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## External Relations

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# The EU's relations with the United States of America

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## EU – US Summit

Washington, 25 June 2003

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## Overview

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On 25 June 2003 leaders from both sides of the Atlantic will gather at the EU-US Summit in Washington. The President of the European Commission, Romano Prodi, together with the President-in-office of the European Council, Greek Prime Minister Constantine Simitis, will meet US President George W. Bush. Presidents will be accompanied by Senior Politicians.

The EU and the US cooperate on an ever wider range of areas, broadening and deepening their relationship. Even though relations have gone lately through a period of strain both sides are firmly committed to demonstrate that the EU and the US have a relationship that works and produces concrete results with direct effect for our citizens, also taking up jointly global and regional challenges.

## Deliverables

It is expected that this Summit leads to concrete results in important areas such as the signing of the Mutual Legal Assistance (MLA) and Extradition Agreements and the launching of negotiations on a Transatlantic Aviation Agreement. The MLA will be the first ever signed agreement on legal cooperation in the fight against crime with a third country. Negotiations with the US on a Transatlantic Aviation Agreement mark a historic development in the Community's aviation policy as for the first time, representatives of the two largest aviation markets in the World will discuss opening up their markets and investment rules directly. The EU and the US will also launch joint research efforts promoting the Hydrogen economy. In addition, it is expected that there will be joint statements on container security and on customs cooperation as well as a joint initiative in the fight against the proliferation of Weapons of Mass Destruction (WMD).

## Discussion issues


















Discussion at the restricted meeting between leaders are likely to focus on joint efforts in the context of implementing the Quartet's Road Map for peace in the Middle East. More: [The EU and the Middle East Peace Process - The Union's position & role](#)

The Plenary Meeting will start with a Presidency presentation of the results of the [Thessaloniki Council](#), notably with regard to the EU Constitution and the security strategy. Further items on the agenda are Iraq, Afghanistan, non-proliferation, the fight against terrorism, and possibly Galileo and the International Criminal Court (ICC). Under the item fight against terrorism transport security and financing of terrorism and judicial cooperation will be addressed.

The working luncheon will be entirely dedicated to trade and economic issues such as the forthcoming WTO Ministerial in Cancun, transatlantic co-operation under the Positive Economic Agenda - notably the financial markets dialogue as well as on research in the

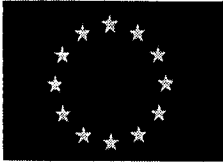
energy sector and air transport negotiations. Leaders will also review some of the more sensitive topics such as Genetically Modified Organisms (GMOs), US compliance with WTO dispute settlement rulings and US Bilateral Investment Treaties with countries acceding to the EU.

## Factsheets

- [Enlargement of the EU](#) 
- [Fight against Terrorism](#) 
- [EU Aid to Afghanistan](#) 
- [South-Eastern Europe - The Balkans](#) 
- [Development Assistance and Humanitarian Aid](#) 
- [Biotechnology and Genetically Modified Organisms \(GMO\)](#) 
- [Container Security \(CSI\)](#) 
- [Passenger Name Record \(PNR\)](#) 
- [Aviation Liberalisation](#) 
- [Bioterrorism Act](#) 
- [EU-US Relations in the Steel Sector](#) 
- [EU-US Bilateral Economic Relations](#) 
- [Positive Economic Agenda \(PEA\)](#) 
- [US Non-compliance with WTO Rulings](#) 
- [Hydrogen and Fuel Cells Technology](#) 
- [EU-US Agreements on Extradition and Mutual Legal Assistance](#) 
- [Financial Markets Regulatory Dialogue](#) 

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# EUROPEAN UNION

## ~FACTSHEET~

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### ENLARGEMENT OF THE EUROPEAN UNION

#### ISSUE

On May 1, 2004, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia, Cyprus, and Malta will join the European Union, following the ratification by all current EU Member States of the Accession Treaty, signed in Athens, April 16, 2003.

Depending on further progress in complying with the membership criteria, the objective is to welcome Bulgaria and Romania as members in 2007. To this end, the pace of negotiations will be maintained, and these will continue on the same basis and principles that applied to the ten acceding States with each candidate judged on its own merits. Building on significant progress achieved, the Union supports Bulgaria and Romania in their efforts to achieve the objective of concluding negotiations in 2004.

The Union encourages Turkey to pursue energetically its reform process. If the European Council in December 2004, on the basis of a report and a recommendation from the Commission, decides that Turkey fulfils the Copenhagen political criteria, the European Union will open accession negotiations with Turkey without delay.

With the eventual accession of these countries, the EU would expand from 15 to 28 member states, and from 375 million inhabitants at present to about 550 million inhabitants (exceeding the combined populations of the United States, Canada, Mexico, and Australia).

This is an historic enlargement, more challenging than the previous four: more countries and more people are involved than ever before. Unlike former accession rounds, negotiations included complex new policy areas like monetary union, justice and home affairs and security and defence policy. Never before was there such a huge economic gap between the Union and accession candidates: GDP per capita as a percentage of the EU average stands at 33% for all 13 candidate countries.

#### STRATEGY

The enlargement process is vital for securing political stability and prosperity. It will promote higher standards of democracy, the rule of law, respect of human rights and the protection of minorities on the European continent as a whole. It will strengthen a transatlantic community of democratic nations, enhance environmental security, and boost transatlantic cooperation in areas such as the fight against organised crime and terrorism. Enlargement will have a major direct effect on growth in the new member states, where it is anticipated GDP will grow by an additional 5 - 9% over the 10 years following accession. Current member states are set to increase growth by 0.5 - 0.8 % in the enlarged EU single market. This market will present new opportunities for the U.S.

#### ASSISTANCE

The EU is providing massive pre-accession assistance to all the candidate countries, at an annual rate of more than €3 billion. More than €21 billion have been earmarked in the EU's financial guidelines for fiscal years 2000-06 for pre-accession assistance. Transfers from the EU budget to the ten countries for the period 2004-2006 will amount to nearly €41 billion, covering their

participation in all EU policies and including large amounts of structural and regional assistance. This amount is offset by the contributions to the budget from these new members.

EU aid to Central and Eastern Europe had already totalled some €85 billion for the period 1990-99. With the funds allocated for the 2000-06 period, EU contributions are approximately double (in today's dollars) the \$13.2 billion in US Marshall Plan aid for the reconstruction of Europe after World War II.

### TRADE AND INVESTMENT

The U.S. is a net importer of capital from the new members. The EU is a vast net investor in the same economies. EU trade (mostly exports) with new members is greater many times over than US trade (mostly imports). (See also statistical chart below.)

More information can be found on: [http://europa.eu.int/comm/enlargement/index\\_en.html](http://europa.eu.int/comm/enlargement/index_en.html)

#### US AND EU TRADE WITH NEW MEMBERS (10) IN 2001

€ M	IMPORTS	EXPORTS	BALANCE
US	7.559	3.536	-4.023
EU	101.005	118.023	17.019

#### US AND EU FDI\*\* FLOWS WITH NEW MEMBERS (10)\* IN 2001

€ M	INFLOWS	OUTFLOWS	BALANCE
US	6.579	491	-6.088
EU	2.092	16.865	14.773

#### US AND EU FDI\*\* STOCKS WITH NEW MEMBERS (10)\* IN 2001

€ M	INWARD STOCKS	OUTWARD STOCKS	BALANCE STOCKS
US	10.369	6.063	-4.306
EU	7.263	92.191	84.928

\* NO DATA FOR US FDI OUTFLOWS 2001 TO ESTONIA AND NO DATA AT ALL FOR US FDI WITH LITHUANIA

\*\* FOREIGN DIRECT INVESTMENT



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## THE FIGHT AGAINST TERRORISM

The attacks of September 11, 2001 led to unprecedented co-operation within the EU and between the EU and the United States.

- EU Heads of State and governments approved an action plan on terrorism (September 21, 2001). Since then, the fight against all forms of terrorism remains a priority for the EU.
- EU Member States have gained considerable expertise and experience in fighting terrorism, which they are sharing and developing with their U.S. partners, in particular on Islamic extremist terrorist groups. EU and U.S. efforts are joint and complementary, and cover a wide range of areas, in particular: intelligence, law enforcement, judicial cooperation and transport security. The threat has far from disappeared, but important achievements have been registered.

### KEY ACHIEVEMENTS

#### *External relations*

- Incorporation of the fight against terrorism into all aspects of the EU's external policy.
- Review of counter-terrorism aspects of relations with third countries.
- Development of standard counter-terrorism clauses in agreements with third countries.
- Fight against terrorism established as part of dialogue with third countries and international organisations.
- Threat analyses of 9 regions and 55 countries.
- Review of bilateral technical assistance by EU Member States to Third countries.
- New Strategy on EU technical assistance to third countries, including the mainstreaming of counter-terrorism assistance within longer-term assistance programmes as well as specific targeted help to a small number of pilot countries (Philippines, Pakistan, Indonesia).

#### *Police and Judicial Co-operation*

##### Internally:

- from January 1, 2003, the criminal law of the 15 (and soon 25) EU Member States is aligned so that terrorism is prosecuted and punished in the same manner throughout the EU;
- from 1 January 2004, the "European Arrest Warrant" (a swift mechanism for arrest and surrender between EU Member States) will replace current (sometimes) cumbersome extradition procedures.

