

Public consultation on the future of EU-US trade and economic relations

About you	
Do you wish your contribution to be made public? -single choice reply-(compulsory)	Yes
Please state the name of your business/organisation/association? -open reply-(compulsory)	Confederation of British Industry (CBI)
What is your profile? -single choice reply-(compulsory)	Other
If "Other", please specify. -open reply-(compulsory)	
National business and employers' association	
What is your main area/sector of activities/interest (up to 3 answers possible)? -multiple choices reply-(compulsory)	Other
If "Other", please specify. -open reply-(optional)	
<p>The CBI is the UK's leading business organisation, speaking for some 240,000 businesses of every size that together employ around a third of the private sector workforce. We represent all sectors, including agriculture, automotive, aerospace and defence, construction, creative and communications, financial services, IT and e-business, management consultancy, manufacturing, professional services, retail, transport, tourism and utilities.</p>	
In which country are your headquarters located? -single choice reply-(compulsory)	A Member State of the European Union
Priorities for a forward-looking trade relationship with the United States	
What should be the priorities of the future EU-US trade and economic relationship? -open reply-(compulsory)	
<p>The EU and US already has a strong trading and economic relationship. Bilateral trade in goods alone totalled €444.7 billion in 2011, which means that the United States is still the EU's largest trading partner for goods, just ahead of China. Trade in commercial services is also very significant, with combined exports and imports totalling €257.6 billion in 2010. The UK-US economic relationship is particularly well developed. To demonstrate, the US is easily the UK's largest individual export destination. Furthermore, according to ONS data, the UK and US are by far the largest individual foreign investors in each other's economies. In 2010, the stock of US inward FDI to the UK stood at over £200 billion, almost double the stock of just 10 years earlier. A pro-active strategy with the US is required to maintain the strength and depth of the UK-US economic relationship. Looking at trade specifically, tariffs are already relatively low between the EU and US. This means that negotiations with the objective of boosting transatlantic trade should prioritise trade in services, as well as a variety of regulatory barriers to trade in both goods and services. This is not to say that tariff elimination is not important. The benefits from this alone would be significant due to the large quantities of goods traded between the EU and the US (even in those sectors where the applied tariff is already near zero or significantly below the average US tariff of around 5%). However, with the services economy responsible for over 75% of UK GDP, and with the US and the UK confirmed as the top two exporters of commercial services in this year's WTO World Trade Report, it is imperative that advancing the transatlantic services economy and reducing regulatory barriers to all forms of trade should be high on the agenda in order to maximise the economic benefits to both economies.</p>	
How should the European Union pursue these priorities? -open reply-(compulsory)	
<p>The CBI is of the view that the launch of broad, ambitious negotiations resulting in new commitments that are delivered together as a single package is the most workable option of those that we have considered. It is not important to us whether this is done under the banner of an FTA or a functionally equivalent term. It is imperative that a negotiating framework is adopted that guarantees a positive</p>	

outcome with results, as a protracted or even a failed negotiation could have serious consequences for future market access negotiations, whether they be at the bilateral, plurilateral or multilateral level. Any approach taken should lead to mutual benefits in terms of market access for industry players on both sides.

EU-US bilateral economic, trade and regulatory dialogues (e.g. Transatlantic Economic Council – TEC, High Level Regulatory Cooperation Forum – HLRCF)

Did the TEC, the HLRCF or other sector specific cooperation between the European Union and the United States bring satisfying results for your business in the past?

-single choice reply-(**compulsory**)

No

If the TEC, the HLRCF or other sector specific cooperation between the European Union and the United States has not brought satisfying results for you in the past, please explain why this has, in your opinion, not been the case.

-open reply-(**compulsory**)

Although TEC has helped achieve a few notable successes, most recently with the AEO/C-TPAT mutual recognition agreement in May, the overall results cannot be considered 'satisfying'. A targeted agenda focusing on upstream technologies has helped to focus discussions, but to date, the TEC process has still failed to deliver results of substantial economic significance to the EU and US. There is a clear lack of transatlantic common rules across the full range of sectors. The HLRCF and the overall TEC process should be more transparent with improved long-term planning and agenda setting. The launch of FTA negotiations would be an opportunity to continue the groundwork that has been done in TEC to deliver agreements of significance particularly on regulatory issues. Regulation should be based on 'light touch' principles capable of implementation in a similar or mutually compatible way in the EU and US.

