

Ms Anita Thomas  
Attn: Transatlantic Economic Relationship  
Written Comments  
Office of Europe and the Mediterranean  
Office of the U.S. Trade Representative  
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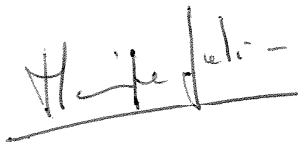
## Future of the Transatlantic Economic Relationship

Dear Ms Thomas,

Please find enclosed the UNICE reply to the United States Trade Representative's Federal Register notice of August 17, soliciting comments about ways to further strengthen the Transatlantic economic relationship. UNICE is the voice of more than 20 million small, medium and large companies. Active in European affairs since 1958, UNICE's members are 36 central industrial and employers federations from 30 countries working together to achieve growth and competitiveness in Europe.

UNICE looks forward to continuing the dialogue and collaborating with both sides to assist in the development of a forward-looking strategy in view of the next EU-US Summit in 2005.

Yours sincerely,



Monique Julien  
Director, External Relations

**THE FUTURE OF THE TRANSATLANTIC ECONOMIC RELATIONSHIP**

**TIME FOR A NEW AMBITIOUS INITIATIVE: A COMPREHENSIVE TRANSATLANTIC  
TRADE AND INVESTMENT LIBERALISATION AND COOPERATION AGREEMENT**

**EXECUTIVE SUMMARY**

However difficult and strained Transatlantic relations might occasionally be, the Transatlantic relationship is vitally important for the EU, the US and the global economy. Both partners jointly account for over 60% of world GDP and 40% of world trade. With an average of more than € 1 billion Transatlantic trade and investment per day and close to 13 million related jobs, the Transatlantic relationship matters for citizens on both sides of the Atlantic and it is still expanding.

In line with its April 2004 statement<sup>1</sup> and with the beginning of new legislatures on both sides of the Atlantic, UNICE believes that it is time for the launch of a new ambitious Transatlantic initiative in 2005 which would reinvigorate, deepen and broaden the existing partnership in a way that would be mutually and globally beneficial.

To gain broad support from politicians and citizens on both sides of the Atlantic, such a common project should address in a comprehensive, forward-looking and pragmatic way the political, economic and defence/security dimensions of the relationship. There are many complex and intertwined challenges but European business wants to see the EU and the US to work together as closely and constructively as possible to increase wealth, prosperity, well-being and security domestically, bilaterally and globally.

As regards the economic pillar, UNICE supports the launch of a **comprehensive Transatlantic trade and investment liberalisation and cooperation agreement**, at the next Transatlantic Summit planned to take place end of June 2005 in Washington, as a strong signal that both partners are committed, at the highest political level, to work together in multilateral fora and bilaterally to promote economic growth. For UNICE such an agreement should include the following elements:

- **A multilateral pillar:** priorities include the WTO and the conclusion of the Doha Development Agenda, as soon as possible, on the basis of a substantial and balanced agreement, cooperation on economic issues dealt with in the OECD, UN institutions, the World Customs Organisation, global security fora and global environmental fora particularly with a view to facilitating progress towards a truly international cooperation model for controlling greenhouse gases .

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<sup>1</sup> 23 April 2004 UNICE statement: "The Transatlantic Relationship: The Way Forward" available on UNICE website: [www.unice.org](http://www.unice.org)

- **The barrier-free Transatlantic market**, as supported by TABD, according to a precise work programme with clear benchmarks and a specific timetable. For European business, efforts should focus on regulatory barriers with a view to encouraging, as much as possible, mutual recognition of each other's regulations and the development and adoption of global standards. Regarding the free movement of goods and services, UNICE expects substantial progress through the DDA negotiations. Complementary actions should be taken at bilateral level mainly in the non-tariff field and to ensure that trade facilitation and security objectives are mutually supportive. Regarding financial services and capital markets, UNICE looks for the continuation of the initiatives underway. The convergence between the US GAAP and IFRS is key for European companies. Concerning corporate governance, cooperation should lead to the recognition of the equivalence of rules on either side of the Atlantic so as to avoid an additional and possibly contradictory layer of regulation. In any new Transatlantic initiative, UNICE would also like the mobility of business personnel in the Transatlantic marketplace to be tackled and practical means to increase cooperation in the fields of research and innovation be investigated.
- **A strong dispute prevention/resolution mechanism:** to make the existing early warning mechanism more effective, both sides should commit, at the highest political level, to exhaust all existing bilateral consultation/dialogue procedures before having recourse to the WTO dispute settlement mechanism as a last resort.
- **A communication strategy** to explain to public opinion on both sides of the Atlantic, the depth and importance of the relationship and give good examples of cooperation. A study on the opportunity costs of the lack of regulatory convergence and further economic trade and investment integration between both sides of the Atlantic would be particularly useful to put the relationship into perspective and counteract misperceptions on both sides.
- **A review mechanism** to assess progress and allow the appropriate decisions to be taken where necessary to adjust to a changing environment.

Concerning the timing of such a new Transatlantic initiative, UNICE would like to see the adoption of the overall framework including the economic pillar at the next Transatlantic Summit planned to take place in June 2005, adoption of the action plans in December 2005 and a first assessment of the results achieved and decision on the next steps towards the conclusion of a Transatlantic trade and investment liberalisation and cooperation agreement at the Transatlantic Summit in June 2006.

UNICE looks forward to continuing the dialogue and collaborating with both sides to assist in the development of a forward-looking strategy in view of the next EU-US Summit in 2005. It might complement/review these proposals as the debate develops.

