

April 25, 2007

The Honorable George W. Bush  
President of the United States  
1600 Pennsylvania Avenue, NW  
Washington D.C. 20500

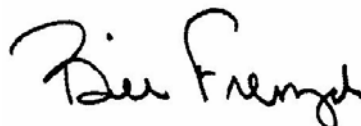
Dear Mr. President:

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 Advisory Committee for Trade Policy and Negotiations (ACTPN) on the U.S. – Panama Free Trade Agreement, reflecting the opinion the ACTPN on the proposed agreement.

The ACTPN endorses the Free Trade Agreement. We believe the agreement meets the negotiating objectives laid out in the Trade Act of 2002, and believe it to be strongly in the best economic interest of the United States. We also believe the U.S. – Panama agreement is a comprehensive state-of-the-art agreement that not only will benefit the U.S. and Panamanian economies and employment opportunities, but also will provide a strong base on which to construct additional bilateral or regional agreements.

In addition to its economic benefits for all parties, the U.S. – Panama agreement will contribute to political stability in the Western Hemisphere and advance regional economic cooperation. The agreement should be enacted into law as soon as possible, so American farmers and ranchers, factories, services providers, and consumers can begin to receive the benefits of this agreement at the earliest possible date.

Sincerely,

A handwritten signature in black ink that reads "Bill Frenzel". The signature is written in a cursive, slightly slanted style.

Bill Frenzel  
Chairman, Advisory Committee  
for Trade Policy and Negotiations

**The U.S. – Panama Free Trade Agreement (FTA)**

**The Report of the  
Advisory Committee  
for Trade Policy and Negotiations  
(ACTPN)**

**April 25, 2007**

**The Advisory Committee  
for Trade Policy and Negotiations (ACTPN)**

**Report to the President, the Congress,  
and the United States Trade Representative on the**

**U.S.-Panama Free Trade Agreement**

**I. Preface**

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)(I) 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 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 principal negotiating objectives set forth in the Trade Act of 2002.

Pursuant to these requirements, the Advisory Committee for Trade Policy and Negotiations hereby submits its report.

**II. Executive Summary of Committee Report**

The ACTPN believes the U.S. - Panama agreement fully meets the negotiating principles and objectives laid out in the Trade Act of 2002, and believes the agreement is strongly in the interest of the United States. It will level the playing field for America's farmers and ranchers, factories, and service establishments. It will provide increased market access for American goods and services. It will provide lower-cost U.S. producer and consumer access to Panamanian goods and services, and does so in a manner not disrupting the U.S. economy. Appropriate transition and adjustment times have been built into the agreement.

The ACTPN believes the agreement will advance the expansion of trade and economic relations between Panama and the United States. The agreement provides for new consultation mechanisms to expand possibilities for improving trade cooperation and heading off disputes. The agreement is an excellent model to promote development and we endorse the institution-strengthening, the creation of a permanent trade capacity-building committee, and the extensive opportunities for cooperative activities.

Additionally, the Panama agreement provides strong intellectual property provisions, ensures fair and effective protection for investors, provides improved business facilitation, greatly improves access for services providers, and contains state-of-the-art treatment for new forms of doing business, including e-commerce. The agreement also incorporates labor and environmental protections into the body of the agreement that meet the requirements of the Trade Act of 2002.

### **III. Description of the Committee**

The Advisory Committee for Trade Policy and Negotiations (ACTPN) is the U.S. government's senior trade advisory panel. It was established to provide the U.S. Trade Representative with policy advice on: (1) matters concerning objectives and bargaining positions of proposed trade agreements; (2) the implementation of trade agreements once they are in force; and (3) other matters arising in connection with the trade policy of the United States. The ACTPN provides an overview of trade policy and issues. Advice on matters affecting individual sectors or policy areas is expected to be provided by several Policy Advisory Committees in the areas of agriculture, non-Federal governments, environment, and the Industry Technical Advisory Committees (ITACs).

In keeping with its broad charter, the membership of the ACTPN is representative of key economic sectors affected by trade. Members are drawn from business, industry, labor, agriculture, small business, service industries, retailers, and consumer interests. The membership of the ACTPN is appended to this report.

