

TACD

TRANS ATLANTIC DIALOGUE TRANSATLANTIQUE
CONSUMER DIALOGUE DES CONSOMMATEURS

March 24, 2004

Re: Article 133 Committee's consideration of "necessity tests"

Dear Member of the Article 133 Committee,

As leaders of the Transatlantic Consumer Dialogue (TACD), we are writing to you in your capacity as a member of the European Commission's Article 133 Committee, which is responsible for providing the views of member states to the commission on trade-related matters. The Commission is currently assessing its position on proposals to impose a "necessity test" through new provisions in the World Trade Organization's General Agreement on Trade in Services (GATS). Since your Committee will be advising the Commission on what position it should take, we wanted to alert you to TACD's recommendations on this subject.

TACD has identified the risks posed to consumer protection and regulatory authority by the GATS talks on domestic regulation as one of the highest priorities for government action in 2003-2004. In our recommendations to the US and EU governments, we stated:

"TACD opposes the imposition through the GATS of proposed new disciplines on domestic regulation that would apply 'necessity tests' or 'proportionality tests' to determine whether a regulation was 'least burdensome' to trade in fulfillment of the regulation's objective. If these new disciplines are adopted in the GATS, regulators will be obliged to draft all rules in a 'least restrictive to trade' manner, regardless of the legal or practical consequences of such an infringement on their regulatory discretion."
(<http://www.tacd.org/docs/?id=194>)

TACD is a forum of 65 US and EU consumer organisations which develops and agrees on joint consumer policy recommendations to the US and EU governments to promote the consumer interest in transatlantic policy. We trust that you will take our concerns into consideration as you deliberate on this vitally important issue.

Sincerely



Ben Wallis, TACD Coordinator
On behalf of the TACD Steering Committee

Anna Bartolini, President, CNCU (Italian National Council of Consumers and Users)
Benedicte Federspiel, International Director, Forbrugerrådet (Danish Consumer Council)

Jean Ann Fox, Director, Consumer Protection, Consumer Federation of America

Rhoda Karpatkin, President Emeritus, Consumers' Union

Felix Cohen, Director, Consumentenbond (Dutch Consumers Association)

Ed Mierzwinski, Director, Consumer Program, Public Interest Research Group

Jim Murray, Director, BEUC (European Consumers Organisation)

Lori Wallach, Director, Global Trade Watch, Public Citizen