**THE FUTURE OF THE TRANSATLANTIC ECONOMIC RELATIONSHIP**  
**TIME FOR A NEW AMBITIOUS INITIATIVE: A COMPREHENSIVE**  
**TRANSATLANTIC TRADE AND INVESTMENT LIBERALISATION AND**  
**COOPERATION AGREEMENT**

**Introduction**

This paper is UNICE's contribution to the stakeholder consultation launched by the European Commission and the US Administration on the future of the Transatlantic economic relationship as a follow-up to the Transatlantic Summit which took place in June 2004 in Dublin.

It is divided into two sections: UNICE's position (part I) and a detailed section which responds more specifically to the two questionnaires (part II).

UNICE is the voice of more than 20 million small, medium and large companies. Active in European affairs since 1958, UNICE's members are 36 central industrial and employers federations from 30 countries working together to achieve growth and competitiveness in Europe.

**PART I: UNICE POSITION ON THE FUTURE OF THE TRANSATLANTIC**  
**ECONOMIC RELATIONSHIP**

However difficult and strained Transatlantic relations might occasionally be, the Transatlantic relationship is vitally important for the EU, the US and the global economy. Both partners jointly account for over 60% of world GDP and 40% of world trade. With an average of more than € 1 billion Transatlantic trade and investment per day and close to 13 million related jobs, the Transatlantic relationship matters for citizens on both sides of the Atlantic and it is still expanding.

In line with its April 2004 statement<sup>2</sup> and with the beginning of new legislatures on both sides of the Atlantic, UNICE believes that it is time for the launch of a new ambitious Transatlantic initiative in 2005 which would reinvigorate, deepen and broaden the existing partnership in a way that would be mutually and globally beneficial.

To gain broad support from politicians and citizens on both sides of the Atlantic, such a common project should address in a comprehensive, forward-looking and pragmatic way the political, economic and defence/security dimensions of the relationship. There are many complex and intertwined challenges but European business wants to see the EU and the US to work together as closely and constructively as possible to increase wealth, prosperity, well-being and security domestically, bilaterally and globally.

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<sup>2</sup> This position complements the 23 April 2004 UNICE statement: "The Transatlantic Relationship: The Way Forward" available on UNICE website: [www.unice.org](http://www.unice.org)

As regards the economic pillar, which is the focus of this position, UNICE supports the launch of a comprehensive Transatlantic trade and investment liberalisation and cooperation agreement, at the next Transatlantic Summit planned to take place end of June in Washington, as a strong signal that both partners are committed, at the highest political level, to work together in multilateral fora and bilaterally to promote economic growth and a barrier-free Transatlantic market according to a precise work programme with clear benchmarks and a specific timetable. For European business, efforts should focus on regulatory barriers with a view to encouraging, as much as possible, mutual recognition of each other's regulations and the development and adoption of global standards.

Considering the multiplication of bilateral trade disputes which strain the relationship, might have devastating effects on bilateral trade and investment flows and harm long-standing business relationships, UNICE is looking, in the framework of the proposed new bilateral economic initiative, for a strengthening of the early warning mechanism to tackle sensitive issues at an early stage so as to prevent them from escalating.

The following summarises the reasons, the principles, the scope and the timing for such a new economic agreement.

## **1. Why to launch a new Transatlantic initiative in 2005?**

### **1.1. A context conducive to a new Transatlantic initiative**

- *Political uncertainty:* while the EU and the US face similar international political and foreign policy issues (Middle East), similar global challenges (poverty reduction, health and environment protection, terrorism) and similar economic challenges (ageing society, job creation, competition from emerging countries, budget deficits, energy supply), the past few years have shown that their approach to tackling them sometimes differs significantly and thus strains the Transatlantic relationship. It is highly uncertain how their respective positions will evolve on key foreign and economic policy issues in the coming months, notably under active pressure from various domestic interests. Dialogue and cooperation are therefore all the more important.
- *New teams:* With a new European Parliament and Commission in place and following the re-election of President George W. Bush, statements of goodwill came from both sides of the Atlantic accompanied by hopes of strengthening ties between the EU and the US in the years ahead. EU leaders at the Brussels European Council on 4-5 November 2004 stated: "Our close Transatlantic relationship, based on shared values, is fundamental for Europe's approach to building international peace, security and prosperity. Our deep political, economic and cultural ties make us each other's natural allies". The new teams in place have four/five years in front of them to build a new relationship and re-invigorate a strong Transatlantic partnership.
- *NTA review:* The tenth anniversary of the New Transatlantic Agenda<sup>3</sup> also offers a unique opportunity to assess the results achieved so far and to adapt the partnership to the new realities so as to optimise a Transatlantic relationship which ought to contribute to increased security, stability and welfare at global level.

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<sup>3</sup> The new Transatlantic Agenda signed on 3 December 1995, provided a new framework allowing to move from consultation to joint action in four major fields (promoting peace and stability, democracy and development around the world; responding to global challenges; contributing to the expansion of world trade and closer economic relations and building bridges across the Atlantic) to address differences more constructively.

⇒ ***For all these reasons, the context is conducive to a more mature relationship and the launch of a new ambitious Transatlantic initiative in 2005 whose first objective would be to improve confidence between both sides of the Atlantic. This could be achieved through a strong alliance based on active political leadership, mutual respect, close consultation and a political commitment, at the highest level, to address differences of approaches/policies, where they exist, in a constructive and, as much as possible, a non-confrontational way.***

## **1.2. Common ambitions and global interests:**

European and American citizens share many values, objectives and preoccupations:

- *common fundamental values*: democracy, respect for human rights and individual liberty, promotion of peace and collective security and economic freedom;
- *security and the fight against terrorism*: after the 11 September 2001 terrorist attacks in the US and the 11 March 2004 attacks in Spain, the overall conviction is that global security threats are more effectively dealt with together than separately;
- *Common concerns about global challenges* which threaten the future of the planet: poverty, environmental degradation (climate change, endangered species), health, disease and pandemics;
- *Sustainability of job creation*: increased concerns in a large part of public opinion about globalisation, outsourcing and delocalisation with the emergence of new economic powers such as China, India, Brazil. To alleviate these concerns, the EU and the US have both to enter the public debate to put the issue into perspective and explain what they can do to foster economic growth, competitiveness and employment. Both are also confronted to an ageing society;
- *Energy security*: need to improve energy efficiency, increase diversity of energy sources and security of supply.

