

**THE U.S.-EU ECONOMIC RELATIONSHIP:  
WHAT COMES NEXT?**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON  
DOMESTIC AND INTERNATIONAL  
MONETARY POLICY, TRADE AND TECHNOLOGY  
OF THE  
COMMITTEE ON FINANCIAL SERVICES  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED NINTH CONGRESS  
FIRST SESSION

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JUNE 16, 2005  
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## THE U.S.–EU ECONOMIC RELATIONSHIP: WHAT COMES NEXT?

Thursday, June 16, 2005

U.S. HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON DOMESTIC AND INTERNATIONAL  
MONETARY POLICY, TRADE AND TECHNOLOGY,  
COMMITTEE ON FINANCIAL SERVICES,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 2:00 p.m., in Room 2128, Rayburn House Office Building, Hon. Deborah Pryce [chairwoman of the subcommittee] presiding.

Chairwoman PRYCE. The hearing of the Subcommittee on Domestic and International Monetary Policy, Trade and Technology will come to order.

I want to thank you for being here today to discuss the U.S.–EU regulatory dialogue, and just say that we are under the gun because there will be an almost 2-hour series of votes beginning any time now, and so we thought we had better begin. One of our witnesses isn't even here yet because of some traffic snarls and there was a road closed, but we will proceed and try and play it by ear if that is agreeable to all.

U.S. and EU financial regulators have been engaging in a dialogue for the past 3 years. They are scheduled to meet again at the end of this month to discuss current and potential regulatory conflicts. This timely hearing, this one we are having today, will allow the members of the subcommittee to hear from industry witnesses in highlighting areas of improvement needed in the U.S.–EU dialogue in trade convergence and access to capital.

Just yesterday, Secretary Snow called upon European governments to proceed with free market reforms and warned against imposing tough new regulations that would inhibit the ability to make financial markets in Europe more efficient and move capital around more easily.

I concur with Secretary Snow's comments, and hope to hear from our witnesses today their thoughts on creating a U.S.–EU free trade agreement and increasing dialogue between the U.S. Congress and the European Parliament.

In addition to the informal meetings held by members of the European Parliament and members of the Financial Services and International Relations Committees, the Commission released last month a green paper calling for the creation of a Transatlantic Parliamentary Assembly in which the U.S. Congress and the European Parliament would meet formally.

Given the strong trade and services shared by the U.S. and the EU, I would appreciate hearing from our witnesses on the benefits and detriments of such an assembly, and even if it is a possibility, given the strong recent rejection by France and the Netherlands of a constitutional treaty.

Many of the nations in the European Union enjoy a reputation of aggressive growth, of being countries that are economically dynamic, adopting market-oriented policies and encouraging the mobility of international capital.

Trade and services between the U.S. and the EU is nearly two-thirds of the world total. The charts that you see here on the floor of the committee room show the relationship of Europe and the U.S. As you can see in the graph entitled "America's Major Commercial Arteries," total transatlantic trade is lower than total trade with NAFTA or the Asia Pacific region. However, the transatlantic total foreign affiliate trade sales figures is the most significant sign that our relationship with Europe remains economically our most important.

The quantity of dollars exchanged in transatlantic foreign affiliate sales is more than those of the other three groupings—Asia Pacific, NAFTA, and Latin America combined—at \$2.8 trillion.

The written testimony submitted by Ms. Hauser from the Transatlantic Business Dialogue also gives figures in support of these graphs. Her statement is that in 2003, 4.2 million jobs were created in the U.S., in European affiliates, and 3.2 million were created in the EU by U.S. affiliates. These numbers show the strength of the transatlantic relationships and the need for the continuation of growth and ties across the Atlantic.

Recently, in light of political failures in the European Union, some have been pointing to China as a new outlet for U.S. trade and investment. The second graph, which compares U.S. foreign direct investment in China and Europe, shows that although investment in China did increase in 2004, the transatlantic direct investment relationship still significantly overshadows the increases in other regions. From 2003 to 2004, U.S. foreign direct investment in China increased over \$4 billion. However, this pales in comparison with the increase of over \$30 billion from U.S.-borne direct investment in Europe for the same period.

With this evidence, it is clear that a strong working partnership between the U.S. and Europe remains crucial to the global economic development and stability. The two partners must continue to work towards a barrier-free transatlantic market.

I thank the witnesses for being here today. And I hope I did not read this too fast. I yield back the balance of my time and welcome our panel.

Mr. Mark Lackritz is the president of the Securities Industry Association. SIA brings together the shared interest of nearly 600 securities firms, including investment banks, broker dealers, and mutual fund companies.

Ms. Kathryn Hauser is the U.S. executive director for Transatlantic Business Dialogue. TABD was established to help develop a barrier-free transatlantic market which will serve as a catalyst for global trade liberalization and growth.



Mr. Gary Litman is the vice president, Europe and Eurasia, within the U.S. Chamber of Commerce. The Chamber, which was started more than 90 years ago, today represents more than 3 million businesses, with 830 associations and 90 chambers overseas.

Mr. Frank Nutter is the president of the Reinsurance Association of America. RAA has represented the interests of property and casualty reinsurance professionals in the U.S. since 1968, working effectively to build an understanding of the regulatory issues among its industry and government.

We welcome the witnesses to the hearing today. Without objection, your written statements will be made a part of the record. You will be recognized for 5 minutes to summarize your testimony. And we will begin with Mr. Lackritz.

**STATEMENT OF MARC LACKRITZ, PRESIDENT, SECURITIES  
INDUSTRY ASSOCIATION**

Mr. LACKRITZ. Thank you, Madam Chairwoman.

Let me begin by thanking you for holding this hearing, and expressing our appreciation for your continued interest in the U.S.–EU financial services and markets dialogue.

My testimony today will make the following points: First, the EU focus on harmonization and implementation is critical now to the success of the Financial Services Action Plan, or FSAP. Second, the progress in accounting convergence is a key building block in the development of the transatlantic capital markets. Third, continuing robust SEC and Committee of European Securities Regulators dialogue is essential for transatlantic capital markets convergence. And finally, the reduction of global trade barriers in financial services should be a key area of cooperation between the U.S. and the EU.

The transatlantic relationship is extremely strong, and while there will be, inevitably, disagreements in any close relationship, the political and economic ties between our two regions will only grow deeper over time. We have repeatedly urged the establishment of a U.S. Treasury Attache in Brussels, because Treasury's presence in Brussels would advance the important U.S.–EU financial sector dialogue, and would facilitate positive cooperation on a pro-growth agenda, such as the WTO Doha Development Round. And we would respectfully urge the subcommittee to support a Brussels Treasury Attache.

The legislative phase of the Financial Services Action Plan, or FSAP as its acronym would be pronounced, is now officially concluded. These measures must now be transposed correctly and effectively into national law and regulation, which is possibly an even more challenging task. We believe the European Commission should, for the time being at least, strongly resist proposing new financial services legislation, and instead focus on ensuring that FSAP is implemented and enforced as intended. For example, implementation is crucial for three critical measures with huge market implications: the markets in financial instruments directive, the transparency obligations directive, and IAS 39.

In addition, SIA is monitoring closely the transposition of the Basel II requirements into EU law. Their proper implementation

and enforcement and their application and practice will be critical to FSAP's success and the global financial markets integration.

This past April, the U.S. and the EU announced a new road map describing the steps needed to eliminate the U.S. GAAP reconciliation requirement for foreign and private issuers that use international financial reporting standards. As early as possible, between now and 2007, we need to eliminate those barriers and reconcile those accounting standards.

We commend the SEC for working with the European Commission to develop this road map, this extremely positive step toward transatlantic financial market convergence, and we hope that against the backdrop of this road map, the EU will make full U.S. GAAP an equivalent determination. But we have some reasons for concern. The Committee of European Securities regulators recently published draft technical advice for the European Commission that held that U.S. GAAP was generally equivalent to IFRS, but they also published a list of additional remedies that a U.S. issuer utilizing GAAP would have to make. As a result, a U.S. firm would have no choice but to keep two sets of books to ensure that it has identified all possible significant discrepancies between the two sets of accounting standards. And unfortunately, we expect that some U.S. companies will find it cost effective to delist, thus denying themselves access to EU capital markets.

The growing linkages between the U.S. and European markets may result in regulations spilling over from one jurisdiction to another. For that reason, we applaud the new discussions between the U.S. SEC and CESR, the Committee of European Regulators, to achieve regulatory convergence in the transatlantic capital markets.

Our firms face regulatory frameworks in the U.S. and the EU that are largely geographically based and don't adequately reflect the global nature of the industry. Consequently, we urge regulators to view this dialogue as more than just a way to solve problems, but rather as a forum to engage in a broad, visionary, forward-looking agenda, in concert with industry. We believe this so strongly that we are working with a number of other trade associations on a project that will compare and contrast U.S. and EU rules in equity and related derivatives markets, evaluate the substantive differences, and propose ways such differences might be accommodated, mitigated, or perhaps removed altogether. We look forward to sharing the conclusions of our study and work with the subcommittee when they are available.

We would also urge U.S. and EU negotiators to provide joint leadership to achieve commercially meaningful WTO financial services commitments from developing countries in the Doha Round going on now.

I would like to take this opportunity to discuss briefly our model schedule for the WTO agreement. This schedule provides a template to pursue new market opening commitments in the Doha Round. More importantly, it reflects the business models of our companies, and it embodies five core principles: First, our firms should be permitted to establish or expand a commercial presence. Secondly, our firms should be permitted to provide cross-border services to sophisticated investors. Third, our firms should be af-

forded national treatment. Fourth, regulations should be developed, adopted, and enforced in a transparent, nondiscriminatory manner. And finally, there should be adequate exceptions, regulatory safeguards and potential carveouts, with the exception for measures restricting payments and transfers.

Finally, we believe that the June 20 U.S.–EU Summit is an ideal forum, and time to call on both sides to view with more urgency steps toward transatlantic regulatory convergence. This is a unique opportunity, Madam Chairwoman, to reenergize the alliance and commit it to tangible goals. It should not be missed.

We will continue to work with the U.S. and EU on a positive economic agenda for growth, including transatlantic regulatory convergence, and a reduction and elimination of barriers based in third markets.

I might add I think in financial services, and particularly in the securities industry, we see opportunities in trade, we see opportunities in open markets, we see opportunities for both Americans and our U.S. firms and investors overseas, and we want to open those opportunities and create those markets.

So we look forward to working with you, Madam Chairwoman, the subcommittee, the Congress, and the Administration to create the best possible foundation for global economic capital markets, economic growth, and new opportunities for us all. Thank you very much.

Chairwoman PRYCE. Thank you very much.

[The prepared statement of Mr. Lackritz can be found on page 24 of the appendix.]

Chairwoman PRYCE. Since I am the only one who will miss votes if we continue through this, I think we are going to proceed with testimony, and then perhaps adjourn. So we will go in order of folks who got here first.

Mr. Nutter.

**STATEMENT OF FRANK NUTTER, PRESIDENT, REINSURANCE ASSOCIATION OF AMERICA**

Mr. NUTTER. Thank you, Madam Chairwoman.

We appreciate the opportunity to appear before the committee. The Reinsurance Association, as you mentioned, does represent domestic licensed U.S. reinsurance companies.

Reinsurance is effectively the transfer of risk of insurance companies to other insurance companies; the insurance of insurance companies, if you will.

Regarding the role of the European Union in the global reinsurance market, let me put this in perspective. Reinsurance is largely a non-U.S.-based market. Five of the top 40 reinsurers in the world are U.S. companies, two in the top 10. Ten of the top 40 reinsurers of the world are European based, 7 of the top 10. And Bermuda, which has really risen as a large and a significant reinsurance market, 12 of the top 40 are based there.

U.S. reinsurers write approximately \$35 billion a year in reinsurance, but U.S. insurance companies purchased in 2004 \$74 billion of reinsurance largely from non-U.S. sources.

Let me emphasize the valued role that the non-U.S.-based market represents. If you look at the premiums ceded by U.S. insurance

companies for U.S. risk, 47 percent of that is ceded to companies that do business here without an establishment. If you add the U.S. subsidiaries of foreign reinsurance companies, the market share is 80 percent going to the non-U.S. market.

In the European Union, U.S. reinsurance companies largely do business through local establishments, but in the U.S., the State regulatory system offers options to both U.S. and non-U.S. companies: First, they may be licensed in the State where their client is domiciled. Second, they may be accredited by that State. Third, they may be licensed in another U.S. State and do business through a system of recognition of the other State. And the fourth option is a company may choose not to have any license in the United States at all, but do business through a trust fund or by posting security or collateral for their obligations.

Some in the U.S. have suggested that this fourth option is perhaps an impediment to trade. The market share statistics that I mentioned alone would suggest that is not the case. Again, non-U.S. based companies write 47 percent of the U.S. market, without any establishment here. And those with subsidiaries in the United States have added to that 80 percent of the U.S. market. It is hard to see how the system provides an impediment to trade.

This system of licensing in the United States, or collateral, is really designed to protect consumers. U.S. buyers, the insurance companies themselves, have uniformly endorsed the current system that is in place. They believe it provides them access to non-U.S. markets, a highly competitive market; that it is not a trade barrier, but in fact it is just exactly the opposite; it facilitates international trade. And if there is any cost associated with accessing these non-U.S. markets, it is in the view of the buyer a cost worth bearing.

The National Association of Insurance Commissioners has actively been addressing issues associated with how insurers and reinsurers do business in the United States. They set up a task force in March of 2004 and gave them specific guidance about looking at the regulation of reinsurers in other countries, whether or not U.S. judgments are enforced in other countries, and whether international accounting standards would apply to these companies.

Just last week, in June of this year, two alternatives from that group's discussions were presented to the NAIC for further consideration, and we will know more about that during the fall of this year.

But let me conclude, Madam Chairwoman, with a comment that the non-U.S.—particularly the EU-based reinsurance market—is a valued asset to U.S. insurance and reinsurance companies. It has been a productive relationship and one that we all should encourage and find ways to make sure we facilitate open and free trade.

Thank you.

Chairwoman PRYCE. Thank you very much.

[The prepared statement of Mr. Nutter can be found on page 44 of the appendix.]

Chairwoman PRYCE. And Mr. Litman.

**STATEMENT OF GARY LITMAN, VICE PRESIDENT, EUROPE  
AND EURASIA, U.S. CHAMBER OF COMMERCE**

Mr. LITMAN. Thank you, Madam Chairwoman. The U.S. Chamber of Commerce also greatly appreciates this opportunity to discuss the U.S.-EU economic relationship before the Summit next week.

The future of our relationship is on the minds of many businessmen. In fact, on Monday we will be releasing the results of a joint survey with the European Chambers of Commerce. The survey will show that an overwhelming majority of our members look to the European market with great expectations and a huge desire to do more business with Europe.

American and European companies also share frustration about regulatory restrictions, and that is a major part of our written testimony.

I would like to make just three points relevant to today's hearings:

First, as you made it clear in your opening statement, the market that the U.S. and Europe form together is unique. There is none other that has similar depth and degree of integration. That is why the Transatlantic Business Dialogue, represented by Kathryn Hauser, can exist. We can't have a similar dialogue with anybody else in the world. And that is a vital institution of a bilateral relationship. If you are an entrepreneur in the United States today, you operate in this market that stretches from California to Poland. When you want to introduce a new product or service, you can count on greater access to all the consumers in this enormous market, you can expect competition from any part of this market based on quality, not cheap labor. You can expect to get financing from an American or European source. And you may plan to exit this business by selling to an American or European firm. This is a reality borne out by statistics. We don't have any other economic relationship that offers the same degree of integration. It is based on shared values, business practices, consumer expectations, supply lines, and frequently shared sets of shareholders.

