



**T R A N S A T L A N T I C
B U S I N E S S D I A L O G U E**

TransAtlantic Business Dialogue
Report to the US-EU Summit in Ireland, June 26, 2004

**Establishing a Barrier-Free Transatlantic Market:
Principles and Recommendations**

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Introduction and Executive Summary

A constructive and cooperative relationship between the United States and European Union is central to global security and prosperity. The state of the transatlantic relationship is especially important to us as the heads of companies that collectively employ over two million people on both sides of the Atlantic and do an enormous amount of transatlantic business.

At a time when the transatlantic relationship is passing through a particularly difficult period, we call upon our political leaders to focus on the unique economic relationship between the United States and the EU. We urge them to regain a shared sense of mission that will push forward the frontiers of transatlantic cooperation to stimulate innovation, investment, and the creation of new jobs. We stand ready to act as practical partners for our governments in their efforts to achieve these and other highly important goals.

We have strong foundations upon which to build. As a recent study by the Center for Transatlantic Relations has noted, transatlantic economic ties account for a third of global trade and 20% of the world's foreign direct investment. Nearly 60% of American foreign corporate assets are located in Europe, while Europe provides nearly 75% of all foreign investment in the United States. Despite the attention often paid to other world markets, the relative size of the relationship is illustrated by the fact that US affiliate sales in Sweden alone are roughly equivalent to those in China. Americans consume a quarter of total EU exports, while the United States sends a third of its exports to Europe. Importantly, more than 13 million Europeans and Americans are employed by local affiliates of EU and US parent companies.

In the context of an increasingly competitive global market for jobs, trade and investment, the United States and the EU must build a much more seamlessly integrated transatlantic market that allows business to leverage our shared economic values, skilled workforces, existing institutions, and capacity for innovation.

Vision of a Barrier-Free Transatlantic Market

We believe the key to these benefits lies in the vision of a barrier-free transatlantic market in which goods, services and capital can be efficiently exchanged between our countries. A barrier-free transatlantic market would entail a commitment on both sides of the Atlantic to remove barriers identified by all stakeholders, to inform each side on new regulatory measures in the draft stages, and to cooperate on developing international standards and practices. Once adopted as a shared goal by the United States and the EU, a barrier-free transatlantic market would also give impetus to global trade liberalization and thus further prosperity beyond the transatlantic community.

This vision does not require a free trade agreement. Nevertheless, a barrier-free market is an ambitious goal. It needs strong political will for its achievement, together with a close public-private partnership based on a shared US-EU deliberative process. The pursuit of a barrier-free transatlantic market should be guided by four principles:

- First, legislation and regulation truly “win” only when they take into account the impact on business activity in both domestic and global markets. Divergent transatlantic approaches to regulation can impose unnecessary handicaps on the competitiveness of our economies. Balanced legislation and regulation, on the other hand, can enhance the functioning and transparency of markets, increase competitiveness, and help create jobs.
- Second, we believe that, within the transatlantic market, it is possible for both sides to maintain their high standards of protection of consumers and society while recognizing each other’s different technical norms and standards and working towards convergence, acceptance and harmonization.
- Third, governments must establish processes that will strongly encourage and facilitate regulatory bodies on both sides of the Atlantic to work together, including with the private sector, in a collaborative and integrated way so as to ensure that new barriers to trade and investment are not created.

- Fourth, through time and wherever we can, we must extend to others the benefits we create for ourselves. The immediate focus of our work is bilateral, but the barriers we remove between ourselves are barriers to prosperity that can also be removed with all nations in the global community.

The TABD sees its primary role this year and next as advising United States and EU governments on the priorities for achieving a barrier-free transatlantic market. We have chosen to direct the first set of recommendations of the renewed TABD toward the US-EU Summit meeting in Ireland on 26 June because it provides a natural opportunity for serious and continuing high-level dialogue on these important issues. We will make additional proposals on these and other topics at regular intervals thereafter.

