

ATTACHMENT—FIRST FAIR ACT RELEASE FY 2007—Continued

Environmental Protection Agency	Mr. Ed Murphy, (202) 566-4456, http://www.epa.gov/oarm/inventory/2007/2007inventory.htm .
Equal Employment Opportunity Commission	Ms. Doreen Starkes, (202) 663-4240, http://www.eeoc.gov .
Farm Credit Administration	Mr. Philip Shebest, (703) 883-4146, http://www.fca.gov/FCWeb/fairact.htm .
Federal Communications Commission	Ms. Bonita Tingley, (202) 418-0293, http://www.fcc.gov/omd/reports.html .
Federal Energy Regulatory Commission	Ms. Kimberly Fernandez, (202) 502-8302, http://www.ferc.gov .
Federal Maritime Commission	Mr. Peter King, (202) 523-5800, http://www.fmc.gov .
Federal Trade Commission	Ms. Darlene Cossette, (202) 326-3255, http://www.ftc.gov/fairact .
General Services Administration	Mr. Paul Boyle, (202) 501-0324, http://www.gsa.gov .
National Aeronautics and Space Administration	Ms. Ann Sharpe, (202) 358-0484, http://www.competitivesourcing.nasa.gov .
National Archives and Records Administration	Ms. Susan Ashtianie, (301) 837-1490, http://www.archives.gov/about/plansreports/fairact/ .
National Endowment for the Arts	Mr. Laurence M. Baden, (202) 682-5534, http://www.arts.gov .
Office of Federal Housing Enterprise Oversight	Mr. Mark Laponsky, (202) 414-3832, http://www.ofheo.gov .
Office of Personnel Management	Mr. Ronald C. Flom, (202) 606-3207, http://www.opm.gov/procure/fairactinventory/ .
Office of Special Counsel	Ms. Sharyn Danch, (202) 254-3600, http://www.osc.gov .
Small Business Administration	Mr. Richard Brechbiel, (202) 205-6784, http://www.sba.gov/A76 .
Smithsonian Institution	Mr. Ken Johnson, (202) 633-5211, http://www.si.edu .
Social Security Administration	Mr. Dennis Wilhite, (410) 966-6988, http://www.socialsecurity.gov/fair/FAIRact.htm .
United States Holocaust Memorial Museum	Mr. Lawrence Swiader, (202) 488-6579, http://www.ushmm.org/notices/fair_act/2007.ls .

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**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

[Docket No. WTO/DS375]

**WTO Dispute Settlement Proceeding
Regarding European Communities—
Tariff Treatment of Certain Information
Technology Products****AGENCY:** Office of the United States
Trade Representative.**ACTION:** Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (“USTR”) is providing notice that on May 28, 2008, in accordance with the World Trade Organization (“WTO”) *Understanding on Rules and Procedures Governing the Settlement of Disputes* (“DSU”), the United States requested consultations with the European Communities (“EC”) and its member States regarding the tariff treatment accorded to set-top boxes with a communication function, flat panel displays, “input or output units,” and facsimile machines. That request may be found at <http://www.wto.org> contained in a document designated as WT/DS375/1. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute, comments should be submitted on or before July 11, 2008 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to

FR0809@ustr.eop.gov, with “EC Information Technology Products (DS375)” in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395-3640, with a confirmation copy sent electronically to the electronic mail address above, in accordance with the requirements for submission set out below.

FOR FURTHER INFORMATION CONTACT:

Elissa Alben, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395-3150.

SUPPLEMENTARY INFORMATION: USTR is providing notice that the United States has requested consultations with the EC and its member States pursuant to the DSU. If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within nine months after it is established.

Major Issues Raised by the United States

On May 28, 2008, the United States requested consultations with the EC and its member States regarding the tariff treatment the EC and its member States accord to set-top boxes with a communication function, flat panel displays, “input or output units,” and facsimile machines.

• *Set-top boxes with a communication function.* On May 7, 2008, the EC published an amendment to the Explanatory Notes to the EC’s Combined Nomenclature (CN), which provides that the duty-free heading CN 8528 71 13 (“set-top boxes with a

communication function”) no longer includes set-top boxes with modems of certain types (e.g., Ethernet modems) or set-top boxes which “incorporate a device performing a recording or reproducing function (for example, a hard disk or DVD drive).” As a result of this exclusion, the EC and its member States impose a duty on these set-top boxes. In addition, the EC added an explanatory note to CN 8521 90 00 indicating that the subheading includes set-top boxes “which incorporate a device performing a recording or reproducing function (for example, a hard disk or DVD drive).” Products classified in CN 8521 90 00 are subject to an MFN duty of 13.9%.