Are there any priority sectors on which economic cooperation should focus?

-single choice reply-(**compulsory**)

Yes

If there are priority sectors, please explain, including specific areas or issues to be addressed.

-open reply-(**optional**)

The on-going scoping work should clarify where further commitments are realistic and possible. We welcome the involvement of industry and sectoral organisations at an early stage to help with this work. We have indicated our support for a comprehensive Free Trade Agreement (or functionally equivalent term) between the EU and the US that includes ambitious commitments on tariffs, trade in services, IPR protection, regulatory convergence, public procurement and investment.

Tariffs

Are you concerned by tariffs in your field of activity?

-single choice reply-(**compulsory**)

Yes

If you are concerned by tariffs, do these tariffs affect your ability to export/import or to do business in the US?

-single choice reply-(**compulsory**)

Yes

If tariffs affect your ability to export/import or to do business in the US, please explain. -open reply-(**compulsory**)

Tariffs between the EU and US are generally quite low, though they are still detrimental to UK-US trade. Even where tariffs are very low, there are significant gains to be had from eliminating them completely. For some industrial sectors in the UK, tariff elimination is particularly important to secure. For instance, in the chemicals sector, where the average import duty in both the EU and US is low at around 3%, it has been estimated that tariff elimination could save more than €500 million a year for intra-company trade alone given the high value of chemicals traded across the Atlantic (€54 billion of transatlantic chemical trade in 2011, 35-40% of which was

intra-company trade). This is a significant saving. Where higher tariffs occur, clearly the gains from duty elimination are even greater. There is no reason why industrial tariffs should continue to endure between the EU and US given the mature relationship between the two economies.

If you are concerned by tariffs, what is the average tariff on your exports/imports?

-open reply-(**compulsory**)

We represent all sectors (a 2010 ECIPE study estimated that the average weighted applied tariff on goods traded was 4.8% in the US and 6.7% in the EU).

Non-tariff measures for industrial products

Are you concerned by unnecessary regulatory barriers for industrial goods in your field of activity in the European Union or the United States?

-single choice reply-(**compulsory**)

Yes

If you are concerned by regulatory barriers, please specify whether they arise from (multiple answers possible):

-multiple choices reply-(**compulsory**)

Technical regulations - Standards - Conformity assessment procedures

Describe the barriers of regulatory nature you are concerned about with as much detail as possible.

-open reply-(**compulsory**)

See 5.8.

Indicate how and how much it impacts your business/activity. If possible, provide an estimate/quantification of the costs of the barriers. -open reply-(**compulsory**)

With relatively low average tariffs in force, regulatory barriers are generally regarded as being the most significant issue that is holding back deeper economic integration between the EU and US.

Indicate what would be the benefits of its removal.

-open reply-(**compulsory**)

See 5.8.

Please indicate to which level of government the regulatory obstacles relate (multiple answers possible)? -multiple choices reply-

(**compulsory**)

US Federal / EU level regulation - US States / EU Member State regulation

What should be the European Union priorities to address the reported barriers? For instance, if the reported barriers are related to divergent regulatory or standardisation approaches in the EU and the US, could you please indicate how, in your opinion, greater compatibility/convergence of the EU and US regulations and standards in your field of activity could be achieved?

-open reply-(**optional**)

Under the auspices of different forums, the EU and US has been working on ways to address long-standing regulatory barriers and to come forward with best practices to minimise regulatory divergences in the future. In this regard, as part of the TEC process, the High-Level Regulatory Co-operation Forum has been successful in reaching agreement between the EU and US on a Common Understanding on Regulatory Principles and Best Practices. We welcome this understanding, and stress that the commitments made therein should become binding within the context of FTA discussions. In particular, transparency is critical and industry should be consulted as a matter of course prior to the proposal of new regulations that could impact transatlantic trade. With this in mind, all new regulation should pass much stricter tests of consumer need and business impact in order to really push forward a competitive transatlantic marketplace. In general, the CBI will be looking to ensure that a clear process is outlined when developing regulation for new technologies or when amending regulation for existing technologies to ensure collaboration on both sides of the Atlantic. Clearly the ability to address longstanding regulatory barriers within what we believe should be a swift negotiation process will be a significant

