

AICGS Transatlantic Perspectives

December 2010

Untapped Potential: The Future of the Transatlantic Economic Council

By Deborah Klein and Stormy-Annika Mildner

How important is transatlantic commerce for the EU and the United States?

Which sectors are burdened most by barriers to trade and what does deeper integration offer both partners?

In which areas can and should the EU and the U.S. cooperate more closely?

"I look forward to working with my counterparts from other U.S. government agencies to make the TEC a success. Making regulatory approaches more compatible can be difficult, but success in some sectors could yield major benefits in terms of increased trade, productivity, and growth."

USTR Ron Kirk (January 2010)²

"The transatlantic economic partnership remains at the core of the world economy. Despite the economic crisis, the US and the EU are each others' most important markets, generating jobs and growth on both sides of the Atlantic. There is a potential to go further. By breaking down regulatory barriers, we can create additional opportunities which are urgently needed in times of economic recovery. I am convinced the Transatlantic Economic Council can play a significant role here."

EU Trade Commissioner Karel De Gucht (May 2010)³

"I think we should do much more together. We have conditions like we have never had before and it would be a pity if we missed the opportunity."

President of the European Commission, Jose Manuel Barroso (July 2010)⁴

The next meeting of the Transatlantic Economic Council (TEC) is scheduled for 17 December 2010. After little progress in 2009, it is time to inject new life into the institution as EU-U.S. economic integration is an important pillar for prosperity and growth on both sides of the Atlantic with significant untapped potential. While trade runs smoothly and tariffs on both sides of the Atlantic are already very low, a multitude of non-tariff barriers (NTBs), foremost regulations—from product-specific technical standards to economy-wide regulations—continue to impede trade flows. Harmonizing standards and reducing other non-tariff barriers could considerably strengthen the United States' and Europe's competitiveness and promises substantial welfare gains for both partners. This Transatlantic Perspectives essay will provide an overview of the current state of the transatlantic economic partnership. It will highlight the areas where trade is still impeded by barriers and underline the welfare gains promised by deeper integration. Last, it will turn to policy recommendations. While there are several areas which merit greater attention, the paper concentrates foremost on three issues—1. innovative powertrain technologies/electric-mobility, 2. secure trade, and 3. chemical regulations—that have also been identified as priorities by the business community.

Revitalizing the TEC

The fourth meeting of the Transatlantic Economic Council (TEC) is scheduled for 17 December 2010. It has been more than a year since the transatlantic partners last met to discuss progress and set-backs in economic integration. The previous EU-U.S. Summit, which was planned to take place in Spain in May 2010, was called off after U.S. President Barack Obama cancelled his participation. While Obama travelled to Prague in April 2009 and received representatives from the EU Commission in Washington in November 2009, his decision not to attend the summit in Spain has fuelled worries in the EU about its importance on the President's agenda. Some observers predict a period of benign neglect, where the U.S. pays little attention to the EU, focusing rather on foreign policy hotspots. After high hopes had been placed in an improvement of transatlantic relations under the new President, many Europeans are disappointed in the lack of concrete progress. As the EU's new ambassador to Washington, João Vale de Almeida, remarked: "Not being a problem does not mean we should not be a priority. [...] There's untapped potential in this relationship [...]"⁵

While worries about future neglect are exaggerated, the lack of progress in transatlantic economic integration is, indeed, startling given the large welfare gains a reduction of trade barriers, in particular non-tariff barriers to trade (NTBs) posed by regulations such as norms and standards, could deliver. The TEC, founded in 2007 under Germany's EU Presidency and pushed vehemently by German Chancellor Angela Merkel as well as the business community on both sides of the Atlantic, was tasked with deepening transatlantic economic integration by eliminating these NTBs. But after a promising start with tangible results (for example in accounting standards and aviation) not much else has been achieved since. In particular, in 2009 the partners on both sides of the Atlantic had other concerns, foremost managing the economic and financial crisis. Changes in the leadership subsequent the presidential elections in the U.S. and the selection of a new European Commission further delayed the economic initiative. For President Obama, the year 2010 presented a new series of challenges: After initiating health care reform, he chose to tackle financial regulatory overhaul and climate legislation. Low economic growth and high unemployment put the Obama administration under considerable pressure in the run-up to the mid-term elections in November 2010. Trade and transatlantic integration was not high on the presidential agenda. Divergent views between the transatlantic partners on financial crisis management (in particular the right size of fiscal stimuli) and macroeconomic imbalances further complicated cooperation.

What is more, however, further transatlantic economic integration is anything but easy. First, tariffs are already very low in most sectors of transatlantic trade, leaving only the difficult issues for negotiation, foremost non-tariffs barriers (NTBs). Second, harmonization or mutual recognition of standards and regulations requires complex legislative changes in an often highly politicized policy environment. Moreover, cooperation demands a high degree of trust in the rule-setting competency of the negotiating partner; as a result of diverging regulatory philosophies and styles this has often-times proven difficult to attain. Especially when dealing with issues such as consumer protection or

Transatlantic Economic Council

The Transatlantic Economic Council was established through the "Framework for Advancing Transatlantic Economic Integration between the United States of America and the European Union," signed on 30 April 2007 at the White House by U.S. President George W. Bush, German Chancellor Angela Merkel in her capacity as EU Council President, and EU Commission President José Manuel Barroso. The TEC has co-chairs, currently Michael Froman, Deputy National Security Advisor for International Economic Affairs at the National Security Council, and Karel De Gucht, European Commissioner for Trade. The TEC meets at least once a year and seeks to deepen transatlantic economic integration by eliminating non-tariff barriers through harmonization, mutual recognition, and joint development of common regulatory standards.

Official Websites:

DG Enterprise and Industry, EU-USA - Transatlantic Economic Council,
<<http://ec.europa.eu/enterprise/policies/international/cooperating-governments/usa/transatlantic-economic-council/>>.

