

**Ambassador Susan C. Schwab, USTR**  
**Remarks on EU, ITA, WTO Case**  
**22 April 2008**

**Ambassador Schwab:** Thank you, Sean. Welcome everyone.

Today the United States filed a formal challenge to tariffs being imposed by the European Union on specific high technology products. These tariffs appear to be inconsistent with the EU's obligations under the World Trade Organization's Information Technology Agreement. Therefore, we've requested WTO dispute settlement consultations with the EU to resolve this matter.

Through various actions over the past few years the EU has been imposing duties that can run as high as 14 percent on specific items, in spite of the fact that as signatories to the ITA the EU obligated themselves to duty-free treatment for these products. Now the EU claims that because these products have evolved to include additional technologies and features, they are now new products and therefore should not be covered by the ITA. However, we all know that technology is organic. New features are developed, advances are made almost before we walk out of the store and certainly before the ink is dry on most of our trade agreements. Everyone understands this, which is why the categories covered by the ITA were broadly defined.

We want to make sure that commitments to give duty-free treatment to these products will be maintained in the face of the evolution of technology. The products that are included in the ITA and that are the targets of EU tariffs in question are cable or satellite boxes capable of accessing the internet, flat panel displays for computers, and certain computer printers that can also scan, copy and/or fax. Global exports of these products today are now estimated at approximately \$70 billion.

The European Union claims that this equipment has evolved beyond the technologies subject to the ITA. However, if ITA participants only provided duty-free treatment to the products with technologies that existed at the time the ITA was concluded, very few ITA products would be eligible for duty-free treatment today. That was not what ITA participants intended when this landmark agreement, this landmark sectoral agreement was reached more than ten years ago.

We are not the only country concerned about Europe's actions. Japan has also announced that it is requesting WTO consultations with the EU regarding this matter. We have heard from several other WTO members expressing similar concerns.

Our technology industry also supports these efforts. Today we have with us Rhett Dawson, the Information Technology Industry Council's President and Chief Executive who will be available

after the briefing to answer any industry-specific questions you might have. ITA has been a leader on this front and a supportive partner.

What we're concerned about today is that the EU is effectively taxing innovation, a move that could impair continued technological development and raise the prices for millions of businesses and consumers.

The ITA has made a significant contribution to U.S. and world economic growth by promoting trade, jobs and investment in the information technology sector. World exports of IT products have soared from \$600 billion when the ITA was signed to more than \$1.5 trillion today. Europe should be working with the United States to promote new technologies, not finding protectionist gimmicks to apply new duties to these products.

I'd be happy to take your questions.

**Question:** On which day was this filed?

**Ambassador Schwab:** I believe today in Geneva.

**Question:** What are the reasons that only Japan has joined up? Other countries of interest like Singapore and Malaysia, might they join later, or --

**Ambassador Schwab:** That is quite possible. There are quite a number of other countries, a lot of countries produce these IT products and have expressed an interest in perhaps joining later.

**Question:** Ambassador, the EU argues that as products have changed it's time to renegotiate the ITA to deal with this. Why not just renegotiate it to include these different types of technological items?

**Ambassador Schwab:** First of all, no one likes to pay twice at the negotiating table. But the key is, when this was negotiated, when the ITA was negotiated over ten years ago it was with the recognition that technological advances would be a part of the equation. And it is hard to imagine negotiating such an agreement if you thought that technological change would evolve or enable reclassification of products outside the ITA. If that were the case, there would be very little left in the ITA after X number of years.

So the first answer is, one, the ITA was designed in its negotiation to ensure that technological advancement was encompassed and not excluded, because this is a sector, obviously, that as I noted is organic and technological innovation and evolution is the nature of the beast.

Second, we are all for expanding sectoral trade agreements. We have positions in the Doha Round, as you know, where we support such agreements. We'd be in favor of expanding the scope of high technology agreements, including the ITA. However, for that to happen it needs to be a credible agreement where countries can't opt out of commitments that were made ten years earlier simply by reclassifying products that have evolved because of technology.

**Question:** I just wondered about the timing of this. It seems like this is something that's been around for a while. You mentioned it in the national trade barrier work last year. You talked about it in January. And you're just now finally bringing a case. Why now? Why did it take so long to get to this point?

**Ambassador Schwab:** This has been an issue that we have been working on for about 20 months now. As you note, it was in the National Trade Estimate Report. It was in I believe one of my reports to Congress earlier this year. We have had at least four consultations with the EU, and as you know, we would always prefer to resolve trade disputes through consultation rather than resorting to litigation because litigation is expensive and time consuming.

I think the reason we are going ahead now, just as recently as earlier this month, I think May 7<sup>th</sup>, there was yet one more EU reg issued, and at that point we concluded that we were not going to be able to resolve this with the EU through consultations and we were basically forced to move to litigation. So I think it was this final reg that showed up the beginning of the month. I believe it was May 7<sup>th</sup>.

**Question:** So it sounds like you don't hold out too much hope for the 60 day process in terms of results.

**Ambassador Schwab:** You always hope that the 60 day process focuses the mind and we will certainly engage in consultations in good faith during this period of time, but this serves notice that we will go ahead with the formal dispute process if necessary, if we are not able to conclude consultations in that period of time.

