Testimony of
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before
The United States House Ways and Means Subcommittee on Trade
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Thank you Chairman Nunes, Ranking Member Rangel, and distinguished members of the Trade Subcommittee for this opportunity to testify at today's hearing on the Transatlantic Trade and Investment Partnership Negotiations (TTIP).

I testify today in several capacities**.** First, and foremost, I am testifying on behalf of the Transatlantic Business Council (TBC), for which I serve as co-chairman along with former EU Ambassador to the US Hugo Paemen. Under the leadership of Director-General Tim Bennett, the TBC strongly supports the negotiation and adoption of a comprehensive and expansive trade and investment agreement between the European Union and the United States. The TBC is a business organization representing both European and US headquartered companies, as well as Canadian, 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.

In addition, I am also testifying as a former US Ambassador to the EU and senior trade and economic official in a variety of capacities during the Clinton Administration.

More than a dozen years ago, in testimony before the Senate Foreign Relations Committee, I called for a transatlantic free trade agreement. More recently, in 2010, I had the opportunity to make the case before the full Ways and Means Committee for a transatlantic agreement focused on regulatory and non-tariff barriers.

With the lapse of the WTO Doha Round, the case for an historic economic agreement between the US and the EU is even more compelling now than at any other point in recent decades. The challenges are great, particularly in the areas of regulatory coherence and cooperation, but so too are the opportunities. A successful agreement would not only be an important demonstration of transatlantic leadership on free trade but would also serve as a model for new standards that could be incorporated in all future trade agreements.

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I. WHY THIS AGREEMENT AND WHY NOW?

First, I would like to put this agreement into a general context.

President Obama should be commended for embarking on the most ambitious trade agenda in recent memory -- from the Trans-Pacific Partnership (TPP) negotiations covering 11 countries and now Japan to the Transatlantic negotiations to multilateral negotiations on the International Services Agreement and expansion of the Information Technology Agreement. With the President's recent nomination of Michael Froman -- who has exerted significant leadership on trade throughout his time at the White House -- as the US Trade Representative, I believe we will see the momentum on trade continue if not increase over the course of the next year or two.

The TTIP in particular provides the opportunity to garner more bipartisan support than almost any other economic initiative. For one, the EU has high labor standards and environmental protections, making some traditional opponents of free trade agreements less likely to oppose TTIP on these grounds. Moreover, unlike some of our other trading relationships, US trade with the EU is largely balanced, with $463 billion in US exports to the EU in 2012 and $534 billion in imports from the EU countries. This subcommittee will play a vital role in building support for and helping secure a comprehensive and ambitious agreement that fuels transatlantic job creation and growth and sets out a path forward for a joint approach toward third countries.

The TTIP would be the most comprehensive trade agreement in history – bilaterally, regionally or multilaterally. The comprehensive ambition of TTIP provides significant opportunities for a wide swath of sectors on both sides of the Atlantic. As set out by the US-EU High Level Working Group (HLWG) on Growth and Jobs, the Agreement will cover: tariffs; services; investment reforms and protection; government procurement; WTO-plus rules on sanitary and phyto-sanitary issues (SPS); intellectual property rights; trade facilitation; competition policy; labor and environment.

Far from undercutting the WTO multilateral trade regime, which hopelessly stalled in the Doha Round after more than nine years of negotiations, a successful TTIP can create positive pressures on key countries to liberalize their own trade policies, and possibly shift their position in multilateral trade discussions for fear of being left behind.[2] As noted in a recent report by the Peterson Institute for International Economics, TTIP "could become a template for the stalled global trade talks in several difficult areas, from agriculture to cross-border rules on services, investment and regulations."[3]

Second, the significant economic benefits of the agreement cannot be understated. A TTIP would be a deficit-free engine for growth and jobs on both sides of the Atlantic.

While the US is more advanced in our economic recovery, both sides of the Atlantic are suffering from sub-par economic and job growth and high levels of unemployment. The TTIP is a deficit free stimulus

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[2] *See* Uri Dadush, "Don't Buy the Hype on the Transatlantic Trade Deal," March 18, 2012, Carnegie Endowment for International Peace.

