



**T R A N S A T L A N T I C  
B U S I N E S S D I A L O G U E**

**8th - 9th November 1996  
Chicago, Illinois**

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**CHICAGO DECLARATION**

**NOVEMBER 9, 1996**

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### I. GENERAL REMARKS

One year after the Seville Conference, the transatlantic business community reconvened in Chicago on November 8-9, 1996. The purpose was to assess the first year's activities of the Transatlantic Business Dialogue (TABD), establish future priorities, and prepare a strong message to the U.S.-EU Summit in December. The business leaders were joined at the conference by top government officials from the U.S. Administration and the European Commission.

The TABD believes that the increasing speed of technological change, the rise of competing economic powers, and the rapid progress towards globalization of markets requires a timely response to increase business competitiveness. This has become a top priority for the future economic prosperity of the EU and U.S. and for the success of the New Transatlantic Agenda (NTA). As a consequence of these factors, it has become imperative that the EU and the U.S. deliver on commitments made in the NTA.

This Declaration is the result of intensive dialogue between business representatives from both sides of the Atlantic and between business and government officials.

The TABD recognizes the progress made by the United States and the European Union administrations toward implementing the business recommendations and encourages the adoption of a forward-looking and result-oriented approach to the construction of the New Transatlantic Marketplace. In particular, governments must be prepared to take bold action including initiating legislative changes wherever this is necessary.

The transatlantic business community reiterates its strong support for the multilateral trading system by calling upon the EU and the U.S. to send a clear message which reaffirms the importance of the World Trade Organization (WTO) system. The WTO Singapore Ministerial in December should aim for an ambitious outcome.

### PROGRESS MADE TO DATE

The Chicago conference welcomes the achievements made so far in several areas, in particular the successful conclusion of negotiations on a EU/U.S. Customs Cooperation and Mutual Assistance Agreement, and the launch of a Transatlantic Small Business Initiative. It notes with satisfaction the intensive work under way for an Information Technology Agreement (ITA) and looks forward to the conclusion of formal negotiations in Singapore, for the complete elimination of residual customs tariffs by the end of the Year 2000, with product and country coverage that is as broad as possible.

Now that many of the traditional barriers to trade have been reduced, business calls for more focus on convergence in the field of regulatory matters, and work towards the principle of "approved once, accepted everywhere in the Transatlantic Marketplace". Along with efforts to

push for more international harmonization of standards and their effective utilization by all trading partners, market access should be improved by mutual recognition. At the urging of the TABD, significant progress was made during the conference on a Mutual Recognition Agreement, particularly in the pharmaceutical area. This will help cut time and costs and will be of clear benefit for consumers.

## **CONTINUATION OF TABD WORK IN 1997**

The Chicago meeting capped a successful year of business-government cooperation, bringing closer the realization of a true transatlantic marketplace through developing an action plan for the removal of obstacles to trade and investment flows across the Atlantic. For the TABD to continue to produce effective results, it must remain a business-driven process led by senior executives of American and European enterprises in full cooperation with the major representative business organizations already working on transatlantic issues.

The goal of the TABD remains to direct government attention to issues where consensus exists between the transatlantic business community. This includes additional areas and initiatives within the framework of the New Transatlantic Agenda that impact transatlantic business relations.

The transatlantic business community is pleased to note that the U.S. Government and European Commission have reaffirmed their pledge to work toward implementation of our recommendations.

## **II. PRINCIPAL OBJECTIVES**

Industry representatives from both sides of the Atlantic have agreed to work jointly towards a new transatlantic regulatory model based on the principle "approved once, and accepted everywhere" in the New Transatlantic Marketplace. This model should be implemented, taking into consideration the special characteristics of each industry sector.

### **STANDARDS, CERTIFICATION AND REGULATORY POLICY**

Business leaders in Chicago reemphasized that certain regulatory requirements, in particular duplicative testing and certification procedures and widely divergent technical regulations and standards, were no longer sustainable in terms of resources or results and were not suited to the realities of the global marketplace.