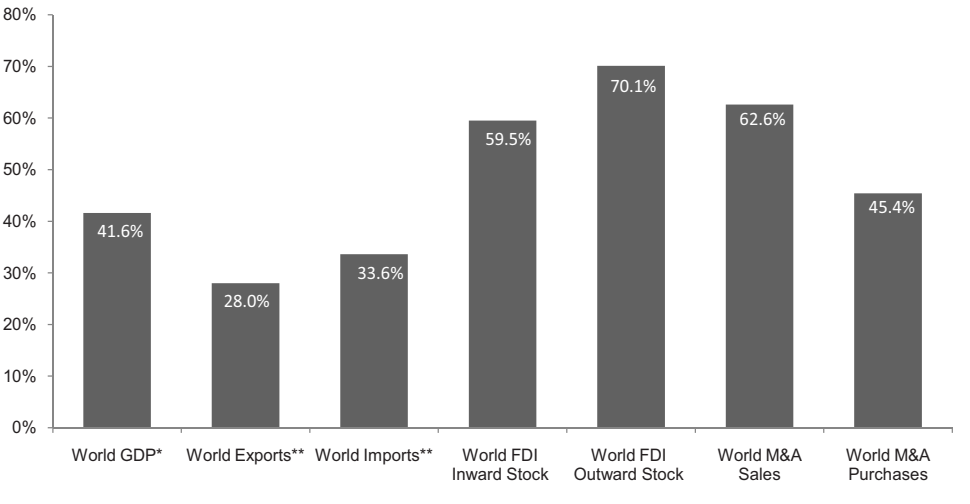
US Department of State, Transatlantic Economic Council,
<<http://www.state.gov/p/eur/rt/eu/tec/index.htm>>.

health and food standards, opinions strongly differ about the role of science in managing risk. Third, there are severe difficulties in establishing reciprocity in negotiations on NTBs as well as a lack of appropriate methodologies for assessing the adverse impact of regulations on industry. And fourth, both partners are increasingly shifting their attention to Asia. The U.S. has joined the ongoing Transpacific Economic Partnership (TPP) negotiations. Under its “Global Europe” strategy, the EU is negotiating free trade agreements (FTAs) with several Asian countries. As the transatlantic economy offers significant untapped potential, it is unfortunate that there has not been more progress on solidifying the EU-U.S. economic relationship.

A Strong and Stable Partnership

The United States and the EU are important economic partners. Together, they account for approximately 42 percent of worldwide GDP, 28 percent of worldwide exports, 34 percent of global imports, and 70 percent of outward stock of foreign direct investment (FDI) (see Figure 1). No partnership worldwide is more deeply integrated than the transatlantic economy.

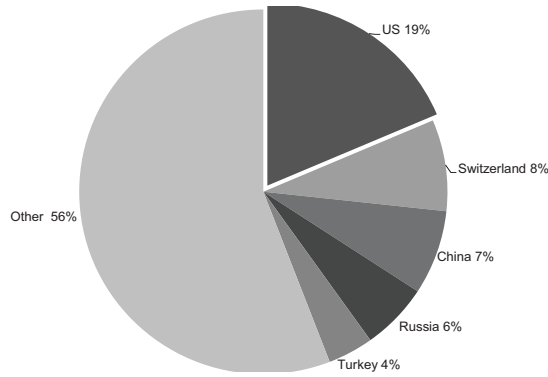
Figure 1: The Transatlantic Economy, 2009



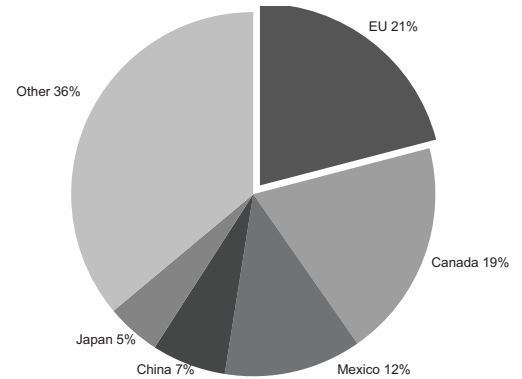
Sources: IMF, UNCTAD, figures for 2009
 *Based on PPP estimates
 ** Total does not include Intra-EU27

The U.S. and the EU conduct roughly 20 percent of their trade in goods with each other, with this figure being even higher when it comes to the service sector (see Figure 2). In 2009, the U.S. was the EU’s most important trading partner (19 percent of total merchandise exports). The same holds true for the U.S.: The EU is its most important partner even before Canada (2009: 21 percent of total merchandise trade).

Figure 2: Exports of Goods, 2009
EU



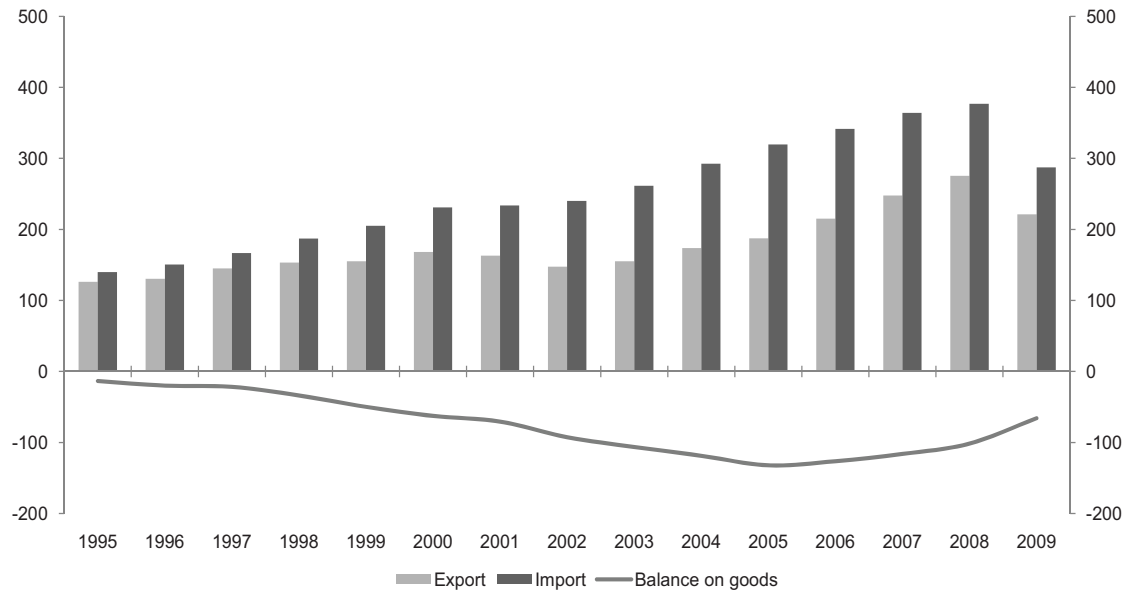
U.S.