Second, what we would like the Summit to do is to recognize the reality of the transatlantic market and call upon agencies and other regulatory bodies to stop acting as though the impact of their activities stops at their jurisdictional boundaries. The Summit can send a strong signal that we together are intent on keeping this market as a worthwhile place to invest, innovate, and generate high-paying jobs. No secret that the U.S. and EU regulators, and occasionally legislatures, ignore each other until there is a glaring problem. As a result, companies face the cost of compliance, and the governments are constantly teetering on the verge of regulatory divergences spilling over into politics. If that continues, as a businessman I may now be better off developing my new product line outside of this high-cost and potentially fractured market and supply it from a third place.

So what can we do? We in the Chamber think that it is time for the Summit to call for negotiations of an agreement on regulatory cooperation. We think that this agreement should be not about tariffs, it should be about the principles of regulations, it should be

about the cornerstones of how we proceed about our regulatory process.

We can, for example, begin by accepting each other's impact assessments and cost/benefit analyses of proposed regulations. This will require a negotiated agreement on methodology, on the definition of sound science for regulatory purposes, and on some form of dispute resolution panel. If such an agreement is negotiated, then Congress would be able to oversee how the agencies follow the mandate to avoid regulatory collisions. We suggest that the Members of Congress should begin asking regulators why they fail to accommodate shared transatlantic economic interests in going about their business.

And the third and final point I would like to make is that we should begin to take Europe seriously as a negotiating partner. What I mean by that is that we can no longer say that because there is no single phone line in Europe, or because there is some hiccup in constitutional reform, Europe is not a worthwhile negotiating partner on regulatory cooperation. Europe has come a long way from the rubble of the Second World War to providing prosperity comparable to ours. EU institutions that we complain about a lot, and legitimately, have managed over the last 10 years to negotiate regulatory convergence over 25 very disparate and very entrenched regulatory regimes within EU. They managed to sustain waves of enlargement and they managed to introduce a single currency. It is a good partner. We can negotiate with them. We shouldn't waste any more time.

And as OCDE's study from last week shows, every year we are losing 1 to 3 percent of GDP per capita in transatlantic regulatory—in the cost of transatlantic regulatory discrepancies in product regulations alone. We should move ahead and the Summit should be the starting point.

Thank you.

Chairwoman PRYCE. Thank you, Mr. Litman.

[The prepared statement of Mr. Litman can be found on page 37 of the appendix.]

Chairwoman PRYCE. And Ms. Hauser, if you have caught your breath, you may proceed. Thank you.

**STATEMENT OF KATHRYN HAUSER, U.S. EXECUTIVE DIRECTOR, TRANSATLANTIC BUSINESS DIALOGUE**

Ms. HAUSER. Thank you very much, Madam Chairwoman. I appreciate the opportunity to appear before you.

This weekend the chief executives of the Transatlantic Business Dialogue, who are CEO's of American and European companies, will meet here in Washington. The key element of the agenda is to meet with senior-level officials from the U.S. and the EU who will be participating in the Summit for the "dialogue" which is at the heart of what our organization is all about. And the key issue on their minds is the same one that is on your mind: What comes next in the U.S.-EU relationship?

In preparation for the meeting this coming weekend, the CEO's issued a report in April that outlines our recommendations to the leaders before the Summit. The recommendations cover a range of issues, but primary among them is the need for a comprehensive

political framework and new approaches to regulatory cooperation to deepen the very broad and deep transatlantic trade and investment relationship we have, while also promoting innovation, competitiveness, and job creation. So let me just focus on two of these key points.

The first is that we really need to harness the power of the U.S.–EU annual summits. At some times in our history, we have had meetings twice a year, we are now at a point where we have one Summit each year. And economics only made its way onto the agenda a year ago. Given the depth and breadth of our economic and investment relationship, it is imperative that the leaders place economic issues at the top of the agenda rather than as an afterthought.

We also strongly encourage the Summit leaders to build on what they did last year in Ireland and make it mark the beginning, not the end, of a process to increase political engagement across the board for the Summit. We believe only with the leaders' involvement, can we spur the economic and regulatory reforms in both markets and leverage the job creation and economic growth potential that still remain to be seen in our marketplace. And nothing less, we believe, will provide the impetus to do this than having a stronger political engagement from the leaders.

Now, as for improving regulatory cooperation, we place this issue at the very heart of the recommendations of the 30 CEO's who participate in the TABD. And we want to see more rapid and realistic progress than has been evident in recent years.

Despite all of the effort on both sides of the Atlantic for many, many years, transatlantic regulatory cooperation is still underdeveloped and falls far short of the impetus needed to substantially expand trade investment and innovation. There have been initial steps taken with the 1998 guidelines and with the 2004 road map, but the problem is, there is no political ownership of these agreements. And as you know from your experience in Washington, without ownership there is no political drive pressing for results. So without clear lines of accountability, there is no mechanism for providing credit where there have been successes, criticism where there is failure, or political imperatives for action.

Now, we certainly applaud the efforts of regulators in a few specific sectors, and financial services is really to be commended here because of the work you have done to initiate bilateral discussion of specific regulatory issues.

Overall, however, the initiatives are often fragmented and lack transparency. There do not seem to be any reporting requirements that would allow stakeholders and others to follow these individual processes and submit informed opinions. And as Gary had mentioned, too often regulators develop and implement rules, regulations, and requirements on business in relative isolation.

Since the regulators in the U.S. and the EU are subject to entirely separate legal mandates and legislative oversight, particularly when you add in the regulators of the 25 member States, it is very difficult for both business and the administrations themselves to ensure that their concerns are heard.

We certainly, as businesses, respect that sovereign prerogatives and legislative mandates must be taken into account, but we are

concerned that if the regulatory process continues on an independent course on both sides of the Atlantic, without regard to the impact on the transatlantic market, divergent approaches are going to emerge which will only be to the detriment of global business.

Now, recent regulatory actions in the U.S. with Sarbanes-Oxley or in the EU with the REACH Directive have highlighted the need for regulators on both sides to take a look at the indirect or direct impact of their legislation on the other's market. But we are also concerned that the current informal dialogues among regulators are taking place independently of one another, and that there is no mechanism for sharing information among them. Financial services is doing its thing over here, the pharmaceutical industry is doing its thing over here, and so on. There is no way for anyone to share information horizontally. We think it is very important now that we try and bring this issue forward so we can learn from one another's experiences.

And that is why the TABD has proposed creation of what we call a Transatlantic Regulatory Cooperation Forum. We want to bring together American and European regulators, administrators, and supervisors from sectors representing significant transatlantic trade and investment.

Chairwoman PRYCE. Could you sum up, because your time is expired and I am going to miss another vote if you don't.

Ms. HAUSER. Certainly. So the Regulatory Cooperation Forum would help us get a better handle on what is going on where businesses don't have a ready avenue to find out what is going on in the individual sectors. We think it would make a major contribution towards building the transatlantic marketplace.

Chairwoman PRYCE. Thank you very much. And I am sorry to have to have hurried any of you.

[The prepared statement of Ms. Hauser can be found on page 14 of the appendix.]

Chairwoman PRYCE. We are going to hold the record open for 30 days and to save everybody a couple of hours here, adjourn the meeting. And I have questions for all of you. I will submit mine in writing and give the other members an opportunity to do that. They will all be made part of the record.

I very much appreciate your going along with this quick version of our hearing, but I think it is the wisest way to proceed.

And, with that, we are adjourned.

[Whereupon, at 2:30 p.m., the subcommittee was adjourned.]



# **A P P E N D I X**

June 16, 2005

**Opening Statement  
Of U.S. Representative Judy Biggert  
Vice Chairman  
Subcommittee on Domestic and International Monetary Policy, Trade, &  
Technology  
June 16, 2005  
Hearing on  
"The U.S.-E.U. Economic Relationship: What Comes Next?"**

Thank you, Madame Chairman. This afternoon, the subcommittee continues to look into the nature of the economic relationship between the United States and Europe generally, and the European Union in particular. The scale of economic integration across the Atlantic is impressive, generating economic growth and jobs for millions of people. Our challenge as policymakers is to ensure that government does not get in the way of productive economic activity.

This is easier said than done, particularly in the financial services sector, where so much regulation governs the manner in which intermediation occurs. We meet days before the annual U.S.-E.U. summit and a few weeks after the dramatic voter pullback regarding greater political integration *within* Europe. At the same time, popular opinion in Europe seems to be extremely hostile to basic components of a modern and efficient market economy, particularly the protection of minority shareholder rights, the free movement of capital across borders, and the freedom to provide services across borders. I might add that the last two freedoms are cornerstones of the Treaty of Rome, which created the foundation for the European Union in the very first place.

I wonder whether it makes sense from a public policy perspective for us to seek greater transatlantic *political* integration now, before Europe is in a position to deliver results. If Europe cannot deliver a barrier-free internal market for capital and services how can it deliver a far more ambitious barrier-free transatlantic market?

Our witnesses today unanimously support increased economic integration across the Atlantic. I agree with this, as do many of my colleagues. Our witnesses also unanimously support lower barriers to doing business on a transatlantic basis. Some suggest various ways in which regulators and legislators should work together across the Atlantic to achieve these goals.

As a strong supporter of free trade, I of course support finding ways to eliminate costly and duplicative requirements that are a drag on growth, especially now, when the European economies are hardly growing at all. But I wonder whether all the proposals we will discuss today will achieve their goal. I wonder whether well-intentioned efforts to increase regulatory and parliamentary dialogue will backfire and create more costly bureaucracy and more regulations.

As I mentioned in a hearing on this topic last year, we must be careful that in our zeal to find new and better ways for our regulators to work together internationally, we do not lose sight of our own very important domestic policy goals. We must be sensitive

to the views of the financial markets and ensure that the EU package of reforms does not stifle growth and innovation through imposition of significant compliance costs. I remind our witnesses that the Financial Markets Dialogue has been extremely effective -- in part because it is informal and relatively unstructured.

I join Chairman Oxley in calling for regulatory convergence based first and foremost on converging market structures. I would like to add that I look forward to hearing from the witnesses on how they expect convergence may occur. It would be troubling if convergence were structured to mean that the US should seek to increase regulatory burdens on our economic actors solely for the purpose of achieving a political solution.

With that, let me thank the witnesses and yield back.



**“The US-EU Economic Relationship: What Comes Next?”**

**Written Statement by  
Kathryn Hauser, US Executive Director  
Transatlantic Business Dialogue  
to the  
Subcommittee on Domestic and International Monetary Policy, Trade and  
Technology  
Committee on Financial Services  
US House of Representatives**

**June 16, 2005**

Good Afternoon. My name is Kathryn Hauser and I am the US Executive Director of the Transatlantic Business Dialogue. Thank you very much for the opportunity to appear before you today to share the views of the Transatlantic Business Dialogue on the question, “The US-EU Economic Relationship: What Comes Next?” This hearing is indeed timely, given the June 16-17 European Council meeting of EU heads of state or government in Brussels and the June 20 US-EU Summit meeting in Washington.

**About the TABD**

The TransAtlantic Business Dialogue is a group of chief executives from American and European companies operating in the United States, Europe and globally. Originally convened by the U.S. Department of Commerce and the European Commission in Seville in 1995 and relaunched in a new format in 2003, the TABD is a unique and effective mechanism for enhanced cooperation between the transatlantic business community and the governments of the US and EU.

TABD’s primary goal is to help establish a barrier free transatlantic market with the freest possible exchange of goods, services and capital. The TABD advocates global trade liberalization as a means to greater prosperity for all countries, which in turn will help stimulate innovation, investment, economic growth and job creation.

The TABD meets twice a year, during the World Economic Forum's annual meeting in Davos, Switzerland, and during the annual US-EU Summit. This weekend, more than twenty chief executives of leading American and European corporations participating in the TABD will meet with senior US and EU officials for the "dialogue" that is at the heart of what our organization is all about. Our CEOs will assess progress made since the 2004 Summit in Ireland, review the 2005 TABD recommendations presented to US and EU officials at the end of April, and consider action plans looking beyond this Summit and into next year.

**Question 1: What issues does The Transatlantic Business Dialogue believe should be top priorities for the summit between the United States and the European Union this year?**

We look forward to the US-EU Summit with optimism. The recommendations put forward by the TABD in April represent our response to the call from the 2004 US-EU Summit in Ireland for a "forward-looking strategy" for achieving transatlantic economic integration. This year's TABD recommendations cover the need for a comprehensive political framework and new approaches to regulatory cooperation to deepen transatlantic trade and investment while promoting innovation, competitiveness and job creation. In addition, we are looking for important steps towards more integrated capital markets and a better balance between maximizing trade while enhancing security, including additional flexibility in the granting of visas, particularly for frequent business travelers to the US from the EU. Similarly, a stepped-up commitment to joint actions in the areas of anti-counterfeiting and anti-piracy will, we believe, deliver more results than the separate initiatives currently being pursued by both governments. Finally, we offer our prescription for completing the Doha Round by the end of 2006.

For purposes of this hearing, I want to confine my remarks to two key TABD priorities for the US-EU Summit: 1) maximizing the US-EU Summit process to drive the transatlantic barrier-free market, and 2) improving regulatory cooperation as a path to innovation and growth, including steps to liberalize transatlantic capital markets.

**1. Maximizing the US-EU Summit process to drive the transatlantic barrier-free market.** At last year's US-EU Summit in Ireland, government leaders publicly recognized the crucial nature of the transatlantic economic partnership and issued a call to stakeholders to find ways to eliminate trade, regulatory and investment impediments to further economic integration. This high-level acknowledgement of the need to remove costly and unnecessary barriers – and the undermining effect they have on jobs, growth and innovation – was a welcome development. The TABD, and many others, have responded positively and constructively to the leaders' calls for practical ideas on how to create a more seamless economic partnership.

However, if the US and the EU are serious about meeting their own objectives, then the steps taken last year in Ireland must come to mark the beginning and not the end of high level political engagement in the pursuit of an integrated transatlantic marketplace. In particular, political leaders must now use the annual US-EU Summit itself as the key

driver for progress towards transatlantic economic integration. Nothing less, we believe, will provide the impetus needed to move this agenda forward.

Given the very broad and deep economic relationship between the United States and Europe, the effectiveness of the annual EU/US Summit process could be greatly increased if the leaders use these occasions as an opportunity to push for greater transatlantic co-operation and joint actions to expand trade, investment and innovation. The first step should be to define more clearly a strategic approach to transatlantic economic integration. We believe American and European political leaders need to take greater ownership of the process. Annual Summits should regard enhancing transatlantic economic integration as one of their primary tasks. The Summit Leaders should set priorities and multi-annual work programs, and actively monitor progress in order to provide political impetus for action whenever needed.

Consistent political drive and attention by the Leaders at the annual Summits can make it possible to clear away the non-tariff barriers and duplicative or divergent regulatory requirements that handicap transatlantic exchanges of goods, services and capital. These stand in the way of dynamic American and European companies wanting to expand their activities within the transatlantic market and dampen their capacity to innovate and create new, value-adding jobs. We propose to harness the political strength inherent in the annual US-EU Summits to move our economies ever closer to the barrier-free transatlantic market we proposed in 2004.

**2. Improving Regulatory Cooperation as a Path to Innovation and Growth.** TABD places regulatory co-operation at the very heart of its agenda, because the removal of regulatory obstacles is essential to achieving a barrier-free transatlantic market. Improved transatlantic regulatory co-operation, resulting in concrete actions to avoid duplicative and divergent policies, will make a decisive difference to overall trade and investment flows. We want to see more rapid and substantial progress than has been evident in recent years.

Despite years of effort by government officials, regulators and administrators on both sides of the Atlantic, transatlantic regulatory co-operation is still under-developed and falls far short of the impetus needed to substantially expand trade, investment and innovation. Initial steps have been taken with the adoption of the 1998 Guidelines for Regulatory Co-operation and the 2004 Roadmap for Regulatory Co-operation and Transparency, but there is no clear political “ownership” of the Guidelines or the Roadmap. This means there is no political drive pressing for results. Without clear lines of accountability, there is no mechanism for providing credit for success or criticism for failure or political imperatives for action.