#### **1. Mutual Recognition Agreement (MRA)**

TABD noted with satisfaction the progress made to conclude the MRA negotiations. However, the TABD urges EU and U.S. negotiators to complete the discussions by the end of January 1997. A pragmatic, result-oriented approach aimed at achieving concrete meaningful results is needed, particularly in the pharmaceutical and medical devices sectors in order to demonstrate governments' commitment to meet in a timely fashion, the needs of all industries. While considerable progress was made in Chicago on these issues, all parties recognize that continued delay will cause considerable unnecessary costs to be borne by industry which affects our competitiveness *vis-à-vis* the rest of the world.

## **2. Supplier's Declaration of Conformity (SDoC)**

It was agreed that the supplier's declaration of conformity (SDoC), supported by adequate market surveillance, be used wherever possible as evidence of compliance with existing technical regulations and standards. Governments are urged to adopt specific measures to ensure that the SDoC is the rule - not the exception - with regard to product certification in most sectors.

## **3. Harmonization of Standards and/or Technical Regulations**

Business leaders continue to be concerned about the insufficient use of international standards and the growing trend toward divergent technical regulations, not only in the context of the EU and U.S., but globally as well. Regional or national standards or technical regulations at variance with those internationally-agreed upon should be eliminated and avoided in the future. Government use of international voluntary consensus standards must take precedence over government-developed standards or technical regulations.

## **4. Sector-Specific Discussions**

- **Accountancy**: The group had hoped that the WTO Working Party on Professional Services could agree this year on guidelines for mutual recognition, a concrete statement of support for established programs to achieve international accounting and auditing standards and the setting of a firm deadline for completion of its agenda on accountancy; and is disappointed that these modest goals were not met.
- **Automotive**: Both European and US vehicle and component manufacturers agreed that, for the automotive sector, establishing an enhanced process for longer-term international regulatory harmonization is probably the most important factor. The UN/ECE (WP29) process has been identified as the appropriate forum for international regulatory harmonization.
- **Chemicals**: Industry representatives called for a work plan that identifies the specific measures to reduce regulatory barriers to trade. The first priority is to implement the OECD agreement on GLP (Good Laboratory Practice) and MAD (Mutual Acceptance of Data) by mid-1997. In parallel, EU/U.S. discussions should start on Conditional Equivalence Agreements (CEAs) in the four areas of risk assessment, notification of new chemicals, application and use, and classification and labeling of chemicals. The agreed end-point of this process should be Unconditional Equivalence Agreements by the Year 2000.
- **Electrical/Electronic/Telecommunications/Information Technology Sectors**: The EETIS group presented a major paper which is the product of extensive consultation between EU and U.S. companies on the future direction of standards, certification and regulatory policy affecting these rapidly developing sectors. The EETIS group calls upon governments to work on implementing the joint recommendations contained in it. In particular, industry stresses the urgent need to conclude an MRA covering these sectors and to work towards adopting the supplier's declaration of conformity as the guiding principle of conformity assessment.
- **Forest Products**: Industry urged the EU to open up the review process of the EU ecolabeling regime to provide for European and foreign business community input. The EU was urged to

suspend operationality of criteria in areas such as textiles and fine paper where substantial trade issues have been identified. The U.S. and EU were urged to cooperate at the WTO to establish disciplines covering ecolabels with regard to issues of coverage, transparency, non-discrimination, truthfulness, verifiability, and scientific basis.

