POLARIS INDUSTRIES INC.

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Ambassador Demetrios Marantis
Acting United States Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, D.C. 20508

RE: Request for comments concerning proposed Transatlantic Trade and Investment Partnership, Docket Number USTR-2013-0019

Dear Ambassador Marantis:

Polaris Industries Inc. respectfully submits these comments in response to your office's Federal Register Notice of April 1, 2013 pertaining to negotiations of the Transatlantic Trade and Investment Partnership ("TTIP").

Polaris is a Minnesota-based vehicle manufacturer with over 4,600 employees worldwide that designs and markets innovative, high-quality, high-performance motorized products, including all-terrain recreational and utility Off-Road Vehicles (ORVs), which include ATVs and side-by-sides; Snowmobiles; On-Road Vehicles, including Motorcycles and Small Vehicles; and related Parts, Garments and Accessories (PG&A). In addition to our Polaris-branded vehicles, we sell motorcycles under the Victory and Indian brand and names, and apparel under the Klim brand. Lastly, we sell electric vehicles branded under GEM and under our France-based Goupil and Aixam Mega brands.

Polaris' 2012 global annual sales exceeded $3 billion and its shares are traded on the New York Stock Exchange. Variants of all our products are sold in both the United States and European Union markets.

We have made, and are continuing to make, significant investments in the European Union, which currently accounts for more than 10% of our annual revenue. This includes operation of six in-country subsidiaries, a world-class engineering design center, and with our acquisitions of the Goupil and Aixam Mega brands, we expect to continue growing our presence in the region. In addition, we have announced plans to build a new European Union-based manufacturing plant in 2014. Polaris' business in the European Union supports thousands of jobs both there and in the United States, and despite recent economic concerns in Europe, we are optimistic that successful negotiations will foster import and export opportunities that will benefit both markets.

Successful negotiations on a trade agreement should focus on developing long-term economic growth opportunities. Today, Polaris maintains a broad array of manufacturing, distribution, sales & marketing, and research and development activities in the European Union and in the European Free Trade Association countries. This presents both challenges and opportunities. While speed-to-market and distribution channel efficiencies highlight the opportunities for U.S.-based manufacturers, these benefits can be curtailed by concerns such as weak trademark and copyright protections, tariff and duty imbalances, regulatory non-conformity, and other risk management practice disparities.

One concern in relations is that the European Union does not allow brand holders the same level of protection against grey market importers that is afforded to companies, American and European alike, in the United States. Grey market importers are unauthorized resellers who acquire authentic branded product and then import and resell the merchandise in a market as new product. Such sellers are not selected by the brand holders and thus, their quality, business practices and capabilities are not vetted and monitored by the brand holder. Moreover, they are transient and opportunistic, so they leech off the investment made by the brand holder and the authorized resellers to sell the product without providing adequate sales and service or warranty support. This leads to upset consumers who then expect the brand holder or the authorized reseller to address this issue, which damages the brand and increases the cost of doing business.

The United States recognizes there is a clear and unmistakable affiliation implied with these unauthorized resellers by virtue of them selling new, authentic branded goods. As a result, brand holders can assert trademark infringement to shut down this conduct. In the European Union, on the other hand, grey market importers cannot be pursued for trademark infringement unless they expressly use a registered logo or they make an express claim they are authorized by the brand holder. Grey marketers understand this limitation so they can, and do, easily avoid it. The result is that brand holders are left without the ability to protect the brand investments made by them or their authorized resellers, who are often smaller businesses.

Like many other companies, Polaris must contend with inconsistent regulatory standards and processes between the United States and the European Union that impair the exchange of goods between these two leading international markets. Polaris feels that any agreement between the United States and European Union should focus on creating regulatory conventions that mitigate the significant costs American companies incur in order to homologate products to fit European regulatory models. Add to that varying processes in order to gain recognition in the many European countries, and this can add significant cost to the consumer. Similarly, opportunities to receive adjusted blanket certifications with a period that begins before receipt of the certification and apply to 12 months of shipments will significantly improve the speed-to-market for U.S.-made products.

Polaris recommends that TTIP discussions should focus on promoting competition, reducing costs to consumers and the efficient flow of goods. We see three primary opportunities. First, we would limit or eliminate tariffs and duties on powersports products and their related parts and accessories. Such duties simply increase costs to businesses and consumers and do not promote market efficiency. We would hope that as negotiations on this point move forward, focus would be given to the archaic duty holdovers that impact U.S. vehicle importers. For example, the 25% tax that applies to certain vehicles imported under the provisions of U.S. Harmonized Tariff Schedule Chapter 87. It is our understanding that the 25% duty rate is a holdover from a provision put in place decades ago that is no longer conducive to current consumer needs. Second, we think it is essential to avoid adoption of the complicated NAFTA rules of origin model, instead favoring simpler and more efficient rules of origin such as those in the KORUS free trade agreement. Third, focus should be placed on developing a program to qualify importers for trusted trader status akin to CTPAT in the United States. Such a program permits qualified parties to clear customs more quickly and efficiently, but also promotes secure ports and allows customs to focus its resources on higher risk importers.

Because Polaris sells products in both North America and Europe, we maintain numerous EU-specific models at substantial development and inventory management cost to meet the often disparate requirements in the North American and European Union markets. The relatively rigid third-party approval system in the European Union adds significantly to the development time cycle. Efforts to create synergies in the certification processes would be welcomed. Functional equivalence should be promoted for technical requirements pertaining to products such as on-road motorcycles that are sold around the world. We also encourage the United States to take a leadership role on the regulatory front and to participate actively in international rulemaking initiatives or risk European Union regulations adopted by other countries in favor of North American standards. This is particularly important for products such as snowmobiles, an inherently low-volume market with predominantly North American sales that faces the prospect of separate European Union regulation that could damage the industry. Conversely, the ability to sell low-volume EU-developed electric vehicles under the U.S.-developed regulatory framework (e.g., as low or medium-speed vehicles) with minimal design changes would create new opportunity for growth.

Finally, we strongly support negotiations that seek to develop a Mutual Recognition Agreement between the United States and European Union premised on fundamental principles of risk management (of the SAFE framework) instead of regulatory alignment of the AEO (Authorized Economic Operator) programs of the United States and the European Union. This would be beneficial to companies like Polaris because there is an annual cost for each of the freight security programs in which we participate. To the extent that the programs mirror each other, the annual investment required to maintain compliance with these programs is simplified and can be done at a lower cost. This FTA should also provide additional trade facilitation measures for participants to offset the initial and annual maintenance costs of these programs.

Sincerely,

Stacy Bogart

Stacy L. Bogart
Vice President, General Counsel
Polaris Industries Inc.