

**HOUSE WAYS AND MEANS COMMITTEE HEARING  
SUBCOMMITTEE ON TRADE**

**MAY 16, 2013 HEARING**

“U.S.-EU Trade and Investment Partnership Agreement”

QUESTIONS FOR THE RECORD

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**Questions for the Record: Congressman Adrian Smith**

The EU is lacking accountability in its regulatory process. I share concerns about the non-science-based restrictions placed on a variety of agriculture goods, but a comprehensive agreement between the U.S. and the EU represents an unprecedented opportunity to establish objective, internationally-recognized standards.

Mr. Grueff, as you mentioned in your testimony, Geographical Indications are viewed by many U.S. industries as another significant barrier to accessing the EU market, yet we hear from the Europeans GIs must be included in negotiations. You also mentioned the possibility of omitting SPS negotiations from an immediate agreement.

-Have Geographical Indications resulted in market access barriers to U.S. products in European markets?

-Has a lack of GI protection in the U.S. resulted in market loss for EU products? If so, please provide examples.

Mr. Grueff, does it make sense for an agreement to address Geographical Indications without addressing concerns surrounding regulatory inconsistency and non-tariff barriers faced by U.S. industries?

**Questions for the Record: Congressman Charles Rangel**

**Skilled Workers and TAA**

1. Question for Ambassador Eizenstat:

You mentioned not only the importance of worker mobility, but more broadly the need for the United States to have more skilled labor. You further mentioned community colleges as a mechanism for improving the skills of our people. Yet the fate of Trade

Adjustment Assistance – which includes a program for community colleges to fill the education and skills gap of workers in trade impacted communities – is unclear.

Some of the key improvements to the Trade Adjustment Assistance program expire at the end of the year. Do you support a full and long reauthorization of that program?

## **Accounting Standards**

### **2. Question for Ambassador Eizenstat:**

You stated that GAAP and international accounting standards both adequately protect investors, and that corporations should not be required to file “costly reconciliations.” In your oral testimony, you indicated that the costs of such reconciliations for European companies here and U.S. companies in the EU may amount to \$2 billion per year. However, in 2008 the SEC eliminated the reconciliation requirement for foreign private issuers that use International Financial Reporting Standards (IFRS). (73 Fed. Reg. 986 (January 4, 2008))

Please explain whether the \$2 billion per year cost estimate takes into account the fact that foreign private issuers are no longer required to file reconciliations with the SEC as long as they use IFRS. In addition, please explain whether U.S. companies that use U.S. GAAP are required to file reconciliations in the EU.

### **3. Question for Ambassador Eizenstat:**

In your oral testimony, you indicated that international accounting standards “adequately protect” investors. However, that view is not universally held, predominantly because IFRS is seen as giving financial preparers greater flexibility than U.S. GAAP. The SEC has for many years evaluated whether to adopt IFRS. In a staff report issued last summer, the SEC explained the complexities associated with doing so and identified some of the criticisms of IFRS. These criticisms included that IFRS is more subjective, less specific, and less auditable. (SEC Work Plan for the Consideration of Incorporating IFRS into the Financial Reporting System for U.S. Issuers, Final Report, July 13, 2012, at 27.) Canada adopted IFRS, sparking comments from a Canadian forensic accountant that IFRS is “ugly for investors” (“Want a Mess, Use IFRS, Warns Rosen,” Donalee Moulton, thebottomlinesnews.ca) because there “are all sorts of holes . . . where you could pull a dirty trick, which you could not do under US accounting . . .” (“New International Accounting Rules Opens Door to Fraud,” therealnews.com) There is also concern that the development of IFRS standards has been subject to political interference by the European Union. (The IAS 39 “Carve-Out”: How the European Union Hedged Its Exposure to the International Standard on Derivatives and Hedging, Stanford Graduate School of Business, Case A-191, 5/1/05 (rev’d 2/07/07)).

Given the accounting scandals of the past decade, shouldn't we avoid giving accountants even greater flexibility in financial reporting?

