Transatlantic Trade and Investment Partnership[1]

Comments on Docket USTR-2013-0019, May 10, 2013

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In what would be the largest trade pact ever, the United States and the European Union early in 2013 said that they would begin talks to reach an agreement on a Transatlantic Trade and Investment Partnership. Policymakers and business interests on both sides of the Atlantic are touting the huge economic benefits that such an agreement would bring not only to the two parties but to the rest of the world's trading system.

The negotiations aren't likely to be easy even though they involve highly developed economies with already strong economic and cultural ties. The most contentious areas of the talks will involve the differing regulatory structures and approaches in the U.S. and the EU and how to resolve those differences. Also sure to be debated are "behind-the-border" trade barriers and the still protectionist policies of both parties relating to their agricultural sectors. How these and other issues are resolved will determine whether the agreement indeed promotes free and open trade or gets mired in a regulatory morass.

In a joint announcement February 13, 2013, the leaders of the U.S. and the EU pointed out the scale of the existing economic relationship between them and the huge economic benefits that such an agreement would bring:

> The transatlantic economic relationship is already the world's largest, accounting for half of global economic output and nearly one trillion dollars in goods and services trade, and supporting millions of jobs on both sides of the Atlantic.[3]

With both parts of the world still suffering from slow growth, they are both undoubtedly looking for real stimulus in the form of increased trade and investment.

In the lead-up to the announcement, both parties had been evaluating the issues likely to arise during the negotiations. In fact, in 2011 they established a High Level Working Group on Jobs

[1] Sections of these comments earlier appeared in "U.S.-EU High Level Working Group on Jobs and Growth," Docket Number USTR-2012-0001, Comments submitted by the Competitive Enterprise Institute, by Frances B. Smith, Washington, D.C.,February 3, 2012 http://cei.org/sites/default/files/Fran%20Smith%20-%20US-EU%20jobs%20and%20growth%20discussions.pdf

[2] The Competitive Enterprise Institute is a nonprofit organization, 1899 L St., NW, Washington, DC.

[3] http://www.ustr.gov/about-us/press-office/press-releases/2013/february/statement-US-EU-Presidents

and Growth chaired by the chief trade officials of the U.S. and the EU. Comments were sought from trade experts, businesses and Non-Governmental Organizations, and the final report of that group was released on February 11, 2013.

As the U.S. and the EU move from discussing general principles of an agreement to dealing with contentious issues, the following comments point out some of the major obstacles in the regulatory arena and recommends approaches to help resolve them.

Remove Remaining Tariffs

The U.S. and the EU are formidable trade partners that represent about 50 percent of the world's GDP. While the U.S. and the EU have dramatically reduced tariffs on goods and services imported to their countries, the countries should agree to eliminate remaining tariffs to spur growth and opportunity.

Eliminating tariffs would create significant economic growth and enhance consumer welfare for both partners. In terms of exports, it has been estimated[4] that getting rid of tariffs on merchandise trade between the EU and the U.S. would increase EU exports to the U.S. by up to $69 billion, while U.S. exports to the EU could increase by up to $53 billion. There would be substantial gains in both economies – GDP in the EU could rise from $58 billion to $85 billion, while U.S. GDP could increase from $59 billion to $82 billion.

In a free-trade lesson the U.S. should study, in November 2011 Canada announced that, to help spur the economy, it was eliminating tariffs on imports that Canadian manufacturers use.[5] Tariffs would be cut on about 70 items, the latest in government moves to get rid of all tariffs by 2015. Already Canada has abolished tariffs on more than 1800 items — relief that is expected to add about $423 million annually to its economy.

However, in a signal that eliminating all tariffs is not in the cards, the report of the High Level Working Group twice mentioned that "the most sensitive" products on both sides would continue to be treated differently from other goods and services:

> The HLWG recommends that the goal of the agreement should be to eliminate all duties on bilateral trade, with a substantial elimination of tariffs upon entry into force, and a phasing out of all but the most sensitive tariffs in a short time frame. In the course of negotiations, both sides should consider options for the treatment of the most sensitive products.[6]

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[4] Fredrik Erixon, and Matthias Bauer, "A Transatlantic Zero Agreement: Estimating the Gains from Transatlantic Free Trade in Goods," European Centre for International Political Economy, ECIPE Occasional Paper, April, 2010.

