

Remarks by U.S. Trade Representative Michael Froman on the United States, the European Union, and the Transatlantic Trade and Investment Partnership

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As Delivered

“Good morning, and thank you for that warm welcome.

“It is nice to be back in Brussels, and I am particularly pleased to make this city my first stop in Europe as U.S. Trade Representative. It doesn’t seem like that long ago when my wife Nancy and I were camped out in the lobby of the Berlaymont, phone directory in hand, cold-calling offices in hopes of finding someone to take us on as [Commission trainees] stagiaires. After a few days and some persuasion, my wife found a position in DG Competition and I found one in the Forward Studies Unit, the predecessor to today’s Bureau of European Policy Advisers (BEPA).

“That was decades ago. Many things have changed, but much remains the same. Transatlantic cooperation remains the foundation for global peace and security. Our devotion to democratic ideals serves as a beacon for the world to follow. And our shared commitment to free and open markets is a driving force for economic growth, innovation and jobs, not just in Europe and the United States, but across the globe.

“Over the course of the past six decades, the United States and Europe have been partners shaping the international economic system. From the ruins of war we worked to create strong rules and institutions to govern international trade, investment, and finance. These rules and institutions laid the groundwork for generations to enjoy global stability and unprecedented prosperity.

“In 1948, the U.S. and European nations made up over one-third of the founding members of the GATT [General Agreement on Tariffs and Trade], the predecessor to the World Trade Organization. We were motivated by the shared belief that trade liberalization, rather than protectionism, would catalyze growth and rebuild a shattered world economy.

“In the intervening 65 years, our economic partnership has deepened in almost every measure.

“Today, the U.S. and the European Union are each other’s largest economic partners, with \$2.6 billion dollars’ worth of goods and services flowing between us each day. We invest nearly \$4 trillion in each other’s economies, creating the world’s largest investment

relationship. And more than 13 million people owe their jobs to the transatlantic economic relationship. The U.S.-EU economic partnership is second to none.

“But we know that we can do more. We can do more for economic growth. We can do more to create jobs. We can do more to strengthen rules-based trade that supports the entire global trading system.

“And that is precisely why we launched the Transatlantic Trade and Investment Partnership, or T-TIP. Together with the Trans-Pacific Partnership, or TPP, and the work being done at the WTO to negotiate a multilateral Trade Facilitation agreement, a plurilateral Trade in Services Agreement (TISA) and an expansion of the Information Technology Agreement (ITA), we see T-TIP as an opportunity to raise the standards, to introduce new disciplines and ultimately to strengthen the multilateral trading system.

“Our goals for T-TIP are clear. A successful negotiation will create a comprehensive agreement, which not only opens markets but ties us closer together; not only enhances our mutual commitment to rules-based trade, but empowers us and enhances our ability to strengthen the rules-based system around the world – including around issues such as localization and the role of state-owned enterprises.

“This is, in itself, an ambitious agenda. But the greatest opportunity – and the greatest challenge – of T-TIP is in the area of regulation and standards, and that is what I want to focus on today.

“First, let me be clear: There is nothing we seek to do through T-TIP to undermine the determinations that each of our systems has made with regard to the appropriate level of health, safety and environmental protection of our people. When we talk about regulation and standards, we are talking about how to bridge the divergences between two well-regulated markets, not about launching a broad deregulatory agenda. We are focused on reducing unnecessary costs that damage our collective competitiveness in an increasingly competitive global economy, perhaps resulting in what my former colleague, Cass Sunstein, has called ‘simpler’ regulation.

“The U.S. and European regulatory systems are the most advanced in the world. On both sides of the Atlantic, our citizens know that their drinking water is clean. Our environmental protections are the strongest in the world. When Americans and Europeans get behind the wheel of a car or board an airplane, they know regulators have worked with manufacturers to ensure that they are traveling in greater safety than ever before. This is our strength, and T-TIP will build on our shared commitment to strong regulations in the public interest.

“We have a long history of cooperation on important regulatory issues. Americans and Europeans have concluded an equivalence agreement on organic food. We've cooperated on smart grid interoperability standards and implemented mutual recognition of testing and certification of telecommunications equipment. And yet, there is much more to do:

- Each of our systems achieves largely comparable levels of protection in many areas, but we don't always agree on how to define and recognize the equivalence among regulations.

