



April 27, 2012

Board of Directors

John Applegate
Robert Glicksman
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Amy Sinden
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Via Electronic Mail and Facsimile

Mr. Paul Verkuil
Chairman
Administrative Conference of the United States
1120 20th St. NW
Suite 706 South
Washington, DC 20036

Advisory Council

Patricia Bauman
Frances Beinecke
Eula Bingham
W. Thompson Comerford, Jr.
Sally Greenberg
John Passacantando
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Robert Weissman

Re: May 1 Conference on Incorporation by Reference and the U.S. Chamber of Commerce

Dear Mr. Verkuil:

We are writing to express dismay about your decision to co-sponsor a conference with the Chamber of Commerce regarding "incorporation by reference" in the international arena. This decision conflicts with the mission of ACUS in two respects.

First and foremost, the Chamber is in the forefront of an intense campaign to discredit regulation and should not be a "partner" with ACUS in any context if you wish to preserve your organization's stature as "an independent federal agency dedicated to improving the administrative process through consensus-driven applied research, providing nonpartisan expert advice and recommendations for improvement of federal agency procedures." (This language is taken from your website.)

Second, the agenda for the conference indicates unmitigated support for the notion that voluntary industry "consensus" standards can and should supplant efforts by governments to write their own rules to protect public health, worker and consumer safety, and the environment. I understand that you may well view the so-called "IBR" issue as a highly technical one that does not raise substantive issues. We respectfully disagree with this perception. In the international context, the United States has been under heavy pressure to dilute its regulatory approach to health and safety on the grounds that strong protections are in reality a barrier to trade that is illegal under GATT. As disturbing, the hollowing out of government in the United States has increased the pressure to adopt industry standards in lieu of doing the independent work to determine how best to prevent the catastrophes that increasingly plague us—from the Deepwater Horizon explosion, to the Upper Big Branch mine collapse, to the shipment of peanut paste contaminated by salmonella.



We urge you to reconsider how ACUS presents itself publicly. Especially in this early period of its rebirth, the organization cannot afford to be perceived as taking sides in the enormously destructive crusade against regulation that the Chamber and other powerful industry groups are leading.

Thank you for considering these views.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom McGarity". The signature is fluid and cursive, with the first name "Tom" and last name "McGarity" clearly distinguishable.

Tom McGarity
CPR Board Member
University of Texas School of Law

A handwritten signature in black ink, appearing to read "Rena Steinzor". The signature is fluid and cursive, with the first name "Rena" and last name "Steinzor" clearly distinguishable.

Rena Steinzor
President, Center for Progressive Reform
Professor of Law, University of Maryland School of Law

cc: ACUS Council Members