⇒ ***For UNICE, these common objectives and interests far outweigh differences. They constitute a strong platform for a new Transatlantic initiative aimed at bringing EU and US positions closer together and further strengthening EU and US cooperation in multilateral fora and bilaterally. To succeed, determined political leadership at the highest level is required from both sides of the Atlantic.***

## **1.3. Two economies very closely intertwined:**

The figures speak for themselves. The EU and U.S., with around 10% of the world's population, jointly account for over 60% of global GDP. Even if it can still be deepened significantly, the Transatlantic market is already a reality for many products and service sectors. Business integration is well advanced and is increasing.

- *Investment* is the backbone of the Transatlantic economy. Investment stocks on both sides are of the order of € 1,500 billion. The total output of US foreign affiliates in Europe (\$333 billion in 2000) and of European affiliates in the US (\$301 billion) is greater than the total gross domestic output of most nations. In 2001, Europe accounted for half of total global earnings of US companies, as measured by US foreign affiliate income. European firms account for more than two-thirds of total foreign assets in the US (\$3.3 trillion). There is more European investment in Texas alone than all US investment in Japan. In 2000, European affiliate sales in the US (\$1.4 trillion) were more than four times larger than US imports from Europe. Europe remains the most important foreign source of global profits for US companies.
- Two-thirds of US corporate *research and development* conducted outside the United States is done in Europe.

- The transatlantic *trade* relationship is the most important one in the world with an average of more than € 1 billion Transatlantic trade and investment per day. The EU and the US together represent around 40% of world trade. The EU and the US are each other's main commercial partners for goods and services. In 2003 24% of European goods were exported to the United States (€ 200 billion) and 20.5% of EU imports came from the United States (€ 151 billion). The United States represents approximately 40% of European services imports and exports (of the order of € 116 billion in each direction). Trade disputes, which make the headlines, currently represent less than 2% of the overall trade volume.
  - *Jobs*: in 2000, US firms in Europe employed 4.1 million workers, close to 6 million if indirect employment is included, while European firms in the US directly employed 4.4 million and indirectly employed 7 million Americans.
- ⇒ ***However difficult and strained the Transatlantic relationship might occasionally be, the Transatlantic economic relationship is vitally important for citizens on both sides of the Atlantic and it is still expanding. UNICE therefore supports the launch of a new Transatlantic economic initiative which would focus the attention of policymakers and regulators on both sides of the Atlantic on the most significant barriers to trade and investment and measures which would facilitate business activities and cooperation on the basis of a realistic and precise work programme with clear benchmarks and a specific timetable. It would be a win-win initiative for both partners and for the global economy***

#### **1.4. Stakeholder involvement:**

- The *stakeholder consultation* launched on both sides of the Atlantic with a view to identifying new ideas on how to further Transatlantic economic relationship is an important opportunity to:
  - inject new momentum into the relationship on the basis of the concrete proposals ;
  - mobilise political leadership;
  - raise awareness about the vital importance of transatlantic relations;
  - build broad public support for a new initiative.
- *NTA review*: the results of the assessment underway of the first ten years of the NTA should also provide useful insight into its successes and failures and indications on how to improve/adapt existing structures and cooperation mechanisms.

⇒ ***The combination of all these elements creates the appropriate conditions for launching a new Transatlantic initiative in 2005 including a comprehensive trade and investment liberalisation and cooperation agreement for the economic pillar.***

## **2. Why a Comprehensive Transatlantic Trade and Investment Liberalisation and Cooperation Agreement?**

### **2.1. Objectives**

For UNICE, any new Transatlantic economic initiative should clearly indicate a new step in the relationship in substance as well as in symbolism. For this reason, it proposes the launch of a comprehensive Transatlantic trade and investment liberalisation and cooperation agreement:

- A *comprehensive agreement* to give a clear political and institutional prominence and visibility to the project which will need high-level political commitment and parliamentary support on both sides. Such an endorsement should facilitate legislative changes where necessary and contribute to overcoming some of the difficulties encountered today.
- A *cooperation* agreement to indicate the political willingness on both sides to deal with each other constructively and on an equal footing, be it within a multilateral or bilateral framework.

- A *trade and investment liberalisation* agreement to underline clearly that the investment dimension is as important as the trade dimension. In fact, it is the driving force behind further Transatlantic economic integration. It should also underline the trade and investment facilitation objectives of the initiative.

## **2.2. Principles**

- The basic condition for any new economic initiative to succeed is that both sides develop, at the domestic level, the appropriate conditions to foster economic growth and competitiveness and create an environment favourable for the development of business activities and investment. The EU should in particular focus on growth and structural reforms and the US on its balance of payments and budget deficits. Furthermore, the euro/dollar exchange rate evolution should be considered as an issue of common interest to be addressed in a cooperative approach.
- Any new bilateral initiative should be seen as complementary to the multilateral approach and made mutually supportive. For UNICE there is no satisfactory alternative to multilateral rule-making to tackle global economic challenges efficiently (e.g. trade, environment). The bilateral approach should however allow the two partners to:
  - cooperate more efficiently in multilateral fora and facilitate consensus-building there;
  - go further in areas where limited progress is expected in the multilateral framework because either conflicting interests or the differences in levels of economic development make cooperation difficult;
- UNICE supports a progressive approach centred on the gradual elimination of the remaining trade barriers for goods, services and capital and movement of people with the ultimate objective to create a barrier-free Transatlantic Market.
- Under the New Transatlantic Agenda (NTA), the Transatlantic Economic Partnership (TEP) and the related action plans, numerous fields of cooperation have been agreed with mixed results. For any new initiative, lessons should be learned from failures and best practices derived from successes. The current consultation exercise should help to define a limited number of priorities with specific objectives, timetables and review mechanisms to assess progress regularly and adjust, where necessary, to take account of changes in the overall environment.