[3] *See* Jeff Schott and Cathleen Cimino, "Crafting a Transatlantic Trade and Investment Pact: What Can be Done?" March 2013, Peterson Institute for International Economics.

to growth and jobs. Since 2006, US-EU trade has been growing at only an average annual rate of 3.8%. U.S. GDP growth in 2013 will likely be no more than 2% and far less than that within the 27 countries of the EU. A successful TTIP can add anywhere from 0.5% to 1% gains in GDP in both the US and the EU.

The numbers are impressive. The EU and US together account for almost half of global output of goods and services and almost a third of global trade—equating to almost $1 trillion annually.

Significantly, there is more than $3.5 trillion in two-way foreign direct investment between the US and the 27 EU countries. American companies invest more in Ireland than in China. In fact, 70% of job-creating foreign investment in the US is from Europe, and US exports to the EU support more than 2.2 million American jobs. EU affiliates in the US provide more than 3 million jobs.

Moreover, as one recent definitive survey[4] demonstrates, transatlantic investment actually dwarfs trade and is the backbone of our mutual economies. In fact, the US and Europe are each other's primary source and destination for foreign direct investment (FDI). While the US and Europe accounted together for only 25% of global exports and 31% of global imports in 2011, they accounted together for 57% of inward stock of FDI and 71% of outward stock of FDI. Transatlantic investment is thus an essential component to US and European jobs and prosperity.

Another unique dimension to transatlantic trade is the high degree of integration across "the Pond." Intra-firm trade between US and EU parent companies and their subsidiaries account for approximately 40% of the trade between us. Annual transatlantic sales between foreign affiliates between the US and EU markets exceed $4 trillion per year.

U.S. states will also benefit significantly from TTIP. Both California and New York ranked first and second respectively as the top two states with jobs supported directly through European investment. They also ranked second and third respectively after Texas by total goods exports to Europe by value. Moreover, despite uneven economic conditions in Europe, 45 of 50 states still exported more to Europe than to China based on data for the first nine months of 2012. California and Michigan, for example, exported twice as much to Europe as China during this time, while New York's exports to Europe were seven times higher than to China.[5]

<u>Third, the TTIP has major geo-political importance.</u>

At a time when many in Europe worry that America's "pivot" toward Asia will diminish our interest in Europe, and at a time when the Euro-crisis and slow growth on the Continent have sapped optimism from European publics, the launch of this negotiation sends an important signal that America remains dedicated to Europe. It is critically important to reinvigorate the transatlantic relationship because it is the European nations with which we share core values of democracy, free speech, respect for human

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[4] *See* Daniel S. Hamilton and Joseph P. Quinlan, "The Transatlantic Economy 2013: Annual Survey of Jobs, Trade and Investment between the United States and Europe," Center for Transatlantic Relations Johns Hopkins University.

[5] *Id.*

rights and the rule of law. Europe is our key ally as we face difficult global challenges, from nuclear threats from Iran to North Korea, from the Arab revolutions to climate change.

There are essentially two competing models of governance in today's world. One is the transatlantic model shared by many other countries, based upon democratic governance, with free peoples, free markets, and free trade; the other is autocratic governance, state-controlled or dominated economies, and managed trade. The TTIP is an opportunity to show the world that our model of governance can produce tangible gains for our people on both sides of the Atlantic and more broadly is the best model to meet the challenges of the 21st century.

II. SEIZING OPPORTUNITIES

The very ambition of the negotiation creates a daunting set of challenges for the US and EU. But there are several features which make it more manageable.

First, there is a demonstrated political commitment to success at the highest levels of the US and EU governments. Earlier this year, the U.S. government signaled its high level support for the creation of a job-creating and precedent-setting transatlantic agreement with President Obama's announcement in his State of the Union address. This support was reaffirmed just this week by President Obama and the British Prime Minister David Cameron.