Source: IMF, *Direction of Trade Statistics*, December 2010.

Whereas the EU generates a surplus in its commodity trade with the U.S., the U.S. regularly records a surplus in its services trade with the EU.

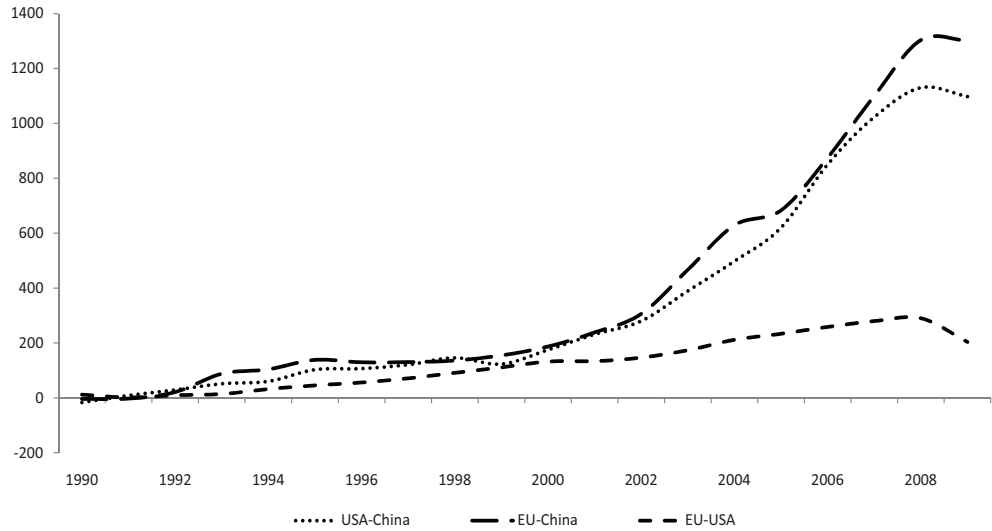
Figure 3: U.S. Trade in Goods with the EU, 2009 (in USD, billions)



Source: IMF, *Direction of Trade Statistics*, December 2010.

Given the high level of integration and the size of trade flows, it is little surprising that transatlantic trade grows less dynamically than EU-China and U.S.-China trade (see Figure 4)

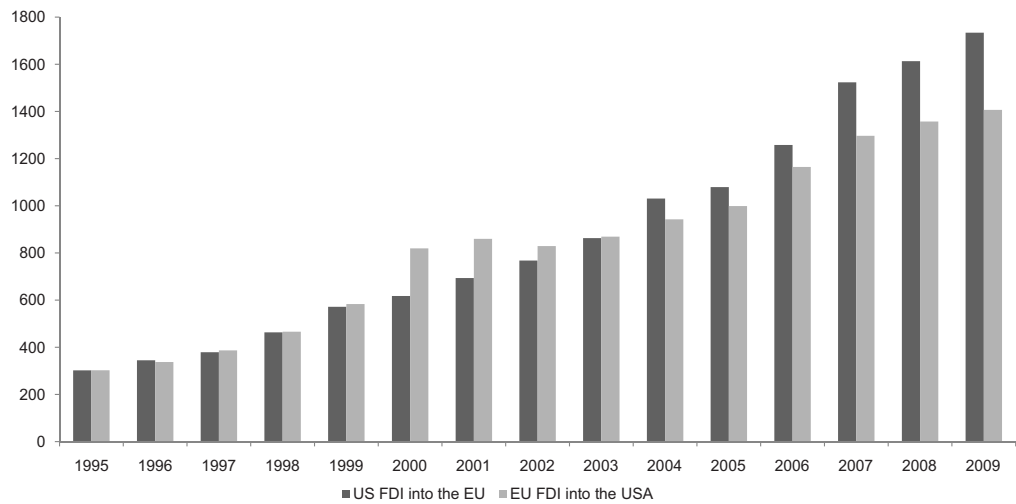
Figure 4: Export Growth in Percent



Source: IMF, *Direction of Trade Statistics*, March 2010.

However, the real backbone and motor of transatlantic economic integration is investment. Approximately 50 percent of U.S. foreign direct investment (FDI) abroad (stocks, figures for 2008) is located in the EU; the EU accounts for 63 percent of U.S. inward FDI stocks. Of the EU's FDI abroad (stocks, 2008), almost 33 percent is located in the U.S.; 43 percent of EU inward FDI stocks have their origin in the United States. The following comparisons underline the importance of transatlantic investment relations: Total U.S. FDI (stocks, 2008) in the EU is more than three times higher than its FDI in all Asia-Pacific; and EU investment in the U.S. is around eight times the amount of EU FDI in India and China taken together.⁶ Profits of American subsidiaries in Europe have more than tripled since 1999, reaching \$177 billion as of 2007; in the same period, the profits of European subsidiaries in the U.S. have more than doubled.⁷ While the transatlantic economy was not immune to the effects of the economic and financial crisis of 2008/2009, trade as well as investment flows are recovering again.⁸

Figure 5: U.S. - EU Foreign Direct Investment (Stocks) in USD (billions)



Source: U.S. Bureau of Economic Analysis, 2010.

Barriers in Transatlantic Trade: Untapped Welfare Potential

Average customs duties in transatlantic trade are now at a very low level of less than 4 percent, with a few exceptions in trade in agriculture and textiles, shoes, leather goods, ceramics, and glass.⁹ Yet, NTBs continue to represent serious trade impediments. These barriers can be found particularly in standards set for industrial goods, in customs systems (such as registration, documentation, and custom clearance procedures) and in the field of government procurement.

