



Public Consultation on EU-US High Level Working Group on Jobs and Growth

CEFS representing the EU sugar manufacturers took note that during the EU-US Summit of the 28th of November 2011, the TEC (Transatlantic Economic Council) launched a joint High-Level Working Group on Jobs and Growth. CEFS understood that **negotiation of one or more bilateral trade agreements could be included** in the framework of the policy measures that there could be identified after the analysis of the High Level WG. CEFS would like to answer to the DG Trade open consultation on the issue:

CEFS general position on sugar and sugar products is that **no further concession should be made** in the future and ongoing trade negotiations.

1. United States ranks among the top sugar producers, and is one of the few countries with significant production of both sugarbeets and sugarcane. US is a huge net importer of sugar. CEFS doesn't see the reason why US should be granted concessions on sugar.
2. The country¹ imports large quantities of raw sugar (2.041.072 tons in 2010) particularly from huge exporter such as Brazil, Australia, Guatemala and Dominique Republic and important quantities of white sugar (936.258 tons in 2010) especially from Mexico. At the same time, according to International Sugar Organization data, US exported in 2010 more than 307.000 tons of sugar (7.061 raw sugar - 300.107 white sugar) including 10.793 of white sugar in the EU.
3. **USDA** United States Department of Agriculture **has established TRQs at lower levels in recent years to offset increasing domestic production**. If a FTA with US will be launched in the future, US will probably consider sugar as a sensitive product.

European Commission is concluding ambitious bilateral/regional Free Trade Agreements (FTAs) with all parts of the world and TRQs have been already granted to Central America, Peru/Colombia and Ukraine. As already stated in different occasions sugar **tariff lines should be excluded**. In the same way **products containing high amount of sugar should also be excluded from negotiations**.

In addition, it is particularly crucial for our industry to maintain **effective and strict Rules of Origin for sugar** and sugar products on concession already granted to avoid loopholes. It is also important for us to ensure that no circumvention of rules of origin takes place in the different regions which are geographically close to these countries.

Please find enclosed CEFS general position on Trade Agreements. We hope that you will take our comments into considerations and remain for any further information needed.

Marie-Christine Ribera

¹ Data of US on sugar – 2010 -Source International Sugar Organization ISO Year Book 2011-
Production 7.635.221 Imports 2.977.330 Exports 307.168 Net Trade -2.670.162 Consumption 10.153.780

ETNO Contribution to Public Consultation on EU – US High Level Working Group on Jobs and Growth



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Introduction

At the EU-US Summit meeting of 28th November 2011, leaders directed the Transatlantic Economic Council to establish a *High-Level Working Group on Jobs and Growth*, led by the US Trade Representative and EU Trade Commissioner. This Working Group is tasked to identify policies and measures to increase EU-US trade and investment to support mutually beneficial job creation, economic growth, and international competitiveness.

Upon completing its analysis, the Working Group will also consider and recommend the practical means necessary to implement any policy measures identified. These could include a range of possible initiatives, from enhanced regulatory cooperation to negotiation of one or more specific bilateral trade agreements.

With this document ETNO contributes to the Public Consultation on EU – US High Level Working Group on Jobs and Growth.

Enhancing the transatlantic economic ties

Many ETNO members are service providers in the US local market and also significant contributors to the EU-US regional market. ETNO has been supporting the efforts of the Transatlantic Economic Council (TEC), because it believes in the benefits of a strong relationship between the EU and the US. But more can be done building on the existing achievements of the TEC, and ETNO would support that it is

geared up to reach the levels of a Free Trade Agreement (FTA) between both partners, that shall be comprehensive and with clear timelines for negotiations.

The resultant agreement should include chapters on the following elements:

- Trade in goods
- Trade in services
- Development of pro-investment policies to stimulate competitiveness
- Public procurement
- Protection of Intellectual Property
- Regulatory cooperation

Additionally, due to the importance of such an agreement, both in trade volumes and in political terms, it would be timely to start exploring the possibility of creating a chapter on fostering relations with other countries, including emerging and developing markets, with the aim of sharing best practices and allowing – and inviting – over time those countries that agree with these trade commitments to join to the EU-US deal.

Due to the fact that the EU and the US have traditionally been supporters of the free market, barriers between the partners are scarce, **although not inexistent**. Therefore identifying and addressing them is crucial to increase economic ties and strengthening the transatlantic relationship can be achieved by **cooperating on regulatory issues**.

ETNO believes that some non-tariff barriers related to regulatory gaps and deficiencies in the US regulatory frameworks and divergent rules in the individual 50 states could result in an unlevel playing field for EU companies doing business in that market.

Therefore, a possible EU-US FTA shall include a specific chapter on regulatory cooperation **where all stakeholders (industry, regulators and negotiators) should be involved**. The outcome of this chapter should include a mechanism for **coordination between regulatory bodies**, seeking common understanding and mutual recognition; and defining a set of **simple and transparent regulatory practices** towards ensuring a reduction of administrative burdens¹, stakeholder's consultation, notifications and rights of appeal.

Other important issues should also be covered by the agreement:

- Increasing market access by **removing existing barriers** that are still present in many services sectors, notably equity caps.

¹ Example: in ETNO's Reflection Document RD366 (January, 2012), regarding the requests for approval of foreign ownership, we recommended the FCC to remove an unnecessary administrative burden by accepting a simple notice of proposed indirect foreign investment in excess of 25 %. No further notifications should be required, unless the underlying thresholds are breached by subsequent changes to the investment.