##### Externally:

The EU has signed unprecedented agreements with the U.S. on co-operation in criminal matters:

- The EU-U.S. Agreement on Mutual Legal Assistance <sup>1</sup>
- The EU-U.S. Agreement on Extradition <sup>2</sup>
- In December 2001 a first strategic co-operation agreement was concluded between **Europol** and the U.S. A further agreement between **Europol** and the U.S. law enforcement agencies of 20 December 2002 allows for the sharing of intelligence and personal data.
- **Eurojust** (which coordinates investigations and prosecutions within the EU) began its work on 7 April 2002 and has established close contacts with the U.S.

### ***Control of Borders***

The EU has undertaken various initiatives with a view to:

- further improving its Member States' ability to combat illegal immigration and possible links to terrorist activities; and
- gradually introducing an integrated and coordinated management of its external borders.

In this context, a Common Unit for external border practitioners has been set up. It has adopted a series of joint operations at land, air and sea borders as well as pilot projects and ad hoc centres, 17 in all. These notably include an ad hoc Risk Analysis Centre, which will produce, on the basis of a common integrated risk analysis model, regular risk assessments regarding irregular migration. Further tools are being developed to improve the reliability of travel documents (Visa Information System, biometric identifier or biometric data, etc.).

### ***Financing of terrorism***

The EU has adopted a number of legislative and operational measures aimed at fighting the financing of terrorism, including the listing of persons, groups and entities involved in terrorist activities and the freezing of their assets. The EU and U.S. worked together on the need to balance the fight against terrorism and the need to protect individual human rights.

### ***Bioterrorism and Weapons of Mass Destruction***

- The EU is currently in the process of implementing its CBRN (Chemical, Biological, Radiological or Nuclear) Plan (civil protection) of 20 December 2002, as well as its Overall Strategy and Action Plan against Weapons of Mass Destruction.
- The EU Military Committee was mandated to establish a database of national military assets and capabilities relevant to the protection of civilian populations against terrorism including CBRN; work is underway on how to use these military assets and capabilities.
- EU and NATO are sharing information on respective capabilities and activities in civil protection against CBRN and so improving transparency.

### ***Maritime and civil aviation security***<sup>3</sup>

#### **Air Security**

In the aftermath of September 11 attacks, the EU moved swiftly to bring in legislation on the implementation of enhanced security measures across the EU, including minimum standards for baggage handling, passenger screening, staff screening and training, and physical security arrangements on and around aircraft. It also imposed new requirements for monitoring and

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<sup>1</sup> see separate factsheet

<sup>2</sup> see separate factsheet

<sup>3</sup> for Maritime security see separate factsheet on Container Security

assessing security arrangements and for sharing information and best practice within the EU. An "EU security audit" team, created by the European Commission, will inspect airports to ensure that the EU legislation is being applied, beginning in the second half of 2003.

## **THE WAY AHEAD**

A dialogue with the Department of Homeland Security (DHS) has been developing since the Department was formally established in March 2003. The EU expects this relationship to be further enhanced as the DHS extends its operational control across the full range of its intended competence.

Further enhanced EU-U.S. cooperation should focus on :

- increased information collection and sharing;
- prevention (suicide and bomb attacks; recruitment of terrorists);
- coordination of counter-terrorism assistance directed at countries of concern (capacity building);
- border controls and travel documents, including biometric identifiers.
- combating financing of terrorism.



# EUROPEAN UNION

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### THE EUROPEAN UNION AND THE WESTERN BALKANS

#### THE ISSUE

The European Union is committed to the Western Balkan countries (Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Serbia and Montenegro) as a long-term investment in peace, stability and growth. Demonstrating the crucial political importance attributed to the Western Balkans, the EU has put relations with the countries of the Western Balkans among its high priorities, with the main goal of helping their course towards European structures and standards. This interest is expressed through the Stabilisation and Association process as well as the involvement of the EU in the political and the security fields. Over recent years the EU has contributed effectively to the victory of democratic forces in Serbia. It had a leading role in averting a civil war in the FYROM and in facilitating the new constitutional arrangement between Serbia and Montenegro. The EU took over from the UN the Police mission in Bosnia and Herzegovina and from NATO the military mission in the FYROM.

#### THE STABILISATION AND ASSOCIATION PROCESS (SAP)

The Stabilisation and Association process is the European Union's policy framework for the countries of the Western Balkans. The EU is not just an economic club, it is a Community of values related to democracy, the rule of law, respect for human rights, protection of minorities and a market economy. Sharing these values is a key part of the SAP and the basis for EU candidate status. The SAP has three major elements:

##### *Stabilisation and Association Agreements*

An important pillar of the SAP is the conclusion of individual Stabilisation and Association Agreements (SAA). By signing an SAA, the Western Balkan countries commit:

- to gradual alignment to EU legislation in a number of areas
- to a gradual establishment of a free trade area with the EU
- to conclude bilateral agreements with their neighbours in the region on, for example, trade and free movement of workers, services and capital
- to co-operate with the EU on issues such as justice, visas, border control, illegal immigration, money laundering, transport, energy etc.

##### *Autonomous trade measures*

By offering autonomous trade measures, the EU has already opened its market to nearly all products originating from the Western Balkan countries. The EU is now the region's largest trading partner, with over half of all exports going to the European market. Today more than 80% of all goods from the Western Balkans region enter Europe with no customs restrictions.



### ***Financial assistance***

The EU has invested a tremendous amount in the stabilisation and development of the Western Balkans. The EU financial assistance to the Western Balkans started with humanitarian aid during the war and has since shifted to reconstruction and now, increasingly, institution building. Since 1991, through its various aid programmes, the European Union has provided more than € 7 billion in assistance to the countries of the Western Balkans. In 2000, all previous mechanisms of European Union assistance to the region were replaced by a single, new instrument: Community Assistance for Reconstruction, Development and Stabilisation (CARDS), aimed at underpinning the EU's political objectives in the region. The full financial envelope for 2000-2006 is € 4.65 billion.

### **The 2003 SAp report**

The 2003 annual SAp report by the European Commission recognises some important progress made over the last twelve months: restoration of the stability in the region, improved security, democratically elected governments in place throughout the region, massive reconstruction across the region, progress made assisting return of refugees and displaced persons, sustained growth, controlled inflation and increasing trade. There are still shortcomings in terms of governmental culture and functioning of democratic institutions, institutional capacity building, social and economic development, judicial reform, the fight against organised crime and corruption, respect of human rights and protection of minorities, further action to facilitate sustainable return of refugees and displaced persons, and full compliance with international obligations. Further progress in structural reforms is needed to turn the countries into fully functioning market economies.

Recent progress achieved by the countries of the Western Balkans allowed for further movement towards the Union through the SAp. This positive trend is widely illustrated: the continuation of the ratification procedure of the SAAs with the former Yugoslav Republic of Macedonia and Croatia, the opening and progress of negotiations for a SAA with Albania, the launching by the Commission of a feasibility study for a SAA with Bosnia and Herzegovina, the adoption in Serbia and Montenegro of the Constitutional Charter and the presentation of the Internal Market and Trade Action Plan.

The Croatian application for membership is currently under examination by the European Commission.

### **THE EU-WESTERN BALKANS SUMMIT OF THESSALONIKI**

The Thessaloniki Summit (21 June 2003) is a milestone in the European Union's relations with the Western Balkans. The EU restated the prospect of EU membership offered at the European Councils of Feira and Copenhagen. The Stabilisation and Association process will remain the framework of the EU policy for the region, but it will be enriched with elements drawn from the recent successful enlargement process. These include strengthened political co-operation, enhanced support for institution building, promotion of economic growth by increasing the region's export possibilities through concrete trade measures, and the possibility for the countries of the Western Balkans to participate in some Community programmes. In Thessaloniki, new European Partnerships have been offered to the Western Balkan countries, which will identify on a regular basis priorities and obligations to be fulfilled. EU financial assistance will be directed to the priorities set out in the partnerships. Each country will draw up a national action plan for implementation of the partnerships, which will provide a clear agenda against which to measure progress.

### *International cooperation in the region*

The "Thessaloniki agenda for the Western Balkans", adopted by the European Council in Thessaloniki (19-20 June 2003), emphasises that close co-ordination with the U.S. on Balkan issues is a high priority for the EU. The Balkans will continue to be on the agenda of the EU dialogue with Russia and other relevant countries. Continued co-operation with the UN, NATO, OSCE, Council of Europe and other international organisations operating in the area, is essential. The EU reconfirmed also its support to the Stability Pact for South-eastern Europe in its complementary role to the SAp.