challenge and depends both on the issues at stake and the current level of co-operation between the regulatory bodies in the sectors concerned. As a result, the Commission should continue its scoping work with industry and regulatory bodies to clarify what may and may not be possible. As a general point, we believe there should be early moves to harmonise proportionate rules, regulations and standards in emerging new technology areas, building on TEC work in fields including smart grids, e-vehicles, nanotechnology, cloud computing and ICT. A common pro-innovation approach to regulation in emerging technologies is of fundamental importance. However, in addition to this, we would like to see concrete results for mutual recognition of functionally equivalent regulations where they exist. In some sectors, such as automotive, there is also scope to push for the harmonisation of technical standards (UNECE and FMVSS), which would undoubtedly support the development of a truly transatlantic marketplace. Trade in other sectors such as electrical goods, chemicals, ICT and engineering would all benefit from stronger regulatory co-operation in their respective fields. Regulatory commitments should be fully implemented and held to account.

Sanitary and phytosanitary obstacles

Are you concerned by unnecessary sanitary and phytosanitary regulatory obstacles? -single choice reply-(compulsory)	Yes
If you are concerned by sanitary and phytosanitary regulatory obstacles, please specify from where they arise (multiple answers possible): -multiple choices reply-(compulsory)	Processed products
For processed products (multiple answers possible): -multiple choices reply-(compulsory)	Insufficient or lack of transparency of import requirements and of which Federal competent authority is responsible. - Divergences of Federal standards compared to EU standards - Divergences of State/local standards within the US - Setting up of import requirements - Approval facilities - Inspections and controls at border inspections post

Please explain the sanitary or phytosanitary obstacles in detail. -open reply-(compulsory)

There have been some longstanding SPS issues between the EU and US. The negotiations should be an opportunity to see whether there is scope to find solutions to such issues, such as import restrictions on milk and uncooked meat products, and to consolidate progress where it has been made, such as on the beef hormones dispute. However, at the same time, particularly contentious issues should not be allowed to halt overall progress with the talks. In particular, the UK food and drink industry will be looking carefully at implementation of the Food Safety Modernisation Act (FSMA). With the newly introduced 'Foreign Supplier Verification Program', it is important that the procedures already implemented by food exporters (e.g. the HACCP control system) are accepted in forthcoming guidelines for EU products. Furthermore, there should be bilateral agreement with the US on the equivalence of EU internal inspections given FDA's call for an increase in the number of controls in foreign production plants. Separate plans to introduce sanitary import permits for products containing less than 2% of eggs are also a concern as many products could be closed off from the US market. Furthermore, the fact that many state and municipal authorities in the US demand specific safety or environmental requirements creates issues for exporters. Not only may they be inconsistent with each other, but they may also be additional to federal level requirements.

How should the European Union address the specific obstacles? -open reply-(compulsory)

See 6.7

What are the priority agri-food sectors on which food safety/animal health/plant health regulatory dialogue should focus?

-open reply-(compulsory)

See 6.7

Customs procedures, border enforcement and trade facilitation

Are you concerned by current practices in	Yes
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customs procedures and border

enforcement? -single choice reply-(compulsory)

If you are concerned by current practices, please specify which practices? -open reply-(compulsory)

The CBI welcomes and supports the recent agreement to mutually recognise AEO and C-TPAT trusted traders. Trade negotiations should lock in this agreement with commitments to fully monitor and implement it. Furthermore, the EU should explore opportunities for further reduced requirements for those companies that do hold AEO certification. However, in spite of this agreement, we are still concerned that new US legislation on 100% cargo screening at foreign ports prior to shipment to the US does the opposite of 'trade facilitation' and should be repealed fully. This should be addressed in negotiations. As new security programmes and initiatives are developed, more effort is needed to harmonise standards to prevent future divergence in requirements. The EU and US should work towards implementing uniform international principles of standardised customs processes, efficient customs clearance, and mutual recognition of customs and security related standards. The launch of EU-US negotiations would create an opportunity to assess possible options to develop more effective customs clearance systems and procedures within the EU. This is a complex issue as new requirements could have the unwanted effect of increasing costs for European companies. Nevertheless, it is essential to look at ways to make customs procedures more efficient, and all sectors stand to gain from improved trade facilitation. Another issue to look into is the fact that the "de minimis" value threshold for the imposition of duties and customs requirements is lower in the EU than it is in the US. Furthermore, the US Senate has recently been pressed by domestic industry groups to raise the US threshold significantly further from \$200 to \$1000, which would offer clear benefits for low value shipments. Reaching a higher, common threshold would be to the benefit of both economies, particularly for SMEs.

