title 5, United States Code.

(4) The term "Presidential advisory committee" means an advisory committee which advises the President.

#### **§ 4. Applicability; restrictions**

(a) The provisions of this Act or of any rule, order, or regulation promulgated under this Act shall apply to each advisory committee except to the extent that any Act of Congress establishing any such advisory committee specifically provides otherwise.

(B) Nothing in this Act shall be construed to apply to any advisory committee established or utilized by--

(1) the Central Intelligence Agency; or

(2) the Federal Reserve System.

(c) Nothing in this Act shall be construed to apply to any local civic group whose primary function is that of rendering a public service with respect to a Federal program, or any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies.

#### **§ 5. Responsibilities of Congressional committees; review; guidelines**

(a) In the exercise of its legislative review function, each standing committee of the Senate and the House of Representatives shall make a continuing review of the activities of each advisory committee under its jurisdiction to determine whether such advisory committee should be abolished or merged with any other advisory committee, whether the responsibilities of such advisory committee should be revised, and whether such advisory committee performs a necessary function not already being performed. Each such standing committee shall take appropriate action to obtain the enactment of legislation necessary to carry out the purpose of this subsection.

(b) In considering legislation establishing, or authorizing the establishment of any advisory committee, each standing committee of the Senate and of the House of Representatives shall determine, and report such determination to the Senate or to the House of Representatives, as the case may be, whether the functions of the proposed advisory committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee. Any such legislation shall--

(1) contain a clearly defined purpose for the advisory committee;

(2) require the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee;

(3) contain appropriate provisions to assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee's independent judgment;

(4) contain provisions dealing with authorization of appropriations, the date for submission of reports (if any), the duration of the advisory committee, and the publication of reports and other materials, to the extent that the standing committee determines the provisions of section 10 of this Act to be inadequate; and

(5) contain provisions which will assure that the advisory committee will have adequate staff (either supplied by an agency or employed by it), will be provided adequate quarters, and will have funds available to meet its other necessary expenses.

(c) To the extent they are applicable, the guidelines set out in subsection (b) of this section shall be followed by the President, agency heads, or other Federal officials in creating an advisory committee.

#### **§ 6. Responsibilities of the President; report to Congress; annual report to Congress; exclusion**

(a) The President may delegate responsibility for evaluating and taking action, where appropriate, with respect to all public recommendations made to him by Presidential advisory committees.

(b) Within one year after a Presidential advisory committee has submitted a public report to the President, the President or his delegate shall make a report to the Congress stating either his proposals for action or his reasons for inaction, with respect to the recommendations contained in the public report.

(c) The President shall, not later than December 31 of each year, make an annual report to the Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding fiscal year. The report shall contain the name of every advisory committee, the date of and authority for its creation, its termination date or the date it is to make a report, its functions, a reference to the reports it has submitted, a statement of whether it is an ad hoc or continuing body, the dates of its meetings, the names and occupations of its current

members, and the total estimated annual cost to the United States to fund, service, supply, and maintain such committee. Such report shall include a list of those advisory committees abolished by the President, and in the case of advisory committees established by statute, a list of those advisory committees which the President recommends be abolished together with his reasons therefore. The President shall exclude from this report any information which, in his judgment, should be withheld for reasons of national security, and he shall include in such report a statement that such information is excluded.

**§ 7. Responsibilities of the Administrator of General Services; Committee Management Secretariat, establishment; review; recommendations to President and Congress; agency cooperation; performance guidelines; uniform pay guidelines; travel expenses; expense recommendations**

(a) The Administrator shall establish and maintain within the General Services Administration a Committee Management Secretariat, which shall be responsible for all matters relating to advisory committees.

(b) The Administrator shall, immediately after October 6, 1972, institute a comprehensive review of the activities and responsibilities of each advisory committee to determine--

- (1) whether such committee is carrying out its purpose;
- (2) whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;
- (3) whether it should be merged with other advisory committees; or
- (4) whether it should be abolished.

