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**Office of the United States Trade Representative
By e-mail**

U.S.-EU High Level Working Group on Jobs and Growth (USTR-2012-0001)

The National Association of Manufacturers (NAM) and its nearly 12,000 member manufacturers in every U.S. state and every industrial sector recognize the importance of the transatlantic marketplace and of U.S. and EU cooperation to reduce and, over time, remove barriers to trade and investment flows across the Atlantic.

The U.S. manufacturing sector remains the most productive in the world, creating \$1.6 trillion in wealth last year, contributing 11.2 percent to U.S. Gross Domestic Product. Standing alone, that would make the U.S. manufacturing sector the ninth largest economy in the world. Manufacturing supports 17 million jobs in the United States. Nearly 12 million Americans are employed directly in manufacturing.

We welcome this opportunity to provide comments in response to the January 11, 2012, Federal Register notice seeking views on policies and measures to increase U.S.-EU trade and investment. Since 2008, the NAM has been urging the U.S. and European governments to consider a broad free trade agreement that would be comprehensive in scope, eliminate tariffs and non-tariff barriers, and would foster greater regulatory coherence and convergence.

Recognizing the integration of the North American market thanks to the North American Free Trade Agreement (NAFTA), the NAM was the first association to call for our governments to negotiate a NAFTA-EU free trade agreement.

As the Working Group considers its agenda and next steps there are some statistics that should be kept in mind:

- The U.S. and Europe rank number one and number two in global manufacturing, and most global trade is in goods. (China is third and Japan is fourth.)
- We are each other's largest markets and each other's largest investors.
- Today, one out of every 11 factory jobs in the U.S. is in a factory owned by an EU-based company.
- About 50 percent of U.S. manufacturing foreign direct investment is in Europe, totaling \$268 billion in 2009. Manufacturing sales by majority-owned U.S. companies' affiliates in Europe totaled almost \$1.4 trillion.

A Transatlantic Partnership makes a lot of sense and that should be the ultimate vision and means for enhancing our mutual job and economic growth objectives.

Initially, we expect and hope that the United States and Europe will think broadly and ambitiously on ways to enhance our relationship with a long-term perspective rather than a focus on short-term gains or “deliverables.” While the harvesting of so-called “low hanging fruit” is always welcome, we recognize that at this state in the relationship, we will have to climb ever higher in the tree to find the fruit.

The NAM has an open mind as to what kind of an approach the two sides should take in getting to a free trade agreement that includes the EU, United States, Mexico and Canada. It could start with a U.S.-EU tariff and services agreement and add functional agreements (like government procurement or competition policy) over time, or as a “single undertaking” which includes Canada and Mexico later.

Whatever kind of negotiations the EU and the U.S. are ultimately able to launch, the NAM suggests several key objectives that should be the focus of attention. The ultimate outcome or agreement must:

- promote and improve efficiency in U.S.- EU trade and investment;
- promote growth and jobs, and focus on where that growth and those jobs can be most quickly generated;
- reduce costs of business operations and trade processing across the Atlantic both for companies and governments (customs facilitation);
- facilitate the movement of people and goods across the Atlantic with realism and due respect for security considerations; and,
- trail-blaze in new areas, like rules for state-owned enterprises, cross border data flows and cloud computing, to provide leadership for the global trading system.

In 2010, the United States imported \$288 billion in manufactured goods from the EU and exported \$211 billion there. This amounted to nearly 20% of our total world manufactured imports and exports.

While tariffs must be eliminated in a free trade agreement, as noted above U.S.-EU tariffs are already low while trade volumes are huge. The average duty collected by the United States on total manufactured imports from the EU was only slightly more than one percent, but still totaled \$3.48 billion. That was roughly 13.5% of the total duties collected by the United States.

According to the U.S. Census’ “Related Parties Trade” data for 2010, taking imports and exports with EU together, 48 percent – or about half – of our merchandise trade is intra-company trade. Another way of looking at this, we are simply taxing a company’s goods when they are only moving from one part of the corporate family to another. Those tariffs are a tax on competitiveness and we need to get rid of them.

According to U.S. Census’ “Profile of Exporting Companies, 2008-2009”, there were 93,152 U.S. exporters to the EU – a destination exceeded only by NAFTA, to which there were 121,462 U.S. exporters. Of the 93 thousand exporters to the EU, 4237 were large companies, and they accounted for 72 percent of the value of exports to Europe in 2009. But small and medium-sized exporters were 95 percent of the exporters to the EU, and they accounted for 28 percent of the value of exports to the EU.

While elimination of tariffs matters, the NAM ultimately wants to see a robust agreement with a high level of ambition that goes beyond elimination of tariffs and includes non-tariff measures and rules and market opening measures for all aspects of our commercial relationship.

