



December 31, 2004

Mr. Mark Mowrey  
Deputy Assistant USTR for Europe and the Mediterranean  
Office of the United States Trade Representative  
Public Dialogue on Enhancing the Transatlantic Economic Relationship  
FR-Doc. 04-18716

Dear Mr. Mowrey:

This letter is in response to the United States Trade Representative's Federal Register notice of August 17, 2004 soliciting comments on enhancing the transatlantic economic relationship. AeA and AeA Europe welcome the opportunity to comment on this important relationship for the US high-tech sector. AeA represents over 3,000 member companies, employing over 1.8 million people in the United States. AeA Europe is a grouping of US parented companies investing 100 billion Euro in Europe and employing 500,000 Europeans.

#### General

AeA and AeA Europe welcome the opportunity to comment on the importance of enhancing the US-EU relationship for the US high-tech sector. The EU market is critical to the US high-tech industry, as the EU is our sector's largest merchandise export market and the top destination for US high-tech industry foreign investment. In 2003, two-way trade in high-tech products totaled \$401.7 billion, accounting for 20.3 percent of total two-way trade in all products. US high-tech exports to the EU-25 during that period were \$37.5 billion, while high-tech imports into the US from the EU-25 totaled \$28.7 billion. US high-tech exports to the EU-15 during that period were \$36.5 billion, while high-tech imports into the US from the EU-15 totaled \$27.0 billion.

The high-tech sector has revolutionized our way of life in terms of jobs and economic growth. It also provides an extraordinary array of tools to improve our use of finite resources. The European Union has commenced a number of environmental policy initiatives significantly impacting the high-tech industry, including:

- Restricting the use of certain hazardous substances in high-tech equipment (RoHS)
- An EU wide electronics waste management infrastructure (WEEE)
- Chemicals regulation (REACH)
- Product eco-design of Energy Using Products (EuP)
- And integrating environmental requirements into product standards.

AeA and AeA Europe suggest the US government engage on the above mentioned issues to assist the US high-tech sector's efforts to avoid trade barriers, burdensome regulatory measures without noticeable environmental improvement and encourage voluntary standards and activities. Suggested engagement includes:

- Increased transatlantic discussions between government officials, regulatory experts and industry representatives to ensure that information is shared in a timely fashion, and scientific evidence and regulatory objectives are understood and discussed.
- Direct contact between regulatory and business constituencies across both sides of the Atlantic. EU officials communicating with US industry would help both sides understand the perspectives of their counterparts and questions are raised during design/drafting phases rather than implementation phases – early consultations could help avert disputes.
- Cooperation to educate, encourage and enforce the highest intellectual property standards in all countries, especially China.

### **Restriction of Hazardous Substances in electrical and electronic equipment (RoHS)**

AeA and AeA Europe have placed the highest importance on on-going communication on environmental standards, in particular, clarifying the scope/exemptions, non-uniform implementation and an ambiguous enforcement regime (need to establish a workable testing/enforcement methodology) for the RoHS Directive.

Starting July 1, 2006, companies will have to ensure that their electrical and electronic equipment sold in the EU does not contain lead, cadmium, mercury, hexavalent chromium, polybrominated biphenyls or polybrominated diphenyl ethers if placed on the market after this date. AeA Europe has worked closely with the EU's Technical Adaptation Committee (TAC) and the European Commission on the outstanding issues which are of vital importance to the functioning of commerce, competitiveness, as well as environmental protection.

Although the TAC has made important decisions on defining the maximum concentration limit values for the RoHS-banned substances in July 2004, many market access and enforcement issues remain either unresolved or unclear as to the technical aspects.

We hope that the US government can urge the EU to pay attention to balancing environmental and economic "pillars" of sustainability and take leadership in ensuring that manufacturers of electronic and electrical equipment have voluntary standards to demonstrate environmental stewardship, not mandatory design requirements. Specifically the US high-tech industry believes relations can be enhanced by continued dialogue, between regulator and environmental experts, addressing this evolving regulation. It is also necessary to factor in the development of China's "Management Methods" that address the same 6 chemicals and basic timeline. Harmonization is critical to effective and efficient implementation.

Clarification now while the RoHS and WEEE Directives (see below) are being transposed will help avert trade frictions once both Directives are enforced.

### **Waste Electrical and Electronic Equipment (WEEE)**

The scope of the WEEE Directive remains extremely unclear for some categories of electronic and electrical equipment. For example, large-scale stationary industrial tools are exempt from the WEEE directive (and therefore the ROHS Directive – Article 2) but there is no standard definition for these products. We call on our governments to actively engage to produce firm guidelines and definitions with industry involvement.

