

14 July 2011

US CHAMBER DEBATE ON TRANSATLANTIC RELATIONS

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- 1) *What should be the ultimate goal of regulatory cooperation? What is the big picture, the vision? Does that vision include building a degree of regulatory trust that regulations though they may be different have reached a certain confidence interval that enables us to deem them equivalent?***

The ultimate goal of regulatory cooperation should be to move toward compatible regulatory regimes. This will foster trade and economic growth. This is part of a greater vision of liberalizing transatlantic trade beyond tariffs. In order for this vision to be realistically achieved, it must include some level of regulatory trust that accepts that regulations on both sides of the Atlantic have reached a comparable level that allows them to be deemed equivalent. This will not be easy. Many sectors believe that they have a competitive edge in their home markets because of divergent regulatory standards – even though this is often not the case. They must be shown that regulatory cooperation will provide them with a greater gain than loss because a transatlantic market offers greater opportunities than two fragmented markets.

Numerous studies have demonstrated that regulatory cooperation across the Atlantic can bring huge economic benefits. But there is also a strategic issue about how Transatlantic cooperation can serve as a policy to promote global convergence around better regulation (or smart regulation) principles.

- 2) *How do we accelerate the pace of regulatory cooperation?***

The TEC process and the Transatlantic High Level Regulatory Cooperation Forum (HLRCF) have all of the right ideas on how to advance cooperation. The TEC is proposing common standards for the development of new technologies. The HLRCF is harmonizing Transatlantic views on risk assessment and cost benefit analysis and, we hope, will soon conduct a pilot study of an ex-post assessment of both an EU and a US measure to evaluate the Transatlantic economic impact of the proposal. My concern is, however, that these good intentions might not deliver real results. Consequently, there needs to be a reflection on how to negotiate agreements on regulatory cooperation. The Morell study makes a proposal for new modal mutual recognition agreements for example. Why not test this idea?



3) *How do we get regulatory cooperation to capture attention at the highest political levels? Particularly the Congress and for the EU the broader Commission?*

Highlighting the large benefits to be derived from regulatory cooperation will provide the best path for capturing high level political attention. Especially in this time of economic uncertainty following the global financial crisis, demonstrating to the Congress the economic boost to be derived from regulatory cooperation should effectively work to raise its salience. At the same time, we need to reassure our politicians that regulatory cooperation and better regulation do not necessarily mean lower regulation. On the contrary, it is quite possible to achieve the societal objectives (environmental, health and safety, consumer) while cooperating across the Atlantic. In fact, it can be a way to produce best practice for both societies and businesses.

We also have a specific problem in the EU in that often our institutions suffer from inertia which prevents them from making decisions. Whenever there is a sensitive issue – like GMOs or today different nanotechnology applications, the precautionary principle is waved about as an excuse to not make any decisions or to block decisions. The end result is that new technologies cannot be marketed in the EU. We believe that the precautionary principle has a clear legal definition and that once the risk assessment demonstrates that there is no real risk, a product can be marketed.

4) *What is needed to operationalize/internalize the good political messages found in the OMB report to Congress and in the OIRA/USTR guidance memo?*

This is for the US side to answer.

5) *How is the IAB fairing? Does it have the controls and institutional authority truly needed? How are the 2009 Guidelines that explore the international dimension of regulation being used?*

The Commission Impact Assessment board is improving its methodology on risk assessment and on cost benefit analysis – in part through cooperation with the US. In addition, the EU system has an advantage over the US system in that all EU regulations – which are basically laws – are reviewed. In the US only regulations of agencies are assessed.

On the problem side, we would like the Impact Assessment Board to be more transparent just as it works in the US. Business should have the right to be consulted in the process and to contest assessments that it deems erroneous.

In addition, we would like the Impact Assessment Board to reassess regulations during the legislative procedure if they are substantially amended by the Council or Parliament. Currently, only the Commission draft regulation is reviewed.



6) *What is the initial reaction of the Morrell white paper and the idea of TARIA?*

BUSINESSEUROPE is supportive of the message conveyed by the Morrell paper and is interested in the potential that the idea of TARIA has for increasing transatlantic trade.

7) *Ex-post assessment has been discussed on both sides of the Atlantic. It has also been made a priority by the Chamber and BUSINESSEUROPE. What are the prospects for identifying one or two regulations which can serve for ex-post TARIA evaluation?*

This is an important issue that needs to advance. But we must be clear that the objective is to learn what are the Transatlantic economic impacts of regulations. If we, as the business community, call for a revision of regulations following this impact assessment, our governments will be too afraid to do it. I realize that this is sensitive but we both have substantial chemicals regulations in place that would facilitate an assessment. Why not consider that?

