The Transatlantic Opportunity

Why we need a Transatlantic Trade & Investment Partnership

American Chamber of Commerce Ireland
Founded 1961

50 Years
AMCHAM EU
American Chamber of Commerce to the European Union
Speaking for American Business in Europe

1 Introduction

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Transatlantic Trade & Investment Partnership (TTIP)

The economic bond between the EU and US has endured challenges and has adapted and grown. That relationship is continually strengthened by new business developments and investment opportunities, albeit that challenges remain in the shape of barriers to trade and investment. These challenges, however, also equate to opportunities in equal measure, ***and it is the desire to realise these opportunities that is influencing the calls for the creation of a Transatlantic Trade and Investment Partnership*** (TTIP) or what is commonly referred to as an EU-US Free Trade Agreement.

Progress towards achieving a deal has been steady since 2011. President Obama, speaking during his 2013 State of the Union Address, gave his country's commitment towards achieving a deal. A commitment mirrored by the EU through the President of the Commission Jose Manuel Barroso and President of the Council Herman Van Rompuy.

It is expected that formal negotiations will commence in June 2013. This however is less the beginning of the end, but more **the end of the beginning**.

This report, authored by the American Chamber of Commerce Ireland with the full support and input of the American Chamber of Commerce to the EU, is designed to outline the areas in which such a Partnership could be beneficial and ultimately grow the Transatlantic Economy.

Expected Benefits of TTIP

The potential benefits of successfully implementing the TTIP are considerable, and not limited to trade, but for investment as well.

If all tariff barriers were to be removed GDP could be increased by as much as 3.5% for both blocs. However the extent of the benefits that are realised will be dictated by the success of the negotiations. At almost every possible iteration of an agreement there is an incremental benefit to both economies.

Overcoming Barriers

It is anticipated that the negotiations will be about much **more than the elimination of tariffs.** While this will be central there are many more barriers to trade that need to be considered. These include the many regulatory restrictions and a lack of common standards or approval requirements; bureaucratic burdens generated by divergent customs processes; and the lack of a uniform intellectual property policy.

Recommendations

This document contains a number of recommendations to reduce and eliminate trade and investment barriers. The recommendations focus on sectors where successful implementation could bring immediate and positive impact.