**Additional information** can be found on the following websites:

[http://europa.eu.int/comm/external\\_relations/see/index.htm](http://europa.eu.int/comm/external_relations/see/index.htm);

<http://ue.eu.int/eupm/homePage/index.asp?lang=EN>; <http://ue.eu.int/arym/index.asp?lang=EN>



# EUROPEAN UNION

## ~FACTSHEET~

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### DEVELOPMENT ASSISTANCE AND HUMANITARIAN AID

#### ISSUE

The EU is the largest provider of official development assistance (ODA) and humanitarian aid in the world. The EU contributes over half of global ODA, over US\$ 26 billion in 2001 (compared to the United States' US\$ 11.4 billion). This represents 0.33% of the EU's Gross National Income (compared to a figure of 0.11% for the U.S.). Last year EU Member States pledged to increase their ODA budgets still further, to reach an average of 0.39% of Gross National Income (GNI) by 2006, or around €9 billion additional annual ODA. As well as ODA, the EU is the world's biggest donor of humanitarian aid, accounting for 47% of global assistance in 2001 (compared to 36% for the United States).

#### THE EU'S STRATEGY

##### *A single objective for ODA: to eradicate poverty*

Unlike some other donor countries, the EU does not see ODA as a means of securing short-term foreign policy objectives. The EU believes that poverty reduction is an end in itself. Moreover, unlike U.S. aid, EU aid refers only to official development assistance and does not include military or private international assistance.

The objective of the EU's development co-operation policy is to foster sustainable development designed to **eradicate poverty** and to **integrate** developing countries into the world economy. This can only be achieved by pursuing policies that promote the consolidation of democracy, the rule of law, good governance and respect for human rights. Putting equity at the centre of its policies, the EU gives priority to defending the interests of the most disadvantaged developing countries and the poorest sections of the population in economically more advanced developing countries.

The European Commission is working to strengthen the poverty focus of the programs it manages, taking concrete measures to support the achievement of the **Millennium Development Goals** (MDGs). The EU also recognises the need to improve both the quantity and quality of development aid. One important way to improve efficiency is to de-link aid from obligations to buy goods and services from the donor country (known as 'untying'). On 19 May 2003 the EU took the lead amongst donors by moving towards an almost complete untying of aid, subject to the agreement of the recipient country and on a reciprocal basis between all donors.

##### *Communicable Diseases*

The European Commission has also adopted a far-reaching plan of action on fighting poverty-related diseases in the developing world. The EU has committed €1 billion to its **Program for Action on Communicable Diseases**. In addition, it provides nearly half (US\$ 1.23 billion) of the pledges and contributions to the **Global Fund** to fight AIDS, Tuberculosis and Malaria. The European Commission stands ready to commit a further €85 million annually to the Global Fund if it proves to be the best channel for the funds that have been set aside. However, the most important contribution to the fight against communicable diseases will be to improve access to medicines in

developing countries. To this end, the EU strongly advocates the widespread use of 'tiered pricing' when exporting drugs to developing countries, making medicines affordable to end users in those countries. In order to prevent trade diversion, the EU has adopted legislation ensuring that medicines exported to the poorest countries at lower 'tiered' prices are not re-imported back into the EU. Furthermore, the EU has been leading efforts within the World Trade Organisation to find a solution that makes affordable drugs available to people suffering from curable diseases in developing countries, while safeguarding the trade-related intellectual property rights of pharmaceutical companies.

### ***Trade and Development***

The launch of a new trade round at Doha emphasised the links between **trade and development**. The EU is committed to the success of the Doha Development Agenda, with the key objective of helping developing countries' own efforts to integrate into the world trading system and take advantage of the opportunities it provides.

### ***Humanitarian Assistance***

The basic principle of the EU's humanitarian aid is to deliver essential assistance and relief to the victims of conflicts or natural catastrophes, irrespective of their ethnic origin, religion or political affiliation.

The EU is the world's biggest donor of **humanitarian aid**, providing 47% of global assistance in 2001 (compared to 36% for the United States). In 2002 the EU spent €1.2 billion on humanitarian relief (€668.5 million spent by individual Member States and a further €537.8 million spent by the European Commission). Last year, Afghanistan alone received €274 million in humanitarian assistance (not including other forms of assistance) from the EU. To date, the European Union has collectively pledged €731 million to humanitarian relief operations in Iraq, of which €298 million has already been committed. This compares to US\$787 (€667 million) pledged by the United States.

### ***Food Aid***

The European Union's overriding aim is to guarantee **food security** in developing countries by ensuring the viability of local agricultural production and by promoting access to appropriate food supplies for the most vulnerable groups of people. Sometimes, though, **food aid** becomes necessary. When this is the case, the EU's aim is, wherever possible, to purchase food locally or within the regions facing crisis, rather than use food aid as a means of disposing of our own surpluses. 100% of European food aid is provided in grant form – there are no commercial sales, even at concessions. The EU strongly believes in promoting export opportunities for farmers in developing countries. To this end, the EU has progressively reformed its own Common Agricultural Policy, substantially reducing export subsidies from 25% to 5% of export value with the intention to go further. Within the multilateral trade context, the EU proposes to address all forms of export subsidisation, including export credits, abuse of food aid and predatory pricing by state agencies.

### **ADDITIONAL INFORMATION**

More details can be found on the Commission Directorate General for Development website:

[http://europa.eu.int/comm/development/index\\_en.cfm](http://europa.eu.int/comm/development/index_en.cfm);

on the website of the Humanitarian Aid Office of the Commission, ECHO:

[http://europa.eu.int/comm/echo/index\\_en.htm](http://europa.eu.int/comm/echo/index_en.htm)

and on the website of the Cooperation Office of the Commission, EuropeAid:

[http://europa.eu.int/comm/europeaid/index\\_en.htm](http://europa.eu.int/comm/europeaid/index_en.htm)



# EUROPEAN UNION

## ~FACTSHEET~

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## BIOTECH - GENETICALLY MODIFIED ORGANISMS

### ISSUE

Molecular Biotechnology has new applications in health care, agriculture, food production and industry. In Europe, and in other places, intensive public debate has emerged. In the EU, public debate has focused in particular on agricultural genetically modified organisms (GMOs) and specific ethical questions on which public opinion has become polarised. The U.S. has been concerned about some issues of the EU biotech policy and has requested consultations with the EU in the WTO.

### EU STRATEGY

Biotechnology is a multi-faceted matter of high social, economic and political concern. The EU aims to address all issues raised by the use of biotechnology. The EU has developed a comprehensive regulatory framework that guarantees that all GMOs and derived products that are placed on the market are safe for human health, animal health and the environment and is currently further developing regulations with the objective that the choice of consumers is guaranteed with the adoption of appropriate labelling requirements for GMOs and food and feed products produced from GMOs.

### LINK TO U.S.

The U.S. has largely adopted biotechnology in agriculture. Authorisations of GMOs between the U.S. and the EU has led to trade difficulty in particular for U.S. corn exporters because more GM maize varieties have been authorised in the U.S. than in the EU. Since 1999, most U.S. exporters have decided to stop exporting corn to the EU because they did not want to implement segregation system.

Such trade problems have not arisen for trade in soybean even though 75% of U.S. soybean is produced from GM seeds. This is because only one GM soybean variety is being marketed on both sides of the Atlantic, and there has not been a need for US growers to segregate.

In 1999, a special joint EU-U.S. working group on biotechnology was created. This working group aims to monitor the progress of the dialogue on technical issues and to increase scientific and regulatory co-operation. Within the framework of this working group, technical discussions took place between the EU Joint Research Centre (JRC) and USDA Grain Inspection, Packers and Stockyards Administration (GIPSA) on GIPSA procedures for testing and certification of exports, so as to facilitate trade. But since 2001, the U.S. has stalled the discussion.

On 13 May 2003, the U.S. requested WTO consultations with the EC on an alleged standstill of approval of new GMOs and on national measures suspending the use and sale of approved GM products. The EU considers the US request as unhelpful both to us and to them. The EC will vigorously defend its position in the WTO. Any possible WTO case will not affect the rigorous operation of the EU regime for the approval of GM products - a regime which is science-based and WTO-compatible..

## **THE WIDER CONTEXT**

The development of biotechnology raises a huge global challenge to address all the issues raised by this modern technology, such as human health and environmental protection – as well as socio-economic and ethical issues.. There is a need for global governance to address these issues. The most significant international response to this challenge is the Cartagena Protocol on Biosafety in the Convention on Biodiversity. This protocol establishes the international principles that will govern the transfer, handling and use of Living Modified Organisms with particular focus on transborder movements, and creates an enabling environment for the environmentally sound application of biotechnology. It has been signed by more than 100 countries. The U.S., which is not a Party to the Convention on Biodiversity, cannot sign the Protocol. However, the U.S. participated in the negotiation of the Protocol and accepted the final text. The EU ratified the Protocol in August 2002. The Protocol will enter into force on 11 September 2003. .

## **FACTS AND FIGURES**

### *Global figures*

Large commercial cultivation of GM crops started in 1996 with about 1.7 million hectares (ha) in global area. In 2002, global area was about 58.7 millions ha. However, 95% of this area is located in three countries (U.S.: 66%, Argentina: 23% and Canada: 6%). GM crops are mainly industrial crops or crops used for animal feed production. Soybean, corn, cotton and canola represent 99% of global area of GM crops.

### *EU facts and figures*

18 GMOs are authorised on the EU market out of which 15 are GM plants and three are vaccines. 13 products produced from GMOs are authorised for food use.

