Private Firms and US-EU Policymaking: The Transatlantic Business Dialogue

Maria Green Cowles
Assistant Professor
School of International Service
American University
4400 Massachusetts Avenues, NW
Washington, DC 20016
Cowles00@erols.com

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PRIVATE FIRMS AND US-EU POLICYMAKING: THE TRANSATLANTIC BUSINESS DIALOGUE[1]

MARIA GREEN COWLES

American University, School of International Service

In examining the US-EU partnership, one usually focuses on the interaction of government actors – whether they are from the US State Department, the European Commission, the Office of the President, or the Member States. From the Cold War to the New Transatlantic Agenda, government officials have negotiated agreements, attended summits, and developed policy agendas.

To understand the US-EU relationship in the 1990s, however, one can no longer focus solely on government elites. The creation in 1994-95 of the Transatlantic Business Dialogue (TABD) and the mobilization of private firms as important interlocutors on transatlantic trade negotiations have altered the traditional dynamics of the US-EU partnership. As one US observer noted, the TABD 'is probably the first time in American history that the private sector is determining the substance of future executive or legislative agreements.'[2]

Official documents call the TABD 'an informal process whereby European and American companies and business associations develop joint EU-US trade policy recommendations, working together with the European Commission and the US Administration.'[3] At times, the TABD becomes a 'quadrilateral negotiating forum' in which business leaders and government officials sit down together to work out regulatory problems, and negotiate strategies.[4] Indeed, while governments initially proposed the TABD, industry took over its leadership. While companies are reluctant to acknowledge it, TABD has become more than a process. It has developed into a business organization (albeit unofficial) – complete with a well-developed structure, transatlantic directors and offices, and a substantial budget.[5]

In many respects, the inclusion of business as a direct interlocutor in the US-EU trade and investment negotiations is hardly surprising. As Alberta Sbragia has pointed out, 'American firms in Europe and European firms in the United States have been in some sense 'silent' members of the transatlantic community' over the years.[6] Transatlantic relations have been composed of both a 'public sphere' of government negotiations and a 'private sphere' of market activity for a number of decades. Increasingly, as Michael Smith notes in this volume, the 'public' and 'private' have to be accommodated in the US/EU relationship. The TABD has played a critical role not merely in setting the agenda for transatlantic trade discussions, but also in participating in US-EU negotiations and in shaping domestic-level support for their agenda. With the TABD, the transatlantic business community plays a very *public* role in what has been called 'industrial diplomacy.' Indeed, as Stuart Eizenstat, former Undersecretary for International Trade at the Commerce Department noted, 'This [TABD] process is not a fifth wheel. It has become part and parcel of the entire transatlantic agenda.'[7]

As discussed in this chapter, the TABD has prompted government and business groups alike to define new structures, new working relationships, and new policy-making processes. The chapter begins with an overview of the TABD from its origins, the early business-government relationships, and – given that TABD is a conference-driven initiative – the 1995 Seville conference that created the initial transatlantic policy recommendations. The following section highlights the events leading to the 1996 Chicago conference where business and government leaders, including EU Member State and US regulatory agency officials, met to discuss government processes. The Chicago summit led to the historic US-EU Mutual Recognition Agreement (MRA) covering seven key sectors. The next section outlines the steps taken by the TABD business community in 1997 to widen the group's membership, increase its visibility, and identify policy priorities for government officials. This section also examines the quadrilateral negotiations leading to the MRA and the achievements reached at the 1997 Rome conference. The following section highlight developments in 1998, including the TABD scorecards, the EU proposal for a New Transatlantic Marketplace, and the Transatlantic Economic Partnership that was ultimately signed by the two governments. The conclusion reexamines the TABD's contribution to the US-EU partnership, and explores some of the challenges facing industrial diplomacy in the future.

ORIGINS OF THE TRANSATLANTIC BUSINESS DIALOGUE

On December 15, 1994, the TABD concept was formally proposed by the late Commerce Department Secretary Ron Brown at a speech sponsored by the EU Committee of AmCham in Brussels.[8] There were at least two rationales behind the Commerce Secretary's 'vision' of the TABD. First was Brown's belief that international business was at least four to five years ahead of governments in its thinking on trade liberalization. Yet Brown and other Commerce Department officials found that existing US and EU lobbying organizations did not adequately coordinate their positions on transatlantic trade issues. They also believed that European firms were not sufficiently mobilized in Brussels on external trade matters. Thus, EU negotiators often based their trade positions on Member State input, but not on input from European industry per se. Brown believed that US and EU Chief Executive Officers (CEOs) needed to come together and develop a unified transatlantic trade agenda that neither the US nor the EU government could ignore.[9] US government officials were convinced, moreover, that their negotiating position would coincide much more closely with the US-EU business community's stance than would that of the European Commission. Consequently, the Commission as the 'outlier' would be compelled to alter its position in the negotiations.[10]

A second rationale behind the Commerce Secretary's speech related to domestic American politics. It was no coincidence that the idea was launched shortly before Congressional representatives pushed legislation to dismantle the Commerce Department. By encouraging industry involvement in transatlantic trade negotiations, Brown hoped to secure greater business support for the department.[11]

Following Brown's speech, officials in Washington, DC, and Brussels generated a plan to create a transatlantic coalition of US and EU Chief Executive Officers (CEOs) who would propose measures to improve US-EU trade and investment. Stuart Eizenstat, then-US ambassador to the EU, met with Commissioners and officials from Directorate Generals I (trade) and III (industry) to promote the plan.[12] Sir Leon Brittan, the commissioner responsible for US-EU relations, was very receptive to the TABD concept He wanted to involve business in trade negotiations in a more structured manner not only to create consensus and support for the talks, but to build support for Brittan's own trade agenda.[13] However, Horst Krenzler, Director General of DG I, was less enthusiastic. As one Commission official noted, 'in the initial stages, there was a certain amount of skepticism because we thought transnational relations was best done between governments ... but the advantages of business involvement soon became apparent.'[14] Commission officials also wanted to make sure that the US government did not have a 'hidden agenda' – such as the previously proposed TransAtlantic Free Trade Agreement (TAFTA) – behind the TABD.[15] By early spring 1995, Sir Leon Brittan and Industry Commissioner Martin Bangemann agreed to the project.

In April 1995, Brown, Brittan and Bangemann sent a letter to approximately 1,800 US and European industry officials asking for suggestions regarding a transatlantic business forum.[16] The famous 'Three B' letter was designed to 'test the waters' for a new initiative that would reduce tariffs and/or address other business concerns. Over 300 European and American replies were received.[17] To the surprise of both the US and EU governments, the business groups responded that the lowering of tariffs was not a high priority.[18] Rather, they argued that duplicate standards, testing, and certification procedures were far more costly and harmful to companies than the already low tariff schedules.

By July 1995, a joint US-EU steering committee comprised of government and industry officials met for the first time in Brussels.[19] The committee decided to launch a conference in Seville, Spain, four months later to bring industry officials together to develop recommendations for removing obstacles to trade and investment. Four transatlantic working groups were created to prepare working papers: (1) standards, testing/certification and regulatory issues; (2) trade liberalization; (3) investment; and (4) third country relations.

American Business/Government Relations: The 'Muffin Club'

In preparing for the November 1995 summit, American government and business officials needed to develop a strong working relationship. To do so, the government had to counter the initial reticence of the business community.

Interestingly, despite the Commerce Department's belief that it was attuned to the needs of US business, American firms' initial response to the 'Three B' letter was rather lukewarm. First, several firms were wary that the initiative was merely a stunt to support the Commerce Department and the Clinton Administration during the run-up to an election year. Indeed, because the Republic-dominated Congress might question the TABD initiative, the companies did not want to jeopardize key legislative issues such as corporate tax cuts. Second, other firms were reluctant to find themselves caught in-between the Commerce Department and the Office of the United States Trade Representative (USTR) which had the legal authority to negotiate US-EU trade matters. Though the TABD initiative purportedly had then-USTR Mickey Kantor's approval, several USTR officials were not pleased with the Commerce Department's encroachment on their turf.[20] After all, international trade negotiations – such as the agenda suggested by the 'Three B' letter – were the responsibility of the USTR, and not the Commerce Department. Third, still other business officials expressed concern that economic issues would be linked to a larger 'Atlanticist Agenda' involving military and security issues. They did not want to be 'used' by governments in the efforts to reinforce the NATO relationship, for example. Finally, many American firms questioned whether they would be embarking on anything 'new'. Most of the agenda items proposed in the 'Three B' letter – such as standards, tariff barriers and investment – were already being considered in other international fora such as the OECD and WTO. The value-added of an additional transatlantic initiative was not clear to American business.

Despite industry's initial reticence, the TABD proceeded once Commerce officials enlisted CEOs that were 'close to Commerce, friendly to Brown and the Department.'[21] Commerce sought Chief Executive Officers (CEOs) who would be 'responsive, who could take on Commerce's mission, who could take on Brown's mission.'[22] Dana Mead of Tenneco, John Luke of Westvaco, Bill Hudson of AMP Incorporated, and Jack Murphy of Dresser Industries joined the initiative to form the U.S. Steering Committee. In early fall, Alex Trotman, CEO of Ford, was recruited to co-chair the US TABD Steering Committee with Allaire. Scottish born, Trotman is a naturalized US citizen whose previous post was head of Ford Europe. Thus, Trotman viewed the transatlantic initiative as an important project from both a professional and personal perspective.