Key Recommendations

The recommendations set out below are key first steps in the direction of a barrier-free transatlantic market. With this in mind, we call upon our governments to take the following actions:

- Ensure that the pursuit of open trade and the fight against terrorism are complementary and not competing objectives. The immediate creation of a US-EU Government-Industry Partnership Task Force could support the exchange of information among relevant ministries and industry to promote the development of common customs procedures, security processes, and technological standards.
- Recognize the critical importance of protecting intellectual property as a foundation of innovation, safety, and consumer confidence in new products and services for the benefit of society. The TABD is committed to raising public awareness of the scope and costs of counterfeiting and intellectual property piracy and to collaborating on efforts to counter these threats. Huge profits are being pocketed by organized crime and are also finding their way to terrorist groups. Stiffer penalties and stronger enforcement of anti-counterfeiting and piracy laws would step up protection for consumers while boosting job creation and overall economic growth by protecting corporate innovation.
- Seeking to restore investor and public confidence in corporate behavior, the TABD is committed to a variety of reforms and supports a fast-track process that will close the gap by 2007 between the new International Financial Reporting Standards (which will soon provide

common accounting standards for many countries and companies around the world, including all 25 EU Member States) with the United States' Generally Accepted Accounting Principles. Such reconciliation would improve levels of corporate transparency and facilitate US and European companies' access to each other's capital markets. The TABD will put forward further proposals for improving corporate governance and the integration of transatlantic capital markets by the end of 2004.

- Move forward on the WTO Doha Development Agenda with a sense of urgency and focus, recognizing that liberalization of agriculture is critical; that removing barriers to trade in industrial goods and services can offer sizeable near-term benefits to all countries; and that coming to agreement on Trade Facilitation will meet the principal aims of the Doha Development Round. In combination, completing the Doha Round will raise economic growth and employment not just in the United States and Europe, but also around the world.

Open Trade and Security

Since September 11, 2001, striking the correct balance between international commerce and national security has become a critical issue in the fight against terrorism. With the world's most extensive trading and transport relationship, the United States and the EU face a major challenge to develop and implement effective and cost-efficient security measures that do not distort or impede trade flows and balance the privacy of personal data.

Developing New Trade Security Systems

National and international standards-setting bodies are heavily engaged in developing new security standards and procedures for global commerce. Areas of concentration are the development of new rules for advanced notification of documentation prior to arrival at the port of entry, electronic exchange of cargo information, and enhanced security of the entire supply chain. Standards in these areas will enable customs authorities to conduct risk-based screening and, where appropriate, inspection of in-coming shipments without undue disruption of international commerce.

At the European level, the European Commission has proposed amending the existing Community Customs Code to provide for more efficient and effective Customs (security) controls at the external frontier, essentially based on advanced electronic transmission and exchange of cargo

information, as well as the development of an "Authorized Economic Operator" program. These amendments would enable the harmonized application of Customs controls by EU members based on commonly agreed standards and risk criteria for targeting goods and economic operators and the provision of common criteria and harmonized requirements for authorized economic operators.

In the United States, the Customs-Trade Partnership Against Terrorism (C-TPAT) program establishes a government-industry partnership designed to enhance the security of the entire shipment supply chain. The United States and the EU are also working together to support the development and implementation of analogous efforts at the international level through the World Customs Organization.

There has also been significant bilateral cooperation within the International Maritime Organization (IMO), where the United States and the EU, along with the global community, worked to develop the International Ship & Port Security (ISPS) Code. This agreement contains mandatory security-related requirements for governments, port authorities and shipping companies, as well as voluntary guidelines on how to meet these requirements and comes into effect on July 1, 2004.

Agreements have also been reached (or are nearing completion) in several areas, including airline passenger lists, port security and container security. While transatlantic business supports these efforts, it is concerned that much of the work has taken place within separate silos or functions of government, without the necessary communication and coordination across governments as a whole and without consultation with industrial stakeholders. As a result, transatlantic business is hindered in sharing its experience and best practices with governments and disadvantaged in complying with various and differing security measures and regulations.