[5] *Digital Journal*, November 28, 2011 http://digitaljournal.com/article/315162.

[6] Final Report High Level Working Group on Jobs and Growth, February 11, 2013. http://trade.ec.europa.eu/doclib/docs/2013/february/tradoc_150519.pdf

Important too for the negotiators should be the recognition that tariffs on imports are in reality added taxes on the foreign goods and services that consumers and businesses purchase. Trade laws should consider the consumer impact. Consumers benefit from imports that may reduce their costs, increase their choices, provide new technological advances. Eliminating tariffs can provide major "tax cuts" that can help stimulate the economy.

Remove Non-Tariff Trade Barriers

As trade barriers such as tariffs have been significantly reduced between the EU and the U.S., non-tariff trade barriers have become more prominent. Those protectionist policies can take many forms, from food safety standards that aren't based on science to customs and border procedures that put obstacles in the path of free trade to complex regulatory schemes that increase costs to suppliers and consumers.

As CEI's Fred L. Smith, Jr. noted in his Preface to *MCOOL and the Politics of Country-of-Origin Labeling*, [7]

> As multilateral, regional, and bilateral trade agreements have dramatically reduced tariffs among most trading countries, protectionist interests have become extremely creative at finding less direct ways to protect their domestic industries. Since overt protectionist measures would violate these agreements, and in many cases, violate World Trade Organization (WTO) rules, opponents of trade liberalization have turned to non-tariff barriers to achieve their anti-competitive objectives. Usually, these are disguised as needed rules to advance the public good, ensure consumer safety and welfare, protect the environment, or any combination of these goals. Too often, these new fangled protectionist measures succeed, rolling back the gains of free trade.

Indeed, the World Trade Organization is quite cognizant of countries' use of health and safety concerns to disguise their protectionism. In its discussion of the Sanitary and Phytosanitary Agreement, the WTO warns against such use:

> SPS measures, by their very nature, may result in restrictions on trade.
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> All governments accept the fact that trade restrictions may be necessary to ensure food safety and animal and plant health protection. However, governments are sometimes pressured to go beyond what is necessary for health protection and to use SPS measures to shield domestic producers from economic competition.
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> Such pressure is likely to increase as other trade barriers are reduced as a result of the Uruguay Round agreements.

[7] Alexander Moens and Amos Vivancos-Leon, *MCOOL and the Politics of Country-of-Origin Labeling,* Fraser Institute and the Competitive Enterprise Institute, June 2012. http://cei.org/sites/default/files/Alexander%20Moens%20and%20Amos%20Vivancos%20Leon%20-%20MCOOL%20and%20the%20Politics%20of%20Country-of-Origin%20Labeling.pdf

> An SPS measure which is not actually required for health reasons can be a very effective protectionist device, and because of its technical complexity, a particularly deceptive and difficult barrier to challenge.[8]

Health, safety, and environmental elements of the EU-US agreement should explicitly comply with existing WTO obligations, specifically the Agreement on Technical Barriers to Trade and the Agreement on Sanitary and Phytosanitary Measures. Such compliance should reinforce the general principles that no such restrictions should be permitted unless there is (a) clear scientific evidence of a harm or impending harm to human or animal health or to the environment; (b) reasonable certainty that the proposed policy will remedy or prevent that harm; and (c) reasonable certainty that the policy is only as restrictive as it needs to be to remedy or prevent the harm.

Some EU standards-setting and labeling requirements not based on scientific information act as non-tariff trade barriers. Particular attention should focus on the EU's policy on genetically modified organisms (GMOs) – food and feed -- that is based on the Precautionary Principle (see discussion below). That policy looks at the method of production rather than the product and requires labeling of GMOs.