8) *Transatlantic Economic Council. Do you think that the current agenda of the Transatlantic Economic Council, which focuses primarily on non-tariff barriers to trade, is the right one? Should the TEC also look at more strategic issues like the future of the rules-based trading system after Doha, creating compatible financial regulations across the Atlantic, or cooperating on investment and intellectual property challenges in large emerging markets?*

To a certain extent, the TEC does work on systemic issues but in an informal way when Commissioners and State Secretaries meet. From our perspective, the TEC should only work on these issues if it plans to come to a common Transatlantic position. For example, in global debates on financial regulations (G20) or on how to solve the WTO Doha Round dilemma.

The TEC's work on non-tariff barriers is quite good. But in practice there have not been many concrete results where barriers across the Atlantic have been removed. And we are creating new barriers as well. For example, the EU is proposing that all airlines be part of an emissions system and the US is opposed to this. Is the TEC trying to solve this issue amicably? If not, why not?

9) *A Transatlantic Trade Agreement? Last year, the U.S. Chamber of Commerce and the Confederation of Swedish Enterprise commissioned a report called "A Transatlantic Zero Agreement: Estimating the Gains from Transatlantic Free Trade in Goods." These gains would be impressive: \$120*

billion in added trade and \$180 billion in added growth over five years. The Chamber sees such an initiative as the right first step towards a comprehensive U.S.-EU free trade agreement. Is the time ripe for such a move between the two largest trading blocs?

There is an interest in a potential free trade agreement with the US on our side but there are three main questions for us.

- a) What impact will it have on the Doha Round? Maybe that matters less today.
- b) Why do you only want to eliminate tariffs when modern free trade agreements cover services, investment, procurement and non-tariff barriers?
- c) Will the EU and the US governments have the courage to pursue this knowing that this would have huge systemic impacts on global trade?

10) WTO - Doha and beyond. There is a lot of talk and understandable concern about the Doha Round - Plan A seems to be on life support, but there is no agreement on what Plan B should look like. Whatever happens to Doha, the WTO will still be there as an organization of global economic governance, but what should it do? If there will be no more global trade rounds, what will take their place? Is hearing court cases under the Dispute Settlement Mechanism enough of a work program? What is the joint U.S.-EU interest as far as the global trading system is concerned?

The WTO system must be maintained no matter what happens to the Doha Round. We and you rely too much on the 50 years of GATT/WTO system to throw out the baby with the bathwater. For example, the WTO recently decided that Chinese export restrictions on raw materials were against WTO rules.

For the Doha Round, we do not understand why US business did not support the EU Commission compromise on industrial sectors (chemicals, machinery, electronics)? BUSINESSEUROPE pressed hard for the Commission to help the US by finding a fair middle ground between the emerging countries and us. A middle ground that would have been good for our exporters. And yet, this was not good enough. What does US business want?

We are skeptical about trying to save things like trade facilitation from a failed Doha Round. Of course we would accept that but we doubt the Doha negotiations are much use without the core market access components.

If the round fails, we will pursue those market access objectives elsewhere – through free trade agreements. And why not with the US?

11) Coordinating Trade Policy. The U.S. and the EU can work on liberalizing their bilateral trade and promoting the right rules for world trade. But what other steps could they take? What about more closely aligning our



respective Free Trade Agreements so that we reinforce market opening and disciplines in countries with whom we negotiate? Or could we consider pursuing plurilateral agreements where the U.S. and the EU negotiate sectoral agreements from a common starting position with other countries?

We should consider both those options. But for free trade agreements, do not expect us to wait for you to develop a real trade policy. We are going to push for more free trade agreements with or without you. Quite frankly, we are surprised that US business puts up with such a terrible trade policy.

12) Investment. Under the Lisbon Treaty, the EU now has authority to negotiate investment agreements on behalf of the member states. What are the consequences for the transatlantic relationship? Should we place the emphasis on pursuing a bilateral U.S.-EU investment treaty as part of an FTA? Or is working together to ensure that emerging economies keep their markets open to FDI a higher priority?

We should certainly work together to press for strong bilateral investment rules. Do not forget that many US companies invest in places like Russia through their EU subsidiaries.

As regards a Transatlantic investment treaty, we are examining the issue. But our problem is not so much with protection but with investment restrictions in the US (e.g. airlines, critical infrastructure, insurance) that act as market access barriers. Do you think that your government would be open to lifting those restrictions?