The economic harm to transatlantic trade wrought by NTBs is documented in the study *Non-Tariff Measures in EU-U.S. Trade and Investment – An Economic Analysis* that was commissioned by the European Parliament. According to this study, EU and U.S. NTBs are particularly prevalent in trade in cosmetics, chemicals, and biotechnology, as well as for medical equipment and measuring instruments and the aviation industry on both sides of the Atlantic. Table 1 gives an overview of sectors and trade restrictiveness, measured on a scale from 0 to 100 with 0 indicating high market access and 100 indicating high barriers to trade.

Table 1: Trade Restrictiveness Index

Sector	Trade Restrictiveness Index (Scale 0-100, 0 = lowest barriers, 100 = highest market access barriers)	
	U.S.	EU
Travel	36	18
Transport	40	26
Financial services	30	21
ICT services	20	19
Insurance	30	39
Communication	45	27
Construction	45	37
Other business services	42	20
Personal & cultural services	36	35
Chemicals	46	53
Pharmaceuticals	24	45
Cosmetics	48	52
Biotechnology	46	50
Machinery	51	37
Electronics	31	20
Office & ICT equipment	38	32
Medical & measuring equipment	49	45
Automotive industry	35	32
Aerospace	56	55
Food & beverages	46	34
Iron, steel and metal products	36	24
Textiles clothing & footwear	36	49
Wood & paper	30	47
<i>Simple average</i>	39	36

Source: *Non-Tariff Measures in EU-US Trade and Investment – An Economic Analysis*, 2009, < http://trade.ec.europa.eu/doclib/docs/2009/december/tradoc_145612.pdf>.

The study also quantifies the economic impact of NTBs, computing the extent to which regulatory differences increase the cost of doing business across the Atlantic and assessing the effect of the divergences on economic welfare in both economies. For the EU, removing NTBs would translate into an increase in GDP by €122 billion per year; exports would grow by 2.1 percent. Sector-wise EU benefits would come mainly from gains in motor vehicles, chemicals, pharmaceuticals, food, and electrical machinery. For the U.S., benefits from removing NTBs are estimated at €41 billion per year for GDP and 6.1 percent for exports. U.S. benefits would mainly accrue to the electrical machinery, chemicals, pharmaceuticals, financial services, and insurance sectors.

Table 2: Summary of Macroeconomic Changes following NTM Reduction

	Ambitious Scenario (full liberalization), Long Run	Ambitious Scenario (full liberalization), Short Run	Limited Scenario (par- tial liberalization), Long Run	Limited Scenario (par- tial liberalization), Short Run
Real income, billion €				
U.S.	40.8	19	18.3	7.8
EU	121.5	45.9	53.6	19.4
Real income, % change				
U.S.	0.28	0.13	0.13	0.05
EU	0.72	0.27	0.32	0.11
Value of Exports, % change				
U.S.	6.06	6.12	2.68	2.72
EU	2.07	1.69	0.91	0.74
Value of Imports, % change				
U.S.	3.93	3.97	1.74	1.76
EU	2.00	1.63	0.88	0.73

Source: *Non-Tariff Measures in EU-US Trade and Investment – An Economic Analysis*, 2009, <http://trade.ec.europa.eu/doclib/docs/2009/december/tradoc_145613.pdf>.

Three conclusions can be derived from this study: First, there are still considerable barriers to trade in the transatlantic economy. Second, the reduction of these barriers and improved market access would result in tangible welfare gains for both partners. Third, given the low level of tariffs, priority should be given to addressing regulatory issues instead of cutting tariffs in EU-U.S. trade relations.

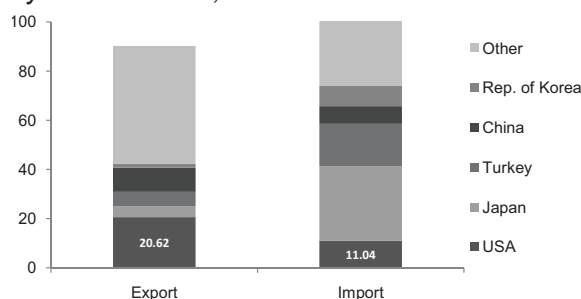
Areas for Closer Cooperation

Given the difficulties to harmonize and mutually recognize existing regulatory standards, the TEC announced in late 2009 that it would focus on the joint development of regulatory standards for next-generation technologies. One such technology is innovative powertrain technologies/electric-mobility. Chemicals are another area where more cooperation is needed. A third area that merits more attention is mutual recognition of security arrangements and the 100 percent scanning legislation in the United States.

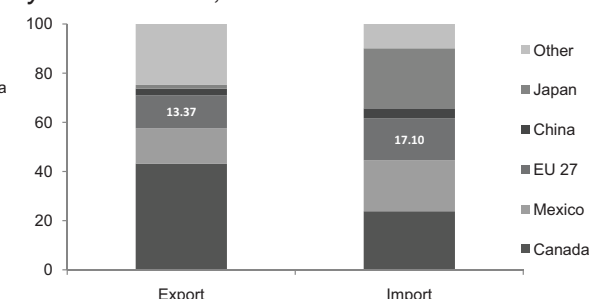
1. Innovative Powertrain Technologies/Electric-mobility

With almost 21 percent of total EU road vehicle exports destined for the U.S. in 2009, the U.S. is the biggest export destination for EU car manufacturers. In that same year, the U.S. was the second largest source of EU road vehicle imports (11 percent of total EU imports). For the U.S., the EU is the third largest export and import market after Canada and Mexico.

Figure 6:
Extra-EU Trade in Road Vehicles,
by Main Partners, 2009



U.S. Trade in Road Vehicles,
by Main Partners, 2009



Source: UN, *Comtrade Database*, December 2010.

The sector merits more attention as trade in automobiles is still hampered by many NTBs (according to the abovementioned EU study, the restrictiveness index for the U.S. is 35 and for the EU 32). These NTBs are costly. According to the EU study, EU restrictions on cross-border trade yield a 25.5 percent trade cost for automotives trade, while in the U.S. the restrictions lead to a 26.8 percent increase in trade costs. These costs indicate potential welfare gains of €11.5 billion (\$15 billion) per year.¹⁰

A focus on trade in automobiles is also of paramount importance in light of the development of innovative powertrain technologies such as electric-mobility (e-mobility). An intensified collaboration promises more innovation and the development of best regulatory practices. A lack of cooperation would threaten the development of two separate markets for these new technologies on both sides of the Atlantic with little opportunity for trade.