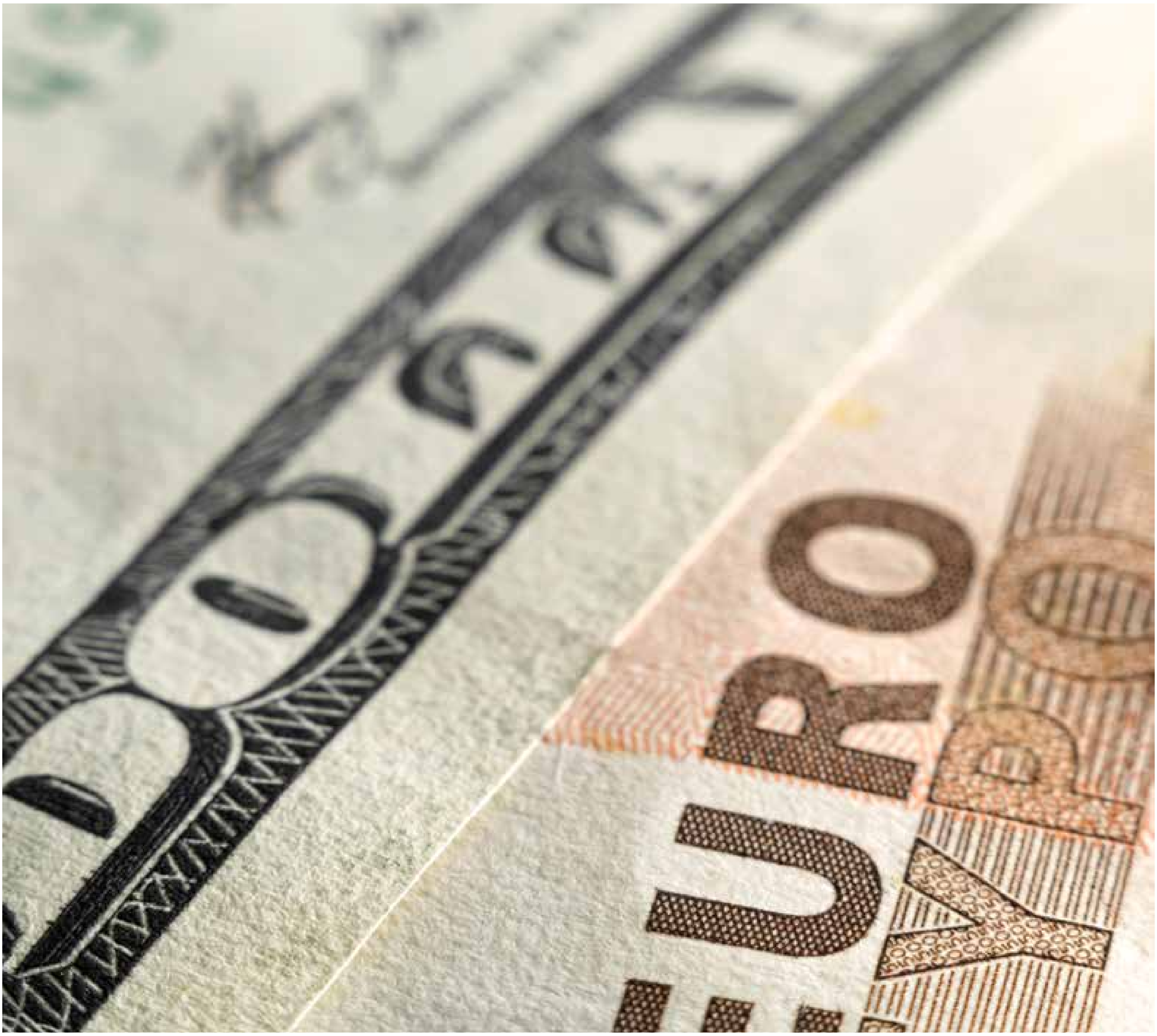
Prospects

There remain significant challenges for the negotiating teams on both sides to overcome if the goal of a deal by 2015 is to be achieved. This document hopefully illuminates certain key areas that we believe are needed to increase trade and investment flows.

It is aimed to provide a series of common sense recommendations that would boost job growth and increase prosperity.

2 Context

The Transatlantic Trade & Investment Partnership will represent the latest evolution in the relationship between the two blocs that have been leading pioneers of free trade.

