

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

Dear Ambassador Zoellick:

Pursuant to Section 2104 (e) of the Trade Act of 2002 and Section 135 (e) of the Trade Act of 1974, as amended, I am pleased to transmit the report of the Agricultural Technical Advisory Committee for Tobacco, Cotton, Peanuts and Planting Seeds on the Australia Free Trade Agreement, reflecting consensus advisory opinions on the proposed Agreement.

Sincerely,

Chair (or Designated/Acting Chair)
(Committee)

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

**Report of the
Agricultural Technical Advisory Committee for Tobacco, Cotton, Peanuts
and Planting Seeds (ATAC, TCPSS)**

March 2004

March 12, 2004

Tobacco, Cotton, Peanuts and Planting Seeds, ATAC (“TCPPS”)

Advisory Committee Report to the President, the Congress and the United States Trade Representative on United States – Australia 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, the TCPPS Advisory Committee hereby submits the following report.

II. Executive Summary of Committee Report

The members of the TCPPS Advisory Committee have reviewed the United States – Australia Free Trade Agreement. This report reflects the opinion of the committee concerning cotton, planting seeds, peanuts and tobacco.

In general, the agreement appears to provide reciprocal levels of market access for both the United States and Australia with respect to agriculture in general.

Australia posed a different set of issues for some sectors of U.S. agriculture as Australia is competitive in several products produced in the United States. As the United States continues to enter into free trade agreements around the world, the sheer number of those individual agreements begins to change the realities of multilateral trade agreements. This is particularly true with respect to commodities that are protected by tariff rate quotas under the Uruguay Round WTO agreements.

Those quotas are often modified by free trade agreements and market access increased. These modifications are more problematic for some commodities than others, usually depending on the type of domestic program in place and the degree that the trading partner is competitive in that particular commodity.

The most significant issue raised by members of the Committee involved the impact of free trade agreements on commodities that have tariff rate quotas in place. There is concern that

maintaining restrictions on U.S. imports (or even exempting certain commodities from the final agreement) will either result in a precedent that could be used by other countries against U.S. commodities or will cause other commodities to receive less in the way of market access in the particular agreement. Conversely, there are concerns voiced by some commodities that are protected by tariff rate quotas that each new free trade agreement undermines that protection to a degree that, ultimately, cannot be appropriately evaluated.

The Committee notes that traditionally, commodities covered by tariff rate quotas have been placed into categories providing for extended phase out periods, thereby gradually phasing in the increased market access. The Australia agreement continues this process with some exceptions.

The Committee supports efforts in the Australia agreement to react to the concerns of some commodities with respect to increased competition under the agreement. The Committee, however, also insists that this flexibility be wielded for the benefit of U.S. agriculture and not to its detriment.

The members of the committee note that the Administration has worked to make this Agreement public as quickly as possible and appreciates this change in the review and comment process.

Specific issues are discussed in Section V of this report.

III. Brief Description of the Mandate of TCPSS ATAC

The advisory committee is authorized by Sections 135(c)(1) and (2) of the Trade Act of 1974 (Pub. L. No. 93-618), as amended, and is intended to assure that representative elements of the private sector have an opportunity to make known their views to the U.S. Government on trade and trade policy matters. They provide a formal mechanism through which the U.S. Government may seek advice and information. The continuance of the committee is in the public interest in connection with the work of the U.S. Department of Agriculture (USDA) and the Office of the U.S. Trade Representative. There are no other agencies or existing advisory committees which could supply this private sector input.

IV. Negotiating Objectives and Priorities of (Committee)

The TCPSS Advisory Committee agrees with the general negotiating objectives set out in the Trade Act of 2002 concerning trade agreements as follows:

- ◆ to obtain more open, equitable, and reciprocal market access;
- ◆ to obtain the reduction or elimination of barriers and distortions that are directly related to trade and that decrease market opportunities for United States exports or otherwise distort United States trade;
- ◆ to further strengthen the system of international trading disciplines and procedures, including dispute settlement;
- ◆ to foster economic growth, raise living standards, and promote full employment in the United States and to enhance the global economy;
- ◆ to ensure that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources;

- ◆ to promote respect for worker rights and the rights of children consistent with core labor standards of the ILO (as defined in section 2113(6)) and an understanding of the relationship between trade and worker rights;
- ◆ to seek provisions in trade agreements under which parties to those agreements strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement for trade;
- ◆ 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; and
- ◆ to promote universal ratification and full compliance with ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.

The TCPPS Advisory Committee agrees with the general negotiating objectives set out in the Trade Act of 2002 concerning agriculture, including obtaining competitive opportunities for United States exports of agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and achieving fairer and more open conditions of trade in bulk, specialty crop, and value-added commodities.

The committee members urge the United States to work to limit and abolish unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, unjustified trade restrictions or commercial requirements, such as labeling, that affect new technologies, including biotechnology; unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements; and other unjustified technical barriers to trade.

