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Hansjoerg Heppe

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TTIP—NEW THRUST FOR THE TRANSATLANTIC ALLIANCE

*Hansjoerg Heppe**

DESPITE the bond forged out of the same Judeo-Christian values that has led to similar business ethics, lifestyles and preferences in consumption, since the fall of the Berlin Wall, it seems as though the transatlantic alliance has lost its focus. Granted, we still have many things in common. For example, Rotary International's Four Way Test¹

"Of the things we think, say or do

- 1. Is it the TRUTH?*
- 2. Is it FAIR to all concerned?*
- 3. Will it build GOODWILL and BETTER FRIENDSHIPS?*
- 4. Will it be BENEFICIAL to all concerned?"*

serves as an objective for more than 250,000 Rotarians in Western Europe and around 345,000 Rotarians in the United States of America.² In addition, we all search the internet using Google,³ shop at Aldi⁴ or Amazon,⁵ stay at Hilton or InterContinental hotels, manage our business processes using SAP, and have our financial statements audited by the Big Four. Likewise, we buy (i) durable goods, such as faucets and showers from Grohe, Apple iThings and Ford or Mercedes automobiles, and (ii) consumer goods, such as Colgate toothpaste, Nivea skin-care products, Snickers candy bars and Nutella sandwich spread. And, on both sides of the Atlantic Ocean, we are entertained by the Iliad and Moby-Dick, Mozart and Gershwin, James Bond and Katy Perry. *But*, more than five years into the Great Recession triggered by the burst of the subprime

* Dr. iur. Hansjörg Heppe, LL.M., *Rechtsanwalt, Fachanwalt für Steuerrecht*, Attorney at Law (New York, Texas), International Partner at Locke Lord LLP in Dallas, Texas; Professional Fellow, SMU Institute of International Banking and Finance.

1. See *Guiding Principles*, ROTARY INT'L, <http://www.rotary.org/en/aboutus/rotaryinternational/guidingprinciples/Pages/ridefault.aspx> (last visited Nov. 7, 2013). In addition, this Four Way Test is translated in into more than 100 languages. In 2012, Rotary International had more than 1.2 million members worldwide. Please note that half of those are, *however*, located in the United States, Canada, Mexico and Western Europe. See *Club Member Count by Country*, ROTARY INT'L, <https://www.rotary.org/en/document/10871.pdf> (last visited Nov. 7, 2013).
2. See *Club Member Count by Country*, ROTARY INT'L, <https://www.rotary.org/en/document/10871.pdf> (last visited Nov. 7, 2013).
3. Using "www.google.____;" com, de, co.uk, fr, it; you fill in the blank!
4. And its American subsidiary "Trader Joe's."
5. Using "www.amazon. ____;" com, de, co.uk, fr, it; again, you fill in the blank!

mortgage bubble in the United States⁶ that adversely affected the European Union (EU)⁷ and extended the already lingering eurozone crisis,⁸ there continues to be uncertainty about what, if any, structured approach to take to overcome the current economic slump.⁹

The proposed Transatlantic Trade and Investment Partnership (TTIP or the Partnership) may be just the right “grass roots”¹⁰ approach to (i) promote economic growth, (ii) fight growing public budget deficits, and (iii) unite the transatlantic alliance in its pivot to Asia¹¹ by cutting tariffs and tackling those barriers that lie behind the customs border.¹² And the following study by a German team of economists, led by Prof. Dr. Gabriel Felbermayr of the ifo Institut–Leibniz Institute for Economic Research at the University of Munich, will provide us with invaluable information about how TTIP can achieve these objectives if properly drafted and implemented.