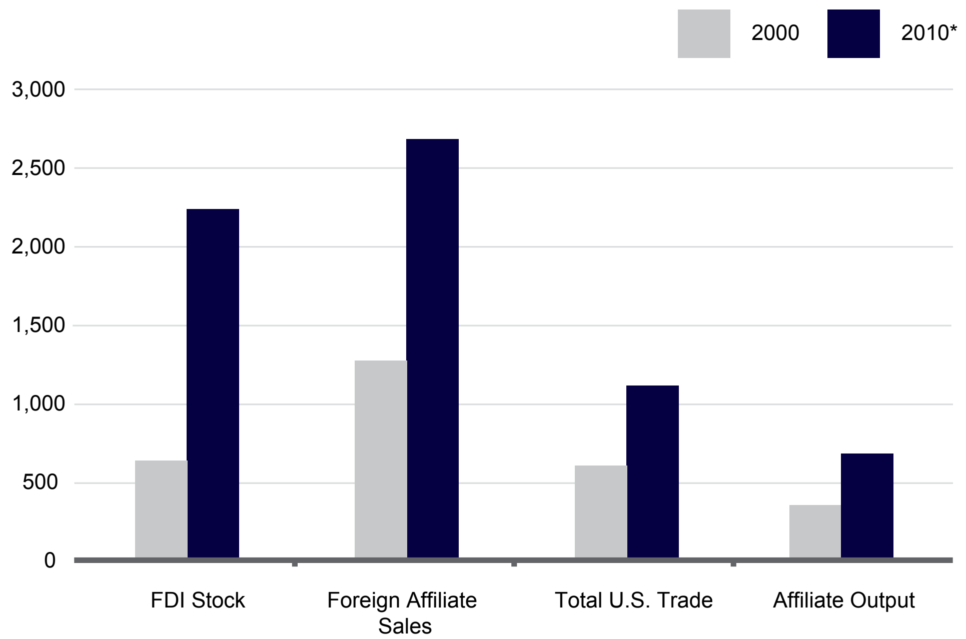


Context

The United States and the European Union have a strong, closely knit political and economic relationship that is driven by close cooperation, shared values and mutual interests. During the past century the links between the two regions have strengthened and deepened - from the economic, to the diplomatic and cultural. The transatlantic economy has consistently been, and continues to be, the largest commercial entity in the world, representing over 50% of global GDP (in U.S. dollars, and 41% on a purchasing power parity basis).

Given the solid foundations it is not surprising that the trade and investment relationship between the U.S. and the EU is the largest in the world. In 2011 it accounted for 30% of global GDP, and generated close to $5 trillion in total commercial sales a year[1]. In 2012, the U.S. was forecast to account for 31% of global R&D spending, while Europe was expected to make up 24%[2]. European companies employed close to 3.5 million workers in the U.S. in 2011, while U.S. firms in Europe employed over 4.1 million[3]. The total commercial relationship is estimated by the Washington based US Chamber of Commerce to be worth over €3.8 trillion: this is comprised of over €768 billion in trade; €230 billion in investment flows; and over €3 trillion in sales by in-country foreign affiliates. Much of this success comes from innovative, cutting edge companies delivering products and services to over 800 million consumers on both sides of the Atlantic.

The US and Europe: More, not less, integration over the past decade



Source: Bureau of Economic Analysis. **Estimates for Sales and Output* *Data as of March 2012*

Joseph P. Quinlan (2012) "The Case for Investing in Europe"

1. Hamilton, Daniel S. & Joseph P. Quinlan (2012) 'The Transatlantic Economy 2012' Center for Transatlantic Relations

2. Battelle '2012 Global R&D Funding Forecast'

3. Hamilton, Daniel S. & Joseph P. Quinlan (2013) 'The Transatlantic Economy 2013' Center for Transatlantic Relations

Together the U.S. and EU account for approximately one quarter of world exports and close to one third of global imports. In terms of investment, the EU and the U.S. are each other's largest investors and together they comprise nearly 60% of the total global inward stock of FDI and almost 75% of the outward stock. This investment relationship is best exemplified by the extensive number of U.S. and European companies trading in the other's market.

An underappreciated element of this relationship is intra-firm trade; i.e. trade between subsidiaries of the same company. Over one third of trade between the U.S. and EU is intra firm, underlining the close corporate links across the Atlantic. Given the global nature of so many leading companies, their operations on both sides of the Atlantic have become important sources of exports and imports in themselves. Global supply chains greatly contribute to transatlantic trade as goods and materials are sourced from a variety of suppliers to produce finished products for the marketplace.

In addition, the nature of global business has evolved with FDI playing as important a role as trade in driving international commerce. Directly investing abroad allows firms proximity to customers in-country and access to wider markets. The relationship between trade and investment has become "mutually reinforcing"[4].

The TTIP will represent the latest evolution in the relationship between the two blocs that have been leading pioneers of free trade. The U.S. has been a leader of global trade deals since the Bretton Woods compact was signed in 1944, establishing a multilateral framework for trade negotiations. However, the breakdown in the past decade of the Doha Development Round of WTO talks has seen that multilateral framework begin to loosen. With recovery after the global financial crisis stubbornly slow, the time is now ripe for both parties to offer global leadership on trade to boost economic growth. The successful negotiation of a TTIP would provide both a powerful signal of intent on global trade rules, and offer a significant stimulus to the transatlantic economy.

The 2011 establishment of the High Level Working Group on Jobs and Growth (HLWG) sent a signal of intent that both parties were ready to meet this challenge and intend to increase EU-U.S. trade and investment, create jobs and progress the case of global free trade. Its work culminated in the announcement by President Obama in his 2013 State of the Union address that negotiations will be launched in late spring. The Final Report of the HLWG[5] made a series of recommendations on how those negotiations should proceed with a focus on increasing market access, addressing regulatory issues, and setting new standards in global trade rules. The ambition of the report is admirable, setting out a vision that the US and EU should not simply address barriers to increased trade but to fill the leadership vacuum on global trade rules.

