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MEMORANDUM

September 22, 2008

To: Clients and Friends of the Firm

From: George Thompson
Neville Peterson LLP

Re: World Trade Organization Dispute Resolution Proceedings on
European Union Tariff Treatment of Certain Information Technology
Agreement Products

The Office of the United States Trade Representative (USTR) has requested the World Trade Organization (WTO) to initiate a dispute resolution proceeding concerning the European Union's tariff treatment of the following products: set-top boxes with a communication function, flat panel displays, and certain multifunctional digital machines. USTR alleges that the European Union has failed to provide duty-free treatment to these products, contrary to the requirements of the Information Technology Agreement (ITA) to which both the United States and the European Union are signatories. Accordingly, USTR argues, the European Union has violated its WTO obligations.

The ultimate goal of the proceeding is for the European Union to eliminate its tariffs on the covered products, and thereby conform to its obligations under the ITA. Removal of the tariffs would eliminate a competitive barrier to U.S. exports of these products to Europe. The dispute resolution proceeding should also provide clarification of the ITA's scope, providing U.S. exporters of other technology products with more certainty regarding the tariff treatment that they are entitled to from the European Union.

USTR is soliciting public comments regarding the dispute, and has requested that such comments be submitted by October 24, 2008.

Please feel free to contact us if you have any questions about the dispute resolution proceeding and its possible consequences.

Act provides that the President shall monitor and review annually the progress of each sub-Saharan African country in meeting the foregoing eligibility criteria in order to determine whether each beneficiary sub-Saharan African country should continue to be eligible, and whether each sub-Saharan African country that is currently not a beneficiary sub-Saharan African country, should be designated as such a country. Section 506A of the 1974 Act requires that, if the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the eligibility requirements, he must terminate the designation of the country as a beneficiary sub-Saharan African country.

The Subcommittee is seeking public comments in connection with the annual review of the eligibility of beneficiary sub-Saharan African countries for the AGOA's benefits. The Subcommittee will consider any such comments in developing recommendations on country eligibility for the President. Comments related to the child labor criteria may also be considered by the Secretary of Labor in making the findings required under section 504 of the 1974 Act.

The following sub-Saharan African countries were designated as beneficiary sub-Saharan African countries in 2008:

Angola
 Republic of Benin
 Republic of Botswana
 Burkina Faso
 Burundi
 Republic of Cape Verde
 Republic of Cameroon
 Republic of Chad
 Federal Islamic Republic of Comoros
 Republic of Congo
 Democratic Republic of Congo
 Republic of Djibouti
 Ethiopia
 Gabonese Republic
 The Gambia
 Republic of Ghana
 Republic of Guinea
 Republic of Guinea-Bissau
 Republic of Kenya
 Kingdom of Lesotho
 Republic of Liberia
 Republic of Madagascar
 Republic of Malawi
 Republic of Mali
 Republic of Mauritius
 Islamic Republic of Mauritania
 Republic of Mozambique
 Republic of Namibia
 Republic of Niger
 Federal Republic of Nigeria
 Republic of Rwanda
 Sao Tome & Principe

Republic of Senegal
 Republic of Seychelles
 Republic of Sierra Leone
 Republic of South Africa
 Kingdom of Swaziland
 Republic of Togo
 United Republic of Tanzania
 Republic of Uganda
 Republic of Zambia

The following sub-Saharan African countries were not designated as beneficiary sub-Saharan African countries in 2007:

Central African Republic
 Republic of Cote d'Ivoire
 Republic of Equatorial Guinea
 State of Eritrea
 Somalia
 Republic of Sudan
 Republic of Zimbabwe

Requirements for Submissions: Comments must be submitted in English. In order to facilitate the prompt processing of submissions, USTR strongly recommends that comments be set out in digital files attached to e-mails transmitted to the following address: *FR0811@ustr.eop.gov*. If you are unable to provide comments by e-mail, submissions should be made by facsimile as set forth above. Persons making submissions by e-mail should use the following subject line: "2008 AGOA Annual Country Review." Digital files must be submitted in one of the following formats: WordPerfect (.WPD), Adobe (.PDF), MSWord (.DOC), or text (.TXT) files. Comments may not be submitted as electronic image files or contain embedded images, e.g., ".JPG", ".TIF", ".BMP", or ".GIF". Spreadsheet data may be submitted as Excel files, formatted for printing on 8½ x 11 inch paper. To the extent possible, any data accompanying the submission should be included in the same file as the submission itself, and not in a separate file. The transmittal message or cover letter accompanying a submission must be set out exclusively in the digital file attached to the e-mail transmission—not in the message portion of the e-mail—and must include the sender's name, organization name, address, telephone and fax numbers, and e-mail address.

