



BritishAmericanBusiness

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1 November 2012

European Commission
Charlemagne Building
Brussels, B-1049
Belgium

Dear Sir,

**CONCRETE SUGGESTIONS ON HOW TO MAKE REGULATORY REGIMES MORE
COMPATIBLE ACROSS THE ATLANTIC**

We are writing to you on behalf of BritishAmerican Business and the British-American Business Council ('BABC') to provide our response to the call for input on regulatory issues for possible future trade agreement between the EU and the US.

BritishAmerican Business (www.babinc.org) is the leading transatlantic business organization, committed to promoting an open and competitive transatlantic business environment for our member companies to build their international business. Our International Advisory Board (list att'd) includes the Chairmen and CEOs of more than 100 leading multinational companies. We also participate in (and provide the Secretariat for) the British-American Business Council (BABC), the largest transatlantic business network, which has more than 20 chapters and 2,500 member companies based in major business centers throughout North America and the UK.

Further to our earlier response (which is attached) to the Consultation carried out by DG Trade on the future of EU-US trade and economic relations earlier in the year, we have conducted a further consultation of our members following your invitation and would make the following summary additional points in relation to compatibility of regulatory regimes:

1. We are convinced by the evidence (e.g. OECD and ECORYs) that the single most worthwhile pro growth focus for EU US economic cooperation should be on regulatory cooperation.
2. We are aware of the legacy of, at best, modest success with past efforts to deliver additional economic value through convergence initiatives. We do however applaud the upstream project focus recently adopted through the Transatlantic Economic Council process, and the continuing stream of deliverables being produced such as with mutual recognition of trade facilitation processes (AEO – CT –PAT)

3. We have these practical suggestions to deliver economic value add, most of which, given the nature of the instruments under discussion, call for political action as a precondition for increasing business momentum:
 - a. A political agreement and statement that in purpose, fact and intention the levels of protection and public good delivered through different combinations of law, regulation and standardization processes in the EU and the US are functionally equivalent. Evidence* shows that both in the US and the EU risk is essentially priced at the same level through society, suggesting that businesses, consumers and citizens already believe in that equivalence. We have seen no evidence for example that US consumers are more or less likely to rent automobiles in Europe or vice versa, which might be expected if there were truly different perceptions of, for example, auto safety.
 - b. Agreement that this political declaration be a governing principle for all contacts between executive, regulatory and technical communities, and that the agreement represents the will of the people over and above the competence of intermediary authorities.
 - c. Agreement to pursue sign off to that effect from all relevant non signatory actors, at sub federal, national European, regulatory and technical norm setting communities using soft or hard power as appropriate.
 - d. Agreement that no spheres of economic activity should be excluded, so for example ensuring that a principle presuming functional equivalence also applies as a presumption for rule equivalence determinations in financial market regulatory cooperation.
 - e. Agreement to convene regulatory agencies and technical norm setting communities in support of existing processes such as the Transatlantic Economic Council and the High Level Regulatory Cooperation Forum, with agreement based on prior agreement of a specified set of actors against a roadmap for increasing depth of coordination, starting where necessary with structured information exchange and comparative cooperation on independent running initiatives and rule making and progressing to common planning, specification and execution of norms, particularly under so called 'upstream conditions'.
 - f. Agreement on a set of preconditions to be fulfilled by stakeholder communities where necessary to enable delivery at c, d or e above, to be communicated via the Transatlantic Business, Consumer and Legislator dialogues. Specifically in the business context, preconditions should set out sectoral organizations implicated.
 - g. Agreement on a number of key sector leadership initiatives and on roadmaps for each of those sectors, based on existing submissions from those sectors.

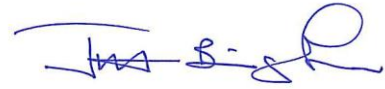
We are also enclosing two commentaries that we received (from BT Group and the Confederation of British Industry (CBI)) that we felt were particularly thoughtful and constructive and which we are happy to amplify.

We look forward to continue to work constructively with you, as you move this initiative forward.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Richard Fursland', with a long horizontal flourish extending to the right.

Richard Fursland CBE
CEO
BritishAmerican Business and
The British American Business Council

A handwritten signature in blue ink, appearing to read 'Jeffries Briginshaw', with a large loop at the end.

Jeffries Briginshaw
Managing Director/London
BritishAmerican Business

Evidence

OECD

2 See “The benefits of liberalising 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, May 2005.

ECORYS

3 See “Non-Tariff Measures in EU-US Trade and Investment – An Economic Analysis”, ECORYS, Berden, K.G., Francois, J., Tamminen, S., Thelle, M., Wymenga, P., December 2009

EVIDENCE ON COMPARATIVE RISK TOLERANCE IN SOCIETY

4 The Reality of Precaution: Comparing Risk Regulation in the United States and Europe edited by Jonathan B. Wiener, Michael D. Rogers, James K. Hammitt and Peter H. Sand RFF Press (December 2010) (quoted in Determining Compatible Regulatory Regimes between the U.S. and the EU by John F. Morrall III, 2011).