

Final Report

High Level Working Group on Jobs and Growth

February 11, 2013

INTRODUCTION

As the United States-European Union High Level Working Group on Jobs and Growth (HLWG) noted in its June 19, 2012 Interim Report, transatlantic trade and investment are the backbone of the world economy. Together, the European Union (EU) and the United States account for nearly half of world GDP and 30 percent of world trade. Each day, goods and services worth \$2.7 billion/€2.0 billion are traded bilaterally, promoting economic growth and supporting millions of jobs in both economies. In addition, the United States and the EU have directly invested more than \$3.7 trillion/€2.8 trillion on both sides of the Atlantic.

We are proud of this immensely successful economic relationship. At the same time, we believe that we can do more to strengthen the contribution of trade and investment to fostering jobs, growth, and competitiveness in both economies. Our shared commitment to strengthening further the transatlantic economic partnership prompted U.S. and EU Leaders to establish the HLWG during their November 2011 Summit meeting, tasking it with identifying “policies and measures to increase U.S.-EU trade and investment to support mutually beneficial job creation, economic growth, and international competitiveness.”

As Leaders requested, the HLWG has analyzed jointly a wide range of potential options for expanding transatlantic trade and investment. These included, but were not limited to, the following:

- Elimination or reduction of conventional barriers to trade in goods, such as tariffs and tariff-rate quotas.
- Elimination, reduction, or prevention of barriers to trade in goods, services, and investment.
- Enhanced compatibility of regulations and standards.
- Elimination, reduction, or prevention of unnecessary “behind the border” non-tariff barriers to trade in all categories.
- Enhanced cooperation for the development of rules and principles on global issues of common concern and also for the achievement of shared global economic goals.

The HLWG has reached the conclusion that a comprehensive agreement that addresses a broad range of bilateral trade and investment issues, including regulatory issues, and contributes to the development of global rules, would provide the most significant mutual benefit of the various options we have considered. We therefore recommend to Leaders that each side initiate as soon as possible the formal domestic procedures necessary to launch negotiations on a comprehensive trade and investment agreement.

A comprehensive agreement would include ambitious reciprocal market opening in goods, services, and investment, and would address the challenges and opportunities of modernizing trade rules and enhancing the compatibility of regulatory regimes. An agreement of this kind could generate new business and employment by significantly expanding trade and investment opportunities in both economies; pioneer rules and disciplines that address challenges to global trade and investment that have grown in importance in recent years; and further strengthen the extraordinarily close strategic partnership between the United States and Europe.

Since its inception, the HLWG has engaged intensively with key stakeholders – including business, environmental, consumer, labor, and other representatives – to develop its recommendations. Both sides have conducted formal consultations to solicit guidance on options the HLWG should consider for increasing trade and investment. The two sides also issued a joint solicitation for specific input on ways to promote greater transatlantic regulatory compatibility. Both through their written submissions and in meetings with officials on both sides, stakeholders made substantial contributions to our work. Importantly, each side has also consulted closely with its respective legislature.

STRUCTURE AND CONTENT OF A COMPREHENSIVE AGREEMENT

An agreement between the United States and the EU, which already have substantially open economies, would need to break ground to create additional bilateral market openings and establish new trade rules that are globally relevant. Such an agreement should be designed to evolve over time – i.e., substantially eliminate existing barriers to trade and investment, while establishing mechanisms that enable a further deepening of economic integration, particularly with respect to the promotion of more compatible approaches to current and future regulation and standard-setting and other means of reducing non-tariff barriers to trade.

To achieve these objectives, the HLWG believes that innovative approaches will be necessary, and that the two sides will need to be creative, flexible, and open-minded in developing and negotiating solutions that respond to the specific characteristics of the transatlantic economic relationship.

Based on our work over the past year, the HLWG considers that negotiations on a comprehensive trade and investment agreement should aim to achieve ambitious outcomes in three broad areas: a) market access; b) regulatory issues and non-tariff barriers; and c) rules, principles, and new modes of cooperation to address shared global trade challenges and opportunities.

A) Market Access

A transatlantic trade agreement should comprehensively tackle market access obstacles relating to tariffs, services, investment, and procurement. The HLWG recommends that the objective of such an agreement be to achieve a market access package that goes beyond what the United States and the EU have achieved in previous trade agreements.

