



European-American Business Council *"Promoting Trans-Atlantic Growth"*

Trans-Atlantic Commerce: Business Recommendations for Growing Trade & Investment

Win-Win Policy Recommendations for the EU and US Governments

January 31, 2005

Overview: Central Realities & Opportunities

Trans-Atlantic Wealth Creation:

- The Trans-Atlantic region represents approximately 11% of the world's population, and yet produces almost 40% of global GDP. The success of this vital market can have positive impacts worldwide.
- Collaboration between Trans-Atlantic governments is therefore vital not only to the region, but to the entire world. If business-government cooperation "gets it right" across the Atlantic, lessons learned and policies adopted can become touchstones for global economic vitality. Much is at stake in the management of Trans-Atlantic commercial and governmental cooperation.
- Given the market's size, Trans-Atlantic trade and investment is central to the success of major European and American companies. These companies, many of which are EABC members, are thus committed to "win-win" public policy collaboration by governments in both regions.

Horizontal Markets – Vertical Governments

- Global companies' products, investors and markets are "*horizontal*" in nature. Information Age technologies such as the Internet certainly expands this reality. Governmental laws, regulations and institutions are "*vertical*" in nature. Their *local actions*, however, *have global impact*. In this sense, governmental behavior is increasingly out of sync with the realities of globalization that are fast upon us all.
- As world trade and investment grows exponentially, the new post-GATT trade barriers are no longer tariffs, but *regulatory disconnects*. Government and business must become serious about re-designing regulatory requirements and schemes meet global realities. Only enhanced government-to-government regulatory cooperation will best serve citizens and

customers... and enliven wealth creation. Regulatory duplication and discontinuities are becoming major costs on every nation's economy.

- This higher level of global regulatory cooperation can begin with a Trans-Atlantic initiative. The European Union and the United States can best serve the cause of job and wealth creation by making sure standards are open and fairly set, and that regulatory regimes are built to encourage trade, enhance investment and serve the customer in both regions.

EABC 2005 POLICY AGENDA:

Supply Chain Security (SCS)

- EABC applauds current EU-US governmental collaboration on SCS.
- Trade facilitation and trade security must go hand-in-hand, with government and business jointly seeking "win-win" solutions.
- EABC calls for the EU and US governments to harmonize SCS systems, thereby fostering movement towards a worldwide governmental SCS system. The first step in Trans-Atlantic harmonization is policy-making transparency and an enhanced business-government dialogue about "what works".
- Where appropriate, private technologies developed to meet homeland security and defense goals should be able to be commercialized worldwide.
- ***Companies' transportation practices and their traveling executives should be able to earn Trans-Atlantic governmental certification as "trusted companies" and "trust travelers".*** This will allow the EU and US governments to focus security resources on shipments and travelers requiring a first-time review. Companies seek seamless, secure and global transportation solutions. Governments can and should take advantage of such efforts to win regulatory compliance from those companies, freeing up public resources for the more likely sources of possible risk.

IT Accessibility

- People with disabilities (PWDs) want to make use of global information technologies to access global products and services – "in a world without borders". Businesses are developing hardware and software tools to enable PWDs to make use of IT-based products and services to better their lives.
- Local and national governments are now considering various regulatory schemes as they make good-faith efforts to support the use of accessibility goals. The irony is that ***conflicting governmental regulations will segregate markets and access to them.*** No one wins with this result.
- With government-government and government-business collaboration, ***IT accessibility standards can be made open, global and technology neutral.***

Conflicting regulations must not stand in the way of this kind of open standards development.

- To facilitate the growth and positive impact of these services, certification of compliance with IT accessibility requirements must come from self-declarations of compliance, rather than third party certifications.
- ***ACTION: The EABC calls on the EU and US governments to place the goal of global IT accessibility on the agenda of the June 2005 Bush-Barroso Summit.***

Cyber-Security

- The EABC applauds the EU for the creation of ENISA, and the US for its reorganization of homeland security agencies and goals.
- The EABC calls upon the EU and US governments to increase information sharing between DHS, ENISA and relevant EU25 and US50 authorities.
- The EABC calls for the development of a Trans-Atlantic agenda for R&D in Cyber-security.
- The EABC calls for the development of common protocols for information sharing on root server attacks.
- The EABC seeks to ensure that Internet governance is an industry-led management process, contrary to what is developing at the UN/ITU.

Chemicals Regulations

- The businesses and overall competitiveness of the EU would have been well-served if the processes by which REACH was developed were more transparent, dealing with industrial concerns *before* the REACH Directive was issued. Public hearings, Parliamentary hearings and business association consultations will always lead to regulatory schemes that wisely balance all the relevant risks and costs of a given concern. Seeking regulatory amendments after an EU Directive has been issued is counter-productive to the joint goals of environmental sustainability and job growth.
- The EABC applauds the efforts of the new EU Commission to review the nature, scope and commercial impact of the REACH Directive. Special treatment should be afforded those industries that have a proven record of highly controlled and safe chemical usage, as well as fast-moving industries that have very modest chemical uses.
- Of greatest concern is the prospect of “the worst of both worlds” for the EU:
 - Absent scientific-based risk analysis and regulatory priority setting, the EU may find its efforts to protect citizens inadequate because too

much has been attempted. Regulatory overload under REACH is quite possible to materialize.

