



December 17, 2004

| US Submission: | EU Submission: |
|---|---|
| Ms. Anita Thomas Office of Europe and the Mediterranean Office of the US Trade Representative 600 17 th Street, NW Washington, DC 20056 USA | Wilfried Schneider External Relations Directorate-General European Commission Rue de la Loi, 170 B-1049 Brussels Belgium |

Dear Ms. Thomas,

The TransAtlantic Business Dialogue (TABD) is pleased to submit comments on enhancing the transatlantic relationship in response to the Federal Register notice of August 17, 2004 (vol. 69, No. 158, page 51139) and the 30 September announcement of an EU-US stakeholder consultation by the European Commission.

Mandated by the US Administration and the European Commission in 1995 to provide consensus industry input on the transatlantic economic relationship, the TABD is a group of US and European CEOs and/or Chairmen of leading companies, both large and small, who are committed to establishing a barrier-free transatlantic market. In addition to the progress made on the many important issues facing the relationship, much of TABD's success is due to the close relationships that have been forged among the transatlantic business leaders, US Administration and the European Commission.

The TABD commends the US Administration and the European Commission for initiating public outreach to a broad range of stakeholders to stimulate proposals for enhancing US-EU trade and investment. The TABD is uniquely suited for such an important exercise, and we look forward to continuing our close relationship with the Administration and to working with our business and government counterparts in Europe to turn these proposals into action.

Yours sincerely,

Jeff Werner
Executive Director TABD (US)

Cliff Grantham
Executive Director TABD (EU)

Stakeholder Consultation on the Transatlantic Economic Partnership

Comments and Proposals from the TransAtlantic Business Dialogue (TABD)

About this paper

The TABD very much welcomes this consultation exercise and hopes that its contribution will help to move the transatlantic economy closer to its goal of a Barrier-Free Transatlantic Market (BFTM).

This paper indicates some general developments we wish to see in the transatlantic economic relationship but it does not include detailed new recommendations. We expect our CEOs – who are personally responsible for setting our objectives and driving our work – to endorse new policy orientations at their meeting in Davos on 27 January 2005. These will then be developed into detailed recommendations for presentation ahead of the 2005 EU-US summit.

Similarly, we are not yet in a position to address each and every one of the questions tabled by the two administrations in this consultation exercise.

The TABD is still concerned to see progress in the adoption and implementation of the recommendations it submitted to the 2004 EU-US summit. We are happy to see some of them moving forward in the various policy areas and hope that others will be picked up and acted upon in the first half of 2005.

Time to Seize the Opportunity

1. The TABD CEOs proposed to the June 2004 US-EU Summit in Ireland that governments should begin as quickly as possible to establish a BFTM. At the US-EU Summit, the leaders responded favourably to the concept, noting in particular the benefits that would accrue not only to the US and EU but to the broader global community if the two major developed economies were to forge even closer economic, trade and investment ties.
2. We believe now is the time to seize the opportunity to make concrete progress toward achieving a BFTM. The election in the United States is behind us, the new EU Commission is in place, and there is common understanding of many of the impediments limiting the transatlantic market. This is not a time to be satisfied with incremental progress at the margins of our economic relationship, rather, it is a time for substantial, transforming action.
3. The benefits will be expanded job creation and innovation, greater competitiveness of our economies, and better prospects for long-term growth and prosperity.
4. This paper suggests a framework, a process, and a set of actions that would consistently and sustainably deliver those benefits.

TABD's goal

5. The TABD will work with the administrations to eliminate, or substantially reduce over time, all non-tariff barriers to promote the free flow across the Atlantic of capital, goods,

and services. In addition, the TABD would like to see further steps taken to ensure the free movement of people across the Atlantic, but recognises that this can only be achieved by taking into consideration the necessary security priorities.