The European Commission presented its negotiating plans to the European Council in March 2013. The issue will be discussed at an informal meeting of trade ministers in Dublin in April, while agreement on a negotiating mandate is hoped to be reached by all EU member states in June. Both meetings will be chaired by Ireland's Minister for Jobs, Enterprise and Innovation Richard Bruton TD. Thereafter discussions will proceed on a number of key issues, facilitated by periodical high level oversight. Many of those issues are outlined in the following section. There is great optimism that the negotiations can be completed in the next couple of years.

4. A New Era for Transatlantic Trade Leadership, Transatlantic Task Force on Trade and Investment, February 2012

3 Overcoming Barriers

Despite the extensive scale of the transatlantic economy and the presence of so many American and European firms in each other's markets, there remain significant opportunities to strengthen, deepen and expand transatlantic economic activity.

Overcoming Barriers

This section, while not fully comprehensive, explores many of the areas that pose significant barriers for industry, and provides an overview of the key issues that we believe need to be resolved in the negotiations. It also explores the options to remove or reduce those impediments to trade and investment.

Tariffs

Tariffs are not the primary barrier to transatlantic trade and investment; however their removal would provide a boost to economic growth for both blocs.

Currently the levels of tariffs on imports into the EU are low, averaging 4%. However, according to a *Bloomberg Government* study, the volume of trade that crosses the Atlantic is so large that the overall tariff bill U.S. companies' face is quite high[6]. The following provides some examples:

- Chemicals, a key component for the life sciences sector, are subject to an average tariff of 4.6% for entry to the EU and 2.8% for entry to the U.S.
- The tyre sector faces an average tariff of 4% on each side of the Atlantic; and
- Intra-firm trade can face tariffs in a number of ways. Trade in production inputs and intermediate goods, within the same company is particularly intense in the automobile, pharmaceutical and transport equipment industries[7].

We fully support the elimination of tariffs on all goods without exceptions. The total elimination of tariffs on inputs in intra-firm trade and intermediate goods (semi-finished products) will remove a source of unnecessary cost and friction for firms, while benefiting consumers on both sides of the Atlantic.

Non-tariff Barriers (NTBs)

Non-tariff barriers (NTBs) take many forms but are primarily based on regulatory requirements that bring about additional measures, costs or restrictions for exporting firms. Examples of NTBs include:

- Health & safety regulations
- Environmental regulations
- Rules/standards for specific sectors
- Product standards.

While such regulations are important for promoting consumer safety and protection, both the U.S. and EU often have broadly similar regulatory standards. However, the added costs associated with adapting products to meet the variations in regulation can be substantial. Harmonising standards, where appropriate, would provide both reassurances to customers and a significant cost saving for all concerned.

NTBs fall broadly into two types:

1. Border barriers - customs-related barriers
2. Behind-the-border barriers (BTBs) which create difficulties (e.g. via regulation) in establishing a foothold in a particular market.

Currently a large number of BTBs exist for exporters from the U.S. and EU. Removing discriminatory regulations, improving compatibility of standards and regulations, and driving greater mutual recognition of standards would eliminate many of these BTBs. Greater regulatory cooperation would facilitate the achievement of both legitimate policy objectives (e.g. public health) while eliminating unnecessary duplication.

Some key areas illustrate this point:

Chemicals, Cosmetics and Pharmaceuticals

The chemicals, cosmetics and pharmaceuticals industries are highly regulated. The following are examples of how divergent regulatory requirements create substantial barriers for producers:

1. Chemical companies may have to fulfil different testing, licensing, classification and documentation requirements in the other market. In addition, working with new substances or exporting particular chemicals can also be restricted[8].
2. The cosmetic industry on either side of the Atlantic faces stark differences in how certain products are categorised. Some products sold as cosmetics in the EU are classified as 'over-the-counter' drugs in the U.S. requiring tighter controls. Similarly, divergent labelling requirements increase import costs.
3. Pharmaceutical products must be registered with the Food and Drug Administration (FDA) in the US. This can add further administrative burden on European exporters. Furthermore the general lack of agreement on procedures has added to that burden for industries on both sides of the Atlantic.

