



Setting Standards for Excellence

February 3, 2012

Mr. L. Daniel Mullaney
Assistant U.S. Trade Representative for Europe and the Middle East
Office of the U.S. Trade Representative
600 17th Street, NW
Washington, DC

Re: U.S.-EU High Level Working Group on Jobs and Growth
Docket USTR—2012—0001

Dear Mr. Mullaney,

Thank you for the opportunity to provide the following comments in response to the January 11, 2012, Federal Register notice seeking public comments on options for increasing trade and investment between the United States and the European Union to support mutually beneficial job creation, economic growth and international competitiveness.

NEMA is the association of electrical equipment manufacturers, founded in 1926 and headquartered in Arlington, Virginia. Its member companies manufacture a diverse set of products including power transmission and distribution equipment, lighting systems, factory automation and control systems, and medical diagnostic imaging systems. Worldwide annual sales of NEMA-scope products exceed \$120 billion.

NEMA is pleased with the engagement and commitment of U.S. and EU leaders to direct the Transatlantic Economic Council's establishment of a High-Level Working Group on Jobs and Growth. Barriers to Transatlantic trade and investment are already relatively low, given low customs duties, high trade volumes and significant levels of cross-investment. According to U.S. government data, the value of U.S.-EU trade in electrical and medical equipment within NEMA's scope in 2010 totaled approximately \$13.9 billion; data through November 2011 indicated an increase for the full year of 2011 over 2010.

While we are encouraged by progress made to date by the U.S. and its counterparts in the Trans-Pacific Partnership (TPP) negotiations there are still specific areas of friction and there are barriers that can be brought down. We are hopeful that the TPP negotiations will conclude this year with the highest-standard agreement possible, including ground-breaking disciplines on regulatory coherence. In this regard, we recommend that any initiatives taken by the U.S. with the EU be commensurate with and not fall short of the high standards being pursued in the TPP context.

Accordingly, any U.S.-EU initiatives must result in significant new market access for U.S. electroindustry exporters. One approach is to continue the TEC's focus on new and emerging industries and prevention of any barriers to trade.

From NEMA's point of view, these industry areas include Smart Grid and electrical vehicle ("e-mobility") supply technologies. The U.S. and EU should work closely and collaboratively with their industry stakeholders to define open and compatible standards in these areas to prevent the creation of technical barriers to trade.

As an example, Intelligent Transportation Systems (ITS) technologies are also a growing export sector largely based on voluntary consensus industry standards, including some developed with the support of the U.S. Department of Transportation. Many of these standards have been recognized, adopted and are being used in a growing number of countries, including in the European Union.

More broadly, the U.S. and EU should build upon their joint proposal to the World Trade Organization for an Environmental Goods and Services Agreement (EGSA) by implementing such an agreement on a bilateral basis. This could be taken several steps further in the industrial market access area by an agreement to eliminate tariffs on all U.S.-EU trade within NEMA's product scope. Most remaining tariffs fall into the "nuisance" category and thus do not perform any useful function besides some small revenue to the respective treasuries. Saving time and money not having to pay import duties could provide for notable efficiencies and re-programming of company resources into more productive activities.

U.S. industries and the U.S. Government have frequently complained about the EU propensity to establish regulations lacking in solid technical justification and whose burdens of implementation are not proportionate to intended consumer or environmental benefits. Typically, these regulations are developed with procedures that are not transparent to all stakeholders, including the U.S. electrical manufacturing industry and other trading partners. Further, stakeholders find they have no way to hold EU authorities accountable for the regulations produced.

On a related level, the important standards-setting bodies CEN and CENELEC are lacking in transparency and openness inasmuch as they absolutely deny full participation by any U.S.-interested party despite legitimate business concerns and impacts. This is particularly significant when there is specific knowledge that CEN/CENELEC standards resulting from EU Directives will be developed into de facto market access requirements. The Working Group should engage in a dialogue on achieving greater reliance in both economies on international standards as defined by the WTO Committee on Technical Barriers to Trade.

The Medical Imaging and Technology Alliance, a division of NEMA, represents manufacturers of medical imaging, radiation therapy, and radiopharmaceutical products that operate in the U.S. and EU. There are several opportunities within the medical imaging industry to boost trade and investment between the U.S. and EU in order to support mutual job and economic growth as well as to increase the international competitiveness of our industries. By joining forces on matters of common interest to better communicate, coordinate and collaborate, the U.S. and EU can work together to reduce unnecessary regulation and improve market access to life-saving medical equipment. This can be done by mutually identifying topics and trends with global industry impact, developing joint positions, leveraging the benefits of international standards, advocating for efficient and reasonable regulation that promotes innovation, supporting harmonization of regulatory frameworks and streamlining clearance processes. By

working together, millions of people around the world will benefit from improved access to these life-saving technologies.

Our industry is committed to working with USTR, to engage with the EU on questions of governance and regulatory disciplines, and to find solutions to its systemic regulatory problems, ensuring justification, transparency and openness in development of directives, as well as "national treatment" and accountability in their application.

In general, NEMA recommends that all U.S. free trade agreements, including any possible bilateral or regional agreement, adhere to the following principles.

- Immediate reciprocal tariff elimination
- No governmental mutual recognition agreements (MRAs) where product is not U.S. federally regulated
- National treatment
- Adequate legal and administrative infrastructure in place for implementation, transparency and enforcement of agreements
- Protection of intellectual property rights
- Elimination of technical barriers to trade (TBTs)
- Adherence to the principles of good regulatory practice
- Compliance with all World Trade Organization (WTO) TBT Agreement requirements
- Safe conduct of product and persons
- Energy and environmental services liberalization
- Inclusive definition of "International Standards"
- Market-driven development of product standards and conformity assessment
- Third party certification methods that include the optional use of the International Electrotechnical Commission Conformity Assessment Systems – IECCE, IECEx and IECQ – where appropriate

Thank you again for the opportunity to share our views and recommendations. We hope these comments will contribute to constructive consultations within the Working Group and that the Working Group will proceed with plans for further consultation with business stakeholders. As part of this process, we look forward to providing further advice at your request or as conditions warrant.

Respectfully,



Kyle Pitsor
Vice President, Government Relations