- Increasing legal certainty by **binding the current practice of openness**.
- Reducing the **negative impacts of fragmentation** of the US internal market. The same shall apply in Europe, regarding the **fragmented national regulatory schemes from Member States**.
- Adopting a **set of regulatory practices** towards ensuring transparency, reduction of administrative burdens, prior consultation, early alert mechanisms, rights of appeal and limitations for state owned enterprises.
- Improving coordination between regulatory authorities, with the aim of reaching regulatory understanding and mutual recognition.
- Committing to **strong pro-investment policies** for the private sector to stimulate competitiveness avoiding market distortions through the inadequate use of public funds.
- Improving the administration of **movement of qualified persons**, by reducing administrative burdens and facilitating intra-corporate transfers.

Working to resolve such barriers could have a significant positive impact on trade, growth and jobs, and fully deserves to be a priority for the Commission.

Sector specific needs

The ICT sectors are, both in the EU and in the US, free and open to competition. This means that **there is no need to seek for additional market access, or to negotiate any form of additional openness**. Despite this indisputable premise, it is also a reality that while pursuing common goals such as the need to stimulate broadband deployment and adoption, the EU and the US have designed regulatory frameworks for the sector, sometimes with divergent approaches and results.

In the EU, the implementation of the 2003 Regulatory Framework has been strongly conditioned by objectives (such as direct regulation of retail and wholesale prices) geared towards *promoting competition based on network access* by new entrants. Meanwhile, the US has decided to free up investments in new infrastructures from sector regulation to *foster a model of infrastructure based competition* based on multiple competing platforms (i.e. Cable, FTTH, Mobile, and Satellite). The issues at stake are high, as the regulatory framework will have a crucial impact on the decision from operators to invest in the deployment of very high-speed networks, particularly at the access level.

This potential FTA shall be seen as **an opportunity for reducing existing or potential trade barriers**, as examples:

- Services connecting EU and US locations like corporate VPNs and cloud computing are dependent on seamless data flows, it is crucial that the regulators of the EU and US continue to work together in order to improve and to harmonize Data Protection legislation in a way that facilitates cross-border data transfers;
- At the same time, it is important that wholesale access conditions for VPNs and other global enterprise services in the US do not leave space for distortions affecting new entrants.

It should also be an opportunity for cooperation, common understanding and identification of best regulatory practices and policies to build upon and expand the trade related principles for the information and communication technology services that both parties agreed upon in 2011, in order to create a competitive and sustainable ecosystem, and a way to enhance this agreement is **focusing on the fields of the economic sustainability of the Internet and the deployment of next generation networks**:

- **Economic Sustainability of the Internet**

Until now, free from the constraints of government regulation, the Service Providers throughout the Internet ecosystem have been able to act flexibly and in commercially rational ways to enable the Internet to grow into being a vibrant and ubiquitous aspect of our lives.

However, a new set of pressing challenges is threatening the ability to maintain the Internet as a platform for investment and innovation: exponential traffic growth and decoupling with revenues; the lack of incentives to rationalize the generation and consumption of traffic; the inadequacy of current peering models; the asymmetry on traffic exchange and the need to develop new services, suggest the need for a new Internet model that allows investments and innovation, also in network infrastructure.

The EU and the US policy makers have a shared responsibility to ensure sustainability of the Internet **promoting a trade framework for an Internet model based on commercial flexibility** to allow stakeholders to explore together with new approaches to interconnection differentiated offers at the retail level and at the wholesale level, inter alia through end-to-end guaranteed QoS and managed services in access networks.

- **Network deployment issues: next generation access (NGA) networks, role of the public sector, radio spectrum policies.**

ETNO believes that an optimal regulatory environment for NGAs in the EU and the US should be founded on fostering an **appropriate investment and innovation climate**. In our view, operators must be able to compete with each other using different and innovative pricing (i.e. not limited to cost-oriented pricing) and service propositions (quality of service) and at the same time, operators must have room to find value-enhancing cooperative arrangements (co-investment, wholesale agreements, etc.). Only the strict minimum and less burdensome conditions should be imposed, i.e. passive remedies (access to ducts) where infrastructure competition is feasible, active remedies where it is not.

Because of the privatized nature of the telecommunications industry, public financing should never compete with or act as a disincentive to private initiatives. Regarding the contribution of public funding for the rollout of new networks, ETNO supports **public funding as a complement** to private initiatives. Indeed, the role of governments or public authorities in promoting new networks should not be to replace or substitute the operation of market mechanisms. Governments have, however, two primary roles, namely encouraging the demand for new services (which will in turn foster and incentivize private investments in both networks and services) and establishing predictable legal and regulatory frameworks that broadly act as an incentive for investment and innovation.

Spectrum is a key asset to our businesses, in particular for the development of mobile broadband services, which are expected to become increasingly more important than Fixed Broadband access, thereby enhancing the degree of inter-platform competition (between fixed and wireless technology solutions). **The business case for mobile broadband is highly dependent on regulatory policies** to ensure adequate availability of spectrum. Spectrum allocation processes, either by auctions or beauty contests, must be properly designed to assign spectrum in the most efficient and timely way possible. Auctions should not be used as a means to generate revenue for the States.

ETNO has clear and detailed views on how to drive all these issues, reflected on its position papers and reflection documents.

An important remark: most of these topics need to be addressed now or in the short term in order to rapidly shape the 21st century Internet ecosystem instrumental to coping with challenges in terms of innovation, growth and jobs in a global economy.