If the submission contains business confidential information that the submitter wishes to protect from public disclosure, the confidential version must be marked "BUSINESS CONFIDENTIAL" at the top and bottom of each page. In addition, the submission must be accompanied by a non-confidential version that indicates, with asterisks, where confidential information was redacted or deleted. The top and bottom of each page of the non-confidential version must be

marked either "PUBLIC VERSION" or "NON-CONFIDENTIAL". Business confidential comments that are submitted without the required markings or are not accompanied by a properly marked non-confidential version as set forth above may not be accepted or may be treated as public documents.

The digital file name assigned to any business confidential version of a submission should begin with the characters "BC-", and the file name of the public version should begin with the characters "P-". The "P-" or "BC-" should be followed by the name of the submitter.

Public versions of all documents relating to this review will be available for review approximately two weeks after the due date by appointment in the USTR public reading room, 1724 F Street, NW., Washington, DC. Appointments may be made Monday through Friday, from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., by calling (202) 395-6186. Appointments must be scheduled at least 48 hours in advance.

Carmen Suro-Bredie,
 Chairman, Trade Policy Staff Committee.
 [FR Doc. E8-22044 Filed 9-19-08; 8:45 am]
 BILLING CODE 3190-W8-P

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 August 18, 2008, in accordance with the World Trade Organization ("WTO") *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), the United States, jointly with Japan and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, requested the establishment of a dispute settlement panel regarding the tariff treatment accorded by the European Communities ("EC") and its member States to set-top boxes with a communication function, flat panel displays, and certain multifunctional digital machines. That request may be found at www.wto.org contained in a document designated as WT/DS375/8. 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 October 24, 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: Pursuant to section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), USTR is providing notice that the United States has requested the establishment of a WTO dispute settlement panel pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") to review the issues identified below. 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

The EC and its member States impose duties on set-top boxes with a communication function, flat panel displays, and certain multifunctional digital machines.¹

- *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.

- *Multifunctional digital 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

¹ Machines which perform two or more of the functions of printing, copying, or facsimile transmission, capable of connecting to an automatic data processing machine or to a network (including devices commercially known as MFPs (multifunctional printers), other "input or output units" of "automatic data processing machines", and facsimile machines).

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, any non-confidential 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.

[FR Doc. E8-22101 Filed 9-19-08; 8:45 am]

BILLING CODE 3190-W8-P

OFFICE OF PERSONNEL MANAGEMENT

[OMB Control No. 3206-0017; Form RI 78-11]

Proposed Information Collection; Request for Comments on an Existing Information Collection

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for review of an existing information collection. This information collection, "Medicare Part B Certification" (OMB Control No. 3206-0017; Form RI 78-11), collects information from annuitants, their spouses, and survivor annuitants to determine their eligibility under the Retired Federal Employees Health Benefits Program for a Government contribution toward the cost of Part B of Medicare.

Comments are particularly invited on whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Approximately 100 RI 78-11 forms are completed annually. Each form requires approximately 10 minutes to complete. The annual estimated burden is 17 hours.

For copies of this proposal, contact Margaret A. Miller by telephone at (202) 606-2699, by FAX (202) 418-3251, or by e-mail to Margaret.Miller@opm.gov. Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days of the date of this publication.

ADDRESSES: Send or deliver comments to—

Ronald W. Melton, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415-3500.

For Information Regarding Administrative Coordination—

Contact: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4H28, Washington, DC 20415, (202) 606-0623.

U.S. Office of Personnel Management.

Howard Weizmann,

Deputy Director.

[FR Doc. E8-22111 Filed 9-19-08; 8:45 am]

BILLING CODE 6325-38-P

OFFICE OF PERSONNEL MANAGEMENT

[OMB Control No. 3206-0168; Form RI 20-80]

Proposed Information Collection; Request for Comments on an Existing Information Collection

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for comments on an existing information collection. This information collection, "Alternative Annuity Election" (OMB Control No. 3206-0168; form RI 20-80), is used for individuals who are eligible to elect whether to receive a reduced annuity and a lump-sum payment equal to their retirement contributions (alternative form of annuity) or an unreduced annuity and no lump sum.

Comments are particularly invited on whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond through the