

**The Lisbon Treaty:
Implications for Future Relations between the European Union and the United States**

Testimony to the House Committee on Foreign Affairs
Subcommittee on Europe
December 15, 2009

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Mr. Chairman, congratulations on assuming your new duties at the helm of this Subcommittee. Thank you for the opportunity to appear before you today.

You asked me to discuss what the new Treaty of Lisbon might mean for the future of the European Union (EU) and relations between the EU and the United States. I'd like to do this by focusing first on key provisions of the Treaty itself, and second on how, in the wake of the Lisbon Treaty, the U.S. and EU could develop their relationship to meet future challenges.

The Treaty of Lisbon

First a brief comment on the European Union itself. The European Union is the most important organization in the world to which the United States does not belong. It is a unique partnership of 27 democratic European countries, comprising 500 million people, with the aim of seeking "ever closer union." It is an unprecedented endeavor among sovereign states, less than a federation yet more than a confederation. Since its basic rules were first enshrined in the 1957 Treaty of Rome, the EU has expanded and evolved through successive treaties and arrangements that continue to define new parameters for the Union and delineate authority both between member states and European institutions and among those institutions.

The Treaty of Lisbon, which went into effect on December 1, is the latest milestone in this decades-long evolution. European leaders believe they have designed a Treaty that can offer more efficient decision-making; more democracy through a greater role for the European Parliament and national parliaments; and increased coherence in EU engagement with other actors. The treaty stipulates where EU institutions have exclusive powers, such as in the EU's customs union, its common trade and competition policies; where the Union supports, coordinates or complements the sovereign decisions of member states, for instance in areas such as culture, education and industry; where there are shared lawmaking powers, such as in environmental affairs, transportation and consumer protection; and where member states retain full authority, such as in taxation, defense, and social security.

The treaty also defines the authorities of the major European institutions:

- the European Commission, the administrative apparatus of the Union that also has the authority to initiate legislation;
- the European Parliament, a body of 751 members elected by direct universal suffrage every five years to represent the citizens of the member countries, whose authorities are considerably enhanced by the Treaty;
- the European Council, where member states make decisions affecting the Union.

The Lisbon Treaty introduces a considerable number of innovations that are relevant to the United States and likely to affect American citizens and American interests. The Treaty enhances the EU's profile and powers in the areas of justice, freedom, and homeland security; defense, diplomacy and development; and trade and regulatory matters. New provisions boost the Union's purview over civil protection, humanitarian aid and public health. For the first time, the Union is tasked with the objectives of ensuring the proper functioning of its energy market, in particular energy supply; the promotion of energy efficiency and energy saving; and the development of new and renewable forms of energy. The Treaty makes combating climate change on an international level a specific objective of EU environmental policy.

The Council of the European Union, which represents the EU's member governments, will continue to share lawmaking and budget power with the European Parliament and maintain its central role in common foreign and security policy (CFSP) and coordinating economic policies. But the Treaty introduces some notable changes. First, it creates the position of President of the Council to chair EU summit meetings and coordinate EU policy-making among the member states for a two-and-a-half year term. The president cannot simultaneously hold any elected position or office nationally. On November 20, EU heads of state and government chose Belgian Prime Minister Herman Van Rompuy as President of the Council. Van Rompuy took up his duties on December 1.

The Treaty extends qualified majority voting in the Council to 40 policy areas previously requiring unanimity; of particular note are areas relating to asylum, immigration, police co-operation and judicial co-operation in criminal matters. The intent is to make decision-making faster and more efficient. Beginning in 2014, "qualified majority" will be based on a "double majority" principle -- the double majority of member states and citizens. Decisions will need the support of 55 percent of member states (currently 15 out of 27 EU countries) representing a minimum of 65 percent of the EU's population.¹ Unanimity will be retained, in some key areas, however, including taxation, foreign policy, defense and social security.

The EU Council of Foreign Ministers will no longer be chaired by a rotating minister from a member state. The Treaty introduces a High Representative for Foreign Affairs and Security Policy, who wears additional hats as a Vice President of the European Commission and head of the EU's new diplomatic corps, the European External Action Service (EEAS). This post replaces the previous EU High Representative for Foreign Affairs and the Commissioner for External Relations. On November 20 EU heads of state and government chose as the High Representative Briton Catherine Ashton, who previously served as the EU Trade Commissioner. Baroness Ashton took up her duties on December 1 upon the Lisbon Treaty's

¹ A transition period is envisaged until 2017, during which time any member state may request that an act be adopted in accordance with the more stringent definition of qualified majority contained in the previous Treaty of Nice.

entry into force. However, she is yet to be formally approved in her Commission post by the European Parliament. Hearings are scheduled for late January.

The Treaty will also change the role of the Presidency of the European Union, which rotates every six months among the member states. Sweden is the current Presidency country, and Spain will take on this position between January 1 and June 30, 2010, to be followed by Belgium for the second half of 2010 and Hungary in the first half of 2011. The rotating presidencies will continue to exist and will still be important, particularly for inner-EU issues. But in terms of relations with non-EU states, the President of the European Council and the High Representative now represent the Union, rather than the rotating Presidency.

The Treaty sets out common principles and objectives for the Union's external action: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, and principles of equality and solidarity. The Treaty also introduces a single legal personality for the Union that enables the EU to conclude international agreements and join international organizations.

The European External Action Service will be composed of officials from the Council, the Commission and the diplomatic services of the member states. It could lead to greater coherence and effectiveness of EU diplomatic and development activities. But it will take some time to implement. Moreover, this development is unlikely to be felt quickly in Washington, where EU member states all jostle to preserve their own bilateral relationships with the United States. U.S. officials are more likely to notice the impact of the EEAS earlier in places like Kyiv, Yerevan or Rabat, where the EU ambassador could have ten times the resources of the British ambassador and thus become a much more important partner when it comes to addressing joint challenges.

