

United States Senate
WASHINGTON, DC 20510

October 19, 2004

The Honorable Robert B. Zoellick
United States Trade Representative
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508

Dear Ambassador Zoellick

On June 22, 2004, we requested information on the Administration's position with respect to the potential trade implications of the European Union's proposed chemicals regulation, known as Registration, Evaluation, and Authorization of Chemicals (REACH). We are very disappointed that, after taking over three months to develop your response, you failed to provide the information requested. Such treatment violates the affirmative duty that obligates all executive agencies and offices, barring a claim of executive privilege, to accommodate information requests from members of Congress to the maximum extent possible.

As our June letter indicated, we are troubled by reports that the Administration fashioned its position on REACH to reflect unsubstantiated cost concerns raised by a narrow segment of U.S. industry, without any genuine consideration of the likely health and environmental benefits that such policies would generate. Your office's letter, dated September 3, 2004, reiterated the Administration's position, but did not provide the requested information explaining how the Administration developed its position. Once again, we request information on both the substance of the Administration's position and the process by which that position was developed. To avoid any misunderstanding on your part, this letter repeats the request for information from our June 2004 letter and specifically requests all related documents.

Regarding the substance of the Administration's position, please provide all analysis and documentation regarding how the REACH proposal violates specific WTO articles. Specifically, please identify the actual provisions of REACH alleged to be in conflict with specific WTO articles, including any articles of the Technical Barriers to Trade Agreement that allegedly may be violated. Please provide all background memos, reports, analyses, or communications related to these claims. In addition, please provide all analysis, with related documentation, and all communications that your office conducted to assess the likely trade impacts of the REACH proposal. For example, we ask that you submit the economic analysis by which you concluded that, "The costs to implement REACH would be substantial," a statement included in the USTR's comments

to the World Trade Organizations' Technical Barriers to Trade Committee on June 21, 2004.

Regarding process, please document the precise identities of the "broad range of stakeholders" with whom, according to the September 3rd letter, your office consulted in developing the Administration's position. Specifically, we request a list of all persons who participated, formally and informally, as representatives of the "formal advisory committees, business, consumer, and environmental organizations, and Congressional staff" referenced in the letter. Please provide all documentation relating to such contacts, including all correspondence, e-mails, briefing memos, reports, analyses, etc. developed in preparation for, or provided during, such consultations, as well as all correspondence and other documents following up on such consultations.

Finally, we also reiterate the request made in our June letter to provide information on the procedures that the USTR will adopt and implement to ensure that the views of all U.S. stakeholders will be considered during future discussions of the U.S. position on REACH. Please provide all memos, reports, analyses, or communications that address this matter.

We look forward to your prompt response.

Sincerely,


Frank R. Lautenberg


James M. Jeffords