Improving Collaboration between Government and Industry

An agreed set of realistic security standards is an effective defense against a wide variety of threats. It would lower the barriers to compliance for companies and third countries, promote a movement to self-inspection and self-certification, and manage the burden of liability. The goal should be to establish a process that takes industry input into account, is embraced by industry, and is sustainable.

Enhancing the security of international commerce is a shared responsibility of all stakeholders, including shippers, transport providers, ports and marine terminals, payment systems, information technology providers and governments. It is essential that there be a clear definition of parties'

roles and responsibilities, as well as predictable, transparent and mutually consistent international standards, shared information on threats, and uniformly applied government regulatory requirements. Without clarity, transatlantic and global trade will suffer and security is unlikely to be strengthened.

An improved process of collaboration across the full supply chain would clearly advance our collective effort to maintain open trade in an atmosphere of increased threats to security. Sustained coordination and cooperation is critical to ensure a uniform approach to implementation across multi-modal means of shipping, ports, airports, and all areas of government inspection. The transatlantic business community seeks to help the US and EU Governments shape policy and regulation, inform them of current security efforts underway in the private sector, and collaborate in defining realistic milestones for emerging regulation. The objective of all transatlantic actors should be to develop balanced security measures that promote open and secure trade, fortify public trust and expand global economic growth.

The TABD calls on the United States and the EU to:

1. **Create a US-EU Government-Industry Partnership Task Force to enable shared deliberations, exchange information across government ministries, apply best practices and security processes from the business world, and coordinate implementation issues with third countries.** While taking new security requirements into account, a key priority of the Partnership should be to minimize cost to industry, prevent barriers to commerce, mitigate risk and facilitate bilateral and global trade.
2. **Collaborate on the development of realistic international security standards, taking into account differing levels of risk and security available in many parts of the world.** Wherever possible, US and EU governments should streamline existing regulations to facilitate open trade and security, for example by enhancing supply-chain security in the transatlantic context, through the incorporation of the concept of an "Authorized Economic Operator," and creating standard criteria for accreditation purposes that would allow unimpeded trade flows.
3. **Initiate a joint US-EU pilot project, focusing on express carriers and other shippers, for customs authorities to analyze risk attached to cargos and shipments to third countries, exchange information on the results of this analysis, and promote cooperation on enforcement and prevention of incidents.**

4. **Ensure uniform implementation of standards and practices between the United States and the EU in support of global standards.** This is necessary, for example, on the implementation of the International Maritime Organization's International Ship and Port Security Code where the deadline is July 1, 2004.

Intellectual Property Rights and the Fight against Counterfeiting

The United States and EU have long been global leaders in promoting innovation and competitiveness. To maintain this leadership, it is important to continue to recognize the critical role played by Intellectual Property Rights (IPR) in encouraging and rewarding innovation. Effective enforcement of IPR, coupled with the right regulatory, tax and business environment, will encourage individuals and businesses around the world to develop the best products and services for their customers. The rapid growth of piracy and counterfeiting clearly shows that such enforcement is lacking. New investment in human and financial resources is jeopardized when entrepreneurs lose confidence in the protection of their intellectual property rights and consumers are deprived of certainty in the authenticity and legitimacy of products and services.

Rampant Counterfeiting and Piracy are threatening our societies

Counterfeiting and piracy have become a global epidemic - transatlantic leadership is needed to fight them. Today, counterfeiting is estimated to represent more than 7% of world trade - over \$560 billion annually - mostly under the control of organized crime syndicates. The transatlantic market is both a source and a target of counterfeit and pirated goods and services. The United States and EU should combat the problem vigorously both within the transatlantic community and globally.

Legitimate businesses are hurt by the loss of sales going to counterfeits and pirated goods and services. Counterfeiting and piracy also means fewer resources available to entrepreneurs for vital R&D to create and invest in innovative products and services. Businesses are also hurt by the loss of consumer trust in the quality, value and integrity of branded products and services. Companies spend millions to fight counterfeiting and piracy that could otherwise be committed to more productive pursuits.