The Administrator may from time to time request such information as he deems necessary to carry out his functions under this subsection. Upon the completion of the Administrator's review he shall make recommendations to the President and to either the agency head or the Congress with respect to action he believes should be taken. Thereafter, the Administrator shall carry out a similar review annually. Agency heads shall cooperate with the Administrator in making the reviews required by this subsection.

(c) The Administrator shall prescribe administrative guidelines and management controls applicable to advisory committees, and, to the maximum extent feasible, provide advice, assistance, and guidance to advisory committees to improve their performance. In carrying out his functions under this subsection, the Administrator shall consider the recommendations of each agency head with respect to means of improving the performance of advisory committees whose duties are related to such agency.

(d)(1) The Administrator after study and consultation with the Director of the Office of Personnel Management, shall establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees in a manner which gives appropriate recognition to the responsibilities and qualifications required and other relevant factors. Such regulations shall provide that—

(A) no member of any advisory committee or of the staff of any advisory committee shall receive compensation at a rate in excess of the rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code;

(B) such members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service; and

(C) such members--

(i) who are blind or deaf or who otherwise qualify as handicapped individuals (within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 794) ), and

(ii) who do not otherwise qualify for assistance under section 3102 of Title 5, by reason of being an employee of an agency (within the meaning of section 3102(a)(1) of such Title 5), may be provided services pursuant to section 3102 of such Title 5 while in performance of their advisory committee duties.

(2) Nothing in this subsection shall prevent--

(A) an individual who (without regard to his service with an advisory committee) is a full-time employee of the United States, or

(B) an individual who immediately before his service with an advisory committee was such an employee, from receiving compensation at the rate at which he otherwise would be compensated (or was compensated) as a full-time employee of the United States.

(e) The Administrator shall include in budget recommendations a summary of the amounts he deems necessary for the expenses of advisory committees, including the expenses for publication of reports where appropriate.

#### **§ 8. Responsibilities of agency heads; Advisory Committee Management Officer, designation**

(a) Each agency head shall establish uniform administrative guidelines and management controls for advisory committees established by that agency, which shall be consistent with directives of the Administrator under section 7 and section 10. Each agency shall maintain systematic information on the nature, functions, and operations of each advisory committee within its jurisdiction.

(b) The head of each agency which has an advisory committee shall designate an Advisory Committee Management Officer who shall--

(1) exercise control and supervision over the establishment, procedures, and accomplishments of advisory committees established by that agency;

(2) assemble and maintain the reports, records, and other papers of any such committee during its existence; and



(3) carry out, on behalf of that agency, the provisions of section 552 of title 5, United States Code, with respect to such reports, records, and other papers.

**§ 9. Establishment and purpose of advisory committees; publication in Federal Register; charter: filing, contents, copy**

(a) No advisory committee shall be established unless such establishment is--

(1) specifically authorized by statute or by the President; or

(2) determined as a matter of formal record, by the head of the agency involved after consultation with the Administrator with timely notice published in the Federal Register, to be in the public interest in connection with the performance of duties imposed on that agency by law.

(b) Unless otherwise specifically provided by statute or Presidential directive, advisory committees shall be utilized solely for advisory functions. Determinations of action to be taken and policy to be expressed with respect to matters upon which an advisory committee reports or makes recommendations shall be made solely by the President or an officer of the Federal Government.

(c) No advisory committee shall meet or take any action until an advisory committee charter has been filed with (1) the Administrator, in the case of Presidential advisory committees, or (2) with the head of the agency to whom any advisory committee reports and with the standing committees of the Senate and of the House of Representatives having legislative jurisdiction of such agency. Such charter shall contain the following information:

(A) the committee's official designation;

(B) the committee's objectives and the scope of its activity;

(C) the period of time necessary for the committee to carry out its purposes;

(D) the agency or official to whom the committee reports;

(E) the agency responsible for providing the necessary support for the committee;

(F) a description of the duties for which the committee is responsible, and, if such duties are not solely advisory, a specification of the authority for such functions;

(G) the estimated annual operating costs in dollars and man-years for such committee;

(H) the estimated number and frequency of committee meetings;

(I) the committee's termination date, if less than four years from the date of the committee's establishment; and

(J) the date the charter is filed.