Second, a great deal of work already exists upon which the TTIP negotiations can build. For example, after more than a year of intense work, the HLWG's 2013 final report established a framework for the talks, and committed the two parties to bridge gaps and differences.

More broadly, the US and EU have both agreed to make the foundation for the TTIP the most comprehensive free trade agreement each side has entered— for the US, this is the Korea-US FTA (KORUS-FTA) and for the EU, it is the Korea-EU FTA (KOREU FTA).

As the Peterson Institute analyzed in its March 2013 report, this means that the two pacts with Korea, which are similar in many respects, can be harmonized as a first order of business into a workable framework agreement in fairly short order, giving each other what each gave to Korea. While this is not to understate the differences between the two agreements, these differences are not insurmountable.

In addition, the TPP, which sets out to tackle a number of "21st century" issues including state-owned enterprises and regulatory cooperation, can also serve as an important vehicle to help raise the level of ambition reflected in the final TTIP agreement.

Third, contrary to many who dismiss it as inconsequential, since tariffs only average around 3% between the US and EU, the recommendation of the HLWG to "substantial elimination of tariffs upon entry into force and phasing out all but the most sensitive of tariffs within a short time frame," will have a large payoff. This is because the volumes of trade are so enormous, that reducing even small tariff barriers can yield significant gains. A study by ECIPE[6] finds that eliminating tariffs would boost EU exports by

[6] Cited in the March 2013 Peterson Institute report.

7% and US exports by 8% within a few years. Also, by reducing input costs for EU and US companies integrated across the Atlantic, it will make them more competitive in global markets.

In fact, the tariffs on agricultural products are much higher, and even in the manufacturing sector, as Uri Dadush, former director of international trade at the World Bank, has noted[7] there are high tariffs on some products, from automobiles to apparel. Substantial tariff elimination would provide as much benefit to US companies as the entire last deal on the table at Doha.

III PRIORITIES AND CHALLENGES

Despite these positive factors and the enormous potential economic benefits of an agreement, we cannot ignore the difficulties that lie ahead, and which will likely result in it taking several years to complete a truly comprehensive agreement.

First, each side has structural, political barriers that must be overcome. For the EU, as I saw personally in years of negotiations with the EU on a wide variety of subjects from trade to sanctions, negotiations with the European Commission must also take into account the particular interests of individual member states, especially in areas with the greatest potential benefit, like agricultural tariffs and regulations.

On the US side, while it is not necessary to launch the negotiations or to negotiate in the early stages, the absence of Trade Promotion Authority will make an agreement very difficult and perhaps impossible to conclude. The EU will not want to negotiate a final accord with the Obama Administration and then have to negotiate all over again with the Congress. The EU must have confidence that what it negotiates with the Administration will be accepted by Congress, and only Trade Promotion Authority can assure this.

I feel certain the Administration will seek this sometime this year, and discussions are already underway between the Administration and Congressional leaders on trade, Chairman Baucus, Senator Hatch, Chairman Camp and Congressman Levin. When they do so, they should be advised to seek the broadest possible authority, to include the TPP, TTIP, International Services Agreement, Information Technology Agreement, other bilateral agreements, and even a future multinational WTO agreement. At a recent TPP hearing in the Senate Finance Committee, leading Senators from Chairman Baucus to Ranking Member Senator Hatch seemed willing to support broad Fast Track Authority.

Second, agricultural issues are very difficult ones on both sides of the Atlantic. Geographical Indictors (GI) are especially difficult on the EU side. I know from my own experience as US Ambassador to the EU how politically charged the Common Agricultural Policy (CAP) is and how large a percentage of the overall EU budget goes in this area. But even here, there are grounds for optimism:

- There was a tentative EU-US accord in the Doha Round on eliminating farm export subsidies.
- On domestic agricultural subsidies, these have been significantly reduced in recent years under budget pressures to lower spending; as the Peterson Institute recommends, temporary ceilings on domestic subsidies both overall and by product sector would help ease budget pressures and stimulate the WTO talks.

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[7] *See* March 18, 2012 Carnegie Endowment report.