Opinion polling in 2002 shows that while Europeans are in favour of medical applications of biotechnology, they are sceptical about EU agricultural and food-related biotechnology. In the different EU countries between 30% and 65% reject all the reasons for buying GM foods. European consumer associations are requesting labelling rules for food containing or produced from GMOs. The Trans-Atlantic Consumer Dialogue - a forum of U.S. and EU consumer organisations which develops joint consumer policy recommendations to the U.S. government and the European Commission - called for thorough regulation on GMOs and clear and mandatory labelling rules. In 1998, the EU adopted mandatory labelling rules for GM food to address consumers' concerns and is preparing improved labelling rules for food and feed produced from GMOs.

### *GMOs and developing countries*

The EU recognises that biotechnology offers developing countries promising avenues in which to develop agricultural production and therefore could contribute to food security. The EU funds a lot of biotechnology research projects aimed at the problems of developing countries. However, biotechnology is only one route. Insufficient access to food due primarily to low incomes, poor infrastructures, lack of access to medicines, etc. are all the roots of food crisis and can only be addressed by a range of long term sustainable development goals.

For the moment, GM crops of potential interest for developing countries (such as drought tolerant or acid soil tolerant crops) are still in the laboratories. Available commercial GM crops are dominated by herbicide tolerant crops (75%) and insect resistant crops (17%)<sup>1</sup> and serve largely to boost production in developed countries. In developing countries, most small farmers do not use herbicides and mainly use insecticides on commercial crops such as cotton but not on staple crops

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<sup>1</sup> The remaining 8% consisting mainly in double traits crops i.e. insecticide tolerant + herbicide resistant crops.

like maize. In addition, the sustainable use of insect resistant crops requires anti-resistance management measures that could be difficult to implement in the subsistence agriculture of developing countries.

**Additional information** on GMOs in the EU is available at  
[http://europa.eu.int/comm/food/fs/gmo/gmo\\_index\\_en.html](http://europa.eu.int/comm/food/fs/gmo/gmo_index_en.html)



# EUROPEAN UNION

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### CONTAINER SECURITY

#### ISSUE

To strengthen security of containerised maritime transport whilst facilitating legitimate trade through an expansion of customs co-operation provided for in the 1997 EC-US customs co-operation agreement.

#### EU-STRATEGY

The aim is to guarantee that all Member States apply the same security-related customs controls and that container traffic is not diverted. This is all the more important given the prospect of EU enlargement. To that end the European Community has proposed to extend the scope of the 1997 EC-US Customs Cooperation Agreement to include security concerns, via a decision of the Joint Customs Co-operation Committee. This decision would provide guidance for customs experts from the U.S. and the EU, charged with the development of the technical details for example definition of risk selection criteria and minimum standards for security controls. This would cover both legal/institutional and operational aspects.

#### LINK TO U.S.

The U.S. launched its **Container Security Initiative** to achieve a more secure maritime trade environment while accommodating the need for efficiency in global commerce. The U.S. has signed declarations of principle on the application of CSI in individual ports with eight EU Member States (the Netherlands, Belgium, France, Germany, Italy, Spain, United Kingdom and Sweden). These bilateral agreements foresee the stationing of U.S. customs officials in a number of ports with major container traffic to the United States. However, the Community believes that, in order to be efficient, any action taken in this field has to take into account the specific characteristics of the EU and its Internal Market, within which customs controls and formalities have been abolished.

#### THE WIDER CONTEXT

The CSI and the negotiations with the U.S. have to be seen in the light of the global terrorist threat. In this context, the G8 Summit held in Kananaskis in June 2002 underlined that any actions in this field should be reciprocal and entail thorough prior consultations. Discussions on this subject are ongoing in other international fora like the World Customs Organisation (WCO) and International Maritime Organisation (IMO).

The conclusion of an agreement with the U.S. is only one part of the EU efforts taken to strengthen security. Discussions with other third countries are also envisaged as is the revision of the Community Customs Code and a series of legislative measures in the maritime security field.



## FACTS AND FIGURES

The bilateral agreements concluded between the U.S. and eight individual Member States cover 85% of the container traffic between the U.S. and the EU. But this is not enough, the EC aims for 100% cover.

## HISTORY

The **Container Security Initiative** (CSI) was launched by U.S. Customs after the attacks of 11 September 2001. The major concern of the U.S. is the possibility of containers being used for terrorist attacks, be it against ports of the United States or against the maritime transport chain itself. As a first step, the U.S. has invited about twenty mega-ports worldwide to join this initiative.

Whilst sharing the U.S. objective of improving maritime transport security, the Community was concerned about the potential consequences of the US approach of selecting, at least initially, only a few large European ports to join the CSI. The Commission felt that security concerns would be addressed in a more effective manner by a **pan-European measure** as it would ensure homogeneous actions by EU administrations which are jointly in charge of managing the external trade of the EC throughout its single customs territory.

In addition, the European Commission has initiated infringement procedures against those Member States that have entered into these bilateral agreements with the US, believing this within the scope of the Common Customs Policy.

On 18 March 2003, the European Council authorised the Commission to negotiate an extension of the scope of the 1997 Community-US Customs Co-operation Agreement so as to ensure a co-ordinated approach to security controls on the movement of goods. Areas where co-ordination could be established would include:

- the definition of key information for the identification of high-risk consignments and on how to collect information and exchange it between competent authorities for the effective application of risk management techniques
- the establishment of common definitions for controls and agreement on how these definitions could be used to introduce common control standards for high-risk goods
- the co-ordination of positions in multilateral discussions
- the development of a common approach for practical actions in this domain in conformity with international commitments.

The objective is to strengthen security while facilitating legitimate trade in conformity with international commitments and the principle of reciprocity. A further objective is to equalise levels and standards of control for EC and US operators.

**Additional information** can be found on the Commission Directorate General Taxation and Custom website:

[http://europa.eu.int/comm/taxation\\_customs/customs/information\\_notes/containers\\_en.htm](http://europa.eu.int/comm/taxation_customs/customs/information_notes/containers_en.htm)



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### PASSENGER NAME RECORD

#### ISSUE

Since 5 February, 2003, the U.S. requires in-flying airlines to give access, upon request, to the data processed by their reservations and departure control systems, and in particular to Passenger Name Records (PNR). This requirement raises difficulties for the application of European law on data protection and specific provisions on the EU Regulation on Computerised Reservation Systems.

#### EU POLICY AIMS

To reconcile new U.S. legal requirements with European law on data protection and to remove the risk of penalties being applied by the U.S. to non-conforming airlines.

#### EU STRATEGY

The aim of the 18 February 2003 Joint Statement was to put air carriers in a better legal position to transfer the requested personal data to the U.S. But currently, the data transfers remain open to possible challenge by any EU Data Protection Authority or in any national court.

In order to establish a legally sound basis for the transfers, both sides agreed to work together towards a bilateral arrangement involving the adoption by the European Commission of a Decision under Article 25.6 of the Directive on Data Protection (95/46) in response to additional undertakings by the U.S. side about the manner in which data would be handled and protected in the U.S. Such a Decision, stating that the European Commission finds that the U.S. authorities ensure an "adequate" level of protection, would be binding on all Member States. The process by which this could be achieved requires the involvement of Data Protection Authorities, Member States and the European Parliament. The best scenario is that such a decision would be issued mid to late September.

#### THE WIDER CONTEXT

This measure is part of the general effort of the U.S. government following the 11 September 2001 to enhance homeland security.

#### FACTS AND FIGURES

The transatlantic aviation market has 10 – 11 million passengers and total revenues of c. US\$24 billion per annum

#### HISTORY

The U.S. Aviation and Transportation Security Act of 19 November 2001 requires airlines flying to the U.S. to give access to U.S. Customs, on request, to the data processed by their reservations and departure control systems (DCS) and, in particular, to Passenger Name Records (PNR). Non-complying airlines will suffer penalties, which could include loss of landing rights.

In June 2002 the U.S. Customs Service published interim rules for the implementation of this requirement. This measure was initially due to enter into force on 14 November 2002, but was subsequently postponed till 5 February 2003.

On 17-18 February 2003, a high-level meeting between representatives of the European Commission and U.S. Customs (now Customs and Border Protection), took place to try to find a mutually satisfactory solution, providing legal certainty. After the meeting, both sides issued a Joint Statement containing certain undertakings by U.S. Customs with regard to how they will handle the transmitted personal data.

On 4 March, U.S. Customs issued a declaration ensuring additional protection for "sensitive" data (i.e. personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and/or concerning the health or sex life of the individual) that may be contained in the PNR records.

On 13 March, the European Parliament adopted a resolution, which was very critical of the course of proceedings to date.

Intensive discussions have taken place since March on a set of additional undertakings by the U.S. that could justify an adequacy finding by the European Commission, and are expected to continue.

On 13 June 2003 the Article 29 Data Protection Working Party adopted Opinion 4/2003 on the level of Protection ensured in the U.S. for the Transfer of Passenger Data. In this Opinion the Working Party identifies the areas where improvements to the present U.S undertakings are still necessary in order to meet the adequacy standard set by the Directive.

Both sides undertook in February to report to the EU-U.S. Summit of 25 June on progress made.