The Treaty introduces additional changes. European Security and Defense Policy (ESDP) is now called Common Security and Defense Policy (CSDP). The European Defense Agency (EDA), created in July 2004, is also now included within the legal framework of the CSDP. The High Representative does not have full authority over CSDP, as some special decision-making arrangements will be retained by member states. The Treaty extends the scope of the EU's so-called Petersberg tasks, which had been limited primarily to crisis management, to "joint disarmament operations; military advice and assistance tasks, peace-making and post-conflict stabilization; conflict prevention and post-conflict stabilization missions." The Treaty also stresses the contribution that these missions and operations could make "in the fight against terrorism, including by supporting third countries in combating terrorism in their territories." (Article 28 B, paragraph 1).

The Treaty does not create a European army; military capabilities remain in national hands. The Treaty does foresee that member states can make civilian and military resources available to the Union for CSDP operations. Each member state has the right to oppose such operations and contributions to them are voluntary.

Provision is made, however, for a subset of willing and able member states to deepen their collaboration by what is called “permanent structured cooperation.”² This is an innovation, as previous treaties had blocked such cooperation having military or defense implications. The scope of such cooperation is limited to the development of military capabilities and means of action for CSDP. It does not apply to the implementation of missions and operations proper. Related provisions are ambiguous, allowing for flexible interpretation and a sui generis form of cooperation that allows some member states to deepen their collaboration without necessarily excluding others.

The Treaty contains a mutual defense clause (Article 28, A7) that binds all member states to provide aid and assistance “by all means in their power” in the event of another member state becoming a victim of armed aggression, in accordance with Article 51 of the UN Charter, and without prejudicing some member states’ neutrality to or membership in NATO. It stresses that the CSDP-related provisions “shall respect the obligations of certain Member-States, which see their common defence realised in NATO” and that commitments and cooperation under CSDP “shall be consistent with the commitments under NATO which, for those States that are members of it, remains the foundation of their collective defence and the forum for its implementation” (Art. 42). Thus, NATO’s vital role as the cornerstone of Europe’s collective defense is not questioned. In fact, for the first time NATO’s role in European security is mentioned explicitly in this EU Treaty.

Most commentary has focused on the positions of the President of the European Council and the High Representative. But I would argue that the more immediate impact of the Lisbon Treaty for the United States is likely to be in the area of justice and home affairs. The Treaty of Lisbon puts freedom, justice and security at the center of EU priorities. Under the Treaty the EU should be more effective in tackling human trafficking, fighting crime, building resilience and combating terrorism, and to be a more effective partner with the United States in these areas. Until now, important matters in this field have required decision by unanimity in the Council with only a limited role given to the European Parliament and the European Court of Justice. The Treaty assigns a stronger role to the European Parliament as co-legislator (termed the “co-decision” procedure) and by the extension of the qualified majority principle in the Council. The Treaty also broadens the scope of the European Court of Justice, especially as regards police and judicial cooperation in criminal matters, and changes some of its procedures. Moreover, the so-called “Stockholm Program” for freedom, security and justice in the EU was adopted at the EU Summit last week. This is not part of the Treaty but outlines EU priorities in coming years. It places strong emphasis on prevention, opening doors for transatlantic cooperation on upstream security issues related to risk analysis, research, threat assessments, and disaster mitigation work. The Spanish Presidency plans to elaborate an action plan for implementing these priorities over the next few months.

² Specifically, “permanent structured cooperation” is intended to allow those member states “whose military capabilities fulfill higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework” (Article 28E and the ‘Protocol on Permanent Structured Cooperation’). These higher criteria are not defined.

An important innovation in this regard is the Treaty's "solidarity clause," which pledges the Union and its member states to act jointly in a spirit of solidarity if a member state is the target of a terrorist attack or the victim of a natural or man-made disaster.

The Treaty also introduces a specific legal base for humanitarian aid and emphasizes application of principles of international law and the core humanitarian principles of impartiality, neutrality, and non-discrimination. It also envisages the creation of a European Voluntary Humanitarian Aid Corps. The Treaty also states that the reduction and the eradication of poverty is the primary objective of the Union's development cooperation policy. This goal must be respected when the Union implements policies likely to affect developing countries. This implies that development policy is a policy in its own right, and not an accessory of common foreign and security policy. The Treaty of Lisbon classifies development cooperation and humanitarian aid as "shared parallel competences;" this means that the Union conducts an autonomous policy that neither prevents member states from exercising their competences nor makes the Union's policy merely "complementary" to those of the member states. In case of urgent financial aid, the Council can now act by qualified majority upon a proposal from the Commission. This should mean quicker financial aid in future crises.

The Treaty gives the directly elected European Parliament considerable new authority over EU legislation, the EU budget, and international agreements. The European Parliament will now have the same degree of lawmaking power as the European Council in areas where it used to be merely consulted or not involved. The most significant changes are likely to occur in areas where the European Parliament exercises co-decision, such as justice and home affairs, trade, budget, agriculture, and transport. The European Parliament's assent will also be required for all international agreements in fields where it has "co-decision." One particular problem looms: the European Parliament has received greater power to regulate, but has not received commensurate power to impose related taxes. This could lead to the problem of "unfunded mandates" familiar to Americans.

