

February 1, 2006

The Honorable Rob Portman  
United States Trade Representative  
Executive Office of the President  
Washington, D.C. 20508

Dear Ambassador Portman:

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

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 (Name of the Committee) on the United States-Peru Trade Promotion Agreement, reflecting consensus; (OR) majority and minority; (OR) majority and additional advisory opinion(s) on the proposed Agreement.

Sincerely,

Donald I. Williams

Acting Chair, Industry Trade  
Advisory Committee on Small and  
Minority Business (ITAC 11)

The United States-Peru Trade Promotion Agreement

Report of the  
Industry Trade Advisory Committee on Small and Minority Business (ITAC-11)

February 1, 2005

February 1, 2006

Industry Trade Advisory Committee on Small and Minority Business (ITAC-11)

Advisory Committee Report to the President, the Congress and the United States Trade Representative on **The United States-Peru Trade Promotion 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) 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, ITAC-11 (formerly known as ISAC-14) on Small and Minority Business hereby submits the following report.

## **II. Executive Summary of Committee Report**

Enclosed is a review 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 applauds the efforts of USTR and Commerce to open freer trade with Peru. ITAC-11 supports the basis and overall concept of the United States and Peru Free Trade Promotion Agreement and continues to support the expansion of free trade throughout the area.

## **III. Brief Description of the Mandate of ITAC-11**

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 ITAC-11**

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 committee has viewed the agreement and would like to submit the following suggestions and/or opinions to the United States and Peru Free Trade Promotion Agreement. The committee applauds the efforts of USTR and Commerce to open freer trade with Peru, and continues to support the expansion of free trade throughout the area.

##### *Chapter 6. Sanitary and Phytosanitary Measures*

Sanitary and Phytosanitary Measures under Article 6.3: Standing Committee on Sanitary and Phytosanitary Matters Paragraph 3 should include that its objectives will "include cooperation on regulatory issues, such as convergence, alignment with international standards, reliance on a supplier's declaration of conformity, and use of accreditation to qualify conformity assessment bodies." which is as per the objectives of the Committee on Technical Barriers to Trade.

Article 6.3: Paragraph 8 calls for the Committee to meet as needed. The Committee suggests that it should be specified that meetings should be held on a quarterly basis or more frequently if needed. There are many, many issues to address and it is very costly for industry to wait for an undetermined period for resolution of an issue.

It would be useful to have one internationally recognized body such as to World Health Organization evaluate and approve pharmaceutical and medical products for global use. It is true this would eliminate a significant source of revenue for the national regulatory authorities, but then their resources could be focused on enforcement of the regulations rather than the time consuming and costly process of evaluating new applications. Moreover a single application procedure with a global mutual recognition of the approval would provide more ready access to Small and Minority Enterprises to foreign markets.

##### *Chapter 9. Government Procurement*

The committee applauds the continuous efforts of the U.S. Trade Representative to open the procurements of foreign governments to U.S. small and minority businesses. Particular negotiated points in the government procurement chapter of the Peru TPA that are beneficial to the small and minority business community is the exclusion of offsets (government procurement article 9.2 general principles, 4.0 offsets), the notification of

intended procurements, publication of procurement information, and time limits (government procurement articles 9.4, 9.5, and 9.6).

The committee also applauds the efforts in moving forward cross border recognition of qualification for professionals. This is a very important for the committee as many professional firms in the U.S. fall under the category of small business.

In an effort to continually improve the opportunities for U.S. small and minority businesses the committee recommends the following:

Government procurement Annex 9.1 – Work to further reduce the threshold values for the Government procurement as the average contract for many small businesses is less than the threshold values Identified in annex 9.1 for Central, Sub-central and other entities.

Government procurement Annex 9.1, Section E: Services – Work to prevent exclusion of Accounting, auditing, Architectural and Engineering services as there are many firms in this sector that are small businesses and very qualified to provide the services internationally.

The Committees opinion is that the threshold values are quite high when small businesses are considered:

For the Central Government Entities

-Goods and Services \$193,000 US

-Construction \$7,407,000 US

For the Sub Central Level of Government Entities

-Goods and Services \$526,000 US

-Construction \$7,407,000

Others

-Goods and Services (A list) \$250,000 US, (B list) \$593,000

-Construction \$7,407,000

Specifically, Architect and Engineering services are excluded. There are many small Engineering and Architectural firms in the U.S. that could do a great job and bring very specific skills to the business.