At the NAM, we see great potential for manufacturers' expansion in U.S.-European bilateral trade, investment and job growth through an agreement that:

- Eliminates tariffs;
- Opens further services trade that supports manufacturing including distribution and finance;
- Establishes clearly a risk-based approach for regulations;
- Harmonizes or eliminates duplicative and/or redundant technical regulations, standards and conformity assessment procedures;
- Develops principles for regulatory actions and a coherent U.S.-EU process for new regulations going forward;
- Enhances the protection of investment and opens the transatlantic market further to U.S. and European investors;
- Develops a common approach to competition policy and new rules for the behavior of state-owned enterprises when they are acting in the commercial space;
- Promotes cooperation on border security, especially the consistent and intelligent monitoring of cargo facilities and ports and facilitation of legitimate business travel;
- Promotes the development of efficient supply chains by comprehensively examining how trade is conducted in this century and how companies are organized to fulfill market demand so as to develop the rules that enhance rather than impede trade;
- Builds out the coverage of government procurement further than the recent WTO agreement;
- Addresses the 21st century issues raised by expanding digital trade and e-commerce, including issues surrounding privacy, data protection and data flows;
- Creates a common approach to encourage recycling and reuse of manufactured products that will enhance respect for the environment; and,
- Protects our companies' innovations and intellectual property, including looking for new ways to cooperate to address piracy and counterfeiting.

To be fully commercially meaningful, a free trade area has to get at non-tariff measures.

The NAM fully recognizes that the regulatory issues will be among the most difficult to address. But it is vital. Eliminating redundancies and inconsistencies in regulations, standards, and conformity assessment and certification procedures will obviously lower the costs of doing business for our companies, thereby enhancing their competitiveness both in the transatlantic space and globally. This is especially important for small businesses. Cooperation in the development of regulations in the future can also pay benefits by fostering the global adoption of a U.S.-EU standard or regulation, enabling our companies to compete globally and preventing the rise of competing standards that can be used for protectionist purposes.

We recognize that EU-U.S. trade history is littered with failed attempts to address regulations, conformity assessment and regulatory issues. Mutual recognition agreements, supplier's declarations of conformity, etc., have run into many walls of resistance. We need to find a way to harmonize standards, regulations, and safety requirements – or at least accept each other's products as safe. We could recognize each other's safety standards as equivalent.

In industrial sector after sector, transatlantic differences in regulations and standards are identified by our members as the most serious single impediments to market access across the Atlantic. We support the U.S.-EU High-level Regulatory Forum efforts to advance the work in key cross-cutting regulatory issues which should be a major outcome of the High-Level Working Group's work.

We support an agreement that would help the U.S. and European regulators to get ahead of regulatory issues, and find mutually compatible ways to develop and implement technical regulations instead of devising them separately and then try to overcome later the barriers that approach creates. Principles to guide the development of regulations and promote best practices that could be included in an FTA would be a forward-leaning development.

We at the NAM continue to be very concerned by the proclivity of the Commission, EU governments and regulatory authorities to introduce non-scientific or quasi-scientific, even political, factors into regulatory policy-making and implementation. The so-called "Precautionary Principle" continues to be abused in key areas of regulatory policy, especially related to food and agricultural products in the EU. We urge the U.S. to insist strongly that regulatory policy on both sides of the Atlantic be based solely on the principles of sound science, risk management, risk assessment, and transparency.

We leave to the negotiators who know best how to proceed with turning this vision into reality, but suggest one ought to look to the Doha Agenda and bilaterally build on some of the good work that has already been done in the trade facilitation and services negotiations. We ought to be able to conclude and implement agreements in these areas that use the texts that have been developed over the past several years. This would also have positive demonstration effect for the rest of the world.

We recognize that a comprehensive, world-class free trade partnership with the EU would be very challenging to achieve, but the benefits for our economies and our citizens would be huge. The NAM encourages all players on transatlantic issues, both public and private, to think boldly and not to settle for "Lowest Common Denominator" outcomes.

If we were to have such a huge free trade area, particularly if it were subsequently expanded to include Canada and Mexico, it could well be a magnet for other countries wanting to join. We could set a high standard for totally free and open trade and invite others if they agreed to our high standard.

In a world where capital may be less available and where profit margins are shrinking, it is vital for the U.S. and the EU to pursue strategies that reduce the cost of capital, the cost of trade and the cost of the final product.

Thank you for considering our views.

Sincerely,

A handwritten signature in black ink, reading "Stephen P. Jacobs". The signature is written in a cursive, flowing style.

Stephen P. Jacobs