Not everyone was satisfied with the TABD arrangements. Several U.S. trade associations were less than pleased that the TABD would be a 'CEO-to-CEO dialogue' – thus shutting out groups like the National Association of Manufacturers (NAM) and the U.S. Chamber of Commerce.[23] NAM and the U.S. Chamber resented the exclusion in part because they already met with their European counterpart, UNICE (the Union of Industrial and Employers' Confederations), to discuss transatlantic trade and investment issues. NAM officials were somewhat placated when Dana Mead, CEO of Tenneco and incoming NAM chairman, joined the U.S. Steering Committee.[24] In addition to the industry associations, some members of the Industry Policy Advisory Committee (IPAC), the Industry Sector Advisory Committees (ISACs), and their umbrella group, the Advisory Committee for Trade Policy and Negotiations (ACTPN) protested that TABD would bypass the legally mandated private sector advisory committee system.[25] Commerce and industry officials assured these members that they would be fully apprised of TABD activities and pointed out that there was already membership overlap between TABD and the ISACs.

Beginning in late September, a working relationship between industry and the Commerce department was underway. The US Steering Committee began to focus intensely on the preparations for the Seville conference. Every weekday morning at 8 a.m., for the following three months, the 'Muffin Club' (named after the breakfast fare) met at the Xerox government affairs office in Washington, DC. The goal of the Muffin Club was two-fold: to recruit CEOs, and to prepare working papers for the Seville conference. The Muffin Group participants included officials from Xerox and Ford, the representatives of four CEOs representing the Seville working groups,[26] and a newly-hired US TABD coordinator who worked out of the Xerox office in Washington, DC. In addition, Frank Vargo, the Commerce Department's Deputy Assistant Secretary-Europe, and other Commerce officials attended every meeting as 'observers'.[27] USTR and State Department officials occasionally joined the meetings. Given that the success of the Seville conference – and TABD itself – was largely dependent on the number of U.S. CEOs who showed up for the event, Vargo's role was to assist in recruiting business leaders. Vargo regularly informed Ron Brown when telephone calls to various individuals were needed. He also served as a 'sounding board' for working group officials who questioned whether various recommendations were viable or not.[28]

While the early Muffin Club meetings were filled with concerns about CEO recruitment and complaints regarding the exhaustive workload, the group managed to pull together a high-power list of company leaders and extensive briefing papers. Participants describe the Muffin Club meetings as a 'logistical exercise.' The meetings also represented, however, the close ties forged between business and government officials on trade matters in the United States over the past few decades.[29] As discussed below, however, this same business-government relationship on trade matters was not found on the other side of the Atlantic.

European Business/Government Relations: A Complicated Alliance

Following the response to the 'Three B' letter, EU Commission officials recruited Jürgen Strube, CEO of BASF who once lived in the US where he headed the firm's North American Regional Division. Officials also tapped Peter Sutherland, chairman of Goldman Sachs International. While Sutherland worked for an American firm, his 'European credentials' were firmly ensconced as former Vice President of the European Commission and Director General of GATT.

In many respects, the recruitment of European business leaders such as Strube and Sutherland was the easy step. Developing a working relationship between Commission and industry within the TABD was more difficult. Disagreements with trade associations, questions regarding the official competence of the Commission, as well as DG I's approach to external trade negotiations proved to be important obstacles.

Trade Association Disagreements

One reason for the difficulties is that Commission officials agreed with their American colleagues that CEOs should drive the TABD process – not business associations. While American associations were none too pleased with this situation, European associations were up in arms over the TABD format.[30] The reason was quite simple: the CEO-driven format defied the traditional business-government relationship long established in Europe, notably continental Europe.[31] Historically, industry associations – not CEOs – were the primary interlocutors in business-government relations.[32]

Believing the CEO-only format would minimize the role of sectoral, national and European associations, UNICE officials held frank conversations with Commission officials as well as with Ambassador Eizenstat. While responding favorably to the '3B letter' on behalf of its membership (national industry associations), UNICE contested the new structure.[33] UNICE officials pointed out that a transatlantic industry dialogue already existed between it and American associations. They also questioned the representativeness of the TABD process, maintaining that TABD must speak on behalf of European business as a whole, and not a handful of companies.[34] Finally, UNICE officials pointed out that the TABD required individuals with specific technical expertise on trade and investment matters – an expertise usually found in the industry associations themselves in Europe.[35]

Commission officials, however, were determined that the TABD be CEO-led. They noted that UNICE's institutional format did not provide the dynamism for TABD to be successful. While undeniably 'representative,' the UNICE structure could also be very time-consuming and bureaucratic. As one Commission official explained, 'We did not want the [TABD] process to be filtered by the UNICE-style process. We don't want the very correct and proper functioning of UNICE which gives you the average view.'[36] Moreover, while UNICE's expertise on transatlantic issues centered on technical details, the purpose of the TABD was to engender broader *political* initiatives. Of course, that Commissioners were more interested in working with and developing political ties to heads of major European companies than they were with leaders of national industry associations also influenced their selection of the CEO format.

Commission and industry officials reached a compromise in which UNICE served as a member of the European TABD steering committee while the European companies maintained the larger TABD leadership role. Strains among UNICE, individual companies and the Commission, however, persisted throughout the TABD's first year.

The Commission's Official Competence and Business's Participation

The role of the Commission vis -à-vis the member states in external policy matters provided another obstacle to developing Commission-industry ties. The power of the Commission depends greatly on the policy arena at hand.[37] For example, the Commission assumes a critical role in the development of EU regulatory policy. However, EU treaties place certain restraints on the Commission's powers in external trade policy. The Commission must be given its negotiating mandate by the Article 113 Committee (made up of Member States) and report to the Member States regularly on the negotiation proceedings.[38] Moreover, any Commission activities must be approved by the Member States' unanimous vote.[39] Thus, the ability of the Commission to act as a legitimate partner in international trade negotiations is sometimes questioned.[40]

While some firms did express their interests directly to trade officials in DG I and III, Commission officials admit that it was very difficult to get a clear cut position of business on the Uruguay Round.[41] The fact that European business has not formally organized itself in Brussels to lobby Commission officials on trade issues may be one reason for the weak industry position. Another reason may be the lack of formal channels to Commission officials. U.S. industry, for example, has direct channels to the Commerce Department and USTR on trade issues through the ISACs. European industry does not.[42] Granted, UNICE provides 'official' industry positions on trade matters. UNICE, however, is not interested in creating more formal industry inputs based on the American ISACs model for the simple reason that European-level sectoral associations would then challenge the peak association's leading role.[43]

The Approach of DG I

DG I's overall approach to trade matters also served as an impediment to closer Commission-industry ties within TABD. There are two dimensions to the DG I approach. First, DG I tends to focus on the 'wider public interest' as opposed to industry concerns per se in trade negotiations.[44] Commission officials draw up a work program for the negotiations based on their perceptions of what they believe are the larger societal interests – including those of labor, consumer, and environmental groups. These latter groups focus their lobbying activities on national governments, who, in turn, express their concerns in the 113 Committee. As one Commission official explains,

> Business is a major group [in external trade matters] but it is not the be all and end all. I can well imagine hearing the business contribution – but we must also take x, y and z into account. Both sides – government and business – appreciate the context in which business conclusions will be cited.[45]

Indeed, several DG I officials opposed the initial TABD concept precisely because industry groups would invariably have a greater say in trade decisions. As another official noted, 'TABD complicates life. Joint US-EU business views will carry weight. We cannot disregard them. If an organization ignores a pressure group, you make life more difficult.'[46]

The second and related dimension of DG I's approach is that it is based on a 'package approach' or 'umbrella approach' to negotiations. Rather than negotiating on a sector-by-sector basis, DG I prefers a multi-sector package. Like the 'wider public interest' argument, DG I views the package approach as a fairer means to proceed in negotiations, and a better way to gain concessions from its negotiating partners. This approach is frustrating at times to European business that desires liberalization in individual sectors. As discussed below, the package approach also complicates mutual recognition agreements with the US government.

Given these obstacles – trade association disagreements, questions regarding the Commission' competence, and DG I's approach – the working relationship between DG I and industry began very slowly. As one EU industry representative noted,

> the original involvement [of the two sides] was very difficult. Business wanted a briefing from the Commission on what the Commission was doing in these areas [of trade and investment]. The Commission expected business to tell [the Commissioners] what it wanted to do. We hadn't developed a spirit of cooperation. It didn't work too well.[47]

Moreover, the Commission took a 'wait and see' stance, pushing industry to 'run with the process.'[48] TABD was, after all, touted as a business-to-business dialogue. Several EU business representatives, however, believed that the 'Commission wanted to place the burden of success on industry.'[49] Consequently, European industry representatives did most of the preparatory work for the Seville conference themselves.