From our business perspective, significant barriers still standing are in the areas of financial services and domestic standards and regulations. We applaud efforts of regulators in a few specific sectors (such as financial services, competition policy and pharmaceuticals) to initiate bilateral discussion of specific regulatory issues. Overall however, initiatives are often fragmented and lack transparency. There do not seem to be

any reporting requirements that would allow stakeholders and others to follow the process and submit informed opinions.

In spite of the many on-going regulatory dialogues, too often regulators develop and implement rules, regulations and requirements on business in relative isolation. Since regulators are subject to entirely separate legal mandates and legislative oversight, it is difficult for both business and administrations to ensure that their concerns are heard. We respect that sovereign prerogatives and legislative mandates must be taken into account, but we are concerned that, if regulations continue to be developed on both sides of the Atlantic without regard to the impact on the transatlantic market, divergent approaches will emerge which will negatively affect the ability of business to expand trade, investment and innovation. Recent regulatory actions (such as Sarbanes-Oxley in the US and the chemicals regulation in the EU) have highlighted the need for regulators and legislators to consider the external implications of their actions. It is vital to have a clear structure and process across the transatlantic regulatory landscape, not just in a few sectors.

We are also concerned that the current informal dialogues among regulators are taking place independently of one another and that there is no mechanism for sharing information among them. In addition, transatlantic regulatory co-operation has been hindered by its narrow focus on regulator-to-regulator dialogues and the exclusion of other stakeholders. One group with a key interest in regulatory matters, for example, are legislators on both sides of the Atlantic. They are not engaged in the various dialogues with regulators and much more needs to be done to raise their awareness of the economic importance of transatlantic trade and investment and the benefits of enhanced regulatory co-operation.

TABD believes that, without a clearly defined strategic approach to transatlantic regulatory co-operation, we will not achieve tangible results from the many initiatives underway. Therefore we propose the following:

**A. Create a Transatlantic Regulatory Cooperation Forum.** Our principal recommendation is to create a Transatlantic Regulatory Co-operation Forum to bring together American and European regulators, administrators and supervisors from sectors representing significant transatlantic trade and investment. We want to create an opportunity for regulators, administrators, and supervisors to discuss regulatory matters from a horizontal perspective and learn from one another about how they are dealing with common issues (e.g., treatment of confidential information, stakeholder outreach, transparency, etc.).

The guiding principle of the Forum should be “better regulation”. We believe a Transatlantic Regulatory Cooperation Forum will help regulators do their job more effectively; help the administrations ensure that the transatlantic regulatory environment contributes to increased trade, investment and innovation; help legislators provide meaningful oversight and enact balanced legislation; and help business expand, create jobs, and generate economic growth.

The forum should not be just another venue for dialogue. The Summit leaders should designate political-level officials from the Administration and the Commission to be responsible for managing and leading this initiative and reporting at the 2006 US-EU Summit on work undertaken and results achieved. We seek engagement at the highest levels across the regulatory agencies.

We believe business has an important role to play in facilitating and serving as a resource to the Forum. TABD is both ready and willing to work in close collaboration with the Summit Leaders and political officials responsible for the Forum.

The selection of regulators and administrators to participate in the Forum should be drawn from those where there is significant transatlantic engagement. As a start, we recommend inclusion of regulators from financial services, customs/homeland security, pharmaceuticals and environmental/chemical sectors.

The work program for the Transatlantic Regulatory Cooperation Forum should focus on steps to raise mutual trust and confidence among regulators, measures to avoid the creation of new barriers, and overall improved regulatory co-operation. TABD recommends work in the following areas:

1. Raising mutual trust and confidence among regulators
  - Provide political guidance and leadership, share information on collaborative activities and best practices across regulatory agencies.
  - Discuss confidentiality agreements currently in place across different sectors, such as the US-EU guidelines on product safety, FDA-EMEA agreements, and other agreements between regulators, to determine if there are lessons to be learned, common elements to be implemented by other sectors, and pitfalls to avoid. Identify other elements of regulatory co-operation to be built-out among regulators across sectors.
  - Share information on upcoming regulatory initiatives to provide “early warning” of regulatory changes likely to substantially affect transatlantic relations.
2. Avoiding the creation of new barriers
  - Create a template for common impact assessments, including cost-benefit analysis, to evaluate the potential effects of proposed regulations on the transatlantic market.
  - Discuss science-based approaches to rule making, such as risk assessment and risk management, with a view towards highlighting “ex-ante” divergences between US and EU regulators across business sectors.
3. Improving the level of engagement on regulatory co-operation
  - Report on the state of transatlantic regulatory co-operation to the annual US-EU Summits.



- Set specific objectives and priorities after wide consultation with stakeholders.
- Co-ordinate and drive sector-specific and horizontal dialogues.
- Initiate and co-ordinate a staff exchange program to provide work experience opportunities for experts on the other side of the Atlantic.
- Define appropriate role for legislators in the Forum.

**B. TABD Priorities for Regulatory Cooperation.** Regulatory issues feature significantly in our recommendations covering trade and security and financial markets. In widening and deepening transatlantic regulatory cooperation, we urge adoption of our priorities in these areas:

1. Trade and Security

- Establishment of a “preferred business traveler program” that would exempt European members of the business community from US visa requirements.
- Extension for one more year of the 26 October 2005 deadline for European Union members states to adopt biometric passports.
- Joint US-EU work to reach agreement on international standards for global commerce in areas such as sensor-networks to enhance cyber and physical security of the supply chain.

2. Financial Markets:

- Procedures for advance notification and discussion on regulatory proposals to avoid adverse implications on both sides of the Atlantic.
- Work towards convergence of regulation and supervisory practices so as to promote an increasingly homogeneous regulatory and supervisory framework.
- Identify an appropriate mechanism allowing insurance/reinsurance providers to offer their services and products on a transatlantic basis.

**C. Encourage Legislators to Support Transatlantic Regulatory Cooperation.** The last ten years of transatlantic co-operation have demonstrated both the technical and political difficulty of dismantling barriers to trade and investment. TABD believes that by encouraging Parliamentarians and Congressmen to see the real employment and wealth-creating benefits of greater transatlantic economic integration, they will become part of a process that will unlock regulatory reform. Enhanced regulatory co-operation will create a climate more favorable to job creation and investment. Governments should encourage:

- Congressional committees with oversight responsibilities for regulatory agencies to ensure that those agencies attach a priority to the successful removal of unnecessary barriers to transatlantic trade and investment.

- The Transatlantic Legislators Dialogue to regularly review horizontal and sectoral regulatory co-operation and to exercise pressure on the dialogues to produce results.
- Regular contacts between committee chairmen in the Congress and the European Parliament and other individuals with responsibilities touching on regulatory matters, particularly in key areas such as financial markets. Among other things, they should reinforce the annual U.S.-EU Summit's message that successful regulatory co-operation is an important political priority.

**Question 2: Assessment of the progress being made by regulators in the Financial Markets Dialogue.**

We understand that progress is being made by the regulators in the Financial Markets Dialogue and we commend the participants for engaging with one another on substantive issues through this mechanism. It has been the experience of TABD member companies, however, that information about the progress being made is difficult to obtain, particularly for those companies that are not in the financial services sector. While I am quite certain, that government officials in the US would answer any specific questions that might be posed by companies, the simple fact that the meetings of the Financial Markets Dialogue are not generally made known outside of the closed circle of participants makes it difficult for companies to know who to ask and what to ask about what is going on. Moreover, unless a company is from the financial services sector and has a clear understanding of the technical issues under discussion, it is difficult to get a sense of the pace of the discussions underway and an indication of the impact those discussions may have on a company's future business planning. The transatlantic business community would clearly benefit from greater transparency and information about the dialogues underway.

As an organization of American and European CEOs operating globally, the TABD is keenly aware that current fragmentation in capital markets adversely affects debt and equity markets, impedes financial service industry competition, contributes to a lack of credit rating transparency, and inhibits the ability of companies to access capital across markets. We believe dramatic improvements can be realized by eliminating duplicative or conflicting regulations and reforming transatlantic capital markets. In particular, the TABD supports work in three priority areas: the comparability of listing rules, measures to raise confidence in financial reporting, and increased cooperation in corporate governance.

Additionally, we believe that increased dialogue between key financial service legislators in Congress and the European Parliament should be an integral part of the ongoing US-EU dialogue on financial services, and contribute to a dialogue and exchange of information that would further develop the transatlantic capital market. The European Parliament's Economic and Monetary Affairs Committee, as well as this committee and the Senate Banking Committee, may be the groups from which to draw participation.

**Question 3: What is your assessment of the recently announced convergence roadmap for accounting standards between the Securities and Exchange Commission and the European Commission?**

We support the efforts of the SEC and the European Commission to bring to closure a long-standing issue facing the transatlantic business community. As we stated in our recommendations in 2004, TABD continues to support moves to:

- Promote adoption and implementation by 2007 of the vast majority of accounting standards upon which there is widespread agreement and where convergence can be easily achieved between the IASB and FASB<sup>1</sup> and identify as soon as possible the small minority of international accounting areas where differences between the U.S. and international standards cannot be narrowed in the short-term. The TABD urges that a work program be established with a clear timetable for resolving the outstanding issues and is concerned to ensure that the process does not become politicized.
- Address the need for appropriate arrangements to eliminate any requirements for reconciliation on foreign registrants who file on the basis of IFRS in the U.S., or U.S. GAAP in the EU, during the transition period in which we move to convergence.

**Question 4: How will recent developments in the European Union, specifically the rejection of the constitutional treaty by French and Dutch voters, affect transatlantic integration trends, if at all?**

The clear rejection of the EU's draft constitutional treaty by voters in France and the Netherlands is a setback for the cause of European *political integration* among the 25 Member States. Whether it will also become a setback for *transatlantic economic integration* remains to be seen. What is clear, however, is that a strong Europe working in partnership with the US is the *ONLY* way to create jobs, expand innovation, improve the competitiveness of European and America firms, and secure global economic stability and development. We have no choice but to forge ahead and to continue to build the barrier-free transatlantic market.

This is why the TABD is emphasizing the critical importance of restoring economic cooperation to a central role on the Summit agenda. We need more engagement –at all levels and among the full panoply of government agencies -- to prompt more cooperative actions by officials jointly across the Atlantic. We endorse the idea of holding a mid-year economic-focused meeting at the sub-cabinet level to ensure that high-level dialogue

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<sup>1</sup> These should not only concentrate on convergence arrangements but also address the backlog of existing standards and develop new standards, building on the current IASB/FASB collective approach to business combinations, revenue recognition and comprehensive income.

continues, progress is made on the specific issues contained in the expected Summit Declaration, and new issues can be anticipated.

In addition, we believe it is imperative that the two governments renew their commitment to building closer regulatory cooperation as the principal means of maximizing the flow of goods, services and capital across the Atlantic. While our markets are the largest in the world, accounting for a third of global trade and 20% of foreign investment, we must ensure that they continue to grow and prosper by eliminating duplicative costs and streamlining regulatory burdens.

While I do not intend to minimize the seriousness of the political issues facing the European Union, I believe it is also important to remind ourselves just how strong and vibrant our economic relationship really is. Total transatlantic commercial exchanges are significant: \$2.5 trillion in 2003, generating \$77.1 billion in earnings for US affiliates in Europe and \$46.4 billion for European affiliates in the US. In 2003, total US investment in Europe was \$800 billion and total European investment in the US was more than \$1 trillion. Significant job creation was generated by this investment: 4.2 million in the US in European affiliates and 3.2 million in the EU employed by US affiliates.

As impressive as these figures are, we cannot take for granted that they will continue – given the pressures of the global market – unless we redouble our joint efforts to achieve a barrier-free transatlantic market. Joint work must take place on multiple levels in multiple spheres if we are to achieve the kind of tangible regulatory reforms – both quantitative and qualitative -- that will enable companies to create the new jobs, innovate new technologies, bring new products and services to market, and expand economic opportunities for all citizens. We need to see collaboration take place not only among the administrations in Europe and the US, but also among regulatory and supervisory authorities, and Congress and the European Parliament.

We are optimistic that the Summit Leaders will issue a strong statement in support of further transatlantic economic integration at their Summit meeting on June 20<sup>th</sup>, picking up many of the recommendations set forth by the CEOs of the TABD. We look forward to engaging more directly with this Subcommittee in the future as we continue our work towards a barrier-free transatlantic market.

Thank you.

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Kathryn Hauser is the U.S. Executive Director of the Trans-Atlantic Business Dialogue, an organization of chief executive officers from American and European businesses working together with government leaders to improve the transatlantic relationship.

Prior to assuming her current position in February 2005, Ms. Hauser was Associate Vice President for International Regulatory Affairs for the Pharmaceutical Research and Manufacturers of America. She was responsible for developing and executing strategies to achieve regulatory reform and address burdensome regulations in foreign markets.

From 1998 to 2003, Ms. Hauser was Senior Vice President of the Information Technology Industry Council, which represents the major information technology companies. She represented the association's global technology and trade agenda before Congress, the Executive Branch and international organizations. She also served as the association's Secretary and Treasurer and had overall responsibility for the \$5 million annual budget, membership, and daily operations of the 27 member staff.

From 1994 to 1998, Ms. Hauser was co-founder and partner in two successive financial advisory and investment firms, East Wind Partners and Millennium Capital Development. She provided strategic, communications and business planning advice for startup ventures focused on infrastructure projects in emerging markets.

Ms. Hauser was the Executive Director of International Affairs for Bell Atlantic Corporation (now known as Verizon) between 1987 and 1993. She launched the corporation's international government affairs function, opened the company's office in Brussels, served as Vice Chair of the Telecommunications Task Force of the U.S. Chamber of Commerce, and played a principal role on numerous bids and acquisitions.

Ms. Hauser served in the Office of the U.S. Trade Representation between 1979 and 1987. Her final post was Deputy Assistant USTR for Multilateral Negotiations where she was responsible for US preparations for the Uruguay Round of multilateral trade negotiations. She also was assigned to the Senate Finance Committee Trade Subcommittee to help prepare the implementing legislation, the Trade Act of 1988, and manage outreach to the business community.

Ms. Hauser holds a Bachelor of Arts degree from the University of Southern California and a Master's degree from Columbia University.

**TESTIMONY OF  
MARC E. LACKRITZ, PRESIDENT  
SECURITIES INDUSTRY ASSOCIATION**

**THE US-EU ECONOMIC RELATIONSHIP:  
WHAT COMES NEXT?**

**BEFORE THE  
HOUSE FINANCIAL SERVICES COMMITTEE  
SUBCOMMITTEE ON DOMESTIC AND INTERNATIONAL  
MONETARY POLICY, TRADE AND TECHNOLOGY  
JUNE 16, 2005**

Madam Chair and members of the Subcommittee:

I am Marc E. Lackritz, president of the Securities Industry Association<sup>1</sup>.

I appreciate the opportunity to testify today about the transatlantic financial services relationship and its signal importance for the economies of the United States and the member states of the European Union, and for financial services firms on both sides of the Atlantic. We appreciate your continued interest in the U.S.-EU Financial Markets Dialogue, and the European Union's Financial Services Action Plan (the "Action Plan" or the "FSAP").

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<sup>1</sup> The Securities Industry Association brings together the shared interests of nearly 600 securities firms to accomplish common goals. SIA's primary mission is to build and maintain public trust and confidence in the securities markets. At its core: Commitment to Clarity, a commitment to openness and understanding as the guiding principles for all interactions between investors and the firms that serve them. SIA members (including investment banks, broker dealers, and mutual fund companies) are active in all U.S. and foreign markets and in all phases of corporate and public finance. According to the Bureau of Labor Statistics, the U.S. securities industry employs nearly 800,000 individuals, and its personnel manage the accounts of nearly 93 million investors directly and indirectly through corporate, thrift, and pension plans. In 2004, the industry generated an estimated \$227.5 billion in domestic revenue and \$305 billion in global revenues. (More information about SIA is available at: [www.sia.com](http://www.sia.com).)