### **IV. Advisory Committee Opinion on Agreement**

The ACTPN (or "the committee"), fully endorses the U.S. – Panama Free Trade Agreement (the FTA or "the agreement") as negotiated by the President's U.S. Trade Representative. We believe the agreement promotes the economic interests of the United States and achieves the overall and principal negotiating objectives set forth in the Trade Act of 2002.

We believe the U.S. – Panama FTA will substantially improve market access in Panama for American farm products, industrial and other non-agricultural goods, and services. We also believe it will expand two-way trade opportunities and will benefit employment and living standards for both parties. We further believe the agreement will reinforce the commitment of Latin America to democracy and greater economic openness. It will contribute to the political stability and economic integration of the Western Hemisphere and provides an incentive for further trade liberalization.

While Panama is not among America's largest markets, it provides nearly \$3 billion of exports for U.S. farmers and manufacturers – and at \$2.3 billion, the U.S. merchandise trade surplus with Panama is our fifth largest in the world. The United States is Panama's largest supplier, and U.S. exporters have 27 percent of Panama's import market. The ACTPN views the Panama agreement as an important link in the goal of continuing to extend free trade throughout the Western Hemisphere.

Additionally, the agreement provides an important leveling of the playing field. Panamanian exporters have had virtually complete open access to the U.S. market by virtue of the fact that it has benefited from unilateral preference programs like the Caribbean Basin Initiative (CBI) and the Caribbean Basin Trade Partnership Act (CBTPA).

In 2006 fully 96 percent of Panama's exports to the United States entered duty-free. Panama's average tariffs, on the other hand are 7 percent. The FTA will lock in Panama's preferences to the United States and also eliminate tariffs on U.S. exports to Panama. This should preserve Panama's advantage in the U.S. market and provide an important new advantage for U.S. exporters to Panama. Thus, the agreement will provide two-way duty-free trade for the first time, not just one-way free trade as is the current situation.

The ACTPN's more detailed views on salient parts of the agreement follow. We urge the Administration and the Congress to act expeditiously so that the agreement may come into effect as soon as possible.

**Consumer and Industrial Products** -- Close to 90 percent of U.S. exports of manufactured goods – principally consumer and industrial products will enter Panama duty free immediately upon entry into force of the agreement. This will include such important export sectors as agricultural and construction machinery, medical and scientific equipment, pharmaceuticals, and other products of importance to U.S. exports. The ACTPN applauds this accomplishment, which is a very favorable achievement in line with other recent agreements. All of Panama's tariffs on U.S. products will be eliminated within ten years. The ACTPN views this schedule as being highly beneficial to U.S. exporters while meeting the transition needs of Panamanian producers.

**Agriculture** -- The committee endorses the provisions covered in this agreement for agriculture. The Agreement will provide new market opportunities for a wide range of U.S. agricultural products. Immediately upon implementation of the agreement, over half of these products will begin to enter Panama free of all duties, and most of the remaining products will become eligible for free access to Panama over a 15-year phase in period.

In addition, important non-tariff impediments to trade that have prevented U.S. access to the Panamanian market will be removed as a result of the free trade agreement. The U.S. and Panama signed a far-reaching bilateral agreement on sanitary and phytosanitary measures and technical standards under which Panama will recognize the equivalence of the U.S. food safety inspection system for meat and poultry, and the U.S. regulatory system for processed food products.

The Committee notes that the Panamanian market is generally more tightly controlled due to higher tariffs and tariff rate quotas (TRQs), whereas the U.S. market is relatively open to products from Panama, in large part due to the Generalized System of Preferences (GSP) and the Caribbean Basin Economic Recovery Act (CBERA). Thus, the overall trade picture will improve significantly for U.S. producers and exporters of food and farm products, with the reduction and elimination of trade barriers in the sector.

**Services** -- The ACTPN is pleased that the agreement's services commitments cover both the cross-border supply of services and the right to invest and establish a local service presence, strengthened by a set of detailed disciplines on regulatory transparency – which is fundamental to meaningful services market access.

The ACTPN applauds the breadth of the sectors accorded substantial market access under the agreement's "negative list" approach. It is the ACTPN's belief that the agreement will provide substantial opportunities for U.S. business in the services sector.