Senate Finance Committee Chairman Max Baucus (D-Mont.) and Ranking Member Orrin Hatch (R-Utah) in a press release and a letter to U.S. Trade Representative Ron Kirk praised the concept of a trade agreement with the EU but pointed to several EU restrictions on agricultural imports that are not based on sound scientific findings. The Senators urged that those "unwarranted agricultural barriers" be resolved:

> Broad bipartisan Congressional support for expanding trade with the EU depends, in large part, on lowering trade barriers for American agricultural products. This means increased agricultural market access and firm commitments to base sanitary and phytosanitary measures on sound science. The EU has historically imposed sanitary and phytosanitary measures that act as significant barriers to U.S.-EU trade, including the EU's restrictions on genetically engineered crops, a ban on the use of hormones in cattle, restrictions on pathogen reduction treatments in poultry, pork and beef, unscientific restrictions on the use of safe feed additives such as ractopamine in beef and pork, and other barriers to trade affecting a significant portion of U.S. agricultural exports. While we recognize the positive steps the EU has recently taken with respect to imports of beef washed with lactic acid and with respect to swine, there is still much work to be done. We urge you to resolve these and other unwarranted agricultural barriers as part of the FTA negotiations on both an individual and a systemic basis.[9]

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[8] World Trade Organization,"Introduction to the SPS Agreement," http://www.wto.org/english/tratop_e/sps_e/sps_agreement_cbt_e/c1s2p1_e.htm

[9] "Baucus, Hatch Outline Priorities for Potential U.S.-EU Trade Agreement," Press Release, Senate Committee on Finance, February 12, 2013, http://www.finance.senate.gov/newsroom/chairman/release/?id=17b2fd73-067d-4a4a-a50f-a00265efbf67

In the agricultural areas relating to the U.S. and the EU, both parties should also look to their domestic support programs, especially in these times of budget deficits and the need to cut federal budget expenditures. In the U.S., direct payments to farmers are being scrutinized and should lead to their elimination in the next farm bill. The federal crop insurance program should be evaluated against a private system of insurance that farmers can use. The U.S. sugar program, with its central planning approach of domestic allotments, price supports, and import restrictions, costs consumers about $4 billion per year in higher costs for food products and leads to significant job losses in sugar-using industries. It should be abolished.

The EU is reviewing its Common Agricultural Program, which most independent observers suggest is in urgent need of reform. It also needs to evaluate its domestic support programs and eliminate the direct payments to farmers.

The EU's policy on protecting agricultural products and certain foodstuffs by their origin or geographical indication[10] is an issue that is not likely to be easily resolved. Under EU rules, certain products' names are registered and protected based on where they were produced, so that particular names of cheeses, sausages, hams, olives, and other foods cannot be used except by those registered. Thus, Parma Ham cannot be used except for hams raised and produced in Parma. While the U.S. has some foodstuffs that are protected in this way, such as Vidalia onions, this type of protectionism is not as widespread as in the EU.

Reduce the Regulatory Burden[11]

Intrusive, redundant, and complex regulations impede the ability of companies to innovate and grow. This harms their meaningful role in creating jobs and improving consumer welfare. In all sectors of the economies of the EU and the U.S., the regulatory burden on the private sector continued to mount alongside increases in spending. The Competitive Enterprise Institute cites U.S. regulatory costs of well over $1 trillion—a hidden tax one-third the size of the federal budget. Yet regulatory costs draw much less public rebuke than taxes, because they are concealed in the prices of goods. Thus, when politicians find it difficult to raise taxes to pay for their policy goals, they regulate. This is justified under the notion that government must help society manage risks. Yet the state rarely provides the best answers to societal risks. Instead, we must turn to the marketplace's disciplining role in consumer protection, which boosts safety as a competitive feature. We must improve competitive markets' ability to impose discipline in the form of reputation and disclosure.

