

## CBI response to the public consultation on the

### EU-US High-Level Working Group on Jobs and Growth

The CBI welcomed the decision at the EU-US Summit on 28 November 2011 to establish a High-Level Working Group on Jobs and Growth to be chaired by European Commissioner for Trade, Karel de Gucht, and the US Trade Representative, Ron Kirk. The mandate for this Working Group was clear: 'to identify and assess options for strengthening the EU-U.S. economic relationship, especially those that have the highest potential to support jobs and growth'.

In the context of the Working Group's mandate, CBI calls for:

- The launch of negotiations for a broad, ambitious free trade agreement between the EU and US as soon as possible.
  - The launch of a scoping exercise aimed notably at sectors ready to move forward on regulatory matters.
  - The elimination of all tariffs which would deliver significant benefits for UK industry, especially given the high degree of UK-US intra-firm trade.
  - The continuation of the Transatlantic Economic Council (TEC) process during negotiations and the inclusion of its results in the forthcoming agreement.
  - The conclusion of a comprehensive agreement covering all relevant economic, trade and investment issues.
  - The pursuit of transatlantic co-operation on global issues with a view to engaging with third country trading partners.
1. The EU and US have an enormous trading relationship. In 2009, the total value of transatlantic trade and investment was estimated at \$4.4 trillion, which equated to 30% of global trade. Furthermore, the US is by far the UK's largest individual export destination and the UK is the largest foreign investor into the US.
  2. While the trade and investment relationship between the EU and US is already functioning relatively well, it is by no means complete. Businesses engaged in transatlantic trade and investment continue to face a variety of barriers and costs that could be avoided, many of which concern regulatory divergences. To tackle those trade and investment barriers that are of most importance to our members, the **CBI supports a comprehensive Free Trade Agreement between the EU and the US that includes ambitious commitments on tariffs, trade in services, IPR protection, regulatory convergence, public procurement and investment.**
  3. At this stage, before we go into more detail on the potential coverage of such an agreement, we would like to stress the importance of a swift and successful conclusion to negotiations. Given the vast size of



Tom Sallis Policy Adviser – Brussels Office  
**DL:** +32 (0)2 286 1131 **E:** tom.sallis@cbi.org.uk

both economies and the current state-of-play with the Doha Round of WTO negotiations, a protracted or even a failed negotiation could have serious consequences for future market access negotiations, whether they be at the bilateral or the multilateral level. Therefore, we would recommend that extra effort is invested in ensuring that the parameters and the agreed ambition levels of an EU-US FTA are tightly defined prior to the official launch of negotiations. Political commitment towards an FTA needs to be expressed at the highest possible level to ensure that momentum is maintained.

## **Tariffs**

4. Both sides already have relatively low tariffs in force. A 2010 study by the European Centre for International Political Economy (ECIPE) found that the average weighted applied tariff on goods traded was 4.8% in the US and 6.7% in the EU. However, given the sheer size of both economies and the high amount of intra-firm trade between the EU and US, both sides have much to gain if all remaining tariffs are eliminated.
5. This is particularly evident in the UK context. Estimates from a 100% EU-US tariff elimination scenario based on 2007 data suggest that UK businesses could immediately save approximately \$1 billion on tariffs alone, and such a figure does not account for the increased trade flows that would surely result from such a scenario. At a time when serious questions are being asked about the growth prospects of both the EU and US economies, these savings are significant and should in the vast majority of cases be relatively simple to achieve.
6. While naturally these calculations rely on a number of assumptions, the size of these figures should not be ignored and are far higher than similar growth calculations that have been conducted for other EU FTAs. Previous studies suggest that key sectors in the UK benefitting from transatlantic tariff elimination include commodities and raw materials, intermediate manufacturing, vehicles and transport equipment, machinery and chemicals. These sectors would also benefit in the wider EU context. Regarding agricultural goods, given that a third of tariff lines are already near zero and that most barriers to agricultural trade concern differences in regulation rather than duties, tariff elimination should also be the target.