The 'Spirit of Seville'

Expectations were growing by the time the Seville meeting arrived on November 10, 1995. Business leaders on both sides of the Atlantic had worked at a frenetic pace to complete the working papers that would serve as the basis of discussion. The US paper on standards, testing/certification and regulatory issues went through 34 revisions alone. Pressure was added when the European media labeled the conference a test for overall US-EU relations.[50]

The Seville meeting also symbolized the different cultural approaches each side brought to the business dialogue. The Americans prepared for Seville largely as a logistical exercise. 'American efficiency' was evident when each U.S. CEO walked into the conference area with a special briefing booklet bound in a Department of Commerce folder. Muffin Club members had prepared most of the material for the booklet, notably the briefing papers. Commerce department people, however, assembled the booklets and included maps of Seville as well as an 'official welcome' from Commerce Secretary Brown. From an American perspective, the briefing booklet was a logistical necessity for CEOs traveling overseas. Of course, it also served as a nice propaganda piece for the Commerce Department. From the European perspective, however, it appeared that the Commerce Department itself had prepared the papers for the conference, and not the American companies as promised.

The European logistical preparation – according to both American and European accounts – was less obvious. There were no general briefing books, nor did every CEO or board member have a copy of the working papers before the conference. (The sole exception were the European chemical CEOs who were given a preparatory book by the German chemical association, VCI.) One reason for the weaker preparation was the fact that the Commission had devoted fewer resources to TABD. Whereas the Commerce Department sent twelve people on its advance team to Seville, the Commission sent two.[51] The relative lack of coordination between the Commission and the TABD business representatives likely contributed to the situation. Of course, unlike the Americans, neither the Commission nor the industry people had any strong experience with the TABD's CEO-style format. As one European official noted, the TABD was 'a whole different ballgame. It was something we had not done before.'[52] Some attendees were concerned that the Europeans would be at a disadvantage in the negotiating process vis-à-vis the Americans as a result.[53]

Finally, there were differences in the approach taken by the two sides to the working papers. The Americans tended to focus on specific recommendations and details regarding trade and investment policy. The Europeans, on the other hand, had called attention to broader principles. The difference in approach, however, had nothing to do with preparation for the conference. As one European industry representative – who is highly regarded by his American counterparts – explained,

> As Europeans, we're different from the Americans. [In looking at the US and EU working papers, it is] not that someone was behind, or someone was leading.... Americans love more detail, more tangibles. Europeans look for principles and visions. That won't change – but that doesn't mean we can't work together.[54]

In fact, the many differences in tradition and culture were soon pushed aside by the accomplishments made at Seville. According to most American and European participants, the Seville conference was a great success.[55] Despite the short time frame (less than 48 hours), business participants agreed to over 70 specific recommendations in a final document for US-EU government consideration. One key recommendation put forth by the two sides was the Information Technology Agreement (ITA) slated for discussion at the 1996 WTO Singapore Ministerial meeting. The US-EU business community was united in its support for the complete elimination of residual customs tariffs on IT products by the end of the year 2000. (The united front would make it easier for US-EU negotiators to promote a global ITA to Asian and Latin American countries at the WTO Singapore meeting.)

Attendees were surprised by the amount of goodwill that existed between the two business sides given that many of the companies were market competitors. The conference was also marked by the participants' willingness to focus on areas of agreement – and to not let their discussions be sidetracked by areas of disagreement. Business representatives soon referred to the cooperative working environment as the 'spirit of Seville.'

Not knowing whether the conference would be successful, government and business leaders had not made any definite plans for 'post-Seville.' Before the conference ended, however, Trotman of Ford and Strube of BASF decided to jointly continue the TABD process to ensure that their respective governments would follow through on the Seville recommendations. Indeed, the 'spirit of Seville' prompted the US-EU business to largely take over the initiative in ensuing months.

US and EU government officials were also pleased with Seville's success. Following the conference, the Commerce Department and Commission wrote extensive comments on the 70-plus recommendations. The following month, approximately 60 percent of the TABD Seville recommendations were incorporated in the New Transatlantic Agenda (NTA) at the December Madrid Summit attended by President Clinton, Commission President Jacques Santer and Spanish Prime Minister and EU Council President Felipe Gonzalez.[56] Moreover, the NTA formally noted that 'the creation of the New TransAtlantic Marketplace will . . . take into consideration the recommendations of the TransAtlantic Business Dialogue.'[57] The TABD's inclusion in the NTA was further evidence that while initially viewing TABD as a separate Commerce Department undertaking, the State Department and USTR now embraced the business dialogue as a positive vehicle for transatlantic economic and political relations.

1996: FROM SEVILLE TO CHICAGO

In February 1996, the government and business members of the US-EU TABD Steering Committee met to establish a follow-up program to Seville. Business leaders decided to draw up more precise statements and action plans for the Seville recommendations to preclude government backpedaling on the issues. Based on recommendations from European industry, the business leaders presented the Commission and US government with a new structure of 15 issue groups, thus replacing the original four working groups (see Table 1).[58]

Table 1

1996 TABD Issue Groups

Transatlantic Committee on Standards Certification and Regulatory Policy (TACS)
WTO Implementation and Expansion Issues
Trade Liberalization
Information Technology Agreement
Government Procurement
Intellectual Property
Tax Issues
Export Controls
Customs Issues
Transportation
International Business Practices
Small and Medium Sized Enterprises
Investment and R&D
Product Liability
Competition Policy

One of the rationales for the new organizational structure was to make the process more manageable. At the same time, however, EU business participants recognized that the new structure would place pressure on DG I to move from its 'package approach' to external trade, to a sector-by-sector, issue-by-issue approach. As one

European business association official noted, 'the only progress that can be made is in the sectors. The sectoral approach is best but the Commission doesn't like it. [We decided to] go for it with our American counterparts – and then push the member states.'[59] Indeed, in later quadrilateral meetings, EU business officials were unabashed in promoting sectoral position such as 'zero-tariff' proposals in the information technology section to sometimes reluctant DG I officials.

Commission officials, for their part, became more responsive to the TABD process – perhaps prodded by criticism from the 113 Committee for not having briefed industry adequately prior to the Seville conference.[60] In addition to DG I and III, other DGs began to follow TABD more closely such as DG IV (competition), DG XV (intellectual property rights, procurement), and DG XXI (customs). The Commission also devised a contact list of Commission officials within the Commission services to allow for better coordination between business and the Commission. For example, there is a Commission official designated for each TABD issue group. Slowly, a more cooperative relationship developed between European industry and the Commission, notably in DG I.

The new organizational structure also created a more positive relationship between the companies and the business associations. A number of UNICE policy committee members, for example, chaired the TABD issue groups. While the companies still led the TABD initiative, the associations were now more integrated into the overall process.[61]

With the structure in place, US and EU business representatives soon pursued their own transatlantic shuttle diplomacy on behalf of the CEOs – very similar to that of their government counterparts. Meetings were held in Europe, in the US, and via transatlantic conference calls.[62] In a process that would continue over the next few years, company representatives met in individual issue groups, as part of the US or EU steering committee, and/or as part of the Joint Steering Committee to push the TABD agenda. On May 23, 1996, the TABD issued its Progress Report – a 72-page document with specific policy recommendations. The document included suggestions for 'language to be included' in the June 1996 transatlantic government summit. In addition, a 'message to government on business expectations' was highlighted in virtually every subsection of the report.

The TABD Progress Report addressed several key issues including the Information Technology Agreement (ITA), automotive regulatory harmonization, and mutual recognition agreements (MRAs). The May 1996 report also reiterated the business leaders' decision to convene another conference in November. This time, CEOs and government officials – including USTR and Commission trade negotiators as well as US regulatory agency officials – would sit down to 'assess the progress' and encourage further action on TABD recommendations.

In the words of one TABD participant, the May Progress Report contained 'strident calls from government action, perhaps anticipating [what would become] the dismal June Summit.'[63] For their part, US and EU officials publicly applauded the Progress Report and cited the TABD process as one of the most positive developments in the US-EU relationship. At a May 23, 1996 press conference in Brussels, the new Undersecretary of Commerce Stuart E. Eizenstat was effusive in his praise of TABD. Eizenstat noted that

> ... no one would have quite imagined the degree to which this [the TABD] has influenced government decision-making on both sides of the Atlantic. It has become deeply enmeshed and embedded into the U.S. government decision-making process on a whole range of regulatory, trade, commercial issues. It is regularly cited, often by one agency against the other .... It is regularly

> cited and is part of the ongoing discussions between the EU and the U.S..... So the TABD has had a truly remarkable impact in our country, in the Transatlantic dialogue, and multilaterally'.[64]

While accepting government praise for the May 1996 Progress Report, US-EU industry groups also expected action on the TABD recommendations. Given the frenetic work and considerable resources expended on TABD, the transatlantic business community anticipated concrete results at the June 1996 government summit between US and EU leaders. The June summit, however, disappointed the business leaders. While President Clinton formally recognized Jürgen Schrempp of Daimler-Benz and John Luke of Westvaco at the summit press conference for their active TABD participation, the US-EU governments' disagreement over the Helms-Burton legislation on Cuban investments dominated the summit.

The June summit prompted TABD leaders to call on the governments to achieve concrete progress by the next TABD conference to be held five months later in Chicago. Industry officials warned that they might terminate the TABD process – now an important cornerstone of the New TransAtlantic Marketplace – if government action was not forthcoming. In private meetings and in public fora, US and EU officials repeatedly stated their willingness to address the TABD recommendations.

Confidence Building

Business leaders – who often measure time by quarterly profit reports – were frustrated by the governments' slow response. As one Commission official noted,

> The government side [did not sell] the real necessity of time to the business side – not that we don't share their enthusiasm. It is simply that given [the potential problems], in order for whole process [to work], we need to build little by little and to get it right this first time.

