

# Tapping into the transatlantic market

Completion of the transatlantic regulatory framework – a key topic for the upcoming EU/US summit – will be a boon for law firms offering strategic international advice, says GÜNTER BURGHARDT, former EU ambassador to the US

**W**hen US and EU leaders meet in Washington DC on 30 April for their annual Summit, the economic part of their agenda is likely to feature prominently their resolve to complete the 'transatlantic market' with a regulatory framework that promotes business, supports job creation and places the world's two biggest economic powers in the driving seat to stimulate global growth and sustainable development.

Angela Merkel's timely and ambitious 'Transatlantic Economic Partnership' initiative is another milestone on the long road of plans and achievements matching the progress in Europe's integration with transatlantic liberalisation and co-operation. Its particular symbolism consists of re-energising the concept of transatlantic economic partnership 60 years after Secretary Marshall's visionary commencement speech, which marked the beginning of the reconstruction of Europe's devastated economies, while the EU commemorates the 50<sup>th</sup> anniversary of the Rome Treaties.

Despite all the talk about Asia and other emerging economies, the transatlantic relationship will be the world's most powerful, comprehensive and strategically important for some time to come. Recent studies predict that the US and the EU will remain among the top five leading economic powers by 2020, along with China, Japan and Russia. However, with the accelerating pace of globalisation, time might be running out over the longer term for the EU and the US to determine the agenda and set the standards.

Any major bilateral transatlantic economic initiative is likely to give rise to familiar misunderstandings and scepticisms. Most typical is the misconceived fear that it would devalue the Doha Round. Yet removing barriers that impede the transatlantic market and reducing compliance costs is not simply about reinventing TAFTA (a Transatlantic Free Trade Area). Completing Doha remains a priority for both

the US and the EU and requires their combined leadership. Indeed, without the momentum created by the EU in organising its internal market hand in hand with EU-US co-operation to liberalise the transatlantic economy, there would not have been the impressive sequence of multilateral



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trade negotiations from the Dillon to the Doha Rounds, nor the 1995 establishment of the WTO – now including China and, soon, Russia.

Broad and strong support for the Merkel initiative rests on the same spirit that presided over previous formal commitments that together constitute today the transatlantic 'acquis': the Transatlantic Declaration of 1990 (TAD) and the New Transatlantic Agenda of 1995 (NTA). More than a decade after the NTA's adoption, it might appear reasonable to consider another qualitative step to take into account developments on both sides of the Atlantic. The predominant *bottom up* approach to EU-US co-operation has reached its limits in the absence of a robust *top down* binding commitment. As proposed by the Transatlantic Policy Network (TPN), such commitment should be based on a target date and a roadmap, a method that has worked so well in the case of the EU's internal market.

The EU-US Summit should therefore agree on the following building blocks: (1) adopt 2015 as a target date for achieving the transatlantic market;

(2) launch a sector-by-sector study to pinpoint obstacles; and (3) agree to a first priority list for the roadmap, to be further elaborated by a Transatlantic Market Implementation Group of elected and appointed EU and US officials.

A key objective must be facilitating transatlantic regulatory decision-making with regard to future rule-making for products and processes. The US and EU should agree on regulatory principles and methods such as an early warning system and post-regulatory monitoring. Learning from the US experience, the EU should establish an impact assessment process comparable to that applied in the US. This would equip regulators on both sides of the Atlantic with compatible reference points for assessing their actions' impact on the transatlantic economy.

In addition to completing successful sectoral co-operation in fields such as financial services, competition policy and more recently the open skies agreement, the Summit should feature prominently the topical issue of energy, to echo the ambitious energy and climate package adopted by the March European Council. This dialogue should focus on the reduction of greenhouse gases, energy efficiency, renewables and low-emission energy technologies. With regard to the automotive sector, the alignment of regulatory processes and standards is of crucial importance to establish comparable test procedures, emissions and safety regulations.

Moreover, the Summit should prioritise the establishment of compatible rules in areas such as nanotechnologies and ICT, as well as the creation of a framework for the development of common patent standards.

The completion of the transatlantic regulatory framework creates enhanced opportunities for global client advice and advocacy on those many issues having national, EU and transatlantic dimensions. International law firms providing strategic expertise and global client teams are ideally placed to respond to this challenge. ■