- The EU has moved away from the product-based domestic subsidies, so prevalent during my tenure as US Ambassador, to income support for European farmers, which is expensive and unrelated to production, but is not trade distorting.
- With commodity prices high, US subsidies are less costly now.
- If the EU and US can agree on agricultural subsidy reductions, this can apply bilaterally, but can then be taken to the WTO for multilateral agreement, which if not achieved, means third countries would be at a competitive disadvantage for their agricultural products.

Regulatory Convergence and Cooperation

I would like to focus in particular on the challenges and opportunities posed by TTIP in the area of regulatory convergence and cooperation. This is the TBC's top priority for this agreement.

The biggest potential benefit of TTIP is in the area of regulation. In 2009, the EU estimated that aligning and rationalizing transatlantic non-tariff measures would bring a gain of $158 billion in additional GDP and an additional 2% in exports to the US. It has also been estimated that the US would gain over $450 billion in annual GDP and a full 6% more in annual exports to the EU in the electrical goods, chemicals, pharmaceuticals, financial services, and insurance sectors.

If TTIP to provide significant value to our two markets, it must provide opportunities to both overcome existing regulatory barriers to trade in goods and services between our two markets and strengthen existing work to prevent barriers from being established in new and emerging technology.

As noted in TBC's recent submission to USTR, we believe that regulatory differences, including with respect to the role of science and evidence in developing regulatory measures in some sectors, are acting as a brake on transatlantic trade and economic growth. Lack of regulatory convergence increases costs across the range of industrial and service sectors and undermines competitiveness among sectors across the value chain.

It is no secret that there are significant differences in regulatory philosophy between the EU's precautionary principle and the US emphasis on self-regulation, as well as differences in prescribed test procedures and requirements between US and EU regulations. That does not suggest that consumers on one side of the Atlantic would be more tolerant to unsafe products than the other. Indeed, often the intended environmental and safety outcomes are very similar.

I know from experience how challenging these issues are. In the 1990s, during the Clinton Administration, after the signing of the New Transatlantic Agreement of 1995 and the creation of the Transatlantic Business Dialogue (TABD), there was a burst of activity to negotiate Mutual Recognition Agreements. We negotiated a few in the Clinton years and another one was done in the Bush Administration. But doing these on a sector-by-sector basis is time consuming, and may not be the best approach in all circumstances.

Many US regulatory agencies are independent of the executive branch, do not have a global view and respond only to domestic mandates and congressional oversight. I vividly remember a meeting in the Old Executive Office Building with the Food and Drug Administration to try to implement the notion of "tested once, tested in both markets." But the FDA did not believe that the testing labs in every EU member state were up to their standards. In the biotech area, in 2011, the EU approved "only six biotech products with an average approval time of 57 months".[8]

In fact, we need to build confidence that in today's 21st century, the regulatory standards in both the EU and US are adequate to protect our publics and should be accepted, for example with GAAP and International Accounting Standards, both of which adequately protect investors, without requiring costly reconciliations by corporations. The Common Market operates on the basis of mutual recognition of the member states' varying regulations. Mutual recognition in some cases may be a more efficient and effective basis for regulatory cooperation than actual harmonization.

As negotiators address issues across legal, regulatory, and policy frameworks, they must consider how to best coordinate approaches on both sides of the Atlantic to maximize the potential for trade opportunities, reduce unnecessary costs and administrative burdens, and enhance economic growth and societal benefit. In some cases, harmonization may be among the best approaches where it results in a compromise of positions that achieve the objectives set forth above. However, TBC recognizes that harmonization may be a longer-term project. We also recognize the benefits of regulatory approaches converging where they can embrace the best practices of facilitating trade and investment. At a minimum, there should be coherence across regulatory approaches so as not to create impediments to trade. Finally, one of the most practical approaches to bridging divides across legal, regulatory and policy frameworks is interoperability -- not interoperability in the technical sense, but rather policy interoperability, or the ability of policies to work together. This type of policy interoperability often affords shorter-term solutions to enable trade and business across regions where there is incomplete legal, policy or regulatory coherence