As you may recall, an earlier effort, entitled the EU Constitutional Treaty, failed to gain approval and never took effect. The Treaty of Lisbon adopts many provisions from that earlier effort, but it is perhaps useful to note which items were dropped from the rejected constitutional treaty and are not now in the Treaty of Lisbon. First, the "constitution" label was discarded. Second, a reference to free and undistorted competition as a goal of the EU was taken out at France's request; French President Nicolas Sarkozy argued that competition was not an end in itself. However, this will not have any practical effect on the general competition policy competences of the European Commission. Third, and most importantly, the full text of the Charter of Fundamental Rights was replaced in the Treaty by a short cross-reference to the Charter, but with legally binding value. This means that the Charter will become a core element of the EU's legal architecture, except in the Czech Republic, Poland the UK, which have submitted protocols limiting the justiciability of the Charter in certain areas.

The Charter contains most of the rights set forth in the American Constitution.³ It does not contain certain U.S. constitutional criminal defense rights, reflecting different criminal trial traditions. (It does not contain, for example, rights to grand jury indictment; jury trial; compulsory process to obtain witnesses; confrontation of witnesses; no excessive bail; no self incrimination; trial in the place where the crime is committed). The Charter includes several individual rights to which the U.S. Constitution does not explicitly refer. It contains certain positive social rights, such as rights to education (II-14), protection of health (II-35), the environment (II-37), social assistance (II-34) and employment, including protection against “unjustified dismissal” [II-30]. It proclaims additional rights not contained in the European Human Rights Convention, such as data protection, bioethics and the right to good administration. It reaffirms important steps to outlaw discrimination on the grounds of gender, race and color. It also mentions social rights applied within companies, e.g. workers’ rights to be informed, to negotiate and take collective action – in other words, the right to strike.

The Treaty also includes a right to petition: a petition with at least one million signatures obtained from a number of member states can be sent to the Commission inviting it to take a legislative initiative.

Previously, the Charter was a list of unenforceable principles. But the Treaty makes the Charter a legally enforceable document. The Charter’s catalogue of civil, political, economic and social rights will be legally binding not only on the Union and its institutions, but also on the member states as regards the implementation of Union law. At the same time, the Charter limits the scope of legal enforcement, for it says 1) that its provisions concern only the “institutions, organs, and agencies of the Union” along with the member states when they “put” EU law “into effect” [II-51]; and 2) that the provisions can be invoked in a court only in respect to interpreting or determining the legal validity of “executive and legislative acts” of the EU, or member state acts putting those EU acts “into effect” [II-52]. This language severely limits the legal enforceability of some of the Charter’s guarantees (say, the criminal trial provisions). The Charter will likely apply when the EU exercises its powers to harmonize many (*e.g.*, trade, business-related, environmental, safety, *etc.*) member state laws. A member state law “putting” an EU harmonization effort “into effect” would seem likely subject to the Charter’s Constitutional constraints. The Charter’s protection of workers against unjustified dismissal and its grant of various economic and social rights mean that the European Court of Justice will now interpret and enforce many of the Charter’s social and employment rights.

It is perhaps also useful to note areas in which the Lisbon Treaty is unlikely to have much impact. Financial services is one such area. The EU’s competences in this field are well-established, and it is making good use of these. Changes to the regulatory landscape are under way in the wake of the financial crisis, but not as a result of the Lisbon Treaty. There are no changes to taxation. Other policy areas which were already dealt with under co-decision before the Lisbon Treaty’s entry into force – such as internal market measures and health and safety laws – will remain as they were. No significant changes have been made to the role or powers of the European Court of Auditors, the European Central Bank or the status of the eurozone.

³ This summary draws in part from an analysis made by U.S. Supreme Court Justice Stephen Breyer for the Center for Transatlantic Relations, in Esther Brimmer, ed., *The European Union Constitutional Treaty: A Guide for Americans* (Washington, DC: Center for Transatlantic Relations, 2004).

In short, the Treaty of Lisbon offers a number of significant changes, many with legally binding character and with direct relevance to the United States. While some elements go into effect immediately, others will be implemented over a longer period. Some observers had hoped that with the Treaty's passage, the EU might turn from its inward preoccupations over the last decade and turn to a daunting range of challenges in wider Europe and beyond. Yet EU member states and EU institutions are likely to be preoccupied for some time with implementation of the Treaty's provisions. These changes could see greater convergence of policies, especially in relation to climate change and energy, perhaps leading over time to a more coherent voice for the EU. But that evolution is not guaranteed. Moreover, many of the new tools remain on paper. The Citizens Initiative and the European Voluntary Humanitarian Aid Corps, for instance, exist only in theory; there are no mechanisms for their development. The outlines of a new European External Action Service are unlikely to be presented until next April, and its actual development will take some years. It is unclear how the new President of the European Council will interact with the rotating presidency within the General Affairs Council. Who will set the agenda and how will they interact when positions diverge? And in the end the Treaty is vague when it comes to delineating the competences of the President of the Council and the High Representative with regard to representing the EU abroad and elaborating the Common Foreign and Security Policy. There is concern that much energy will be devoted to the search for internal compromise on these issues, at the expense of strategic thinking and outward-looking action.

Implications for Relations between the European Union and the United States

In terms of values and interests, economic interactions and human bonds, the EU and the U.S. are closer to one another than either is to any other major international actor. The U.S.-EU relationship is among the most complex and multi-layered economic, diplomatic, societal and security relationship that either partner has, especially if it is seen to encompass the relationships the U.S. maintains with the EU's 27 member states as well as its Brussels-based institutions. The networks of interdependence across the Atlantic have become so dense, in fact, that they transcend "foreign" relations and reach deeply into our societies. The \$5 trillion transatlantic economy, for instance, employs up to 14 million people on both sides of the Atlantic.