Misused e-capabilities have facilitated the global unauthorized dissemination of products and services. This adds to other forms of fraudulent marketing of goods and services – for example, misrepresentation of standards conformity and origin of goods, as well as trademark and brand infringement. Cross border trade in circumstances that fail to respect intellectual property rights in the target market not only contributes to the dilution of the reward for legitimate business but also provides opportunities for counterfeiters. Such trade undermines the value of intellectual property, the competitiveness of business and the capacity of companies to deliver the best, safest and most innovative services and products to their customers.

Consumers are at risk. When purchasing illegal goods or services, consumers are cheated out of the benefits, service and quality on which legitimate companies build their brand's reputation. Those who purchase counterfeit products are often inadvertently subject to significant health and safety risks. Ultimately, consumers have fewer choices as companies reduce or delay the introduction of new products in markets with high levels of counterfeiting or piracy. A society that tolerates the theft of intellectual property encourages dishonesty and could see the erosion of respect for other laws and societal norms.

Governments are losing billions to counterfeiters and pirates as a result of lost jobs, tax revenues and duties. Counterfeiting and piracy feed organized crime - drug dealing, arms trading, money laundering, and terrorism. If enforcement against intellectual property violations is not stepped up, pirates and counterfeiters will increasingly damage not only legitimate businesses, consumers and governments, but also the rule of law that has brought economic opportunity and justice to the transatlantic marketplace. Unfortunately, current enforcement regimes have not kept pace with the ever-growing problem.

The US and European governments must recalibrate and enhance their approach to the fight against counterfeiting and piracy, and make it a top joint priority for protecting the public interest. This issue should command a high priority on our joint agenda.

In order to address the real and urgent problems caused by counterfeiting and piracy, the TABD recommends that:

1. **An EU-US Task Force should be established to provide a forum for regular collaboration to enhance the effectiveness of anti-counterfeiting and anti-piracy efforts.** The Task Force should include law enforcement and market surveillance agencies, customs and other government officials in partnership with IPR holders. The Task Force

would develop mechanisms to track counterfeiting and piracy, create common and shared databases on the sources and methods used and establish common enforcement principles and public communication of the need for actions to combat counterfeiting and piracy. The Task Force should also work directly with the Intellectual Property Crime Action group of Interpol which unites 181 countries.

2. **Tougher criminal penalties should be instituted and more resources devoted to combating the problem, including making the enforcement procedures more accessible for small and medium size right-holders.** More law enforcement and judicial training are needed in order to keep pace with the ever-growing sophistication of the criminal elements involved in counterfeiting and piracy. Stronger criminal penalties will also help deter these criminal elements from willfully engaging in such illegal activities.
3. **A joint EU-US program of outreach to third party governments should be established, targeting the top national sources of global counterfeiting and piracy globally.** Such a program would include joint demarches as well as trilateral dialogues on strengthened IPR protection. The US and EU should strive to raise public awareness in third party countries that combating piracy and counterfeiting is in their national interest and should pool technical assistance to help third countries target the problem.
4. **Immediate steps should be taken to raise global awareness of the nature and scope of the problem and the high costs and risks to consumers, business, government and our communities.** As a first priority, previous studies on the global economic impact of product counterfeiting and piracy by multilateral institutions, such as the OECD, should be updated and supplemented as a basis for further public dialogue. Public campaigns – to complement those already undertaken by business – should be launched immediately to educate consumers and underscore that counterfeiting and piracy are illegal, potentially harmful, and cause serious damage to society.

Capital Markets and International Accounting Standards

Achieving the highest standards of governance, transparency and accountability is critical to fortifying public trust in capital markets and global prosperity. The TABD seeks to identify issues that stand in the way of a single transatlantic capital market where recommendations from the business community might lead to strengthened investor confidence and help achieve the larger

goal of a barrier-free transatlantic market. Our short-term goal for the US-EU Summit in June 2004 is to achieve tangible progress on the specific issues of financial reporting standards and audit oversight.