**Question:** Behind the classification [inaudible] attempt to [inaudible] European tech companies or is it an attempt to force U.S. [inaudible]?

**Ambassador Schwab:** I don't know the answer to that. I suspect it is probably a little of both. Certainly an element of the former. But reclassification of this sort when the ITA so clearly involves high tech, infotech products that by their very nature evolve technologically, it seems to be an act of bad faith in terms of what is being done, and one has to question the motivation behind it. But regardless of the motivation, we

believe that these tariffs are simply inconsistent with the EU's commitments under the ITA.

**Question:** My question is why did you choose these three IT products among others? Is it possible for the United States to sue the EU with regard to other IT products like digital camera, et cetera?

**Ambassador Schwab:** These are the products that have been most obvious, where the reclassification has been most egregious. The issue of digital cameras has come up in the past. Clearly if the EU, if we believe the EU is in further violation of its commitments under the ITA with respect to other products we would go ahead and address those as well. But these are the three that we agreed needed, these are the three that are most obvious and needed to go forward.

**Question:** Is it possible for the United States to sue the EU with regard to other products like digital cameras or other IT products?

**Ambassador Schwab:** It's certainly possible.

**Question:** Sort of a related question. What's the legal scope of the consultations? Is it really limited to these three products, or might the precedent be extended to other products that the EU might reclassify, or even the U.S. --

**Ambassador Schwab:** Certainly there is concern that the EU has started, over the last 20 months, started along a slippery slope. The precedent set by the EU of taking products that they have agreed to allow entry, products where they've committed to allow duty-free entry, and reclassifying those as though they are new products to start imposing import tariffs, that is a precedent and in this case with these three products a set of precedents that is very very worrisome and obviously could expand.

There is an approach here that as I noted, extended to its logical conclusion means that at the end of the day nothing is left in the ITA. Nothing is covered by the ITA because technology by its nature evolves.

So these formal consultations, and I'm sort of looking at our legal team, will be on these products. But obviously by addressing these products we're also addressing the precedent.

**Question:** People are talking about holding a ministerial in the next month or so. Do you think given the status of where things are on the text that came out that we're right for a ministerial in Paris? Or Geneva, but Paris I guess is --

**Ambassador Schwab:** We have a meeting coming up -- I have had a series of meetings over the last couple of weeks with a lot of our key trading partners on the Doha Round, have another series of meetings coming up. The United States has really taken a leadership role in trying to get this Doha Round off center and trying to achieve the breakthrough. In the last three weeks I've had a chance to meet with virtually all of our major trading partners including Minister Nath in New York, Minister Amorim in Rome, Minister Pangestu and other ASEANS in Indonesia, as well as Peter Mandelson and so on. We've got others that will be meeting. We're looking forward to seeing them again in the next week and a half in connection with the APEC Ministerial coming up and then the OECD Ministerial. So we will continue these conversations, but I will tell you frankly, we are concerned about the direction the Doha negotiations are taking in Geneva.

Recent developments in Geneva have moved the negotiations in the direction of less balance and less market access. The new draft text in agriculture and manufacturing are disappointing because they do not move us closer to a deal that will contribute to economic growth and development. The texts shift the market from opening markets to negotiating about expanded exceptions and exclusions. That's true now in the NAMA text as well as in the Ag text.

Of particular concern, quite frankly, is the continued unwillingness of a handful of advanced developing countries to make meaningful market access contributions as part of the round that are commensurate with their stake in the global trading system and the benefits they derive from that system. Nearly 70 percent of the tariffs paid by developing countries are paid to other developing countries, and therefore market access contributions on the part of advanced developing countries are critical to benefiting developing and developed countries alike.

And quite honestly, these countries mask their narrow interests behind claims of speaking for the rest of the developing world when in fact there are developing countries that are very much pro-ambition in this round and their voices are being drowned out. It's basically a case of the elephants hiding behind the mice.

The latest texts I think have brought us to an important crossroad. Are we ready for a ministerial yet? I don't know. I think we've got some more work to do.

The United States is still committed to trying to see a successful conclusion to the Doha Round in 2008, but a Doha agreement will not come at any price, cannot come at any price, and a successful breakthrough in the coming weeks is only going to be possible if we find a negotiating path that leads to real

market opening contributions by both developed and advanced developing countries.

That's probably more than you wanted to hear.

**Question:** Not at all.

**Question:** Back on the ITA stuff, do you have any sort of estimate, [inaudible] \$70 billion in international trade in these products, but how much is this hurting U.S. companies and U.S. manufacturers? Do you have an estimate on how much [inaudible] product is being blocked as a result of --

**Ambassador Schwab:** the United States and U.S. companies, and in particular U.S. workers have both direct and indirect interests in seeing this issue resolved. We have close to six million workers in this country, 5.9 million workers in this country working in this sector in some way, shape or form. Many of the products are produced here, but many more of them are designed here, are engineered here. The profits from their sales come back here. The R&D takes place here.

So I can't give you a specific estimate in terms of direct exports. There's some of that, but it is more a question of the combination of both direct and indirect benefits to the United States and the broader implications of a sectoral agreement where one of the parties is unilaterally defining or redefining or reclassifying product out of that sectoral agreement.

Thank you.

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