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

- *Policy field: EU-US Trade relations*
- *Target group: All Stakeholders*
- *Closing Date: 23/04/2012*

Objective of the consultation

At the 28 November 2011 EU-US Summit meeting, Leaders directed the Transatlantic Economic Council to establish a High-Level Working Group on Jobs and Growth, led by US Trade Representative Ron Kirk and EU Trade Commissioner Karel De Gucht. 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 bilateral trade agreements addressing the issues mentioned in the attached Fact Sheet.

DG Trade would be interested in stakeholder comments on objectives and priorities, and you are invited to submit your input to trade-eu-us-consult@ec.europa.eu by 23 April 2012.

Contribution by the Federation of German Chemical Industries (Verband der Chemischen Industrie, e.V. (VCI))

Summary

The German Chemical Industry is of the firm opinion that the time has come to move forward with a new transatlantic trade and investment agenda which will ultimately result in a comprehensive and ambitious EU/U.S. Economic and Trade Pact (ETP). The ETP going well beyond a traditional Free Trade Agreement will stimulate economic growth, spur job creation and ensure the competitiveness of European and U.S. industries.

The ETP Agreement should address the following areas and should lead to the elimination of barriers at the border and those within the border that hamper the exchange of goods and services between the EU and the U.S.:

- Trade in industrial goods;
- Trade in agriculture
- Trade in services;

- WTO-plus subjects: e.g. investment, public procurement, intellectual property and competition policy;
- Regulatory cooperation as a process to create a transatlantic barrier free market.

We welcome the opportunity to contribute to the European Commission's Public Consultation on the High Level Working Group on Jobs and Growth and would like to encourage the Group to take up this tremendous opportunity and path the way for a barrier-free transatlantic market.

The ETP makes economic sense

The EU and the US are giants of the world economy: The transatlantic commercial relationship is the largest in the world, with the United States and the European Union surpassing € 410 billion in overall trade in goods in 2010, each being the main trading partner of its counterpart on the other side of the Atlantic. In addition, trade in services reached more than € 250 billion. Stocks of foreign direct investment of EU companies in the US and vice versa amounted to almost € 2.2 trillion. [1]

Due to the huge volume of Transatlantic trade and investment, studies indicate that an ETP could generate much more economic growth (at minimum 0.5-1% of additional GDP) than any current EU free trade negotiation, and almost as much as, if not more than, a multilateral trade agreement.

The chemical industries on both sides of the Atlantic are closely integrated and trade intensively with each other. The United States is our biggest trading partner. For that reason we have urged our governments not only to liberalize trade with emerging economies but also to eliminate the existing trade and investment barriers with other industrialized countries, in particular the United States.

The time is ripe now

Growth is needed to overcome the financial, economic and debt crisis. In the past the EU and the U.S. have relied, inter alia, on multilateral trade liberalization to generate economic gains and through them foster growth and prosperity. The last real liberalization package dates back to 1995 and the eleven year old and stalled DDA-negotiations will not bring the desired results. Both sides need therefore to consider options for bilateral trade and investment liberalization and for a greater coherence of regulatory standards.

A new transatlantic trade agenda will help the U.S. and the EU to renew their global leadership. This is necessary to encounter the growing competitive pressure from emerging economies and – eventually – to unblock the stalled WTO DDA-negotiations. Furthermore, the ETP offers a tremendous opportunity to liberalise a substantial amount of world trade and could therefore set the standards for future WTO liberalization and rule-making efforts.

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[1] Source: DG Trade, based on Eurostat.

Many initiatives to deepen the transatlantic relations have been taken in the last twenty years, yet none of them could deliver substantive results. Numerous trade conflicts demonstrated some deep disagreements on a few but politically important trade and regulatory issues. What is different this time is the quest for growth and the simple reason that the world around the EU and the U.S. has changed. With a sufficient political will differences can be overcome and an ambitious result agreed.