In addition, members of the TCPPS Advisory Committee also support negotiating objectives concerning intellectual property rights as embodied in the Trade Act of 2002, including –

- ◆ the promotion of adequate and effective protection of intellectual property rights, including through ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights, particularly with respect to meeting enforcement obligations under that agreement; and ensuring that the provisions of any multilateral or bilateral trade agreement governing intellectual property rights that is entered into by the United States reflect a standard of protection similar to that found in United States law;
- ◆ providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property;
- ◆ preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights;
- ◆ ensuring that standards of protection and enforcement keep pace with technological developments; and
- ◆ providing strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms;
- ◆ fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection; and

- ♦ respect for the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001.

The cotton members of the committee also note the importance of textile negotiating objectives as set out in the Trade Act of 2002, which are to obtain competitive opportunities for United States exports of textiles and apparel in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in textiles and apparel.

V. Advisory Committee Opinion on Agreement

Members of the ATAC expressed the belief that the U.S.- Australia FTA was not comprehensive. In addition, they are concerned that commodity-specific exclusions undermine U.S credibility in its trade negotiations.

Tobacco provisions

Tobacco members of the ATAC believe the tobacco provisions of the agreement are fair and equitable.

Peanut provisions

The peanut members of the ATAC expressed concern that each new free trade agreement allows another quota, which is eventually without a tariff, to be included for peanuts. The Australia agreement, not because of its terms, but because of economic reality, offers little in the way of expanded trade opportunities for producers of peanuts in the United States. Peanut members of the Committee also expressed concern that many peanut tariff code categories (processed peanut products, for example) are not included within the established tariff rate quotas. Current implementation of the domestic peanut program is not appropriately addressing the industry's competitiveness concerns.

Cotton provisions

The Australia agreement appears to provide for equity and reciprocity in trade in cotton and cotton products between Australia and the United States. With respect to cotton fiber imports into the United States, the agreement provides for the immediate elimination of import duties on in-quota cotton fiber, with duties applicable to imports outside the WTO-negotiated tariff rate quota to be phased out over an extended length of time. All duties and quotas applicable to cotton fiber exports to Australia are eliminated immediately.

Members of the cotton industry cannot evaluate any free trade agreement without consideration of the provisions of the agreement that affect trade in cotton textiles. The U.S. cotton industry notes that the agreement with Australia contains strong rules of origin that are designed to ensure that only participating countries benefit from the agreement. The agreement also contains strong enforcement provisions that are beneficial to the cotton and cotton products sectors.

Planting seed provisions

In general the proposed FTA agreement negotiated with Australia appears to be favorable for the US seed industry. The overall aim, to increase trade, transparency, consultation and harmonization supports the goals of the US seed industry. A general component important to the US seed industry is the agreement to promote communication and collaboration in achieving mutually beneficial objectives in global forums, such as WIPO and WTO. Specific components

that address US seed industry concerns include the development of a forum to address bilateral Sanitary and Phytosanitary matters; the measures to harmonize patent regulations and technical regulations, where feasible, that restrict trade; and the recognition of intellectual property rights.

VI. Membership of Committee

Gary Adams	National Cotton Council
Jeannette Anderson	American Peanut Council
Dale Artho	Dale and Kathy Artho Farms
Otto Bean	Jason and Otto Bean Partnership
Tommy Bunn	Leaf Tobacco Exporters Association
W. L. Carter	North Carolina Cotton Producers Association
Mark Condon	American Seed Trade Association
Thomas Cotton	Peanut Growers Cooperative Marketing Assn
Andrew Coyle	Kentucky Farm Bureau
William Dunavant	Dunavant Enterprises, Inc.
Charles Earnest	Dolphin Land Company
Bill Gillon	Butler, Snow, O'Mara, Stevens & Cannada, PLLC
Kater Hake	Delta and Pine Land Company
Luby Hamm	Flue-Cured Tobacco Cooperative Stabilization Corp.
Todd Haymore	Universal Leaf Tobacco Company, Inc.
Kenneth Hood	Perthshire Farms
Jeffrey Johnson	Birdsong Peanuts
Kevin Kimle	Decision Commodities, LLC
Will Kinzel	Case New Holland, Inc.
Donald Koehler	Georgia Agricultural Commodity Commission for Peanuts
Dewey Lewis	Chapman and Lewis Farms, Inc.
Larry Meyers	Meyers and Associates
Donald Nelson	Altria Corporate Services, Inc.
Richard Pasco	American Peanut Product Manufacturers, Inc.
Evans Plowden	American Peanut Shellers Association
Thomas Smith	Calcot, Ltd.
Mark Kay Thatcher	American Farm Bureau Federation

Clyde Wayne

Robert Weil

Larry Wooten

Tobacco Associates, Inc.

Weil Brothers Cotton, Inc.

North Carolina Farm Bureau