**Additional information** can be found on Commission Directorate General for External Relations website: [http://europa.eu.int/comm/external\\_relations/us/intro/pnr.htm](http://europa.eu.int/comm/external_relations/us/intro/pnr.htm)



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### TRANSATLANTIC OPEN AVIATION AREA AGREEMENT

#### LAUNCH OF EU/US AIR SERVICES NEGOTIATIONS

##### ISSUE

The EU would like to establish a single open market for aviation between and within both the European Union and the United States. The intention would be to combine the deregulated US domestic market with the liberalised EU single market to create a free trade area in air transport.

##### EU POLICY AIMS

- To secure the full liberalisation of air services between and within the EU and the U.S.;
- To create greater flexibility for the airline industry to grow and restructure;
- To ensure that effective competition is preserved and promoted in order to maximise the economic benefits to air travellers and shippers;
- To guarantee high standards of safety, security, environmental protection and passenger protection; and
- To bring bilateral agreements between EU Member States and the U.S. into conformity with Community law following the judgements of the European Court of Justice of 5 November 2002.

##### EU STRATEGY

The EU's aims would be secured through a comprehensive aviation agreement with the U.S. Such an agreement would go beyond the U.S. "open skies" model. It would liberalise not only market access but would also remove restrictions on cross-border investment in airlines, so as to enable the industry to restructure free from the constraints of outdated nationality-based restrictions.

##### LINK TO U.S.

The United States is the EU's biggest aviation partner. Establishing an open aviation area with the U.S. would generate significant economic benefits and would set a model for aviation liberalisation worldwide.

##### THE WIDER CONTEXT

The air transport industry is an essential part of the increasingly global economy. It is also presently facing a grave crisis and is urgently in need of regulatory reform. Yet it remains governed by a regulatory framework designed in the aftermath of the Second World War. Air services between the EU and the U.S. continue to operate under a special regime of bilateral agreements between individual EU Member States and the U.S. These agreements serve to restrict competition and prevent the airline industry from adapting fully to the requirements of the market. U.S. open skies agreements with many, but not all, EU Member States represent only a partial liberalisation of the market and have left key restrictions in place. In particular the airline industry is prevented by strict limits on foreign ownership and control from reaping the benefits and efficiencies of drawing on

international capital that other industries are able to exploit. EU-U.S. negotiations provide an opportunity to give the industry greater freedom and allow it to break out of its current situation, to the benefit of consumers and the economy.

### **FACTS AND FIGURES**

A report by U.S. consultants, The Brattle Group, has estimated that an EU-U.S. open aviation area would generate upwards of 17 million extra passengers a year, consumer benefits of at least \$5 billion a year, and would boost employment on both sides of the Atlantic.

### **HISTORY**

The European Court of Justice ruled on 5 November 2002 that certain provisions in existing agreements between certain EU Member States and the U.S. were incompatible with European Community law. These provisions therefore need to be amended, giving added impetus to reform.

**Further information** can be found on the Commission Directorate General for Energy and Transport website: [http://europa.eu.int/comm/transport/air/international/index\\_en.htm](http://europa.eu.int/comm/transport/air/international/index_en.htm)



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### U.S. BIOTERRORISM ACT (BTA)

#### Implementing measures of the BTA

##### ISSUE

While sharing the aim of assuring the security of the food supply, the EC has raised concerns that proposed measures in this regard may not be effective and may unduly hinder trade. The U.S. Bioterrorism Act (BTA) requires (a) virtually all foreign food processing, handling and storage facilities to register with the Food and Drug Administration (FDA); (b) detailed prior notice to be given to FDA of every food import into the US; (c) new rules on administrative detention and (d) record-keeping requirements with extraterritorial effect. The rules apply to all food, except some meat products regulated by the U.S. Department of Agriculture (USDA).

##### EU POLICY AIMS

The European Commission shares with the U.S. the overriding objective to improve the security of citizens by preventing bio-terrorist acts. Improving capacity to trace the food chain and ensure security in the food supply is one way of achieving this objective.

It is important to ensure that the requirements applied to imports from foreign countries are not more stringent or burdensome than similar domestic requirements, unless justified by an appropriate risk assessment.

Taking into consideration the importance of the proposed measures for international trade, the European Commission invites the U.S. to engage in a bilateral dialogue concerning the proposed rules of the Bioterrorism Act in order to harmonize approaches of the parties and establish a working system.

##### EU STRATEGY

The Commission is:

- (a) engaged with the FDA and associated government departments to make representations and suggestions;
- (b) keeping in close contact with EU industry to reflect their concerns;
- (c) making representations in relevant WTO fora (Sanitary and Phytosanitary Agreement, SPS and Trade Barriers Agreement, TBT).

##### THE WIDER CONTEXT

- The U.S. is introducing a comprehensive system of traceability for the food chain, in the U.S. and across the world;
- The BTA is one of a raft of security measures in response to the 11 September attacks, including the Customs Trade Partnership Against Terrorism (CTPAT) and the Container Security Initiative (CSI).



- BTA measures (especially "Prior Notification" and "registration") duplicate information already supplied to other U.S. departments (such as U.S. Customs; Tax and Trade Bureau, TTB; USDA) and cut across existing U.S. undertakings under the EC-U.S. Veterinary Agreement.
- The US has not provided a "risk assessment".

Other countries share EU concerns, including Canada and Mexico.

## FACTS AND FIGURES

Agricultural TRADE: EU Agricultural exports to the U.S. totaled € 10,77 billion in 2001. (€ 5,34 billion in wine and spirits, € 0.53 billion in dairy products; € 0.42 billion in fats and oils).

Significant impact: FDA acknowledges that the measures will have a significant impact on trade. E.g. as a result of the Registration measure, FDA estimates up to 16% of exporters to the U.S. (those who export fewer than 10 trades a year) will cease trading with the U.S.

Disproportionate compliance costs on foreign suppliers: FDA has identified that the cost of compliance with the *registration* measure will be 30 times greater for foreign facilities than for U.S. facilities.

## HISTORY

- 11 September 2001;
- June 2002 BTA proposed; EC comments on BTA submitted in August 2002;
- Comments on implementing rules for "registration of food facilities" and "prior notice of shipments" were submitted to FDA and SPS, TBT on 4 May 2003.
- Listing of key concerns delivered to FDA on 10 June 2003.
- Comments on "record-keeping" and "administrative detention" rules in preparation for submission by 8 July 2003.



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### EU-U.S. RELATIONS IN THE STEEL SECTOR

#### OECD DISCUSSIONS ON A STEEL SUBSIDIES AGREEMENT, U.S. 201 STEEL SAFEGUARD MEASURES

##### ISSUE

The world steel market is distorted by the use and abuse of subsidies and trade defence mechanisms (such as safeguard measures, anti-dumping duties and anti-subsidy measures), which lead to the artificial maintenance of inefficiencies and excess capacity, as well as to frequent crisis. In order to correct this and prevent future crises, the OECD High-Level Group on Steel has brought to the table 40 governments (including the EU and the U.S.) to discuss elements of an agreement for reducing or eliminating subsidies in steel, which distort trade and competition, and to discuss trade defence mechanisms and remedies.

##### EU POLICY AIMS

The aim of the EU is to obtain an international agreement on steel subsidies, which reflects as far as possible the strict EU state aid rules on steel. Such an agreement should provide for a blanket prohibition of steel-specific subsidies with only limited exemptions, eventually pre-authorised by a Steel Committee to be established under the agreement. Only such subsidies would be protected from trade defence measures by third countries.

In addition, the EU urges the withdrawal of the US 201 steel safeguard measures of 20 March 2002, which in the view of the EU, violate the WTO Agreement on Safeguards and which have inflicted considerable damage to the EU steel industry.

##### EU-STRATEGY

The EU participates actively in the OECD process. The European Commission conducts these discussions on behalf of the European Community in consultation with Member States and the steel industry.

Following international trade rules, the EU referred the U.S. 201 steel safeguard measures to a WTO Dispute Settlement Body, which will circulate its ruling on the conformity of the U.S. 201 measures with WTO rules by mid-July 2003.

The EU has prepared countermeasures. We will implement them within five days of the completion of the WTO process (including any appeal) unless the US complies immediately with any WTO ruling.

##### LINK TO U.S.

The EU and the U.S. as, respectively, the second and the fourth largest steel producers in the world have a special responsibility for the sound functioning of the world steel market. Therefore, they work closely together in the OECD to bring about an agreement on steel subsidies.

## **THE WIDER CONTEXT**

Given that steel is a crucial input to such vital industries such as the automotive, construction and machine industries, governments are inclined to intervene quickly in favour of domestic pressures. Steel accounted for almost 80% of the safeguard actions initiated world-wide in 2002.

## **FACTS AND FIGURES**

The EU produced 159 million tonnes of crude steel in 2002, while the U.S. produced 92 million tonnes in the same period, thereby making them the second and fourth largest steel producers in the world respectively.

## **HISTORY**

On 20 March 2002 the U.S. announced safeguard measures against 15 steel products in the form of tariffs of up to 30% for three years. The measures will be subject to a mid-term review by the U.S. President in September, 2003.