## **2.3. Scope of the agreement**

UNICE recommends that the agreement cover the following main elements:

### **2.3.1 A multilateral pillar:**

- A strong commitment to cooperate in multilateral fora. This would cover the preparation of meetings, cooperation during meetings and an agreement to tackle disagreements in a constructive way so as to allow progress and balanced solutions.
- Priorities for UNICE include the WTO and the conclusion of the Doha Development Agenda as soon as possible on the basis of a substantial and balanced agreement, and the economic issues dealt with in the OECD, UN institutions, the World Customs Organisation, global environmental fora and global security fora such as the Wassenaar Agreement.
- Controlling greenhouse gases requires a global solution. UNICE looks for strengthened EU-US dialogue to facilitate progress towards a truly international cooperation model. Transatlantic cooperation should also be boosted with a view to developing new technologies, and to disseminating them both within and outside the Transatlantic area.



### 2.3.2 *The barrier-free Transatlantic market:*

- UNICE agrees with the objectives and recommendations put forward over the past few years by the TABD and TPN to progressively eliminate the remaining trade and investment barriers in the Transatlantic marketplace. They are still valid and central to European business interests.
- The priority for UNICE is to tackle in an effective way the *regulatory barriers* which have become the real barriers for business with the ultimate TABD objective of “Approve once, accepted everywhere in the Transatlantic Market”. The “Guidelines on Regulatory Cooperation and Transparency”, the Roadmap and the cooperation projects under way are steps in the right direction but insufficient to overcome all the difficulties encountered by business.

The new agreement should provide for a more flexible approach based on mutual trust and the nature of issues. It could vary from the mutual recognition of regulations with a statement of equivalence of legislations (e.g. corporate governance; security controls, services) to a stronger commitment to regulatory convergence implying that government agencies and regulatory bodies are instructed to work together towards common goals and development/adoption of international standards (e.g. international accounting standards). When both sides have divergent approaches, dialogue mechanisms should minimise the negative implications for business through early consultation and involvement of the parties concerned.

- Regarding the free movement of *goods and services*, UNICE is looking for substantial progress in the DDA in particular significant tariff reduction, the elimination of tariff peaks for goods and improved offers on services, including the US offer. Complementary actions should be taken at bilateral level mainly in the non-tariff barrier field, and mutual recognition of diplomas and equivalence of regulations in the services field. As regards a possible bilateral tariff initiative, any initiative should be in full conformity with WTO rules and not detract from or negatively impact the DDA negotiations under way. Such an initiative should also be part of a broader liberalisation agreement which should also include provisions to further liberalise services and procurement markets and provisions related to trade defence measures. Both sides should also ensure that trade facilitation and security are mutually supportive to avoid hindering legitimate trade.
- Initiatives underway in the field of *financial services and capital markets* should continue to be pursued with determination. Convergence between US GAAP and IFRS is key for European companies.
- *Corporate governance*: UNICE encourages the EU and US to continue cooperation to find mutually acceptable solutions, recognising equivalent rules on either side of the Atlantic in corporate governance and related matters. In this context, UNICE urges the US to take into account EU concerns regarding two particular issues regarding EU companies listed in the US: the effect of Section 404 of the Sarbanes-Oxley Act on EU companies and the “300 shareholders” threshold for EU companies wanting to de-list and to terminate US reporting requirements. Corporate Governance policy on both sides of the Atlantic should be oriented towards and take into account the global environment in which companies inevitably evolve. Adding an additional and possibly contradictory layer of regulation would be a hindrance to achieving the goals of corporate governance.
- *Mobility of business personnel* in the Transatlantic marketplace is another issue that European business would like to see tackled in any new Transatlantic economic initiative.

- Both sides should also investigate practical means to increase cooperation in the fields of *research and innovation* in a way that builds on each other's respective strengths with a view to releasing new opportunities for business development in leading hedge technologies and sectors such as bio-technology and energy efficiency. Work could develop for instance on innovation financing/venture capital, regulatory framework for innovation and cooperation between universities.

### **2.3.3 A strong dispute prevention/resolution mechanism**

- Disputes represent less than 2% of bilateral trade. Yet, they fuel resentment, hurt innocent companies in the end and attract attention and resources which would be better allocated to increased cooperation.
- The early warning mechanism which was set up to prevent disputes from arising and to allow dialogue on sensitive issues at an early stage has not produced the expected results. Disputes continue to increase and cases are filed in the WTO without full recourse to the bilateral procedures in place.
- The new trade and investment agreement should provide a strong commitment at the highest political level to exhaust all the existing bilateral consultation/dialogue procedures before having recourse to the WTO dispute settlement mechanism as a last resort. All efforts should be made to avoid disturbing trade flows and long-standing business relations.

### **2.3.4 A communication strategy**

- To change the negative perception that public opinion on both sides of the Atlantic might have on the transatlantic relationship, a broad public campaign should be launched to explain the depth and importance of the relationship and good examples of cooperation. The stakeholders concerned should be involved. As suggested in UNICE's April position a study on the opportunity costs of the lack of regulatory convergence and further economic trade and investment integration between the two sides of the Atlantic would be particularly useful to put the relationship in perspective and counteract misperceptions on both sides.
- Heads of governments on both sides should set the example by fully participating in the campaign.