TABD business participants increasingly recognized, however, that many of the Seville and May Progress Report recommendations would take months if not years to implement. Time was necessary for government negotiators and domestic groups to grapple with some of the political initiatives. After all, transatlantic business partners required the Seville conference and almost a year of negotiations to develop a comfortable working relationship. A large part of the relationship was centered on a unique learning process. American business leaders – who knew little of the workings of the European Union – began to better understand the complicated multi-level structure in Europe. They also learned more about the specific obstacles facing European companies in the US market. As one participant noted, 'From a European perspective, the dialogue has worked very well to educate American industry to reality.'[65] In return, the Europeans discovered some of the impediments to trade facing the American companies. Equally important, the two sides also learned how to work together in the dialogue. Americans determined that the European representatives were equally adept at 'technical details' as they were with 'overarching principles' articulated at the Seville conference. Europeans, on the other hand, learned to recognize that the Americans' 'direct, blunt' style was not designed to 'shove their views' onto the Europeans. Rather, it was simply the 'direct, blunt' style of the Americans!

As one business representative noted, 'TABD is a psychological process as much as anything.'[66] Of course, the two governments – and notably, the US regulatory agencies – needed their own confidence-building measures. As one Commission official noted,

> We are working very hard to explain how regulations work on both sides and to find a common path for a common regulatory system or a mutual regulatory system..... We need confidence-building measures of tremendous proportion.....[67]

Interestingly, in Europe, the confidence-building had begun several years earlier when 'mutual recognition' was enshrined as a key principle underlying the Single Market Program.

The Chicago Breakthrough

The US-EU business community's patience and confidence-building measures paid off at the November TABD conference. Approximately 300 participants attended the Chicago conference: 27 EU and 37 US CEOs, over 130 business representatives, and some 100 government officials.[68] Whereas Seville was organized primarily as a business-to-business dialogue, the Chicago TABD meeting was designed for government and business officials – including representatives from US regulatory agencies as well as from the EU Member States – to sit down and take the Seville discussions to a higher level.[69] Government officials were aware of the business community's demand for results. In a briefing prior to the Chicago conference, Frank Vargo, Deputy Assistant Secretary of Commerce for Europe, suggested that Sir Leon Brittan captured the sentiment well when he stated that 'Wherever US and EU business agree on something, we [the governments] must act, or we must give a good explanation why not.'[70]

The conference included three roundtables: one on the Transatlantic Advisory Committee on Standards (TACS) dealing with standards, certification, and regulatory policy (with breakout groups in four sectors); a second on global issues (WTO, intellectual property and related subjects); and a third on business facilitation (investment, export controls, international business practices, etc.). TABD representatives knew that business participants were not merely interested in issuing joint recommendations as in Seville. The organizers wanted roundtable discussions in which the governments were partners in the discussions. Organizers were keen to have not only the Commerce Department and Commission at Chicago, but also the US regulatory agencies, USTR and the EU Member States. As one participant noted, 'The purpose of Chicago was to get the governments at the table and to develop the Seville-style of business/business discussions into a four-way discussion. In this discussion, business listened to the problems governments were having with various proposals, and then worked together to develop creative solutions that could address each other's concerns.'[71] Then, it would be up to the US-EU industry to respond.

The response came during the first TACs roundtable. The US and EU had been discussing mutual recognition agreements (MRAs) for almost five years. The MRAs had been identified as a top priority at the Seville conference where the business community called on governments to accept the principle of 'approved once, accepted everywhere in the Transatlantic Marketplace.' The US government came to Chicago promoting an MRA covering five sectors where agreement could readily be reached in each sector. However, the European Commission – relying on its package approach – had insisted on an MRA covering pharmaceuticals and medical devices – two sectors where significant US-EU differences persisted.[72] In the pharmaceuticals sector, the problem centered on the two sides' certification of 'good manufacturing practices' in the pharmaceuticals sector. In an opening statement, the US Food and Drug Administration noted that it 'was inexperienced in confidence building'[73] Yet in the discussion that followed, as one FDA official recalls, 'industry leaders asked FDA officials why they were 'quibbling' over certain matters…. The companies' advice to the FDA was simple: "Get on with it."'[74] A solution was proposed in which the US regulatory agency would rely on European inspection reports and vice versa, and be allowed to reinspect European plants under 'exceptional' circumstances.[75] With the FDA on board, the US and EU governments agreed to follow-up negotiations to conclude the MRA by January 31, 1997.

In addition to the MRA breakthrough, the Chicago meeting achieved success in a number of other areas. There was significant movement, for example, toward concluding an EU/US Customs Cooperation and Mutual Assistance Agreement. Following the initial efforts at Seville, business pushed the two administrations to conclude the Information Technology Agreement (ITA) in the Singapore WTO Ministerial in December. The Chicago meeting also saw the creation of the Transatlantic Small Business Initiative (TASBI) – a program first promoted by the Europeans. In addition, the business community pushed for the adoption of language in the final Chicago declaration to address the US Helms-Burton law and to encourage the withdrawal of extraterritorial provisions of the 1996 US Sanctions laws.

The appointment of two new business leaders to head the TABD was also announced at the Chicago meeting: Dana Mead, CEO of Tenneco, and Jan Timmer, Chairman of Philips. One month later, Mead and Timmer met with top-level government officials at the WTO Ministerial in Singapore where the ITA accord was signed. That same month, the two sent a letter with a copy of the Chicago Declaration to President Clinton and to Sir Leon Brittan. They later met with Presidents Clinton and Santer and Irish Prime Minister Bruton during the US-EU summit in Washington, DC, to press the TABD agenda.

1997: THE ROAD TO ROME: VISIBILITY, PRIORITIES, AND THE MRA

In taking over the leadership, Timmer and Mead brought a new impetus to TABD. Timmer in particular wanted to reinvigorate the process by making the TABD 'run more efficiently by getting more companies involved and at a higher level.'[76] If Seville had launched the TABD initiative, the Chicago conference had validated the process. The two businessmen wanted to ensure that the TABD had a viable future.

Tenneco and Philips worked to widen TABD's circle by recruiting new members to become Issue Managers. The TABD's ability to speak out on behalf of industry after all depended, in part, on whether or not the wider business community found it to be representative of industry. In Europe, efforts were made to broaden the geographical reach of TABD companies – notably to France and the southern Member States who previously were not strongly involved in the process. Some European business officials had privately complained that TABD was beginning to look 'too German' in outlook with the leadership of BASF and other German companies. EU industry and government officials were also aware that TABD's continued success would depend on French participation. Until 1997, French government and industry officials were watching the process from afar. There were concerns in some French quarters that TABD was a 'Transatlantic Free Trade Agreement in disguise.'[77] To counter these perceptions, Timmer enlisted Francis Mer, CEO of Usinor-Sacilor, to head the Business Facilitation Group. Conrad Eckenschwiller from the Mouvement des Entreprises de France (MEDEF -- the French national industry association) served as the working chair of the group.[78]

The new TABD leadership also worked to increase TABD's visibility to the business community on both sides of the Atlantic.[79] Greater efforts were made to make the TABD process open, accessible, and transparent by publicizing TABD meetings, achievements, and documents. In doing so, the TABD sought to encourage companies to become more involved in the process, and to deflect criticism suggesting it was an elitist organization.

At the same time, TABD companies were reaching out not only to the US and EU administrations – but also to the Congress and the Member States. Now that the international trade agenda was set, TABD business leaders decided to redirect some of their focus on the domestic scene. They recognized that domestic groups would also mobilize to influence the government officials' negotiating positions on transatlantic matters. On the US side, business leaders stepped up efforts with members of the US House and Senate to inform them of TABD recommendations and activities. Industry officials also continued their contacts with the House Ways and Means, House International Relations, Senate Foreign Relations and Senate Finance Committees. On the EU side, TABD officials began to develop closer ties with the European Parliament and the Member States. These efforts by Philips (a Dutch company) were facilitated by the fact that the Dutch government held the EU presidency for the first six months of 1997. A representative of the Dutch Minister of Foreign Affairs soon joined the EU Steering Committee meetings in Brussels.

Finally, Tenneco and Philips worked to strengthen the TABD structure and focus on key priorities for the year to come. Instead of 15 issue groups, the TABD was reorganized to focus on three core areas addressed at the Chicago meeting – the Transatlantic Advisory Committee on Standards (TACs), Business Facilitation, and Global Issues. In turn, each core group was further broken down into separate sectors or issues run by a US and EU issue manager. The Small- and Medium-sized Enterprises group was also established.

While Seville had produced a 'shopping list' of recommendations, Tenneco and Philips determined that the TABD needed to prioritize its demands to encourage more direct action by the administrations. During the first four months of 1997, the US and EU Steering Committees developed their priorities by determining 'which issues have enough meat to go forward and what new issues to embrace.'[80] Having developed its meetings and conferences around 'the rhythm of the [US-EU] summits', the TABD could thus target key issues for government leaders' attention.[81] The new priorities agenda also allowed US-EU industry to 'take control' of a process that was dominated at times by government officials' own agendas. The time had come to ensure that TABD was 'business-driven'. At the February 26th Joint Steering Committee meeting, the companies presented their plans to the governments for the year.