A copy of any such charter shall also be furnished to the Library of Congress.

**§ 10. Advisory committee procedures; meetings; notice, publication in Federal Register; regulations; minutes; certification; annual report; Federal officer or employee, attendance**

(a)(1) Each advisory committee meeting shall be open to the public.

(2) Except when the President determines otherwise for reasons of national security, timely notice of each such meeting shall be published in the Federal Register, and the Administrator shall prescribe regulations to provide for other types of public notice to insure that all interested persons are notified of such meeting prior thereto.

(3) Interested persons shall be permitted to attend, appear before, or file statements with any advisory committee, subject to such reasonable rules or regulations as the Administrator may prescribe.

(b) Subject to section 552 of title 5, United States Code, the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in the offices of the advisory committee or the agency to which the advisory committee reports until the advisory committee ceases to exist.

(c) Detailed minutes of each meeting of each advisory committee shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory committee. The accuracy of all minutes shall be certified to by the chairman of the advisory committee.

(d) Subsections (a)(1) and (a)(3) of this section shall not apply to any portion of an advisory committee meeting where the President, or the head of the agency to which the advisory committee reports, determines that such portion of such meeting may be closed to the public in accordance with subsection (c) of section 552b of title 5, United States Code. Any such determination shall be in writing and shall contain the reasons for such determination. If such a determination is made, the advisory committee shall issue a report at least annually setting forth a summary of its activities and such related matters as would be informative to the public consistent with the policy of section 552(b) of title 5, United States Code.

(e) There shall be designated an officer or employee of the Federal Government to chair or attend each meeting of each advisory committee. The officer or employee so designated is authorized, whenever he determines it to be in the public interest, to adjourn any such meeting. No advisory committee shall conduct any meeting in the absence of that officer or employee.

(f) Advisory committees shall not hold any meetings except at the call of, or with the advance approval of, a designated officer or employee of the Federal Government, and in the case of advisory committees (other than Presidential advisory committees), with an agenda approved by such officer or employee.

#### **§ 11. Availability of transcripts; "agency proceeding"**

- (a) Except where prohibited by contractual agreements entered into prior to the effective date of this Act, agencies and advisory committees shall make available to any person, at actual cost of duplication, copies of transcripts of agency proceedings or advisory committee meetings.

(b) As used in this section "proceeding" means any proceeding as defined in section 551(12) of title 5, United States Code.

**§ 12. Fiscal and administrative provisions; record keeping; audit; agency support services**

(a) Each agency shall keep records as will fully disclose the disposition of any funds which may be at the disposal of its advisory committees and the nature and extent of their activities. The General Services Administration, or such other agency as the President may designate, shall maintain financial records with respect to Presidential advisory committees. The Comptroller General of the United States, or any of his authorized representatives, shall have access, for the purpose of audit and examination, to any such records.

(b) Each agency shall be responsible for providing support services for each advisory committee established by or reporting to it unless the establishing authority provides otherwise. Where any such advisory committee reports to more than one agency, only one agency shall be responsible for support services at any one time. In the case of Presidential advisory committees, such services may be provided by the General Services Administration.

**§ 13. Responsibilities of Library of Congress; reports and background papers; depository**

Subject to section 552 of title 5, United States Code, the Administrator shall provide for the filing with the Library of Congress of at least eight copies of each report made by every advisory committee and, where appropriate, background papers prepared by consultants. The Librarian of Congress shall establish a depository for such reports and papers where they shall be available to public inspection and use.

**§ 14. Termination of advisory committees; renewal; continuation**

(a)(1) Each advisory committee which is in existence on the effective date of this Act shall terminate not later than the expiration of the two-year period following such effective date unless--

(A) in the case of an advisory committee established by the President or an officer of the Federal Government, such advisory committee is renewed by the President or that officer by appropriate action prior to the expiration of such four-year period; or

(B) in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

(2) Each advisory committee established after such effective date shall terminate not later than the expiration of the two-year period beginning on the date of its establishment unless--

(A) in the case of an advisory committee established by the President or an officer of the Federal Government such advisory committee is renewed by the President or such officer by appropriate action prior to the end of such period; or

(B) in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

(b)(1) Upon the renewal of any advisory committee, such advisory committee shall file a charter in accordance with section 9(c).