- **Heavy Equipment**: Discussions focused on developing harmonized global standards that provide performance measurement, not design specification, to encourage technical innovation in meeting essential requirements for legal requirements. Industry identified the planned EU Noise Directive for Equipment Used Outdoors and the lack of EU harmonization of road regulations for off-highway machines as two specific matters where non-value costs would have unacceptable consequences. At the plenary session, it was recommended that a letter outlining the concerns with "noise" be sent to the respective U.S. and EU government legislative bodies to ensure open discussion on the issues.
- **Medical Devices**: The medical device industry expressed the urgency to achieve more progress and called again for a Mutual Recognition Agreement (MRA) covering product approval processes for low and medium-risk devices, including Good Manufacturing Practices (GMP) / quality system inspections. A full MRA will allow considerable cost gains to producers and administrations, and benefit consumers at a time when the costs of healthcare are under severe, but understandable, pressure. The industry favors the enactment of new U.S. legislation, if that is what is needed to achieve an MRA and a reduced regulatory burden.
- **Pharmaceuticals**: Business leaders and government reached agreement in principle on a full MRA and agreed to work to complete the agreement by the end of January 1997. Further the economic and legal impact of price controls -- from both internal EU market and transatlantic trade viewpoints -- should be addressed and progress reviewed at the next Transatlantic Business Dialogue meeting. Efforts should be taken to strengthen patent protection, especially as it relates to the Bolar Amendment, improve data exclusivity protection, biotechnology patent protection, and the single trademark issue in the EU. Also, the ICH should be urged to agree in 1997 on a common technical document and on a process leading towards adoption of a global dossier.
- **Recreational Marine Engines**: Industry urged a decision by the European Commission to proceed with a directive on marine engine emissions by December 31, 1996. The draft directive should be based on the industry's proposed IMEC Stage II emission limits and timetable. Industry will complete its validation of functional equivalence between IMEC Stage II and the USEPA rule to ensure mutual acceptance of products. The draft directive should be adopted by the European Commission by January 1, 1998.
- **Aerospace**: The aerospace industry has identified work towards harmonization of European and U.S. aviation technical regulations and the establishment of a single European aviation authority as the two highest priorities and work is also being initiated on standards issues.
- **Biotechnology**: Important issues have been identified and a work program agreed to that will improve the application of gene technology and biotechnology on both sides of the Atlantic.

- **Rubber Industry:** Industry agreed that tires marked "Made in the EC" should be accepted for importation into the U.S. market.
- **Energy:** During 1997, the Energy Sector group will submit a recommendation on the appropriate principles to be applied that achieve mutually beneficial access to energy transmission networks, in recognition of the benefits that accrue to the consumer as lower energy costs rising from increased competition in the gas and electricity sectors.

## **WTO AND THE SINGAPORE MINISTERIAL**

The Singapore meeting provides an opportunity to build on the considerable achievements of the Uruguay Round and to strengthen the WTO as an institution. We call on governments to use exclusively the WTO to settle trade disputes in areas covered by the WTO agreements. We call for the accession of major trading partners to the WTO, provided they commit themselves to respect WTO rules and disciplines, including significant and bound commitments from the beginning. We urge governments to initiate a work program that would give new dynamism to the WTO and enable it to address actively and effectively the challenges of the Twenty First Century.

In terms of priorities for Singapore, we underscore the need to ensure that Uruguay Round disciplines and liberalization programs are fully implemented and transparent; that the unfinished business is concluded within agreed deadlines. We emphasize especially that successful liberalization and deregulation of global telecommunications and financial services through the WTO talks is critical for consumers, workers and business interests and should be given the highest priority. We urge governments to work together to encourage all countries to submit offers that significantly advance competition in telecommunications and financial services. The work program already agreed in Marrakesh should be fully implemented.

### **Market Access:**

We are pleased that on the occasion of this TABD Conference, the U.S. and the EU made considerable progress to conclude the ITA negotiations at the WTO Ministerial and to enlist as many other countries as possible to join the ITA at that time. The ITA tariff elimination should be implemented by the second half of 1997. Besides the ITA, we support the elimination of tariffs for (remaining) pharmaceuticals, camera parts, medical devices and diagnostics, and distilled spirits. We call for continued improvements to market access and continuing trade liberalization in the WTO framework including, accelerated implementation of Uruguay Round tariff commitments in agreed upon sectors, reduction of peak tariffs, extension of tariff bindings, geographic expansion of 0/0 and tariff harmonization agreements, and elimination of non-tariff barriers.

