

April 6, 2004

The Honorable Secretary Donald L. Evans
Department of Commerce
1401 Constitution Ave, NW Rm. 5854
Washington, D.C. 20230

Dear Secretary Evans:

As you are aware, small and minority business is a tremendous engine of the U.S. economy. As producers, suppliers, transporters, employers, exporters, and entrepreneurs smooth and transparent access to international markets is paramount to the welfare and growth of the SME sector.

Thus, pursuant to Section 2104 (e) of the Trade Act of 2002 and Section 135 (e) of the Trade Act of 1974, as amended, I am pleased to transmit the report of the Industry Sector Advisory Committee on Small and Minority Business (ISAC-14) on the **U.S. - Morocco Free Trade Agreement**, reflecting a general consensus with comments by the advisory committee on the proposed Agreement.

Sincerely,

John A. Adams, Jr.,
Chairman, ISAC-14

April 6, 2004

The Honorable Robert B. Zoellick
United States Trade Representative
600 17th Street, NW
Washington, D.C. 20508

Dear Ambassador Zoellick:

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Thus, pursuant to Section 2104 (e) of the Trade Act of 2002 and Section 135 (e) of the Trade Act of 1974, as amended, I am pleased to transmit the report of the Industry Sector Advisory Committee on Small and Minority Business (ISAC-14) on the **U.S. - Morocco Free Trade Agreement**, reflecting a general consensus with comments by the advisory committee on the proposed Agreement.

Sincerely,

John A. Adams, Jr.,
Chairman, ISAC-14

The U.S. - Morocco Free Trade Agreement

Report of the Industry Sector Advisory Committee on
Small and Minority Business
(ISAC-14)

April 6, 2004

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ISAC-14: Small and Minority Business Committee

Advisory Committee Report to the President, the Congress and the United States Trade Representative on the **U.S. - Morocco Free Trade Agreement**.

I. Purpose of the Committee Report

Section 2104 (e) of the Trade Act of 2002 requires that advisory committees provide the President, the U.S. Trade Representative, and Congress with reports required under Section 135 (e)(1) of the Trade Act of 1974, as amended, not later than 30 days after the President notifies Congress of his intent to enter into an agreement.

Under Section 135 (e) of the Trade act of 1974, as amended, the report of the Advisory Committee for Trade Policy and Negotiations and each appropriate policy advisory committee must include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principle negotiating objectives set forth in the Trade Act of 2002.

The report of the appropriate sectoral or functional committee must also include an advisory opinion as to whether the agreement provides for equity and reciprocity within the sectoral or functional area.

Pursuant to these requirements, ISAC-14 on Small and Minority Business hereby submits the following report.

II. Executive Summary of Committee Report

Enclosed is a review of the key items of concern of the committee, submitted for your review both in terms of the final document as well as the procedures for implementations and resolution of any disputes. The committee, except as noted in the summary and in comments in section V below, applauds the efforts of USTR and Commerce to open freer trade with Morocco.

ISAC-14 supports the expansion of free trade throughout the area. The Morocco FTA agreement, as proposed, however, presents certain inconsistencies within the concept of expanding international trade opportunities for the Parties. The agreement, as proposed, fails to adequately address issues affecting small and minority business within the territory.

ISAC-14 recommends that each Party establish an executive department level contact from which interested private parties may seek advice and direction as to which department or agency could most likely answer questions or provide guidance about government process, procedures and regulations. The ability of small and minority

businesses to benefit under the agreement will be directly related to their ability to contact the proper officials or departments within the governments of the respective parties.

ISAC-14 recommends that the threshold for U.S. government procurement be set at the same financial thresholds as those of other governments. The agreement as proposed appears to do this since the thresholds identified in the agreement appear to be based on foreign currency differences. The specific comments of ISAC-14 are shown by chapter and article in the following comments.

III. Brief Description of the Mandate of ISAC-14 Committee

The objective of the committee is to provide timely policy and technical advice, information, and recommendations to the Secretary and USTR regarding trade barriers, implementation, and overall concern as it pertains to the operations and international competitiveness of small and minority business.

IV. Negotiating Objectives and Priorities of ISAC-14

The priorities of the committee are to represent the views of small business with the objective to enhance job growth and exports of goods and services by this business sector of the U.S. economy. As a further objective, the committee expresses an ongoing concern that cross-border trade be as fair as possible, transparent, and open to small business.

V. Advisory Committee Opinion on Agreement

Article 5.1 spells out a blanket Regional Value Content requirement of 35% and allows for exceptions as spelled out in Annex 5-A. This threshold is too low and does not do enough to encourage domestic sourcing in Morocco or the United States.

Article 5.1 uses an unclear, unsophisticated RVC calculation methodology. This FTA's RVC calculations do not relate to NAFTA's RVC via Transaction Value or Net Cost Methods, and they do not relate to the Build-Up or Build-Down RVC methodology used in the Chilean, Australian, CAFTA, or Singapore agreements. The methodology behind the calculation is not as clearly defined in the Morocco agreement, and instead is more nebulously defined as it is in the cases of the Israel or Jordan FTAs. Not defining RVC in similar terms from agreement to agreement will be an impediment to compliance for the United States' SME community.