The MRA and the Quadrilateral Negotiating Process

The new leadership TABD team was put to task when US and EU negotiators failed to reach agreement on the MRA negotiations by January 31, 1997, as decided at the Chicago conference. A couple weeks before the deadline, the TABD became highly involved in the process, at times at the governments' request. In the midst of the MRA talks, a special quadrilateral meeting took place between the negotiators and a handful of CEOs to discuss the governmental impasse and potential business solutions. Despite the business intervention, the negotiators were unable to wrap up the MRA by the end-of-the-month deadline. A couple weeks later in

February, Timmer and Mead wrote to Presidents Clinton and Santer to express their dismay that the MRA deadline had been missed, and to emphasize the importance of its completion.

Pressure for completing the MRA mounted as the two sides met on several occasions to pound out agreements both internationally and domestically. Because the MRA included a number of sectors (i.e. a package approach), the negotiations included US regulatory officials from a number of disparate agencies. As Stuart Eizenstat noted,

> When we launched negotiations on the MRA, I don't think any of us appreciated the difficulties we could have in this. We found that we [the US and EU] had entirely different regulatory regimes…. [The situation was compounded in the US] by having independent regulatory regimes.[82]

The US regulatory agencies posed particular problems in the negotiations for two reasons. First, the agencies are operating under their own statutory limitations imposed by Congress. Thus, there were certain things regulatory agencies such as the FDA couldn't do even if it wanted to due to statutory limitations. Second, the statutory independence of the agencies meant that the regulatory officials had their own independent mindset and turf to defend as well.

A week before the May US-EU summit, Commissioner Sir Leon Brittan and USTR Charlene Barshefsky met again to discuss the MRA. The TABD chairs were kept apprised of the proceedings. On May 28th, Barshefsky and Commerce Secretary William Daley announced a 'major breakthrough' on the MRA negotiations, thus allowing for an overall agreement to be reached shortly. In the USTR press release, Secretary Daley noted that 'The Trans-Atlantic Business Dialogue, in partnership with the Administration, made it possible to reach this point.'[83]

The two sides were not able to finalize the agreement prior to the US-EU summit. Nonetheless, for the first time, perhaps owing to Dutch government's EU presidency, TABD was an agenda item at the May US-EU summit. As another first, Timmer and Mead met briefly with Presidents Clinton and Santer, and Prime Minister Kok of the Netherlands to present the 1997 TABD *Priorities Paper* that identified 'key priorities where action is required by governments to implement the TABD recommendations'

Finally, on June 13th, the two sides formally announced the conclusion of the MRA. Noting that the MRA covers over $40 billion of transatlantic trade a year, the two governments trumpeted the agreement. Sir Leon Brittan noted that the MRA was 'one of the crowning achievements of the new Transatlantic relationship' and that '[t]he identification of the MRA as a top priority by the business community was crucial in persuading the EU and the US to overcome bureaucratic objections and reach this hard-won agreement.'[84]

The MRA was by far the most important TABD agenda item accomplished to date. For TABD participants, the MRA's success was found not only in the potential savings to business, but in the TABD process itself. As the *Journal of Commerce* noted,

> [The MRA] took five years to negotiate, but most of the progress was made in the last 18 months when the chief executives of some 100 European and U.S. companies took matters into their own hands. It is a tribute to their persistence that the deal was put on the agenda of last week's trans-Atlantic summit….

> The mutual recognition agreement, while notable on its own merits, has its greatest significance in showing where industry-government cooperation can lead.[85]

Rome: The Renewed Agenda

The 1997 TABD *Priorities Paper* presented to Clinton, Santer, and Kok, laid the groundwork for the Rome conference. The paper was not a progress report – for many in TABD business community found progress to be minimal. Rather, it was a list of issues deemed 'critical' by TABD companies to the US-EU economies. The business community cited issues in the three core TABD groups: Standards and Regulatory Policy, Business Facilitation (taxation, export controls, customs, electronic commerce, etc.), and Global Issues (WTO, Trade Related Aspects of Intellectual Property Rights Agreement (TRIPS), patent law, etc.). The paper's top priority was the implementation of the Mutual Recognition Agreement signed in June. The document also called for the US and EU governments to not merely focus on immediate concerns, but to take a longer-term perspective on regulatory cooperation by agreeing to consult with one another before adopting new or amending existing regulations.[86] Business leaders also encouraged the governments to include more sectors and product characteristics into the MRA.

The Rome summit on November 6-7 was the largest to date with 65 European, 45 American CEOs and/or company chairmen. The conference was also the largest in terms of issues and breakout groups. New issue areas included global electronic commerce, dietary supplements, food additives and flavors, fasteners, and 'metric only' labeling.

Once again, the TABD conference was successful not only in terms of what business encouraged governments to do – but also in terms of what governments agreed not to do. In the latter case, US and EU industry convinced the Commission to delay legislation for 10 years (if not indefinitely) that would have required after December 31, 1999, for all products sold in the EU to be labeled only in metric units. 'Dual labels' with metric and non-metric (i.e. American measurements) would be prohibited. Industry pointed out that just as large American companies would incur significant costs in producing two different labels, so too would small European firms selling their goods to the American market. Moreover, the costs to small companies would likely be prohibitive and lessen their competitiveness.

Another important preventative action dealt with an EU directive that if enforced on January 1st, would 'block deliveries to Europe of tallow and gelatin derived from cattle carcasses because of the presumed threat of mad cow disease.' The problem is that about '40 percent of the tallow and gelatin used in Europe to produce filler and casings for pharmaceutical products like pills and tables comes from the United States.'[87] About 85 percent of all medicinal products sold in Europe would be affected by the directive. The Commission agreed not to impose any ban on tallow and gelatin for the foreseeable future.

One of the most energetic sections dealt with electronic commerce where the two business communities encouraged 'industry-led, market-driven privacy protection principles.' While business and government (notably the EU) did not see eye-to-eye on the issue, it was agreed that TABD would serve as an important forum for the two sides to discuss electronic commerce.

As they did at the Chicago summit, US and EU officials, along with business leaders, openly disagreed on the American use of sanctions against Cuba, Iran and Libya.[88] The TABD promoted the idea of businesses adhering to 'global best practices' (providing non-discriminatory employment, safe places of work and other core principles of workers' rights) in all international places. While affirming that economic sanctions are necessary at times, the business leaders argued that they should then be implemented multilaterally. The TABD called for governments to terminate their individual secondary boycotts and extraterritoriality sanctions provisions.

The TABD also applauded the US announcement made at the conference of an inter-agency group, headed by the David Aaron, Under Secretary for International Trade, to ensure the implementation of TABD recommendations. The group would include key contact people in each department and regulatory agency responsible for TABD matters. (In this respect, it is similar to the European Commission contact list set up after Seville.) Business officials welcomed the group as a firm commitment by the US government to support the TABD process. Some also viewed it as a Commerce Department initiative to bolster its position in a TABD turf battle with USTR now that the trade negotiators were clearly involved in TABD matters.

In the communiqué following the summit, business leaders praised the governments for achievements such as the MRA negotiation and worldwide Information Technology Agreement (ITA) at the WTO. However, they also criticized the US and EU for the lack of progress in a number of areas such as MRA implementation (calling on the governments to provide progress reports) and taxation policies (expressing their 'strong disappointment') while stating concern for outstanding trade conflicts (notably the US sanctions policy).

The following month, Mead and Timmer again participated in the US-EU summit, promoting the TABD recommendations with President Clinton, President Santer, and Luxembourg Prime Minister Jean-Claude Juncker.

1998-99: A CONTINUING PARTNERSHIP

In 1998, two new TABD chairmen – Jürgen Schrempp, Chairman and Chief Executive Officer of Daimler-Benz AG, and Lodewijk de Vink, President and Chief Operating Officer of Warner-Lambert – took over the leadership of the organization. The leaders determined that having enunciated TABD priorities, the organization's focus for the new year should be implementation. While US officials like to claim that '80 percent of TABD recommendations are now official US policy,' most of the recommendations are in the consultation stage. (The EU Commission is guilty, of course, of making similar statements.) Even where agreements have been reached – such as the MRA – they have yet to be implemented.

With the theme of implementation, the TABD decided to create a 'scorecard' giving the status of each issue, an overview of what needs to be done, and a suggested date for implementation. (According to a Commission official, business followed the Commission's own 'scorecard approach' to TABD developments.[89]) A draft scorecard was prepared for the April 23-24 Joint Steering Group meeting comprised of all issue managers and senior US and EU officials. The 1998 Mid-Year Scorecard Report was then presented by Schrempp and de Vink to Presidents Clinton and Santer, and Prime Minister Tony Blair at the May 18th US-EU summit in London. The report noted that the US and EU administrations have taken 'significant, concrete action' on almost one-third of TABD's recommendations, while more than one-half of these recommendations are 'under active discussion between business and government communities.'