- Each of our aviation regulators has found a way to trust each other's safety inspections, but that has not spilled over into other sectors.

- In certain sectors, a product built in the United States, even to an EU standard, cannot be tested in the United States against that standard, but can only be certified in Europe.

- Our standard-setting bodies include the participation of companies from Europe and around the world, yet the only bodies the EU recognizes as producing international standards are those in which the EU member states cast the bulk of the votes.

“These are but a few examples. Over decades, differences in our regulatory and standards approaches have created unnecessary barriers, raising costs, deterring trade and investment, and negatively impacting our competitiveness and our consumers. As traditional barriers like tariffs and duties have decreased, these standards and regulatory issues have emerged as the greatest potential impediment to further integration of the world's two largest markets.

“These differences in our approach to regulation and standards have also inhibited our ability to present a shared vision to other countries and to agree on global rules. Finding new ways to address these issues is perhaps the greatest contribution that T-TIP can make to our long-term growth and competitiveness.

“Much of the work in this area, as we know from the Transatlantic Economic Council, is mind-blowingly technical, but there are certain cross-cutting principles and processes that can contribute significantly.

“And I'll just focus on three: transparency, participation and accountability.

- **Transparency:** Providing adequate advance notice of specific regulatory measures, not just preliminary, general papers on the subject, but the actual rule being proposed.

- **Participation:** Providing meaningful opportunities for input from a broad range of stakeholders, public and private, foreign and domestic.

- **Accountability:** Providing responses to that input, a rationale for the final regulatory decision, based on evidence, science, including an impact analysis of the proposed regulation.

“In the United States, we maintain transparency by publishing an agenda of upcoming regulations twice a year.

“Later, we publish the text of proposed regulations in the Federal Register. We flag proposed rules that have potential implications for international trade so that our trading partners can focus on those regulations, and we make sure that any underlying regulatory impact assessments are available on a single online portal, with enough time and notice for all stakeholders – from anywhere in the world -- to provide comments.

“This is especially important for small and medium-sized enterprises, which can't necessarily afford to weigh in on these issues in person in Washington or Brussels, or hire consultants to do so on their behalf. If notice of a regulation under consideration comes too late – only once it has been transmitted or when regulators are no longer in a position to revise their proposal – there might be the illusion of inclusion, but not meaningful participation.

“Our law requires that we tie this transparency to accountability, requiring us to explain how we consider the comments received and any changes we've made to proposed rules. This approach not only respects the democratic principles upon which our laws are built, but allows us to obtain valuable information from a range of affected interests, ensuring better quality regulations, that can save our economy billions of dollars annually.

“And for our trading partners, having had the chance to participate in our rule making process, and knowing how their participation had an impact, they are not surprised by the time new regulations are adopted in final. And as a result, potential trade frictions can be resolved ahead of time.

“Transparency, participation, accountability -- these are core to the U.S. regulatory system, but they are not uniquely American principles. These aspirations are evident across Europe as well. More than a decade ago, the EU published a white paper proposing, and I quote, ‘opening up the policy-making process to get more people and organizations involved...’ by promoting ‘greater openness and accountability and responsibility...’ in EU policies. Around the same time, the EU issued Minimum Standards for Consultation, stating that ‘the Commission should...consult widely before proposing legislation, and wherever appropriate, publish consultation documents.’

“And a number of your Member States and parts of the Commission already use similar open and accountable processes.

“Indeed, good regulatory practice is a focus globally. The OECD calls transparency ‘one of the central pillars of effective regulation.’ The World Bank states that ‘transparency and accountability is vital to market confidence in a modern regulatory state.’

“Now, there is no ‘one size fits all’ to good regulatory practice. The relationship between the Executive and Congress in the United States is different than the relationships among the Commission, the Council and the European Parliament, not to mention the Member States, but T-TIP can be an important opportunity to explore what we can do jointly to fulfill these principles.

“We firmly believe that if we succeed in embedding these principles, we'll produce better regulations and mitigate many of the tensions we face around regulatory divergences.

“And I sense that there will be a lot of support for this – on both sides of the Atlantic. I hear regularly from U.S. companies and associations about wanting to be more involved in the EU process of developing regulatory measures.

“But I also hear from Europeans about this: from European businesses and other stakeholders, including NGO's, labor and civil society; I hear from Member States and members of the European Parliament – all of whom are looking for greater transparency, participation and accountability. I believe we can overcome these challenges together, addressing them concretely and unequivocally in T-TIP.

