

April 6, 2004

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. - Morocco Free Trade Agreement, reflecting the main and dissenting opinions of the ACTPN on the proposed agreement.

The ACTPN, with one exception, endorses the U.S. – Morocco Free Trade Agreement (the FTA). We believe the agreement substantially 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 FTA is a comprehensive state-of-the-art agreement that not only will benefit the U.S. and Moroccan economies and employment opportunities, but also will provide a strong base on which to construct additional bilateral or regional agreements. The ACTPN sees this agreement as an important step in the creation of a Middle East Free Trade Area and believes the agreement will help promote improved and strengthened relations between the United States and the countries in the Middle East.

The FTA should be enacted into law as soon as possible, so American farms, factories, services providers, and consumers can begin to receive the benefits of this agreement at the earliest possible date.

All ACTPN members concur with this recommendation and with the report of the ACTPN except for Mr. Hoffa, the President of the International Brotherhood of Teamsters, whose separate views are included in the text of our report.

Sincerely,

Bill Frenzel
Chairman
Advisory Committee for Trade Policy and Negotiations

The U.S. – Morocco Free Trade Agreement (FTA)

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

April 6, 2004

**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.-Morocco 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, with the exception of Mr. James P. Hoffa, President of the International Brotherhood of Teamsters, believes the U.S.-Morocco Free Trade Agreement (FTA) fully meets the negotiating principles and objectives laid out in the Trade Act of 2002 and believes the FTA is strongly in the interest of the United States. It is a good agreement that will improve market access for American goods, services and agricultural products in Morocco. It will provide lower-cost U.S. producer and consumer access to Moroccan goods and services, and will do so in a manner that does not disrupt the U.S. economy. Adequate transition and adjustment times have been built into the agreement.

The agreement continues the high standards of earlier agreements and contains provisions that will advance the expansion of trade and economic relations between Morocco and the United States. In addition, it contains effective enforcement mechanisms and new consultation mechanisms to expand possibilities for improving trade cooperation and heading off disputes.

The FTA is also notable for incorporating labor and environmental protections into the body of the agreement, ensuring that neither party fails to enforce its environmental and labor laws in a manner affecting trade between them. Additionally, the FTA makes significant advances in protecting intellectual property, ensuring fair and effective protection for investors, providing improved business facilitation and state-of-the-art treatment for new forms of doing business, including e-commerce.

The ACTPN, with the exception of one member, believes this agreement to be strongly in the U.S. interest and to be an incentive for additional bilateral and regional agreements. The ACTPN hopes that the Morocco FTA will serve as a catalyst for other agreements in the Middle East and believes that it is a significant step in the President's stated goal of creating a Middle East Free Trade Area. We urge its quick adoption and implementation. Mr. Hoffa disagrees with this view, believing the labor provisions of the agreement to be inadequate.

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 defense, agriculture, labor and environment, the Industry Sector Advisory Committees (ISACs), and Industry Functional Advisory Committees (IFACs).

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 ("the committee"), with the exception of one member, endorses the U.S. – Morocco Free Trade Agreement (the FTA or "the agreement") as negotiated by the President's U.S. Trade Representative. Our report draws on the views of all ACTPN members, representing a broad spectrum of trade-related industries and interests. We believe the agreement strongly promotes the economic interests of the United States and substantially achieves the overall and principal negotiating objectives set forth in the Trade Act of 2002.

We believe that the FTA is a comprehensive and meaningful agreement that benefits American firms and workers and also complements ongoing regional and multilateral trade and investment liberalization efforts. We believe the FTA will substantially improve market access in Morocco for American industrial and agricultural goods and services.

Morocco is an emerging market with a population of 31 million people that imports \$11 billion worth of goods annually. The United States currently exports an average of \$465 million annually to Morocco. Leading exports include aircraft, corn and machinery. Although the United States is the seventh largest exporter to Morocco, we only claim a 4% share of the total Moroccan import market. Currently, U.S. products entering Morocco face an average tariff of over 20 percent, while Moroccan products pay an average duty of 4 percent as they enter the United States.

The ACTPN believes that, in addition to significant market opening for U.S. goods and services, the FTA will make the historically close relationship with Morocco even closer and will advance the President's program for a Middle East Free Trade Area. This agreement will help lead the way to future FTAs in the Middle East. A robust agreement with Morocco sets a high standard for other agreements and encourages significant trade liberalization in the region.

The committee also believes that the economic interests of the United States are advanced on the import side of the agreement. Consumers will benefit from trade liberalization, and the staging of U.S. liberalization has taken account of the need of sensitive sectors to adjust to the reduction and eventual elimination of trade barriers to Moroccan goods and services.

The ACTPN's more detailed views on salient parts of the agreement follow, but the committee wants to stress that it endorses all parts of the agreement, including those not discussed in the following section. Our principal concern is timing – we urge the Administration and the Congress to get the agreement into effect as soon as possible. If it is possible to complete all requirements for implementation on January 1, 2005, we urge that the administration make all efforts to do so.