Consistency of regulatory requirements is lacking in the transatlantic economy. For example, overlap between the EU's Restriction of Hazardous Substances Directive and the REACH Directive could mean that a single substance could be subject to multiple sets of definitions and restrictions.

Intellectual Property Rights

Member companies of both AmCham EU and AmCham Ireland are particularly concerned about the protection of their intellectual property rights (IPR).

There is a great deal of agreement between the EU and the US on IPR. Difficulties instead lie with third parties who do not attach the same value to these rights and a need for the EU to modernise and harmonise the protection and enforcement of trade secrets. Currently the lack of a global IPR agreement is proving to be a considerable challenge to industry. Furthermore, the theft of IPR is a growing problem which originates in certain emerging markets, which harms the competitiveness of transatlantic businesses. A robust and coordinated transatlantic response to IP theft is critical.

To protect IPR, the EU and US should harmonise and align their intellectual property protection and enforcement measures in the field of customs. Consideration should be given to the incorporation and enhancement of the existing EU IP Dialogue[9] within any new institutional framework. In addition, enhanced cooperation is needed to tackle the disregard for IPR in certain emerging markets, as is enforcement cooperation via enhanced customs harmonisation to tackle counterfeit trade.

E-commerce

For various e-industries it is extremely important to avoid restrictions on cross-border data flows.

In order to foster the digital economy, countries should adapt regulations to make the following cross-border processes:

- Data flows
- External data management
- Data storage and accesses; and
- Cloud-based technologies.

These activities should be permitted both within firms' operations and with customers.

Localised obligations[10] that restrict cross-border data flows limit the growth of digital trade and electronic commerce and should consequently be avoided.

Additional commitments by both sides are also necessary to increase digital trade and e-commerce. The EU-US Trade Principles for Information and Communication Technology Services[11] provide a good base for these commitments. These principles require that governments:

8. ECORYS (2009) 'Non-Tariff Measures in EU-US Trade and Investment: An Economic Analysis'

9. The European Commission holds IPR dialogues with priority countries (China, Russia, Ukraine, Thailand and Turkey) on a range of IPR issues.

10. Such as local data storage, the use of local servers, or other local sourcing or local content restrictions

11. The principles fall under the Digital Agenda

1. Avoid limiting foreign direct investment, or service suppliers from other countries electronically transferring information internally or across borders; and
2. Avoid requiring suppliers of ICT services to use local infrastructure or establish a local presence in order to supply its services.

Investment Barriers

In spite of the scale of FDI that exists between the U.S. and the EU there still exist considerable barriers to investment that constrain potential growth.

For American companies, the lack of predictability of the short and medium term EU regulatory environment creates legal uncertainty, deterring investment.

These issues can be addressed by a principled approach that promotes open, transparent and non-discriminatory frameworks. The Joint Statement on Shared Principles for International Investment agreed by the US and EU in 2012 could provide the starting point for developing a revamped regulatory environment.

Services

Trade in services is still largely rooted in domestic regulation, applying across many significant sectors including:

- Energy
- Financial services
- Professional services
- ICT; and
- Retail

National regulations create barriers through the requirement for a physical 'in-country' presence. These requirements benefit domestic firms and block effective cross-border competition, in some cases preventing firms from providing a better and cheaper service.

Divergences will persist while the EU's Single Market for services remains fragmented and American regulation varies from state to state.

Public procurement

Public procurement represents a large part of the economy in both the EU and the US, with the WTO estimating that this sector represents 15-20% of GDP for most countries.[12] The European Commission estimates that businesses dependent on public procurement represent 25% of EU GDP and account for 31 million jobs.

Currently the WTO's Government Procurement Agreement (GPA) provides for open tender processes for contracts valued above a required threshold. This threshold is dependent on the government level and the type of service being sought.