### **2.3.5. A review mechanism**

- To assess progress and allow the appropriate decisions to be taken where necessary to adjust to a changing environment, the agreement should provide for the regular assessment of the relationship and progress achieved.

⇒ ***These are the core proposals UNICE suggests for a comprehensive Transatlantic trade and investment liberalisation and cooperation agreement. They should be complemented, in due time, by an action plan with specific objectives and deadlines in priority areas as identified in the consultation under way on both sides of the Atlantic.***

Replies to the questionnaires in part II contain more detailed indications for specific actions and priorities.

### **3. The timetable**

UNICE suggests the following:

- June 2005 Transatlantic Summit: adoption of the framework of the new Transatlantic initiative including the economic pillar which should be the core of the initiative.
- December 2005: adoption of the action plans.
- June 2006 Transatlantic Summit: First assessment of the results achieved and decision on the next steps towards the conclusion of a comprehensive Transatlantic trade and investment liberalisation and cooperation agreement.

UNICE looks forward to continuing the dialogue and collaborating with both sides to assist in the development of a forward-looking strategy in view of the next EU-US Summit in 2005. It might complement/review these proposals as the debate develops.

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## **PART II: UNICE REPLY TO THE EU AND THE US QUESTIONNAIRES ON THE TRANSATLANTIC ECONOMIC COOPERATION**

14 December 2004

### **A. UNICE Reply to the EU Consultation on Transatlantic Economic Cooperation**

#### **Q. 1: What in your view are the most significant obstacles to closer EU-US economic integration?**

The most significant obstacles are the lack of a broad political vision on how to move forward on global and bilateral issues, the limited political will to search for non-confrontational solutions to Transatlantic economic frictions and the difficulties for regulatory agencies to work together on both sides of the Atlantic.

There are also a number of specific problems which limit closer integration, including:

- Tariff and non-tariff barriers (NTBs) to trade
- Non recognition of each other's standards and not enough recourse to international standards
- Divergence in health, safety, consumer and environmental legislation
- Differences in approaches to regulation/risk assessment
- Barriers to trade in services at the regional, national and sub-national level
- Barriers to public procurement markets at the national and sub-national level, notably "buy America" regulations.
- too wide definition of security/military concerns to block trade or procurement liberalisation
- Non-respect of bilateral/multilateral economic or trade agreements
- Barriers to the temporary movement of business personnel

The fact that Europe does not speak with one voice on some issues is also hindering closer EU-US economic integration.

#### **Q2: What practical measures should be undertaken to remove the obstacles?**

UNICE believes that a strong political commitment should be made to address the most important obstacles to further transatlantic economic integration. Consequently, the EU and the US should launch a negotiating process within a framework with a clear time-frame for ambitious WTO+ liberalisation negotiations approved by parliaments on both sides of the Atlantic and covering a balanced set of issues for both sides. The negotiations should lead to the ratification of a Comprehensive Transatlantic Trade and Investment Liberalisation and Cooperation Agreement.

UNICE considers that such a framework should include proposals to negotiate:

- Reduction or removal of the remaining barriers to trade in goods.
- Greater worldwide compliance with international standards.
- Mutual recognition agreements for specific sectors.
- Vastly improved market access for tradable services.
- Vastly improved access to public procurement markets.
- An agreement to establish for "NAFTA"-type visas for temporary business personnel.

To ensure compatibility between Transatlantic negotiations and the multilateral trading system, a few basic rules should be followed:

1. The negotiations on certain issues should start close to or after the conclusion of the WTO DDA negotiations to give priority to the multilateral approach.
2. The negotiations should comply with WTO rules on regional trade agreements (RTA).
3. The negotiations should also deal with issues related to investment, competition, security, and intellectual property rights beyond what the two parties have already done.
4. the EU should strengthen its cohesion and ensure coherence between its bilateral and multilateral positions.

Q3: What additional measures could be taken to further transatlantic economic integration to the fullest, spur innovation, create jobs and better realise the competitive potential of our economies and enterprises?

The above-mentioned framework should also include proposals to improve cooperation between the EU and the US to further develop a positive economic agenda.

The framework should include proposals to negotiate:

- Procedures for risk assessment/risk alert in the food and other sectors to facilitate trade while offering assurances for consumers on health and safety issues.
- Procedures such as creating a “regulatory contact points” to increase transparency regarding new regulations for transatlantic business (and other concerned parties).
- Ways to improve confidence-building between regulators on both sides of the Atlantic such as regular meetings and exchanges of information.
- better use of procedures to prevent or de-escalate trade disputes. Proposals should include a more systematic recourse to consultation prior to launching WTO disputes (e.g. effective early warning mechanism or bilateral consultation procedures) as well as developing more regular consultation procedures for the implementation of WTO panel decisions to ensure compliance with WTO rules.

In addition, the EU and the US should strengthen their dialogue on macroeconomic issues that affect the global economic system.

Q4: The EU-US bilateral trade and economic agenda has achieved some progress, especially through the Financial Markets Regulatory Dialogue, the Guidelines for Regulatory Cooperation and Transparency, the Galileo-GPS agreement on satellite navigation and the Mutual Recognition Agreement on marine equipment. Should more of this be done? Which new areas do you suggest?

The EU and the US should continue to develop dialogues in areas which will facilitate trade and economic growth. However, progress in this regard has often proved difficult in the past and some regulatory initiatives are counterproductive to these aims.

For instance, the recent EU proposals for new regulations on chemicals (REACH) did not refer to the Transatlantic guidelines for regulatory cooperation and transparency. Similar problems developed in the US as a result of new regulations governing trade and security where EU traders were presented with a *fait accompli* rather than being consulted. While recognising the importance of regulatory autonomy, a true commitment to transparency and cooperation is needed to prevent further regulatory divergence. What is the point of having the guidelines if they are not applied to the most important legislative proposals affecting Transatlantic trade and investment?