These hearings take place at a time when the political news from Europe is dominated by the rejection by some of Europe's voters of an ambitious new EU charter.

But in the same four week period as France and the Netherlands had their "no" votes and the UK put off its referendum, several major cross-border or transatlantic mergers were announced: Unicredito Italiano – HVB; Banco Bilbao of Spain's €6.44 billion bid for Italy's Banca Nazionale del Lavoro; ABN Amro's launch of a €6.3 billion bid for Italy's Banca Antonveneta; and, just this week, BNP Paribas' agreement to buy Nebraska's Commercial Federal Corporation for \$1.36 billion. And, data available for the January-March 2005 period show that European investors traded nearly \$4.4 trillion in U.S. securities, and U.S. investors traded nearly \$1 trillion of European securities. As the numbers clearly demonstrate, while the political news has been mixed, European and transatlantic financial integration and consolidation proceeds unabated.

My testimony today will focus on the critical importance of continued U.S. – European financial engagement and, especially, the importance of continued involvement by the United States with Europe in the development of European – and increasingly transatlantic and indeed global – capital markets. In particular, I will make the following key points:

- Focus by the EU on harmonization and implementation is critical to the success of the FSAP;
- Progress in accounting convergence is a key building block of the development of the transatlantic capital market;
- Continuing robust SEC-CESR dialogue is essential for transatlantic capital markets convergence; and
- The reduction of global trade barriers in financial services should be a key area of U.S.-EU cooperation, and joint advocacy.

**The Scope of U.S.-EU Capital Markets Relationship**

The transatlantic relationship provides the global U.S. securities industry and its corporate, institutional and retail clients with tremendous opportunities. Indeed, SIA's largest members engaging in global business receive about 20 percent of their net revenues (excluding interest) from European markets. Their revenues from Europe are close to double what is earned from their Asian operations.

Our U.S. and European economies and capital markets are closely linked through trade and cross-border investment flows. The U.S. and EU together account for about 70 percent of global equity capitalization – about \$16 trillion in the U.S. and \$10 trillion in the EU. The two-way flow of trade, portfolio, and direct investment between our two regions exceeds \$1 trillion annually. Of the top 500 companies in the world, 358 are based in the transatlantic market, including 19 of the top 20. The recent historic enlargement of the EU by 10 new Member States has only magnified the region's importance to the United States – the EU now has 450 million potential investors and a GDP exceeding \$12 trillion. In comparison, the U.S. population totals 280 million, with a GDP almost reaching \$12.2 trillion.

The popular press may be filled with stories about the vast market potential of China and India, but the U.S.-EU capital markets remain the most deep, liquid, transparent, and sophisticated in the world. And while there will inevitably be disagreements in any close relationship, the political and economic ties between our two regions will only grow deeper and stronger over time.

It is for this reason that SIA has repeatedly urged the establishment of a U.S. Treasury Attaché in Brussels. Treasury's presence in Brussels would advance the important financial sector dialogue in which the U.S. and the EU are engaged. A Treasury Attaché in Brussels would facilitate greater dialogue with the Commission and other EU decision-makers as FSAP implementation proceeds, would facilitate coordination with the U.S. regulatory community as appropriate, and would make possible the close monitoring and study – in partnership with industry – of developments that have major – and increasing – significance to the U.S. markets and financial community. In addition, the



presence of a Treasury Attaché in Brussels would facilitate positive U.S.-EU cooperation on a pro-growth agenda, such as in connection with the Doha Development Round – which I will discuss in more detail later in my testimony. We respectfully urge support from the Subcommittee to place a Treasury Attaché in Brussels.

**Focus On Implementation/Enforcement of FSAP**

The legislative phase of the Financial Services Action Plan is now officially concluded. We congratulate the European Commission, the Commission staff, the European Parliament, the Council and CESR on completion of this ambitious and historic legislative agenda. But, the FSAP's legislative deadline was only a first step – FSAP measures must now be transposed, correctly and effectively, into national law and regulation, which is possibly an even more challenging task.

The European Commission's *Green Paper on Financial Services Policy (2005 – 2010)*<sup>2</sup> ("Green Paper") proposes that major goals for this period should be "the consolidation of existing legislation, with few new initiatives" and "ensuring the effective transposition of European rules into national regulation and more rigorous enforcement by supervisory authorities." We couldn't agree more. We believe the Commission should, for the time being, strongly resist proposing new financial services legislation.

We urge the European institutions to focus their energies instead on ensuring that the FSAP is implemented and enforced as intended, and that the national laws and regulations adopted to implement it will result in an integrated single capital market. As Treasury Secretary Snow recently stated, "Implementation will be key. If 25 different supervisors implement directives 25 different ways, the promise of a more integrated EU financial market will not be realized and it will be hard for the US and the EU to achieve convergence."<sup>3</sup>

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<sup>2</sup> [http://europa.eu.int/comm/internal\\_market/finances/docs/actionplan/index/green\\_en.pdf](http://europa.eu.int/comm/internal_market/finances/docs/actionplan/index/green_en.pdf)

<sup>3</sup> U.S. Treasury Secretary John Snow at the Center for European Policy Studies Brussels, Belgium June 14, 2005, US-EU Cooperation for Growth, <http://www.treas.gov/press/releases/js2494.htm>

The Kok Report<sup>4</sup> (released in November 2004) made clear its frustration with the lack of Member State commitment to implementing EU legislative measures, and noted that such behavior “must no longer be tolerated.” One of the report’s recommendations was to create an implementation scoreboard, ranking the 25 Member States on their progress toward implementation.<sup>5</sup>

We suggest that the Commission consider developing a dispute resolution mechanism that would allow implementation complaints to be brought to the Commission’s attention without fear of retribution at home country level. We would also recommend that the Commission create a position specifically dedicated to monitoring, and providing reports on areas of discrepancy in FSAP implementation and to collecting information on the efficacy of FSAP measures in practice.

For example, consider three critical measures with huge market implications: the Markets in Financial Instruments Directive, the Transparency Obligations Directive and IAS 39. Their proper implementation and enforcement and their application in practice will, in SIA’s view, be critical to FSAP success and to global financial markets integration more broadly. As the Green Paper states, “Improved economic performance and welfare creation will largely depend on the capability of European institutions, supervisory authorities and market participants to ensure that the existing rules are consistently applied and enforced...”<sup>6</sup>

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<sup>4</sup> Facing the challenge: The Lisbon strategy for growth and employment, Report from the High Level Group, [http://europa.eu.int/growthandjobs/pdf/kok\\_report\\_en.pdf](http://europa.eu.int/growthandjobs/pdf/kok_report_en.pdf)

<sup>5</sup> The Report made two key recommendations to faster transposition: 1) at the beginning of 2005, the Commission should produce a full list of internal market legislation still awaiting transposition in each of the 25 Member States, to be annexed to the Spring European Council conclusions. This list should be sorted by Member State, beginning with the worst offender; and 2) in the light of this scoreboard, the 2005 Spring European Council should set a final deadline by which transposition should be completed.

In addition, where measures at the Member State level are implemented incorrectly, the Commission should ensure the problems are promptly resolved. As a result, we strongly back the Green Paper’s commitment to “continuous ex-post evaluation whereby the Commission will monitor carefully the applications of...rules in practice – and their impact on the financial sector.”

<sup>6</sup> Green Paper on Financial Services Policy (2005 - 2010), COM (2005) 177, p.8.

In addition, SIA is also monitoring closely the transposition of Basel II requirements into EU law. The Capital Requirements Directive will impose Basel requirements on all investment firms operating in Europe, including US firms. The SIA recently delivered a letter to financial regulators urging that they reconsider aspects of Basel II relating to trading book issues and to unsettled trades and indicating that significant revisions to the proposed capital requirements for both credit risk in the trading book and unsettled trades are warranted. SIA believes it is essential that the provisions in the CRD applicable to the trading book are set appropriately, so that regulatory capital is, in all cases, proportional to risk.

Noting that "A well-functioning risk capital market is a strategically important element of promoting new and innovative firms, entrepreneurship, raising productivity and the sustainable rate of economic growth in Europe," the Commission indicates in the Green Paper that it will not "hesitate to propose to modify or even repeal measures that are not delivering the intended benefits."

SIA is working, and stands ready to continue to work, with the European institutions and the Member States to make FSAP a success for Europe and for the global marketplace. Madam Chair, we very much welcome the engagement of the Subcommittee to ensure that implementation of FSAP results in an integrated EU capital market which will result in greater economic growth and job creation.

#### **Accounting Convergence – The Roadmap**

This past April, the U.S. and EU announced a new Roadmap describing "...the steps needed to eliminate the U.S. GAAP reconciliation requirement for foreign private issuers that use International Financial Reporting Standards..." as early as possible, between now and 2007.<sup>7</sup>

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<sup>7</sup> <http://www.sec.gov/news/press/2005-62.htm>

We commend the SEC for working with the European Commission to develop this "Roadmap" and hail it as an extremely positive step toward transatlantic financial markets convergence. We are pleased that the standard setters are in discussions with one another and that the process has become professionalized.

We hope that against the backdrop of the Roadmap outlining a process for convergence by 2007 it will be possible for the EU to make a full "equivalence" determination with respect to "US GAAP" for purposes of the Transparency and Prospectus Directives in very short order (and well before 2007). The Roadmap outlines a process of convergence, and it is critically important for market continuity that liquidity in the European markets not be needlessly curtailed, and that issuers not be needlessly penalized, while that process is under way.

We have reason for concern. On April 27th, the Committee of European Securities Regulators ("CESR") published Draft Technical Advice for the European Commission on the extent to which Canadian, Japanese, and U.S. GAAP should be considered "equivalent" to International Financial Reporting Standards ("IFRS"). While the draft advice held that U.S. GAAP was generally equivalent to IFRS, it simultaneously published a list of additional 'remedies' that a U.S. issuer utilizing U.S. GAAP would have to make. The press release that accompanied publication of the draft advice described the remedies as relating to "significant differences in Accounting Standards," that could be "handled through disclosure and not reconciliation."<sup>8</sup>

While we understand that it was not the intention of CESR to require a full reconciliation between U.S. GAAP and IFRS, as a practical matter, given the number and extent of the proposed remedies, a U.S. firm would have no choice but to keep two sets of books to ensure that it has identified all possible significant discrepancies between the two sets of accounting standards. Apart from surely failing any reasonable cost-benefit test, such a result seems the very antithesis of accounting convergence. Indeed, we understand that a number of major accounting firms have already informed

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<sup>8</sup> *Press Release*, The Committee of European Securities Regulators, 27 April 2005; Ref. CESR/05-306.

clients that the level of review and attestation that would be required by auditors in such a scenario would be the equivalent of a full audit. Given the cost of such an undertaking, we expect that some U.S. companies would find it more cost-effective to de-list and thus deny themselves access to EU capital markets, rather than to comply with the proposed remedies.

**Transatlantic Capital Market Convergence**

The growing linkages between the U.S. and European markets create opportunities for regulations to spill over from one jurisdiction to another. We have already observed this phenomenon in the cases of the U.S. Sarbanes-Oxley Act and in the EU's Financial Conglomerates Directive...and I do not think we have seen the last of it. As a result, SIA has been among the strongest and most vocal supporters of the U.S.-EU Financial Markets Dialogue. I would like to take this opportunity to thank the Subcommittee for its continued support of the Dialogue, and also to commend the Treasury Department for its continued efforts with its EU counterparts to create an integrated, deep, transparent and liquid European capital market.

SIA has confidence that this pioneering effort – a regular, flexible dialogue at all levels among relevant U.S. and EU officials and regulators, with continuing input from the private sector – has the capacity to strengthen and possibly over time even transform the transatlantic economic relationship, while helping to overcome the inevitable disagreements that occur in a close relationship.

For that reason we applaud the new discussions between the U.S. SEC and CESR to open discussions with the goal of further regulatory convergence in the transatlantic capital markets.

The SEC-CESR dialogue is critically important. Our firms face regulatory frameworks in the U.S. and the EU that are largely geographically based and do not adequately reflect the global nature of financial services. Consequently, SIA urges regulators to view this Dialogue as more than just a way to solve problems once they

have arisen, but rather as a forum to engage in a broad, visionary, forward-looking agenda, in concert with industry.

Enhanced cooperation and understanding can be the basis to minimize regulatory differences and help make the transatlantic capital markets more efficient and accessible to investors and issuers. An uncoordinated approach leads to new regulatory hurdles and barriers that raise costs for all market participants. By contrast, an integrated, transatlantic capital market is clearly in the best interests of all participants – investors, issuers, and intermediaries – as well as the global economy.

We believe this so strongly that SIA is working with a number of trade associations on a project that will compare and contrast U.S. and EU rules in the equity and related derivatives markets, evaluate the substantive differences in such rules, and propose ways such differences might be accommodated, mitigated, or perhaps removed altogether. In effect, we will be putting forward the “business case” as to how identified regulatory inefficiencies, complexity, duplication, conflict or unnecessary cost could be addressed in order to establish a more coherent, effective and cost-efficient regulatory framework for that business. We hope that this project<sup>9</sup> will serve as a first step in the regulatory convergence dialogue and, at the least, contribute to the already promising dialogue between U.S. and EU financial services officials and regulators.

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<sup>9</sup> The project has progressed to a point where a number of different topics for discussion have been isolated. These include:

- I) Formulate and agree a common set of client/customer/counterparty definitions for:
  - a) solicitation purposes; and
  - b) account documentation.
  
- II) Creating an agenda for public and private sector parties to work towards identifying areas of regulation in the context of equities and equity derivatives that would benefit from a more homogeneous approach to regulatory standards and requirements including, for example;
  - a) best execution standards;
  - b) treatment of client assets;
  - c) allocation procedures;
  - d) research distribution rules

We look forward to working with the SEC and CESR in a broad, forward-looking development agenda that will benefit our transatlantic and global clients.

**U.S.-EU Partnership: Working Together to Reduce  
Barriers to Global Financial Markets**

Finally, we urge U.S. and EU negotiators to provide joint leadership to achieve commercially meaningful WTO financial services commitments from developing countries. We hope the Subcommittee will provide leadership in ensuring that the Doha Round leads to commitments that reduce and eliminate the barriers that prevent our securities firms from even offering their products and services. Deeper and more liquid securities markets strengthen banks and other financial institutions by offering additional, liquid investment vehicles where capital can be productively employed. Moreover, it is increasingly recognized and established empirically that well-functioning capital markets increase overall economic growth, especially for developing countries.

The 1997 WTO financial services agreement was an important step forward in achieving trade liberalization and market access in financial services. Importantly, this agreement established a good foundation upon which WTO Members can pursue further liberalization to reduce and eliminate remaining barriers. We urge U.S. and EU negotiators to provide joint leadership to achieve commercially meaningful WTO financial services commitments from developing countries in the WTO Doha Round negotiations. The successful conclusion of the 1997 WTO Financial Services Agreement was in large part a result of the co-operative efforts of the U.S. and EU negotiators.

We recognize that the U.S. and EU, along with a number of other countries, recently submitted a "Communication" to the WTO, noting that "...further liberalization of financial services will help promote economic growth and improved standards of living for all WTO Members and are an essential element of the Doha Development round. We urge all WTO Members to provide meaningful financial services offers with a view to

achieving substantial liberalization in this key sector."<sup>10</sup> We would urge the U.S. and EU to show continued leadership on this critically important issue.

U.S. and EU negotiators should seek a forward-looking WTO agreement that commits countries to enhanced levels of regulatory transparency in addition to addressing specific trade barriers. Regulatory practice in the financial services industry has developed unevenly and often at odds with the market access and national treatment commitments of WTO members. We believe that regulatory transparency commitments have a unique power to break down barriers to global trade in financial services and urge negotiators to focus particular attention on them.