For all of these reasons, the Lisbon Treaty is of direct interest to the United States. But it does not necessarily make life easier. Despite some reforms, the EU's institutional complexity remains. The Treaty does not suddenly make the EU a united or coherent actor in or beyond Europe. At the end of the day, all policy-making in the EU still depends on the consent of member states, which remain sovereign; the U.S. continues to need strong bilateral relationships with EU member states. Yet the Treaty does usher in some key changes that offer both opportunity and necessity for the U.S. Administration and the U.S. Congress to adjust their relationships with the EU.

Those looking for global celebrities to lead the EU are disappointed by recent appointments. But EU coherence depends less on new structures in Brussels than new attitudes in national capitals. The key is less whether the European Commission and Council can act in coordinated fashion and more whether national capitals and Brussels can work in a more effective way. A stronger and more unified EU role on the world stage depends less on the ability of a single High

Representative than the willingness of 27 different governments to achieve greater consensus on approaching Russia, Afghanistan, regional conflicts and other issues.

The EU's real potential under the Lisbon Treaty should be measured by its ability to achieve greater unity of effect, not simply unity of structure. Its influence will depend on its capacity to be a "unitary actor plus" – not only forging consensus among member states, but also capitalizing on the "variable geometry" available to it in its countries and the many different institutions and tools it has created. It does this now in the economic and financial sphere by harnessing the aggregate influence of the European Commission, the European Central Bank, and the member states. It does not yet do this in the foreign policy sphere.

How the EU structures itself is of course a matter primarily for Europeans. Yet the United States has a vested interest in the nature of European integration, and has always been an actor in the building of Europe. It should make it clear that however EU members organize themselves, the U.S. supports an open, democratic, Atlanticist, outward-looking EU that is capable of acting shoulder to shoulder as America's counterpart, not counterweight.

It is urgent that the United States forge a more effective strategic partnership with the EU, in ways that support and complement the transatlantic link expressed through NATO -- for the world that created the transatlantic partnership is fading fast.

With the Cold War over and new powers rising, some say the transatlantic partnership has had its day. I disagree. Our partnership remains as vital as in the past, but now we must focus on a new agenda. The new world rising compels us to reposition our partnership to meet 21st century challenges, and to improve the mechanisms at our disposal. This includes the U.S.-EU relationship.

In recent years, Europeans and Americans have differed on the nature of some of these challenges and how best to confront them. Such differences can be powerful. But the history of European-American relations has often been the history of difference. Merely asserting difference or reciting lists of tough issues does not make the case for estrangement. It makes the case for more effective partnership.

Moreover, that which has driven us apart is much less fundamental than that which keeps us together: support for democracy, liberty, human rights, nondiscrimination and the rule of law; mutual peace and security; open, rules-based markets; and an open door to those who choose to abide by these principles and add their strength to ours. These beliefs are underpinned by deep security and economic linkages and an intensity and range of cooperation without parallel.

At times, each side of the Atlantic has honored these principles in the breach. Our achievements may not always match our aspirations, but the common body of accumulated principles, norms, rules and procedures we have built and accumulated together affirm basic expectations we have for ourselves and for each other. It offers a unique foundation upon which to build.

For sixty years this foundation has made the transatlantic relationship the world's transformative partnership. North America's relationship with Europe enables each of us to achieve goals

together that neither can alone -- for ourselves and for the world. This still distinguishes our relationship: when we agree, we are usually the core of any effective global coalition. When we disagree, no global coalition is likely to be very effective. Although at times we may differ on particular approaches, we invariably share the same fundamental interests in promoting peace, fighting terrorism and the spread of agents of mass destruction; advancing democracy, human rights, and rules-based open markets; eliminating poverty and disease; and protecting the environment.

Our partnership is needed now as before. Skeptics note that the U.S. and Europe represent a declining portion of the world's economy and population. This is reason for banding together, not drifting apart. Weaker transatlantic bonds would render Americans and Europeans less safe and less prosperous.

In this new world rising, the transatlantic partnership is indispensable but insufficient. Only by banding together with others are we likely to advance our values, protect our interests, and extend our influence. The stronger our transatlantic bonds, the higher the chances are that rising powers will join us as responsible stakeholders in a rules-based international order. The looser those bonds, the lower the chances are that rising powers will accommodate to such a system.

In short, our partnership remains as vital as in the past. But now we must focus on a new agenda. Unfortunately, there is a growing mismatch between the nature of our challenges, the capacity of our institutions, and the tools at our disposal. We have struggled to coordinate our policies and our capabilities in Afghanistan, Iran, and Darfur. We have found it difficult to work together on data protection, stabilization and reconstruction, energy sustainability, climate change, and financial regulation. Of course, a strategic partnership will never be easy when it involves many diverse nations on two continents, along with a constellation of institutions. Yet we can do better.

Strong bilateral relations between the U.S. and European countries are still essential. NATO remains vital to our security, and my Center has joined with other U.S. think tanks to offer recommendations for a more vibrant NATO in a report entitled *Alliance Reborn*, available at http://transatlantic.sais-jhu.edu/bin/i/y/nato_report_final.pdf.

For decades, NATO has been the institutional expression of the transatlantic link. There is no equivalent U.S. link, however, with the European Union (EU), even though the EU is increasingly the institution that European governments use to coordinate their policies and actions, and will be America's essential partner in many areas that are beyond NATO's purview and capacities. If we are to advance a more effective transatlantic partnership, including a reformed NATO, we must build a more effective U.S.-EU relationship.

The U.S.-EU relationship is important. But it is not strategic. By strategic I mean the type of partnership in which the U.S. and EU would

- share assessments about issues vital to both on a continuous and interactive basis;
- be able to deal with the daily grind of immediate policy demands while identifying longer-term challenges to their security, prosperity and values; and
- be able to prioritize those challenges and harness the full range of resources at their disposal to advance common or complementary responses.