In December 2002, the OECD High-Level Group on steel instructed the OECD Disciplines Study Group to begin work on elements of a steel subsidies agreement. The Disciplines Study Group has met nearly every month since February 2003 in order to fulfil the mandate received from the High-Level Group.

**Further information** can be found on Commission Directorate General for Trade website:

[http://europa.eu.int/comm/trade/goods/steel/index\\_en.htm](http://europa.eu.int/comm/trade/goods/steel/index_en.htm)

<http://europa.eu.int/comm/trade/goods/steel/pop.htm>



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### EU-US BILATERAL ECONOMIC RELATIONS

The economies of the European Union and of the United States are becoming more intertwined and interdependent. Particularly over the last decade, this far-reaching and powerful momentum has driven our economies ever further towards the creation of an open and integrated transatlantic marketplace. Businesses on both sides of the Atlantic now invest and produce overseas much more than they export from their national borders. The following figures show that the EU-U.S. economic relationship is not only vital to the health of the global economy but it also directly supports almost 12 million jobs.

- **The European Union and the United States are the leading players in international trade**, accounting for 37% of world merchandise trade, and 45% of world trade in services in 2002<sup>1</sup>. They are also the largest source and destination of Foreign Direct Investment (FDI), accounting for 54% of total world inflows and 67% of total world outflows in 2000.

Within this framework, the transatlantic bilateral economic relationship is the most important globally, and is both **highly advanced** and substantially **balanced**.

- **The EU and the U.S. are each other's single largest trading partner (in goods and services), and each other's most important source and destination for foreign direct investment (FDI).**

In 2002 two way cross-border trade in goods and services (exports and imports) amounted to more than €650 billions (€412 billions in goods and €238 billions in services)<sup>2</sup>. The EU and the U.S. each account for around 21% of each other's total trade in goods. It is estimated that trade in high-technology products accounts for 20% of EU/U.S. merchandise trade<sup>3</sup>.

Transatlantic trade represents 39% of EU and 35% of U.S. total cross-border trade in services. In 2001 EU-US trade in services accounted for 36% of total bilateral trade (goods + services), up from 33% in 1988<sup>4</sup>.

Trade statistics measure cross-border flows of goods and services and thus provide only a partial measure of the extent of economic integration among economies. They overlook the fact that firms often opt for selling goods and services abroad through their foreign affiliates rather than exporting them from their domestic market. For the U.S.-EU commercial relationship, it is important therefore to take into account other linkages because the two economies are increasingly connected by capital flows, notably FDI, contributing to expand bilateral trade flows.

- **The EU and U.S. have by far the world's most important bilateral investment relationship, and they are each other's most important source and destination for FDI.** In other words, EU and U.S. companies invest more in each other's economies than they do in any other area of the world.

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<sup>1</sup> These figures do not include intra-EU trade.

<sup>2</sup> Data for services are provisional.

<sup>3</sup> Eurostat.

<sup>4</sup> Eurostat.

The EU and the U.S. accounted in 2001 for 49%<sup>5</sup> and 46% respectively of each other's outward FDI flows. The EU accounted for 54% of US inward FDI and the US for 69% of EU inward FDI<sup>5</sup>.

Over the period 1998-2001 the US was the destination of 52% of EU outward FDI flows and the source of 61% of EU inward FDI. Nearly three-quarters of all foreign investment in the U.S. in the 1990s came from Europe (US\$659 billion). Levels of FDI flows between the EU and the U.S. are therefore substantially greater than trade levels.

- The importance of the EU-U.S. investment relationship is similarly demonstrated by the level of FDI stocks, with each of the two sides being the other's largest investor. **By 2001, cross investment stocks between the EU and the U.S. reached (on a historical cost basis) €1500 billion - by far the largest investment relationship in the world.** EU investment in the U.S., on a historical-cost basis, reached €870 billion, and the U.S. investment position in the EU grew to €628 billion<sup>6</sup>.

Therefore the U.S. is by far the largest investor in the EU (accounting for 62% of total EU liabilities), while the EU is by far the biggest investor in the U.S. (accounting for 61% of total U.S. FDI stock by 2001). At the same time the bulk (46%) of U.S. investment assets abroad is located in the EU, and 50% of EU FDI stock is located in the U.S. Bilateral direct investment stocks have also been growing very quickly over the past decade, almost tripling between 1997 and 2001.

Therefore EU and U.S. firms have never been as exposed to each other economies as in the first decade of the 21st century. When FDI and trade figures are considered together, one sees that U.S. and EU economic engagement remains overwhelmingly focused on each other.

Foreign affiliate sales are the primary means by which U.S. and EU companies deliver products to each other's market.

Europe is the by and large the most important region in the world for corporate America<sup>7</sup>.

- The amount of U.S. **FDI assets** in the UK alone is larger than U.S. overseas assets in Asia, Africa and the Middle East combined. And during the 1990s U.S. investment in the United Kingdom (US\$175 billion) was nearly 50% larger than the total invested in the entire Asia-Pacific region. In the 1990s U.S. FDI flows into the Netherlands (US\$65.7 billion) were twice as much US FDI into Mexico (US\$34.1 billion).
- The total **output** of US foreign affiliates in Europe (US\$ 333 billion in 2000) and of European affiliates in the U.S. (US\$ 301 billion) is greater than the total gross domestic output of most nations.
- With affiliate sales of US\$1.4 trillion, Europe accounted for more than half of U.S. foreign affiliate **sales** in 2000, more than double comparable figures for the entire Asia/Pacific region. As a comparison U.S. affiliate sales in China in 2000 totaled US\$ 32 billion - roughly equal to U.S. affiliate sales in Sweden, less than one-tenth of those in Germany (US\$236 billion) and about one-fourth of those in France (US\$137.5 billion).
- In 2001 and throughout the 1990s, Europe accounted for half of total global U.S. foreign affiliate **income**.
- Similarly, affiliate **sales**, represent the primary means by which European firms deliver goods and services to U.S. consumers. In 2000, the value of European affiliate sales in the U.S. (\$1.4 trillion) was over four times larger than the value of U.S. imports from Europe.

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<sup>5</sup> Source: Eurostat and DoC BEA.

<sup>6</sup> Eurostat.

<sup>7</sup> These examples come from "The primacy of the Transatlantic economy", Center for Transatlantic Relations, 2003.

- For many European multinationals the U.S. is the most important market in the world in terms of **earnings**. U.S. affiliate **income** of European affiliates rose more than five-fold in the 1990's to nearly US\$26 billion.
- **U.S. affiliate firms in Europe directly employed 4.1 million workers in 2000, of which 1.9 million were employed in manufacture. Adding indirect employment, close to 6 million European jobs are supported by U.S. investment in Europe.**
- **European affiliates employed roughly 4.4 million American workers in 2000. If one adds indirect employment, about 7 million Americans have a job due to European investors, who on average pay higher wages and provide greater benefits than domestic U.S. employers.**
- Out of the 6.4 million U.S. workers on the payrolls of foreign affiliates in 2000, European firms accounted for nearly 70% of total employment.

These affiliate employment figures understate the overall employment effects of the bilateral economic relation because they do not include jobs supported by cross-border trade between the EU and the U.S.

- The EU is not only a critical source of revenue for U.S. companies, it is also a key supplier of capital or liquidity for the U.S. economy, substantially contributing to finance its current-account deficit.
- Although transatlantic trade disputes steal the headlines, trade itself accounts for less than 20% of transatlantic overall commerce, and U.S.-EU trade disputes account for less than 1% of transatlantic commerce.



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### THE POSITIVE ECONOMIC AGENDA

#### ISSUE

The Positive Economic Agenda (PEA) is key in efforts to enhance bilateral co-operation between the EU and the U.S. Result-driven and focused, its aim is to allow for progress on well-identified and mutually-beneficial bilateral projects and to report each year to the EU-U.S. Summit to take stock of this ongoing process with a high degree of accountability and transparency.

#### EU POLICY AIMS

The EU seeks to further expand and promote transatlantic co-operation in all areas where a dialogue between regulators can achieve common solutions to the concrete problems affecting transatlantic business.

#### THE WIDER CONTEXT

A PEA roadmap was jointly drafted and agreed in December 2002 in order to identify the most promising sectors of co-operation and to outline the way ahead towards our joint objectives. The roadmap refers to:

- the implementation of the EU-U.S. Guidelines for Regulatory Co-operation and Transparency;
- the resumption of exports of Spanish clementines to the U.S.;
- the resumption of U.S. poultry exports to the EU;
- trade in organic products;
- electronic tendering;
- electronic customs;
- the financial markets dialogue and;
- regulatory co-operation in the insurance sector.

