

Testimony
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I. INTRODUCTION

Mr. Chairman, Ranking Member Biden and members of the Committee, thank you for inviting me here today. I am honored to appear before the Senate Foreign Relations Committee Subcommittee on European Affairs to discuss U.S.-EU Cooperation in Regulatory Affairs. This is a topic that has and will continue to occupy much of the time and energy of my staff. In fact, just last week I was in Brussels discussing this issue with my European Commission counterparts, and I am pleased to have the opportunity to share with you and your colleagues our perspective.

II. THE U.S.-EU RELATIONSHIP AND ITS IMPORTANCE

The significance of U.S.-EU regulatory cooperation should be viewed against the strength and potential of the overall Transatlantic relationship. I think that no one here disputes the importance of the U.S.-EU ties. From the economic perspective, the U.S.-EU relationship is vital. A few statistics make this obvious.

The European Union and the United States enjoy the world’s largest economic relationship. Two-way U.S.-EU trade is over \$500 billion annually, and the U.S. and EU are the largest investors in each other’s markets.¹ Of the \$5.2 trillion in foreign assets owned by U.S. companies, nearly 60 percent of these assets are in Europe. Similarly, nearly three-quarters of all foreign direct investment to the U.S. comes from EU investors. The importance of U.S.-EU foreign direct investment on the labor market is clear: U.S.-owned affiliates in Europe employ 6 million European workers, and over 4 million Americans get their paychecks from European companies. These economic figures are not just numbers on balance sheets. They account for the livelihoods of many Americans, including, I am sure, many of your constituents.²

III. OPPORTUNITIES THROUGH GREATER COOPERATION

I believe it is vital that we embrace the U.S.-EU economic relationship as one that will continue to bring greater foreign direct investment, more transatlantic trade in goods and services, and consequently more and better jobs for Americans. We have made considerable progress in reducing the trade burdens on consumers in both the EU and the United States. Significant trade liberalization has already occurred: U.S. exports to the EU face an average

¹ U.S. Department of State, Office of the Spokesman. “Fact Sheet: United States – European Union Relations” June 25, 2003, Washington, D.C.

² Quinlan, Joseph. “Drifting Apart or Growing Together? The Primacy of the Transatlantic Economy” Washington, D.C.: Center for Transatlantic Relations 2003.

trade-weighted tariff of scarcely more than 2 percent while EU exporters face an even lower tariff here - just 1.8 percent.

In order to deepen and strengthen the U.S.-EU economic relationship we must work to eliminate the “system friction” that our different regulatory regimes can cause. Foreign regulations can be daunting to outsiders and their mere existence can be a deterrent to trade – especially to small- and medium-sized businesses. On the other hand, greater regulatory cooperation and mutual recognition policies insure trade flows continue to grow as non-tariff barriers are minimized.

Several ambitious initiatives for regulatory cooperation and deregulation in services are already underway. The Administration and the European Commission kicked off negotiations for an ‘open skies’ agreement at the beginning of this month, a project that could increase transatlantic travel by up to 11 million passengers a year, accruing benefits of about \$5.2 billion to passengers through lower fares and increased travel.⁵

IV. WHY REGULATION IS A NECESSARY PART OF BUSINESS

Before I share with you existing and future Department of Commerce activities in regulatory cooperation, I would like to comment on the role regulations play in international trade.

The purpose of many regulations is to protect consumers and the environment, but the broader impact on society, such as innovation and progress must be taken into account. Eighty percent of global trade in manufacturing and merchandise is regulated, sometimes at multiple levels, and a growing body of EU regulation covers fifty percent of U.S. exports. EU regulations are often arcane, difficult for foreign and domestic firms to comply with, and the process by which they are developed opaque. The standards mandated by EU regulations can also create market access problems, as they are often drafted with little or no outside input. As a result, non-European firms seeking to export to Europe may have to do extensive testing or even redesign their products. This can be particularly burdensome for small business trying to access new export markets. Unfortunately, international regulatory cooperation is challenging because most regulators are focused on domestic priorities, which can impede competition.

Regulators on both sides of the Atlantic believe not only that they are ‘doing the right thing’ but also in the right way. This often means unique and complicated levels of regulation and accountability. As we all are aware, in the United States businesses must often deal with federal regulators as well as in some cases as many as fifty state regulators. In Europe, the European Community regulations are enforced and often duplicated by fifteen – soon to be twenty-five – Member State regulators. A maze of accountability, a web of constituencies, and complications with enforcement result. The EU itself recognizes this and has made moves under its “Lisbon Strategy” to identify better and reduced regulation with the aim of a more competitive Europe. And the U.S. government has encouraged this process by submitting comments on the Commission’s Better Regulations Package in July 2003.