Agricultural, Consumer, and Industrial Products --Market Access -- The ACTPN believes that the provisions on trade in goods, including agriculture, substantially achieve the Trade Act's market access goals. Considering that Morocco is a developing country, an impressive range of U.S. exports will become duty free immediately upon implementation of the agreement. Morocco will provide immediate duty-free access to 92 percent of its imports of non-agricultural goods from the United States. Key export sectors that gain duty-free access immediately are information technology, machinery, construction equipment and chemicals. The ACTPN is particularly pleased that as a result of this agreement, Morocco is joining the WTO Information Technology Agreement (ITA) to provide immediate duty-free access for these important products. The ACTPN notes, though, that a large proportion of the high end of Morocco's tariffs -- those at 40-50 percent that are currently very trade-restrictive -- will not be phased out until nine years.

The agreement also opens Morocco's market for many agricultural products. The agreement covers all agricultural products, affording U.S. poultry, beef and wheat producers greater access under tariff-rate quotas in order to compete better with Canada and the European Union in Morocco's market. Other U.S. agricultural products will enjoy significant tariff cuts or elimination and significant new market access, with virtually all tariffs phased out within fifteen years. The ACTPN is of the opinion that in sensitive agricultural sectors the concerns of Moroccan small farmers were considered carefully in an agreement with benefits for both sides.

On the U.S. side, the ACTPN is pleased with the benefit to consumers from tariff elimination, and notes that the phase-in period allows for adjustment time for sensitive products.

Services -- The ACTPN recognizes the Advisory Committee on Services will comment on individual services sectors, but generally believes that the commitment to substantial market access across the entire services regime with assurances of nondiscriminatory treatment, supported by strong disciplines on regulatory transparency, provides a solid foundation for trade liberalization in the services area. The committee believes that the negotiating requirements for services trade have been met satisfactorily, and that the agreement helps set the basis for additional agreements to open services trade throughout the region.

Particularly notable is the fact that Morocco agreed to a “negative list” approach in which only designated services may be excepted from being fully open – all other services are open, importantly including new service industries which may emerge in the future.

Transparency -- The ACTPN supports the provisions that promote transparency and public participation in rulemaking and guarantees of fair and prompt administrative proceedings and review.

E-commerce -- The e-commerce and digital products provisions meet the expectations of the ACTPN and provide a strong basis for the expansion of this important technology. The establishment of non-discrimination guarantees and a binding prohibition on customs duties on products delivered electronically create a favorable environment for the development of increased e-commerce. The ACTPN finds the e-commerce provisions and the liberal treatment of services in this agreement especially important for ensuring future U.S. market access in these critical growth areas.

Investment -- The committee believes the FTA fully meets the investment requirements required by the Trade Act of 2002. The FTA provides for rights that are drawn from U.S. legal principles and practices to provide U.S. investors in Morocco with protections comparable to those that Moroccan investors currently enjoy under the U.S. legal system. The agreement contains fully transparent dispute settlement procedures that are open to the public and that allow interested parties to provide their input. The agreement also contains the investor-state arbitration provisions the committee sees as essential. The committee notes, though, that the investor-state dispute mechanism is only prospective, which is a departure from the standard U.S. model. The ACTPN believes that full protections for all forms of investment are extremely important and should be included in future agreements to provide assurances for the growth of two-way investment.

Intellectual Property Rights -- The ACTPN endorses the high level of IPR protection negotiated in the agreement while still affording Morocco the ability to use the Access to Medicines WTO provisions to deal with HIV-AIDS or other pandemics. The agreement includes state-of-the-art protection on trademarks and digital copyrights and expanded protection of patents and trade secrets. These are supported by tough penalties for piracy and counterfeiting, including seizure and destruction of products and equipment and mandated statutory and actual damages for violations. Morocco will maintain criminal penalties for circumvention and for trade in counterfeit goods.

The ACTPN is particularly concerned with the rising global level of trade in counterfeit goods, and commends the FTA for its strong provisions to combat such trade. Morocco's agreement to ensure adequate enforcement resources, especially closer cooperation to prevent the importation of pirated goods into the United States, is also important.

Government Procurement -- The agreement includes coverage of most Moroccan central, regional and municipal government agencies. The ACTPN believes it is important that Morocco increased its commitments on non-discrimination in government services procurements and reinforced its WTO commitments to strong and transparent disciplines on procurement procedures. Also important in ensuring transparent processes in government procurement, in the ACTPN's view, is the commitment to maintain criminal and other penalties for bribery in government procurement.

Customs and Rules of Origin -- The ACTPN is pleased with the customs procedures negotiated in the U.S. Morocco FTA. Specifically, the ACTPN applauds the use of technology and the specificity of the provisions requiring transparency and efficiency in customs administration as well as the facilitation of the clearance of express delivery shipments through customs. The FTA has a provision for both governments to share information to combat the illegal transshipment of goods. 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 U.S. businesses the flexibility and opportunity to take full advantage of the agreement.

Labor Provisions -- The ACTPN, with one exception, believes the FTA fully meets the labor objectives of the Trade Act of 2002, and views the text of the agreement as providing an effective and balanced means of implementing those negotiating objectives. The labor provisions are consistent with the standards set in earlier free trade agreements and meet the Trade Act's requirements while still providing strong assurances that the provisions cannot be used as a means of disguised protectionism.