If you are concerned by customs procedures and border enforcement, what are the estimated additional costs for your business (in percentage of the exports/imports) resulting from of customs procedures and border enforcement? -open reply-(compulsory)

See 7.2

If you are concerned by customs procedures and border enforcement, what should be the European Union priorities to address the issue? -open reply-(compulsory)

See 7.2

Protection of Intellectual Property Rights

Are you concerned by problems of protection and enforcement of intellectual property rights in your field of activity? -single choice reply-(compulsory)

Yes

If you are concerned by problems of protection and enforcement of intellectual property rights, please explain the problems you encounter. -open reply-(compulsory)

We call for strong IPR regimes, including protection of trade secrets for rights holders that extends beyond WTO TRIPS requirements. The reform in US patent law to the 'first to file principle' is one step towards harmonisation, though there is clearly a long way to go. The EU and US should use this initiative as an opportunity to promote the highest levels of IPR protection given the lack of adequate protection that is afforded in many significant third countries. The EU and US should take the lead to fight against counterfeiting and piracy.

Are you concerned by problems of protection for Geographical Indications or trademarks in your field of activity?

-single choice reply-(compulsory)

Yes

If you are concerned by problems of protection for Geographical Indications or trademarks, please explain the problems you encounter. -open reply-(compulsory)

See above.

If you are concerned by problems of protection and enforcement of intellectual property rights, including Geographical Indications and trademarks, what should be the European Union priorities to address the issues?

-open reply-(compulsory)

See above.

Trade in services

Are you concerned by barriers to trade in services in your field of activity? -single choice

reply-(compulsory)

Yes

If you concerned by barriers to trade in services, which ones are the most important ones (multiple answers possible)? Please clarify whether:

-multiple choices reply-(compulsory)

They derive from local regulation being applied differently to you compared to domestic firms? - They discriminate against cross-border service provision - They affect your ability to establish physical outlets in the country and supply services through these outlets - They affect the price of the services you provide - They have other restrictive impacts

If "Other", please specify. -open reply-(optional)

Please describe the barriers in detail. -open reply-(compulsory)

See 9.7

If you are concerned by barriers to trade in services, please indicate to which level of government the obstacles relate (multiple answers possible)?

-multiple choices reply-(compulsory)

US Federal / EU level regulation - US States / EU Member State regulation

If you are concerned by barriers to trade in services, what are the estimated additional costs (in percentage of the exports/imports) for your business resulting from the barriers to trade in services?

-open reply-(compulsory)

See 9.7

If you are concerned by barriers to trade in services, how should the European Union address these restrictions to trade in services?

-open reply-(compulsory)

Services are highly important in the context of transatlantic trade. According to the WTO's World Trade Report 2012, the US and the UK are the top two exporters in world trade of commercial services, with a combined share of 20.5% of global services exports in 2011. The CBI would strongly welcome horizontal commitments from both sides to improve market access and national treatment in all services modes and to remove remaining equity caps for investment. Both the EU and US should not be able to retract from the current level of openness. We support a negative list approach to services coverage, where any exceptions to the rule have to be explicitly spelt out. Within the context of these negotiations, we will also be looking carefully to ensure that significant sector specific priorities are accounted for. A range of barriers to UK-US services trade in sectors including legal services, engineering, electronic communications, the internet economy, transport (all modes, including aviation) and financial services (including banking and insurance) have already been put forward to the Commission. Rather than repeat these priorities, we would like to stress that ambitious, meaningful results in these areas will be necessary to get anywhere close to the 0.5% increase in EU GDP figure written in the July 2012 Commission progress report on external sources of growth. Regulatory barriers are particularly relevant in the context of services negotiations. While Section 5 of this consultation focuses on NTBs for industrial products, general principles such as close consultation with industry at the pre-regulation stage and high levels of transparency are equally important in the context of services regulation. Behind-the-border barriers to services do not only appear due to the existence of distorted regulation, but also because of the lack of appropriate pro-competitive regulation in the market. For example, the EU has non-discriminatory and transparent wholesale access rules for electronic communications services in place, which does not align with the US approach to 'special access'. This has led to competitive distortions in the US, the EU and the global network services market. A further area of importance that we would like to stress is in the field of data privacy and protection.