**Q5: What measures would be appropriate to promote good corporate governance and reliable financial information in the transatlantic market?**

The EU and the US should work to promote confidence and transparency in Transatlantic capital markets.

- Avoid over-regulating companies in the name of good governance.
- Work toward common regulatory principles for capital markets to facilitate equivalence and recognition by Transatlantic authorities.
- Promote use of international accounting standards and speed up convergence between IFRS and US GAAP.

**Q6: Can you suggest essential steps that should be taken to ease transatlantic direct and indirect investment?**

Both the EU and the US should

- Focus on their domestic competitive agendas and develop a favourable environment for entrepreneurship and innovation.
- Facilitate convergence of capital markets rules to enable company shares to be traded across the Atlantic.
- Ensure convergence between US GAAP and IFRS and support work of IASB and FASB to that end. This will improve transparency and promote direct and indirect investment on both sides of the Atlantic.
- Ensure that capital market regulators take fully into account the implications of new regulatory proposals on Transatlantic markets and companies by facilitating consultation with Transatlantic business representatives.
- Remove potential barriers to FDI caused by investment screening procedures in areas not directly related to defence concerns and reflect on improved cooperation between the EU and US on international investment issues.
- Ensure that regulators treat domestic and foreign companies in a non-discriminatory manner to ensure greater competition. For instance, energy regulators should not discriminate against foreign utilities.
- The US should avoid extra-territorial application of its laws and reform the laws governing product liability and litigation to improve the investment climate.

**Q7: Do you have any proposals on how to protect the environment, consumer interests and health and safety as well as labour standards, while simultaneously promoting further economic integration?**

The US and the EU afford a high level of environmental and consumer protection as well as very high labour, health and safety standards.

- Where possible, the EU and the US should afford mutual recognition to each other's products as long as they meet the required US or EU standard.
- Where mutual recognition is not possible, EU and US regulators should develop new regulations based on transparent and non-discriminatory risk assessment procedures.
- To improve consumer safety, the EU and the US could develop warning procedures to deal with food safety crises (e.g. BSE).
- On environmental issues, the EU and the US should improve cooperation in fields such as climate change and energy efficiency.
- Cooperation should focus on R&D in order to promote joint investment in projects designed to develop technical solutions in the fields of environment, health and safety protection.

Q8: To what extent do new border and transport security measures have an impact on trade, investment and travel? If they do have a negative impact, what remedies would you propose?

UNICE fully supports the fight against all forms of terrorism and it is ready to participate in initiatives taken with that aim. Security and trade facilitation must be mutually supportive and not in competition. Increased security should go in parallel with economic growth and trade and investment needs, ensuring that potentially negative side effects of security initiatives are minimised and avoiding excessive costs for international trade transactions.

The full impact of new EU and US measures on transport and border security is yet to be fully assessed. However, they are creating concerns among European business because of their negative impact on supplementary costs and delays on trade transactions.

The EU and US should work towards an environment which reconciles trade and security initiatives by:

- Developing international standards in the appropriate international bodies (the International Maritime Organisation or the International Civil Aviation Organisation).
- Reinforcing cooperation in the framework of the EU-US customs cooperation agreement to find the appropriate approach/measures to improve security in the logistics chain and risk management, promoting confidence-building measures avoiding extra burdens on companies.
- Creating partnerships between the private sector and official bodies, notably customs authorities. Business expertise, with its presence on the ground, can contribute to increasing the security of trading goods and inspection should focus on where risk is highest rather than being arbitrary.
- Pushing for a WTO Agreement on Trade Facilitation to reduce risk by improving efficiency and reducing unnecessary delays. This agreement should be a framework integrating existing international instruments, and based on the WCO Revised Kyoto Convention.
- Pursuing work on the concept of authorised economic operator (AEO) for the customs area. This proposal aims at establishing reinforced cooperation between authorities and companies. This status must confer genuine advantages for all kinds of operators. They must be eligible for all simplifications in trade procedures and costs should be reduced.

Q9: Does the administration of export controls and transfers of know how in the US and the EU work satisfactorily in balancing the objectives of trade and security? If not, what measures should be taken jointly to improve the situation?

UNICE recognises the need for and the importance of export control on dual-use goods and supports effective control regimes. The EU and the US should work together to create a level playing field, reinforcing convergence between their respective export-controls systems, with controls addressing effectively security concerns without having an unduly negative impact on the legitimate flow of trade.

Considering rapid technology/market developments, cooperation between business and administrations should be upgraded particularly as regards changes in the control regimes. Moreover, work should be pursued to persuade the US to eliminate the extraterritoriality in US export control laws as applied to products that have been legally exported to the EU.

Q10: What additional steps, if any, should be taken jointly to protect Intellectual Property Rights?

Transatlantic cooperation should be stepped up in the fight against counterfeiting and piracy. A Transatlantic strategy to deal effectively with this challenge, based on a cooperative approach and technical assistance with the other countries concerned, would be most welcome.

The EU and the US should also aim for convergence in other areas of IPR law, notably in the field of patents. The US should move from a "first-to-invent" to a "first-to-file" system as requested by the TABD.

UNICE would also welcome greater cooperation in international bodies on IPR issues (the WTO, WIPO, Bio-safety Convention). The EU and the US have similar interests to defend and promote through these organisations and should therefore cooperate more closely. There also some convergence should be achieved. Considering that developing countries are blocking the WIPO harmonisation process, bilateral or multilateral initiatives should be considered.