I would like to offer the following suggestions:

- Strengthen the US-EU High Level Regulatory Cooperation Forum of key US and EU regulators to develop common approaches to regulation, with an overarching Framework Regulatory Accord, that would embodied in the Administrative Procedures Act- transparency, notice and comment by stakeholders, science-based decision making, and adopting the least costly alternative.
- With respect to existing technical regulations and standards, encourage harmonization and the consideration of the potential for mutual recognition frameworks; regulators should be encouraged to seek sectoral opportunities to adopt the concept "tested once, accepted in both markets," even if it is to each other's standards rather than one standard.
- Review sectors where additional regulatory convergence and standards harmonization under the High Level Regulatory Cooperation Forum during the TTIP negotiations should continue or commence, such as by identifying sectors where identical standards can be adopted. For example, we should consider an automobile agreement with the goal of mutual recognition of all auto standards to auto companies in the US and EU can export the same cars to each other that they make domestically. We should have confidence in the adequacy of each other's automobile safety standards.
- For emerging regulations, the EU and US should implement a joint regulatory harmonization or interoperability process that promotes and facilitates the development and adoption of common

[8] March 2013 Peterson Institute report.

future new regulations utilizing science-based, risk-based and transparent regulatory approaches. Harmonization of EU and US standards should also be encouraged on emerging technologies, where there are no legacy issues, such as but not limited to, nanotechnology and Internet-based products and services.

- Ensure that regulatory convergence mechanisms allow companies and consumers the ability to choose international standards from multiple sources consistent with the WTO Committee on Technical Barriers to Trade Decision.
- Promote greater transparency by requiring a transatlantic impact assessment with clear criteria for evidence and cost-benefit analysis for all regulations over a certain economic impact, providing notice to either side along with an opportunity to comment.

There will not be perfection in this area, but there is great room for progress. Indeed, there has been progress. The EU has begun to approve GMO products at a rate Hiddo Houben, who heads the Trade Section of the EU Delegation in Washington DC, has indicated is one every two to three months, reducing the large backlog. And there have already been some confidence building steps taken on SPS regulations, for example on the use of lactic acid on imported beef from the US, which indicates that progress toward reducing regulatory barriers is possible.

Other key priorities

The TTIP has the opportunity to set new standards with respect to 21st century trade and sector-specific issues that will not only increase trade between our two markets but also provide a template for addressing shared challenges in third country markets. Joint US-EU standards would have a powerful impact on their adoption globally to the benefit of our companies and workers, rather than seeing the adoption of a Chinese standard, for example. The TBC submitted a thoughtful set of recommendations on a comprehensive set of issues to USTR late last week. I would like to highlight a few of those key priorities.

Services

Many statistical data and studies demonstrate the vital importance of trade and investment in services for the transatlantic economies. The volume of EU-US bilateral trade in services, with a total of $338 billion in 2010, is by very far the highest in the world. The figures demonstrate the importance of the US market to European services companies and vice versa, highlighting the importance of services in the TTIP negotiations.

The large potential for further growth in services trade is hampered by regulatory restrictions on both sides of the Atlantic.   For TTIP to succeed, it is essential that both governments ensure that the importance of trade and investment in services, including services that can be delivered through cross border data flows, is duly reflected in the negotiations. For example, the agreement should include enforceable obligations to ensure the free flow of data across borders while taking into account the role of privacy in supporting the trust in these data flows.

While the transatlantic services market is already very integrated, there is a need to go further. TTIP should cover market access negotiations at all possible levels, including non-tariff barriers and other forms of de facto barriers to compete.   Moreover, in order to promote continued innovation and trade, it is also important that services commitments in the TTIP be broad enough to cover both current and later developed technological advances.

Competition and SOEs

To be a truly 21st century agreement, the TTIP must include disciplines for state-owned enterprises ("SOEs") to provide a fair and level playing field for both US and European companies who compete with government owned or controlled companies in global markets. Such disciplines should ensure that SOEs not displace private company efforts, and do not enjoy unfair advantages over their private-sector competitors, whether in the form of direct aid or disparate treatment in regulatory or other matters. TBC has proposed that TTIP contain a chapter on competition and has elaborated upon the important elements related to SOEs in such a chapter in their submission.