Tariffs

The HLWG recommends that the goal of the agreement should be to eliminate all duties on bilateral trade, with a substantial elimination of tariffs upon entry into force, and a phasing out of all but the most sensitive tariffs in a short time frame. In the course of negotiations, both sides should consider options for the treatment of the most sensitive products.

Services

The HLWG recommends that in the services area the goal should be to bind the highest level of liberalization that each side has achieved in trade agreements to date, while seeking to achieve new market access by addressing remaining long-standing market access barriers, recognizing the sensitive nature of certain sectors. Furthermore, we recommend that the agreement include binding commitments to provide transparency, impartiality, and due process with regard to licensing and qualification requirements and procedures, as well as to enhance the regulatory disciplines included in existing U.S. and EU trade agreements.

Investment

The HLWG recommends that a comprehensive U.S.-EU trade agreement should include investment liberalization and protection provisions based on the highest levels of liberalization and highest standards of protection that both sides have negotiated to date.

Procurement

The HLWG recommends that the goal of negotiations should be to enhance business opportunities through substantially improved access to government procurement opportunities at all levels of government on the basis of national treatment.

B) Regulatory Issues and Non-Tariff Barriers

A significant portion of the benefit of a potential transatlantic agreement turns on the ability of the United States and EU to pursue new and innovative approaches to reduce the adverse impact on trade and investment of non-tariff barriers, with the aim of moving progressively toward a more integrated transatlantic marketplace. The HLWG recommends that the two sides explore new means of addressing these “behind-the-border” obstacles to trade, including, where possible, through provisions that serve to reduce unnecessary costs and administrative delays stemming from regulation, while achieving the levels of health, safety, and environmental protection that each side deems appropriate, or otherwise meeting legitimate regulatory objectives. A key shared objective should be to identify new ways to prevent non-tariff barriers from limiting the capacity of U.S. and EU firms to innovate and compete in global markets. The two sides should also seek to strengthen upstream cooperation by regulators and increase cooperation on standards-related issues.

Both sides agree on the importance of putting processes and mechanisms in place to reduce costs associated with regulatory differences by promoting greater compatibility, including, where appropriate, harmonization of future regulations, and to resolve concerns and reduce

burdens arising from existing regulations through equivalence, mutual recognition, or other agreed means, as appropriate.

The HLWG thus recommends that the two sides should seek to negotiate:

- An ambitious “SPS-plus” chapter, including establishing an on-going mechanism for improved dialogue and cooperation on addressing bilateral sanitary and phytosanitary (SPS) issues. The chapter will seek to build upon the key principles of the World Trade Organization (WTO) SPS Agreement, including the requirements that each side’s SPS measures be based on science and on international standards or scientific risk assessments, applied only to the extent necessary to protect human, animal, or plant life or health, and developed in a transparent manner, without undue delay.
- An ambitious “TBT-plus” chapter, building on horizontal disciplines in the WTO Agreement on Technical Barriers to Trade (TBT), including establishing an ongoing mechanism for improved dialogue and cooperation for addressing bilateral TBT issues. The objectives of the chapter would be to yield greater openness, transparency, and convergence in regulatory approaches and requirements and related standards-development processes, as well as, *inter alia*, to reduce redundant and burdensome testing and certification requirements, promote confidence in our respective conformity assessment bodies, and enhance cooperation on conformity assessment and standardization issues globally.
- Cross-cutting disciplines on regulatory coherence and transparency for the development and implementation of efficient, cost-effective, and more compatible regulations for goods and services, including early consultations on significant regulations, use of impact assessments, periodic review of existing regulatory measures, and application of good regulatory practices.
- Provisions or annexes containing additional commitments or steps aimed at promoting regulatory compatibility in specific, mutually agreed goods and services sectors, with the objective of reducing costs stemming from regulatory differences in specific sectors, including consideration of approaches relating to regulatory harmonization, equivalence, or mutual recognition, where appropriate.
- A framework for identifying opportunities for and guiding future regulatory cooperation, including provisions that provide an institutional basis for future progress.