#### FACTS AND FIGURES

After one year of existence the Positive Economic Agenda has achieved the following:

- Launch of the Financial Markets Dialogue and agreement on “timelines” between the European Commission and U.S. Treasury, notably to address issues of corporate governance, access to financial markets, accounting standards etc.
- Resumption of exports of Spanish clementines to the U.S.;
- Launch of EU-U.S. regulatory co-operation in four priority areas: cosmetics, automobile safety, metrology and nutritional labeling;
- Initialing of a Mutual Recognition Agreement (MRA) on certificates of conformity for marine equipment;
- Steady progress towards the resumption of U.S. poultry meat exports to the EU,
- Successful completion of the exploratory talks designed to begin negotiations on the facilitation of trade in organic products

## **HISTORY**

The Positive Economic Agenda was launched at the EU-U.S. summit on 2 May 2002 by Presidents Prodi and Bush. It is designed to promote transatlantic co-operation by focusing on areas where there is goodwill on both sides to achieve upstream convergence and/or mutual recognition of rules, standards etc. in areas where considerable gains can be sought. This is particularly important at a time of increased uncertainty on the international scene. Fundamentally the PEA provides a framework in which the EU and the U.S. can set new objectives, start negotiations, or increase the momentum of existing dialogues so as to increase the effectiveness of their co-operation.

Further to the 2003 EU-U.S. Summit, the PEA should be expanded to new areas of co-operation, notably in the area of veterinary equivalence, on regulatory co-operation and Intellectual Property (IP).





# EUROPEAN UNION

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### U.S. NON-COMPLIANCE WITH WTO RULINGS

#### ISSUE

The WTO is a legal system set up to regulate and bring order to world trade. As such, upon accession to the organisation, WTO members agree to stand by and uphold any decisions that the WTO takes. Full compliance with WTO rulings is therefore one of the fundamental cornerstones on which the continued functioning of the international trade system rests.

There are currently a number of cases where the U.S. has been deemed to be acting in contravention of its WTO commitments and where the necessary action has not yet been taken to bring them into compliance. Chief among such cases is the long-standing issue of the US *Foreign Sales Corporations (FSC)* legislation.

#### EU POLICY AIMS

The EU aims to ensure that all WTO Member States adhere to WTO rulings in the allotted timeframe.

#### EU STRATEGY

While the EU does ultimately reserve the right to use countermeasures, once given WTO authorisation to do so, to try to remove measures which are damaging to European trade, these are a last resort. The Commission, acting on behalf of the EU, and in consultation with the Member States, makes every effort to accommodate genuine difficulties and problems encountered by its trading partners when they are trying to make the changes needed to comply with their WTO commitments.

#### LINK TO U.S.

The number of U.S. non-compliance cases has increased markedly over the last few years. Most notably for the EC, the FSC case was brought to the WTO in 1998 with the result that the U.S. was deemed to be in breach of its WTO commitments. On 7 May 2003, at a special meeting of the WTO's Dispute Settlement Body (DSB), the EC was authorised to impose countermeasures on the U.S. totalling over US\$4 billion per year.

#### THE WIDER CONTEXT AND HISTORY

1. The *FSC legislation* provides that, certain income earned by a foreign subsidiary of a U.S. corporation would not be subject to U.S. tax. The purpose was to encourage the export of U.S. manufactured goods. Subsidies such as these, which are contingent upon export performance are prohibited under the WTO. In February 2000, the WTO ruled that FSC tax exemptions amount to a prohibited export subsidy.

Subsequently the U.S. replaced the original FSC legislation with the *FSC Repeal and Extraterritorial Income Exclusion Act (ETI)*. However this Act still provides U.S. firms with prohibited export subsidies and on 14 January 2002 the WTO appellate body ruled that the U.S. had not complied with the original WTO ruling from 2000.

Subsequent to this finding, on 7 May 2003, the WTO Dispute Settlement Body (DSB) has authorised the EU to impose countermeasures against the U.S. to the tune of US\$4 billion. However, in view of the assertions by the U.S. that it intends to comply with the WTO's rulings, including a personal pledge to this effect from President Bush, the EC has declined to implement these countermeasures so far.

The European Commission has agreed a time horizon within which the U.S. should comply with the latest WTO rulings regarding its FSC legislation. In particular, the Commission will review the situation in the Autumn.

In addition to the U.S. FSC legislation, there are a number of other cases where U.S. compliance with WTO rulings has yet to materialise.

2. The U.S. *Anti-Dumping Act of 1916* prohibiting the importation and sale of goods "at a price substantially less than the actual market value in the principal markets of the country of their production" was judged to be in breach of WTO rules in September 2000. There are currently three bills pending in Congress to repeal the 1916 Anti-Dumping Act, however two of these bills would leave on-going litigation unaffected. The EC has made it clear that repealing this law without also terminating cases pending under it would not be an acceptable solution to the dispute.
3. In October 1998, *Section 211 of the Omnibus Appropriations Act* was adopted. It prohibits, under certain conditions, the registration or renewal of a trademark previously owned by a confiscated Cuban entity and sets forth that no U.S. Court shall recognise or enforce any assertion of such rights. The WTO Dispute Settlement Body ruled that this legislation breached WTO rules. The EU agreed to extend the initial deadline for compliance (31 December 2002) to 30 June 2003. So far, however, there is little sign that this deadline will be met.
4. The *Continued Dumping and Subsidy Offset Act of 2000* (or 'CDSOA' - also known as the *Byrd Amendment* - signed into law in October 2000) provides that proceeds from anti-dumping and countervailing duties shall be paid to the U.S. companies responsible for bringing the cases. The payments redistributed to U.S. producers are substantial and have tended to benefit a very limited number of recipients, mainly in the steel sector (cf. facts and figures below), thus increasing their distorting effects on competition.

This provision is incompatible with several WTO provisions. On 22 December 2000, the EC, together with eight other WTO partners (Australia, Brazil, Chile, India, Indonesia, Japan, Korea, and Thailand), requested formal WTO consultations with the U.S. The position defended by the EC and ten others (Canada and Mexico having joined the consultations in May 2001) was upheld in the WTO reports adopted on 27 January 2003: namely that the CDSOA is an illegal response to dumping or subsidisation and therefore WTO incompatible. A WTO arbitrator set the deadline by which the U.S. has to comply with this ruling for 27 December 2003.

5. On 27 July 2001, the Dispute Settlement Body found that *Section 110(5) of the U.S. Copyright Act* was incompatible with WTO rules. So far, there have been no legislative initiatives to bring the Act into compliance with this ruling. The U.S. and the EU are discussing on the implementation of a temporary arrangement, pending full U.S. compliance with the WTO ruling.
6. In the *British Steel* case the methodology used by the U.S. Department of Commerce on countervailing duties on privatised exporters was considered as WTO incompatible. The U.S. consequently repealed the measure. However, due to a mis-interpretation of the WTO's original

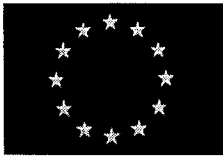
ruling, the "new" methodology which it was then replaced with was just as WTO incompatible, remaining prejudiced against EC exporters. The EC, in order to defend its legitimate interest, was therefore forced to open another case at the WTO (the so-called *Privatisation Case*), on the same issue, covering all 14 privatisation cases affected by the U.S. methodology. In this "new" case, the WTO has again ruled in favour of the EC, and stipulated the 8 November 2003 as the date by which the U.S. should comply with this ruling.

## **FACTS AND FIGURES**

An illustrative example of the economic impact of the FSC legislation which the EC challenged is the benefits received from this tax scheme by Boeing. Boeing declared in its 2001 financial statements that FSC tax benefits amounted to US\$222 million. This accounted for about 8% of the company's net earnings for the same year (US\$2.8 billion). Between 1995 and 2001 FSC benefits for Boeing amounted to US\$ 1 - 2 billion. In terms of market value, it has been estimated that improved earnings due to FSC subsidies translate into advantages of US\$1 to 2 billion for Boeing's market capitalisation, allowing it recourse to relatively cheaper capital. The FSC system therefore grants a considerable competitive advantage to U.S. manufacturers - to the detriment of their competitors.

As for the Byrd Amendment, in the first annual distribution in January 2002, US\$231 million were distributed mostly to steel producers and one producer of ball bearings alone received US\$62 million. In the second distribution, about US\$330 million were distributed: half of the total amount was distributed between only three companies, among which, the same producer of ball bearings received more than US \$72 million.

**Additional information** is available on the Website of Commission Directorate General for Trade:  
[http://europa.eu.int/comm/trade/bilateral/usa/index\\_en.htm](http://europa.eu.int/comm/trade/bilateral/usa/index_en.htm)



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### HYDROGEN AND FUEL CELLS TECHNOLOGY

#### EU AND U.S. TO WORK TOGETHER IN ENERGY AND CLIMATE CHANGE RESEARCH

EU-U.S. co-operation on climate change and energy research is an important part of the global effort to reduce greenhouse gas emissions, and overall atmospheric pollution. Although we have differing approaches on the implementation of the Kyoto Protocol, there is considerable scope for joint research initiatives. We both have cutting-edge knowledge and great industrial potential. We have long experience as partners in scientific and technological research. Through co-ordinated action in the energy and environment research area we can address issues that affect the everyday lives of our citizens.

#### HYDROGEN AND FUEL CELLS

In the field of hydrogen and fuel cell technologies, the U.S. and EU have important on-going activities and a mutual interest in enhancing co-operation. The EU is working with a High Level Group of Experts on Hydrogen and Fuel Cells, convened at the request of Commissioners Busquin and de Palacio, with the support of President Prodi, for the purpose of developing a vision and strategy for the development and deployment of hydrogen and fuel cell technologies in the next 20 years.