Such a partnership is possible, but it is not the partnership we have today. Given the challenges we face, such a partnership is urgent. It will require a new type of politics, not simply new kinds of process. To succeed, the U.S.-EU relationship must overcome its image as a technocratic exercise with an overabundance of process disproportionate to actual output, producing laundry lists of deliverables that fail to fire political or popular imagination. Too often, it becomes a grab bag of issues dealt with in rather ad hoc fashion by a range of disparate agencies, with little sense of urgency or overall direction.

Our central challenge is to mobilize political leadership behind a set of ambitious goals, tied to pragmatic steps forward. Together with a coalition of seven other U.S. and European think tanks my Center has just released a report setting forth ten initiatives that together could help forge a more effective and strategic U.S.-EU relationship. The full report, entitled *Shoulder to Shoulder*, is available at http://transatlantic.sais-jhu.edu/bin/c/s/us-eu_report_final.pdf. I have included a summary of those recommendations as an appendix to my testimony.

The Lisbon Treaty should prompt a review whether the U.S. is adequately staffed and equipped to deal with the new EU. Currently, the U.S. mission to the EU lacks the number of people it needs to track the full spectrum of U.S.-EU interaction. For instance, there is only one person at the U.S. Mission to the EU assigned to work on defense cooperation, while hundreds are based in another part of Brussels assigned to work with Europeans on defense cooperation via NATO. Other agencies of the U.S. government have established attaches at the U.S. Mission, but these appear inadequate to the depth and breadth of issues affecting U.S. interests. A related problem is that as functions move from EU member state capitals to EU institutions, the State Department tends to reassign the officers fulfilling those functions but doesn't send any new people to the U.S. Mission to the EU to track that function with the EU.

Mr. Chairman, it is perhaps appropriate to conclude with a brief comment on what the Treaty of Lisbon might mean for relations between the U.S. Congress and the EU, including the European Parliament. Despite energetic efforts by some individual legislators on both sides of the Atlantic, the Transatlantic Legislators Dialogue (TLD) is perhaps the weakest link in the U.S.-EU relationship. The role of the U.S. Congress is not well understood in Europe. Neither is the growing role of the European Parliament appreciated in the United States. On the U.S. side, the dialogue is limited to members of the House of Representatives; U.S. Senators are not involved. U.S. members are identified on an ad hoc basis and membership has not garnered much recognition from the congressional leadership. On the European side the dialogue is limited to members of the European Parliament, even though the Treaty of Lisbon also raises the profile of national parliaments within the EU, not just that of the European Parliament. TLD meetings tend to scratch the surface of a huge range of policy areas, but devote little focused time to key challenges. To this end, I recommend the following changes. Many of my proposals were endorsed ten days ago by the U.S. and EU members of the Transatlantic Legislators Dialogue:

- U.S. Members of a reinvigorated TLD should be drawn from both House and Senate. U.S. House members should be appointed by the Speaker of the House; the lead U.S. Senator should be the Chair of the European Subcommittee of the Senate Foreign Relations Committee. Members of the Congressional Caucus on the EU should be asked to combine their efforts with those of the TLD.

- European Members of a reinvigorated TLD should be comprised of Members of both the European Parliament and leaders of COSAC, an EU body composed of European affairs committees from national parliaments of EU member states.
- The U.S. Congress should open an office in Brussels. The office would service the TLD and monitor legislation affecting U.S. interests. The European Parliament is opening an office in Washington.
- The TLD should convene a joint consultative committee on the extraterritorial implications of domestic legislation; and focus regular exchanges on upstream regulatory legislation.
- The TLD should hold joint hearings and conduct joint study tours to areas of common concern, for instance to the Middle East.
- TLD members should be full partners in the Transatlantic Economic and Energy Councils, and in the Resilience Council we propose in our report.
- The Congress and the European Parliament should ensure regular contacts between appropriate staff, not simply in foreign affairs-related work but across the board in key areas of mutual engagement.
- The TLD should spearhead a new generation of internships in Congressional and European Parliament offices. Each congressional office should offer to host one intern from an EU member state; each EP office should offer to host one intern from the United States.
- The model of the Congress-Bundestag Exchange Program should be used to create a Congress-European Parliament Exchange Program, sponsoring a new generation of student exchanges across the transatlantic space.
- A small, nimble TLD secretariat, modeled after the Helsinki Commission, should be established. The secretariat would be small and rely extensively on digital videoconferencing. It would
 - facilitate dialogue between members of Congress and the European Parliament—especially committee chairs or rapporteurs – who are at the forefront of legislative issues of mutual concern;
 - take primary responsibility for organizing staff exchanges and staff briefings.

Mr. Chairman, the Treaty of Lisbon is one of a series of concurrent developments that offer the transatlantic partners a moment – to win or to lose. It could be a moment lost -- the time the transatlantic partners turned from each other with expectations dashed, each believing the other to have failed to reconcile a new stage of European integration with the promise of a new partnership. Or it could be a moment won -- the time the U.S. and the EU transitioned to a more effective strategic relationship and thereby successfully positioned themselves to tackle the challenges and seize the opportunities of the new world rising. Thank you for your attention.

Appendix
Shoulder to Shoulder: Forging a Strategic U.S.-EU Partnership
Executive Summary

The world that created the transatlantic partnership is fading fast. The United States and Europe must urgently reposition and recast their relationship as a more effective and strategic partnership. It is a moment of opportunity -- to use or to lose.

The U.S.-EU relationship is important but not strategic. Such a partnership is possible, but it is not the partnership we have today. Given the challenges we face, such a partnership is urgent. It will require a new type of politics, not simply new kinds of process. Our central challenge is to mobilize political leadership behind a set of ambitious goals, tied to pragmatic steps forward.