As impressive as the TABD scorecard was, the business community's work was overshadowed by the US and EU administrations' own agenda-setting efforts. On 11 March 1998, the European Commission gave its support to a new plan proposed by Sir Leon Brittan to create a New Transatlantic Marketplace (NTM) – a wide-ranging plan designed to rid trade barriers from US-EU trade. Brittan had argued that under the 1995 New Transatlantic Agenda (NTA), progress was made 'through a step-by-step approach.' However, this approach proved needlessly protracted during the 1997 Mutual Recognition Agreement negotiations.[90] One of the proposed NTM's goals was to speed up the process through an extensive MRA negotiation over a number of sectors. The NTM also proposed to eliminate all industry tariffs by 2010, create a free trade area in services, and liberalize government procurement, intellectual property and investment beyond current agreements.[91]

The TABD's response to the NTM was both supportive and cautious. On one hand, the business group was 'encouraged by efforts to improve business conditions in the transatlantic region.'[92] In examining the Brittan proposal, some business leaders argued that the proposed NTM set up a broader political framework around original TABD goals. Sir Leon's proposal was a 'political top-down exercise on TABD's bottom-up approach.'[93] Given the slow pace of the MRA, such a political framework was necessary to place pressure on regulatory officials to move forward and thus speed up future MRA negotiations. On the other hand, TABD expressed concern that the proposal continue to 'safeguard and improve the pragmatic results produced by TABD.'[94] In certain respects, the Brittan initiative looked like the ill-fated Transatlantic Free Trade Agreement proposals floated before the TABD's creation. TABD business leaders were wary that the NTM might detract from what were – in their view – more important TABD issues. American business representatives were also concerned that the NTM created a huge package deal.[95] As stated before, American business preferred to work on a sector-by-sector, issue-by-issue basis.

In the end, Brittan's NTM initiative was defeated by the member states themselves at a meeting of European foreign ministers on 27 April 1998. Less than a month later, US-EU government leaders were able to salvage the NTM debacle by agreeing to a new trade expansion initiative, contingent on compromise actions regarding the US Helms-Burton legislation. The Transatlantic Economic Partnership (TEP) was announced at the US-EU Summit in London on 18 May 1998. Initial plans call for the TEP to focus on agriculture, services, electronic commerce, and a number of other areas of interest to TABD companies. As one Commission official described it, the TEP is a rather 'innocent document' broad enough to please everyone.[96] Recognizing that the TEP is not designed to replace TABD but to add greater political impetus to trade matters, companies have been supportive of the new initiative.

And in the meantime, the TABD has forged ahead with its own partnership and agenda. At the 1998 TABD conference in Charlotte, North Carolina, US Vice President Al Gore provided the keynote address to over 500 business and government participants at the conference. The Charlotte meeting was a watershed in terms of the TABD's 'coming of age.' The 52 working groups allowed for more indepth and technical discussions among business and government officials. At the same time, some participants expressed concern that the TABD had become 'such a well-oiled machine that it lacked spontaneity.'[97] While several significant steps were taken on matters such as guidelines for US-EU regulatory cooperation, the implementation of the MRAs, and e-commerce, the general sentiment emerged that the TABD conferences had become too large with each CEO bringing his or her own staffer and issue manager. The political dynamics of CEO-to-CEO meetings were beginning to be overshadowed. Thus, following the December 1998 US-EU summit in Washington, DC, the new TABD c-chairs, Richard Thomas of Xerox and Jérôme Monod of Suez Lyonnaise des Eaux, determined that the TABD conferences needed to be turned back to the level of the 'decision-makers' – i.e. the CEOs and high-level government officials.

The new TABD leadership brought other changes to the organization in 1999. The two men decided to promote smaller, more informal meetings with senior government officials such as US Commerce Secretary Daley to promote greater dialogue on TABD priorities. In addition, small transatlantic groups of CEOs met with independent agency heads to discuss key concerns to the companies. In May 1999, business and government officials were able to announce the promotion of an 'early warning system' to identify and minimize trade dispuates, and thus to avoid any US-EU trade wars. XXXXXXXXXXX

1999 New CEOs – building on WTO, SE Europe, e-commerce, Berlin conference.

2000 New CEOs

ASSESSING THE FUTURE

Through the TABD, it is clear that US and EU businesses are no longer the 'silent partners' of the transatlantic relationship. Rather, they have emerged as important political players in shaping US-EU trade relations. In doing so, the TABD takes an important first step in transcending some of the problems inherent in the US-EU relationship.

As Smith notes in his excellent piece in this book, there are a number of policy dimensions and dilemmas facing the US in its partnership with the EU – just as there are similar difficulties facing the EU in its relationship with the US. While agreeing with Smith's overall characterization of the US-EU economic partnership, I differ in his concluding assessment of US-EU trade strategies. While the TABD does not offer a 'grand strategy,' the TABD can and does offer nonetheless a strategy – a limited but important one – on which to build the transatlantic economic relationship.

Smith argues, for example, that much of the complexity facing the US-EU partnership can be attributed both to the growing economic interdependence between the two as well as to the divergent regulatory structures and industrial cultures ('system friction'). It is not surprising that internationally-oriented firms are far more attuned to this dimension of transatlantic relations than are the regulatory officials or public servants who purportedly represent their interests in trade discussions. Because they rely on global sourcing and imports in the face of growing cost pressures and international competition, TABD companies recognize the need for transatlantic regulatory cooperation.[98] Because they have considerable investments in each other's markets, they have a political interest in transatlantic developments.[99] The TABD has thus played an important proactive role in promoting trade and regulatory policies that address this economic interdependence. At the same time, in the 'spirit of Seville,' the TABD has worked to mitigate industrial culture differences by focusing on those issues where there is significant agreement on the two sides.

As discussed above, the TABD has created new structures and prompted new working relationships not only between US government and EU Commission, but also within the respective administrations. These structures and working relationships inform the cross-national, cross-department, intergovernmental, and, of course, government-business policy developments highlighted by Smith. As pointed out in this chapter, the TABD has created a bilateral forum for discussing multilateral (i.e. WTO) matters, prompted interagency regulatory coordination groups, and, quite obviously, developed novel business-government coordination on regulatory matters.

Perhaps most importantly, the TABD has engendered new policy-making processes in the transatlantic partnership. As one Commission official explained, because of the TABD, 'there is a new way of negotiating that has developed.' Prior to TABD, MRA negotiations were very combative in style. The two sides would seek concessions from each other. It was, in the words of the Commission official, very 'defensive.' However, with TABD involvement, the tone of the negotiations changed as participants recognized that 'to get the MRA working, you needed to develop very deep interrelations between two big systems…. The TABD was a paradigm for how this kind of exchange could take place.'[100]

In short, while the TABD process may not be a 'grand strategy' (it does not address banana regimes or worker rights, etc.), the TABD is much more than an 'operational activity.' It has created a novel way of 'doing business' in transatlantic trade and regulatory negotiations. The practical, cooperative, results-oriented TABD business strategy has proven successful. In certain respects, the TABD's industrial diplomacy provides a positive 'bottom-up' approach to the traditional 'top-down' interaction of government actors in US-EU trade matters. Indeed, as evidenced by the ongoing TEP discussions, a transatlantic US-EU business-government partnership continues to be forged to focus on the complex and evolving economic ties between the United States and Europe.

Given its relative infancy, the TABD and its future cannot easily be predicted. In the short term, the TABD depends on the financial and time commitment of the companies and their CEOs as well as the political will of political leaders to follow through on TABD recommendations. One factor likely to challenge the organization will be the US and EU governments' – as well as companies' – willingness to uphold TABD recommendations in multilateral forums such as the WTO. Another factor will be the ability of the TABD organization to tackle more controversial issues which to date it has avoided. Of course, as Smith points out in his chapter, political cycles are also likely to influence the TABD's future. It is not clear that a new US president would continue to support the TABD, nor is it a foregone conclusion that new European governments at the EU or national levels will embrace the organization's preeminence in international trade matters.

Nonetheless, the role of the TABD raises a number of implications for future research on the EU – both in terms of common commercial policy (CCP) and decision-making in general. Historically, for example, business groups have not mobilized at the EU level to influence EU common commercial policy. While groups such as UNICE have provided official comments on General Agreement on Tariffs and Trade (GATT) negotiations, there were no significant consultations between large firms and the Commission during the GATT rounds.[101] Now that European firms have organized themselves in the TABD and Commission contacts have been developed, the companies are poised to play a more proactive role in WTO discussions with the Commission as well as with the Article 113 Committee. The mobilization of large companies in CCP matters will likely prompt other interests – environmental, consumer, and labor – to participate more fully in European-level discussions.

The TABD also challenges the core assumption of liberal theories of European decisionmaking and international politics that domestic interests are the primary sources of government decisions.[102] As demonstrated by the TABD as well as other business groups in EU policymaking, large firms are able to organize themselves at the European (or transatlantic) level first to develop their positions, discuss strategies, and enter directly into supranational negotiations.[103] Only later do the companies focus their attention on influencing national governments and other domestic groups.

Finally, the TABD provides an interesting case study for international trade negotiations in general. Increasingly, the TABD has become a model for trade negotiations in other parts of the world.[104] Thus, how the role of business fits our models of international bargaining and cooperation remains an important research agenda to pursue.

(Word count: 13686)

[1] This chapter is largely drawn from COWLES, M. G. 'The Collective Action of Transatlantic Business: The Transatlantic Business Dialogue,' Paper presented at the 1996 Annual Meeting of the American Political Science Association, San Francisco, CA, August 31, 1996; and Cowles, M. G. 'The Transatlantic Business Dialogue,' unpublished paper prepared while at the Center for German and European Studies (CGES), Georgetown University. I thank CGES for the postdoctoral fellowship that allowed me to pursue this research. I am also grateful to the business and government officials for granting me interviews – oftentimes on several different occasions. In particular, I thank Selina Jackson, Stephen Johnston, Ted Austell, Craig Burchell, and Marino Marcich.

[2] Levine, N., 'A trans-Atlantic bargain,' *Journal of Commerce*, May 10, p. 6A.

