

February 26, 2003

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 ISAC-14 for Trade Policy Matters by the Small and Minority Business Committee on the **U.S. - Chile 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

February 26, 2003

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

Dear Ambassador Zoellick:

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.

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Sincerely,

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

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

Report of ISAC - 14
Small and Minority Business
Advisory Committee on Trade Policy and Negotiations (ACTPN)

February 26, 2003

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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. - Chile Free Trade Agreement (FTA)**

I. Purpose of the Committee Report

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

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

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

Pursuant to these requirements, 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 comments in section V below, applaud the efforts of USTR and Commerce to open freer trade with Chile.

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

The following comments are both general as well as specific, and when possible the applicable section of the agreement has been noted. The following is listed in no particular order.

- A. **Trade Facilitation** - Customs must be as simple and transparent as possible and not form non-tariff barriers that increase the cost of doing business. One key is the efficient and timely operations of customs. For example, the agreement has a six-hour target to release express shipments, given the urgency as well as available technology a target time of under three hours should be considered.
- B. **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. For a complete assessment on the impact of e-commerce, see ISAC-14 Resolution on E-Commerce attached under section VII.
- C. **Trade Dispute Settlement** - Dispute settlement and transparent treatment are critical to small business. Thus, while the agreement deals with the subject of Dispute Settlement between the public parties (the U.S. and Chile), we find that small business, in particular, require means to settle Private Trade Disputes in a timely and low cost fashion. Accordingly, we recommend that the work on this topic started under a NAFTA Working Group be expanded in this agreement by appointing a Private Trade Dispute Settlement Working Group under the Administration of Agreement provisions.
- D. **Comments and questions** on annexes for U.S. and Chile:
 - a. Annex I: The threshold limits for Goods and Services is noted at \$56,190. Is this limit per year or transaction? (See page 15, Section F.)

- b. Annex III: \$280, 951 Goods & Services in list A and \$518,000 in List B, is this the same? Is this per year or per transaction. If so limits are too low. Who does this refer to, U.S. or Chile, or both? (See page 25, Section F.)
 - c. Article 6: Please clarify who is to be appointed and/or make-up of 12 individuals. Please define “non-party nationals”. (Page 4 & 5 Labor Council)
 - d. Article 11.06 and Annex xx5x: the provisions for “no local presence” is not clear; must be made clear to avoid possibility of double taxation.
- E. **Impact of Future Trade Agreements** - Concern was expressed that the time line for implementation of this accord, which is fine in the case of Chile, may not be effective in agreements in other parts of the world and thus, case should be taken not to set a precedent.

VI. Membership of Committee

Chairman

John A. Adams, Jr., CEO
Laredo Dev. Foundation
Laredo, Texas 78044

Vice-Chairman

Roger Dickey, President
Kensington International
Charlotte, NC 28220

Vice-Chairman

Esteban Taracido, President
Tele-Signal Corporation
New Rochelle, NY 10804

Vice-Chairman

James Meenan
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John Allen, Chair and CEO
John Allen and Associates
Arlington, VA 22206

Kent Bank, President
Minneapolis Washer and
Stamping Company, Inc.
Minneapolis, MN 55411

Sarian Bouma, Pres. and CEO
Capital Hill Building and
Maintenance, Inc.
Landover, MD 20785

Bernard Brill, EVP
Secondary Materials and
Recycled Textiles Association
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Candace Chen, President
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Los Angeles, CA 90011

Karen El-Chaar, Corporate
Secretary/Treasurer
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Allentown, PA 18102

Sharon Freeman, President
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Lewis Kranick, Consultant
Krandex Corporation
Naples, FL 34103

Peter Lehman, Director of
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Charleston, SC 29413-2287

Brenda Mitchell, CEO
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Technologies, Inc.
Philadelphia, PA 19107

David Padilla, Vice-President
Manuel Lujan Insurance, Inc.
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Jeffrey Ruffner, Vice President
and General Manager
MSE Technology Applications
Butte, MT 59702

Craig Trumbell, CFO
RC Publications, Inc.
Rockville, MD 20852

William Weiller, Chairman of
the Board and CEO
Purafil, Inc.
Doraville, GA 30340

Jon Weinstein, President and
Chief Executive Officer
Apex Plastic Industries, Inc.
Hauppauge, NY 11788

Donald Williams, President and
Chief Executive Officer
Princeton Healthcare, Inc.
Marietta, GA 30067

VII. Attachments

ISAC 14 Resolution on E-Commerce
December 2, 2002

ISAC 14 Resolution - Electronic Commerce

Small Business Legislated Trade Negotiations Mandate

ISAC 14 takes note of the U.S. Trade Act of 2002. Particular reference is made to Section 2102 of the Act, Trade Negotiating Objectives that states:

--(8) to ensure that trade agreements afford small businesses equal access to international markets, equitable trade benefits, and expanded export market opportunities, and provide for the reduction or elimination of trade barriers that disproportionately impact small businesses.

This is particularly important in light of the fact that small business have issues unique to themselves as well as concerns that may be shared with other business interests in a multitude of industry sectors.

A Comprehensive Framework for Electronic Commerce

In view of the fact that small business make up the largest business group in the countries forging new multilateral and bilateral trade agreements with the U.S. and stand to gain the most from an effective E-Commerce system that is established, it behooves the negotiators to address the minimal requirements for establishing a Comprehensive Framework for an effective E-Commerce system.

ISAC 14 recommends the USTR strive in its negotiations to establish a framework for the E-Commerce program that has as its objective:

The creation of a locally available, easily accessed, low cost Internet based system that provides business, consumer and government with an enhanced reach to new markets/products or improved internal management efficiencies. The system should strive to provide reasonable protection to all participants in the areas of privacy, payment mechanisms, distribution systems, and dispute resolution.

Any terms of an E-Commerce agreement should be able to stand alone in outlining the full dimensions of the overall system. While the E-Commerce terms may contain detailed description of the provisions unique to itself, it must also make reference to the other related negotiated terms, i.e. infrastructure, customs, dispute resolution, etc., that are critical to defining the full E-Commerce system being established. The negotiators cannot leave it up to the parties, after the fact, to try and make sense of the various pieces of an E-Commerce agreement that may or may not comprise a "comprehensive" system.

The Key Elements (Framework) for an E-Commerce System should encompass, but not be limited to:

-Access and Infrastructure – Unrestricted market entry of Internet service providers over new or existing connection mechanisms.

-Certification and Authentication – Legal framework established for E-contracts, including signatures.

-Common Standards – Compatibility of operating systems between countries for efficient data flow and protection. **-Electronic Payment Mechanisms** – Legal provisions established for online and electronic fund transfers in settlement of contract or purchase arrangements.

-Supply Chain Distribution Systems – Distribution mechanisms, including customs and related support functions, incorporated on the Internet to speed delivery of online or surface/air borne transfers.

-Small Business/Consumer Protection & Dispute Settlement Mechanisms – Legal basis established for protection of parties to E-Commerce transactions and a rapid/low cost dispute settlement vehicle established.

-Intellectual Property Protection – Particular provisions should be incorporated to cover the E-transmission of intellectual property, including the software and products that underpin the E-Commerce systems.

-E-Government – The parties to the trade agreement should agree to Internet those key operations that facilitate or impact E-Commerce, including government procurements.

Note: The negotiators should refrain from placing a broad label, such as, Electronic Commerce on the narrow subject of only the electronic transmission of digital data. Instead, the broader label should be reserved for the establishment of a negotiated framework for a Comprehensive Electronic Commerce system that covers all Internet based commerce.

