

Statement of Tim Bennett, Director-General of the Transatlantic Business Council
Before the EU-US High Level Regulatory Cooperation Council
April 10, 2013

First, thank you for opportunity to appear today before this bilateral forum at a time when the EU and the US are on the threshold of launching negotiations to achieve a historic, comprehensive economic agreement. The standing room only attendance in this hearing room and the huge number of requests to appear today and tomorrow reflect the very high level of interest in this important endeavor.

The Transatlantic Business Council, or TBC, is a business organization representing both European and US headquartered companies that trade and invest extensively in the transatlantic economic space. Representing over 70 manufacturing companies and service providers, the TBC seeks to promote a barrier-free transatlantic market that contributes to economic growth, innovation and security, to foster discussion and the exchange of ideas among business and government leaders. As you know from the TBC's prior communications with this body, we support a deeper integration of the EU and U.S. economies through trade, investment and regulatory cooperation. What's more, we believe the High-Level Working Group on Jobs and Growth correctly identified the need to negotiate horizontal disciplines on regulatory coherence and transparency for goods and services and additionally suggested commitments aimed at regulatory compatibility in mutually agreed sectors.

Our organization has been no stranger to bilateral efforts toward regulatory cooperation. For example, we have worked with the TEC on achieving progress on the 2011 ***TEC eMobility Work Plan***, which includes several work streams, one of them focussing on cooperation between the US Department of Energy (DOE) and the EU's Joint Research Centre (JRC). DOE and the JRC in Ispra, Italy, agreed to establish ***two Electric Vehicle - Smart Grid Interoperability Centres (IOCs)*** in order to advance transatlantic collaboration on testing methods, standardisation, and interoperability. The ISPRA facilities will soon begin work on electrified heavy-duty powertrains, battery and component testing, eVehicle connectivity and interoperability with smart grids. On Monday and Tuesday of this week, 13 TBC member company representatives and a staff member from our Brussels office visited the JRC by invitation to discuss with the JRC Team possibilities for cooperation and coordination with industry in the following areas:

- 1) Analysis of potential overlaps and gaps, definition of priorities
- 2) Provision of technologies/ systems/ expertise in support to testing
- 3) Agreement on standards and references for testing
- 4) Agreement on testing methodologies, procedures, equipment
- 5) Evaluation and dissemination of results

Despite this example of solid bilateral cooperation, much of past bilateral efforts towards regulatory convergence has been disappointing. The biggest obstacle, perhaps, has been an inability to align respective standards setting and regulatory systems to effective purpose, or comparability of effectiveness, as characterized by Reinhard Quick of Business Europe.

Transatlantic alignment would meet a common ambition that is shared by consumers, business and government alike, and should aim to agree on single sets of high quality norms. Evidence suggests that risk is managed differently in the two systems, i.e. employing more ex ante precaution by way of regulation in the EU, and more ex post facto litigation risk in the US. Our societies however price risk essentially at the same level. In fact, it would be surprising, given broadly comparable stages of development, if consumers on one side of the Atlantic were more tolerant of unsafe products than on the other. At a practical level our inability to move forward on regulatory convergence and standard setting creates significant market distortions for businesses. At the technical level in standard setting, and agency to agency regulatory cooperation, there are cultural prejudices, procedural obstacles and business model incentives (in both EU and US standard setting) much more than there are significant technical divergences. Over time, these differences have been allowed to sustain a series of intractable positions and stalemates in international fora and in discussions about mutual recognition.

The TTIP provides the opportunity to move beyond the shortcomings and limited steps forward made in the past and make significant progress toward regulatory convergence. In general, the TBC generally would like to see agreement on common processes, approaches and mandates for regulatory agencies, sub-federal entities in the US and member states as much as possible, and, critically important, to make the regulatory processes as open and transparent as possible. It is unlikely all regulatory issues can be resolved during the initial negotiations, and this should not preclude closing a TTIP agreement. What is important is progress in reducing regulatory dissonance, duplication, and contradictory regulations, all of which oftentimes unnecessarily increase operating costs and undermine global competitiveness. In addition, we suggest the following:

1. Strengthen the High Level Transatlantic Regulatory Council of key US and EU regulators to develop common approaches to regulation, with an overarching Framework Regulatory Accord, that would embody many of the principles of transparency embodied in the U.S. Administrative Procedures Act;
2. Find areas where identical standards can be adopted, for example in the automobile area where the European and American industries are so deeply integrated that common safety standards can be adopted,
3. Adoption of the principle wherever possible to “tested once, tested in both markets”, even if it is to each other’s standards rather than one standard.
4. A transatlantic impact statement for all regulations over a certain economic impact, with notice to the other side, and opportunity to comment;
5. Agreement on common regulatory standards, like sound science-based approaches, and using the least costly alternative to achieve the desired result;
6. Develop a “harmonized legislative framework to recognize and adopt international standards, not limited to just those developed by ISO, ITU, and IEC but any international body that meets the criteria set forth by the WTO Committee on Technical Barriers to Trade.”
7. Interoperability of product standards that will work equally on both sides of the agreements.
8. Develop common EU-US standards on major new products, where there are no legacy issues, such as Internet-based products and services.

We realize that the depth, quality and speed of developing a comprehensive transatlantic trade and investment agreement depend partly on the quality of detailed proposals submitted by all interested stakeholders. Tomorrow I will appear before this body to share the TBC's recommendations with respect to financial services. We are also aware of the call by USTR for written comments and recommendations with respect to TTIP negotiations. Our internal working groups are currently discussing the issues that impact our members and will be submitting comments by the May 10 deadline and sharing those same comments with the EU Commission.

Most of the recommendations suggested regarding regulatory cooperation and convergence are not new. It is unlikely that there is one single solution that will result in substantially increased regulatory convergence. Instead, the answer will probably be found in a blend of various approaches that have worked in specific cases previously negotiated.

The transatlantic economic and political contexts have evolved to a point that now permits substantial progress to be made. Both governments should tap into the experiences, expertise, and insights of those who have worked intensely on these issues over the past 10-15 years and propel the negotiations forward by utilizing their "lessons learned." Now is the time to grasp this opportunity. The TBC and other organizations that this body will hear from today and tomorrow are ready to do their share of the work. Let's all elevate our efforts in a shared and sustained manner to make the TTIP a reality.