The committee particularly points to the agreement's emphasis on cooperation and mutual agreement in working together on this matter. Under the agreement, both countries reaffirm their commitments under the International Labor Organization (ILO) Declaration on Fundamental Principles and Rights at Work and ILO Convention 182 on the Worst Forms of Child Labor. The agreement also establishes a cooperation mechanism to support these commitments and improve the systems for administration and enforcement of labor laws. Both guarantee in an enforceable manner, as stipulated in the Trade Act of 2002, that they will not fail to enforce their labor laws in a way that could affect trade. Both also agree to strive to ensure they will not weaken their labor laws in a manner that would affect trade.

Mr. Hoffa disagrees with the view of the other members, and opposes the labor language in the agreement. He believes that the language is insufficient to ensure that internationally recognized labor standards will be respected in Morocco. He stresses that he cannot, therefore, support the agreement itself.

Environmental Provisions -- The ACTPN endorses the environmental provisions of the FTA set out in the Joint Statement on Environmental Cooperation and believes they provide effective ways of contributing to environmental improvement. While the provisions for environmental improvement would be strengthened if they formed an integral part of the agreement rather than a side agreement -- and had an available dedicated funding source -- the areas listed for cooperation appear to cover the critical range of issues that need to be addressed in this arena. In supporting the proposed Joint Statement on Environmental Cooperation, the ACTPN commends the Administration for entering into a joint project to build Moroccan environmental capacity.

Dispute Settlement -- The ACTPN, with one exception, believes that the agreement contains effective dispute settlement provisions that can ensure the agreement's requirements can be enforced. These provisions provide for timely and effective resolution of disputes and the application of enforcement mechanisms that provide an adequate incentive for compliance when needed. Under the agreement, suspension of tariff benefits or the application of fines are available for all disputes, including disputes over enforcing labor and environmental laws.

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. For this reason the committee commends the agreement's provisions that allow for the use of fines. The ACTPN hopes that this avenue will be pursued as a preferred option, holding the use of trade restrictions to an absolute minimum.

The committee also believes that the best way to deal with trade disputes is through consultation and developing trade enhancing remedies and expresses its support for the provisions in the FTA that seek such amicable resolution of disputes. The agreement also sets high standards of openness and transparency for panel procedures.

The ACTPN, with one exception, believes that the dispute resolution provisions fully meet the requirements of the Trade Act of 2002. They provide equivalent enforcement for all parts of the agreement, satisfying both the letter and spirit of the legislation..

Mr. Hoffa, however, disagrees. He believes that the agreement violates the Trade Act of 2002 and the labor and commercial obligations are treated in a different manner, where labor obligations are enforceable through fines and commercial obligations may be enforced through sanctions. In his view this violates the Trade Act's requirement that trade negotiators "treat United States principal negotiating objectives equally," with equivalent dispute settlement procedures and equivalent remedies for all disputes.

April 6, 2004

Membership:

Advisory Committee for Trade Policy and Negotiations (ACTPN)

Name	Organization
Bernard W. Aronson	ACON Investments, LLC
Paul Norman Beckner	Citizens for a Sound Economy
JoAnn Brouillette	Demeter
Melinda S. Johnson Bush	HRW Holdings, LLC
Jill M. Considine	The Depository Trust and Clearing Corp.
Edward C. Emma	Jockey International, Inc.
George B. Fitch	Mayor, City of Warrenton, VA
William E. Frenzel	The Brookings Institute
Robert E. Grady	The Caryle Group
Michael Goldstein	Toys R Us Children's Fund
Frank H. Habicht	Global Environment & Technology Foundation
Peter Hanna	Hanna Steel Corporation
Walter B. D. Hickey Jr.	Hickey Freeman Company, Inc.
James Philip Hoffa	International Brotherhood of Teamsters
Jerome J. Jasinowski	National Association of Manufacturers
Fisk Herbert Johnson	SC Johnson & Son, Inc.
Hersh Kozlov	Wolf, Block, Schorr and Solis-Cohen LLP
Charles E. Kruse	Missouri Farm Bureau
Luis Lauredo	Hunton & Williams, LLC
Larry A. Liebenow	Quaker Fabric
James W. Morrison	Small Business Exporters Association
Thomas D. Mottola	Sony Music Entertainment
Grace E. Andrews Nichols	Victoria's Secret Stores
Samuel J. Palmisano	IBM Corporation
Edward J. Perkins	University of Oklahoma
Kevin B. Rollins	Dell Computer Corporations
Steven R. Rogel	Weyerhaeuser
Jean-Pierre C. Rosso	CNH Global
John G. Rowland	Governor, State of Connecticut
Hector Ruiz	Advanced Micro Devices
Rodolphe M Vallee	R.L. Valle, Inc.
Morgan Y. Wang	Angeles Optics, Inc.
Margaret C. Whitman	eBay, Inc.
Wythe W. Willey	National Cattlemen's Beef Association