### Chapter 16. Intellectual Property Rights

The Articles of this Chapter carefully address the establishment of IPR and the mechanisms of enforcement. The record shows that the government of Peru has done little to address the alleged corruption in the judicial system and the penalties imposed on IPR violators are relatively weak.

Peru remains on the "Watch List" under the Special 301 provisions of the 1988 Trade Act due to the revocation of second-use patent protection for pharmaceuticals and the lack of confidential treatment of proprietary data, which is submitted in the application for a marketing approval for pharmaceutical products. The Committee suggests that there should be an Article, which calls for an independent review of the enforcement of IPR by a world body such as the World Intellectual Property Organization on a bi-annual basis. Without enforcement the laws are meaningless.

*For the Record: Cross-Border Taxation on Small Business*

Governments from America, The European Union too Central and South America have grappled with the subject regarding the burden of taxation on small business. The two things that almost all of them agree on are: the important role of small and minority business in the economic development of nations; and that something should be done to ease the tax burden on small minority business.

According to the Financial Times the European Commission has announced plans that will allow small businesses operating across national borders to work under a simplified tax regime. The intent of the plan is to reduce the tax burden and the difficulty of small business of having to work with as many as 25 different tax regimes. Small businesses with less than 250 employees the tax burden can be as high as 30%. While other countries seek to bring about tax relief on small and minority business, China on the other hand, is exploring ways to add an 8 or 9% "value added tax" to business.

The U.S. Peru Trade Promotion Agreement should contain language that will fully address and explore the question of taxes on U.S. small and minority business when operating in Peru. An American small business operating in Argentina today can expect to pay 35% taxes for services performed in country.

## **VI. Membership of ITAC-11 Committee**

### **Chairman**

Mr. Donald I. Williams (Acting)  
President and Chief Executive Officer  
Princeton Healthcare, Inc.

### **Secondary Vice-Chairman**

Mr. John Allen  
Chairman and Chief Executive Officer  
Allen and Associates International, Ltd.

### **Secondary Vice-Chairman**

Mr. Roger N. Dickey, CPA  
President  
Kensington International, Inc.

Mr. Kent M. Bank  
President and Chief Executive Officer  
Minneapolis Washer  
and Stamping Company, Inc.

Mr. Harry Bossey, CPA  
President and General Manager  
Western TradeWinds, Inc.

Ms. Sarian S. Bouma  
Chief Executive Officer  
Capitol Hill Building Maintenance, Inc.

Mr. Bernard D. Brill  
Executive Vice President  
Secondary Materials and Recycled  
Textiles  
Association

Ms. Candace Chen  
President and Chief Executive Officer  
Power Clean 2000, Inc.

Mr. W. Guy Davis  
President and Chief Executive Officer  
Proxtronics Incorporated

Ms. Karen M. El-Chaar  
Corporate Secretary and Treasurer  
Hamilton Services Group, Ltd.

Sharon T. Freeman, Ph.D.  
President  
Lark-Horton Global Consulting, Ltd.

Ms. Sherrie A. Gilchrist  
President and Chief Executive Officer  
Chattanooga African American Chamber  
of Commerce and National Black  
Chamber of Commerce

Mr. Johnny Johnson  
President  
Johnson Marketing  
and Management Company

Ms. Carolyn M. Keats  
Director, International Business  
Tender Corporation

Mr. George M. Keller  
President  
Customs Advisory Services, Inc.

Mr. Lewis G. Kranick  
Consultant  
LG Kranick & Associates  
Representing Krandex Corporation

Catherine A. Lee, Esq.  
Managing Director  
Lee International Business  
Development, LLC

Mr. Peter O. Lehman  
Director, Planning and Business  
Development  
South Carolina State Ports Authority

Brenda K. Mitchell, Ph.D.  
Chief Executive Officer  
Management & Environmental  
Technologies, Inc.

Mr. J. Paul Oxer  
President  
Creative Performance System, Inc.

Mr. David P. Padilla  
Vice President  
Manuel Lujan Insurance, Inc.

Mr. Jeffrey W. Ruffner  
Vice President and General Manager  
MSE Technology Applications, Inc.

Mr. Esteban Taracido  
President  
Tele-Signal Corporation/Las Americas  
Financial Services, Inc.

Mr. Jose V. Travez  
Vice President  
Prototype Productions, Inc.

Mr. Craig M. Trumbull  
Chief Financial Officer  
RC Publications, Inc.

Total Members = 25