Panama agreed to exceed commitments made in the WTO, and to dismantle significant services and investment barriers, such as lifting restrictions on investment in retail trade, ensuring access to contracts related to the Panama Canal, and providing new access in professional services that previously had been reserved exclusively to Panamanian nationals. These commitments and improvements in Panama's services regime will allow U.S. firms to take advantage of the benefits of the agreement across all services sectors. Additionally, U.S. financial service suppliers have full rights to establish subsidiaries or branches for banks and insurance companies.

**E-commerce** -- The e-commerce and digital products provisions meet the ACTPN's objectives and provide state-of-the-art recognition of the increased importance of this issue. The ACTPN finds the e-commerce provisions and the liberal treatment of services in this agreement to continue the high standard that has been set in other recent U.S. trade agreements. The committee draws particular attention to the fact that the agreement establishes guarantees of non-discrimination, a binding prohibition on customs duties on products delivered electronically, and creates a favorable environment for the development of increased e-commerce.

**Investment** -- The committee believes the FTA fully meets the investment requirements laid out in the Trade Act of 2002, and applauds the comprehensive nature of the investment provisions. The committee stresses the importance of covering both investment authorizations and agreements, and cannot urge strongly enough that these provisions must be part of all future agreements. The ACTPN believes that an excellent job was done in improving the investment climate and protections for investors while simultaneously addressing the concerns that had been raised for possible abuse of investor-state provisions. The Agreement provides for rights that are consistent with U.S. law and also contains fully transparent dispute settlement procedures that are open to the public and that allow interested parties to provide their input. The ACTPN applauds the full inclusion of investor-state provisions that provide access to impartial third-party arbitration of investor disputes with governments, which provide an important safety net and provide assurances of fair treatment of possible disputes.

**Intellectual Property Rights (IPR)** -- The ACTPN endorses the state-of-the-art IPR provisions in the agreement. The protection of patents, trademarks, geographic indicators, internet domain names and copyrighted works are particularly important. The ACTPN also commends the strong IPR enforcement mechanisms and penalties provisions, particularly the criminalization of end-user piracy and counterfeiting and Panama's guarantees of authority to seize and destroy not only counterfeit goods but also the equipment used to produce them. The committee wishes to stress the importance of full IPR protections including those for trademarks and states its full support for the excellence of the agreement in this respect. Important achievements in the trademark area are the provisions stipulating that trademark recordal is not required for any purpose, including the assertion of any rights, and a requirement to accede to the Trademark Law Treaty by 2008. The parties also agree to accede to the WIPO internet treaties.

**Customs Procedures and Rules of Origin** -- The specificity of obligations with regard to customs procedures coupled with the commitments to information sharing to combat illegal trans-shipment of goods and facilitate express shipment maintain a high standard. Steps to ensure transparency and efficiency are also included. Provisions also provide that the release of goods should be accomplished quickly –within 48 hours to the extent possible. These provisions greatly improve customs administration in Panama – a major objective for U.S. business. Transparency and ease of doing business will be significantly improved by provisions for advanced customs rulings and providing customs laws and regulations on the internet.

Smaller U.S. exporters will particularly benefit from these provisions. Without commenting specifically on products within individual industry sectors, the ACTPN nevertheless urges that all FTAs include rules of origin that balance the desirability of promoting the sourcing of raw materials within the relevant territory with rules that permit US businesses the flexibility to take full advantage of the agreement.

**Government Procurement** -- The ACTPN is pleased with the provisions on government procurement and believes that they meet the objectives specified in the Trade Act. The breadth of coverage, the strength of the transparency disciplines, and the criminalization of bribery in government procurement represent very significant improvements for U.S. firms. The broad coverage of Panama's government purchasing agencies does much to help level this particular playing field.

Very importantly, U.S. firms will be assured access to the purchases of the Panama Canal Authority. The \$5.25 billion expansion of the Panama Canal will offer significant opportunities for U.S. businesses in goods, services, and construction services. This will be one of the world's largest construction projects and having guaranteed and favorable access to contracts for that project is of major importance. The expansion, which is expected to begin in 2008 and conclude in 2014 will widen the Canal to allow larger ships easier access between the Atlantic and Pacific Oceans.