Negotiations should protect the free flow of data between the EU and US as well as the interoperability of their data privacy and protection regimes. This is crucial in boosting the confidence of consumers and businesses alike to engage in transatlantic e-commerce. The adoption of strict and unnecessarily divergent approaches to data privacy and protection should be avoided. A joint approach would be far more beneficial to drive forward innovation and new business models. Further general problems have been reported relating to the predictability of the US visa regime. Given the high degree of regular business travel between the US and US, a fast-track registered traveller process would be welcomed. In addition, while overall the investment climate is very positive for UK businesses, some British companies with a commercial presence in the US have reported general issues with the litigation culture, which has led to payoffs for the sake of simplicity. This is clearly a structural problem which transatlantic negotiations alone would not be able to address, but nevertheless, it is a significant factor that reduces investor confidence in the US, particularly for SMEs and mid-sized businesses that may not have significant legal teams to fight dubious claims at their disposal.

Investment

Are you concerned by barriers to direct investments in your field of activity? -single choice reply-(compulsory)

Yes

If you are concerned by barriers to investment, please describe the barriers in detail. -open reply-(compulsory)

One notable example concerns the current restrictions that limit investment in US airlines by EU citizens/entities and vice versa. This prevents consolidation in the industry, creating inefficiencies and fragmentation.

If you are concerned by barriers to investment, please indicate to which level of government the regulatory obstacles relate (multiple answers possible)?
-multiple choices reply-(compulsory)

US Federal / EU level regulation - US States / EU Member State regulation

If you are concerned by barriers to investment, what are the estimated additional costs for your business (in percentage of the investment) resulting from the barriers?

-open reply-(compulsory)

N/A

If you are concerned by barriers to investment, how should the European Union address the issue? -open reply-(compulsory)

We welcomed the shared principles on International Investment that emerged from the TEC process and were announced on 10 April. We consider that a very ambitious investment agreement consistent with these principles and containing an EU-US investor-state arbitration mechanism with timeframes could form part of the negotiations.

Public Procurement

Are you concerned by restrictions in public procurement in your field of activity? -single choice reply-(compulsory)

Yes

If you are concerned by restrictions in public procurement, please explain the restrictions.

-open reply-(compulsory)

GPA commitments do not cover all US States. Furthermore, the general clauses of the GPA do not apply to 'Buy America' provisions. Within the EU, there has been intense pressure to close off the EU's public procurement market to create a 'level playing field' with other markets including the US which are not deemed to be 'open'. This led to a proposal from the European Commission in February 2012 which would give contracting authorities and Member States the ability to close off public procurement contracts to overseas companies including bidders from the United States. We are of the view that this recent proposal is not the best way to boost access to the US public procurement market, and are concerned of the potential implications for the EU's overall trade relations with a number of key trading partners. However, against this backdrop, it is particularly important that negotiations do result in significant public procurement commitments from the US. Evidence does suggest that there is lots of scope for the US to reduce protection in this area at both federal and state level, including the elimination of local content requirements, and as a result, this should be a priority for the EU in the negotiations.

