

American Apparel & Footwear Association
American Farm Bureau Federation
National Foreign Trade Council
National Retail Federation
Retail Industry Leaders Association (RILA)
Travel Goods Association (TGA)
U.S. Council for International Business (USCIB)
United States Association of Importers of Textiles and Apparel (USA-ITA)
USA*Engage

April 29, 2008

The Honorable John Dingell
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Dingell:

The undersigned associations, which have an economic interest in nearly every country, share a common desire to find a global solution to climate change. At the same time, we are concerned about the potentially adverse impact that some mechanisms could have on global trade, jobs and the competitiveness of U.S. industries.

Your committee's recent White Paper raised several important questions about various approaches to climate change. As you develop legislation, we request your consideration of the following comments we have with regard to trade, competitiveness and World Trade Organization (WTO) matters.

Because the United States is not alone in seeking to move forward on climate change reductions, U.S. actions will inevitably be closely monitored and could be used against us in an asymmetric manner or as a justification for other countries' unilateral and potentially harmful responses. For example:

- If the United States were to impose emissions legislation that levied tariffs against certain goods from another country based on environmentally-unfriendly production practices, that country could respond by taxing all goods made in the United States by pointing to U.S. per capita CO₂ emissions, which are dramatically higher than the world average.
- Other countries may be more blatant, and adopt similar practices for the purpose of excluding U.S. goods and services from their markets.

It is also possible that countries will seek to retaliate outside of the WTO context, for example, by creating unrelated regulatory barriers to imports, changing purchasing patterns or canceling contracts.

As the committee noted in its recent White Paper, any unilateral action the United States takes with respect to climate change also raises issues of compliance with our WTO commitments and will likely result in challenges under the rules of that body. Because prior WTO cases are not binding and are unreliable predictors of future action, it is impossible to guess with any certainty the result of such a challenge. To the extent that U.S. climate change proposals do not adhere to basic WTO principles such as most-favored-nation and national treatment, they run the risk of being found to be inconsistent with our obligations and subject to permissible trade retaliation by other countries.

Unilateral and discriminatory action by other countries or retaliation against U.S. exports for U.S. actions would impose substantial costs on American businesses and workers, and undermine the international economic opportunities that are vital to promote greater growth in the U.S. economy. Such actions would also make it more difficult to reach consensus on a multilateral approach to climate change.

We believe that the best way to achieve those objectives is to pursue multilateral negotiations that would shape a post-Kyoto approach to global climate change policy.

The United States has a clear interest in taking the lead in such a negotiation in order to compel the participation of other countries and shape a set of acceptable rules that are not used unfairly to restrict international trade. Absent an agreement, any unilateral approach by the United States is likely to be challenged internationally.

It is also essential that any approach to climate change conform to basic WTO principles. Legislation must not, therefore, discriminate between various countries or between domestic and foreign producers, and should seek to minimize trade-distortions. Adoption of overly-strict production process standards raises serious issues of WTO conformity and could be intended to create unfair restrictions on imports rather than to protect the environment. It is also vital to allow sufficient time to negotiate a multilateral framework before implementing rules.

Finally, trade liberalization can be an important factor in addressing climate change. Reducing trade barriers for clean technologies and enhancing access to those technologies should be an important part of any broader multilateral effort to combat global warming.

Last year, the United States announced its support for a global Environmental Goods and Services Agreement (EGSA) in the context of the ongoing Doha Round of trade negotiations under the WTO. Such an agreement has considerable potential to attract the support of our members, and to create new political alliances supportive of environmentally-friendly trade, which could, if necessary, be pursued on an accelerated basis independent of the final completion of the Doha Round.

We encourage you to work with your colleagues on the Ways and Means Committee to explore the international trade and competitiveness implications of any climate change proposal that is developed by your Committee.

Thank you for your consideration of our views. We look forward to working with you and the Members of the Committee as you explore legislation to deal with this important issue.

Sincerely,

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