Features of an EU-US FTA

General principles:

- It has to be deep, comprehensive and ambitious.
- It must be fully compatible with WTO disciplines and must go beyond the WTO obligations by defining disciplines on “new” issues.
- It should be a precedent for ambitious trade liberalisation and rule-making and be a model for future FTAs.
- It must be open to other trading partners who want to join.
- It should be agreed upon within a given time-frame, deal with ‘phasing’ and early harvest issues and avoid ‘form-and-process’ disputes.
- The final result should be ratified expeditiously by the legislature as a single agreement.

Key elements:

Full elimination of industrial tariffs without exceptions

Tariff elimination for industrial products is a key element for the ETP. Tariffs do not represent the main obstacle to trade since average tariffs are relatively low. Nevertheless the elimination of industrial tariffs would produce considerable welfare gains because of the sheer size of trade (very often intra-company and intra-sectoral trade). Furthermore administrative costs which can be attributed to tariffs would cease to exist. According to a recent study[2], the potential dynamic GDP effect from tariff liberalization is estimated to be 0,3%-0,5% for the EU and 1,0%-1,3% for the U.S.

In 2010 the EU’s chemical exports to the U.S. amounted to 60 billion Euros including pharmaceuticals (31 billion Euros without pharmaceuticals). If one applies the U.S. average tariff for chemicals (without pharmaceuticals) of 2.25 percent to 31 billion Euros, this would lead to approximately €700 million in tariff revenues paid by European chemical companies to the U.S. treasury for import tariffs.
Given the lower but substantial U.S. chemical exports to the EU of € 21.8 billion (chemicals without pharmaceuticals) and the higher average tariff on the European side (4.69 percent), the import tariffs paid by U.S. chemical companies into the EU’s budget are even slightly higher than the tariffs paid by EU chemical companies in the U.S.

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[2] Erixon, Fredrik & Bauer, Matthias (2010): “A Transatlantic Zero Agreement: Estimating the Gains from Transatlantic Free Trade in Goods”, ECIPE Occasional Paper No 4./2010.

These theoretical calculations are estimates, the total amount of tariffs paid depends on the trade volume of specific products and their specific tariffs as well as the extent of tariff suspensions.

Requests for exceptions from tariff elimination during the negotiations will result in endless and charged negotiations and will trigger further requests from the other side. They need to be avoided at all cost. Sensitivities should be addressed with short transition periods. At the end of the transition period all industrial tariffs would be eliminated.

- **VCI asks for the full elimination of all industrial tariffs without exceptions. Some short transition periods might be considered for a few sensitive products**.

Ambitious liberalization of agricultural trade

Agriculture is a difficult issue for both sides. VCI believes that agricultural trade must not be exempted from the ETP. On the contrary, if both sides want to set the path for a model agreement, this issue must be tackled. An agreement can be found provided the political will exists.

- **VCI asks for ambitious liberalization of agricultural trade with as few exceptions as possible; longer transition periods might be necessary.**

Elimination of non-tariff barriers (NTB's) / Regulatory Co-operation

The reduction and elimination of non-tariff barriers, such as unnecessary and discriminatory regulations, rules and standards, is more difficult to achieve than the elimination of tariffs. Yet it is as or even more important than the latter. NTB reduction/elimination would lead to more trade, growth and jobs. One study comes to the conclusion that gains from a 50% NTB-reduction would increase the EU GDP by 0,7% and US GDP by 0,3%.[3]

- **VCI asks for the reduction/elimination of non-tariff barriers. The ETP should contain an annex on NTBs with clear and precise rules as well as a standstill clause preventing new barriers from arising. Furthermore the ETP should contain provisions on the simplification of customs procedures (trade facilitation) and on security co-operation.**

Differences in regulations provide a formidable obstacle to trade. Whilst recognizing that these differences cannot be regarded as typical NTB's and accepting the regulatory autonomy of every state convergence of regulatory standards will decrease the cost of doing business and could therefore result in growth and jobs.

A necessary precondition for moving towards regulatory convergence is the comparability of the level of environment, health and consumer protection. Given the

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[3] ECORYS 2009: "Non-Tariff Measures in EU-US Trade and Investment – An Economic Analysis". For a further analysis of the economic effects of an EU-US Agreement, see also the Business Europe STRATEGY ON AN EU-US ECONOMIC AND TRADE PARTNERSHIP.

fact that U.S. and EU share the same common values and have a comparable level of protection a strong case for regulatory co-operation can be made.