### **Intellectual Property:**

The TABD calls on the EU and the U.S. to launch joint efforts (a) at the Singapore Ministerial Meeting, to ensure that countries not entitled to transition periods, including newly industrializing countries, immediately implement their TRIPS obligations, including those on effective rights enforcement, and that a call be made for accelerated implementation of TRIPS obligations by other countries; (b) in WTO, to use the dispute settlement process to ensure full implementation of TRIPS obligations; (c) in WIPO to ensure a successful and timely conclusion to the Diplomatic

Conference on a Berne Protocol / New Instrument / Data Base Treaty, and to complete the Patent Harmonization Treaty negotiations, the scope of which should include "first to file," among other issues; (d) to achieve a significant reduction in the total cost of obtaining and maintaining a patent particularly in Europe and of litigating patent infringement cases in the EU and the U.S. and (e) to achieve the maintenance of non-discriminatory regimes conducive to full market access for intellectual property protected products. Finally, we call upon the U.S. Administration and the European Commission to organize a conference within six months to report on progress made with respect to TABD recommendations and to discuss future action.

**Government Procurement:**

The industry discussions over the last year have identified that the existing problems in the Government Procurement area arise from the fundamental and even conceptual differences between the EU and U.S. systems. In addition there is the need for a common basic approach to achieve true reciprocity for easing and simplifying procedures and for a quality and cost improvement of the entire public procurement process. On the same line there is also a common desire to expand the membership of the WTO Government Procurement Agreement and to improve the disciplines contained therein. As an interim step the EU and the U.S. should press at Singapore for a negotiation beginning in 1997 on transparency and fair procedures in the government procurement activities of WTO members.

A further recommendation regards the move towards electronic public procurement and payment systems as well as the intention to ensure that any initiative to promote the adoption of "green procurement" rules would not result in further barriers to market access.

Considering the complexity of the task the industry believes that progress can be achieved only through a broad exchange of information and views. U.S. and EU business is therefore committed to continuing its efforts and to support any government initiative to eliminate existing barriers in this area.

**Other Trade-Related Subjects:**

- Trade and Investment -- We call on WTO members to begin an examination of trade and investment in the WTO and work towards a consensus to include the possibility of negotiations. From the point of view of business it is important that initiatives in this priority area are mutually supportive. We note that governments are to conclude negotiations on the Multilateral Agreement on Investment (MAI) at the OECD in May 1997.
- Trade and Environment -- We urge governments not to undermine the international trading system through the use of trade measures to enforce environmental regulations. The WTO's Committee on Trade and Environment should intensify its work on the use of trade measures in Multilateral Environmental Agreements and their relationship to WTO rules and procedures. The Committee should develop specific criteria to ensure that MEAs and ecolabels are consistent with WTO trade disciplines.
- Trade and Competition -- We reaffirm the importance of the competition policy issue and support progress within the OECD and the WTO as agreed at Seville. At the WTO Ministerial, a discussion should be convened and an approach developed to advance this significant "market access" issue as part of a balanced package. The U.S. and EU

governments should cooperate in promoting a better understanding of the relationship between competition policy and market access, and work closely with the private sector to develop the most constructive approach to this issue. We encourage pro-competitive and market-opening efforts in specific industries.

- Trade and Labor Standards -- Business leaders expressed the view that the International Labor Organization (ILO) which has tripartite composition and special expertise, is the appropriate international organization to address labor issues.

It is a matter of regret that Technical Barriers to Trade Code (TBT) - specifically standards and certification - is not included in the agenda.

We urge governments to continue close consultation with TABD on the future work of the WTO.

### **INVESTMENT**

The transatlantic business community notes that international investment is a critical component of economic development in every region in the world, certainly including the United States and the European Union. To encourage the continued flow of investment, we urge the U.S., the EU, and its Member States to work in the OECD towards completion of the Multilateral Agreement on Investment by the target date of May 1997. It is critical that the MAI embody the highest standards and achieve significant liberalization. We also encourage the United States, the European Union, and other members of the World Trade Organization to begin a WTO discussion of international investment at the forthcoming WTO ministerial in Singapore. The WTO discussion of investment should also proceed as quickly as possible.

### **INTERNATIONAL BUSINESS PRACTICES**

The U.S. and European business community deplors bribery and corruption in all sections of society and in all parts of the world. Last year in Seville, the transatlantic business community urged governments to give the highest priority to collective efforts to combat corruption and bribery on a world-wide basis and expressed full support for the prompt implementation of the 1994 OECD recommendations on Bribery in International Transactions.