Why should the European Union and the United States work together on this issue?

- *Setting new standards:* E-mobility deals with “new” standards instead of changing old ones. Given how difficult it can be to change or mutually recognize established standards in the U.S. and the EU, e-mobility offers the big advantage to jointly develop regulations.
- *Clear political framework conditions:* With respect to the promotion of and preparations for attractive, technology-neutral conditions pertaining to electric-mobility, to encourage involved industries to invest in new technologies (R&D), and to create consumer demand, a clearly defined political framework is necessary, to which a joint EU-U.S. approach would greatly contribute.
- *Ensuring competitiveness:* Closer transatlantic cooperation can help to ensure that American and European core industries remain competitive over the long term. Both markets alone are not large

enough to set world-wide accepted standards. Together, however, the EU and the U.S. can influence standard-setting in other regions of the world, foremost in Asia which is, for example, already very strong in the production of batteries.

- *E-mobility helps to create jobs:* The car industry is crucial to the European and the American economy and employment. Knowing that e-mobility will be one major path in the future, it is important to develop a head start in this area. In Europe, the car industry accounts for 35 percent of EU manufacturing employment; 2.2 million jobs are directly linked, with another 9.8 million indirectly linked, to the automobile sector. The automobile industry is also the backbone of the manufacturing base of the United States. Almost 4 percent of U.S. GDP and one out of every ten U.S. jobs, or about 13 million, are auto-related.

- *Many stakeholders are involved in e-mobility:* Transatlantic cooperation on e-mobility can deliver benefits to more than just automotive manufacturers and suppliers. A wide range of other producers would profit from a closer cooperation such as electrical and electronic component manufacturers, the engineering, chemical, energy-suppliers, information technology, and communications industries, as well as the metal industry, aviation, and textile industry. E-mobility is an issue which engages a range of stakeholders.

- *E-mobility helps to meet greenhouse gas emission goals in EU and U.S.:* The EU and the U.S. seek to reduce greenhouse gas (GHG) emissions. Electric cars help to reduce GHG emissions from the transport sector and to fulfill the targets of both countries—especially when the electricity to power the cars stems from renewable sources.

- *Working together on e-mobility enables a faster market penetration:* EU and U.S. automotive industries are leaders in developing efficient and green technologies. Together, they have the critical mass to boost new technologies worldwide. Volume is important since consumer prices will have to fall significantly through technological improvements and economies of scale to expand market share and in order to have market power to ensure access to materials in short supply through a raw materials initiative (raw material accounts for 70 percent of the costs of lithium-ion batteries).¹¹

How can the European Union and the United States work together?

- *Joint standards development:* The TEC should focus on establishing and agreeing on joint standards for electric mobility and electric vehicles. One of the areas urgently in need of joint standardization is the charging interface. This is a very complex system, relating not only to voltage and amperage, but also to the hardware (plug-in connector) and the software for communicating with the battery management system of the car/ network operator/ electricity provider for controlling the charging process, settling accounts, and determining the requirements. Investment in electric charging points based on different standards should be avoided to the greatest extent possible. Common standards would allow all electric vehicles to be charged and to communicate with the electricity grid anywhere and also with all types of chargers. A globally standardized and forward looking solution should be found for reducing costs.¹²

- *Joint demonstrations to accelerate commercialization:* U.S. and European cities could be linked with electric vehicle demonstration programs to collect and share data on charging patterns, driving experiences, consumer preferences, and successful policies.

- *Engagement of key stakeholders:* It is paramount to bring together key stakeholders in the U.S. and the EU to share information regarding best practices and to identify new areas for collaboration. The key stakeholders should be engaged in the work of the TEC as well as the EU-U.S. Energy Council.¹³

- *Joint strategy to ensure unrestricted access to materials and commodities:* As global demand for raw materials is likely to grow given the expected increase in demand for transportation, EU and U.S. industries need secure access to raw materials at competitive conditions. The transatlantic partners thus need to deepen their dialog on access to raw materials and consider developing a joint, comprehensive raw materials strategy in the context of the TEC process. Another important

step would be to put access to raw materials on the agenda of the G8 and the G20.¹⁴

2. Secure Trade

Securing the global supply chain is vital to transatlantic companies involved in international commerce and the governments of the nations in which these firms do business. Subsequent to the terrorist attacks of 11 September 2001, governments have stepped up their security measures in aviation as well as shipment. These security measures have heavily affected the flow of goods in the transatlantic economy. When the U.S. Customs and Border Protection (CBP) and the European Commission Taxation and Customs Union Directorate adopted the U.S.-EU Joint Customs Cooperation Committee (JCCC) Roadmap towards Mutual Recognition of Trade Partnership Programs in March 2008, Jayson Ahern, then Deputy Commissioner of CBP, lauded this as “[...] an important step toward achieving the U.S. and EU’s shared objective of enhancing supply chain security.”¹⁵

Under the Customs-Trade Partnership Against Terrorism (C-TPAT), U.S. companies that subject themselves to individual security checks are eligible for accelerated customs clearance. To strengthen supply chain security while at the same time allowing fast-lane customs clearance, C-TPAT member companies are required to guarantee that all business partners within their supply chain comply with the security criteria issued by U.S. Customs and Border Protection. Since early 2008, the EU has its own program, the Authorised Economic Operator Program (AEO). Program membership confers special privileges, which can translate to faster goods movement and greater speed to market. The EU-U.S. roadmap aims at mutually recognizing the two security partnership programs (C-TPAT and AEO) in order to avoid costly double certifications in the EU and the United States. At the last TEC meeting on 26 October 2009 both sides confirmed that the U.S. Customs and Border Protection and the European Commission aim at mutual recognition of the Trade Partnership Programs at the U.S.-EU JCCC meeting by early 2010¹⁶—this deadline has already been missed.