Ten Initiatives

- **Adopt a Transatlantic Solidarity Pledge, anchoring transatlantic resilience strategies in a common space of justice, freedom, and security.** Together, Europeans and Americans must supplement their traditional focus on territorial security against armed attack with an additional focus on the security of critical functions of society -- from whatever source. At the 2010 U.S.-EU Summit the transatlantic partners should issue a joint political declaration that they shall act in a spirit of solidarity -- refusing to remain passive -- if either is the object of a terrorist attack or the victim of a natural or man-made disaster, and that they shall mobilize all instruments at their disposal to:
 - prevent terrorist threats to either partner;
 - protect democratic institutions and civilian populations from terrorist attack;
 - assist the other, in its territory, at the request of its political authorities, in the event of a terrorist attack, natural or man-made disaster.
- Advance a transatlantic Safer Societies initiative to this end -- a multidimensional strategy of societal resilience that goes beyond traditional tools to advance new forms of diplomatic, intelligence, counterterrorism, financial, economic, and law enforcement cooperation. Balance “pursue and protect” strategies with greater attention to prevention and response.
- Establish solid coordination between U.S. and EU operation centers.
- Negotiate an internationally binding agreement on data protection.
- Establish U.S.-EU guidelines on the detention and treatment of terrorists whose acts cross international borders, with a view to drafting a model legal convention on combating terrorism.
- Work cooperatively to ensure the earliest possible closure of the Guantánamo detention facility and Bagram prison.
- Improve U.S.-EU cooperation in justice and law enforcement:
 - Establish a transatlantic arrest warrant.
 - Establish joint investigation teams, including Europol and Eurojust.
 - Cooperate in new areas of criminal investigation, including cybercrime, trafficking in humans and drugs, and arms smuggling.
 - Reach out together to third states to enhance greater cooperation in law enforcement.
 - Include transatlantic cooperation in EU discussions of the external dimension of internal security.
 - Provide a legal and organizational basis for U.S. cooperation with Europol.
- Improve U.S. cooperation with FRONTEX, the new EU border protection agency.
- Establish a system of enhanced mobility for our citizens, while also providing a secure environment for those who travel:
 - Expand the Visa Waiver Program.
 - Encourage a European version of the U.S. ESTA

- Adopt a Transatlantic Registered Travelers System
- Develop a U.S.-EU Critical Vulnerabilities Security Action Plan.
- Collaborate on security-related research.
- Launch a public-private Global Movement Management Initiative (GMMI) as an innovative governance framework to align security and resilience with commercial imperatives in global movement systems, including shipping, air transport, and even the internet.
 - Develop a common standard for port security to replace individual national efforts geared to 100% scanning and based on differing concepts and approaches.
- Focus on prevention. The EU's new Stockholm Program places strong emphasis on prevention, opening doors for transatlantic cooperation on upstream security issues related to risk analysis, research, threat assessments, and disaster mitigation work.
- Develop a common approach to "forward resilience" -- share societal resilience strategies with allies and partners. Identify -- very publicly -- our own resiliency with that of others.

2. Build a barrier-free Transatlantic Marketplace. Coordinate strategies to reduce remaining tariff barriers, overcome regulatory obstacles, remove investment restrictions, and align future standards in ways that create jobs and promote mutual and sustainable prosperity while protecting health and safety.

- Announce a joint commitment to work towards a "tariff only" Free Trade Agreement, eliminating all duties on traded industrial and agricultural products, as an important intermediate goal.
- Once such a deal is negotiated, invite others to join in certain sectors or in the overall arrangement.
- Negotiate to reduce barriers in services -- the sleeping giant of the transatlantic economy.
- Open our skies. The impact of this one single sectoral agreement could give an economic boost to the U.S. and EU economies equivalent to the entire Doha Round.
- Boost bilateral regulatory cooperation. Adopt a goal to eliminate unnecessary regulatory differences by 2020. Identify "essentially equivalent" regulations for mutual recognition. Promote "upstream" regulatory cooperation for new technologies.
- Address barriers to more sustainable consumption patterns.
- Create a more efficient transatlantic financial market. Develop financial sector rules with similar "essentially equivalent" approaches to risk assessment and regulation. Prepare a detailed work program on transatlantic financial market integration. Use transatlantic cooperation to drive international cooperation.

3. Reform global economic governance.

- Strengthen global financial regulation.
- Create an informal "G2" to compare and coordinate approaches to global economic governance.
- Consider a more focused and effective G20.
- Establish task forces to lead reform of the World Bank and the IMF.
- Work for fundamental governance changes in multilateral institutions.
- Consolidate European representation at the IMF. Abolish the U.S. veto.
- End the U.S./European leadership duopoly of the World Bank and IMF.
- Head off the looming collision between climate policy and trade. Work with G20 partners to develop a "Green Code" of multilateral trade disciplines. Consider new trade negotiations to address potential commercial and climate trade-offs.
- Better coordinate approaches to the major emerging economies, especially India and China. Explore a joint trade agreement with India, rather than negotiate rival accords.

4. Forge a partnership for energy sustainability.

- Work together to develop the standards needed to support an international climate agreement, including a common metric for counting emissions reductions.

