



October 31, 2012

Mr. Daniel Mullaney
Assistant U.S. Trade Representative for
Europe and the Middle East
Office of the United States Trade Representative
Washington, D.C.

Re: USTR-2012-0028 - EU and U.S. call for input on regulatory issues for possible future trade agreement

The Business Roundtable (BRT), the TransAtlantic Business Dialogue (TABD,) and the European Round Table of Industrialists (ERT) are submitting the following comments jointly in response to USTR's request for comments in the above referenced matter. Our organizations represent chief executive officers and chairmen of leading U.S. and European companies. We are pleased that the U.S. Government and the European Commission (EC) have together agreed to seek public comments and encouraged associations to submit views jointly with their counterparts across the Atlantic, hence this joint submission.

In April, our three organizations issued the attached joint statement in strong support of the new High Level Working Group on Jobs and Growth (HLWG). In *Forging a Transatlantic Partnership for the 21st Century*, we recommended that the HLWG's objectives "should be ambitious in eliminating trade, investment and regulatory barriers and distortions in promoting regulatory coherence and should result in commercially relevant new-generation accords" in order to promote economic growth and job creation in the United States and Europe. A June 2005 report issued by the Organization for Economic Cooperation and Development (OECD) estimated that economic reforms in both the United States and the European Union (EU) related to the relaxation of regulations, tariffs, and restrictions on foreign direct investment could increase GDP per capita by up to 2.5 percent in the United States and up to 3 percent in Europe.¹ USTR's request for comments is especially timely and important because regulatory barriers are recognized as the most significant impediment to greater trade and investment between the United States and the EU.

¹ OECD, "The Benefits of Liberalizing Product Markets and Reducing Barriers to International Trade and Investment: The Case of the United States and the European Union," *Economics Department Working Paper 432*, Paris, May 26, 2005.

In *Forging a Transatlantic Partnership for the 21st Century*, our three groups recognized that enhanced regulatory cooperation between the United States and the EU is central to strengthening and deepening our vibrant economic relationship. Promoting this goal will: (1) help U.S. and European businesses grow and create new jobs by eliminating unjustified regulatory differences and unnecessary red tape; (2) enhance the global competitiveness of our businesses by increasing productivity; (3) help our governments achieve regulatory objectives in a more effective and efficient manner; and (4) strengthen the ability of our governments to confront the disturbing rise of discriminatory standards in other countries.

Our joint statement also noted that achieving the core objectives of strengthening and deepening the U.S.-EU economic relationship “will require careful and thoughtful engagement by our governments and the private sector.” We want to commend the U.S. Government and the EC for jointly inviting U.S. and European industries to submit their views on how to promote greater transatlantic regulatory compatibility generally as well as asking for concrete ideas on how greater compatibility could be achieved in specific sectors. These collaborative requests are laying the foundation for the strong government-private sector partnership that will be the key to success in the hoped-for U.S.-EU negotiations on trade, investment and regulatory cooperation issues and in the future work of the Transatlantic Economic Council (TEC), the U.S.-EU High Level Regulatory Cooperation Forum (HLRCF), and the U.S.-EU High Level Working Group on Jobs and Growth (HLWG).

As you know, our organizations are general business groups whose members are chief executive officers and chairmen of leading U.S. and European companies representing a wide-range of economic sectors. Since sector-specific associations have the necessary experience and detailed information on what is needed to promote regulatory cooperation in their sectors, we have been encouraging these associations on both sides of the Atlantic to provide detailed sector-specific information to the U.S. Government and the EC, including responding to your request for comments, and to participate in the ongoing work of the TEC, the HLRCF and the HLWG. In particular, we are encouraging U.S. and European sector associations to work together to develop sector-specific recommendations to help shape and guide the hoped-for U.S.-EU negotiations on trade, investment and regulatory cooperation issues.

Regulatory and standards issues can by their nature often be more complicated than traditional trade and investment issues. They are often technically complicated as well as legally and politically complex because they involve public health, safety, welfare, and environmental protection issues. We are, therefore, committed to working with the U.S. Government and the EC to develop a negotiating framework and process for horizontal and sectoral regulatory issues which will be able to address effectively these unique issues and produce outcomes which will promote U.S.-EU regulatory cooperation.

Regulatory Consultation Process. In order to set the most constructive stage for U.S.-EU discussions during the hoped-for negotiations, we believe that the HLWG should immediately establish a consultation process under which the U.S. and EU: (1) would be required to notify each other of pending and new major proposed regulatory initiatives; and (2) would be able to discuss these initiatives in the context of the ongoing negotiations. This would not be a standstill requirement, but rather a process designed to inform the discussions and, to the extent possible, to avoid serious differences which could undermine productive negotiations and the spirit of regulatory cooperation driving them.

High-Level Political Involvement. Overall, we believe that promoting regulatory cooperation will require the highest-level political engagement by both the United States and the EU. Senior level political engagement is essential to creating a viable working relationship in the negotiations between the trade negotiators and regulators and standard setters. It is also essential to establishing an effective and efficient working relationship with legislators who oversee the regulators and standards development bodies.

General Principles. We strongly support the fundamental principles outlined in the joint business community letter on regulatory cooperation, dated October 24, 2012, a copy of which is attached. In addition, the hoped-for negotiations on trade, investment and regulatory cooperation issues should recognize that there are sound principles that can be applied to developing smart regulation that are common to all sectors to ensure that regulations are cost-effective, grounded in the most advanced scientific knowledge available, and are the most efficient and effective means to achieve objectives. Regulatory processes, including government review and management of agency rulemaking, should be open to public scrutiny, regulations should be reviewed regularly for the purposes of determining whether they should be reformed or discontinued, and paperwork burdens should be considered and reduced where possible.

Ripe, Riper, Ripest. In addition to negotiating horizontal and sectoral regulatory provisions which would establish a constructive and dynamic system for regulatory cooperation, we believe the U.S. and EU need to continue to push forward aggressively with other initiatives to address regulatory issues for specific sectors. In doing so the U.S. and EU will need to take into consideration, for example, which sectors might be better positioned for more immediate action, and whether the specific sector issues in question would be addressed more effectively and expeditiously in the HLWG, the TEC and/or the HLRCF.

Longer-Term Regulatory Issues. Finally, it is important to recognize that some regulatory barriers and distortions may be so complicated or so deeply embedded in our respective legal, policy and political structures that greater transatlantic regulatory compatibility may not be immediately achievable. Instead of simply setting these issues aside, the negotiations should be used to find new ways to reinforce existing mechanisms like the TEC and the HLRCF and consider new initiatives for addressing these issues on an ongoing basis.

Thank you for the opportunity to provide comments on these important issues. We look forward to working with you and your EU colleagues to ensure that the HLWG succeeds in promoting stronger economic growth on a sustained basis and creating new jobs in both the United States and Europe. We hope next steps will include the HLWG's recommendation in its final report due later this year that the U.S. and EU launch ambitious and comprehensive trade, investment, and regulatory cooperation negotiations next year.

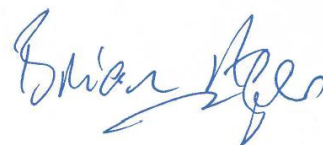
Sincerely,



Governor Engler
President
Business Roundtable



Kathryn Hauser
U.S. Executive Director
TABD



Brian Ager
Secretary General
ERT