A particularly contentious issue is that of 100 percent scanning. In mid-2007, former President George W. Bush signed the 9/11 Commission Recommendations Act. The U.S. law, which addresses the threat to border security and global trade posed by the potential for terrorist use of a maritime container, mandates that all U.S.-bound containers must be scanned 100 percent at port of shipment starting 1 July 2012 at the latest. It particularly targets ports, regarded as an especially weak element of the U.S. security system. The European Commission conducted three studies on the impact of the U.S. legislation requiring 100 percent scanning on EU customs, transport, and trade. These studies confirm that the legislation would create a disproportionate economic burden without proven benefits for security. The EU advocates an alternative approach based on multilayered risk management. “Global maritime shipping routes form the backbone of international trade. Strengthening the security of the supply chain via effective security measures is a major European Union priority. Yet, implementing 100 percent scanning would require sizeable investments, increase transport costs significantly and entail massive welfare losses,” said Algirdas Šemeta, Member of the European Commission for Taxation and Customs Union, Audit, and Anti-Fraud, writing in the report’s foreword.¹⁷

After some progress had been achieved in mutual recognition of security programs and 100 percent scanning, the airplane bomb scare in November 2010 cast some doubt on the sustainability of this cooperation. Last month, Representative Edward J. Markey, Democrat of Massachusetts, introduced legislation that would require the complete screening of cargo-only aircraft. In 2007, Markey wrote a similar law, which required the total screening of all air cargo transported on domestic passenger planes and all international passenger planes entering the United States. In July 2010, at a Senate Commerce Committee hearing, Senator Frank Lautenberg warned the Department for Homeland Security with regard to maritime security: “We’re still well behind the objectives we set for ourselves. You have a deadline—2012—for 100 percent scanning of all incoming shipping containers, but you’re a long way from that point.”¹⁸

Why should the European and the United States work together on this issue?

- *Fast market access through mutual recognition:* Transatlantic differences on how to protect citizens against terrorist, criminal, or other threats have consistently posed problems for the transatlantic business community. Programs such as C-TPAT and AEO promote enhanced security as a fundamental element. These efforts contribute to global trade facilitation, international customs modernization, improved cooperation within the import-export community, and greater competitiveness in international trade. AEO status confers worldwide recognition as a safe and secure business partner in global trade, gives the firm a lower risk score in risk analysis systems, affords reduced levels of risk controls, offers priority treatment in terms of physical controls and consignment examinations, translates to reduced data requirements for entry and exit summary declarations, offers simplified procedures, and allows faster movement of goods through third country borders. C-TPAT members are assigned an account manager, gain access to the C-TPAT membership list, are eligible for account-based processes, can self-police rather than be subjected to CBP verifications, have priority access to participate in the Automated Commercial Environment (ACE), and have expedited border clearance with the Free and Secure Trade (FAST) program. Failing to establish mutual recognition of C-TPAT and AEO threatens costly double certifications in the EU and the United States.

- *Avoiding high costs due to 100 percent scanning:* The 100 percent scanning legislation contradicts all existing customs security initiatives, which are based on target risk analysis. The costs of 100 percent scanning are immense: The European Commission has calculated that the cost of scanning each container exceeded \$500 (€322) in the pilot project in Southampton. The Department of Homeland Security expressed some concern based on a feasibility study conducted in selected ports in June 2008. While a pilot project found that the intended process would be feasible in small, relatively low-volume ports (although still requiring considerable efforts), 100 percent cargo scanning would pose an insurmountable challenge to larger ports.¹⁹ A recent report of the U.S. Customs and Border Protection in April 2010 confirmed this result: “[...] the 100-percent maritime cargo scanning mandate is unlikely to be achieved by the 2012 deadline [...]. Furthermore, budgetary challenges exist as the costs of the 100-percent scanning [...] would cost about \$8 million per lane for the more than 2,100 shipping lanes at more than 700 ports around the world that ship to the United States.”²⁰

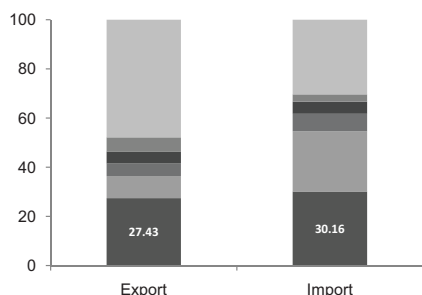
How could the European Union and the United States work together?

- *Mutual recognition of AEO and C-TPAT:* The EU and U.S. administrations need to step up their efforts toward a rapid mutual recognition of the respective secure shipper programs—AEO and C-TPAT. The goal should be a “one-stop” security concept, in which a secured shipment in one jurisdiction is deemed to be secure in the other. There should be no major concerns accepting both AEO and C-TPAT certified companies as reliable partners of customs. Both schemes are stringent and guarantee a high level of security within the participating companies and their supply chains. There will be no lack of control, because all companies—including C-TPAT and AEO participants—have to submit detailed pre-shipment information to the customs authorities so that customs can perform a risk analysis and stop high-risk shipments. This approach would also render the 100 percent scanning initiative unnecessary.

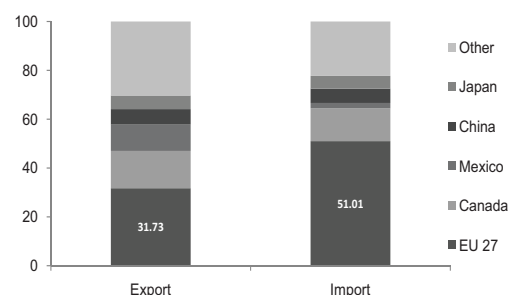
3. Chemical Regulation

For the EU and the U.S., the chemicals industry is an important pillar of the economy in both its own right as well as a provider of materials for other manufacturing industries. The EU chemicals industry, which produces about a quarter of the world chemicals, generates about 1.2 million jobs and is an important export sector. The same holds true for the United States. Its chemicals industry accounts for 1.9 percent of U.S. GDP and is one of the nation’s top exporters. Despite the importance for both transatlantic partners, trade in chemicals faces many NTBs (restrictiveness index U.S.: 46, EU: 53). If NTBs and regulatory divergences were to be eliminated, the EU and the U.S. could both realize considerable welfare gains (EU: €7.1 billion/\$9.2 billion per year; U.S.: €1.6 billion/\$2.1 billion per year).²¹

Figure 7:
EU Trade in chemicals,
by main partners, 2009



U.S. Trade in chemicals,
by main partners, 2009



Source: UN Comtrade Database, December 2010.