6. In pursuit of these objectives the TABD proposes that the US and EU launch a bold, politically-creative process designed to:
 - Establish political leadership at the highest level to direct and drive progress towards a BFTM
 - Favour initiatives to persuade regulators of the importance of transatlantic regulatory cooperation and create mechanisms for engaging them in a meaningful process of cooperation designed to produce results
 - Ensure the continued interest and support of senior business figures in the US and Europe in deepening transatlantic economic integration

The case for a BFTM

7. The concept of a barrier-free transatlantic market is based on the well-justified belief that the dominant feature of the transatlantic economic relationship is not only the \$500 billion in US-European trade, but also the \$2 trillion annual flow of long-term investment, production, research and innovation across the Atlantic. The second premise is that non-tariff barriers to the free flow of capital for investment, as well as goods and services, still impose significant obstacles for US and European companies that wish to expand their relationships within the transatlantic market, and thus strengthen their national, regional, and global competitiveness, maximise their capacity for innovation, and create new, value-adding jobs.
8. In the near-term, adopting the BFTM concept as a shared transatlantic goal should bolster both political commitment and business support for meaningful regulatory cooperation. The non-tariff barriers that remain exist primarily in the areas of domestic standards and regulations, including safety, health, environmental, engineering standards, and labelling requirements. Such measures are sustained by the existence of separate regulatory and supervisory agencies on each side of the Atlantic, which have developed their rules and regulations in relative isolation and are responsible to entirely separate legal mandates and legislative oversight.
9. Political and business leaders on both sides of the Atlantic recognise that divergent transatlantic approaches to regulation hinder the potential competitiveness of the US and European economies. With such measures in place, companies operating and selling their products in Europe and the United States cannot take advantage of the full benefits of operating in a seamless transatlantic market. They are handicapped in creating more jobs, doing more R&D and product innovation, streamlining operations, and are unable to fully maximise returns on their investments.
10. Legislation and regulation needs to take into account its impact not only on domestic economic activity, but on the functioning of the transatlantic market as well. The potential to use an integrated barrier-free transatlantic market of some 700 million people (relatively wealthy and educated by global standards) to advance US and European global economic competitiveness needs to be further exploited. Better coordination or convergence of legislation and regulation, on the other hand, can enhance the functioning and transparency of the transatlantic market as a platform for enhanced global competitiveness.

11. Dismantling tariffs on transatlantic trade continues to be an important TABD objective. Happily, they are generally low, averaging between 3-4% on this €500 billion a year trade, although higher on products in sensitive sectors. We wish to see real progress towards fully free transatlantic trade, while recognising that important issues are at stake that will not lend themselves to rapid solutions. WTO negotiations on the multilateral trade agenda could be helpful in generating further tariff cuts on EU-US trade.
12. In June this year the TABD submitted to the US-EU Summit a set of recommendations for removing those impediments thought by the TABD business leaders to be having a negative impact on commercial relations and the overall bilateral relationship. Initial recommendations encompassed four issue areas: intellectual property rights and the fight against counterfeiting and piracy, open trade and security, international financial reporting standards and the Doha Development Round.
13. The TABD is continuing its work on these existing priority issue areas in light of the positive government responses to the TABD Report at the US-EU Summit. We remain convinced of the value of our recommendations and will continue to advocate them.

Moving towards a BFTM – the Political Framework

14. The TABD believes that the key to making real progress towards a BFTM and achieving the aims of the Economic Declaration is a process driven from the highest political level. This is a vital prerequisite for bringing policymakers, regulators and stakeholders together in pursuit of clear objectives and deliverable results. Political efforts to remove obstacles to transatlantic integration are too often fragmented, uncoordinated and lacking in direction. The TABD is ready and organised to respond to real political leadership with regular and consistent advice.
15. The TABD's recommended approach would:
 - Create a political framework for determining a multi-annual strategy for transatlantic economic integration, driving and monitoring progress and removing bottlenecks
 - Require a process in which US and EU administrations and regulatory agencies implement agreed programmes for removing impediments to a seamless market with full support from the US and EU legislatures
 - Fix concrete objectives with benchmarking procedures and maximum transparency
 - Mandate stakeholder participation and consultation in the design, monitoring, implementation and assessment of BFTM programmes
16. The TABD recommends that annual US-EU summits should issue orientation and guidelines for deepening transatlantic economic integration. We believe that the meeting's main output should be a rolling BFTM programme setting annual objectives, identifying the mechanisms and allocating the tasks for their achievement. Reports on the implementation of the programme would be submitted to each summit.
17. In determining the rolling programme, the TABD recommends that priority be given to five themes of particular significance to future growth which incorporate and expand on the initial policy areas adopted by the TABD at its re-launch at Davos in 2004:
 - Regulatory Cooperation
 - Countering terrorism while facilitating trade