• *Flat panel displays (including LCD, electro luminescence, plasma and other technologies).* On March 31, 2005, the EC published Council Regulation (EC) No. 493/2005, stating that certain flat panel displays using LCD technology that are “capable of reproducing video images from a source other than an automatic data-processing machine” are not covered by the Information Technology Agreement (ITA) or by the Communication on its implementation (Council Decision 97/359/EC of 24 March 1997). On April 26, 2005, the EC issued Commission Regulation (EC) No. 634/2005, stating that flat panel displays with certain attributes, including DVI, would be classified in a dutiable tariff line. On December 29, 2005, the EC published Commission Regulation (EC) No. 2171/2005, which also provided that certain flat panel displays would be classified in a dutiable tariff line if they had certain attributes, including DVI. On December 30, 2006, the EC published amendments to the Explanatory Notes to accompany CN

8471 60 80 and 8528 21 90. Like the regulations, the Explanatory Notes provide that flat panel displays with certain attributes, such as DVI, may not be classified in the duty-free tariff line 8471 60 80 and would be classified in a dutiable tariff line. EC member States assess duties on flat panel displays. Furthermore, while the EC has temporarily suspended the collection of duties on some flat panel displays, it appears to fail to accord tariff treatment that is no less favorable than that provided for in its Schedule.

- *“Input or output units” and facsimile machines.* In 1999, the EC published Commission Regulation (EC) No. 517/99, which provided that certain “output units” would be classified in a tariff line with a 6% MFN duty. On March 9, 2006, the EC published Commission Regulation (EC) No. 400/2006, which classified certain “output units” or facsimile machines, under CN subheading 9009 12 00, as indirect process electrostatic photocopiers. The EC Customs Code Committee also issued a statement indicating that “if a multifunctional device (fax, printer, scanner, copier) has the capability of photocopying in black and white 12 or more pages per minute (A4 format) this indicates that the product is classifiable in heading 9009 as a photocopying apparatus.” Consistent with that statement, on October 31, 2006, the EC published Commission Regulation (EC) No. 1549/2006, which provides that certain “output units” or facsimile machines capable of copying more than 12 monochrome pages per minute are classified in a dutiable tariff line. EC member States assess duties on certain “input or output units” and facsimile machines.

These measures appear to USTR to be inconsistent with the EC’s obligations under Articles II:1(a) and II:1(b) of the *General Agreement on Tariffs and Trade 1994* (“GATT 1994”) and its Schedule and with the member States’ obligations under Articles II:1(a) and II:1(b) of the GATT 1994 and their Schedules, and they appear to nullify or impair benefits accruing to the United States under the GATT 1994.

In addition, with respect to set-top boxes, the Tariff and Statistical Nomenclature Section of the Customs Code Committee delivered favorable opinions with respect to the proposed amendments to the Explanatory Notes contained in 2008/C 112/03 in October 2006 and May 2007, respectively. It did not publish the amended explanatory notes in the EC Official Journal until May 7, 2008. Furthermore, member States were applying duties to set-top

boxes using the approach specified in 2008/C 112/03 prior to May 7, 2008. These actions appear to USTR to be inconsistent with the EC’s obligations under GATT 1994 Articles X:1 and X:2.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments should be submitted (i) electronically, to FR0809@ustr.eop.gov, with “EC Information Technology Products (DS375)” in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–3640, with a confirmation copy sent electronically to the electronic mail address above.

USTR encourages the submission of documents in Adobe PDF format as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Comments must be in English. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly designated as such and “BUSINESS CONFIDENTIAL” must be marked at the top and bottom of the cover page and each succeeding page. Persons who submit confidential business information are encouraged also to provide a non-confidential summary of the information.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

- (1) Must clearly so designate the information or advice;
- (2) Must clearly mark the material as “SUBMITTED IN CONFIDENCE” at the top and bottom of the cover page and each succeeding page; and
- (3) Is encouraged to provide a non-confidential summary of the information or advice.

USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, the submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel; and, if applicable, the report of the Appellate Body. The USTR Reading Room is open to the public, by appointment only, from 10 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday. An appointment to review the public file (Docket WTO/DS–375, EC Information Technology Products Dispute) may be made by calling the USTR Reading Room at (202) 395–6186.

Daniel Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

WTO Dispute Settlement Proceeding Regarding Measures Related to Zeroing and Sunset Reviews

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (“USTR”) is providing notice that pursuant to a request of Japan, the Dispute Settlement Body (“DSB”) of the World Trade Organization (“WTO”) has established a compliance panel under the *Marrakesh Agreement Establishing the World Trade Organization* (“WTO Agreement”) concerning the dispute *United States—Measures Relating to Zeroing and Sunset Reviews; Recourse to Article 21.5 of the DSU by Japan*. That request may be found at <http://www.wto.org> contained in a document designated as WT/DS322/27. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceeding, comments should be submitted on or before July 15, 2008.

ADDRESSES: Comments should be submitted (i) electronically, to