I would also like to take this opportunity to discuss the securities industry model schedule of market opening commitments. This schedule, initiated by internationally active securities companies from around the world working together through trade associations and industry groups in the U.S., Europe and Asia, provides a template to pursue new market-opening commitments in the current round of negotiations among member governments of the World Trade Organization. We seek to reduce trade barriers in the financial services sector by building on the financial services framework established by the General Agreement on Trade in Services.

To that end, we have developed a Model Schedule of GATS commitments to further open markets for trading, underwriting, asset management, and financial advisory services. This proposal is intended to supplement, and indeed complement, the work we are doing with you and other representatives of the U.S. government in many venues to achieve efficient international capital markets. Importantly, this schedule reflects the business models of our companies.

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<sup>10</sup> WTO Communication from Australia, Bahrain, Canada, The European Communities, Japan, Norway, Oman, Panama, Singapore, Switzerland, The Separate Customs Territory Of Taiwan, Penghu, Kinmen and Matsu, and the United States, S/FIN/W/43, June 8, 2005.



Despite progress made in financial markets liberalization over the past years, numerous barriers continue to restrict the ability of internationally active securities companies to deliver services in ways that maximize economic efficiency and enable the optimal delivery of services to clients, while contributing to stable growth. These barriers affect the supply of securities-related services delivered through a commercial presence and also on a cross-border basis. We seek to address these barriers through the Model Schedule<sup>11</sup>, which embodies five core principles:

- *Commercial Presence* – securities companies should be permitted to establish or expand a commercial presence:
  - through the acquisition of an existing company or the establishment of a new company, and
  - in their choice of corporate form (e.g., wholly-owned subsidiary, branch, or joint venture with local partner);
- *Cross-Border* – securities companies should be permitted to provide services cross-border to sophisticated investors without the obligation to establish a local presence and without local authorization, which
  - reflects the practice of a number of key financial regulators, and
  - does not exempt securities companies from conduct-of-business rules, such as measures to protect against and punish fraud and market manipulation;
- *National Treatment* – foreign securities companies and their services, whether operating or being supplied through a commercial presence or cross-border, should be afforded national treatment;
- *Transparency* – financial regulations should be developed, adopted, and enforced in a transparent, non-discriminatory manner; and

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<sup>11</sup> It is important to note that the draft Model Schedule contains provisions that are more liberal than current U.S. practice. We are currently engaged in discussion with the SEC on these key elements.

- *GATS Exceptions* – the Model Schedule is subject to existing regulatory safeguards, including the prudential carve-out and the exception for measures restricting payments and transfers.

Finally, we would like to see the U.S.-EU dialogue take on a greater sense of urgency. We believe that the U.S.-EU Summit – to be held June 20, in Washington, DC – is an ideal forum and time to call on both sides to view with more urgency steps toward regulatory convergence of the transatlantic capital markets. This is a unique opportunity to re-energize the alliance and point it toward tangible goals. It should not be missed.

We very much appreciate the Committee's serious interest in the deepening relationship between the U.S. capital markets and those of our largest trading partner – the European Union. We look forward to working with the U.S. and EU on a positive economic agenda for growth, including transatlantic regulatory convergence, and the reduction and elimination of barriers faced in third markets. SIA looks forward to working with your Subcommittee, the Congress, and the Administration as we work to help create the best possible foundation for the global capital markets, economic growth and new opportunities for us all.

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**STATEMENT**

**On**

**THE U.S.-EU ECONOMIC RELATIONSHIP**

**before the**

**U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON**

**FINANCIAL SERVICES**

**SUBCOMMITTEE ON DOMESTIC AND INTERNATIONAL MONETARY POLICY,**

**TRADE AND TECHNOLOGY**

**for the**

**U.S. CHAMBER OF COMMERCE**

**By**

**Gary Litman, Vice President, Europe & Eurasia**

June 14, 2005

The U.S. Chamber is the world's largest business federation, representing more than three million businesses and professional organizations of every size, sector and region in the country, including American Chambers of Commerce in almost every country of the European Union (EU) and its wider neighborhood. Since tens of thousands of our member companies depend for their business on a strong economic relationship with the European Union, the U.S. Chamber has actively participated in the stakeholders' consultations on

EU-US commerce held by USTR<sup>1</sup> and the European Commission over the last several months. We have also supported our members in their participation in the Transatlantic Business Dialogue (TABD), which has become an indispensable institution in our bilateral relationship.

The Chamber welcomes this opportunity to present its views on U.S. economic relations with the European Union (EU) in the run-up to the U.S.-EU Summit next week. In anticipation of the Summit, the Chamber conducted its second survey of small and medium-size enterprises on their attitudes towards transatlantic business. A parallel survey in Europe was undertaken by the Association of European Chambers of Commerce and Industry, Eurochambres. The results of the surveys will be officially released June 20. I can already tell you that 72% of responding small enterprises want to do more business with Europe; our other finding this year is that the more experience with the EU market a company has, the more optimistic it is about its prospects for growing business. Unsurprisingly, small and medium-size companies point to regulatory difficulties across the Atlantic as a top constraint on their growth. Sincere efforts to reduce regulatory frictions will prompt our members to expand further in the EU market.

### **Distinctive features of the U.S.-EU marketplace**

The U.S. economic relationship with the European Union is unlike any other we have in size, complexity and degree of integration. With a share of more

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<sup>1</sup> See U.S. Chamber of Commerce comments to the Office of the United States Trade Representative (USTR) on Enhancing the Transatlantic Economic Relationship, at <http://www.uschamber.com/international/regional/europe/>

than 50% of world trade (and 60% in trade in services), worth \$500 billion a year, the U.S. and the EU have formed a highly integrated marketplace.

The recent wave of mergers and acquisitions has further blurred the line between American and European firms. Easy access to each other's capital has helped our members achieve higher economies of scale necessary to invest in further innovation and global competition. American and European companies can enter into alliances and mergers with such ease because we share similar expectations of corporate behavior, consumer patterns, and regulatory outcomes. The efforts under way to converge the accounting standards in U.S. and EU will go a long way towards gaining further efficiencies for our business with EU.

Over 20% of all U.S. exports of goods go to the EU-25, as compare to around 4% of exports that go to China. Importantly, EU is the buyer of our most value-added goods since European consumers have the purchasing power and demands very similar to American consumers, and their companies compete with ours through quality and innovation, not cheap labor. Over the last decade, U.S. subsidiaries of foreign companies spent over \$30 billion on research in the United States and EU-owned firms spent most of this money.<sup>2</sup> Two-thirds of all U.S. corporate research and development conducted outside the United States is conducted in Europe. This depth of transatlantic business generates demand for every kind of financial service.

The result is a multi-trillion dollar market stretching from California to the western borders of Russia where consumers have largely similar expectations

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<sup>2</sup> HEADLINE FACT SHEET, The Organization for International Investment, January 2003.

about the quality and price of goods, notions of fair play and effective governance. The high efficiency of the transatlantic market makes it very competitive and allows many of our members to keep high-paying jobs in this region and introduce their most innovative products and services in the transatlantic market. Any new friction in the market would be a disincentive to increased investment in either the U.S. or Europe.

At the same time, a friction-free market is yet to be attained. A number of recent studies, including OECD Working Paper No. 432 of May 26, 2005<sup>3</sup>, show that regulatory divergence between the U.S. and EU costs the United States 1-3% of GDP per capita year after year. This is a lot of money that could be spent on improving the competitiveness of our economy and quality of life of our citizens.

We look to the upcoming U.S.-EU Summit to send a signal that political leaders put a high priority on preserving this amazing marketplace. We need the leaders to tell U.S. and EU regulators to stay in an on-going dialogue and keep lowering impediments to growth and job creation in the transatlantic market. We need our leaders to be ambitious and set longer-term goals for bilateral economic relations to cushion it against occasional collisions. If we allow the U.S. – EU relationship to stagnate or fall prey to the thousands cuts of fleeting misunderstandings, we would see a rapid divergence in regulations, destroy the appeal of the market to larger multinational companies and constrain the growth of SMEs.

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<sup>3</sup> ON THE BENEFITS OF LIBERALIZING PRODUCT MARKETS AND REDUCING BARRIERS TO INTERNATIONAL TRADE AND INVESTMENT: THE CASE OF THE UNITED STATES AND THE EUROPEAN UNION, OECD Economics Department Working Paper No. 432, ECO/WKP(2005)19.

## **The Changing U.S.-EU Regulatory Coordination**

The major problems for U.S. business are not found at the borders. Since American companies see themselves very much as part of the European economy and vice versa, it is the EU and member state domestic regulations and public policies which concern us most of all.

As the European Union restructures itself and strives to respond to globalization and other challenges, it acquires new regulatory agencies and practices. We face similar challenges. If our regulators respond to the same set of challenges in a dramatically different way, companies will be caught in between, and will incur the unnecessary costs of two-track compliance. There are numerous examples one can cite to support the need for comprehensive regulatory cooperation: differences over accounting practices, shareholder notification requirements, introduction of genetically modified organisms, anti-trust procedures, personal data transmission, passenger lists, protection for computer-implemented inventions, chemicals safety policy, food labeling, data retention, accessibility of information technology to the disabled, automotive crash test modeling, etc. Each of these current or imminent divergences may spill over into politically-charged disputes and threaten the integrity of the single transatlantic market.

Chamber members believe that the existing U.S.-EU agreements and guidelines do not explicitly, or comprehensively, consider the transatlantic market as an integrated market, nor do they presently envisage the creation of a transatlantic economic community. The U.S. and the EU should overhaul their bilateral framework to acknowledge the critical importance of their commercial

relations, and to include measures that would (a) safeguard the foundations of the transatlantic market, and (b) foster the long-term growth of the transatlantic economy.

These goals could be best achieved by negotiating a comprehensive U.S.-EU bilateral agreement on investment and regulatory cooperation. We are not suggesting that U.S.-and EU ignore the World Trade Organization. On the contrary, WTO has largely removed tariff negotiations from our bilateral agenda and allows us to move ahead recognizing the reality of a highly integrated transatlantic market. What we advocate is that the two sides identify the basic principles and building blocks of the *process* of modern regulatory activity and negotiate a foundational comity pact. Once such a pact is in place, U.S. and EU can pursue more specific regulatory cooperation.

The envisaged U.S.-EU agreement should stipulate that when regulating their respective markets, U.S. and EU regulators would:

- (i) Assess *transatlantic* economic impact, for example by accepting each other's impact assessments and cost/benefit analysis of proposed regulations. This will require an agreement on methodology and some form of dispute resolution panel;
- (ii) Study best practices in both the U.S. and the EU;
- (iii) Apply the existing (but not mandatory) U.S.-EU Guidelines on Regulatory Cooperation and Transparency; and
- (iv) Refer in regulatory practice to an agreed upon set of U.S., EU and international standards.



## Conclusion

We should not assume that the setback suffered by the European constitutional reform means the demise of “Project Europe”. The European Single Market remains as strong and attractive today as it was six months ago. The EU will continue, albeit at a slower pace, to devise new regulatory agencies and centers of regulatory power. Among the many new agencies in Europe currently at different stages of development are the European Food Safety Agency, Cyber Security Agency, European Environment Agency, Office for Harmonization in the Internal Market, Joint Research Centre and an inter-governmental defense procurement agency. It is in our enlightened self-interest to make sure that U.S. and EU regulators of the transatlantic marketplace coordinate their activities in a strategic, transparent, and efficient way. It would be particularly valuable to build strong linkages during the process of establishing new regulatory bodies in Europe. The existing U.S.-EU guidelines on Regulatory Cooperation of April 2002 seem to have produced limited results and are in need of being updated. The U.S. Congress will need to demonstrate leadership foresight and begin to legislate, and to exercise strong supervision of regulatory agencies, in such a way as to take into account the exciting realities of the transatlantic market.

The upcoming Summit can be a turning point in bilateral economic dialogue and proclaim the goal of dramatically reducing the regulatory cost of doing business in the transatlantic market.

That concludes my testimony. I will be happy to try to answer any questions you may have.

**RAA**  
REINSURANCE  
ASSOCIATION  
OF AMERICA

STATEMENT

TESTIMONY

OF

**FRANKLIN W. NUTTER, PRESIDENT  
REINSURANCE ASSOCIATION OF  
AMERICA**

**THE US-EU ECONOMIC RELATIONSHIP:  
WHAT COMES NEXT?**

BEFORE

**THE COMMITTEE ON FINANCIAL SERVICES  
SUBCOMMITTEE ON DOMESTIC AND  
INTERNATIONAL MONETARY POLICY,  
TRADE AND TECHNOLOGY**

**JUNE 16, 2005**

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GOOD MORNING CHAIRWOMAN PRYCE, RANKING MEMBER MALONEY  
AND MEMBERS OF THE SUBCOMMITTEE.

My name is Frank Nutter and I am President of the Reinsurance Association of America (RAA). Established in 1968, the RAA is a national trade association based in Washington, D.C. We are the leading organization representing the U.S. property and casualty reinsurance industry. Our membership consists of U.S. domestic reinsurers and reinsurance brokers.

Reinsurance is commonly referred to as the insurance of insurance companies. Reinsurance plays a critical role in maintaining the financial health of the insurance marketplace and ensuring the availability of property and casualty insurance for U.S. citizens. Most U.S. insurers concentrate their business on U.S. risks and utilize reinsurance to manage their risk profile and protect against extreme events and volatility in results. In this way insurers diversify their portfolio of risk by “laying off” risks to reinsurers.

Because the U.S. has the most dynamic economy and the greatest risk exposure, it is the leading market for buyers of reinsurance. To that end, reinsurers have financially responded to virtually every major U.S. catastrophe over the past century. The most recent examples would include the insured losses from September 11, 2001, with nearly \$33 billion of insured loss, two thirds of which was reinsured, and the four Florida hurricanes of 2004 with \$27 billion of insured loss, nearly one third of which was reinsured.

Reinsurance is by far the most international of all insurance activities. As the Committee has called this hearing to discuss “The U.S.- E.U. Economic Relationship- What Comes Next?” I am here to share with you the RAA’s perspective on the importance of the E.U. reinsurance marketplace to the stability of the U.S. insurance market as well as to discuss some key issues U.S. and E.U. reinsurers face today and in the future.

**Global Nature of the Reinsurance Market in the U.S.**

To better understand the E.U.’s role in the U.S., it is important to discuss the global nature of the reinsurance marketplace. Despite a large U.S. presence, the global reinsurance market is largely populated by non-U.S. entities. Standard and Poor’s reports that of the top 40 reinsurer groups (property casualty and life) only five are U.S.-based companies. Two of the top 10 are U.S.-based. Ten of the top 40, including seven of the top 10, are based in Europe (the E.U. and Switzerland). Bermuda has in recent years become a major corporate home for reinsurers where twelve of the top 40 reinsurance groups are based.

To put the U.S. market in perspective, the global annual net revenue for all reinsurers is approximately \$164 billion. In 2004, U.S. domiciled reinsurers wrote approximately 21% or \$35 billion of that market; yet U.S. insurers purchase nearly \$74 billion of reinsurance from reinsurers not affiliated with the buyer. Currently reinsurance recoverables due U.S. insurers from all reinsurers approximates \$240 billion. As a percentage of U.S. insurers’ capital and surplus, this represents 66%.

The RAA's annual study of the financial statements of U.S. property and casualty insurers (2004 data) reflects premiums paid to E.U.-based reinsurers (not including Switzerland) of \$12.7 billion, two thirds of which is paid to reinsurers not affiliated with the buyer. Bermuda-based reinsurers received \$24.3 billion from U.S. insurers, two thirds of which came from buyers affiliated with those non-U.S. insurers. On a global basis, the market for U.S.-based buyers of reinsurance from non-U.S. reinsurers is 46% to Bermuda, 24% to the E.U. and 30% to markets in other locations.

