



European-American  
Business Council

*EABC “Atlantic Agenda” Recommendations for the  
US-EU High-Level Working Group on Jobs & Growth*

**Introduction**

April 23, 2012

- **A 2012 Action Plan:** The US-EU High Level Working Group should privately agree on a “US-EU Jobs & Growth Atlantic Agenda” by June-July 2012. This Agenda should then be publically announced by President Obama and President Barroso in September 2012. Putting this initiative on-hold until after the 2012 US national election moves any real action until Q1 or Q2 of 2013 – or beyond. The EU Parliamentary elections are then held 12 months later, in June 2014... and the formation of a new EU Commission follows after that. **The time for action is in 2012!**
- **Strong, Individual Initiatives:** The US-EU High Level Working Group should create an ambitious Atlantic Agenda consisting of complementary but individual commercial policy initiatives pursued along parallel time-lines. This approach will prevent political and technical roadblocks in one part of the Agenda from holding back the other initiatives. Moreover, once the US and EU have agreed on signing an individual policy initiative of this new Atlantic Agenda, Washington and Brussels should consider allowing other trade partners to co-sign that initiative – without amendment, of course. This “Atlantic Plus” approach will create a path towards de facto pluri-lateral trade and investment models.

The following EABC Atlantic Agenda recommendations are divided into the following three parts:

- US-EU Bilateral Agreements
- US-EU Regulatory Cooperation
- US-EU Global Collaboration

**US-EU Bilateral Agreements**

- **Zero Manufacturing Tariffs:** We support the elimination of all manufacturing tariffs between the United States and the European Union. A judgement should be made as to whether to include agricultural tariffs. Ideally, all Trans-Atlantic tariffs will be eliminated. However, political opposition on zero agricultural tariffs should not delay swift movement towards a single **Atlantic Manufacturing Market**. More than 1/3 of Trans-Atlantic merchandise trade consists of intra-company transfers. Therefore, most companies have a vested interest in creating a tariff-free Atlantic to eliminate this cost on internal efficiencies. The elimination of tariffs will streamline procedural delays, expedite business logistics, reduce compliance costs and free capital for enhanced investment and job growth. The economic impact of a “zero tariff Atlantic” could boost annual EU GDP by up to ~.50% and ~1.50% for US GDP at a time when job creation is vital. (Source: Transatlantic Economy 2011/SAIS).

Where the elimination of some tariffs is not politically feasible, we ask the US and EU to increase their “de minimis” thresholds for duty-free shipments. This will help reduce shipment delays, lower costs, and encourage trade of lower-value products. Estimated net economic gains of raising

the “de minimis” threshold could generate \$81 million per year and reduce export and import times by as much as 25% (Peterson Institute). .

- **Government Procurement:** The US-EU government procurement market should be a “single market,” designed in compliance with WTO Government Procurement Agreement (GPA) standards. We support the signing of a **US-EU Government Procurement Agreement**. Procurement bids should be considered on price, quality and service performance, not on nationalistic terms. Sectoral exceptions to open procurement markets that prevent industries from accessing international capital should be re-evaluated in the context of modern globalized economies and removed where appropriate. We oppose unique or arbitrary policies which exclude non-domestic companies from government procurement sales or contracts when such policies are not in keeping with the letter and spirit of the GPA. For example, Section 737 of the Financial Services and General Procurement Appropriations Act of 2012 (as in past years) bans ‘inverted companies’ and their subsidiaries from doing business with the US federal government. We believe this provision violates the GPA. This Act bans companies and their subsidiaries from the US procurement markets *based on nationality* and on conditions unrelated to a supplier’s ability to perform to a contract, thereby disregarding Articles III and VIII of the GPA. This aspect of the law should be rescinded. Companies have the right to locate their global HQ in the country of their choice.
- **Investment Agreement:** The competitive positions of the US and EU are in large measure due to deep, robust Trans-Atlantic commercial connections and mutual investment flows. For every \$1 traded across the Atlantic, \$4 has been invested! There is more US investment in Ireland than in China and India combined. There is more Dutch investment in Texas than Dutch investment in China... (Transatlantic Economy 2011/SAIS). To sustain Trans-Atlantic economic leadership and share of world trade, we support the development of a **US-EU Investment Agreement** that promotes free transfer of capital, equal consideration for foreign and domestic companies, and protections for expropriations. All sectors should be reviewed, including airlines.
- **Services Agreement:** We support exploring the benefits of a **US-EU Services Agreement**. The European Union and the United States are the world’s two largest exporters of services, accounting for about 43% of world commercial services exports in 2010 (excluding intra-EU services trade) (Source: WTO). Furthermore, services represent well over 70% of GDP for both the US and the EU, and provide the foundation for global competitiveness and job growth across all segments of the economy – in manufacturing, agriculture and services. Given the vital role of services in both economies, trade in services should be an important part of the bilateral agenda. And services trade is clearly a major competitive advantage of Western economies.