[10]Regulation (EU) No 1151/2012 of the European Parliament and of the Council, 21 November 2012 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:343:0001:0029:EN:PDF

[11] This section is excerpted from Wayne Crews, "Deregulate to Stimulate," *Liberate to Stimulate*, Wayne Crews and Ivan Osorio, eds,, Competitive Enterprise Institute, 2010. http://cei.org/sites/default/files/CEI%20-%20Liberate%20to%20Stimulate.pdf

Reining in excessive delegation of power to federal agency bureaucrats would help close the breach between lawmaking and accountability, while forcing Congress to demonstrate regulatory benefits.

One current example shows how the Sarbanes-Oxley Act and the Dodd-Frank Act undermine the ability of entrepreneurs to create new jobs and contribute to economic growth. In its IPO, in fact, Facebook specifically singled out the Sarbanes-Oxley Act of 2002 and the Dodd-Frank Act of 2010 as "risk factors" that will impose substantial costs to the company and its shareholders and divert resources from the firm's core mission of innovation.

Dodd-Frank's "Volcker Rule" would prohibit banks from trading on a proprietary basis and restrict their investments in hedge funds and private equity. Policymakers should be concerned with the possible wide-ranging effects of this rule on banks, security markets, jobs, and the economy. It will likely raise the cost of credit, reduce security firm's liquidity, increase costs for firms planning to expand and add jobs, and decrease financial institutions' international competitiveness. The fact that Her Majesty's Government in the United Kingdom has already formally complained about this rule should indicate that it will become a substantial barrier to trade in financial services.

Reject Regulatory Harmonization that Creates Obstacles to Growth and Job Creation

Often policymakers on both sides of the Atlantic, in reviewing the regulatory state's complexity and lack of uniformity, call for "harmonization" of regulations. However, such harmonization can lead to conformity and stagnation – resulting in superior alternatives not being explored. Rather, policymakers should look to competition among regulatory regimes. This "discovery process" is a better way to reduce transaction costs and thus increase voluntary wealth creation.

Providing companies with a choice of regulatory regimes often works better than a single uniform regulatory structure or a harmonized system. Centralized regulators can suffer from limited information and pressures from special interest groups. In addition, centralized regulations are often static and don't keep pace with rapid developments in a globalized world. Dispersed regulatory structures can satisfy different preferences, and allow regulators to try varied approaches to regulating, gain information about what works and what doesn't, and provide feedback to learn more about the cost effectiveness of specific rules. Regulatory competition provides these benefits.

The path to economic growth and prosperity is not something readily planned from above but rather is "discovered" by experimentation and experience. Markets are a discovery process – it is not evidence *a priori* which polices do or do not foster growth and employment. The two primary models are the "harmonization" model of seeking to "standardize" rules between those seeking mutually beneficial trading partners and the "competitive" model which seeks to have each party experiment with rules to determine which are superior. The "harmonization"

approach can easily morph into a "cartelization" path – enriching some within the two blocs but harming the overall economies of both.

In dealing with existing regulations, the two entities should seek for ways to streamline current regulations and to reduce redundant procedures that create inefficiencies and increase costs. Policymakers should look to cooperative endeavors that have been successful in setting standards that are recognized by countries throughout the world. For example, the International Organization for Standardization (ISO) is an international body that develops voluntary standards through the consensus of national standards-setting organizations.[12]

In the food safety area, ISO has taken the "best practices" of what had been a private scheme -- Hazard Analysis and Critical Control Points (HACCP) – and has used that as one of the primary bases for its food safety standard ISO 22000. In developing the standard, ISO also worked with the Codex Alimentarius Commission, the international body that the WTO defers to in disputes relating to food safety. [13]

In anticipation of closer economic ties, about six years ago, at a U.S.-EU Summit, the parties established a Transatlantic Economic Council to further regulatory cooperation and reduce regulatory burdens that impede trade.