#### *What are fuel cells?*

In principle, a fuel cell operates like a battery; however, unlike a battery, it does not run down or require recharging. It will produce energy in the form of electricity and heat as long as fuel is supplied. It is a breakthrough "clean machine", which harnesses the chemical energy of hydrogen and oxygen to generate electricity without combustion or pollution.

#### *What are the different types of fuel cells?*

- There are several different types of fuel cells but they are all based around a central design, which consists of two electrodes (electrical conductors), a negative anode and a positive cathode. These are separated by a solid or liquid electrolyte that carries electrically charged particles between the two electrodes. A catalyst, such as platinum, is often used to speed up the reactions at the electrodes.
- Fuel cells are classified according to the nature of the electrolyte and their operating temperature. Each type requires particular materials and fuels and is suitable for different applications.

#### *What is the principle on which fuel cells operate?*

- A fuel cell consists of an electrolyte sandwiched between two electrodes. Oxygen passes over one electrode and hydrogen over the other, generating electricity, water and heat.
- A fuel cell system that includes a "fuel reformer" can use the hydrogen from any hydrocarbon fuel. On the other hand, high temperature fuel cells do not need a fuel reformer and can directly use fossil fuels such as natural gas, coal gas, etc. Since the fuel cell relies

on chemistry and not combustion, emissions from this type of system are still much smaller than emissions from the cleanest fuel combustion processes.

***What are the current uses of fuel cell technology?***

Currently, the cost of fuel cells is too high for them to be put in general use. Ongoing research aims to reduce the cost and thus increase demand.

***Why hydrogen?***

Because hydrogen and fuel cells will provide Europe with the opportunity to solve its energy, climate change and air pollution problems. World-wide demand for energy is forecast to grow at the alarming rate of 1.8 % per year for the period 2000-2030. Fossil fuel is confined to a few areas of the world, some of them in areas of political instability. Moreover, those reserves are diminishing, and will become increasingly expensive.

- Hydrogen is a key energy vector (carrier) in a future sustainable energy economy.
- It provides a unique method of reducing today's dependency on fossil fuels and increasing the contribution of renewable energy sources.
- Hydrogen can be produced from fossil fuels, renewable energies or nuclear energy.

***What is the principle use of hydrogen?***

- It can be used in fuel cells, where it is efficient and intrinsically clean, for all end-use applications;
- Hydrogen can be used in advanced combustion engines in vehicles and in gas turbines for small co-generation and for medium to large-scale electricity production.

***How does hydrogen work as an energy vector?***

- Hydrogen made from renewable energy resources provides a clean energy source, capable of supplying the future's high-energy needs.
- When hydrogen is used as an energy vector in a fuel cell, water is released, which can then be electrolysed to make more hydrogen - which means that its waste product supplies more fuel

**FUNDING**

The 5<sup>th</sup> EU Research Framework Programme (FP5 1998-2002) devoted €120 million to hydrogen and fuel cell research. In the Sixth Framework Programme (FP6 2003-2006), research on energy and transport will be undertaken under the thematic priority "Sustainable Development, Global Change and Ecosystems" for which a total budget of €2,120 billion has been earmarked. It is envisaged that the budget for research on fuel cells, including their applications and hydrogen technologies, will be increased substantially compared with FP5.

For further information please visit:

[http://europa.eu.int/comm/research/energy/index\\_en.html](http://europa.eu.int/comm/research/energy/index_en.html)

[http://europa.eu.int/comm/research/energy/nn/nn\\_rt\\_hlg1\\_en.html](http://europa.eu.int/comm/research/energy/nn/nn_rt_hlg1_en.html)

<http://europa.eu.int/comm/research/eesd.html>

<http://www.jrc.cec.eu.int/>



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### EXTRADITION AND MUTUAL LEGAL ASSISTANCE

The agreements on co-operation in criminal matters with the U.S. represent a first for the European Union. The idea of these agreements between the EU and the United States was presented to the U.S. by the EU in the aftermath of September 11, 2001 – and confirmed at the highest level by EU leaders on September 21, 2001 - as an avenue to strengthen co-operation in criminal matters between the EU and the U.S.

These agreements are a **watershed** in the international fight against crime by the EU, as they will shape an efficient legal regime for extradition and mutual legal assistance between the EU and the U.S.

The Agreements will not do away with the bilateral treaties between EU Member States and the U.S., but will build upon, supplement and, in a few cases, replace provisions from the bilateral treaties.

#### THE EXTRADITION AGREEMENT

- will reduce the delays in the handling of requests, through an alleviation of legalisation and certification requirements, and a simplification of documentation to be provided;
- improves channels of transmission for extradition requests, in particular in urgent cases concerning provisional arrest, and facilitates direct contacts between central authorities;
- will broaden the range of extraditable offences by allowing extradition for every offence punishable by more than one year imprisonment;
- allows EU Member States to continue to apply their grounds of refusal from their bilateral extradition treaties;
- enshrines the right to a fair trial of an extradited person by an impartial tribunal established pursuant to law;
- allows Member States to make extradition contingent upon the condition that the death penalty will not be imposed;

- foresees consultations to determine the extent to which sensitive information contained in an extradition request, can be protected by the requested State;
- sets out a detailed list of criteria that a requested State needs to take into account when dealing with competing extradition requests from several States, or in case of competition between a U.S. extradition request and a European arrest warrant (this provision does not have bearing on the International Criminal Court: a Member State that deems that it should surrender a person to the ICC rather than extradite it to the U.S. will be able to do so in the future).

#### **THE MUTUAL LEGAL ASSISTANCE AGREEMENT**

- will give U.S. law enforcement authorities access to bank accounts throughout the EU (and vice versa) in the context of investigations into serious crimes, including terrorism, organised crime and financial crime;
- improves practical co-operation by reducing delays in mutual legal assistance and also allows for the creation of Joint Investigative Teams and the possibility of videoconferencing;
- allows EU Member States to continue to apply their grounds for refusal under the bilateral mutual legal assistance treaties or legal principles of domestic law;
- allows EU Member States that at present do not have a mutual legal assistance treaty with the U.S. to refer to their ordre public (security, sovereignty, or other essential interests of the requested State) in order to refuse to communicate information in certain cases;
- contains extensive provisions in relation to data protection and the provision of evidence and information.



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### FINANCIAL MARKETS

#### EU-U.S. FINANCIAL MARKETS REGULATORY DIALOGUE

##### ISSUE

The EU-U.S. Financial Markets Regulatory Dialogue, launched in 2002, is proving its worth as a flexible and pragmatic structure for bilateral exchanges on prudential/regulatory issues of mutual interest. Recent experience has demonstrated the potential for frictions arising from divergent or insufficiently coordinated approaches to financial regulation. The Dialogue provides a mechanism for managing such tensions and promoting upstream convergence on the principles of regulation.

##### EU POLICY AIMS

The short term aims are: to defuse difficulties arising from conflicting approaches to financial regulation, and to minimize any unintended extra-territorial consequences of regulatory action through informal and pragmatic exchanges between the respective regulatory agencies.

Long term aims are: (1) to foster mutual understanding of respective regulatory systems and to promote a process of regulatory convergence on "best of breed" financial regulation; (2) to identify specific situations where "exemptive relief" could be provided from the application of certain elements of the regulatory regime of the host jurisdiction (e.g. where the host state regulator could allow limited exemption from compliance with some of its regulatory requirements on the basis that "equivalent" investor protection is already provided under the regulatory system of the home state jurisdiction).

##### EU STRATEGY

These objectives are to be achieved through the establishment of regular and detailed exchanges between the leading EU and U.S. regulatory authorities. These bilateral discussions are organized on the basis of an informal ("time-lines") document setting out the principal issues and the schedule of meetings. The first tier of the dialogue involves the European Commission, and the U.S. Treasury, US Federal Reserve Board and U.S. SEC. Parallel exchanges have been ongoing between the European Commission and the U.S. NAIC in the insurance field for a number of years. These discussions are complemented by more technical exchanges between EU supervisory committees (e.g. CESR) and their U.S. counterparts.



## **LINK TO U.S.**

The bilateral dialogue allows the participating regulators to explore issues which do not lend themselves easily to resolution through traditional trade mechanisms such as WTO. There is growing interest from other trading partners (e.g. Canada, Australia) in the types of regulatory issues, and putative solutions, being explored in the EU-U.S. dialogue.

## **THE WIDER CONTEXT**

Increasingly, financial institutions operate across legal and tax frontiers, capital is raised in international markets, and market infrastructures are accessible to participants from around the globe. Technology and changing business models will continue to intensify the degree of international financial interdependence. As a result of this interdependence, financial legislation adopted in one jurisdiction or set of jurisdictions may give rise to unintended legal obligations for companies or economic actors in another. These issues are at their most acute in the transatlantic financial relationship – but they are not unique to that context.

## **HISTORY**

The decision to intensify EU-U.S. regulatory dialogue in the financial sector was agreed by the EU-U.S. summit in May 2002. Since its launch, there have been 4 meetings of the relevant authorities within the framework of the Dialogue.