(2) Any advisory committee established by an Act of Congress shall file a charter in accordance with such section upon the expiration of each successive two-year period following the date of enactment of the Act establishing such advisory committee.

(3) No advisory committee required under this subsection to file a charter shall take any action (other than preparation and filing of such charter) prior to the date on which such charter is filed.

(c) Any advisory committee which is renewed by the President or any officer of the Federal Government may be continued only for successive two-year periods by appropriate action taken by the President or such officer prior to the date on which such advisory committee would otherwise terminate.

**§ 15. Requirements relating to the National Academy of Sciences and the National Academy of Public Administration**

(a) In general.--An agency may not use any advice or recommendation provided by the National Academy of Sciences or National Academy of Public Administration that was developed by use of a committee created by that academy under an agreement with an agency, unless--

(1) the committee was not subject to any actual management or control by an agency or an officer of the Federal Government; (2) in the case of a committee created after the date of the enactment of the Federal Advisory Committee Act Amendments of 1997, the membership of the committee was appointed in accordance with the requirements described in subsection (b)(1); and (3) in developing the advice or recommendation, the academy complied with--

(A) subsection (b)(2) through (6), in the case of any advice or recommendation provided by the National Academy of Sciences; or (B) subsection (b)(2) and (5), in the case of any advice or recommendation provided by the National Academy of Public Administration.

(b) Requirements.--The requirements referred to in subsection (a) are as follows:

(1) The Academy shall determine and provide public notice of the names and brief biographies of individuals that the Academy appoints or intends to appoint to serve on the committee. The Academy shall determine and provide a reasonable opportunity for the public to comment on such appointments before they are made or, if the Academy determines such prior comment is not practicable, in the period immediately following the appointments. The Academy shall make its best efforts to ensure that (A) no individual appointed to serve on the committee has a conflict of interest that is relevant to the functions to be performed, unless such conflict is promptly and publicly disclosed and the Academy determines that the conflict is unavoidable, (B) the committee membership is fairly balanced as determined by the Academy to be appropriate for the functions to be performed, and (C) the final report of the Academy will be the result of the Academy's independent judgment. The Academy shall require that individuals that the Academy appoints or intends to appoint to serve on the committee inform the Academy of the individual's conflicts of interest that are relevant to the functions to be performed. (2) The Academy shall determine and provide public notice of committee meetings that will be open to the public.

(3) The Academy shall ensure that meetings of the committee to gather data from individuals who are not officials, agents, or employees of the Academy are open to the public, unless the Academy determines that a meeting would disclose matters described in section 552(b) of title 5, United States Code. The Academy shall make available to the public, at reasonable charge if appropriate, written materials presented to the committee by individuals who are not officials, agents, or employees of the Academy, unless the Academy determines that making material available would disclose matters described in that section. (4) The Academy shall make available to the public as soon as practicable, at reasonable charge if appropriate, a brief summary of any committee meeting that is not a data gathering meeting, unless the Academy determines that the summary would disclose matters described in section 552(b) of title 5, United States Code. The summary shall identify the committee members present, the topics discussed, materials made available to the committee, and such other matters that the Academy determines should be included. (5) The Academy shall make available to the public its final report, at reasonable charge if appropriate, unless the Academy determines that the report would disclose matters described in section 552(b) of title 5, United States Code. If the Academy determines that the report would disclose matters described in that section, the Academy shall make public an abbreviated version of the report that does not disclose those matters. (6) After publication of the final report, the Academy shall make publicly available the names of the principal reviewers who reviewed the report in draft form and who are not officials, agents, or employees of the Academy.

(c) Regulations.--The Administrator of General Services may issue regulations implementing this section.

#### **§ 16. Effective date**

Except as provided in section 7(b), this Act shall become effective upon the expiration of ninety days following October 6, 1972.