In view of the importance of developing an ambitious and realistic approach to regulatory differences that may unnecessarily impede trade, the two sides invited stakeholders to present concrete proposals to address the impact of those differences on trade. The HLWG welcomed the proposals submitted last fall by companies, industry associations, non-governmental organizations, and others. Both sides noted that the submissions covered a broad range of important issues in major sectors and included several joint submissions from both sides of the Atlantic. The two sides are now carefully reviewing the submissions, with the aim of developing during the course of negotiations concrete action plans to reduce regulatory costs

and promote regulatory compatibility, while respecting legitimate regulatory objectives. An initial discussion of the proposals submitted will take place in the upcoming meeting of the High Level Regulatory Cooperation Forum. The two sides expect that additional proposals will be tabled as U.S.-EU work on regulatory matters progresses. The HLWG stresses the importance of stakeholder input and of the engagement of regulators on both sides to the achievement of ambitious outcomes.

To encourage and facilitate progress in this area, among others, the HLWG recommends that the EU and the United States meet periodically at senior levels after negotiations have started to review progress made on each of the above elements, with the aim of ensuring that the horizontal and sectoral elements of the negotiations proceed expeditiously, in a mutually reinforcing way, and in parallel, and that the two sides are able to achieve ambitious outcomes by the end of the negotiations.

The HLWG recommends that, in addition to pursuing the elements of a comprehensive agreement, the two sides seek to make early and continuing progress on SPS measures affecting bilateral trade, taking into account the priorities of either side, and their respective institutional frameworks.

C) Rules Addressing Shared Global Trade Challenges and Opportunities

Given the size and influence of the transatlantic partnership, the HLWG also supports the aim of developing rules in several areas that would not only be relevant to bilateral commerce, but would also contribute to the progressive strengthening of the multilateral trading system. To this end, negotiations shall address:

Intellectual Property Rights (IPR)

Both the EU and the United States are committed to maintaining and promoting a high level of intellectual property protection, including enforcement, and to cooperating extensively. The two sides will sustain and enhance their work on IPR issues. The HLWG recommends that both sides explore opportunities to address a limited number of significant IPR issues of interest to either side, without prejudice to the outcome.

Environment and Labor

The EU and the United States are both committed to high levels of protection for the environment and workers. The HLWG recommends that the two sides explore opportunities to address these important issues, taking into account work done in the Sustainable Development Chapter of EU trade agreements and the Environment and Labor Chapters of U.S. trade agreements.

Other Globally Relevant Challenges and Opportunities

The global trade and investment landscape has changed significantly in recent years. We have seen the emergence of new patterns of production, based on more complex cross-border supply chains. We have also seen new forms of anticompetitive policy and behavior. The

latter include, but are not limited to, subsidies and other privileges granted to state-owned enterprises, export restrictions on raw materials, localization requirements, and other developments on which the EU and the United States have similar concerns and which the two sides are prepared to address both bilaterally and multilaterally. Bilateral agreement in these areas could strengthen the rules-based multilateral trading system and enhance the market access and regulatory commitments of a transatlantic agreement.

The HLWG recommends that the United States and the EU seek to reach bilateral agreement on globally relevant rules, principles, or modes of cooperation in the following trade-related areas:

- Customs and trade facilitation: ensuring effective measures to facilitate trade between the two sides, with a level of ambition that goes beyond the disciplines under negotiation in the WTO;
- Competition policy;
- State-owned enterprises and other enterprises that benefit from special government-granted rights;
- Localization barriers to trade: measures designed to protect, favor, or stimulate domestic industries, services providers, or intellectual property at the expense of imported goods, services, or foreign-owned or foreign-developed intellectual property;
- Raw materials and energy;
- Small- and medium-sized enterprises; and
- Transparency.

The HLWG recognizes that additional issues with relevance to the transatlantic or global economies may be identified for attention before or during the course of U.S.-EU negotiations.

CONCLUSION

Based on the analysis above, the HLWG recommends to U.S. and EU Leaders that the United States and the EU launch, in accordance with their respective domestic procedures, negotiations on a comprehensive, ambitious agreement that addresses a broad range of bilateral trade and investment issues, including regulatory issues, and contributes to the development of global rules.