**Small business benefits** -- The ACTPN believes the agreement should aid U.S. small businesses in several ways. The elimination of Panamanian tariffs on U.S. products, the removal of nontariff barriers in sectors of trade where U.S. small business exporters are active, faster customs clearances, more open and competitive Panamanian government procurement, and more e-commerce opportunities: each of these features of the agreement will lower the transaction costs and opportunity costs of trading with Panama. Lower fixed costs mean that smaller shipments to Panama will become economical. As they do, more small business sellers in the United States and buyers in Panama will be able to do business.

**Labor Provisions** -- The ACTPN believes the U.S. – Panama agreement fully meets the labor objectives that emerged from the Trade Act of 2002. The text of the agreement provides an effective and balanced means of implementing the negotiating objectives for labor. The labor provisions follow the TPA-mandated approach that was adopted in other recent agreements and enhance the procedural guarantees to transparency and due process.

The ACTPN is aware that U.S. negotiators have an understanding with Panama that the labor provisions may be subject to further discussion. The ACTPN recommends this process be completed expeditiously so the agreement can move forward and be passed by the Congress.

The committee particularly notes the agreement's emphasis on cooperation and mutual agreement in working together on labor issues. The ACTPN endorses this approach, and believes it to be particularly important for countries in which labor enforcement resources are likely to be strained. Under the agreement, all parties reaffirm their commitments under the International Labor Organization (ILO) Declaration on Fundamental Principles and Rights at Work. They guarantee in an enforceable manner, as provided for in the Trade Act of 2002, that they will not fail to enforce their labor laws in a way that could affect trade. They also agree to strive to ensure they do not weaken their labor laws in a manner that would affect trade.

**Environmental Provisions** -- The ACTPN endorses the environmental provisions of the agreement and believes they provide effective and creative ways of contributing to environmental improvement. The agreement meets the requirements of the Trade Act of 2002 by requiring in an enforceable manner that neither country shall fail to enforce its environmental laws in a manner that could affect trade.

The agreement contains provisions providing for transparency and input both from local as well as international interested parties. All parties will develop public processes to ensure that views of civil society are considered in environmental questions, and that input from international organizations in evaluating progress can be considered. An environmental cooperation agreement that provides for capacity building is another significant factor.

**Dispute Settlement** -- The ACTPN believes that effective dispute settlement provisions are essential to ensure that trade agreements are actually implemented and enforced. These provisions must provide for timely and effective resolution of disputes and application of enforcement mechanisms that are suitable to provide an adequate incentive for compliance when needed.

The ACTPN wants to stress that trade retaliatory measures should be taken as a last resort, for they have the capability of interfering with trade and causing considerable economic disruption. The committee also believes that the best way to deal with trade disputes is through consultation and mutual understanding, and expresses its support for the excellent provisions in the Panama agreement that seek such amicable resolution of disputes. The agreement also sets high standards of openness and transparency for panel procedures, including opportunities for interested parties to provide views, open hearings, and public release of submissions by parties.



## **Membership:**

### **Advisory Committee for Trade Policy and Negotiations (ACTPN)**

Dr. Craig R. Barrett	Intel Corporation
Mr. Joseph Behar	Univision Music Group
Mr. Michael Campbell	Arch Chemicals, Inc.
The Honorable Calvin Dooley	Food Products Association
Mr. Edward C. Emma	Jockey International, Inc.
The Honorable John Engler	National Association of Manufacturers
The Honorable William E. Frenzel (Chmn)	The Brookings Institute
Mr. Nicholas Giordano	National Pork Producers Council
Ms. Stephanie Harkness	Pacific Plastics and Engineering
The Honorable Mark Kennedy	
The Honorable Scott Klug	Trails Media Group
Mr. Charles E. Kruse	Missouri Farm Bureau
Mr. James W. Morrison	Small Business Exporters Association
Mr. Steve Sanger	General Mills, Inc.
Ms. Maria Taxman	Chesterfield Trading
Mr. Jose Villamil	The Washington Economics Group, Inc.
Mr. James Ziemer	Harley-Davidson, Inc.