Of the countries where reinsurers are based other than Bermuda, the UK, Germany, Ireland, France and Switzerland are prominent. For the UK, 75% of the U.S.-ceded reinsurance goes to Lloyds of London. Reinsurance broker Guy Carpenter reports that the presence of Lloyds in the U.S. for both insurance and reinsurance revenue has doubled in the last five years.

I cite these detailed financial statistics to highlight that the valued role of the global reinsurance market to support U.S. risks cannot be overstated. Together with U.S. reinsurers (whose property and casualty net premiums written in 2004 is \$30 billion), the non-U.S. reinsurers serve to provide the risk spreading mechanism needed for U.S. insurer companies. With respect to reinsurance written by companies principally in the reinsurance business, non- U.S.-based reinsurers assume U.S. risk for nearly 47% of the U.S. market. This percentage has risen steadily since 1997 when it stood at 38%. If the U.S. subsidiaries of non-U.S.-based reinsurers are added to this total (i.e. the ultimate parent corporation of U.S. companies), the non-U.S. share of the U.S. reinsurance market is 80%.

**U.S. Regulatory System for Non U.S. Reinsurers- Importance of Collateral**

A relevant consideration for the subject matter of today's hearing is the issue of how U.S. and E.U. reinsurers conduct their business on a global basis. As contrasted with the U.S. market where non-U.S. reinsurers may conduct business through an establishment or through cross border transactions, U.S. insurers and reinsurers primarily conduct business in the E.U. through local subsidiaries rather than on a cross border basis. Standard and Poor's comments "it can be difficult for foreign reinsurers (non-E.U. reinsurers) to obtain material market share because of the strength of existing reinsurer/cedent relationships in Europe." Therefore non-E.U. based reinsurers "acquire existing operations and then manage them so as not to disturb existing relationships."

By contrast, the U.S. regulatory system has fostered a dynamic and open U.S. market by providing options for reinsurers, U.S. and non-U.S., to do business. A reinsurer may, of course, be licensed by the states in the same manner as other insurers. Alternatively, an insurance department may accredit a reinsurer if it submits to the state's jurisdiction examination authority and complies with certain other regulatory requirements. A third option is to be domiciled in a U.S. state that maintains similar regulatory laws as the state granting recognition. In further recognition of the inability of U.S. regulators to assess balance sheets and business activities of foreign entities, a fourth option is available: a reinsurer may establish a trust fund in the amount of its U.S. obligations or provide some other form of security such as a letter of credit. All of these options are available to U.S.-based as well as non-U.S.-based reinsurers.

Some E.U.-based interests have suggested that the fourth option, doing business in the U.S. using trust funds or other collateral, is an impediment to trade. As is clear

from the options in the law and the U.S. market share of non-U.S.-based reinsurance interests (80%), this could not be the case. Security in the form of trust funds, funds withheld by the cedent or letters of credit are options. Many non-U.S. reinsurers obtain licenses in the U.S. (directly or through a subsidiary) and submit to U.S. regulation and accounting policy; while others (47% of the U.S. market and increasing) conduct business on a cross border basis by providing collateral.

Licensing of insurers or the provision of collateral has been a basic tenet of U.S. state regulatory solvency policy: protecting U.S. insurers and policyholders. Licensed U.S. companies, foreign or domestic, must submit to conservative statutory accounting, examination, risk based capital analysis, and actuarial certification. As an alternative, companies that choose to be based in non-U.S. jurisdictions for business, regulatory or tax considerations, may, under U.S. laws, conduct reinsurance by providing collateral. Like their regulatory counterparts, U.S. insurers have uniformly endorsed these optional approaches (licensing or collateral) as a means to have access to global markets and yet protect their solvency and their policyholders against the credit risk imposed by the reliance on non-U.S. based reinsurance recoverables.

#### **NAIC Consideration of U.S. Collateral Requirements**

At the insistence of some E.U.-based interests, the National Association of Insurance Commissioners (NAIC) has undertaken an examination of alternatives to the current optional regulatory system. The NAIC Reinsurance Task Force in March 2004 resolved to evaluate any alternatives in relation to:

- The existence and implementation in key countries of comprehensive regulation of reinsurers, including risk based capital;
- whether U.S. judgments in favor of U.S. cedents and receivers are consistently enforced; and
- the adoption and implementation of international insurance accounting standards that are consistent with recognized statutory accounting principles.

At its June 2005 meeting, the NAIC Reinsurance Task Force acknowledged that a series of meetings have taken place in an effort to develop alternatives. The Task Force expects to evaluate these alternatives beginning this Fall. Throughout the process, U.S. insurer interests have, however, consistently argued that:

- the current optional system, particularly the collateral alternative, provides the necessary balance between their ability to obtain needed capacity while maintaining basic consumer protection and appropriate regulation for solvency;
- any reduction in collateral would expose them to dramatically increased credit risk (per the above \$240 billion of reinsurance due U.S. insurers from U.S. and non- U.S.-based insurers--- \$75 billion is secured by collateral or trust funds (plus about \$10 billion in Lloyd's trusts);
- the regulatory system has fostered a competitive international market for buyers of reinsurance and that the cost, if any, associated with collateral is an acceptable cost of doing business for the security associated with it;



- the cost of alternatives to collateral would be borne solely by U.S. buyers even though it would only benefit non-U.S. reinsurers;
- collateral is not viewed as a trade barrier but a facilitator of accessing non- US reinsurance capacity and market access for non US reinsurers.

In March 2003 the U.S. Trade Representative (USTR) acknowledged the interest of a WTO member state in the collateral "issue." It further recognized the prudential nature of the issue pursuant to state regulatory solvency considerations and chose not to include it among issues to be addressed in the current trade talks. The USTR acknowledged that the National Association of Insurance Commissioners in 1993 adopted a model law (now in effect in all states) that allows non-U.S. insurance providers entry in the US without their prior establishment in any state.

#### **E.U. Reinsurance Directive, Considerations for U.S. Market**

The E.U. Parliament has recently adopted a Reinsurance Directive permitting E.U. licensed companies in all Member States to conduct reinsurance across borders without an establishment in the other E.U. country. (The E.U. Council is scheduled to address the directive in October.) We commend the E.U. for making uniform the regulatory basis to do business in all E.U. countries. While the directive defers some fundamental regulatory practices common in the U.S. to the Solvency II initiative, once adopted by Member States, it achieves something not found in the U.S.- uniformity and mutual recognition of regulatory practice among states.

The U.S. insurance industry recognizes that some form of mutual recognition between the U.S. and the E.U. and other foreign states might in time be appropriate.

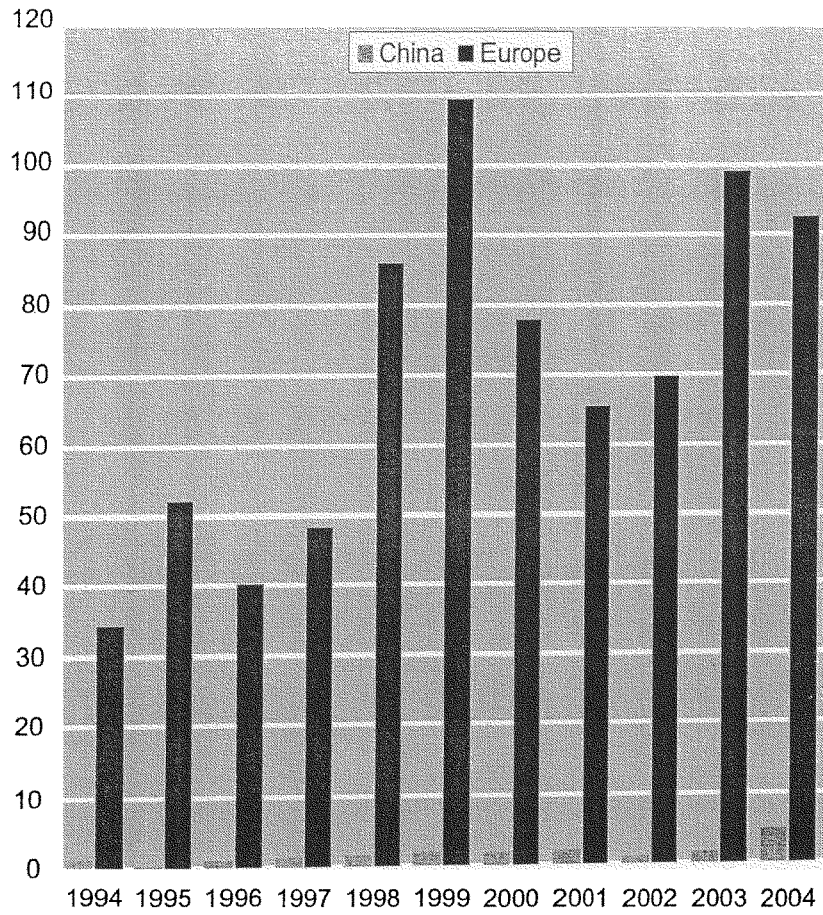
However, U.S. insurance trade groups have stated that the following prerequisites must occur before mutual recognition is appropriate:

- the non-U.S. reinsurer must report its financials on a U.S. GAAP basis with certain statutory adjustments;
- the non- U.S. jurisdiction must meet a high standard of insurance regulation (regulatory equivalence);
- the non- U.S. entity must submit to U.S. jurisdiction;
- U.S. (re)insurers must be subject to no greater regulation in the U.S. than the non- U.S. reinsurer is subject to in its home jurisdiction; and
- U.S. judgments must be subject to recognition and enforcement in the foreign jurisdiction.

#### **Conclusion**

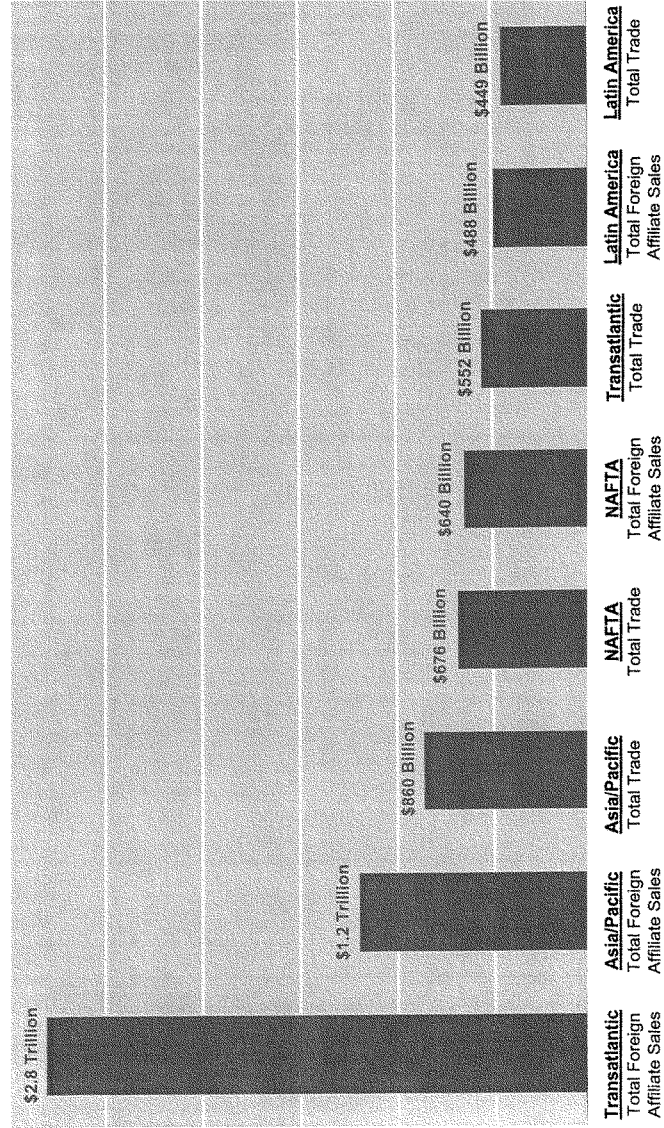
E.U. and other non-U.S. based reinsurers provide great value to the U.S. insurance market as a risk transfer mechanism. Fortunately the U.S. regulatory system provides options to access that market and yet provides U.S. consumers with the security and solvency protection appropriate to their needs. The RAA appreciates the Committee's interest in the relationship between the U.S. and E.U. reinsurance industries and we look forward to working with the Committee in the future on such issues.

### U.S. FDI in China and in Europe: 1994-2004 (U.S. billions)



Source: Bureau of Economic Analysis

## America's Major Commercial Arteries



Foreign Affiliate Sales: Data for 2002; Total Trade: Data in goods & services, 2002  
 Source: U.S. Department of Commerce

Questions for Chairman Deborah Pryce  
Hearing on Thursday, June 16, 2005  
"The US-EU Economic Relationship: What Comes Next?"

Mr. Gary Litman, Vice President, Europe & Eurasia, U.S.  
Chamber of Commerce

1. If the emergent economic nationalism that was shown in the EU constitutional voting in France and the Netherlands takes hold in Europe what impact will this have on trade flows globally?
2. Does the EU constitutional no vote limit the EU's ability to negotiate on behalf of its members its commercial relations to the rest of the world?
3. The Chamber of Commerce reports in its comments to the US Trade Representative that, "The EU must strive to better define and organize the body of regulatory agencies that it is currently creating". If the federation continues to disintegrate, will this organization be impossible? Will the transatlantic market be damaged?

Ms. Kathryn Hauser, U.S. Executive Director, The Transatlantic  
Business Dialogue

1. Earlier this year in a visit to Europe, President Bush called for a strong, united Europe and supported its efforts to establish a constitution. After the failure of France and the Netherlands to ratify the European Constitution, should the US look to further integration efforts with Europe or look to new markets?
2. What should be done to liberalize trade in transatlantic financial services after the "No" vote?

Mr. Marc Lackritz, President, Securities Industry Association

1. In April the SEC and the European Commission announced a road map for convergence of accounting standards by 2008. How can Congress assist in the establishment of international accounting standards?

Mr. Frank Nutter, President, Reinsurance Association of America

1. We understand many reinsurers in the EU argue that the US regulatory Collateral requirements are a trade issue and they penalize European reinsurers. You touched on this briefly in your statement but can you further explain the U.S. position on whether this is a trade issue.
2. As your testimony suggested, the E.U. has recently passed a Reinsurance Directive that will make it much easier for E.U. reinsurers to do business cross border. Is there anything the U.S. system should borrow from this major initiative?
3. Who from the United States currently represents the collective interests of the insurance sector at international conferences, meetings, or summits, for regulatory matters and economic advocacy purposes? In your estimation are they effective?
4. The United States continues to maintain the exclusive state regulatory system; whereas it appears other countries and regional alliances are embracing the process of creating more consolidated systems through national structures. How does the U.S. insurance structure affect the ability of the US Trade Representative to effectively negotiate insurance matters during Free Trade Agreement discussions due to the structure of the U.S. regulatory system? Is it true the Department of Commerce is in the lead in these negotiations?
5. If one of our key objectives is to encourage capital flows into the U.S. [to create new insurance capacity, increase competition, and perhaps even create jobs (i.e. "insource")], does it make sense that foreign

companies wishing to do business in America must still seek state-by-state license approval before they can operate, whereas the EU has developed a unified approach to insurance regulation called the “passport” system?

**U.S. Chamber of Commerce***International Division*

July 18, 2005

To: Committee on Financial Services

ATTN: Rodney Pearson

RE: Responses to Questions sent by Thomas Duncan, General Counsel,  
Committee on Financial Services, U.S. House of Representatives

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**Follow-up of the June 16, 2005 Testimony, Subcommittee on Domestic and International Monetary Policy, Trade and Technology "The US-EU Economic Relationship: What Comes Next?"**

Question 1: *"If the emergent economic nationalism that was shown in the EU constitutional voting in France and the Netherlands takes hold in Europe what impact will this have on trade flows globally?"*

The negative results of the French and Dutch referenda over the adoption of the proposed EU Constitutional Treaty were a blow to the federalist sentiment in Europe, but have not significantly affected commercial relations between EU Member States, and between the EU as a whole and the rest of the world, and in particular the United States. The proposed Constitutional Treaty was not intended to have immediate impact on trade and investment. Rather it was intended to streamline the functioning of the EU institutions in the enlarged Union. Some elements of the Treaty would reinforce, or "deepen," the Union structures, and shift some powers to the European Parliament, the Commission and Council, allowing for more administrative and decision-making powers at the EU level (rather than at the Member State level).