- At the same time, the financial impact of costly regulatory overkill may weaken European companies - large and small – and for no commensurate environmental value.
- “Life is limits.” Success in any endeavor requires clear, fact-based thinking, combined with hard decisions on where to direct scarce resources. The concern with REACH is that – by attempting to treat all risks equally – it will miss the most important threats while tying companies up in unproductive processes.
- While the final scale and scope of REACH is still undecided in Europe, some in the EU seek to “globalize” the impact of REACH within international bodies, as well as through government-to-government discussions. This is highly problematic, especially since REACH is not even final EU law to-date.

ISSUES SUBMITTED BY INDIVIDUAL EABC MEMBER COMPANIES:

Corporate Governance

- EABC calls for increased and institutionalized cross-border regulatory coordination of corporate governance and financial reporting policies.
- EABC calls for impact assessments for proposed new corporate governance regulations, akin to giving an international dimension to the US Administrative Procedures Act.
- EABC calls for Trans-Atlantic harmonization of auditing systems and the facilitation of information sharing between Trans-Atlantic audit-supervisory authorities.

Taxation

- The EABC recommends the use of arbitration in Trans-Atlantic taxation disputes.

ITA: Information Technology Agreement Expansion

- Computing, communications and consumer technologies and products are becoming more and more integrated in the digital world. Customs and tariff classifications differences are thus becoming less appropriate as technologies and functions merge, e.g. when a computer is a consumer electronics device?
- The EABC calls on the EU and US governments to use Customs policies that recognize product overlaps and do so in favor of tariff reduction or

elimination wherever possible. Expansion of the ITA to cover more electronic products would facilitate this open market approach.

- A special note on customs classification of multi-chip packaging. The EABC recommends that all semiconductor devices are included in the ITA as tariff-free, including semiconductors found in multi-chip packaging. Some nations in the EU are treating such packaging as outside of the ITA.

Business Software Piracy

- Business software piracy is more significant in terms of lost sales than movie and music piracy, which is also a major problem. Piracy is bad for every government and industry worldwide, not just in the EU and US. Piracy reduces tax revenues, encourages smuggling, damages legitimate businesses large and small, etc.
- It is estimated that US\$29 billion of business software piracy occurs annually, \$12 billion in greater Europe alone. Piracy in China and Russia are especially significant. In some nations, government procurement laws require the purchase of domestically sourced software, which tends to drive even more IP theft.
- The EABC applauds current EU-US cooperation in anti-piracy efforts.

Nano-Technology

- Nano-technology is emerging as a form of industrial revolution. Products and processes are being reduced and changed in significant ways.
- The EABC calls upon EU and US industry and government to foster and maintain a constructive, win-win dialogue on nano-technology *now*. The creation of new laws and regulations should be considered only after both business and government leaders have jointly sized potential problems and what win-win public-private arrangements might best be adopted.

European Collecting Societies (Copyrights)

- Long-standing European copyright collecting societies historically based their fees on analog world transactions. Printed works were found as quantifiable “hard copies” and fees were assessed according to tangible evidence.

- Now these societies have begun assessing fees on digital media, with the use of digital devices as a surrogate for the copy of a thing itself. When a printer or PC or PDA is sold, an assumption of copyright infringement is assumed, and a completely arbitrary fee assessed. In some cases these fees can amount to as much as 25% of the value of the IT product itself. This sort of “tax” on all IT goods is an unfair and unproductive approach to royalties, and harms the European consumer who must absorb the added product costs no matter how the device they buy is used.
- The EABC calls upon EU governments to agree on guidelines that treat digital product makers in a justifiable manner. The current ad hoc collection system is unfair, arbitrary and is taxing the tools of the Information Society in a way counter-productive to the EU’s Lisbon Agenda.

Export Controls

- As global trade continues to increase, more attention should be given to export control reform and how it can be made beneficial to the Trans-Atlantic economy. Controls designed for the Cold War era need to be adapted to the present situation, especially with regard to terrorism and rogue regimes.
- This is particularly true when it comes to dual use technologies and their use in large civil aircraft, where a lack of a coherent policy presents added costs to US and European manufacturers and suppliers that have a negative impact on both economies.

Trade

- The EU and US should renew efforts to resolve trade disputes without the threat of filing WTO cases. Win-win solutions should be sought prior to the triggering of trade litigation.

Promotion of Digital Exports

- Given current trends in population pyramids, the EU and US both face unfunded pension challenges. People are living longer and better, retiring earlier, and having fewer children.
- One aspect of such macro-economic population trends is that both the EU and US have increasing numbers of talented people who, in their later years in

life, have gone from fully employed to fully retired. There is often no “in between”.

- A second trend is the growth of commercial globalization. New markets must be identified and developed, and new ways to create wealth must be found.
- Information technologies offer EU and US societies and individuals huge new export market opportunities, created through the part-time employment of senior citizens in the area of “digital exports”. For example, there are thousands of European and American medical doctors who are healthy, active - and yet retired. In turn, many nations of the world have unmet medical needs, e.g. a doctor shortage. If retired European and American doctors had their credentials recognized in certain developing countries, they would be free to practice part-time medicine via the Internet. X-rays can be transmitted, patients can be interviewed and “examined” on-line, blood test results can be emailed anywhere in the world, etc.
- Action: The EU and US governments should consider a joint project to globalize “retired, part-time” talent for the good of their own economies and people, as well as that of other peoples.
- This same opportunity can be visualized in other fields such as education - employing retired teachers who may be willing to teach in other nations via the Internet.

Respectfully submitted,

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