The *spritus rector* of agreeing to a transatlantic free-trade area was yet another German, then Foreign Minister Klaus Kinkel, in 1995.¹³ Thereafter, Leon Brittan, then-EU-Commissioner for Trade, followed up on the idea and, in early 1998, got the EU-Commission to approve a plan for a

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6. Bernhard Grossfeld & Hansjoerg Heppe, *The 2008 Bankruptcy of Literacy—A Legal Analysis of the Subprime Mortgage Fiasco*, 15 L. & BUS. REV. AM. 713, 715–716 (2009).
 7. Ulrich Seibert, *Deutschland im Herbst—Erinnerungen an die Entstehung des Finanzmarktstabilisierungsgesetzes im Oktober 2008* [Germany in Autumn—Memories of the Creation of the Financial Market Stabilization Act in October 2008], in Festschrift für Klaus J. Hopt zum 70. Geburtstag am 24. August 2010: Unternehmen, Markt und Verantwortung [Festschrift for Klaus J. Hopt 70th Birthday on 24 August 2010: Business, Market, and Responsibility] 2525 (Stefan Grundmann, Brigitte Haar, Hanno Merkt et al. eds., 2010).
 8. See *Timeline: The Unfolding Eurozone Crisis*, BBC (June 13, 2012 10:08 ET), <http://www.bbc.co.uk/news/business-13856580>. See also *Key Dates of the Financial Crisis (Since December 2005)*, EUROPEAN CENT. BANK, <http://www.ecb.int/ecb/html/crisis.en.html> (last visited Nov. 7, 2013).
 9. For example, efforts taken by the Leaders of the Group of Twenty to strengthen transparency and accountability by putting it on top of their common principles for reform, including “to address weaknesses in accounting and disclosure standards for off-balance sheet vehicles; enhance the required disclosure of complex financial instruments by firms to market participants; and enhance the governance of the international accounting standard setting body” have gone nowhere. Grossfeld & Heppe, *supra* note 6, at 740.
 10. “Grass roots” because we are looking at *bilateral* negotiations even though the G7, minus Canada and Japan, plus all other EU members (in addition to the UK, France, Germany, and Italy) are represented. In addition, the multilateral trade negotiations in the World Trade Organization—the so-called Doha Development Agenda—is currently stalled.
 11. On-the-Record Conference Call on the President’s Upcoming Trip to Asia (Nov. 15, 2012) (on file with The White House) available at <http://www.whitehouse.gov/the-press-office/2012/11/15/record-conference-call-presidents-upcoming-trip-asia>.
 12. For example, there are differences in technical regulations, standards and certifications. See J.D. Bindenagel, *The Time is Now for the Transatlantic Trade and Investment Relationship* (Am. Council on Ger., Occasional Paper No. 2 Apr. 2013).
 13. See Jagdish Bhagwati, *Fast Track to Nowhere*, ECONOMIST, Oct. 16, 1997, at 21 available at <http://www.economist.com/node/102730>.

“*New Transatlantic Marketplace.*”¹⁴ But it took the United States and the EU until 2007 to agree to the “Framework for Advancing Transatlantic Economic Integration between the United States of America and the European Union” that created the Transatlantic Economic Council (TEC).¹⁵ The TEC was a political body formed to oversee and accelerate government-to-government cooperation with the aim of advancing economic integration between the EU and the United States. The TEC, *however*, never got past its fifth meeting in December 2010.¹⁶

Accordingly, it was not until July 2012 when German Chancellor Angela Merkel publically asked the dignitaries present at the celebration of the 60th Anniversary of the *Atlantik Brücke* to revive the negotiations regarding a transatlantic free-trade area.¹⁷ U.S. President Barack Obama echoed this thought in February 2013, when he stated in his State of the Union address, “And tonight, I’m announcing that we will launch talks on a comprehensive Transatlantic Trade and Investment Partnership with the European Union—because trade that is fair and free across the Atlantic supports millions of good-paying American jobs.”¹⁸

The first couple of rounds of trade and investment talks took place in Washington, D.C. and Brussels over the course of the summer and fall of 2013;¹⁹ the third round is scheduled for December 2013, again in Wash-

14. *Id.* See also, Press Release, European Commission Back New Transatlantic Marketplace (Mar. 11, 1998), available http://europa.eu/rapid/press-release_IP-98-237_en.htm.