There are few areas of transatlantic product regulations where the divide is as large as in chemicals.²² The EU and U.S. have fundamentally different regulations on issues such as hormones, genetically modified organisms (GMOs), cosmetics, the registration and restriction of chemical substances, and the Globally Harmonized System of Classification and Labeling of Chemicals (GHS).²³ In the case of GMOs, these differences have translated into longer authorization times and stricter standards for approval, release, and marketing of GMOs in the EU than in the United States. Moreover, GMOs have been the subject of a long and bitter trade dispute brought before the World Trade Organization (WTO).

Another significant challenge is the compatibility of the European Chemical REACH Regulation (Registration, Evaluation, and Authorization of Chemical Substances) and the U.S. Toxic Substances Control Act (TSCA). REACH is based on two principles: First, it shifts the responsibility for assessing and managing the risks posed by chemicals produced, used, and imported from regulators to industry, which is required to provide the appropriate safety information. Second, REACH is based on the principle “no data, no market”: Only those substances may be brought into circulation on whose characteristics (such as physical properties, hazard, etc.) sufficient valid data is available. In the U.S. the introduction of new or already existing chemicals is regulated through the TSCA. It authorizes the U.S. Environmental Protection Agency (EPA) to regulate the safety of chemicals distributed in commerce. In April 2010, the Safe Chemicals Act of 2010 was introduced in the Senate; a similar proposal was presented in the House of Representatives in July 2010, the Toxic Chemicals Safety Act of 2010. While a compromise is not in sight, both proposals would have far-reaching effects on the chemical industry and on manufacturers, processors, and importers of a wide range of materials not unlike those under REACH.²⁴

Another area in which cooperation should be stepped up is nanotechnology. The European Commission just launched a public consultation on a definition of the term “nanomaterial” in November 2010. The definition was to be coordinated at the international level. In early December 2010, the International Council of Chemical Associations (ICCA) submitted a proposal (ICCA Core Elements of a Regulatory Definition of Manufactured Nanomaterials).²⁵ Thus, the European and American chemical industries (as well as the chemical industries of other chemical nations) have already agreed on a joint definition. If the regulators now also accepted this definition, it would be an initial first step toward regulatory convergence.

Why should the European Union and the United States work together on this issue?

- *Strengthen competitiveness of transatlantic chemical industries:* If the two sides were able to agree on how to converge the existing divergent regulations they could ease transatlantic trade tensions and contribute to strengthening the competitiveness of their respective chemical industries.

How could the European Union and the United States work together?

- *Compatibility of legislation:* Transatlantic regulatory cooperation should bring about comparability of legislation that enables mutual recognition. Legislation need not be identical but should be comparable in effectiveness, e.g. TSCA and REACH.
- *Cooperation on nanotechnologies:* The regulations should provide that a nanomaterial compliant to requirements under U.S. law would automatically be considered as fulfilling the requirements of European law with the consequence that it could be marketed in Europe without having to comply with any further requirements. Such mutual recognition would, however, only be possible if the regulations were comparable in effectiveness. The TEC should also foster greater transatlantic cooperation in the context of the “Innovation Action Partnership”²⁶ to make the use of nanotechnology more transparent, such as within the context of energy efficiency devices, and with regard to the medical sector.

The Way Forward

The upcoming TEC meeting on 17 December 2010 poses a window of opportunity to fill the transatlantic economic initiative with new life. The most recent EU-U.S. Summit, which took place in Lisbon on 20 November 2010 and was attended by President Obama, Council President Herman Van Rompuy, and Commission President José Manuel Barroso, recognized that the transatlantic relationship has not yet lived up to its potential. The summit leaders agreed that the most effective way to stimulate growth and create jobs in key emerging sectors and technologies was to promote innovation, streamline regulation, and eliminate barriers to trade and investment. Acknowledging the importance of the TEC, the transatlantic partners therefore tasked it with developing a new agenda. The TEC is to “identify ways to improve transatlantic consultations before regulators and agencies develop regulation in economically promising new technologies and sectors, to share best practices, and to develop joint principles with the aim of promoting maximum compatibility of regulations and the freest possible transatlantic flow of ideas, products, and services.”²⁷ In light of the importance of the transatlantic economy to both partners and the untapped potentials of deeper integration, this is, indeed, the way to go.