**Q11: Do you experience problems when tendering for public contracts in the U.S.? If so, what should be done to remedy these problems?**

European companies face barriers in the US public procurement market. The US should extend its commitments under the WTO Government Procurement Agreement to include sub-national governments and other procurement agencies. In addition, the US should eliminate “buy American” clauses in its procurement legislation as disguised protectionism for procurement markets.

**Q12: What should be done to further liberalise transatlantic trade in services, including professional qualifications?**

The EU and the US should make substantial service offers in the DDA GATS negotiations which aim to provide improved market access in the four modes of service supply. Ambitious service offers will provide the greatest economic benefits for both sides.

At the bilateral level, the EU and the US should aim to negotiate MRAs to further liberalise services trade. For EU companies, increased competition in services will offer new market opportunities, reduced prices and increased supply of services. The EU and the US should establish “NAFTA”-type visa procedures to facilitate the movement of key business personnel on the Transatlantic market.

**Q13: Do you think that a further reduction or elimination of tariffs between the EU and US is important? If so, which or in which sectors?**

Although average tariffs are low, the large volume of trade between the EU and the US (over €400 billion in two-way trade) warrants significant tariff liberalisation in all sectors.

- Ambitious industrial market access (NAMA) and agriculture negotiations in the WTO DDA negotiations will contribute to significantly lowering, and in some sectors eliminating, tariffs on a multilateral basis as a first step. UNICE supports an ambitious non-linear tariff reduction formula which will reduce all tariffs to a maximum of 15% worldwide and the pursuit of sector harmonisation negotiations thereafter to further reduce or eliminate tariffs. DDA NAMA and trade facilitation negotiations should also seriously address the growing NTB problem.
- As regards a possible bilateral tariff initiative, it should be in full conformity with WTO rules and not detract or negatively impact the DDA negotiations under way. Such an initiative should be part of a broader agreement which should also tackle non-tariff barriers and include provisions to further liberalise services and procurement markets and provisions related to trade defence measures.

**Q14: Do you have any comment on the possible impact that strengthening EU-US bilateral integration might have on the multilateral trading system and the interests of developing countries?**

The EU and the US have demonstrated a strong commitment to supporting the multilateral trading system in the WTO DDA negotiations. This commitment could, however, be even stronger if the EU and the US showed greater willingness to comply with WTO rules and panel rulings. UNICE would also like the US to at least match the EU offer in GATS negotiations to show Transatlantic leadership behind the WTO DDA services negotiations.



- In the WTO DDA negotiations, both countries have shown a willingness to address the challenges facing developing countries within reasonable bounds. By committing themselves to concluding the DDA negotiations and making any new bilateral initiative fully WTO compatible, the EU and the US will ensure that multilateralism and bilateralism are mutually supportive.
- With respect to special and differential treatment (SDT) for developing countries in the WTO, transatlantic economic leadership is important to work in a cooperative fashion with developing countries on finding balanced and economically sound solutions.
- The EU has also made additional market access available to LDCs through the EBA while the US has proposed the AGOA initiative along similar lines. The strengthening of the EU-US bilateral relationship will generate more economic growth in the Transatlantic market and will thus offer greater export opportunities for developing countries.
- The EU and the US should also consider their long-term economic interests with respect to the competitive challenge from major emerging markets in Asia and Latin America. A more integrated Transatlantic market will strengthen EU and US companies in preparation for increased global competition.
- Bilateral agreements between the EU and the US can be used building blocks for broader multilateral agreements including developing countries even if these multilateral solutions might be less ambitious.

**Q15: How can we enhance transparency and public participation in the Transatlantic economic dialogue?**

Several Transatlantic dialogues exist at the governmental and the societal level. These dialogues contribute to enhancing cooperation and allow various officials and stakeholders to have their say in transatlantic affairs.

- Governmental dialogues should function on the basis of transparent rules – as is generally required by law in the US and the EU.
- Dialogues between parliamentary representatives should be further enhanced to ensure that the peoples of the EU and the US are kept well informed of Transatlantic developments and because parliaments have an important role to play in enforcing the agreements that they have ratified. Parliaments can also help keep the public better informed of the importance of Transatlantic relations by developing websites and other initiatives to promote public awareness.
- Societal dialogues should make every effort to function transparently – notably by making any position papers or official statements public (e.g. via a website or other communications tools). Moreover, societal dialogues which receive public funding should be transparent regarding the use of public funds. Finally, all public dialogues should be transparent regarding their membership, financing and decision-making structures.
- For many years, UNICE has supported the Transatlantic Business Dialogue (TABD) as a useful process to foster dialogue, encourage regulatory convergence and prevent and de-escalate disputes. In addition, UNICE engages in dialogue on a host of issues, including trade and IPR, with its business federation counterparts in the US on a regular basis.
- These dialogues are useful and constructive but ultimately, the final decisions should remain in the hands of elected governments.

**Q16: Do you have any other comments or suggestions?**

N/A

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14 December 2004

## **B. UNICE Reply to the US Consultation on Transatlantic Relations**

**Question 1: Where should the U.S. and EU economic relationship be in 10 years and what steps should we take to meet these goals?**

In 10 years time (2014), the EU and the US should have negotiated an agreement substantially reducing, and where possible, removing obstacles to trade and to investment. Consequently, the EU and the US should launch a negotiating process within a framework with a clear time-frame for a Comprehensive Transatlantic Trade and Investment Liberalisation and Cooperation Agreement negotiations approved by parliaments on both sides of the Atlantic and covering a balanced set of issues for both sides.

UNICE considers that such a framework should include proposals to negotiate:

- Reduction or removal of barriers to trade in goods.
- Greater worldwide compliance with international standards.
- Mutual recognition agreements for specific sectors.
- Vastly improved market access for tradable services.
- Vastly improved access to public procurement markets.
- An agreement to establish for "NAFTA"-type visas for temporary business personnel.