#### **US-EU Regulatory Cooperation**

- **Cross-Border Data Flows:** Increasingly, many services are delivered electronically. Knowledge-based services, including business services, financial services, computer and information services, insurance services, audio-visual services... and telecommunication services can readily be delivered around the world via advanced communication networks. In fact, in 2006 UNCTAD estimated that ICT-enabled services constituted nearly half of services exports. Trade in these services has continued to grow at a rapid pace. ICT generates an equally important share of US and EU R&D expenditures -- 69% and 35% of total R&D investment, respectively.

However, growth opportunities for the US and EU in cross-border trade in ICT-enabled services are threatened by the potential for policy restrictions on cross-border data flows. Many countries and regions are considering restrictions on the location of storage and processing for various types of data. Existing trade agreements do not address these issues. For example, exceptions in the WTO GATS give countries the right to regulate for national security, privacy, compliance with regulations, protection of public safety, and prevention of fraudulent practices, and to ensure the integrity of the financial system - among other reasons. Any of these reasons might be used to as an excuse to block data flows and effectively create non-tariff barriers to services trade.

It is in the interest of the US and EU to modernize the approach to services trade agreements to address cross-border data issues. These issues should be incorporated in all future services trade negotiations, whether at the bilateral, pluri-lateral or multi-lateral level. Given their strengths as exporters of ICT-enabled services, the US and EU should cooperate to establish a new model agreement that can set the standard and serve as a model for the rest of the world. This initiative could build on work completed in 2011 on the EU-US Trade Principles for ICT Services, the OECD Internet Policy Principles, and on the two parties' ongoing work on e-commerce and services trade in their respective bilateral and regional free trade agreements. To this end, the continuing Trans-Atlantic dialogue toward common approaches to policies impacting deployment of cloud-based services has also been critical. Both governments recognize the enormous economic benefits of cloud services and of working together to ensure that these services not only flourish, but do so irrespective of national interests or borders. The draft revised EU Data Protection Regulation now pending in Brussels is an example of the real-time nature of this policy question.

- **Privacy:** The above cross-border data issues are especially timely as the EU Commission released in January 2012 a revised EU Data Protection Regulation that may have a significant impact on cloud computing and Trans-Atlantic data flows. As the European Commission, Council and Parliament revises the privacy framework established in the 1995 Data Protection Directive, it will be critical to the Trans-Atlantic commercial relationship to foster greater harmonization among myriad national interpretations of the Directive, increased emphasis on flexible cross-border compliance solutions, and consideration of broader global trade implications from EU rules. Flowing from these and related efforts in the US on privacy, the US and EU could be well-positioned to lead the world in the development of a **21<sup>st</sup> Century Services and Cross-Border Data Transfer Agreement**.
- **eHealth Interoperability:** Rising healthcare costs in the US and EU have a negative effect on jobs and growth. These costs are a burden to government, business and individuals. Resources that might otherwise be spent on forward-looking wellness investments are consumed by health care inefficiencies. Studies suggest that greater application of ICT can have significant positive impacts on cost controls, quality of service and patient empowerment. For example, interoperable electronic health records (EHRs) improve continuity of care as patients travel among different healthcare providers in different geographies. This results in fewer duplicative costs for payers and access to greater patient information for providers. We support greater cooperation between the US and EU in adopting eHealth solutions that are interoperable across the Atlantic. On December 17, 2010 US Health & Human Services Secretary Sebelius and EU Vice President for Information Society Kroes signed an eHealth Memorandum of Understanding. EABC is supportive of this MOU. In November 2011 the US and EU announced that by May 2012 a detailed plan for US-EU eHealth cooperation would be completed and shared with industry and the public. EABC member companies – as providers of innovative, cost-reducing, life saving

healthcare technologies -- look forward to the release of this document so that we can engage with these two agencies to advance solutions that serve patients effectively across the USA and Europe.

- **Transportation Security Requirements:** EABC commends the efforts of the US and EU to establish mutual recognition of the existing trade partnership programs: US Customs-Trade Partnership Against Terrorism (C-TPAT) and EU Authorized Economic Operator (AEO). Timely and full mutual recognition of these two programs is vital to insure a safer **“Atlantic Supply Chain.”** Engagement with Canada on this issue may be timely, given the establishment of the new US-Canada Regulatory Cooperation Council (RCC). Regulatory authorities should provide commercially useful benefits to carriers and shippers as an acknowledgement of such cooperation and increased network safety. This is both feasible and fully supported by the World Customs Organization (WCO).