- Integrate the EU emissions trading scheme (ETS) with U.S. regional carbon trading schemes.
- Advance “minilateral” initiatives to engage China and Russia in efforts to combat climate change.
- Boost innovation with a U.S.-EU Clean Energy Bank and Transatlantic Energy Innovation Fund.
- Encourage energy efficiency; develop smart grid and carbon capture and storage technologies.
- Facilitate IEA membership for major energy consumers such as China and India.
- Enhance transparency and competition in energy markets and cross-border investments.
- The European Commission should enforce its own competition and antitrust rules. Companies such as Transneft and Gazprom should be held to the same anti-monopoly standards as Microsoft and Intel.
- The EU must develop a common energy policy and market.
- Work with Azerbaijan and Kazakhstan to secure a reliable supply of gas for the Nabucco pipeline. Encourage Turkey and Azerbaijan to reach appropriate agreements regarding gas transit.
- Be more active in preventing politically motivated disruptions in energy flows.
- Promote government, research, and business interaction through integrated approaches such as the “One Big Thing” and the Transatlantic Climate Bridge.

5. Complete a Europe, whole, free and at peace.

- Deliver a clear message to transition countries: closer association with the West begins at home.
- Remain strongly engaged with the Balkan countries, using good governance and economic development to facilitate integration not into EU and Euro-Atlantic institutions.
- Develop transatlantic complements to the EU’s Eastern Partnership and Black Sea Synergy, while also giving those initiatives greater content.
- Consider U.S.-EU “Atlantic Accords” for countries in wider Europe to provide political reassurance and substance to a joint commitment to create conditions drawing them closer.
- Consider a U.S. Black Sea Charter, similar to the U.S.-Baltic Charter or Adriatic Charter; and a Stability Pact for the Wider Black Sea Region.
- Encourage smaller groups of Western countries to ‘mentor’ regional partners.
- Actively address wider Europe’s festering conflicts.
- Boost democracy support via institutions/processes, not individual leaders.
- Advance a dual track approach to Moscow based on engagement and resolve. The first track should set forth the potential benefits of more productive relations. The second track should make it clear that these relations cannot be based on intimidation or outdated notions of spheres of influence but rather on respect for international law, the UN Charter and the Helsinki principles.

6. Address conflicts more effectively.

- NATO is and should remain the primary transatlantic mechanism when North Americans and Europeans decide to use military force to address security challenges together. Should North Americans or Europeans choose to act on their own, each should have the capacity to do so.
- The U.S. and EU should also be able to act jointly, or in complementary ways in situations that require rapid civilian deployments, either to prevent a crisis escalating into a conflict or to respond in a post-conflict situation. And where Europeans and American act together in situations that require both civilian and military capabilities, a trilateral arrangement in which EU and U.S. civilian assets complement NATO’s military efforts may make sense. But these two situations are not yet reality.
- Continued U.S. scepticism of the utility of U.S.-EU security collaboration can only be overcome by improving EU capacity and effectiveness. Unless the EU can offer support in the areas that the U.S. cares about or can spend money and send experts in greater numbers to the world’s hotspots, working with the EU is unlikely to be a priority for the Obama administration in its own right. The situation in Pakistan and Afghanistan is likely to remain a U.S. national security priority for the next decade. Greater European commitment there will be crucial to advance broader U.S.-EU cooperation.

- Improving coordination between civilian forces is an area of great promise and great need. The priority focus should be on successful conduct of operations and development of capacity.
 - The U.S. and EU should establish a standing common task force on civilian crisis management and eventually a joint planning center.
 - Once joint civilian planning is well established, the U.S., EU, and NATO should create a “Transatlantic Fusion Center” to bring together planning for civil-military missions.
- Develop a joint focus on conflict prevention.
 - Share intelligence-based “watch lists” of countries-at-risk.
 - Work to develop civilian capacities in third states and in relevant multilateral organizations.
 - Focus on a few key countries, including Somalia and Yemen.
- Develop a common framework, including doctrine and training, for civilian/military state-building missions. To date, U.S.-EU cooperation has relied on ad hoc coordination. It is past time to develop shared doctrine to provide a framework for cooperation, establish agreed objectives, and provide more standardized structures and procedures.
 - Reinforce this shared doctrine by establishing a U.S.-EU school for conflict prevention, management, and post-conflict stabilization.
- The U.S. and NATO should facilitate having European constabulary forces participate in the post-combat phase of multinational military operations. The U.S. should develop a similar capacity.
- Support a truly strategic partnership between NATO and the EU, including capabilities to enable rapid coordinated response to crisis; joint planning of operations; and a joint operations command.

7. Redouble efforts to halt the proliferation of weapons of mass destruction.

- Biosecurity is a unique challenge that requires its own set of responses, not approaches grafted from the nuclear world.
 - Advance a bold initiative in bio-resilience through improved global biosurveillance capabilities; better early warning and detection systems; robust information-sharing, investigative and preparedness mechanisms; harmonized standards; and medical countermeasures and stockpiles.
 - Our ultimate goal should be to remove bioagents from the commonly accepted definition of “weapons of mass destruction.”
- Continue efforts to stop Iranian nuclear proliferation.
- Strengthen the International Atomic Energy Agency (IAEA).
 - Provide enhanced resources and other support.
 - Establish an international nuclear fuel cycle bank supervised by the IAEA.
 - Assist third countries in complying with IAEA requirements.
- Develop a joint approach to the 2010 NPT review conference that will address major concerns of non-nuclear countries.
- Work to secure the adoption of multilateral arms control agreements.

8. Improve the effectiveness of development policies and humanitarian assistance.

Development policies

- Focus on food security and agricultural development. Advance country-led action, broadening from an initial Africa focus to Latin America, developing Asia, and other regions. The U.S. and EU should significantly reduce their own domestic agricultural and biofuel subsidies.
- Support regional integration in Africa.
- Complement in-country efforts with stronger policy dialogue, coordination and consistency.
- Promote partnerships with key private and public-private institutions that are frequently more efficient, better funded and more focused than governments.
- Increase multilateral aid.
- Work on aid effectiveness.