By August 13 2005, companies that sell electrical and electronic equipment bearing their trade name(s) in the EU will have to arrange and pay for the collection, treatment, recycling, recovery and disposal of their equipment. The EU RoHS Directive is currently in the transposition phase with Member States having until August 13, 2004 to pass implementing legislation in their national legislatures, only Greece met this deadline.

Clarification now while the RoHS and WEEE Directives are being transposed will help avert trade frictions once both Directives are enforced.

AeA and AeA Europe have conducted numerous events across the US educating our member companies about the European WEEE and RoHS Directives, we believe transatlantic relations could be enhanced if we could bring EU decision makers to these US member company workshops, so EU decision makers can hear first hand more of the scientific dilemmas facing companies and additionally communicate to companies the importance Europe puts on protecting the environment.

### **REACH**

AeA and AeA Europe are concerned about the remaining legal uncertainties, precedence and overlapping that create an uncertain business environment which will result in the proposal being unworkable, inefficient and not transparent. We strongly encourage transatlantic dialogue discussing the different systems of chemical regulations on both sides of the Atlantic and we would appreciate cooperation and discussion that would incorporate the following items into the Registration, Evaluation, Authorization of Chemicals (REACH) Directive.

We strongly recommend that REACH only require registration of those substances intended to be released, protect confidential business information, avoidance of overlap with existing EU legislation (Waste; RoHS; General Product Safety etc), and be not more trade burdensome than necessary. It is critical that these requirements not be overly burdensome on chemical users versus the actual chemical manufacturer or chemical formulator. It is also important that chemical test data generated in a jurisdiction outside the EU (e.g. the United States) be accepted in the EU to avoid unnecessary testing, delays and costs.

We strongly encourage transatlantic dialogue with various levels of regulators and industry representatives to ensure the REACH system meets the objectives of the European governments and creates a competitive environment for US industry to continue business in Europe.

### **Eco-design of Energy-using Products (EuP) and Energy Efficiency**

According to the European Commission, the Eco-Design for Energy-Using Products (EuP) policy is a Framework Directive that would require manufacturers of all products that use energy and that are sold in the EU, to perform an assessment of the environmental impacts of the product through its lifecycle and based on that assessment, to design and manufacture the product in a manner which lessens its impact on the environment.

We feel that a proper discussion on the *real* impact of our sector on energy consumption and energy efficiency needs to take place. We look to the European and American governments to support our Industry's constructive initiative which aims to:

- i. clarify our sector's contribution to energy consumption/efficiency;
- ii. work with policy makers/stakeholders to identify the best way to accelerate deployment of energy efficient technologies;
- iii. Encourage the EU to advance technologies through public/private R&D initiatives including Venture Capital funds.

Energy Efficiency is a key element for sustainable development. Unfortunately, there appears to be the perception that by bringing new communication tools to citizens our sector is encouraging an increase of energy consumption. The US high-tech sector recognizes that energy efficiency can walk hand in hand with the introduction of new communication tools, since a lot of efforts are focused on educating consumers about how to properly use electric and electronic products. Also under the leadership of the United States, the voluntary *Energy Star* Program has made great strides to reduce energy consumption in the use phase. The EU has adopted this voluntary program. We want to avoid duplication or redirection of programs that are already very effective.

AeA Europe intends to organize a conference in the summer of 2005 addressing this conundrum. Part of our on-going education efforts will shed light on alternative initiatives to accelerate the roll-out and market adoption of energy efficient technologies, such as market incentives, voluntary agreements or even well planned regulatory measures. We believe that public authorities can help to accelerate the deployment of energy efficient technologies by building a common vision with stakeholders via a technology platform; therefore we plan to invite key government officials to the Energy Efficiency workshop to further awareness and dialogue.

### **Trade:**

AeA and AeA Europe member companies see great possibilities for cooperation between our governments on building alliances for addressing trade, competitiveness and

technology issues by increased dialogue between companies and governments. Cooperation on third party trade issues will strengthen our supportive relationship and effectively address trade issues your countries' companies experience.

**Conclusion:**

AeA and AeA Europe will continue to actively engage with various European and American government representative to actively advocate on behalf of the US high-tech sector. Towards this end, AeA and AeA Europe appreciate and welcome the opportunity to continue to work with US government representatives to help ensure that the US-EU Transatlantic relationship is further strengthened.

**Contacts:**

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