Moreover, as new security programs and initiatives are developed, greater effort is needed to harmonize standards to prevent future divergence in program requirements. For example, both markets have agreed on the need for pre-landing information for air cargo and to work towards making this principle an international standard through the WCO. The carrier industry has already worked with the US Department of Homeland Security's (DHS) and CBP/TSA to establish a collaborative Air Cargo Advance Screening (ACAS) program. Currently the ACAS pilots are testing the feasibility of analyzing the already required data - now transmitted earlier - in order to identify and intercept potential threats. This ACAS pilot program so far has worked successfully for the US government (CBP/TSA) and the carrier industry. It is our understanding that EU authorities are examining a similar program. EABC strongly encourages EU authorities to work closely with the US and our industry to establish a carrier-initiated, risk-based approach that can be employed on both sides of the Atlantic. The ongoing ACAS pilot has set a good example for similar tests in the EU.

- **Atlantic Audit Oversight:** US and EU audit oversight bodies should cooperate to remove duplicative registration, reporting and inspection requirements for audit firms. In addition, US and EU initiatives related to audit standards, reporting and independence that are currently under consideration should not create Trans-Atlantic divergence in those requirements.
- **Temporary, Intra-Corporate, Cross-Border Skilled Worker Visa System:** Temporary, cross-border, intra-company transfers of skilled employees are becoming integral to contemporary business models and global competitiveness. Technology is transferred through people. US and EU companies must be able to move vitally needed skills to the right job, in the right place, at the right time – *for temporary assignments, for purposes of technical support, leadership, and transfer of know-how.* We support a common Trans-Atlantic visa regime to facilitate short-term, cross-border, intra-company movements of skilled workers to transfer knowledge and address real-time, critical customer needs. Technical trouble-shooting must move at the speed of jet aircraft.

Currently the EU Council of Ministers and Parliament are considering a Commission proposal on coordinated pan-European policies for intra-corporate transfers (ICTs) to better facilitate global management and deployment of competences and skills for short-term assignments in the EU. The EU and US should seek to realize the benefits of a broader coordinated intra-corporate transfer framework between the US and EU to further facilitate the free movement of skilled workers between the two economies for short-term and temporary assignments.

### **US-EU Global Cooperation**

- **Coordination on 3<sup>rd</sup> Country Trade Agreements:** Recognizing the many similarities between US and EU free trade agreements (FTAs) with third countries, EABC supports greater coordination of our respective trade negotiation templates. This cooperation could take the form of **Trans-Atlantic Trade Principles**. For example, the US-EU ICT Trade Principles have served as an outline in US and EU trade negotiations that demonstrate the shared principles of transparency, open markets, and the necessity of cross-border data flows. We believe this model should be considered for other core values, such as intellectual property rights. Where appropriate, the US and EU may also consider holding a trilateral trade negotiation with a third country. This unique approach of bringing the world's two largest economies together to one table can support our mutual approaches to a more open and robust global market.
- **Expansion of the WTO ITA:** We favor USTR-DG Trade collaboration in expanding the geographic and product reach of the WTO Information Technology Agreement.
- **Global Internet Governance:** We value the leadership the US government has provided over 20+ years to preserve the security and stability of the Internet through actions related to ICANN, IGF and ITU, e.g. defending against calls by some for the ITU to become more involved in the Internet and to impose a telecom-style interconnection and charging regime. As we approach the World Conference on Information Technology (WCIT) in December 2012, we would encourage the US and EU to reaffirm their common principles often conflated under the rubric of 'Internet governance'. Internet governance must continue to remain the domain of voluntary, multi-stakeholder processes, driven by the imperatives of innovation and market growth.
- **Global IPR Models of Protection:** The US and EU share common intellectual property rights (IPR) standards. Indeed, for many years now US-EU global IPR cooperation has been pursued with good effect. We support US-EU alignment of general IPRs regimes to be used as models for bilateral and multilateral trade talks, e.g. for use in FTAs. Moreover, we believe that government is best qualified to enforce intellectual property rights within trade flows. While companies can play a cooperative role in IPR enforcement, they should not have ultimate responsibility for enforcement of intellectual property rights.

We thank key United States and European Union officials for their thoughtful consideration of these recommendations. We applaud US and EU leaders for seeking new ways of strengthening the Trans-Atlantic relationship and our respective economies. We encourage all governments around the world to follow US-EU models of commercial policy coordination and transparency when they devise their own commercial policies. We look forward to continued engagement in promoting Trans-Atlantic commercial values, and maximizing the economic benefits of our trade and investment partnership across the Atlantic and around the world.

Respectfully submitted,



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