15. *EU-USA-Transatlantic Economic Council*, EUR. COMM’N, <http://ec.europa.eu/enterprise/policies/international/cooperating-governments/usa/transatlantic-economic-council> (last visited Nov. 7, 2013).

16. *See id.*

17. Merkel stated, “When Germany held the EU Presidency in 2007, we created the Transatlantic Economic Council. I would like to thank all those working on it. Putting tariff barriers to trade to one side for a second, I am absolutely convinced that if we were to manage to work more closely on reducing non-tariff barriers, we would achieve a lot for our economies in a world where others are also gaining in strength. I am thinking here of common standards on electromobility, nanotechnology, renewable energies and much, much more. So it is worth thinking about the ultimate purpose of some hurdles to investment and trade and, taking it further, to think about ways to bring about a comprehensive transatlantic free trade agreement. I am convinced this can only work if it is not just politicians talking about but also representatives from the economy and civil society making plain the benefits and the point of such a project. This project is in fact an old one, but we are now working with renewed vigour on it. So I would also ask the Atlantik-Brücke to play its part but of course also to continue to provide a forum in a world in which we need each other.” Angela Merkel, Chancellor of Germany, Speech by Federal Chancellor at the Celebrations Marking the 60th Anniversary of the Atlantik-Brücke in the German Historical Museum (July 2, 2012), available at <http://www.bundestkanzlerin.de/Content/EN/Reden/2012/2012-07-02-bkin-atlantik-bruecke.html>.

18. Barack Obama, President of the United States, Remarks by the President in the State of the Union Address (Feb. 12, 2013), available at <http://www.whitehouse.gov/the-press-office/2013/02/12/remarks-president-state-union-address>.

19. *Transatlantic Trade and Investment Partnership (TTIP)*, EUR. COMM’N <http://ec.europa.eu/trade/policy/in-focus/ttip/> (last updated July 24, 2013).

ington, D.C.²⁰ Let us read more about the benefits of this Partnership and be supportive to those currently negotiating an agreement that, in 2012, could have brought the economic powers illustrated below closer together:²¹

European Union	United States	
500	300	million inhabitants, comprising a
230	155	million people work force, producing
15.97	15.68	trillion U.S. dollars gross domestic product, adjusted for purchasing power parity, with
2.17 ²²	1.564 ²³	trillion U.S. dollars in exports and
0.397 ²⁴	2.299 ²⁵	trillion U.S. dollars in imports, respectively. ²⁶

20. Press Release, Eur. Comm'n, EU and US Conclude Second Round of TTIP Negotiations in Brussels (Nov. 15, 2013), http://europa.eu/rapid/press-release_IP-13-1091_en.htm.

21. See *The World Factbook: European Union*, CENTRAL INTELLIGENCE AGENCY <https://www.cia.gov/library/publications/the-world-factbook/geos/ee.html> (last visited Nov. 7, 2013). See also *The World Factbook: United States*, CENTRAL INTELLIGENCE AGENCY <https://www.cia.gov/library/publications/the-world-factbook/geos/us.html> (last visited Nov. 7, 2013).

22. Estimated for 2011.

23. Estimated.

24. Estimated for 2011.

25. Estimated.

26. For your reference and comparison, in 2012 it is estimated that China had exports of \$2.057 trillion and imports of \$1.735 trillion. *The World Factbook: China*, CENTRAL INTELLIGENCE AGENCY, <https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html> (last visited Nov. 7, 2013). In 2012 it is estimated that Japan had exports of \$773.9 billion and imports of \$830.6 billion. *The World Factbook: Japan*, CENTRAL INTELLIGENCE AGENCY, <https://www.cia.gov/library/publications/the-world-factbook/geos/ja.html> (last visited Nov. 7, 2013). In 2012 it is estimated India had exports of \$298.4 billion and imports of \$500.4 billion. *The World Factbook: India* CENTRAL INTELLIGENCE AGENCY <https://www.cia.gov/library/publications/the-world-factbook/geos/in.html> (last visited Nov. 7, 2013).