Workforce

It is also important that TTIP or other relevant discussions between the two trading partners include measures to promote short term skilled labor mobility. Labor mobility is not only a necessary component in the provision of many cross-border services. Mobility and the corresponding ability to utilize the skills and competence of employees deployed outside of their regular country of residence are critical elements of the global talent sourcing practices increasingly common within companies on both sides of the Atlantic. This is particularly important given a vast amount of economic activity between parent companies and subsidiaries across the Atlantic.

Financial Services

It is essential that financial services be included in the agreement. Financial services involve traditional trade and investment provisions pertaining to the General Agreement on Trade in Services, horizontal issues that are of general importance to a broad range of industrial or services providers and regulatory issues which might have market access implications.

The process of up-grading the framework for financial regulation is well under way in G20 countries and beyond. The G20 reform effort effectively addresses shortcomings in financial regulations and market infrastructures and products. In the process of legislation and rule-making on those issues, regulatory cooperation between the EU and the US should play a significant role in the process of setting international standards and best practices related to financial markets regulation and oversight.

It is essential that the EU and the US continue to coordinate and collaborate on finding the best approaches to financial markets regulation in order to drive down regulatory duplication costs for companies operating on both sides of the Atlantic. A framework for regulatory cooperation within existing forms of dialogue that take place on both a transatlantic and global basis should be the most effective way forward and should add transparency to regulatory differences and commonalities.

As well as the existing dialogue, the broader EU-US negotiation on a trade agreement provides a useful avenue for pursuing deeper transatlantic cooperation in financial services regulation. Inclusion of financial services in this agreement would also set an important precedent for global standards.

Intellectual Property

Intellectual property remains essential to economic expansion, business and societal innovation and national competitiveness for both the US and EU. As TBC advocated in its submission to USTR, the TTIP should reflect this shared reliance on intellectual property and demonstrate transatlantic leadership on IP. IP rights are being challenged by many of our trading partners in particular emerging economies - from domestic innovation policies and forced technology transfer to "state-sponsored IP theft" to an erosion of patent rights. A transatlantic trade agreement provides a unique opportunity to reflect a shared commitment to high level intellectual property protections, including by aligning U.S. and EU positions in multilateral dialogues and encouraging robust third country IP protection.

Life Sciences

As noted in the TBC submission, the Life Sciences and the sectors it comprises account for a significant share of trade and innovation on both sides of the Atlantic. We strongly support an environment that allows the US and the EU to succeed in the global race for R&D, to spur both academic and private research, and to support innovation, job growth and the development of innovative products to improve health. In order to achieve this, the US and the EU must reward innovation and encourage open market access, investment (research funding, taxation), regulatory harmonization and mutual recognition, as well as strengthened intellectual property rights, and the removal of tariffs.

The life sciences industry is still dominated by European and American global companies that are highly integrated across the Atlantic, but market growth is being driven by the emerging markets. The competitiveness of this sector is fundamental to the economies of both the US and Europe, and to the health of its citizens. The TTIP presents a once-in-a-lifetime opportunity to address long-standing issues in IP, regulatory and market access that can improve efficiency, patient outcomes and the overall business environment. For example, the TTIP, and more broadly, the US-EU trade dialogue, should ensure responsible data sharing that protects patient privacy, maintains the integrity of the regulatory review process, and preserves incentives for biomedical research by adequately shielding confidential commercial information submitted to marketing approval authorities (for example, the European Medicines Agency) from inappropriate disclosure.

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In conclusion, I believe that the US and the EU are embarking upon an unprecedented effort to demonstrate transatlantic leadership and establish a model exemplifying our shared values of rule of law, democratic governance and open markets. The economic and political stakes are high enough that I am optimistic that our negotiators will succeed in achieving greater job-creating trade and investment not only across the Atlantic but also around the world.

Thank you.