- Challenges to economic growth and innovation in the transatlantic economy
- Integrating transatlantic financial markets
- Transatlantic cooperation in developing the global trading system

Regulatory Cooperation

18. Regulatory co-operation tasks must be at the heart of the BFTM programme and the opportunity the Roadmap provides for a fresh start must be seized. TABD recognises that in order to make the best possible progress, the US and the EU will need to establish a process that takes into account the sovereign prerogatives and legislative mandates of agencies on each side of the Atlantic. We also recognize that these prerogatives ought to be changed to accommodate the needs of an efficient seamless transatlantic market. The challenge will be to reduce the obstacles raised by existing difficulties while preventing new regulations from adding new barriers in the future. The TABD welcomes the review now underway of the current dialogues and hopes that it will result in operational conclusions that will increase their effectiveness.
19. We believe that political ownership and authority will be needed to make the progress on this front that has been largely absent in recent years, despite the best efforts of both sides. The TABD is working on a set of proposals for helping to establish credible political drive behind a process that would set goals for regulatory cooperation, initially in a few priority sectors.
20. These proposals are part of a very active work programme aiming at the adoption of draft recommendations in January.
21. In addition to outlining a mechanism for driving greater regulatory cooperation, our recommendations in this area are likely to include:
 - Identification of the priority sectors for launching a fresh start in regulatory cooperation and new areas that are of particular relevance to the business community
 - Thorough revision of the regulatory cooperation guidelines so that they fit with a more politically-driven process that is transparent and open to scrutiny. Among other things, they should look to:
 - Contribute to building confidence between regulators on both sides
 - Require exchanges of information on work programmes and new regulatory and legislative initiatives
 - Press for confidentiality agreements for all sensitive sectors (possibly along the lines of the FDA/European Commission/EMA agreements)
 - Encourage the dissemination of information to regulators on best practices in achieving transatlantic regulatory cooperation or avoiding regulatory conflict
 - Support for sectoral dialogues on convergence.

Countering terrorism while growing trade

22. The TABD has urged the authorities in the EU and US to address **security concerns surrounding trade flows** and to work closely with industry to ensure that the practical implications of taking certain security-related measures are more clearly understood. This should include pursuing the TABD recommendation – welcomed by the governments in

June 2004 – of a pilot project to analyse risk and exchange information about shipments between the US, EU and third countries.

23. The TABD welcomes progress made on its existing recommendations, including support for including TABD and industry in working groups dealing with trade and security issues; the adoption of an action plan for setting common standards on security; and discussions on a business partnership programme and an Authorised Economic Operator project.
24. The TABD wishes to reaffirm its interest in contributing to the High Level Policy Dialogue for Border and Transport and Security (PDBTS).
25. The TABD wishes to encourage the US and EU to collaborate on developing a single RFID standard that could then be applied at a global level. At the same time, we call on the administrations' to remain vigilant concerning privacy issues raised by RFID technology.
26. The TABD believes that there needs to be greater clarity about the policy objectives and means to achieve them being pursued on each side of the Atlantic. Each side needs to put more effort into explaining its priorities and policy framework to economic operators. It would be helpful if the two administrations' organised one or a series of events to present their policies and approaches to stakeholders.