Bidding for public contracts in the US is hampered by extensive barriers and there are significant concerns that the European Commission will erect new barriers by restricting all EU level procurement to countries with which EU firms have reciprocal access.

We believe that procurement markets in the EU and US should be opened[13] and additionally we support expanding the application of the WTO's GPA to more countries.

Agreement in this area could benefit not only the transatlantic economy, but also the global trade and investment environment. Agreement between the EU and US in this key area could help to set new standards and provide leadership in the vacuum created by the failure of the Doha Round.

Customs

Inefficient and diverging customs processes are a major contributing factor to supply chain barriers to trade.

Companies importing goods into the EU currently deal with different customs clearance processes in each Member State. This creates unnecessary costs for businesses of all sizes, and hinders the flow of goods through their supply chains. The plethora of customs systems,

12. A New Era for Transatlantic Trade Leadership, Transatlantic Task Force on Trade and Investment, February 2012

13. The HLWG recommended that negotiations should seek to "enhance business opportunities through substantially improved access to government procurement opportunities".

14. De minimis thresholds dictate the percentage of material in a product to be considered as originating from the issuing country when this not in fact the case.

requirements and official procedures across the member states of the EU are a significant inconvenience for firms. In addition, varying *de minimis*[14] thresholds for the collection of customs duties in the EU and U.S. are an impediment to trade, delaying the speedy processing of goods for relatively little economic gain.
To echo the final report of the HLWG, which calls for "a level of ambition that goes beyond the disciplines under negotiation in the WTO", we urge EU and U.S. leaders to seize this opportunity to reduce supply chain barriers by modernising and coordinating customs processes. This can be achieved by:

- Raising and coordinating the *de minimis* threshold
- Introducing electronic pre-arrival clearance to allow goods to be released immediately upon arrival
- Providing a framework for a single point of contact (i.e. one national point of entry for the EU for submitting paperwork); and
- Setting clear standards or guarantees for release time, to reduce unnecessary delays and increase the predictability of supply.

The use of the current Air Cargo Advanced Screening Pilot (ACAS) system as a basis for transatlantic cooperation should also be consolidated in the context of this agreement.

Pharmaceuticals

Several measures could be introduced for the pharmaceutical sector that could both enhance public safety and reduce compliance costs and time burdens for companies:

1. Shared inspection findings between the Food and Drug Administration and the European Medicines Agency
2. Mutual recognition of each agency's inspection methodologies and good manufacturing practice inspections; and
3. Harmonised approaches to other import procedures, such as retesting

Given that chemical regulations on both sides of the Atlantic are functionally equivalent, mutual recognition and acceptance of data submitted under both legislations would significantly improve EU and US companies' innovation potential, without compromising consumer health and environmental protection.

Biocidal products[15]

Most biocidal products approved for use in the US are not compliant with EU regulations, and vice-versa. As a result, products in either market must undergo separate testing requirements and employ distinct supply chains. This lack of harmonisation results in longer lead times, higher costs, and reduced product availability for consumers.

Crucially the TTIP agreement will include "ambitious 'SBS-plus' (and) 'TBT-plus'" chapters in tackling divergences through cooperation and convergence.
It will take a high level of ambition to address the many sensitive issues involved in the sanitary and phytosanitary chapter. An agreement is needed on the appropriate scientific approach and convergence on classification.

"The "SPS-plus" chapter [will include] establishing an on-going mechanism for improved dialogue and cooperation on addressing bilateral sanitary and phytosanitary (SPS) issues.

The "TBT-plus" chapter,[will build] on horizontal disciplines in the WTO Agreement on Technical Barriers to Trade (TBT), including establishing an on-going mechanism for improved dialogue and cooperation for addressing bilateral TBT issues."

from the Final Report of the High Level Working Group on Jobs and Growth

Cooperation

The introduction of both regulatory cooperation and joint impact assessments will be key in addressing existing barriers to trade as well as preventing the emergence of new ones. Joint Impact Assessments of proposed regulations would allow for reflection on important policy matters, shared analysis and common thinking. Similarly, avoiding new barriers in areas of rapid development such as data privacy, cloud computing and nanotechnology, could be achieved by implementing early stage regulatory procedures.