³ Reitzes, James and Dorothy Robyn. “An Analysis of the Economic Effects of an EU-US Open Aviation Area” The Brattle Group, 2003

⁴ Steil, Benn. “Building a Transatlantic Securities Market” New York: Council on Foreign Relations, 2002.

⁵ Reitzes, James and Dorothy Robyn. “An Analysis of the Economic Effects of an EU-US Open Aviation Area” The Brattle Group, 2003

With particular institutions come particular cultures, and regulatory culture influences how regulations are made and implemented. The European Commission often invokes the so-called “precautionary principle” in drafting regulation. The “precautionary principle” permits the banning of products in the absence of any evidence of harm to human health or the environment. This is the guiding principle behind the recent EU chemicals proposals.

The cost of this approach to regulation can be staggering: the EU chemicals proposal could be read to cover all chemical-containing products, such that most U.S. manufactured exports to the EU (\$143 billion in 2002) could potentially be affected.

Finally, regulation in Europe is often used as a broader political tool. Harmonization of member state regulations and standards was identified as the key to the formation of a European single internal market in the 1980s. The effort required a broad coalition of business and political interests to make it successful. Development of this single internal market fueled more ambitious projects for economic and political unity. Evidence of these spill-over effects is apparent in today’s headlines, not least of which is the nascent European constitution.

V. EXISTING TOOLS

With this perspective on standards and regulations, I would like to outline some of the existing cooperation projects where my office and the Department of Commerce play a leading role.

Since it’s inception in 1995, the Transatlantic Business Dialogue (TABD) has been one of our most effective tools for increasing transatlantic regulatory cooperation. The Commerce Department has played a critical role in facilitating TABD’s efforts, but I emphasize that the business community, not the government, has taken the initiative. This approach has been enormously successful.

TABD is focusing on lowering transaction costs and minimizing friction between U.S. and EU governments in order to maintain and increase competitiveness of businesses on both sides of the Atlantic. U.S. and EU CEOs participating in TABD have consistently cited what they regard as unnecessary divergence of U.S. and EU regulatory regimes as hampering transatlantic economic growth. For several years, TABD has remained committed to convergence of regulations in areas ranging from dietary supplements, to environmental emissions, to accounting standards. This successful forum is expected to continue to focus on convergence of regulations, as well as on removal of unnecessary barriers created by certain standards, testing and certification requirements.

Commerce will continue to work closely with TABD to foster U.S.-EU cooperation on regulatory and standards issues. I recently met with my European Commission counterparts in Directorate General Enterprise and we all agreed that continuing TABD efforts is crucial.

In the mid-to-late 1990's TABD also provided the momentum that kept the U.S.-EU Mutual Recognition Agreement (MRA) negotiations moving toward a successful conclusion. As a result, today we have three operational MRA annexes facilitating trade and reducing testing and certification costs in the areas of telecommunications equipment, electromagnetic compatibility (EMC) and recreational craft. It is expected that the medical device annex will be

operational soon. If all goes as planned, the reach of the U.S.-EU MRA will be expanded this fall. The goal is to conclude an MRA with the European Free Trade Area (EFTA) States who are members of the European Economic Area (i.e., Norway, Iceland, and Liechtenstein). This will be a parallel MRA to the existing U.S.-EU MRA and will be restricted to those sectoral annexes that are operational (i.e., telecom, EMC, and recreational craft).

TABD is also credited with breaking the impasse in negotiations on the U.S.-EC Guidelines on Regulatory Cooperation and Transparency over language on transparency. TABD recommended text on transparency that allowed us to conclude the Guidelines. Since that time, the U.S. and EC have launched a number of regulatory cooperation projects based on the Guidelines, specifically in the areas of auto safety, cosmetics, food additives, nutritional labeling, and metrology.

For cooperative projects on metrology, the Commerce Department's National Institute for Standards and Technology (NIST) is spearheading U.S. government activities. In a joint declaration signed in 1999, the U.S. and EC agreed in principle to proceed with cooperation in the field of metrology. U.S. and EC technical experts met in the U.K. in August 2003 and at this time are working to identify projects that are technically feasible and of clear benefit to both sides. The overarching goal stated in the Joint Declaration is to support and further mutual recognition of test reports, calibration and measurement certificates provided for regulatory and market place compliance purposes, to improve regulatory efficiencies and facilitate trade. Projects will be geared to reduce unnecessary duplicative measurements, tests and calibration requirements and improve regulator confidence in measurements, tests and calibrations performed by qualified laboratories in the U.S. and the EU.