At this point, it is clear that the French and Dutch votes have slowed down, but not yet killed, the constitutional reform process. The immediate effect of these votes is a slow down in further enlargement talks, notably with respect to Turkey. However,

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the delay in the accession is of limited commercial significance. The bulk of economic benefits of Turkey's accession would in any case be realized long before the accession itself through the EU-Turkey Customs union and other economic agreements.

The effect of the votes on the political and administrative integration of the EU is less obvious. The EU has a long history of overcoming political setbacks. In some sectors, the EU will move along, maybe on a "a la carte" basis, rather than on a "all-inclusive" menu basis. Hopefully, the EU will now shelf grad abstract designs of European nation building and will instead shift its political will to removing the constraints on economic growth. If that is the case, the results would be very positive for the U.S. economy, and U.S. investors and companies in Europe.

*Question 2: "Does the EU constitutional "no" vote limit the EU's ability to negotiate on behalf of its members its commercial relations to the rest of the world?"*

The French and Dutch votes have not technically killed the Constitutional Treaty. Thus, the treaty may well be adopted at some point in the future, in its current or amended format. Meanwhile, the EU continues to operate under its present treaties. The present legal regime has so far functioned relatively well; it has allowed the EU to negotiate on behalf of its Member States the ten complex enlargements and all its trade relations (including in the civil aviation sector) with the rest of the world. The negative votes have so far delayed attempts to make coordination within EU a little more efficient through a new Treaty but they have not reduced EU's capacity to negotiate trade agreements on behalf of its Member States.

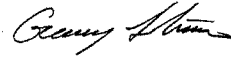
*Question 3: "The Chamber of Commerce reports in its comments to the U.S. Trade Representative that, "The EU must strive to better define and organize the body of regulatory agencies that it is currently creating". If the federation continues to disintegrate, will this organization be impossible? Will the transatlantic market be damaged?"*

There is little chance that the current constitutional stalemate in Europe will lead to the "disintegration" of the EU. In fact, the Chamber believes that the EU, under its current treaties, can still significantly improve its administrative and regulatory framework. The Chamber therefore stands by its comments and continues to strongly encourage the EU to better organize its regulatory processes, make them more open, based on genuine cost-benefit analysis and sound science principles.

The Chamber sees an important risk, and anticipates unnecessary costs, for transatlantic business if the EU sets up new EU-level regulatory agencies that have little regards for: 1) administrative efficiency, 2) transparency, 3) stakeholder participation, and 4) international (transatlantic) trade and investment impact assessment.

The Chamber considers that a new and comprehensive U.S.-EU Trade and Investment Agreement, which would include a strong regulatory cooperation component, would guarantee on both sides of the Atlantic an equivalent administrative framework and regulatory-making process underpinned by sound transatlantic business impact assessment of major new regulations.

Sincerely,



Gary Litman  
Vice President, Europe & Eurasia



Responses to questions submitted by Chairman Pryce in response to the hearing before the Subcommittee on Domestic and International Monetary Policy, Trade and Technology on June 16, 2005, entitled  
 “The US-EU Economic Relationship: What Comes Next?”

By Kathryn Hauser  
 US Executive Director  
 TransAtlantic Business Dialogue

**Question #1**

**Earlier this year in a visit to Europe, President Bush called for a strong, united Europe and supported its efforts to establish a constitution. After the failure of the France and the Netherlands to ratify the European Constitution, should the US look to further integration efforts with Europe or look to new markets?**

The rejection of the EU’s draft constitutional treaty by voters in France and the Netherlands is a setback for the cause of European political integration among the 25 Member States but is expected to have little or no impact on transatlantic trade and investment. Transatlantic trade and investment flows are simply too broad, deep and large to be disrupted by this hiccup in the process of European political integration. Total transatlantic commercial exchanges equaled \$2.5 trillion in 2003, generating \$77.1 billion in earnings for US affiliates in Europe and \$46.4 billion for European affiliates in the US. In 2003, total US investment in Europe was \$800 billion and total European investment in the US was more than \$1 trillion. Significant job creation was generated by this investment: 4.2 million in the US with European affiliates and 3.2 million in the EU employed by US affiliates.

A strong transatlantic market is key to continued American prosperity and transatlantic economic relations remains a top priority of US economic policy. While the United States must always look to new markets for future economic opportunities, further integration between Europe and the United States remains in the long-term interests of both governments. There are still numerous regulations and barriers to trade that exist, and by pushing for even greater transatlantic cooperation and the creation of a barrier-free transatlantic market, Europe can play an even more important role in the future prosperity of the US economy.

**Question #2****What should be done to liberalize trade in transatlantic financial services after the “No” vote?**

We applaud efforts of US and EU regulators in the financial services industry to initiate informal bilateral discussion of specific regulatory issues. These discussions have helped to build mutual trust and confidence among regulators on both sides of the Atlantic. We expect that the improved relationships will play an important role in mitigating divergent regulatory approaches in the future and bringing the transatlantic financial services industry closer together – regardless of the “no” vote. Financial services issues transcend the current political setback.

The TABD proposed to the Summit Leaders that the work of the separate sectoral dialogues underway, including the Financial Services Dialogue, could be complemented by the creation of a mechanism to address the *process* of developing and implementing “better regulation” in the transatlantic marketplace. The Summit Leaders took up this recommendation and, in the June 20 US-EU Summit Declaration, called for the creation of a Regulatory Cooperation Forum “through which senior US, European Commission and, where appropriate, other European Community regulators would be encouraged to exchange views, share experiences, and learn from each other regarding general or crosscutting regulatory cooperation approaches and practices of mutual interest.” We believe this Forum offers an opportunity to develop and strengthen relationships between and among US and EU regulators, facilitate greater awareness of how regulators in different sectors deal with critical regulatory process issues, and build common approaches to transatlantic regulation. The regulators involved in the Financial Services Dialogue have much to share with others on their approach and structure, and we believe it would be to everyone’s benefit to have them participate in the Forum.

Another step to improve trade in financial services would be to strengthen the transatlantic legislators dialogue in the US Congress and the European Parliament. TABD believes an increased dialogue between legislators in the US Congress with oversight responsibility for financial services and their counterparts in the European Parliament would help advance understanding, identify common legislative/regulatory goals, and lead to eventual harmonization of financial services regulation across the Atlantic. Some steps have been taken in this direction, but there is room for more collaboration.

Finally, the TABD also supports an intensification of efforts by US and EU authorities to ensure the successful completion of the Doha Round negotiations by 2006, starting with significant progress at the 2005 ministerial in Hong Kong. TABD believes that the Doha Round cannot succeed without results on services liberalization, and financial services are key areas for global trade liberalization.

*Question: In April the SEC and European Commission announced a road map for convergence of accounting standards by 2008. How can Congress assist in the establishment of international accounting standards?*

Congress can best help by continuing to monitor the progress of the accounting convergence effort, and by being ready to focus attention on the subject should the effort stall or falter.

The International Accounting Standards Board ("IASB") and the Financial Accounting Standards Board ("FASB") are currently working on converging U.S. Generally Accepted Accounting Principles ("GAAP") and International Financial Reporting Standards ("IFRS") standards with the ultimate aim of producing a set of high-quality global accounting standards. Reaching consensus upon a common set of accounting standards would be a tremendous boost to the global capital markets, and SIA strongly supports the goal.

While we are optimistic about the outcome of the IASB/FASB effort, in the interim some possible difficulties have surfaced. As of January 1, 2005, the EU requires issuers listing in the EU to utilize IFRS standards in their reporting. The EU's Council of European Securities Regulators ("CESR") has been asked to provide guidance to the European Commission on the equivalency of U.S. GAAP to IFRS GAAP, which has only recently been finalized and which the industry is still in the process of reviewing. An earlier draft of the guidance would have been so burdensome that as a practical matter issuers using U.S. GAAP would have had to simultaneously prepare their financials under IFRS GAAP as well. While hopeful that upon analysis the final CESR guidance will have resolved that problem, clearly any approach that would result in the need for firms to keep two sets of books pursuant to two sets of accounting standards is clearly not consistent with convergence.

We hope that Congress will continue to play a key role in highlighting the importance of accounting convergence through hearings as appropriate. SIA is very committed to helping strengthen and further advance the integration of the transatlantic capital markets, and look forward to continuing to work with you and your staff on this critically important effort.

#1. The current state system of recognition or "credit" for reinsurance provides options for reinsurers as well as buyers of reinsurance. An insurer may take financial statement credit if the reinsurer is (a) licensed in the same state of domicile as the buyer, (b) authorized to do business in another US state which meets the same financial standards as the buyers state, (c) creates a trust fund for the monies owed the buyer or (d) posts collateral with the buyer (e.g. letter of credit). Each of these options are available to the reinsurer. Many non-U.S. reinsurers choose to get state insurance licenses. They account for about one quarter of the U.S. market. Reinsurers, which do not establish a U.S. licensed entity, but rather post collateral or trust funds, account for nearly half of the U.S. market, a share that has grown from 38% in the last 5 years. Thus non-U.S. reinsurers now provide reinsurance for nearly 75% of U.S. risks reinsured by U.S. insurance companies. The data does not support the argument that the state credit for reinsurance rules are an impediment to trade.

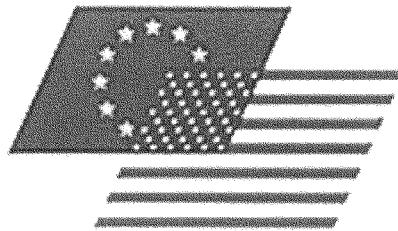
#2. The new E.U. reinsurance directive is a constructive initiative to create a uniformed system of oversight and regulation of reinsurance in the E.U. It would be a constructive development if U.S. state insurance regulation would emulate this concept. A single U.S. regulator, state or federal, would appropriately address the multiplicity and inefficiency of the current state system. A single regulator coupled with the authority for that regulated entity to do business countrywide would be an improvement in the current system.

#3. Insurance interests are represented at international forums (e.g. OECD, Financial Stability Forum, International Association of Insurance Supervisors) by their own retained representatives. The US Department of Commerce, USTR and the National Association of Insurance Commissioners represent the interests of the U.S. and of state insurance departments.

#4. The state based system of insurance regulation complicates the jurisdictional issues over insurance discussions in international dialogues. Our impression is that the insurance commissioners and federal agencies have a constructive relationship and cooperate on matters of policy. The USTR actively seeks input from state insurance regulators on all regulatory matters associated with insurance. The Department of Commerce, USTR and Treasury have each participated in discussions about appropriate policy matters. Each have been open to input from the private sector. It is our assumption that USTR is the lead agency on trade negotiations themselves.

#5. Because of market relationships non-E.U. based insurers commonly obtain a license in a EU country as the basis for doing business in the EU. The Reinsurance Directive will further facilitate transacting business across borders within the E.U. As mentioned above, non-U.S. based companies do have options to do business in the US, including obtaining a license. Thus reinsurance capacity, if not capital, is provided to support US risks underwritten by U.S. insurers. Most newly formed non-U.S. reinsurers have easily established U.S. licensed entities as a basis for conducting business. The multi-state system of licensing is less efficient than a single port of entry (state or federal) but has not deterred companies from establishing operations in the US.

# OBSTACLES TO TRANSATLANTIC TRADE AND INVESTMENT



JUNE 2005

**A survey by:**



U.S. CHAMBER OF COMMERCE



U.S. CHAMBER OF COMMERCE

### US Chamber of Commerce

The US Chamber represents more than 3 million businesses, nearly 3,000 state and local chambers, 830 associations, and over 100 American Chambers of Commerce abroad (AmChams).

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### EUROCHAMBRES

The Association of European Chambers of Commerce and Industry represents 44 national associations of Chambers of Commerce and Industry, a European network of 2000 regional and local Chambers with over 17 million member enterprises in Europe.

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- Presentation of the key barriers reported by US and European companies
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4. Looking ahead: The future of the transatlantic economic relationship

Annex 1. EUROCHAMBRES questionnaire

Annex 2. US Chamber of Commerce questionnaire

### **Introduction**

The survey "Obstacles to Transatlantic Trade and Investment" is a joint initiative of EUROCHAMBRES and the US Chamber of Commerce. This year's survey is the 2<sup>nd</sup> of its kind, following on from the interesting results of 2004. Its objectives are to gauge business interests toward transatlantic trade and investment and to map and draw attention to specific obstacles to transatlantic trade and investment, as perceived by small, medium-sized and big companies on both sides of the Atlantic.

Two questionnaires have been used in the execution of the survey: one addressed to US firms by the US Chamber of Commerce, and one addressed to European companies by EUROCHAMBRES and its member organisations. The two questionnaires are attached as an annex to the report.

On both sides of the Atlantic the questionnaires were divided into three main parts: background information on the companies and their transatlantic business, the main barriers they face in their transatlantic business and finally a set of broader policy oriented questions. This report highlights the key findings from the responses the companies provided.

This survey should not be considered a scientific statistical sampling but nevertheless gives a good indication of the trends and opinions of the US and European business communities.

### Executive Summary

Despite the remarkable volume of transatlantic trade and investment, this survey illustrates that both US and European companies continue to face barriers when they do business across the Atlantic. Indeed, the results show many similarities to those seen in the 2004 survey.

Many of the obstacles US and European traders and investors face are of a similar nature. Unsurprisingly, exchange rate fluctuations are a risk factor on both sides of the Atlantic, albeit one that is relatively difficult to deal with at the policy level in the short-term. At the same time, regulatory barriers continue to pose problems in various areas, both in Europe and in the US. Indeed, as tariffs have been gradually reduced, non-tariff barriers have become the focus point for further trade and investment facilitation. This includes regulatory issues linked to technical standards and certification, labelling and advertising rules, different standards, customs procedures etc.

Some of the trade/investment barriers highlighted by the survey are more typical for companies on one side of the Atlantic than the other. European companies are particularly concerned by state/regional aid, entry requirements (biometric passports/visas) and the fear of legal action being taken against them. Many European respondents, although not the majority, also see the security measures implemented in customs procedures after the September 11 terrorist attacks as excessive. Meanwhile, the US firms express frustration with the overall level of EU regulation.

On a positive note more than half of the respondents on both sides expect their transatlantic trade/investment to increase over the next five years.

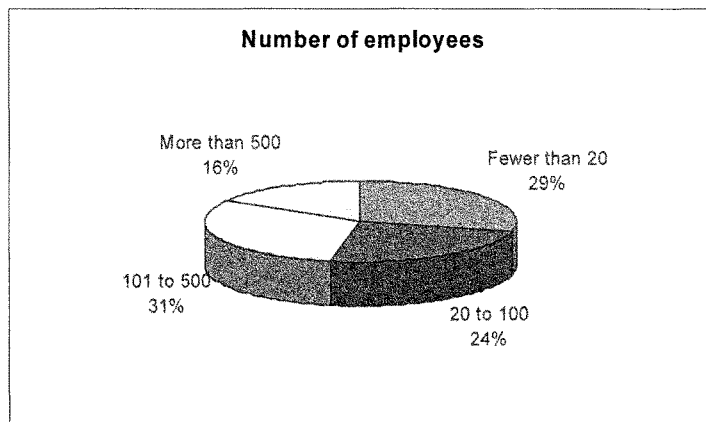
Overall, the companies that participated in the survey are calling for increased efforts to facilitate transatlantic trade and investment. The majority of European companies called for fewer restrictions and in practice this means less, and, more harmonized regulation. The US respondents who engage in business with Europe want a future transatlantic investment and regulation co-operation agreement to include measures on regulatory co-operation, competition/anti-trust and accounting standards in particular.