NOTES

- ¹ Special thanks for his valuable contributions go to David Campbell, Director of Trade Policy, Representative of German Industry and Trade (RGIT).
- ² "Ask the Ambassador: U.S. and EU Trade Relations," U.S. Trade Representative, 6 January 2010, <<http://www.ustr.gov/about-us/press-office/ask-ambassador/ask-ambassador-responses/2010/january>>.
- ³ Quoted in *EU Trade Commissioner Karel De Gucht on First Official Visit to the United States*, 10 May 2010, <<http://trade.ec.europa.eu/doclib/press/index.cfm?id=569>>.
- ⁴ Quoted in "EU-U.S. Ties not Living up to Potential: Barroso," *Reuters*, 15 July 2010, <<http://www.reuters.com/article/idUSTRE66E19X20100715>>.
- ⁵ Quoted in Jorge Benite, "US Informs Europe: 'We don't Feel the Need to Profess Love,'" *Atlantic Council*, 12 August 2010, <<http://www.acus.org/natosource/us-informs-europe-%E2%80%9Cwe-don%E2%80%99t-feel-need-profess-love>>.
- ⁶ Data on EU FDI: Eurostat, <http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=bop_fdi_pos&lang=de>, Data on U.S. FDI: BEA, <<http://www.bea.gov/international/di1usdbal.htm>>.
- ⁷ Daniel Hamilton und Joseph Quinlan, *The Transatlantic Economy 2010* (Washington, DC: John Hopkins University, 2010): 8.
- ⁸ Eurostat, *EU27 Überschuss im Warenverkehr mit den USA verdoppelte sich fast in den ersten sechs Monaten 2010*, <http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/6-18112010-AP/DE/6-18112010-AP-DE.PDF>.
- ⁹ EU, *DG Trade, United States Barriers to Trade and Investment Report for 2008*, July 2009, <http://trade.ec.europa.eu/doclib/docs/2009/july/tradoc_144160.pdf>.
- ¹⁰ *Non-Tariff Measures in EU-US Trade and Investment – An Economic Analysis*, 2009, p. 48, <http://trade.ec.europa.eu/doclib/docs/2009/december/tradoc_145613.pdf>.
- ¹¹ Verband der Automobilindustrie (VDA), *Why should the European and the US work together on E-Mobility? – Key reasons*, <<http://www.vda.de>>.
- ¹² Verband der Automobilindustrie (VDA), *Transatlantic integration. E-mobility as a lighthouse project of the automotive industry*, August 2010, <<http://www.vda.de>>.
- ¹³ The EU-U.S. Energy Council launched in November 2009 in Washington provides a framework for bilateral dialogue on energy security and low-carbon technology. The Council strengthens a strategic cooperation agreement on energy and energy security envisioned in a joint declaration from 2006, see EU-U.S. Joint Declaration <http://www.whitehouse.gov/the-press-office/us-eu-joint-declaration-and-annexes>
- ¹⁴ Federation of German Industries (BDI), *Für eine strategische und ganzheitliche Rohstoffpolitik. BDI-Papier zur Rohstoffsicherheit*, June 2010, <http://www.bdi.eu/download_content/EnergieUndRohstoffe/BDI_Rohstoffsicherheit.pdf>.
- ¹⁵ Quoted in *Trade U.S., EU Adopt Roadmap on Mutual Recognition of Supply Chain Security Standards*, 27 March 2008, <http://useu.usmission.gov/dossiers_cargo_security_mar2708_trade_partnership_roadmap.html>.
- ¹⁶ Transatlantic Economic Council – Annex: *Review of Progress under the Framework for Advancing Transatlantic Economic Integration between the United States of America and the European Union*, 27 October 2009, <http://ec.europa.eu/enterprise/policies/international/files/tec_progress_report_20091027_en.pdf>.
- ¹⁷ European Commission Staff Working Paper, *Secure Trade and 100% Scanning of Containers*, <http://ec.europa.eu/taxation_customs/resources/documents/common/whats_new/sec_2010_131_en.pdf>.
- ¹⁸ Quoted in R.G. Edmonson, "Panel Grills Security Officials on 100 Percent Scanning," in: *The Journal of Commerce*, 22 July 2010, <<http://www.joc.com/government-regulation/panel-grills-security-officials-100-percent-scanning>>.
- ¹⁹ U.S. Government Accounting Office, *Supply Chain Security, Challenges to Scanning 100% of U.S. Bound Cargo Containers*, 2008, <<http://www.gao.gov/new.items/d08533t.pdf>>.
- ²⁰ U.S. Customs and Border Protection, *Risk-Based, Layered Approach to Supply Chain Security*, 13 April 2010.
- ²¹ *Non-Tariff Measures in EU-US Trade and Investment – An Economic Analysis*, 2009, <http://trade.ec.europa.eu/doclib/docs/2009/december/tradoc_145613.pdf>.

The American Institute for Contemporary German Studies (AICGS)

strengthens the German-American relationship in an evolving Europe and changing world. Affiliated with the Johns Hopkins University, the Institute produces objective and original analyses of developments and trends in Germany, Europe, and the United States; creates new transatlantic networks; and facilitates dialogue among the business, political, and academic communities to manage differences and define and promote common interests.

Through its three program areas (Business & Economics; Foreign & Domestic Policy; and Society, Culture, & Politics), AICGS provides a comprehensive program of public forums, policy studies, research, and study groups designed to enrich the political, corporate, and scholarly constituencies it serves.

AICGS
1755 Massachusetts Ave. NW
Suite 700
Washington, DC 20036
www.aicgs.org

The views expressed in this essay are those of the authors alone. They do not necessarily reflect the views of the American Institute for Contemporary German Studies.

²² Reinhard Quick, "Transatlantic Regulatory Cooperation on Chemicals—An Idealist's Dream?," German Marshall Fund Academic Research Conference, Ford School, University of Michigan, <http://www.ford-school.umich.edu/news/events_details/re_coop_and-comp_08/>.

²³ The Globally Harmonized System of Classification and Labeling of Chemicals (GHS) addresses classification of chemicals by types of hazard and proposes harmonized hazard communication elements, including labels and safety data sheets. The GHS provides a basis for harmonization of rules and regulations on chemicals at national, regional and worldwide level. UNECE, <http://www.unece.org/trans/danger/publi/ghs/ghs_welcome_e.html> and McDermott, Will & Emery, *TSCA Reform In The House & Senate: Extending EPA's REACH*, <http://www.mwe.com/index.cfm/fuseaction/publications.nldetail/object_id/f7c22101-7fa4-4227-9ae5-21cf2bc31dbf.cfm>.

²⁴ ICAA, *ICCA Takes Proactive Step on Nanomaterials*, 2 December 2010, <<http://www.icca-chem.eu/en/Home/News-and-press-releases/News-Archive/2010/ICCA-takes-proactive-step-on-nanomaterials/>>.

²⁵ The Transatlantic Innovation Action Partnership is a senior-level government-to-government forum that was established on October 27, 2009 by U.S. and European Union (EU) leaders in the Transatlantic Economic Council (TEC). The objective of the Innovation Action Partnership is to bolster U.S. and EU efforts to spur growth, productivity, and entrepreneurial activity by sharing best policy practices and identifying steps that will improve the policy environment for innovative activities across the Atlantic. <<http://www.state.gov/p/eur/rt/eu/tec/c34871.htm>>

²⁶ *EU-US Summit, Lisbon 20 November 2010 Joint Statement*, <http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/117897.pdf>.

Deborah Klein is senior manager at the Federation of German Industries (BDI); Dr. Stormy-Annika Mildner is member of the directing staff at the German Institute for International and Security Affairs in Berlin (SWP).

This essay is generously supported by the AICGS Business & Economics Program.