“Now, there is a similar set of issues around the setting of standards. Stakeholders should have equal access to the standard-setting process, regardless of nationality. Instead of their passports, it should be their professional expertise and judgment that should open the door to participation in how technical issues are decided, implemented and certified.

“Restricting standards development to nationality-based processes is a tempting way to carve out market share for national constituencies, but the costs are too high, not just for trading partners, but for standards-setters and regulators forced too often to leave cutting-edge technical solutions out in the cold.

“There might have been an age when we could afford such costs, but at a time when we are focused on both sides of the Atlantic on growth, innovation and competitiveness – and when the U.S. and the EU have shared concerns about third countries’ use of standards to divide markets, rather than integrate them -- T-TIP should be an opportunity to set a high standard for global standard-setting, to unleash our collective creativity and encourage good practices around the world.

“We need to admit that government regulatory experts, be they in Brussels or Washington, do not have a monopoly on good ideas and expertise. Many private sector actors are ahead of the curve with cutting-edge ideas. And the speed at which standards are being set by the market is far greater than most bureaucratic or intergovernmental bodies can move.

“We have seen this in the incredibly innovative area of information technology, where ultimately, the need for interoperable standards encouraged the EU to join the U.S. in working with private sector-led standards. But in other areas, an inability to incorporate the best ideas from market-driven standard-setting processes has discouraged innovation and interoperability, increased costs and reduced competitiveness.

“Neither Europe nor the U.S. can afford to leave good ideas on the table. Gone are the days when we could take comfort in ‘national’ standards or ‘European’ standards or even ‘international’ standards divorced from the market. Our goal should be to move standardization towards new open, global horizons and create an environment in which our companies can succeed world-wide.

“Together, we want to collaborate in the development of global standards, not simply be standard-takers. We see this as critical to our capacity to create jobs, promote growth and improve the standards of living of people here at home.

“There are a number of challenges to achieving our objectives in T-TIP. One that is often cited is our historical difference about the appropriate approach to regulation, sometimes characterized as a so-called gap between Europe’s preference for the precautionary principle and the United States’ focus on cost-benefit analysis. I believe that that concern is largely anachronistic.

“It is a caricature to suggest that when Europe only takes regulatory action based on the precautionary principle – in other words, without 100 percent scientific certainty, that it prohibits an activity. Since science is rarely definitive, under this scenario, all productive activity would cease. Similarly, it is a caricature to suggest that the U.S. bases its regulations solely on cost-benefit analysis, and that it does not take qualitative factors into consideration, such as dignity, fairness and equity.

“For example, when the Americans with Disabilities Act was implemented, the decision to require accessible bathrooms wasn’t simply a matter of cost-benefit analysis; it reflected a sense of equity and dignity as well.

“And so, while it might be premature to declare an end to the debate over the precautionary principle and cost-benefit analysis, that distinction is decreasingly important, at least in terms of the work we have before us in T-TIP.

“Addressing these many regulatory and standards issues will not be easy. But we know from experience that few things worth doing are easy.

“We both have successes under our belts we can be proud of. Two years ago, the Obama Administration mandated a rigorous review and cost-benefit analysis of existing rules and regulations, a labor intensive, tedious and unpopular process. It also yielded billions of dollars of savings by eliminating unnecessary rules and regulations and fostering critical reforms. And most importantly, these cost savings did not in any way minimize the high standards of protection we expect our regulations and rules to deliver.

“I’ll just give you one example: Since the 1970s, the EPA had defined milk as oil, meaning dairy farmers were subject to costly requirements designed to prevent oil spills. Although common sense would tell us that the two should be treated differently, this had persisted for decades.

“As part of the Administration’s review process, the Environmental Protection Agency exempted milk from these rules, with five-year savings expected to top \$700 million dollars.

“Here in the EU, the EU has managed to secure efficiencies through the High Level Group on Administrative Burdens and, of course, through the creation of the Single European Market itself, which was far more difficult and ambitious a task.

“We can draw inspiration from the difficult work we have both accomplished, all the while being driven by the imperative and responsibility to do everything we can to create jobs and growth in the United States and Europe. Doing so will strengthen our competitiveness, our ability to innovate and our capacity to work with the rest of the world to strengthen the global trading system. And we look forward to that challenge.

“Thank you.”

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