**1. Respondent Profile:**

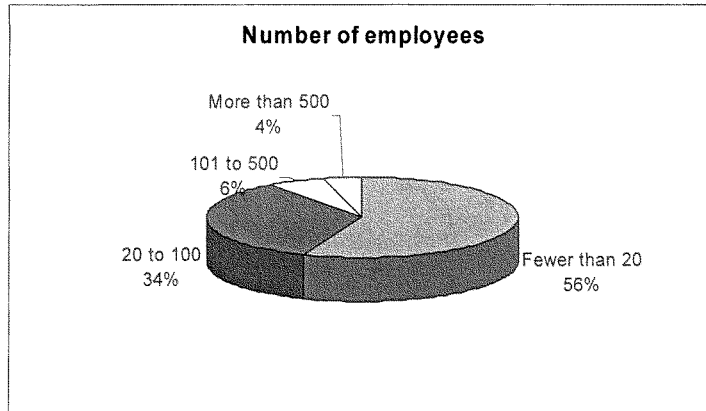
**Size**

Both in the United States and in Europe, a deliberate effort was made to include as respondents companies of different sizes (measured by turnover and number of staff) and from different sectors. Wherever the size of companies is significant for the answers given, this is highlighted.

**Figure 1: Size - European respondents**



**Figure 2: Size – US respondents**



**Business across the Atlantic**

As regards the type of transatlantic business typically undertaken among the respondents, exports and imports of goods dominate (about three-fourths of the US companies and two-thirds of the European companies). A significant number of exporters and importers of services also participated, but relatively few operators with wholly/partially owned operations/ventures. This reflects the respondent profile in the survey, which is dominated by SMEs. Ninety percent of U.S. respondents and 53% of European respondents were companies with fewer than 100 employees. In this respect it is noteworthy that, in overall terms, trade in goods account for less than 20% of transatlantic commerce (of which a large and growing part is composed of investment flows and foreign affiliate sales). This survey highlights the concerns of SMEs in particular, even if many of the issues will be shared by larger firms.

It is noteworthy that very few of the respondents rely exclusively on their transatlantic business. For about half of the companies on both sides of the Atlantic, transatlantic business represented less than 10% of their revenue. About one fourth of respondents on both sides generate between 10 and 25% of their revenue from transatlantic commercial activities.

2. Market expectations

Transatlantic business expectations

When asked how they believed their transatlantic business would develop over the next 5 years, the respondents are overall quite positive. The European companies in particular express considerable optimism with more than 75% expecting their business with the US to increase. More than half of the US companies share this view, with a relatively small percentage expecting their business with Europe to actually decrease. Overall, roughly 30% of the US firms and 20% of the European firms believed their trade and investment would remain at the current levels over the next five years.

Figure 3: Expectations – US respondents

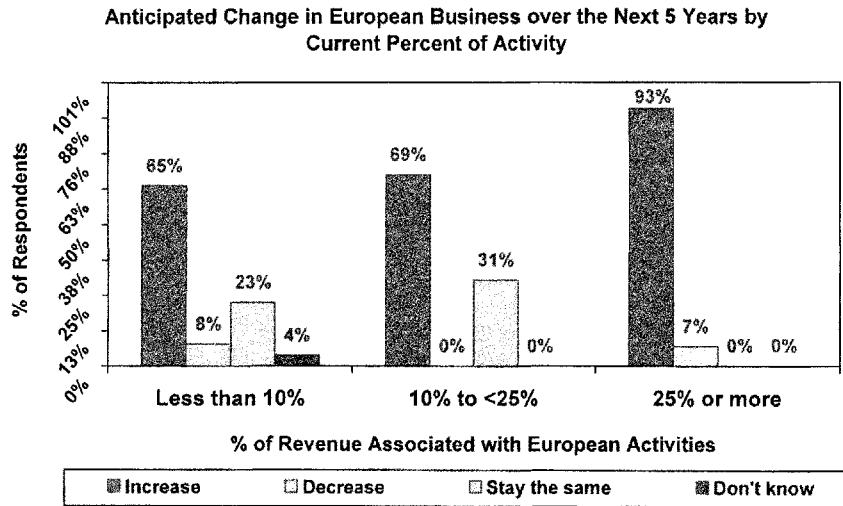


Figure 3 shows that respondents with a relatively high degree of business involvement in/with Europe generally are the most optimistic on future business in the region. This suggests that those companies currently operating in the European market do see considerable opportunities, even if they do meet many barriers (see chapter 3). 65% of the companies that currently derive less than 10% of their revenue from European activities expect to increase or substantially increase their business with Europe over the

next five years, compared to 93% or those who derive 25% or more of their revenue from European activities.

Figure 4: Expectations – European respondents

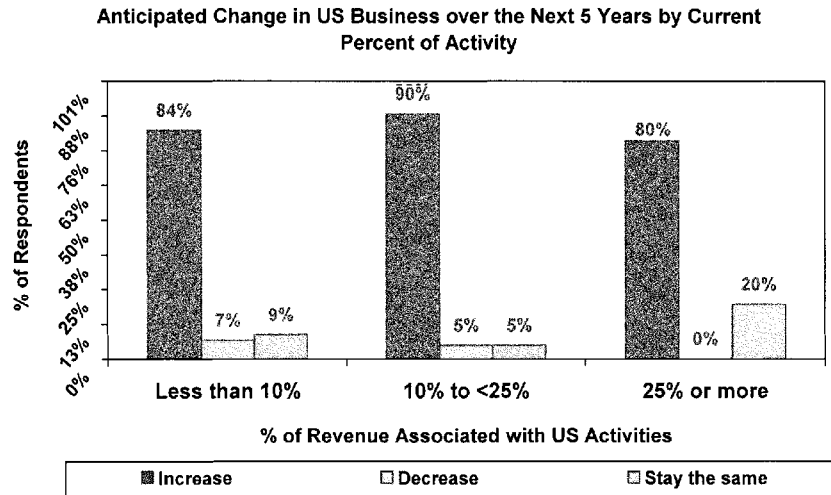


Figure 4 does not show the trend described above as strongly as with the US firms, although there is a high degree of optimism amongst most respondents, regardless of company size.

#### One or several markets?

The European companies were asked whether they perceive the US market as one single market. 60% of the European companies answered positively, with the remainder viewing it at least partly as separate states needing individual market entry procedures.

#### Main trading partners

The European companies in the survey were also asked to rank, in order of importance, their trade/investment relationship the following regions: the US, Central/Eastern Europe and Russia, China, Latin America and Southeast Asia. Central/Eastern Europe and Russia was chosen as the most important region by 57% of the respondents whilst the US came second, chosen by 22%. China came third with 11%, followed by South East Asia and Latin America both chosen by less than 10% of the respondents.

### 3. Trade and Investment Obstacles:

The key objective of the survey was to highlight some of the most important barriers to transatlantic trade and investment, as perceived by the companies themselves. In the questionnaire we therefore listed a number of reported obstacles and asked companies to state to which degree they find them problematic, if at all. There are a few minor differences between the lists presented to the EU and the US companies, but overall the answers reveal many similarities in the types of obstacles companies face.

**Figure 5: US companies– Trade and Investment Obstacles**

Trade and Investment Obstacles	Very Problematic	Somewhat Problematic	Not Problematic	N/A
Exchange rate fluctuations	24%	44%	22%	10%
Regional and local rules/procedures	21%	32%	38%	9%
EU Regulations	19%	32%	37%	13%
Customs procedures	14%	20%	58%	9%
Technical standards and certification	13%	41%	38%	9%
Taxes	13%	23%	43%	21%
Difference in accounting and securities rules	12%	23%	42%	23%
Ability to find partners	8%	47%	35%	10%
Market uncertainty/risks	8%	40%	42%	10%
State and regional aids to competing local companies	8%	38%	32%	22%
Market access restrictions for your sector	8%	22%	55%	16%
Level of information	5%	43%	44%	8%
Labeling/advertising rules	5%	28%	47%	20%
Ability to secure funding	5%	20%	44%	31%
Other*	5%	14%	19%	62%
Quality control/consumer protection	2%	38%	43%	17%

Of the responding companies that presently engage in commercial activities with Europe, one in four view exchange rate fluctuations as very problematic. The larger companies view EU regulations as much more of a problem than the smaller firms, (i.e.,



11% of respondents with less than 20 employees and 33% of those respondents with more than 100 employees view EU regulations as very problematic).

Overall, exchange rate fluctuations (68%), the ability to find local partners (55%), technical standards and certification (54%), regional and local rules/procedures (53%), and EU regulations (51%) were rated the top 5 obstacles in doing business with Europe. (These numbers combine both 'very problematic' and 'somewhat problematic' results.)

**Figure 6: European companies – Trade and Investment Obstacles**

Trade and Investment Obstacles	Problematic	Not Problematic	N/A
State and regional aid	52.3%	29.4%	18.3%
Entry requirements – biometric passports/visas	44.5%	33.3%	22.2%
Exchange rate fluctuations	40.7%	41.7%	17.6%
Corporate governance: e.g. tax issues, reporting requirements, listing rules	36.9%	33%	30.1%
Legal liabilities – fear of legal action	33.7%	48.2%	18.1%
Differences in accounting standards	28.4%	42.4%	29.2%
Customs procedures	26.6%	36.7%	36.7%
Quality control/consumer protection	24.3%	43.9%	31.8%
Technical standards and certification	17.8%	59.8%	22.4%

US state and regional aid was noted as a problematic obstacle by more than half of the European respondents. This represents a big increase from the 2004 survey, in which about 15% of the European firms expressed this as a very problematic obstacle, and 17% as it being somewhat problematic. The European companies were not asked about entry requirements last year, but 44.5% are concerned about this issue this year. The upcoming deadline on introducing biometric passports is likely to have been a key factor in this choice.

Exchange rate fluctuations also remain a key concern. This is unsurprising given the continued volatile currency markets over the last year. Furthermore, more companies than last year perceive differences in accounting standards and corporate governance issues as problematic. As in 2004, legal liabilities or the fear of legal action potentially being taken against them also deters European companies from doing business in/with the United States, as does cumbersome customs procedures. Finally, other issues linked to the regulatory environment remain problematic and particularly technical standards and certification.

The European companies were also asked what kind of assistance would be useful for their company when establishing/expanding transatlantic business. The answers reveal

a significant need for more information on regulation issues, which was requested by more than 50% of the respondents. About half of the European firms also called for assistance in finding business partners, and 30% expressed an interest in European and national trade missions.

### **Key issues**

The answers given from the US and the European companies have many similarities. Exchange rate fluctuations clearly constitute a factor of uncertainty for many transatlantic traders and investors. Moreover, the regulatory environment is a substantial obstacle on both sides of the Atlantic. In addition, customs procedures are still considered as a considerable obstacle among both European and US respondents.

Following the terrorist attacks in the US on September 11 2001, new regulations on US customs procedures have been introduced in order to improve security (e.g. Customs-Trade Partnership Against Terrorism, Container Security Initiative 24-Hour Rule, Bio-Terrorism Act etc.). As in 2004, we asked the European companies in the survey whether they had experienced more difficulties doing business with/in the US since September 11 2001, to which about half answered they had. The majority of these companies accept the measures as necessary but 20% think they are going too far. These answers underline the importance of policy-makers striking the right balance between security and trade facilitation.

Legal liabilities continue to be an issue of great concern not only to European companies but also domestic US firms. Indeed, one of the current priorities of the US Chamber is to improve conditions for businesses which now spend millions of dollars each year to defend against the filing and even the threat of frivolous class action lawsuits. Those costs, which could otherwise be used to expand business, create jobs, and develop new products, instead are being passed on to consumers in the form of higher prices.

#### 4. Looking ahead:

In addition to asking companies about the trade and investment barriers they face, we also asked them to express their opinion on concrete actions which could further improve transatlantic economic relations.

##### **The development of EU-US trade/investment relations**

A wide range of initiatives are in place to ensure the well-being and development of EU-US trade/investment relations. At the political and economic levels there are platforms such as annual top-level Summits, the New Transatlantic Agenda, the EU-US Joint Action Plan, the Transatlantic Business Dialogue and the Transatlantic Economic Partnership. Through these and other instruments, such as the World Trade Organization, tariffs have been dramatically reduced and much has improved also at the investment level. High profile trade disputes and an overall troubled political agenda have not undermined this success.

The question is how transatlantic economic relations can be further developed, especially at the regulatory level, without infringing on the multilateral trade agenda. The views expressed by the respondents to this survey clearly suggest that more needs to be done.

The US companies were asked what they thought the key components of a future transatlantic regulatory co-operation and investment agreement should be. Nearly half of the respondents (43%) believed that regulatory cooperation was the most important sector. Well over half of the participants selected regulatory cooperation (60%) or competition/anti-trust laws (57%) as the most important or 2<sup>nd</sup> most important sector for the agreement. Accounting standards, consumer protection and environmental standards followed.

On the EU side a large majority of companies asked want freer or free EU-US trade and investment relations. About one-fourth of the respondents want at least some restrictions. However, only a small minority wants to keep the status or see more safeguards introduced on EU-US trade/investment.

**Questionnaire on Barriers to Transatlantic Trade and Investment**

**BACKGROUND COMPANY INFORMATION:**

**1. Number of employees:**

- 1-10
- 11-50
- 51-250
- More than 250

**2. Turnover: (EUR)**

- less than 0.5m
- 0.5m – 1.5m
- 1.5m – 7m
- 7m- 40m
- more than 40m

**I. YOUR BUSINESS WITH THE US:**

**3. What percentage of your business is currently with the US?**

- 0 %
- Less than 10%
- 10 to less than 25 %
- 25% to less than 50 %
- 50% to less than 75%
- 75% or more

**4. What type of business?**

- Exports/imports - goods
- Exports/Imports - services
- Purchase or offer financial services (including insurance)
- Financial and real estate investments
- Have US wholly own or partially owned operation/ventures
- Research and Development
- Conduct e-commerce on the Internet
- Transit of goods to/from third markets
- Other
- None

**5. In the next 5 years, our business with the US is expected to:**

- Increase
- Decrease
- Remain the same

**6. Please rank the following regions in terms of importance as a trading partner (1 being most important and 5 being the least):**

- US
- Central/Eastern Europe and Russia
- China

Latin America  
Southeast Asia

**7. Do you perceive the United States as 1 integrated single market for business purposes or as separate states still needing individual market entry procedures?**

Single  
Several markets

**II. BARRIERS TO TRADE AND INVESTMENT:**

**8. Companies report trade and investment obstacles when doing business with the US. Please rate whether how important the following are to your company (option: Very problematic, Somewhat Problematic, Not Problematic, Not applicable)**

Customs Procedures: time-consuming/bureaucratic/expensive

Technical standards and certification

State and regional aids to competing local companies: including government procurement provisions, subsidies and tax-schemes

Quality control / consumer protection

Exchange rate fluctuations

Corporate governance: e.g, tax issues, reporting requirements, listing rules

Differences in accounting standards

Legal liabilities – the fear of legal action (including class action law suits)

Entry requirements – biometric passports/visas

**9. What kind of assistance is useful for your company when establishing/expanding transatlantic business (multiple answers possible)**

Information in regulation  
Assistance in finding business partners  
European trade missions  
National trade missions

**III. YOUR OPINION ON EU-US RELATIONS:**

**10. How should EU-US trade relations develop over the next five years?**

80

Want to keep the status quo  
I support unlimited transatlantic free trade/investment  
Towards freer trade/investment, but keep restrictions  
More safeguards in transatlantic trade/investment

**11. Have you experienced more difficulties doing business with/in the US since the terrorist attacks of September 11 2001?**

Yes, but I accept that this is necessary  
Yes, and the security measures introduced are now going too far  
No

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