At its 9th meeting in December 2010, the Council agreed on a set of five regulatory principles[14]:

(1) transparency and openness, allowing participation by stakeholders and the public;

(2) consideration of costs and benefits;

(3) careful analysis of alternatives, including less stringent and more stringent;

(4) selection of the least burdensome approach; and

(5) use of flexible tools, promoting freedom of choice and free markets.

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[12] As ISO's website notes: "ISO (International Organization for Standardization) is the world's largest developer of voluntary International Standards. International Standards give state of the art specifications for products, services and good practice, helping to make industry more efficient and effective. Developed through global consensus, they help to break down barriers to international trade." http://www.iso.org/iso/home/about.htm

[13] For an excellent short discussion of how this standard was developed, see John G. Surak, Ph.D, "A Global Standard Puzzle Solved? How the ISO 22000 Food Safety Management System Integrates HACCP and More," *Food Safety Magazine*, Dec. 2005/Jan. 2006 http://www.foodsafetymagazine.com/magazine-archive1/december-2005january-2006/a-global-standard-puzzle-solved-how-the-iso-22000-food-safety-management-system-integrates-haccp-and-more/

[14] European Commission-United States High-Level Regulatory Cooperation Forum, Report of the 9th Meeting, Washington DC, 16 December 2010
http://www.whitehouse.gov/sites/default/files/omb/oira/irc/hlrcf_summary_report_december_2010.pdf

The group also agreed that they would focus on sectors relating to emerging technology and explore how cooperation in setting standards could avoid possible future trade barriers in those areas.[15]

Freeze antitrust regulation

In many antitrust actions, both in the U.S. and the EU, regulators seem to be focusing their attention on firms that operate in dynamic and rapidly changing markets, are innovative in their distribution systems, and are technology-based in their products or services. Increasingly, too, satisfying the demands of competitors, at the expense of consumers, seems to be a principal factor governing antitrust suits.

In markets where companies are operating at the "economic frontier" regulators are not very good at understanding novel practices - creative ways of restructuring traditional activities and distribution systems. Those innovations, both technological and institutional, can benefit consumers by lowering prices and increasing choices and convenience.

Instead, antitrust enforcers assume that the future will be static rather than dynamic. In fact, government antitrust action may hold back innovation.

Antitrust regulators usually narrowly redefine markets rather than considering the larger field in which the sector is operating. Computers, operating systems, and search engines are one such example. More than a decade ago, U.S. antitrust regulators also redefined markets involving "mega-office products discount stores" and denied a merger [16]without considering catalogues and e-commerce sites offering those same products. That showed a major shortcoming in not recognizing how markets were evolving through technological innovations.

Consumers are the ones who benefit from the vibrant competition that exists in the high-tech industries. They are the ones who would suffer if the government disrupts that market through antitrust action to mold its own view of the future. The nature and speed of institutional and technological change is misunderstood. Predicting where systems will go in the future is a task for markets, not antitrust lawyers.

The specter of antitrust enforcers as "social engineers" -- seeking to shape the markets of today into a narrow and static mold of competition -- threatens consumer welfare. Antitrust

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[15] Raymond J. Ahearn, Congressional Research Service, "U.S.-EU Trade and Economic Relations: Key Policy Issues for the 112th Congress," January 18, 2012 http://www.fas.org/sgp/crs/row/R41652.pdf

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[16] "FTC rejects proposed settlement in Staples/Office Depot merger, April 4, 1997 http://www.ftc.gov/opa/1997/04/stapdep.shtm

advocates claim to be protecting consumers from anti-competitive practices. Yet consumers are the ones who benefit from creative institutional and technological change and are far more likely to be injured by political restrictions on such change, especially when such restrictions favor competitors. The trustbusters' vision of the market as a static snapshot of yesterday could well frustrate the creative search for innovations tomorrow.

U.S. and EU negotiators should view with caution such interventions in today's dynamic and global marketplace as threats to innovation and economic growth.

Reject the Precautionary Principle[17]

The precautionary principle is sometimes invoked as an approach that governments should embrace to deal with risks, especially environmental and health risks arising from new technology or new products.