Though progress has been made, we note that a great deal still needs to be done and clearly this issue should remain on the TABD agenda for 1997. The transatlantic business community expects all governments to fulfill their commitments to take urgent action in this area, including the pursuit of meaningful initiatives in the OECD and the WTO. We would welcome the opportunity for increased consultation with governments and international institutions on this subject.

### **EXPORT CONTROLS INCLUDING FOREIGN POLICY MEASURES**

The TABD believes that the present use of secondary boycotts and extraterritorial legislation is objectionable.



The TABD urges the withdrawal of the extraterritorial provisions of the U.S. sanctions laws enacted in 1996. Nonetheless, the U.S. and EU business communities support the objectives of promoting democracy and combating terrorism. The TABD calls for companies doing business internationally to do so voluntarily in accordance with internationally accepted principles and global best business practices, such as providing non-discriminatory employment and safe places of work.

Regarding other export controls, we call for the creation of an expert consultative committee on export controls. This committee should be coordinated by the Secretariat of the Wassenaar Arrangement and should conduct frequent reviews of the export controls lists administered by the participating countries to ensure that export controls are limited to genuinely strategic products that are realistically controllable. A similar committee should ensure transparency in implementation of export control rules such that level playing fields can be created: competition should not be distorted by differences in rules.

## TAXATION

Both U.S. and EU business communities have reached agreement on a list of proposals to the governments of the U.S. and the EU to implement the general principles and policy statements on taxation contained in the Seville Recommendations. One of the main problems business has when dealing internationally under different tax regimes is transfer pricing, on which the OECD recently issued new guidelines. Here business would like to see more harmonized implementation on both sides of the Atlantic and participation by the United States in the EU Arbitration Convention, which would avoid any remaining double taxation. The basic aim of the proposals with regard to the EU is to achieve a Single Market also from a tax point of view. It is for all businesses active in Europe, be they of European or U.S. origin, still difficult to deal with the different tax regimes which exist in the Member States, if they manage their business on a European-wide scale. A better working system for Value Added Tax would be much welcomed. Business strongly calls on the EU and its Member States to adopt measures to this end.

## CUSTOMS

The transatlantic business community notes the important progress that has been made within the TABD framework toward modernizing global trade practices. We are pleased to note that the U.S. and the EU administrations have accepted our recommendations with respect to:

- Embracing the principles of the World Customs Organization (WCO) for a modern customs administration.
- Ensuring timely binding classification rulings and reasonable notice before reclassification takes effect.
- Harmonizing the data elements of customs declarations and are workings toward that end.
- Accepting and processing of customs declarations prior to arrival of the cargo and to separate procedures for the release of the cargo from those required for entry, duty payment, and collection of statistics.

We call on governments to continue their partnership with business to implement these recommendations, or to ensure their immediate effect, and to resolve remaining issues.

## SMALL AND MEDIUM SIZED ENTERPRISES (SME)

The SME Issue Group fully appreciates the support of the EU and the U.S. governments related to the Transatlantic Small Business Initiative (TASBI). Work on the TASBI has yielded the following results:

- We agreed to develop the TASBI, the joint EU/U.S. program that consists of two major components. These include:
  1. partnering events that will focus on stimulating sector specific SMEs from both sides of the Atlantic to form business alliances and partnerships; and,
  2. the development of database systems on both the EU and U.S. sides linked to each other that will assist SMEs to discover the economic environment in each region as well as to identify potential partners that will result in increased transatlantic business.
- We recognize the importance of several issues, including standards and certification, which disproportionately affect SMEs and we agree on the necessity to take the SME concerns into consideration.
- We support the formation of an EU and U.S. government and private sector ad hoc committee to monitor development of the TASBI and to continue the dialogue regarding SME perspectives on completion of the joint study.

We strongly believe that these initiatives will improve employment and business opportunities for EU and U.S. firms. This formal recognition and implementation by EU and U.S. governments of the importance of SMEs in the TABD should be a clear signal of the recognition of the crucial role played by SMEs in the economic and industrial environment.

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By this Declaration, the transatlantic business community calls upon our political leaders to act on the TABD priorities at the appropriate fora including the upcoming U.S.-EU Summit and the Singapore WTO Ministerial in December.

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