- Focus. Diversification has brought a lack of a clear strategy in tackling poverty and an inability to determine the core competencies of the different multilateral institutions and donors. Reduce the areas of work in which the U.S. and the EU, as well as the multilateral institutions, are active.
- Choose target countries more selectively. Development assistance should largely focus on low-income countries. For middle-income countries other means of support -- such as the direct promotion of trade and investment, or funds for social and territorial cohesion -- can prove more effective.

Humanitarian assistance

- Strengthen enabling conditions for cooperation between U.S.- EU and with other humanitarian actors.
- Address the challenge of linking relief, rehabilitation, and development.
- Maximize business contributions to humanitarian assistance, while minimizing their risks.
- Address normative problems of civil-military interaction and improve operational approaches.
- Continue to strengthen humanitarian mechanisms, while engaging non-Western donors.
- Energize growing donor interest in extending the definition of humanitarian action.
- Strengthen operational security for humanitarian response.

9. Forge an open and competitive transatlantic defense market. Complex and interrelated market access barriers serve as a drag on transatlantic defense markets. Yet transatlantic defense markets are in transition to more competitive markets and “better value” buying habits. Given economic realities and common challenges, the U.S. and EU share an interest in more open and competitive defense markets.

- Focus U.S.-EU cooperation on low-intensity capabilities.
- Boost armaments cooperation to support coalition operations and transatlantic market development.
- The U.S. should review ITAR; adopt needed defense export control reforms; consider merging export control and national disclosure regimes; and accept the EU’s emerging role as regulator and buyer.
- The EU should avoid the development of a European Procurement Preference in the implementation of its new Defense Procurement Directive.
- Create a Transatlantic Defense Industrial Dialogue to catalyze change.

10. Explore an Atlantic Basin Initiative. Globalization is not confined to one region of the world. For all the talk of the Pacific, the Atlantic Basin is a central arena of globalization. More trade and investment flow across the Atlantic than any other part of the world. The well-being of people across this vast region is increasingly influenced by interrelated flows of people, money and weapons, goods and services, energy and technology, toxins and terror, drugs and disease. Issues that are particular to the nations of the Atlantic Basin deserve concerted attention. This new dynamic should prompt leaders to erase the line between the North and South Atlantic, considering ways to work more effectively together.

- Explore this initiative initially in a modest way through creation of an Eminent Persons Group. Encourage foundations and policy-oriented research institutes to examine the notion and its possibilities.

Conclusion: Harness Process to Purpose. A strategic U.S.-EU partnership is urgent and calls for a new politics, not just a new process. But there are implications for process.

- No relationship is as complete as that among the U.S., the EU and its member states. The ties that bind are a web of networks across the full range of our endeavor. The more united, integrated, interconnected and dynamic these bonds, the greater the likelihood that rising powers will rise within the international rules-based order. The looser or weaker those bonds, the greater the likelihood that rising powers will challenge that order.
- The key to greater U.S.-EU effectiveness lies in encouraging and orchestrating our networks, rather than seeking new formalistic structures to direct and control. Yet networks alone are insufficient. They also must have access to senior political leadership.
- U.S.-EU mechanisms urgently need updating and upgrading. Cannibalize the current framework, the New Transatlantic Agenda of 1995, taking what works and leaving the rest.

- Abolish the Senior Level Group and appoint two Sherpas to prepare summits and lead a Standing Joint Task Force, co-located in Washington and Brussels, comprised of officers seconded from across the U.S. interagency and EU institutions.
- Refocus Political Directors on foreign policy challenges rather than summit preparations.
- Upgrade the ministerial councils and U.S. dialogues that work. Create a Transatlantic Resilience Council. Revamp the Transatlantic Economic Council.
- Establish a regular system of joint long term assessment.
- Convert Troika working groups into new functional networks of U.S. and EU officials with easy access to one another, focused on common or complementary approaches to common challenges, elimination of duplication, and addressing differences. These networks should be actively encouraged by senior political leadership, and be fluid, informal, continuous and action-oriented.
- Establish a NATO-EU “Troika” network. NATO and the EU need a breakthrough process to enable them to be able to conduct business at multiple levels nearly simultaneously across a wide spectrum of issues. An EU-NATO Troika process could cover a range of issues; the agreed framework allows staffs to exchange and to discuss classified information to do their collective work, and each side, respecting autonomy of decision making in both, could separately submit their negotiated EU-NATO ideas to their respective memberships for separate approvals.
- Consider a Euro-Atlantic forum of 34 countries that would include the 21 EU/NATO members, plus the 13 states that belong to one but not both of these institutions, as a convenient forum for the discussion, and implementation, of common efforts.
- On a case-by-case basis, create plurilateral initiatives of countries and institutions with the most relevant capacity, resources and interest to address foreign and security policy crises.
- Upgrade Congressional and parliamentary participation. Congress should open an office in Brussels.
 - U.S. Members of a reinvigorated Transatlantic Legislators Dialogue (TLD) should be drawn from both House and Senate. U.S. House members should be appointed by the Speaker of the House; the lead U.S. Senator should be the Chair of the European Subcommittee of the Senate Foreign Relations Committee.
 - European Members of a reinvigorated TLD should be comprised of Members of both the European Parliament and leaders of COSAC, an EU body composed of European affairs committees from national parliaments of EU member states.
 - The TLD should convene a joint consultative committee on the extraterritorial implications of domestic legislation, and focus regular exchanges on upstream regulatory legislation.
 - TLD members should join the Transatlantic Economic, Energy and Resilience Councils.
 - The United States Congress and the European Parliament should spearhead a new generation of exchanges and internships across the Atlantic space.

Daniel S. Hamilton and Frances G. Burwell, *Shoulder to Shoulder: Forging a Strategic U.S.-EU Partnership* (Washington, DC: Center for Transatlantic Relations, 2009).