

TACD
Transatlantic Consumer
Dialogue

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**COMMENTS ON THE TRANSATLANTIC
ECONOMIC PARTNERSHIP (TEP)
ACTION PLAN (09.12.98)**

At the end of September 1998, consumer organisations from the US and EU countries came together in Washington to better co-ordinate a consumer voice in the EU-US Transatlantic Dialogue. The groups were motivated by the strong interests of their constituencies and their organisations in many issues being considered in the context of US-EU talks.

AGENDA OF THE TRANSATLANTIC PARTNERSHIP

The US-EU Dialogue was launched in December 1995 to facilitate discussion on diverse subject matters of mutual interest to the US and EU. Many public interest groups applauded the broad agenda described in 1995 which included human rights, the welfare of children, public health, education, peace and security matters. Yet three years later, only one basket of issues has now been chosen for more formal negotiations: economic liberalisation.

Consumer groups urge the Transatlantic Dialogue to return to its original, broad agenda.

When the broad agenda was articulated in 1995, public interest groups on both sides of the Atlantic sought to inform their governments of their interests in the diverse issues under discussion. Unfortunately, these entreaties did not result in formal, or even consistent informal, dialogue between these groups and governments. Business, with the encouragement and co-operation of the US and EU governments, immediately established the Transatlantic Business Dialogue (TABD), that has been the driving influence on the Transatlantic Dialogue between governments.

The TABD is a forum for industry representatives from both sides of the Atlantic to meet and to come to agreement on economic and regulatory policies of mutual interest. Among these policies are harmonisation, automotive safety standards, and mutual recognition of pharmaceutical, medical device safety, and auto safety testing methods.

Since 1995, specific industry proposals in these areas and others were presented to governments through formal interaction between the Transatlantic Business Dialogue and high level government representatives at each formal US-EU Dialogue Summit and at several interim Transatlantic Business Dialogue Summits. These industry proposals became the substance of several Mutual Recognition Agreements and specific standards harmonisation agreements that the U.S. and EU governments adopted, in some cases without following the procedures prescribed by US law.

During that time, the governments' efforts to obtain the views of citizen interests on the subjects of the dialogues have been, at best, sporadic. Had we been provided a formal voice earlier in the process, as were industry representatives, we would have been able to present our interests at an earlier stage. Thus, we now urge the U.S. and EU governments to broaden their discussions to the initial 1995 Dialogue agenda.

Consumers have many concerns as well about the present economic liberalisation agenda of the Transatlantic Economic Partnership (TEP). Among the agenda items of this proposed TEP are numerous issues that are at the core of consumers interests, such as the harmonisation of food, product safety, environmental and consumer protection standards, electronic commerce, development of common US-EU positions for future WTO negotiations and more. Among the issues that have been jettisoned along the path are many others of core importance to public interest organisations.

We urge the EU-US Transatlantic Dialogue to take a more balanced approach, considering consumer, environmental and labour concerns both in setting its agenda and addressing specific issues. We urge the US and EU governments to consult with consumer, environmental and other citizen interests in this process, on an equal footing with business interests. Hence, the establishment by consumer groups of the Transatlantic Consumer Dialogue (TACD).

Consumer groups have many interests in US-EU talks; we will highlight here those directly affected by the action framework of the proposed TEP.

MULTILATERAL ISSUES RAISED IN ARTICLES 7 AND 8 OF THE TEP STATEMENT

The 1999 WTO Ministerial: The TACD urges the US and EU governments to play a leading role in making the WTO more transparent and more interactive with civil society. This includes increased de-restriction of WTO documents including the agendas, papers and minutes of WTO Council and committee meetings. It also includes opening and establishing a system for providing timely information about available papers and future meetings and meeting agendas, as well as establishing an enquiry point for disseminating information to citizen-based NGOs. The WTO also should open to the public dispute resolution panel hearings, de-restrict parties' briefs at the time of filing, encourage use of NGO briefs amicus curiae, and de-restrict the ruling and executive summary of findings immediately upon distribution. The EU and US should strive for a revision of the WTO Code of Good Practice for the Preparation of Standards to include requirements for openness and transparency in the international standardisation process. The US and the EC should take steps to assure that in WTO processes governments retain the right to take precautionary measures to assure their citizens' health and safety and to protect the environment. Consumer

groups also have concerns about harmonisation of standards. The US and the EC should take steps to assure that WTO holds harmless under its rules the implementation of obligations under international health and environmental treaties.

Intellectual Property: The US and EU governments should take steps to assure that neither US-EC intellectual property policies nor WTO Trade Related Intellectual Property rules threaten public health by undermining poor consumers access to medicines, technology and seeds.

Services: Items listed for discussion under GATS should take into account consumer interests in social, health and education services as well as consumer safeguards in financial services and telecommunications..

Investment: The discussion of investment rules being added to the WTO is one of significant controversy to consumer organisations in the US and EU as well as with our colleague groups in the developing world.

Procurement: The issue of public procurement raises issues now involved in the US-EU dispute regarding preferential practices used for human rights purposes, such as in Burma, which also would apply to other non-commercial performance standards in procurement regulation. These concerns should be addressed.

General: The US and the EU should take positive steps to assure that trade agreements hold harmless under their rules measures that protect basic workers' rights, the environment and consumer safety and health.

BILATERAL ISSUES RAISED IN PARAGRAPHS 9-14 OF THE TEP STATEMENT

Any EU-US agreements should contain language to guarantee the right to maintain high health, safety and environmental standards and to assure that no Member country shall be asked to compromise its own determined appropriate level of protection.

In developing **Mutual Recognition Agreements**, and in defining functional equivalence, it is essential that regulations and rulemaking procedures not be harmonised downward, but that the end result be equal or improved safety, health and consumer protections.

The US and the EC should include in the TEP work plan, a discussion of ways to resolve Sanitary and Phytosanitary Standards Agreement disputes, including the US-EC Beef Hormone case, in a manner which preserves the rights of WTO. Member governments to take a **precautionary approach** to food safety.

In considering **biotechnology**, we urge governments to promote transparency and information for consumers by requiring labelling of all genetically engineered food. Further, in developing ways to encourage simultaneous applications for environmental and safety assessments in the US and EU, the US government should institute a system of mandatory government pre-market safety reviews for genetically engineered food.

In considering **facilitating electronic commerce**, we urge governments to negotiate measures that protect privacy, and which maintain or enhance consumer protections that currently exist in the EU and US against fraud, faulty merchandise, or dangerous products, and which insure redress. Consumer groups have significant concerns about expansion of **intellectual property rights**. In discussing any new patent protections for inventions involving computer programmes, or design protections, we urge governments to bear in mind that the fundamental purpose of patent protection is to encourage innovation, not to protect investment. Regarding protection of confidential business information submitted by pharmaceutical companies in support of approval for new products, we urge governments to increase, not decrease transparency in regulation. Regarding database protection, negotiations should not allow private parties to restrict access to information currently in the public domain.

US and EU consumers would be greatly affected if measures outlined in the TEP Plan were implemented. We urge the governments to sit at the table with TACD representatives to discuss in depth our views on these matters in the same manner that it does with the TABD.