<p>If you are concerned by restrictions in public procurement, please indicate to which level of government the obstacles relate (multiple answers possible)?</p> <p>-multiple choices reply-(compulsory)</p>	<p>US Federal / EU level regulation - US States / EU Member State / local level regulation</p>
<p>If you are concerned by restrictions in public procurement, what are the estimated additional costs/forgone revenue for your business resulting from these restrictions?</p> <p>-open reply-(compulsory)</p>	
<p>N/A</p>	
<p>If you are concerned by restrictions in public procurement, what should be the European Union priorities to address the issue?</p> <p>-open reply-(compulsory)</p> <p>Negotiations should look to open up the US public procurement market to the highest degree possible, going beyond GPA commitments in terms of coverage, including purchases made at the sub-federal and local level with reduced thresholds. There should be binding transparency rules for award process and national treatment, clear decision making criteria, clear deadlines in the selection and decision making process, and a neutral arbitration board which deals with complaints.</p>	
<p>Competition issues</p>	
<p>Are there fields where the European Union should seek to increase cooperation with the United States? -single choice reply-(compulsory)</p>	<p>Yes</p>
<p>Anti-trust</p> <p>-single choice reply-(compulsory)</p>	<p>Yes</p>
<p>Mergers -single choice reply-(compulsory)</p>	<p>Yes</p>
<p>Liberalisation -single choice reply-(compulsory)</p>	<p>Yes</p>
<p>State Aid -single choice reply-(compulsory)</p>	<p>Yes</p>
<p>What should be the European Union priorities? -open reply-(compulsory)</p> <p>Discussed elsewhere in consultation.</p>	
<p>Facilitating the participation of small and medium sized enterprises (SMEs) in the transatlantic market place</p>	
<p>In your view/experience, which of the sections in this questionnaire are of particular importance to SMEs? Please explain why?</p> <p>-open reply-(compulsory)</p> <p>We think that Sections 5 on regulation, Section 7 on trade facilitation, Section 9 on trade in services, and Section 11 on public procurement are particularly important for SMEs. On services trade specifically, SMEs typically do not have the resources to establish offices overseas, which puts extra importance on the cross-border provisions.</p>	
<p>In your view/experience, how could SMEs better benefit from economic opportunities in transatlantic trade and investment relationships? -open reply-(compulsory)</p> <p>See above.</p>	
<p>Impact on Consumers</p>	
<p>In your view, would the elimination of</p>	

barriers to trade and investment between the EU and the US have an effect on Consumers? -single choice reply-(compulsory)	Yes
Lower Prices -single choice reply-(compulsory)	Yes
Higher prices -single choice reply-(compulsory)	No
Larger choice of products -single choice reply-(compulsory)	Yes
Smaller choice of products -single choice reply-(compulsory)	No
Other -single choice reply-(optional)	Yes
If "Other", please specify. -open reply-(optional)	
It is important that business consumers as well as end consumers benefit from more competition, quality and lower prices in a transatlantic marketplace. There are regulatory and non-regulatory distortions which particularly affect the business-to-business market segment and this often risks being overlooked by policymakers and government administrations.	
Environmental Impact	
Do you expect impacts on the environment in the context of an enhanced EU-US trade cooperation? -single choice reply-(compulsory)	Do not know / Not applicable
Given the importance of commitments on environmental protection as underlying elements for international economic relations, how could the European Union and United States cooperate to further promote the adherence to and the strengthening of international principles, rights and agreements on environmental protection? -open reply-(compulsory)	
The EU and US should work closely together with a view to reaching a global agreement on aviation emissions, using ICAO as one possible route. The CBI supports the inclusion of aviation in the EU ETS as a stepping stone towards a global deal, but the current increasingly political debate has the potential to affect trade. It is therefore of paramount importance that a solution be found through constructive dialogue and negotiations.	
Social Impact	
Are you concerned by (trade-related) problems of protection or enforcement of labour and social rights in the United States or the EU in your field of activity? -single choice reply-(compulsory)	No
In the EU: -single choice reply-(compulsory)	Positively
In the US: -single choice reply-(compulsory)	Positively
In the EU: -single choice reply-(compulsory)	Positively
In the US: -single choice reply-(compulsory)	Positively

In the EU: -single choice reply-(compulsory)	No change
In the US: -single choice reply-(compulsory)	No change
Given the importance of commitments on labour rights and decent work as underlying elements for international economic relations, how could the European Union and United States cooperate to further promote the adherence to and the strengthening of international recognised principles, rights and agreements on labour and decent work? -open reply-(compulsory)	
See above.	
Other issues	
If there are any other issues that are not mentioned in this questionnaire that you would like to address, please use the space below to set them out.	
-open reply-(optional)	
The EU and US should also set up a joint trade policy task force to work on common approaches to develop enhanced trade and investment opportunities in the BRICs and other key emerging markets. Business consultation should be fundamental to this work.	
Your comments ... -open reply-(optional)	