By the end of 2004, we intend to make concrete recommendations on other measures to ensure confidence in capital markets that may lead toward a unified transatlantic capital market and promote good corporate governance globally.

The State of Play

The independent International Accounting Standards Board (IASB) has further improved the International Financial Reporting Standards (IFRS or IAS), which will soon be required for accounts of listed companies in the 25 EU Member States. This presents a real opportunity for the United States and EU to move towards a common set of accounting standards. Achievement of this goal will improve transparency and comparability between company accounts on both sides of the Atlantic. It will also boost consumer and investor confidence in the capital markets and accounting generally and should reduce reporting costs for businesses with dual listings. In addition, it will play a key role in the progress toward the ultimate and overarching goal of a barrier free transatlantic market.

The EU will implement IFRS as of 1 January 2005. All companies that trade publicly in the EU (some 7,000 enterprises in total) will be required to prepare their consolidated financial statements in accordance with the new IFRS standards, as opposed to current national rules. These rules will not apply to American companies, which still follow US rules, known as US Generally Accepted Accounting Principles (US GAAP), although the EU Prospectus Directive could mean that non-EU companies with an EU listing will have to prepare financial statements using IFRS from 2007.

It should be noted that, at the time of this report, the EU and the IASB have yet to resolve differences over two specific standards that govern how all companies, including banks and insurers, account for financial instruments, particularly derivatives. These are IAS 32 (Financial Instruments: Disclosure and Presentation) and IAS 39 (Financial Instruments: Recognition and Measure). The EU and IASB have formed a working group to try to reach a compromise with the European financial services industry.

Companies operating in both the United States and the EU face real questions about the convergence of the two types of standards, both IFRS to US GAAP and/or US GAAP to IFRS.

Improving Audit Oversight Arrangements

An additional issue is the emergence of a wide range of audit oversight arrangements, including registration, quality assurance, investigations and sanctions. While independent oversight with statutory underpinning is an essential part of restoring confidence in capital markets, there is a danger of competing systems with extra-territorial reach acting as barriers to free trade and access to capital and imposing significant costs on global corporations and auditors. The TABD supports a common approach and parallel work to help ensure that this does not happen. We call for convergence of principles and equivalent standards for auditor and registrant oversight, investigation, registration and discipline that ensures rigorous global auditing standards while minimizing duplication, compliance costs and avoiding double jeopardy.

To meet this objective we urge governments to establish appropriate collaborative arrangements between national auditor oversight bodies as a development of the emerging parallel work between the European Commission and the US SEC – PCAOB, and the TABD stands ready to add a business voice.

Focusing on the Achievable

While the IASB and its US counterpart, the Financial Accounting Standards Board (FASB), have made strides to close the gap between the differing standards, the transatlantic business community urges significant and expedited progress toward a converged set of standards for the accounting of companies operating in the transatlantic market.

The TABD calls on US and EU regulators, the IASB and FASB, to:

1. **Commit to fast-track progress in reconciling IFRS and US GAAP towards the highest quality solution.** This will maximize transparency and minimize compliance costs. The TABD is keen to support the drive toward convergence of accounting standards on the basis of IFRS by working with the independent standards-setting bodies, IASB and FASB.
2. **Promote adoption and implementation by 2007 of the vast majority of accounting standards upon which there is widespread agreement and where convergence can be easily achieved between the IASB and FASB.**

3. **Identify as soon as possible the small minority of international accounting areas where differences between the US and international standards cannot be narrowed in the short-term.** The TABD urges that a work program be established with a clear timetable for resolving the outstanding issues.
4. During the transition period in which we move to convergence, **address the need for appropriate arrangements to eliminate any requirements for reconciliation on foreign registrants who file on the basis of IFRS in the US or US GAAP in the EU.**

World Trade Organization and the Doha Development Round

The Transatlantic business community has been, and remains, a strong supporter of the Doha Round. We look to Governments to put the negotiations back on track to create the prosperity and ensure the security the world's citizens need.