[3] Official TABD website at TABD.COM. Interestingly, the Commerce Department website defines the TABD as 'an innovative government-business initiative to lower trade and investment barriers across the Atlantic.'

[4] Cowles, M. G., 'The Collective Action of Transatlantic Business: The Transatlantic Business Dialogue,' Paper presented at the 1996 Annual Meeting of the American Political Science Association, San Francisco, CA, 31 August 1996, p. 2.

[5] The TABD European offices are not incorporated per se. Rather, they receive their funding from the sponsoring lead TABD company whose CEO chairs the TABD process. Companies are reluctant to call the TABD a transatlantic business organization because they believe that such a structure would lead to a bureaucratic mindset and detract from the TABD's dynamic nature. As the US Director of the TABD has noted, 'The TABD has no formal structure and no official secretariat, nor is it a new institution or simply another business organisation designed to influence policymakers.' Jackson, S., 'The TABD Process – A Business Approach to US-EU trade Policy,' *The European-American Business Council newsletter*, Spring 1998, p. 22.

[6] Sbragia, A., 'Transatlantic Relations: An Evolving Mosaic, prepared for presentation to the international conference on Policy-Making & Decision-Making in Transatlantic Relations,' Université Libre de Bruxelles, 3-4 May 1996, p. 7.

[7] Stuart Eizenstat, remarks made at the TABD outreach meeting at the US Chamber of Commerce, Washington, DC, 20 June 1997.

[8] The EU Committee of AmCham is an influential lobbying organization in Brussels made up of major American companies. See Cowles, M. G., 'The EU Committee of AmCham: The Powerful Voice of American Firms in Brussels,' *Journal of European Public Policy*, Vol. 3, No. 3, 1996. Brown's initial proposal called for meetings of the American Chambers of Commerce in Europe. At the recommendation of EU Mission officials in Brussels, the Commerce Secretary changed his speech at the last minute to call for a dialogue among American and European firms. Interview with EU Mission official, Brussels, 24 June 1996.

[9] Interview with Commerce Department official, Washington, DC, 10 June 1996.

[10] Interview with USTR official, Washington, DC, May 29, 1996. Several TABD participants believe that this rationale – to use TABD as 'a means to force the Commission's hand on liberalization issues' emerged only after the fact. The reason is that there was some European support – including Commission support – for TABD from the start given the economic situation in Europe. Some members of the Commission, notably Sir Leon Brittan, believed that 'a major order of liberalization' was due and that by allowing for 'outside pressure,' i.e. the US-EU business community, the Commission would be 'allowed' to move forward. As one US business representative noted, 'If liberalization is part of the Commission's grand scheme, the TABD makes it more palatable.' Interview with US business association official, Washington, DC, 3 June 1996. This view is echoed by a Commerce Department official in an interview, Washington, DC, 10 June 1996.

[11] Interview with Commerce Department official, Washington, DC, 10 June 1996.

[12] The Directorate Generals (DGs) are similar to executive branch agencies in the United States. Each DG is run by Director Generals who, in turn, reports to her/his respective EU Commissioner. The Commissioners sometimes have more than one DG in their portfolio.

[13] Interview with Commission official, Brussels, 18 September 1996.

[14] Interview with Commission official, Brussels, 26 June 1996.

[15] Interview with Commerce Department official, Washington, DC, 10 June 1996. The idea behind TAFTA was to create a free trade area similar to the US-Canadian free trade area. Many officials in both the US and the EU were unwilling to pursue a TAFTA shortly after the drawn-out Uruguay Round negotiations. In addition, French government officials were against further liberalization efforts.

[16] The letter to U.S. firms was sent out on Commerce Department stationery with the three signatures. The letter to European companies was sent out on Commission stationery. Not every European government was pleased with the arrangement. The French government, for example, questioned whether it was appropriate for a US official to place his signature on Commission letterhead.

[17] In the US, 400 letters were sent out to U.S. associations and companies, of which approximately 20 percent responded. US Commerce Department, 'Transatlantic Business Dialogue: Initial Tabulation of U.S. Results,' June 1995. The European Commission sent letters to the top 1000 European companies based on sales, 170

medium-sized companies, and 208 business associations at the European level. As of 30 June 1995, the Commission received 230 replies of which more than one-third came from business associations. European Commission, 'TransAtlantic business Dialogue (TABD) Analysis of the EU Business Responses, undated document.

[18] Interview with Commission official, 18 September 1996.

[19] While the meeting was called on short notice, European officials were not pleased when the US side arrived with a handful of government officials and only two industry representatives – recruited from the Brussels offices of American companies and lobby groups.

[20] Indeed, several USTR officials found it 'odd that Commerce was running TABD because of the USTR mandate' to oversee trade negotiations. While initially strained, the relationship between USTR and Commerce on TABD matters gradually improved, notably after the November 1995 TABD conference in Seville. Interview with USTR official, Washington, DC, 29 May 1996.

[21] Interview with Commerce Department official, Washington, DC, 10 June 1996.

[22] Ibid.

[23] Interview with U.S. business association official, Washington, DC, 3 June 1996.

[24] Interestingly, when Congressional leaders first attacked the Commerce Department, NAM came out in support of the agency. The US Chamber, however, chose to remain neutral. TABD insiders suggest that the NAM's presence on the U.S. TABD steering committee was a result of the association's support.

[25] IPAC and the ISACs are jointly managed by the Departments of Commerce, Agriculture, Labor and the Environmental Protection Agency. The committees provide advice on industry matters.

[26] Dana Mead, CEO Tenneco and incoming Chairman of NAM chaired Working Group (WG) 1 on Standards, Testing and Certification. Both Tenneco and NAM officials participated in the Muffin Meeting. John A. Luke, Jr., CEO Westvaco chaired WG 2 on Trade Liberalization; William Hudson, CEO AMP chaired WG 3 on Investment. Jack Murphy, chairman and CEO Dresser Industries chaired WG 4 on Third Country Relations. Representatives or 'sherpas' – not the CEOs – did the TABD preparatory work on both sides of the Atlantic.

[27] Interview with US business representative, Washington, DC, 31 May 1996.

[28] Interview with Commerce Department official, Washington, DC, 10 June 1996

[29] For an overview of growing business-government ties, see Vogel, D., *Fluctuating Fortunes: The Political Power of Business in America* (New York: Basic Books, 1989).

[30] For a more detailed account on the influence of TABD on national industry associations, see Cowles, M. G. 'The TABD and Domestic Business-Government Relations: Challenge and Opportunity,' in Cowles, M. G., Caporaso, J., Risse, T. (eds.) *Transforming Europe: Europeanization and Domestic Change*, Ithaca, NY" Cornell University Press, 2000..

[31] The composition of industry associations reinforced this pattern. Individual European firms are not direct members of the industry federations (the primary exception being Confederation of British Industry (CBI)). Instead, companies are members of various sectoral associations, which are in turn members of the national associations. See, for example, Cowles, M. G., 'German Big Business: Learning to Play the European Game', *German Politics and Society*, Vol. 14, No. 3, Fall 1996: 73-107.

[32] However, CEOs who are members of an association's Executive Committee might become involved in these discussions indirectly. In German trade associations, for example, when high-level ministerial meetings occur, CEOs may be present as representatives of the Executive Committee.

[33] Commission officials told UNICE officials that if the associations were invited, the Americans would refuse to come to the meeting. As one association official remarked, 'they [the Commission] were had by the Americans.' Interview with EU business association official, Brussels, 1 July 1996.

[34] Interviews with EU business association officials, Brussels, 1 July 1996.

[35] Indeed, few European CEOs follow international trade matters closely. As one industry association official points out, 'CEOs hardly know GATT is going on.... they leave it to the sectoral and institutional groups' Interview with EU business association official, Brussels, 1 July 1996.

[36] Interview with Commission official, Brussels, 26 June 1996.

[37] As Ted Lowi pointed out in American policymaking, politics makes process. The importance of any particular actor depends on the issue at hand. See Lowi, T., 'American Business, Public Policy, Case Studies and Political Theory,' *World Politics* 16 (July 1964): 677-715.

[38] The 113 Committee is now referred to as the Article 331 committee. However, for purposes of historical discussion, this chapter refers to the original name for this committee.

[39] The Commission's limited trade negotiating powers frustrate American trade negotiators. Because the Commission negotiates on behalf of the Member States – and industry per se – American officials maintain that the voice of European business is muted. This view was reinforced during the Uruguay Round when European farmers appeared to have a far greater say in the negotiation process than did European industry. In recent years, American ambassadors to the EU have met with European industry groups to encourage greater involvement in the Uruguay round. The American officials' promotion of TABD as a means to enhance the role of large European firms in the international trade negotiations was a logical next step. From the American perspective, once these companies developed a coordinated position at the European level, they could present a more united front to the Member States.

[40] Smith, M, 'Competitive Cooperation and EU-US Relations: Can the EU be a Strategic partner for the US in the World Political Economy?', *Journal of European Public Policy*, Vol. 5, No. 4, December 1998.

[41]Ibid. The exception, as stated earlier, was the European chemical industry.

[42] One European association member argued that ISAC members are 'nominees' and are thus not true 'representatives' of U.S. business. Interview with EU business association official, Brussels, 3 July 1996.

[43] Interview with EU business representative, Brussels, 3 July 1996.