4. Question for Ambassador Eizenstat:

The Spanish trade minister has stated that the free trade agreement should be a vehicle for harmonizing accounting standards. (Inside U.S. Trade, May 3, 2013, p. 3.) However, the International Accounting Standards Board (which promulgates IFRS) and the Financial Accounting Standards Board (which promulgates U.S. GAAP) are already working together on a number of convergence projects; indeed, they just issued, jointly, a new proposal on accounting for leases. (Exposure Draft: Leases (Topic 842), May 16, 2013, [www.fasb.org](http://www.fasb.org))

Given the concerns over IFRS described above, and the ongoing work on accounting standards convergence, what in your view would be gained by using TTIP to address accounting standards?

## **Questions for the Record: Congressman Earl Blumenauer**

### **Trade Agreement Challenges to Dodd-Frank**

1. Question for Mr. Slater

In December of 2012, the U.S. Chamber of Commerce sent a letter to then-U.S. Trade Representative Ron Kirk requesting that the Administration review the draft Volcker Rule to determine if it “undermines U.S. trade policy and whether the Volcker Rule, as drafted, violates our World Trade Organization and free trade agreement commitments.” (December 10, 2012 Letter from David Hirschmann and Myron Brilliant, U.S. Chamber of Commerce, to Ron Kirk, U.S. Trade Representative.)

Does the Coalition of Services Industries support using international trade agreements to which the United States is a signatory as a vehicle for challenging any part of Dodd-Frank, including implementing regulations?

2. Question for Ambassador Eizenstat and Mr. Slater:

It is our understanding that the financial services industry is looking to relax the prudential measures exception that is standard in our free trade agreement text – that is, to make it more difficult for a party to defend a regulation as being prudential and therefore exempt from challenge under the agreement.

I understand that a weakening of the exception might facilitate cross-border trade in financial services in the short-term, but wouldn't another global financial crisis be harmful to international trade flows, not to mention our economy more generally?

### **Banking Regulations**

3. Question for Ambassador Eizenstat and Mr. Slater:

EU Commissioner for Internal Markets Michel Barnier has criticized the Federal Reserve's proposal to impose capital requirements on EU banks located in the United States – even though European banks such as Barclays, Royal Bank of Scotland, Deutsche Bank, UBS, Credit Suisse, Bank of Scotland, BNP Paribas, Dexia, Dresdner Bank, and Société Générale tapped the Federal Reserve's emergency programs during the financial crisis. (Report GAO-11-696, p. 131.) The EU has neither deposit insurance nor resolution authority, suggesting that the United States could once again be asked to bail out European firms.

Should a free trade agreement be used to exempt EU firms in the United States from the same regulations that apply to U.S. firms in the United States? If we were to include financial regulations in the discussions, how would we guard against allowing the EU to horsetrade deregulation of our financial industry against gains in other sectors? Should prudential financial regulations be exposed to such horsetrading?

4. Question for Ambassador Eizenstat and Mr. Slater:

Commissioner Barnier has also criticized the Commodity Futures Trading Commission's proposal to extend U.S. derivatives regulations to U.S. branches operating overseas.

Should a free trade agreement serve as a vehicle for the European Union to channel its demands that U.S. regulators not regulate U.S. entities abroad -- even if those entities could pose systemic risk to our financial system?

5. Question for Ambassador Eizenstat and Mr. Slater:

In your testimony, you argued that financial services should not be excluded from free trade agreement discussions with the Europeans. However, the Administration has indicated not that financial services should be excluded, but rather that their inclusion should be to same extent as in prior FTAs.

In that context, the question is not whether financial services should be included, but whether our negotiators should go beyond the framework in our existing FTAs and

subject financial services regulations to discussions on convergence, equivalence, or mutual recognition.

Numerous fora now exist to allow regulators to discuss pertinent financial services policies and regulations. These include the Basel Committee on Banking Supervision, the International Organization of Securities Commissions, the International Association of Insurance Supervisors, and the U.S.-EU Financial Markets Regulatory Dialogue.

Given the existing mechanisms for discussing financial regulation on a bilateral and global basis, as well as the concerns outlined in the prior questions about the EU's views on U.S. prudential regulations, what would be gained by including this subject in free trade agreement negotiations?