There is no substitute for a successful multilateral trade round – it is the best way to end practices that inflate consumer prices and perpetuate the indulgence of a few at the expense of the many, often to the disadvantage of developing countries. It is also an opportunity to ensure that the small and medium size enterprises (SMEs) that form the backbone of both developing and developed economies can reach their full potential in the global marketplace.

A Compelling Need to Make Progress

Global trade growth is down and wider economic growth is sluggish. Without strong, sustained growth, many developing countries are losing ground on poverty reduction and socio-economic development. To promote prosperity and security, poverty needs to be addressed through the promotion of trade liberalization and good domestic governance.

The Doha mandate of trade liberalization was given to all countries – developing and developed – regardless of geography or length of membership in the World Trade Organization. The full commitment and involvement of all countries is necessary to achieve success. If this is not realized, many lesser-developed countries and sectors within developed countries will continue to be burdened with the economic malaise caused by their competitive exports being blocked by tariff and non-tariff barriers, and by trade distorting subsidies in both the developing and developed world.

One lost year of liberalized trade exacts significant costs. Industrial goods make up 75% of world trade and a similar percentage of developing country exports. One year of zero tariffs would generate estimated savings for developed and developing country exporters of \$190 billion. Add to this almost \$370 billion of agricultural producer support each year on domestic programs and export subsidies. Then consider the approximately \$50 billion spent annually on foreign aid. Much of this aid would be redundant if the global trading system was structured to encourage trade rather than manage it using barriers and a maze of trade preferences that encourage dependency and often divert developing countries away from their core production strengths. A recent study by the World Bank suggests that if developing countries increased their share of world exports by just 5%, they would generate \$350 billion, which is seven times as much as they receive in foreign aid annually.

The Way Forward

The TABD calls upon the leadership and legislatures of the United States and the European Union, and indeed all WTO member nations, to move forward on the Doha Development Agenda with a sense of urgency and a focus on what is central to global progress and possible to achieve for the WTO community as a whole.

The successful negotiation of the core market access agenda will benefit both developing and developed countries and have a significantly positive impact on the global economy as a whole. It is particularly important to unlock the political and technical impasse in agriculture, where access to OECD markets is indispensable for development and poverty alleviation.

Specifically, the TABD recommends the following:

1. **The liberalization of agriculture is critical. A major step forward would be to agree an end-date for all export subsidies and trade distorting domestic supports; as well as disciplines on other forms of export support such as food aid and state trading enterprises.**
2. **The progressive elimination of tariffs on all industrial goods, without exception, by a fixed date, for all but the least developed countries, should be the ultimate goal.** The negotiating objectives for industrial goods and services must reflect the fact that these sectors represent an estimated 95% of global trade.

3. **Intensify and bring to a speedy conclusion the negotiations on Trade Facilitation in order to ensure that the goals of market access are achieved.** A rules-based system of customs procedures is essential to the efficient flow of goods, the protection of duty revenue from corruption and fraud, and the creation of an environment attractive to foreign investment.

4. **Reinforce the potential for effective implementation of Doha Agreements in these areas through a renewed commitment by the WTO Membership to GATT Article X – Publication and Administration of Trade Regulations.** Much could be accomplished toward improving the operation of trade, investment, and government procurement if commitments on transparency laid down in GATT and GATS agreements were fully realized.

In this regard, the TABD reiterates its long standing support for the achievement of an agreement on transparency in government procurement that will promote accountable, transparent, and corruption free bidding processes. While recognizing the current difficulties, we call upon the US and EU governments to make progress toward a multilateral agreement on government procurement.

Now is the time for Governments to act – with US and EU leadership – by putting forward and agreeing to a framework by mid-2004 for achieving the Doha goals.



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