[44] Interview with Commission official, Brussels, 18 September 1996.

[45] Interview with Commission official, Brussels, 26 June 1996. Some business believe that DG III has not articulated business interests as clearly to DG I as possible. Interview with EU business representative, Brussels, 3 July 1996.

[46] Interview with Commission official, 18 September 1996.

[47] Interview with EU business representative, Brussels, 3 July 1996.

[48] Interview with EU business representative, Brussels, 25 June 1996.

[49] Ibid.

[50] See De Jonquieres, G. and Barber, L., 'Business meets to revive US-EU ties,' *Financial Times*, 10 November 1995.

[51] Interview with Commission official, 18 September 1996.

[52] Interview with EU think tank official, Brussels, 3 July 1996.

[53] The night before the Seville meeting, the US and EU issue managers decided on a compromise draft paper which was then presented to people for discussion. The procedure was expeditious in that it also precluded contentious issues from reaching the floor – a point with which not every participant agreed. Interview with EU business association official, Brussels, 3 July 1996.

[54] Interview with EU business representative, Brussels, 25 June 1996.

[55] Not everyone was pleased with the final product. Some industry representatives pointed out that controversial non-consensus issues were not even discussed at the conference. European industry representative, correspondence with the author, 18 September 1996.

[56] Stuart Eizenstat, Undersecretary of Commerce, 'Statement at the TABD Press Briefing,' Brussels, 23 May 1996. Government officials suggest that many of the proposals were already in draft form prior to the Seville conference.

[57] The TABD is one component in building the New TransAtlantic Marketplace. The USTR and the Commission agreed to undertake a joint study to identify other obstacles to trade. In certain respects, the joint study was designed to 'buy time' during the US governmental elections and the EU intergovernmental conference. Most observers view TABD as the dynamic element behind the New TransAtlantic Marketplace.

[58] The Transatlantic Advisory Committee on Standards, Certification and Regulatory Policy (TACS), arguably the most politically important group, was further divided into 11 sectoral groups – each with a US and EU business working chair. Two key individuals were brought in to lead the TACS: Ricardo Perissich, former director-general DG III in the Delors Commission who works with the Italian tire company, Pirelli; and Paula Stern, a former Commissioner and Chair of the US International Trade Commission.

[59] Interview with EU business association official, Brussels, 3 July 1996.

[60] Interview with Commission official, 18 September 1996.

[61] As one European industry association official noted, 'It is important to have both CEOs and organizations. You need the CEOs for the visibility but the work is done by sherpas and business organizations behind [the scenes]. The originality of the TABD process is that for the first time business and organizations are working together. All four sides speak together. That is the interest, the strength of the initiatives.' Interview with EU business association official, Brussels, 1 July 1996.

[62] TABD coordination offices – set up at the Ford office in Washington, DC and at the German Chemical Industry (of which BASF is a member) office in Brussels – disseminated information and encouraged greater business participation. A TABD newsletter was launched for Seville participants and other interested parties.

[63] Correspondence with the author, 18 September 1996.

[64] See Eizenstat. Frank Vargo of the Commerce Department was equally supportive in his statements to American business representatives at the Washington, DC, TABD Outreach meeting in June 1996. According to Vargo, the TABD process had been moved to the 'dead center' of US government discussions. He cited Joan Spero, Undersecretary of State as saying that TABD 'is the most positive part of the US-EU relationship. Everything that comes out of TABD must be looked at first.' Presentation by Commerce Department official at TABD Outreach meeting, Washington, DC, 6 June 1996.

[65] Interview with EU business representative, Brussels, 27 June 1996.

[66] Interview with EU business association representative, Brussels, 3 July 1996.

[67] Interview with Commission official, Brussels, 26 June 1996.

[68] European Commission, 'Report on the conference of the Transatlantic Business Dialogue (TABD), Chicago, 8-9 November 1995,' 10 December 1996.

[69] Some business representatives complained that government officials often dominated discussions in both Seville and Chicago.

[70] Comments by Frank Vargo, Deputy Assistant Secretary of Commerce for Europe, at the U.S. Chamber of Commerce and TABD briefing on Preparations for the WTO Singapore Ministerial and TABD Conference in Chicago, 17 October 1996.

[71] Interview with TABD official, Washington, 18 December 1996.

[72] Barber, L. and De Jonquieres, G. 'Drive to lessen transatlantic trade divisions,' *Financial Times*, November 8, 1996. It is interesting to note the success of the Commission's 'package approach' despite claims by some that TABD's sector-by-sector approach 'a new paradigm for trade liberalization.' See Stern, P, 'The Transatlantic Business Dialogue: a New Paradigm for Standards and Regulatory Reform Sector-by-Sector,' www.tabd.com.

[73] European Commission, 'Report on the Conference of the Transatlantic Business Dialogue (TABD),' 10 December 1996, Annex 1.

[74] FDA official as cited in Cowles M. G. 'The Limits of Liberalization: Regulatory Cooperation and the New Transatlantic Agenda: A Conference Report,' American Institute for Contemporary German Studies, Washington, DC, 16 January 1997.

[75] Dunne, N., 'US, EU closer on telecoms and IT accord,' *Financial Times*, 11 November 1996.

[76] Interview with EU business representative, 10 June 1997.

[77] Ibid.

[78] The MEDEF was formerly known as the Conseil National du Patronat Français (CNPF).

[79] Ibid. Interview with US business representative, 6 January 1997.

[80] Interview with TABD official, 18 December 1996.

[81] Interview with EU business representative, 10 June 1997.

[82] Stuart Eizenstat, 'Building the new Transatlantic Marketplace: How are we doing?', presentation at TABD Midyear Report, US Chamber of Commerce, Washington, DC, 20 June 1997.

[83] Office of the USTR, 'U.S.-EU Achieve Breakthrough on MRA Negotiations,' press release, 28 May 1997. Several EU participants found the press release premature – and potentially embarrassing if the final MRA was not concluded. Commission officials had also warned that any text had to pass by the Member States for final approval.

[84] Office of Press and Public Affairs, Eoropean Commission Delegation, 'EU Reaches MRA Agreements to cut red tape with United States and Canada,' press release, 13 June 1997.

[85] 'The strength of Dialogue,' *Journal of Commerce*, 5 June 1997.

[86] Berggren, B., 'A Single Transatlantic Market: A Vision of Deregulation and Integration', *The European-American Business Council newsletter*, Spring 1998, p. 20

[87] Tagliabue, J., 'Rome Talks Seek to Defuse Trade Disputes,' *The New York Times*, 8 November 1997.

[88] Coleman, B., 'Trans-Atlantic Business Dialogue Gains Momentum at Rome Talks', *The Wall Street Journal Europe*, 10 November 1997, p. 1.

[89] Interview with Commission Official, Brussels, 10 June 1998.

[90] Commission of the European Communities, 'The New Transatlantic Marketplace, COM(1998) 125 final, Brussels, 11 March 1998.

[91] Ibid., p. 5.

[92] TABD, 'Transatlantic Business Dialogue Encouraged by Efforts to Improve U.S.-EU Business Conditions,' Press Release, 11 March 1988.

[93] Interview with US business representative, Washington, DC, 17 April 1998.

[94] TABD, 'Transatlantic Business Dialogue Encouraged by Efforts to Improve U.S.-EU Business Conditions,' Press Release, 11 March 1988.

[95] Interview with US business representative, Washington, DC, 17 April 1998.

[96] Interview with Commission official, Brussels, 10 June 1998.

[97] Interview with TABD official, May 25, 1999.

[98] Cowles, M. G. 'The Limits of Liberalization: Regulatory Cooperation and the New Transatlantic Agenda: A Conference Report,' Washington, DC: American Institute for Contemporary German Studies, 16 January 1997, p. 3-4.

[99] Peterson, J. and Cowles, M. G., 'Clinton, Europe and Economic Diplomacy: What makes the EU Different?' *Governance*, Vol. 11, No. 3, July 1998.

[100] Interview with Commission official, Brussels, 10 June 1998.

[101] Woolcock, S. and Hodges, M. 'EU Policy in the Uruguay Round,' in Helen Wallace and William Wallace, eds., 1996, *Policy-Making in the European Union*, pp. 301-324. The exception was the chemical industry that has strong international linkages.

[102] See Moravcsik, A., 'Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach,' *Journal of Common Market Studies*, 1993, Vol. 31. No. 4, pp. 473-524; and 'Taking Preferences Seriously: A Liberal Theory of International Politics,' *International Organization*, 1997, Vol. 51, No. 4, pp. 513-553.

[103] See Cowles, M. G., 'Setting the Agenda for a New Europe: The ERT and EC 1992,' *Journal of Common Market Studies*, 1995, Vol. 33, No. 4, December, pp. 501-526.

[104] Cowles, M. G., 'The Transatlantic Business Dialogue: Business at the Negotiating Table,' *The International Executive*, Volume 38, No. 6, November/December 1996.

The report from the 37th International Privacy Conference, Privacy Bridges: EU and US Privacy Experts in Search of Transatlantic Privacy Solutions, identifies practical ways to address gaps between current approaches to data privacy in a way that produces a higher level of protection, furthering the interests of individuals, and increasing certainty for commercial enterprises. These â€œprivacy bridgesâ€ respect the substantive and procedural differences between the jurisdictions of the EU and the US, while advancing strong privacy values in a consistent and achievable manner. This report is based