However, the precautionary principle biases the process of "decision-making under uncertainty" against the new. It is arbitrary, does not compare risks, and addresses only the risk of innovation, not the risk of stagnation.

First formalized in the World Charter for Nature, adopted by the United Nations General Assembly in 1982, the precautionary principle was subsequently included in other international agreements, most notably in the Rio Declaration during the UN Conference on Environment and Development in 1992, Principle 15.

Essentially, this approach embodies a concept that, at first glance, sounds sensible: Shouldn't governments take action to protect human health and the environment even when there is no conclusive evidence of harm?

However, some governments, such as the European Commission (EC), have taken this principle further. Implementation of the principle readily leads to an approach that attempts the impossible task of eliminating risk.

Proponents of the precautionary principle want to err on the side of "caution," but that bias ignores the fact that caution may instead mandate innovation. Focusing on the risks of the new, they ignore the off-setting risks that food shortages might become severe, that existing vaccines might become ineffective, even when the evidence on these risks is not conclusive. The precautionary principle is a one-way ratchet. It obsesses about imagined or potential risks of new technology or innovations while ignoring the real risks on the other side, the risks of restricting the development of technology. Both have to be considered and evaluated – the

[17] Excerpted and revised from Frances B. Smith, *The Biosafety Protocol: The Real Losers are Developing Countries*, Washington, D.C.: National Legal Center for the Public Interest, March 2000.

risks of change have to be balanced against the risks of stagnation. Generally, new technologies have reduced overall risk, and that fact is ignored in the precautionary principle.

In the case of biotechnology, the risks of technology restrictions will be borne not by the affluent in the developed world, but by people in developing countries, where the human and environmental benefits of agricultural biotechnology could be dramatic and widespread. Higher crop yields per acre not only can provide larger food output to feed the world's hungry, but also help preserve forests and habitats. Pesticide reductions made possible by bioengineering resistance into the plants can enhance the environment. The ability to grow crops in inhospitable soils can help keep pace with the needs of growing populations. Enhanced nutritional levels of staple crops, such as rice, can prevent diseases that are life-threatening or debilitating. Possible reduction of allergens in certain foods can lower health risks to many people.

Undoubtedly, safety issues related to specific crops or foods or products will be raised, and those risks should be carefully examined. However, those risks must be offset against the very real risks to which many in the world are already exposed. The rote application of the precautionary principle, with its strong bias against innovation, to broad classes of products creates high risks that extraordinarily useful products will be suppressed in exchange for no gain in safety.

Nanotechnology is an example. The EU established a Scientific Committee on Emerging and Newly Identified Health Risks, which published a list of perceived risks. Nanotech producers and importers have to disclose health and safety data for their products regarding those risks to the EU to comply with Registration, Evaluation, Authorisation, and Restriction of Chemicals (REACH) standards. If the EU shows the same hostility to nanotech that it's shown to GMOs, that could be a sticking point in the negotiations.

In the case of the EU's REACH program, the U.S. should ensure that it continues to use a more risk-based approach to the safety of chemicals, rather than the bureaucratic and precautionary REACH approach, where valuable products are eliminated based on questionable grounds.

Where possible, before restricting technological advances, both EU and U.S. regulatory authorities should be required to demonstrate with clear and convincing evidence (from a source other than the regulatory authority itself) that new products and practices will do more harm than good before they can keep those products and practices off the market.

In the recent past, the EU has attempted to have the Precautionary Principle enshrined in some of the international food safety standards being developed by the Codex Alimentarius. The U.S. rightly resisted those efforts, which would diverge from the scientifically based principles on which Codex is based – and which the World Trade Organization defers to in disputes relating to food safety.