Article 5.1 should include reference to a DeMinimis percentage. There is no such reference to DeMinimis there or in any other part of the agreement. There should be a

DeMinimis provision and the threshold should be 7%, as is the case with NAFTA. The 10% figure used in other FTAs is too high.

Language should be inserted in **Article 6.6** to prevent customs authorities from allowing third party firms to conduct origin or other verification audits. Without such language, third party contractors could become aware of confidential information that could easily be released to interested parties and damage sensitive commercial relationships.

Article 6.11 gives Morocco two years' time to implement the text of Article 6.10, which outlines relatively standard FTA text for advance rulings. If Morocco signs the FTA as it is currently written, this "adjustment period" could easily be extended for many years after the proposed two year period. If Morocco is not prepared to manage a transparent advance ruling process from day one, it is not ready to become an FTA partner with the United States. This is a fundamental inequity in the agreement that must be addressed.

Article 6.10 is missing text that should require the publishing via electronic or other means of advance ruling procedures.

Currently, there is no requirement for a Certificate of Origin (a la NAFTA or Chile). SMEs are already conditioned to the NAFTA certification process and will be prepared to issue a certificate of origin, as long as the certificate is available at no cost and can be completed by the importer or exporter. This absence of a certificate requirement in the Morocco FTA will be another point of confusion for the SME community.

Trade Dispute Settlement

Dispute settlement and transparent treatment are critical to small business. Thus, Working Groups established to review and assess of dispute settlements should include "private" sector input. The structure of the panels seems awkward.

Electronic Commerce

E-commerce is critical to small and minority business in terms of access to customers and bidding opportunities. How E-commerce unfolds will be of great concern to ISAC-14, thus we urge that the parties establish an e-commerce working group, under the administration of agreement provision, to allow full and timely comments from the SME sector.

We do take note that the provisions, under the heading Electronic Commerce, contained in the Morocco text primarily addresses the Customs Duty needs of the limited industry dealing with the importation or exportation of digital products by electronic transmission. The required provisions for creating the framework for a real Comprehensive Electronic Commerce System are missing.

In addition, unlike previous FTAs, the two parties agreed to a very limited definition of Electronic Commerce that does not serve the interest of SMEs.

VI. Membership of Committee

Chairman

Mr. John Adams

Executive Director
Laredo Development Foundation
Laredo, TX

Principal Vice-Chairman

Mr. Roger Dickey

President
Kensington International, Inc.
Charlotte, NC

Alternate Vice-Chairman

Mr. James Meenan

Global Business Access, Ltd.
Fairfax, VA

Alternate Vice-Chairman

Mr. Esteban Taracido

President
Tele-Signal Corporation
New Rochelle, NY

Mr. John Allen

Chairman and CEO
Allen and Associates International, Ltd.
Arlington, VA

Mr. Kent Bank

President
Minneapolis Washer and Stamping
Company, Inc.
Minneapolis, MN

Ms. Sarian Bouma

President and CEO
Capitol Hill Building and Maintenance, Inc.
Landover, MD

Mr. Bernard Brill

Executive Vice President
Secondary Materials and Recycled Textiles
Association
Bethesda, MD

Ms. Candace Chen

President
Power Clean 2000, Inc.
Los Angeles, CA

Mr. Wesley Davis

President and CEO
Proxtronics, Inc.
Springfield, VA

Ms. Karen El-Chaar

Corporate Secretary/Treasurer
Hamilton Services Group, Inc.
Allentown, PA

Dr. Sharon Freeman

President
Lark-Horton Global Consulting, Ltd.
Washington, DC

Ms. Margaret Gatti

Attorney
Gatti and Associates
Haddonfield, NJ

Ms. Sherrie Gilchrist

President and CEO
Chattanooga African-American Chamber of
Commerce
Chattanooga, TN

Mr. George Keller

President
Customs Advisory Services, Inc.
Atlanta, GA

Mr. John Kolmer

NAFTA Trade Specialist
Turner Center for Entrepreneurship
Peoria, IL

Mr. Lewis Kranick

Consultant
Representing Krandex Corporation
Elkhart, WI

Ms. Catherine Lee
Managing Director
Lee International Business Development
LLC
Westbrook, ME

Mr. Peter Lehman
Director, Planning and Development
South Carolina State Port Authority
Charleston, SC

Dr. Brenda Mitchell
Chief Executive Officer
Management and Environmental
Technologies, Inc.
Philadelphia, PA

Mr. David Padilla
Vice-President
Manuel Lujan Insurance Agency
Sante Fe, NM

Mr. Jeffrey Ruffner
Vice-President and General Manager
MSE Technology Applications, Inc.
Butte, MT

Mr. Jose Travez
Vice-President
Prototype Productions, Inc.
Ashburn, VA

Mr. Craig Trumbull
Chief Financial Officer
RC Publications
Rockville, MD

Mr. William Weiller
Chairman of the Board and CEO
Purafil, Inc.
Doraville, GA

Mr. Jon Weinstein
President and CEO
Apex Plastic Industries, Inc.
Hauppauge, NY

Mr. Donald Williams
President and CEO
Princeton Healthcare, Inc.
Marietta, GA