

The U.S.-Panama Trade Promotion Agreement (U.S.-Panama TPA)

Report of the  
Industry Trade Advisory Committee on Steel  
ITAC-12  
April 2007

April 25, 2007

Industry Trade Advisory Committee 12 for Steel

**Advisory Committee Report to the President, the Congress and the United States Trade Representative on U.S.-Panama Trade Promotion Agreement (TPA)**

**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) 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 principal 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, ITAC-12 Steel hereby submits the following report.

**II. Executive Summary of Committee Report**

The United States-Panama TPA reviewed by ITAC-12 does not provide for changes in, or changes in application of, U.S. AD-CVD statutes, which is ITAC-12's most important concern in regard to trade remedy laws. And, as regards AD-CVD, each party retains its rights and obligations under WTO. Provisions on safeguards and government procurement reflect the "boiler plate" texts ITAC-12's predecessor, ISAC-7, and ITAC-12, reviewed previously in the FTAs with Singapore, Chile, Australia, Central American countries, including the Dominican Republic, Bahrain, Oman, Peru and Colombia and appear to create no particular problems for ITAC-12. In view of the very large expenditures contemplated by the Panama government's Panama Canal Authority, however, the U.S. government must be careful to enforce all U.S. suppliers' rights under the government procurement provisions of the U.S.-Panama TPA --with careful attention to the real world benefits to both U.S. contractors and sub-contractors.

## **ITAC-12 BASIC NEGOTIATING PRIORITIES**

1. The current international trade rules with regard to the right to initiate trade actions against the unfair trade activities of foreign producers and the prosecution thereof must be preserved. Any proposed changes to the rules must improve, and not weaken in any way, the disciplines on unfair trade practices and the right to initiate trade actions against them.
2. The disparity in the treatment of direct and indirect taxes under WTO rules with regard to border adjustability, which is one of the most egregious distortions facing US producers in both US and export markets, must be eliminated.
3. A precondition to entering into any trade agreement should be the clear absence of any governmental currency intervention or manipulation, as well as the development of an appropriate form of review process to eliminate any governmental subsidies.
4. The current WTO Dispute Settlement system, particularly as it can dilute US laws and sovereignty, is in critical need of reform. A primary example of the need for reform is the recent dispute in the WTO over the U.S. use of “zeroing.”
5. Foreign non-tariff barriers (NTB’s) that prevent or obstruct fair access to foreign markets by US producers should be eliminated.
6. Agreements must be entirely free of language that facilitates circumvention (such as changes to rules of origin) or in any way prevents or limits the redress of violations of agreements.

### **III. Brief Description of the Mandate of ITAC-12 for Steel**

The Committee shall perform such functions and duties and prepare reports, as required under Section 135 of the Trade Act of 1974, as amended, with respect to this sector and functional advisory committees.

The Committee advises the Secretary and the USTR concerning trade matters referred to in Sections 101, 102, and 124 of the Trade Act of 1974, as amended; with respect to the operation of any trade agreement once entered into; and with respect to 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 12188, and the priorities for actions thereunder.

In particular, the Committee provides detailed policy and technical advice, information, and recommendations to the Secretary and the USTR regarding trade barriers and implementation of trade agreements negotiated under Sections 101 and 102 of the Trade Act of 1974, as

amended, and Sections 1102 and 1103 of the 1988 Trade Act, which affect the products of its sector; 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.

#### **IV. Negotiating Objectives and Priorities of ITAC-12 for Steel**

Negotiating Objectives and Priorities for Steel in the multilateral Al-Doha Round and in bilateral Trade Promotion Agreements such as this TPA include the preservation and strengthening of international trade rules with regard to the right to initiate trade actions against unfair trade activities by foreign producers. The paramount objective is to ensure that the availability and enforceability of trade remedies provided under U.S. law are not in any way, shape or form weakened by, or as a result of, this or other negotiated trade agreements.

Another key and related objective is the reform of the current WTO dispute settlement process, particularly as it dilutes U.S. laws and sovereignty. It is critical that neither this nor any other TPA compromise this objective.

A third key objective is the elimination of non-tariff trade barriers (NTB's) that prevent or deter fair foreign market access by U.S. producers of steel and steel-containing goods manufactured in the United States. This would include policies which would create any bias against U.S. exports. It is critically important that all TPAs move in the direction of supporting the elimination of NTB's.

A fourth, equally important objective is to ensure that, in the implementation of trade agreements, market forces (without any governmental manipulation) determine currency exchange rates.

Fifth, the disparity in treatment of direct and indirect taxes under WTO rules with regard to border adjustability must be eliminated, immediately and effectively. At a minimum, agreements should have provisions for adjustments made to foreign countries' border adjustable/value added tax systems for their export advantage that could change (and have changed) after an agreement has come into effect.

Sixth, agreements must be entirely free of language that facilitates circumvention (such as changes to rules of origin) or in any way prevents or limits the redress of violations of agreements.

The above ITAC-12 objectives/priorities are crystallized in the text of Part II above.

#### **V. ITAC-12 Opinion on the Agreement**

ITAC-12 (Steel) members have reviewed and discussed the U.S. – Panama TPA and have concluded as follows:

The U.S.-Panama TPA does not address a number of ITAC-12's basic negotiating priorities; it covers only an extremely small proportion of the international trade of the United States; and Panama has a negligible share, if any, in world steel trade. Nevertheless, given the potential commercial benefits of this TPA (especially for steel's U.S. customers), ITAC-12 finds favorably on the US-Panama TPA overall.

However, our support for this TPA is dampened by the specific concerns we have about the rules of origin (ROO) provisions for steel in this agreement. ITAC-12 draws the U.S. Government's and Congress's attention again to an issue that arose in previous TPA negotiations concerning steel ROO provisions that were to be agreed upon. ITAC-12 has emphasized previously that U.S. negotiators should resist the liberalization or weakening of the NAFTA steel ROO. Regrettably, it appears that the more liberal and looser steel ROO have become the model for recent agreements - notwithstanding the strong and consistent support of ITAC-12 for the NAFTA steel ROO.

Despite these concerns, however, ITAC-12 concludes that, given the potential business opportunities for U.S. companies and Panama's minimal role in world steel trade reflected by this report, the U.S.-Panama TPA does promote the economic interests of the United States, achieves the applicable overall and principal negotiating objectives set forth in the Trade Act of 2002, and provides for equity and reciprocity within ITAC-12's sector.

## **VI. Membership of the Committee**

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