## **Services**

7. Services are highly important in the context of transatlantic trade, with the EU-US market responsible for 43% of global trade in services. The CBI would strongly welcome horizontal commitments from both sides to improve market access and national treatment in all services modes and to remove all remaining equity caps. We support a negative list approach, where any exceptions to the rule are explicitly spelt out. Moves to safeguard and secure transatlantic data flows and boost e-commerce have been identified as particularly important in the context of an EU-US FTA. In this regard, both sides should converge on approaches to data retention and IPR protection.
8. Regulatory co-operation, further discussed below, is critical in the context of increased trade in services. It is important that jurisdictions do not create widely different requirements. In the financial services sector, for instance, barriers to trade are numerous. In the accountancy sector, examples include difficulties relating to ownership, liability and standards divergence; in the banking sector, the lack of

convergence in the delivery of international commitments is one of many concerns; in the insurance sector, US rules on credit and diverging stances on insurer solvency are creating difficulties. In legal services, numerous problems arising from sub-federal rules have been identified. The High Level Working Group should map out all the sectoral issues at play and propose solutions as to how these can be dealt with.

### **Regulatory co-operation and non-tariff barriers**

9. Before discussing what can be achieved on regulatory convergence and non-tariff barriers, there must be reflection on the TEC process. We feel that TEC has been reinvigorated in recent times as increased emphasis has been placed on developing regulations on new technologies where the regulatory regimes are less entrenched. More focus has been placed on driving agreement on issues including interoperability and standards for e-vehicles and smart grids, nanotechnology standards, cross-border data flows, cloud computing, e-health and raw materials.
10. However, while TEC has been re-invigorated, tangible results that are of real significance to the business community have still proved difficult to come by. The CBI feels that an EU-US free trade agreement negotiation must take this work much further, and should bind in results.
11. We believe that an EU-US agreement should look to create a mechanism that allows counterpart regulatory agencies and standards bodies to formally recognise they have compatible and functionally equivalent approaches to approving products and services for sale in their respective markets. The CBI would strongly support that products and services allowed in one market would be deemed approved for sale in the other.
12. Different regulatory bodies have different levels of co-operation with their transatlantic counterparts, and reaching mutual recognition of compatible regime agreements will take time. In some cases, as in the areas of food safety and supply chain security, full mutual recognition agreements already exist; in some cases, such as motor vehicles and pharmaceuticals, there are memoranda of understanding and confidentiality agreements that foster collaboration; while in many others, active discussions are on-going. Transatlantic negotiations will foster and facilitate such co-operation, and we should strive for as many broad mutual recognition agreements as possible even before negotiations on a comprehensive package finish. The High Level Working Group should also ensure that regulatory commitments are fully implemented and held to account.
13. An institutional process will be required to encourage and guide continued regulatory co-operation after negotiations conclude. The High Level Regulatory Cooperation Forum is the appropriate vehicle for this, and should be empowered and equipped to take on this task. Effective moves against regulatory fragmentation in some cases do need to be seen as long-term goals.

### **Procurement**

14. The CBI believes that procurement should comprise an important part of this negotiation. The FTA should look to open up procurement contracts to the highest degree possible, going beyond GPA commitments in terms of coverage (including purchases at the sub-federal and local level) and below

existing thresholds. It should include binding transparency rules for award process and national treatment, clear decision-making criteria, clear deadlines in the selection and decision-making process and a neutral arbitration board which deals with complaints should be established.

## **Investment**

15. Transatlantic investment flows are essential in achieving deep economic integration which explains the high degree of intra-firm trade between the UK and US. The CBI welcomes the shared EU-US principles on international investment that have emerged from the TEC process and were announced on 10 April. CBI considers that a bilateral investment treaty (BIT) consistent with these principles containing an EU-US investor-state arbitration mechanism with timeframes would be an interesting component of the FTA. The agreement should promote the free transfer of capital, a level playing field for foreign and domestic companies, and protection for investors and their investments. The EU should ensure that increased investment access is not traded against weaker investor protection in the context of an EU-US BIT.
16. We look forward to working with the European Commission and other stakeholders during this process, and we will be feeding in more detailed positions on individual elements of the negotiations as appropriate.

## **About the CBI:**

The Confederation of British Industry (CBI) is the premier voice of UK business. We speak for more than 240,000 companies of every size, including many in the FTSE 100 and FTSE 350, mid-caps, SMEs, micro businesses, private and family owned businesses, start-ups, and trade associations. We represent every sector, including agriculture, automotive, aerospace and defence, construction, creative and communications, financial services, IT and e-business, management consultancy, manufacturing, professional services, retail, transport, tourism and utilities. Our mission is to promote the conditions in which businesses of all sizes and sectors in the UK can compete and prosper for the benefit of all.