**Question 2: Where are there opportunities for further and deeper cooperation?**

The above-mentioned framework should also include proposals to improve cooperation between the EU and the US to further develop a positive economic agenda.

The framework should include proposals to address:

- Procedures for risk assessment/risk alert in the food and other sectors to facilitate trade while offering assurances for consumers on health and safety issues.
- Procedures such as creating a "regulatory contact point" to increase transparency regarding new regulations for Transatlantic business (and other concerned parties).
- Ways to improve confidence-building between regulators on both sides of the Atlantic such as regular meetings and exchanges of information.
- Ways to remove potential barriers to FDI caused by investment screening procedures in areas not directly related to defence concerns and reflect on improved cooperation between the EU and US on international investment issues.
- Better use of procedures to prevent or de-escalate trade disputes. Proposals should include a more systematic recourse to consultation prior to launching WTO disputes (e.g. effective early warning mechanism or bilateral consultation procedures) as well as developing more regular consultation procedures for the implementation of WTO panel decisions to ensure compliance with WTO rules.

In addition, the EU and the US should strengthen their dialogue on macroeconomic issues that affect the global economic system.

### Question 3: How can the U.S. and EU do more to advance competitiveness and innovation?

The EU and the US should consider their long-term economic interests with respect to the competitive challenge from major emerging markets in Asia and Latin America. A more integrated Transatlantic market will strengthen EU and US companies in preparation for increased global competition.

At a more general level, the EU should pursue the Lisbon Agenda for a sustainable development strategy more vigorously and tackle the issues that are creating growth stagnation in EU in order to create a more positive investment climate in Europe. These issues concern in particular industry-targeted research, a consistent industrial policy, a flexible labour market, completion of the internal market for services and a better regulatory framework aiming at preserving industry's competitiveness.

### Question 4: What should be done to better mesh U.S. and EU regulatory approaches?

The EU and the US should continue to develop regulatory dialogues in areas which will facilitate trade and economic growth. However, progress in this regard has often proved difficult in the past and some regulatory initiatives are counterproductive to these aims.

For instance, the recent EU proposals for new regulations on chemicals (REACH) did not refer to the Transatlantic guidelines for regulatory cooperation and transparency. Similar problems developed in the US as a result of new regulations governing trade and security where EU traders were presented with a fait accompli rather than being consulted. While recognising the importance of regulatory autonomy, a true commitment to transparency and cooperation is needed to prevent further regulatory divergence. What is the point of having guidelines if they are not applied to the most important legislative proposals that affect trade and investment?

### Question 5: How can we enhance transparency and public participation in economic policy formulation?

Several transatlantic dialogues exist at the governmental and the societal level. These dialogues contribute to enhancing cooperation and allow various officials and stakeholders to have their say in Transatlantic affairs.

- Governmental dialogues should function on the basis of transparent rules – as is generally required by law in the US and the EU.
- Dialogues between parliamentary representatives should be further enhanced to ensure that the peoples of the EU and the US are kept well informed of Transatlantic developments and because parliaments an important role to play in enforcing the agreements that have ratified. Parliaments can also help keep the public better informed of the importance of Transatlantic relations by developing websites and other initiatives to promote public awareness.
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- These dialogues are useful and constructive but ultimately, the final decisions should remain in the hands of elected governments.

**Question 6: What should be done to further liberalize transatlantic trade in services?**

The EU and the US should make substantial service offers in the DDA GATS negotiations which aim to provide improved market access in the four modes of service supply. Ambitious service offers will provide the greatest economic benefits for both sides.

At the bilateral level, the EU and the US should aim to negotiate MRAs to further liberalise services trade. For EU companies, increased competition in services will offer new market opportunities, reduced prices and increased supply of services. The EU and the US should establish “NAFTA”-type visa procedures to facilitate the movement of key business personnel on the Transatlantic market.

**Question 7: How can the U.S. and EU cooperate more effectively in third markets, such as promoting transparency and protection of intellectual property rights?**

Transatlantic cooperation should be stepped up in the fight against counterfeiting and piracy. A transatlantic strategy to deal effectively with this challenge, based on a cooperative approach and technical assistance with the other countries concerned, would be most welcome.

The EU and the US should also aim for convergence in other areas of IPR law, notably in the field of patents. The US should move from a “first-to-invent” to a “first-to-file” system as requested by the TABD and the EU.

UNICE would also welcome greater cooperation in international bodies on IPR issues (the WTO, WIPO, Bio-safety Convention). The EU and the US have similar interests to defend and promote through these organisations and should therefore cooperate more closely. There also some convergence should be achieved. Considering that developing countries are blocking the WIPO harmonisation process, bilateral or multilateral initiatives should be considered.

**Question 8: How can the U.S. and EU address remaining traditional market access barriers, such as tariff rates and customs procedures?**

Although average tariffs are low, the large volume of trade between the EU and the US (over €400 billion in two-way trade) warrants significant tariff liberalisation in all sectors.

- Ambitious industrial market access (NAMA) and agriculture negotiations in the WTO DDA negotiations will contribute to significantly lowering, and in some sectors eliminating, tariffs on a multilateral basis as a first step. UNICE supports an ambitious non-linear tariff reduction formula which will reduce all tariffs to a maximum of 15% worldwide and the pursuit of sector harmonisation negotiations thereafter to further reduce or eliminate tariffs. DDA NAMA and trade facilitation negotiations should also seriously address the growing NTB problem.
- As regards a possible bilateral tariff initiative, it should be in full conformity with WTO rules and not detract or negatively impact the DDA negotiations under way. Such an initiative should be part of a broader agreement which should also tackle non-tariff barriers and include provisions to further liberalise services and procurement markets and provisions related to trade defence measures.