

# TACD

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December 5, 2001

Ambassador Robert Zoellick  
United States Trade Representative  
Washington, DC  
USA  
Fax: +1 202 395 4549

Pascal Lamy  
European Commissioner for Trade  
DG Health and Consumer Protection  
Rue de la Loi 200  
Brussels  
Belgium  
Fax: +32 2 298 1499

Dear Ambassador Zoellick and Commissioner Lamy:

The Transatlantic Consumer Dialogue (TACD) is writing to inform you of our concerns regarding the Early Warning System, which subjects proposed environmental and consumer protection regulations to deregulatory pressure. We request that you immediately open up this system so that the public can understand it, evaluate it and have a voice in the process.

According to Erkki Liikanen, European Commissioner for Enterprise, the Early Warning System helps “prevent future trade barriers” by identifying potential conflicts over domestic regulations. The TransAtlantic Business Dialogue reiterated its call for formalization of the Early Warning System in its “2000 CEO Report” ([www.tabd.com](http://www.tabd.com)).

If the Early Warning System were simply limited to traditional trade matters, such as import quotas for wheat gluten (one of the items apparently on the list), it would not be of such pressing concern to TACD. However it is obvious that it is being used to seek the weakening or elimination of health, safety and environmental regulations before they are even issued.

A key and basic problem with the Early Warning System is simply knowing what is in it. This information is not available to the public. After repeated requests, a list of items in the system was given to Public Citizen in September 2000. Unfortunately, since then, no member of TACD was able to obtain any information from governments about Early Warning items under discussion until the last hour of this week’s meetings. The new list reinforces the concerns that we had about the old list.

One example of an environmental measure that TABD successfully forced onto the Early Warning agenda is the EU Directive on Waste from Electrical and Electronic Equipment (WEEE). Discarded electrical and electronics equipment are major biohazards and waste from this equipment is a large source of dangerous heavy metals and organic pollutants in municipal landfills and incinerators. They were cited as one source of dangerous air pollutants in the World Trade Center disaster. To combat this human and environmental health hazard, the EU developed the WEEE Directive, which requires electrical and electronic equipment manufacturers and distributors to replace dangerous heavy metals (like lead, mercury and cadmium) with less harmful substances by the year 2008. The directive also requires manufacturers to begin retrieving and recycling old electrical and electronic equipment by 2006. TABD initially targeted the EU directive in its 2000 Mid-Year report and now it is apparently targeted by the US government as a barrier to trade and could result in a WTO challenge.

The TABD has also listed the EU's proposed acceleration of the phase-out of hydrochloroflourocarbon refrigerants as needing additional action, and this also appeared on the Early Warning list. The goal of this regulation is to combat global climate change.

The September 2000 list also included mention of FDA requirements regarding risk materials in vaccines. The FDA has taken important steps to prevent vaccines from being contaminated through risk materials that might carry mad cow disease. However it appears that these regulations may be targeted by the EU as a trade barrier.

Discussions on critical environmental and health issues like these are too important to be held in secret, limited only to trade officials and business interests. The public has an even more important stake in the outcome of these decisions than business, and must be a part of the decision-making process.

TACD therefore calls upon the governments to:

- 1) Make the Early Warning System public by posting the early warning items in the Federal Register or on a special webpage to solicit comment from interested parties and the public.
- 2) Consult TACD about early warning discussions re: consumer, health or environmental matters.
- 3) Limit the conversation to true trade barriers. Non-discriminatory public health and safety measures should not be the topic of WTO disputes or early warning discussions.
- 4) Create a new system for genuine regulatory cooperation which allows regulators on both sides of the Atlantic to learn from each other, cooperate on emerging issues and public health threats and ensure the highest standards of consumer and environmental protection. This could be known as the 'Consumer Participation System.' TACD would be happy to work with the governments to design such a system.

We look forward to your prompt attention and your response to the concerns outlined in this letter.

Sincerely,

Jim Murray  
Director  
European Consumers Association  
On behalf of the TACD Steering Committee

Rhoda Karpatkin  
President Emeritus  
Consumers Union

**The TACD Steering Committee**

**Europe:** Anna Bartolini (Italian Consumer Council), Benedicte Federspiel (Danish Consumer Council), Wibo Koole (Cosumentenbond), Jim Murray (BEUC European Consumers Organisation)

**US:** Jean Ann Fox (Consumer Federation of America), Rhoda Karpatkin (Consumers Union), Ed Mierzwinski (US Public Interest Research Group), Lori Wallach (Public Citizen)