There are few areas of transatlantic product regulations where the transatlantic divide is as huge as it is in the area of chemicals. In the last fifteen years the two sides of the Atlantic have adopted fundamentally different regulations on issues such as hormones, genetically modified organisms (GMOs), cosmetics and the registration and restriction of chemical substances. The chemical industry recognizes that these differences will not be eliminated overnight. We nevertheless consider that the concept of regulatory co-operation should be included in the ETP.

To overcome the transatlantic regulatory divide VCI suggests to incorporate the "Guidelines on Regulatory Cooperation and Transparency[4]" into the ETP. These guidelines – already adopted in 2002 – suggest, inter alia, to

- eliminate unnecessary divergence in regulations through a more systematic and timely dialogue between regulators, involving increased cooperation at all phases of the regulation's development process.
- improve quality of technical regulations and pursue harmonized, equivalent or compatible solutions.
- grant the opportunity for regulators of each side to provide the other with meaningful input and obtain expertise from other interested partners.

The European Commission has made promising steps to improve the quality of its legislation through the so-called "smart regulation" initiative. Particularly, the integration of a so-called competitiveness proofing into impact assessments could draw more attention to the external trade effects of legislative proposals.

Regulatory co-operation should also give new impetus to mutual recognition We accept that the transatlantic market will not be a single market with common institutions pushing for further economic integration. Since Parliaments on both sides of the Atlantic will continue to adopt divergent legislations, transatlantic regulatory co-operation should bring about a comparability of each side's regulations that enables mutual recognition. Legislations need not be identical but only need to be comparable in effectiveness so that the old TABD motto "approved once, accepted everywhere" can be applied.

Regulatory co-operation should be incorporated into the ETP as a process, in other words the ETP establishes the principles for regulatory co-operation and develops a work program which the two sides should concentrate on. The Transatlantic Economic Council (TEC) should remain the driver for regulatory convergence: It should continue to provide political guidance to regulators to move forward on certain subjects. The incorporation of the principles on regulatory co-operation, the work program and the full support of the political leaders should over time result in adopted comparable legislations, regulations and standards, which in turn would be mutually accepted by either side. Such a system would be a breakthrough and would demonstrate that the ETP would go well beyond WTO-requirements.

[4] Guidelines on Regulatory Cooperation and Transparency from 2002.

- **VCI asks for the incorporation of regulatory co-operation into the ETP as a process with reference to the existing "Guidelines on Regulatory Cooperation and Transparency". The ETP should develop a specific work program on how to make regulatory cooperation effective overseen by the Transatlantic Economic Council (TEC). This process should concentrate on new regulation (i.e. nanotechnology) and not on existing regulation (i.e. REACH). Once trust has been established and regulatory convergence achieved the work program could be extended to existing regulation.**

Other Issues / WTO Plus Issues

- A strong investment protection component with commitment to respect the already agreed high level principles and rules for transatlantic investments, with a state-of-the-art investor-to-state dispute mechanism, including a clear and well defined time frame for arbitration.
- A strong Intellectual Property Rights regime going beyond the WTO TRIPs Agreement through active regulatory and enforcement cooperation, and with clear rules to protect the free flow of cross border data.
- A significantly more open market for public procurement going beyond WTO GPA commitments in terms of coverage and lowering existing thresholds. National treatment at all levels of government and administration must be ensured.
- Services: A commitment to improve market access and national treatment in all modes of provision of services and to remove all remaining equity caps.
- The incorporation of the existing collaboration on competition policy.

New disciplines

WTO members for the time being are not able to agree on much needed "new disciplines on new issues which can disrupt trade to a significant extent and constitute unfair trading practices. Examples are export taxes and dual pricing practices for raw materials as well as a lack of disciplines on state-owned enterprises. Commonly agreed upon disciplines incorporated into ETP could set a standard and could hopefully be taken up at the multilateral level in the future. The ETP should therefore include:

- **A prohibition of export taxes and other export barriers (including the elimination of dual-pricing practices).**
- **A definition of, and rules on, state-owned enterprises.**

Frankfurt, 20 April 2012