Improve Food Safety and Quality through Greater Information, Consumer Choice, and Legal Accountability[18]

Few issues are as important to consumers in both the U.S. and the EU as the safety and quality of their food—from microbial contaminants to pesticides, and from organics to obesity. Recent health scares—from salmonella-contaminated eggs to E. coli-contaminated spinach and tomatoes—show just how fragile the food chain can be. But, while these tragic events have led to calls for greater government oversight of the food supply, the nature of these scares shows that additional regulations or inspections are likely to do little to improve food safety. Poorly conceived government regulation often does as much to compromise food safety, affordability, and choice as to promote it—especially when the regulatory framework is focused on a fear-driven activist agenda rather than on basic principles of science and genuine safety.

Too often, the government's regulatory agenda favors politically expedient outcomes over those that would actually promote safety and availability. For example, the U.S. government maintains outmoded visual examination and employs "poke and sniff" food inspectors who cannot detect microbial pathogens. At the same time, heavy regulatory burdens make it difficult to introduce technologies, such as irradiation, that could cut the incidence of those pathogens by half or more. Americans consume nearly 1 billion meals every day, and microbial pathogens can be introduced at any stage in the food production and distribution system. Merely adding additional inspectors cannot realistically be expected to prevent downstream contamination. Instead, the legal system should punish producers and sellers who are negligent in the handling or purchasing of the foods we eat. Food companies should be allowed the flexibility to adopt technologies and practices that can cut the incidence of food borne contaminants.

Reform the U.S. Department of Homeland Security and its Transportation Security Administration

Reform of the Transportation Security Administration (TSA) is long overdue—as the recent passenger backlash against both the TSA's new backscatter full body scanners and the enhanced pat-downs for those who opt out of the machines suggests. These new measures merely attempt to "fight the last war" rather than genuinely increase security for flyers. Such intrusive policies discourage both business and leisure visitors from the EU and other areas from flying to the U.S. – resulting in decreased business and leisure spending from abroad. Meanwhile long lines at airports impose a significant economic cost on all passengers. Instead, the TSA should be reformed to allow more flexibility and to introduce risk-based security into passenger flights.

[18] This section is excerpted from Greg Conko, in *Deregulate to Stimulate*, CEI, January 19, 2011. http://cei.org/agenda-congress/deregulate-stimulate

In addition, to facilitate the flow of goods from the EU to the U.S., while taking security precautions, policymakers should review alternatives to the implementation this year of the law that requires all seaborne containers bound for the U.S. to be scanned for security threats. Such a Draconian measure would impose high costs and complex procedures that would considerably add to the customs burden. Some possibilities for alternatives include mutual recognition of countries' security procedures after evaluation, or, as has been suggested, recognition of U.S. and EU "secure traders" programs.

Reject Regulatory Imperialism

The risk of regulatory imperialism has been brought to the fore by the recent decisions of the EU's Court of Justice in favor of the EU's plan to charge airlines — domestic and foreign — for their carbon emissions. The EU scheme covers aviation in its controversial — and collapsing — cap-and-trade system for reducing carbon emissions. All planes landing or taking off in the EU are forced to pay for their emissions, whether those were emitted over EU airspace or not. Expanding the flawed carbon trading system during a period of failing economies is an act of economic self-flagellation by the EU in the name of environmentalism. One study has indicated that the EU's emissions trading scheme has cost the continent's consumers $287 billion for "almost zero impact" on cutting carbon emissions, and has warned that the EU's carbon pricing market is on the verge of a crash next year.

The EU deferred the assessments on foreign airlines in an attempt to reach an international solution. [19]If the EU stands by its plan to exert control over airlines of other countries and to charge them for emissions, it would threaten the sovereignty of other countries, destroy the international legal system in place for airlines – the Convention on International Civil Aviation – put onerous economic burdens on airlines, and raise the cost of international travel and delivery services. Regulatory regimes that have failed to demonstrate that the regulatory benefits exceed their costs should not be exported.

Environmental and Labor Provisions

With both the U.S. and the EU highly developed countries with strong regulations addressing worker and environmental concerns, the approach taken in this agreement should be one of mutual recognition. It would be unwise to seek to force additional rules into this agreement.

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[19] http://ec.europa.eu/clima/policies/transport/aviation/index_en.htm