VI. FUTURE INITIATIVES

These examples of existing efforts I have described are laudable and I appreciate the countless hours that have already been devoted to them. But if we are to embrace a U.S.-EU economic relationship that is ambitious and dynamic, our regulatory cooperation must similarly be ambitious and dynamic. Existing efforts must expand while new strategies are initiated. Let us not forget that entrepreneurs and scientists here and in Europe continue their work. Every year since 1994 the U.S. has spent more on R&D as a percentage of GDP than ever before. European companies spend six-times more on research and development than Asian companies. This means productivity and innovation but also new products, new applications and of course new standards and regulations.

I would like to assure the committee that we are building on existing initiatives and breaking new ground in other areas of cooperation. For example, Commerce officials are exploring a new cooperative project that would complement the U.S.-EU Guidelines on Regulatory Cooperation and Transparency I just described. Through transatlantic dialogue on proposed information and communications technology (ICT) regulations and related standards, the proposed project would act as an "early warning" system for U.S. companies in the ICT field. The dialogue will focus on ICT-related issues that fall within the Department's scope and authority.

The proposed project has two primary objectives. The immediate objective would be the creation of a mechanism, specifically related to the ICT field, to address longstanding U.S. industry concerns regarding lack of transparency, access, and accountability in EU regulatory and standards development process. Initiating regular exchanges of information on government-developed regulations is a first step toward allaying industry concerns. The dialogue will provide the necessary information regarding EU regulatory and standards development processes at a sufficiently early stage to permit industry to respond effectively. The second, long-term objective is to facilitate direct U.S. industry access to such EU decision-making processes.

Within my own unit, I have urged my staff in the Office of European Union and Regional Affairs to expand efforts to address EU regulatory and standards policies. We have developed and are implementing a far reaching Standards and Regulations Strategy geared to reduce or eliminate market access barriers to U.S. exports due to EU standards and regulatory policies: (1) in the EU, (2) in third countries, and (3) in international and multilateral fora. Under the Strategy, work plans have been launched to resolve the most pressing issues through outreach to U.S. and EU industry, to government officials in the EU, the Member States, third countries, and to standards organizations at all levels. The foundation of each work plan involves close collaboration intra- and interagency to ensure coordinated action within U.S. government and with outside stakeholders. This Strategy complements Secretary Evans' Standards Initiative and the Bush Administration's Manufacturing Agenda, both announced in March 2003, and dovetails with the TABD's new focus on standards and regulations.

At the highest level of the Department, Secretary Evans announced a Standards Initiative earlier this year, based on eight-points. Standards are key, because they often can be included in regulation, creating divergent regimes and potential trade frictions. Let me discuss each point in turn.

First, we are developing a Global Standards Activity Assessment to inventory current standards-related programs and activities. NIST is already surveying all Commerce agencies, and plans to request input from other Federal agencies, from industry, standards development organizations, and advisory committees. At the end of the process, the Secretary will be presented with internal report on the results of the activity assessment, with recommendations for going forward.

The second and third points relate to development of enhanced training: an in-depth training program for our standards attaches based overseas to strengthen their expertise, and a standards training program for Commercial Service Officers in overseas posts so that they have a sufficient understanding of the impact of standards and regulations on international trade.

Fourth, we will develop a Best Practices database so that Commerce officials can address the challenges industry faces more effectively.

Fifth, NIST will continue and expand distribution of its free "Export Alert!" web-based service that provides subscribers with automatic electronic notification of proposed technical regulations in global markets.

Sixth, we have established a dialogue on standards within the President's Export Council. ITA and NIST representatives briefed the PEC's Subcommittee on Technology and Competitiveness on the Department's Initiative earlier this month and got a very positive response from Subcommittee members.

Seventh, we are in the process of hosting roundtables with specific industry sectors to gain a better understanding of industry's concerns and priorities regarding standards. Additional roundtables will be held for standards-setting organizations and on compliance and testing methods. Information from these roundtables will also be fed into the activity assessment noted above.

Eighth, the International Trade Administration has established a new standards liaison position and recently brought on board an expert to fill this position.

I am confident with the many tools available for addressing standards and regulatory issues with the EU, we will enhance the ability of U.S. companies to export to and compete in the European marketplace. As I indicated earlier in my testimony, the Bush Administration is committed to continued close cooperation with the business community and EU officials. We believe that open dialogue is one of the most effective ways to avoid disputes, promote cooperation and lower business costs for U.S. and European companies.

VII: CONCLUSION

Today's U.S.-EU economic relationship has not been built on convenient choices and simple solutions, but on hard work, critical analysis and energetic cooperation. For this relationship to continue to prosper, similar energy, creativity and dedication must be given to regulatory cooperation. U.S.-EU regulatory cooperation is not just a good idea, it is imperative. The Bush Administration is positive that regulatory cooperation is the linchpin of a prosperous future economic relationship. My staff and I are working to make successful regulatory cooperation a reality.