15. Biocidal products are chemical substances or microorganisms that can be used to neutralise or control harmful organisms

4 Expected Benefits of the TTIP

Full tariff liberalisation will lead to enhanced competitiveness and a greater ability to reinvest in manufacturing and RD&I activities.

While increased cooperation in regulatory affairs would provide a platform for high growth sectors, particularly data innovation where on-going dialogue about the application of rules is well established.

Expected Benefits of the TTIP

It has been estimated[16] that a comprehensive TTIP agreement would see EU exports increase 28% per year, equivalent to an additional €187bn of goods and services. Total global exports are anticipated to increase by 6% in the EU and 8% in the U.S.

Full tariff liberalisation will lead to enhanced competitiveness and a greater ability to reinvest in manufacturing and RD&I activities. The removal of NTBs is vital with as much as 80% of the total gains from this agreement stemming from cutting costs imposed by bureaucracy, regulation and liberalising trade in services and procurement[17].

The development of a comprehensive approach to non-tariff barriers, with an enhanced ability to cooperate on future regulations will create greater certainty for businesses on both sides of the Atlantic. Greater certainty leads to more investment, more jobs and higher growth.

Fast growing sectors will benefit from a harmonised approach, for example:

- **Nanotechnology,** would benefit from an equivalent level of environmental and consumer protection in both markets while avoiding trade distortions and being fully exploited for its innovative uses. Agreement on new rules will help speed innovation.
- **The Bio-pharma** sector would be aided by a comprehensive SBS-plus chapter. For example, the harmonisation of Maximum Residue Levels (MRLs) for similar biocidal products would avoid trade hurdles, enabling businesses to better control their costs.

Addressing the increasing problem of IP theft and counterfeiting would have two major benefits greater consumer protection, and setting a new agenda for global trade rules. As the HLWG have made explicit, there is a need for real leadership to replace the vacuum created by the failure of the Doha Round.

Reforming the **customs system** across the EU could:

- Streamline IT systems providing significant savings to exporters
- Reduce language requirements for clearance
- Allow direct distribution through the EU; and
- Tackle the increase in counterfeit goods

Increased cooperation in regulatory affairs would provide a platform for high growth sectors, particularly data innovation where on-going dialogue about the application of rules is well established. The mutual recognition of rules will be crucial in fully exploiting the potential of data flows. Firms in many service industries are increasingly using data more effectively to enhance their customers' experience, reduce transaction costs and improve efficiency.

In addition, we welcome the ambition of both the EU and US to set rules to address shared global trade challenges and opportunities. As we have noted, one such challenge is the increase of localisation barriers, measures designed to protect, favour, and/or stimulate domestic R&D, IP, manufacturing, goods or services at the expense of imported equivalents.

Such market access barriers are especially problematic for sectors that are heavily reliant on global supply chains and cross-border, collaborative innovation. The EU and the US speaking with one voice on trade, investment and innovation will have a tremendous influence on third country governments.

16. 'Francois, Joseph et al (2013) 'Reducing Transatlantic Barriers to Trade and Investment' Centre for Economic Policy Research

17. 'Francois, Joseph et al (2013) 'Reducing Transatlantic Barriers to Trade and Investment' Centre for Economic Policy Research

18. Erixon, Fredrik and Lisa Brandt 'Ideas for New Transatlantic Initiatives in Trade' European Centre for International Political Economy

Using TTIP to set global rules and principles in several areas will not only be beneficial to bilateral commerce but will also contribute to the progressive strengthening of the multilateral trading system.

An EU-U.S. comprehensive trade agreement could provide a 'strong impetus' to push the Doha Round forward[18]. Certainly there is an opportunity to set new rules and give global leadership where it is currently lacking. In a world where FDI is increasingly flowing into developing economies the current opportunity may be unique.

While this document has addressed some of the more prominent barriers, and suggested solutions, it does not cover the full spectrum. The message remains consistent however: the growth potential of the transatlantic economy is being held back by factors in the control of both sides. A successful negotiation process could see that potential fully unleashed, for the benefit of all.

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