Challenges to economic growth and innovation in the transatlantic economy

27. The TABD's proposals submitted to the June summit and its subsequent work programme focus on encouraging the EU and US to tackle the scourge of international **counterfeiting and piracy**, which wreaks such damage on the interests of businesses and consumers alike, as well as on the revenues available to national governments. As part of their work in this area, Europe and the US must push ahead with ideas on how best to protect the interests of **intellectual property rights** holders – a key requirement if we are to establish a more innovative climate in which the economies of the US and EU can grow. In particular, both administrations should continue to pursue the TABD-inspired idea of joint dialogue with – and assistance to - third-party governments.
28. The TABD is pleased that this and other ideas it has put forward correspond to the direction of EU and US policy. The TABD welcomes the US "STOP" initiative and hopes that it will succeed in both raising awareness of the dangers and unacceptability of counterfeiting and piracy and strengthening public awareness to suppress them. The TABD welcomes also the EC Commission Paper on IP enforcement in third countries, together with the other EU legislative initiatives recently adopted or under discussion to combat the problem at local level in the critical geographical areas. We also put particular emphasis on moving forward with the **OECD study project related to the economic impacts of counterfeiting** so that the problem can be quantified accurately and empirically and applied across all the industries and geographies.

Integrating transatlantic financial markets

29. In June, the TABD urged governments and regulators to move towards the introduction of **international financial reporting standards** – critical for a truly transatlantic market. We are encouraged that some progress is being made and hope that efforts to achieve the earliest possible convergence will be sustained. This will do much to promote

confidence in financial reporting while also fulfilling a necessary condition for greater integration of capital markets.

30. The TABD believes that a great deal more needs to be done to liberalise capital market transactions and promote much closer interaction between EU and US capital markets. The free movement of capital with equal access for operators to capital markets on both sides will be a crucial pillar of the BFTM. A coherent international business and governmental focus on competitive capital markets and good corporate governance is essential to global trust and prosperity.
31. While recognising that a single, integrated transatlantic financial market is not feasible in the short to medium term, current levels of fragmentation adversely affect the debt and equity markets, impede the competitiveness of the financial services industry, diminish credit rating transparency and limit access to finance across markets.
32. The TABD is developing further recommendations in this area, including:
 - Coordinating regulation and supervision in securities and banking. TABD welcomes the effectiveness of the Financial Markets Regulatory Dialogue and the efforts to improve cooperation between the SEC and CESR. The TABD strongly urges:
 - Putting more effort into *ex ante* conflict prevention
 - Equivalent application of the rules where common regulatory principles can be identified
 - Regulatory impact assessments that take account of extra-territorial affects
 - Consistent and reliable application and enforcement of securities markets legislation and regulation in all 25 Member States as a necessary condition for regulatory equivalence in EU-US financial market regulations
 - Avoiding blurred competences and incoherent policy positions amongst the EU and US regulatory and supervisory authorities. On the EU side there is a need for the Commission, CESR and national financial services authorities to communicate and negotiate with one voice. On the US side, similar consistency between the regulatory and supervisory authorities is also needed.
 - Agreements are needed that would treat listing and de-listing rules as equivalent in the respective jurisdictions in pursuit of finally agreeing convergent approaches. The EU has made some progress in this direction through its Prospectus and Transparency Directives and reciprocal moves by the US would be very beneficial.
 - Opening access for qualified market participants to the electronic trading platforms of the EU and US exchanges.

Transatlantic Cooperation in developing the global trading system

33. The TABD believes that the US and EU must work closely together to achieve greater multilateral trade liberalisation in the framework of the **Doha Development Agenda**. The TABD has publicly welcomed the agreement reached recently in Geneva, in particular the willingness to address the issue of agricultural subsidies – a key element of the TABD recommendations put forward in April.
34. Progress on agriculture puts the onus on negotiators not to allow the services and non-agricultural market access dossiers to lag behind. 2005 will be crucial and governments

must not be distracted from the Doha process by other issues on their agendas. Transatlantic business wants a successful outcome to the Hong Kong ministerial followed by a balanced set of agreements that will benefit all signatories through further liberalisation.

Stakeholder Participation and Consultation

35. The TABD has been very encouraged by the care with which the US and EU administrations have tried to harvest the broadest possible opinion on how to move the transatlantic economic relationship forward. It has also appreciated their efforts to consult our CEOs on their priority issues. We hope that this process will continue to offer more structured opportunities to the TABD to participate in developing and implementing a strategy that could deliver great benefits for the citizens of the US and Europe.