

The New Transatlantic Agenda and the UN Convention on the Rights of Persons with Disabilities

Taking the US/EU Dialogue to a New Level

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1. Purpose of this Memo

The purpose of this memo is to reflect on the challenges of disability law and policy reform on both sides of the Atlantic and to make the case for an intensified US/EU dialogue to mutual advantage.

It sets out the Transatlantic dialogue on disability matters thus far. This dialogue has been taking place for the last decade or so and a good working relationship has already been developed especially between the European Commission and the US authorities. This paper is drafted against the backdrop of the impending US and EU ratification of the United Nations Convention on the Rights of Persons with Disabilities. It argues that effective implementation of the Convention on both sides of the Atlantic could benefit greatly by intensifying the Transatlantic dialogue, and it envisions what shape this might take in the future.

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A: Background: The Transatlantic Process of Dialogue

1. Origins.

The European Union ("EU") and the United States ("US") established diplomatic relations as early as 1953, but it was only in 1990 that the cooperation was formalised for the first time. In November 1990, the Transatlantic Declaration on EC-US Relations was adopted. A regular political dialogue between the US and EU was thereby initiated at various levels, including regular summit meetings. Cooperation focused mainly economics, education, science and culture.

In 1995 a New Transatlantic Agenda ("NTA") was agreed by US President Bill Clinton, Spanish Prime-Minister Felipe Gonzalez (president of the European Union) and European Commission President, Jacques Delors. The NTA is based on a Framework for Action with four major goals: Promoting peace and stability, democracy and development around the world; Responding to global challenges; Contributing to the expansion of world trade and closer economic relations. Within this Framework and to accomplish the goals set out in the NTA, an extensive Joint EU/US Action Plan was developed as follows:

1. Promoting peace, stability, democracy and development around the world.
This goal aims to work towards an increasingly stable and prosperous Europe; foster democracy and economic reform in Central and Eastern Europe as well as Russia, Ukraine and other new independent states;

- secure peace in the Middle East; advance human rights; promote non-proliferation and cooperate on development and humanitarian assistance.
2. Responding to Global Challenges. This goal is focused on fighting international crime, drug-trafficking and terrorism, addressing the needs of refugees and displaced persons, and protecting the environment and combatting disease.
 3. Contributing to the expansion of world trade and closer economic relations. This important objective involves strengthening the multilateral trading system and taking concrete, practical steps to promote closer economic relations between the EU and the US.
 4. Building bridges across the Atlantic. This goal involves working with business people, scientists, educators and others to improve communication and to ensure that future generations remain committed to developing a full and equal partnership. This objective aims to broaden the process of transatlantic relations and seeks to enhance transatlantic connections in the business, educational and non-governmental sectors.

“We, the United States of America and the European Union, affirm our conviction that the ties which bind our people are as strong today as they have been for the past half century... Today we face new challenges at home and abroad. To meet them we must further strengthen and adapt the partnership that has served us so well.”¹

The NTA resulted in a common agenda and deeper commitments for the US and the EU to work together. The Transatlantic Declaration was designed to be a relationship of consultation, whereas the NTA is a relationship of joint action. The NTA reaffirmed the importance of the transatlantic relationship to both parties and made clear the expanding scope of the relationship.

The following are the key documents, central to EU/US relations:

- Transatlantic Declaration 1990²
- New Transatlantic Agenda 1995³
- Joint EU-US Action Plan 1995⁴
- The Transatlantic Economic Partnership (TEP) 1998⁵
- The EU-US Initiative to Enhance Transatlantic Economic Integration and Growth, 2005⁶

¹ The New Transatlantic Agenda, signed on 3rd December 1995 at the EU-US summit in Madrid, by European Commission President Santer, Spanish Prime Minister Gonzalez, as President of the European Council, and then US President Clinton.

² Available at: http://ec.europa.eu/external_relations/us/docs/trans_declaration_90_en.pdf.

³ Available at: http://ec.europa.eu/external_relations/us/docs/new_transatlantic_agenda_en.pdf.

⁴ Available at: http://ec.europa.eu/external_relations/us/docs/new_transatlantic_agenda_en.pdf.

⁵ Available at: http://trade.ec.europa.eu/doclib/docs/2006/march/tradoc_127675.pdf.

An ambitious agenda of cooperation between the EU and the US is taken forward via constant and intensive dialogue. This dialogue takes place at various levels, from the annual summit meetings between the EU and US leaders to technical work at expert level.

2. The Institutional Machinery of the Transatlantic Dialogue

The framework for dialogue comprises the following:

- Bilateral Transatlantic Summits (initially biannual but annually since 2000). The yearly summits between the Presidents of the European Commission and the European Council and the President of the US are the apex of an intensive dialogue. Once a year, a summit meeting is held between the US President, the Head of Government of the country holding the EU Presidency, and the President of the European Commission. Within the framework of the summit meeting, and also in separate ministerials during each council presidency, the US Secretaries of State and Commerce meet the Foreign and Trade Ministers of the country holding the EU Presidency, together with the EU Commissioners for Foreign Affairs and Trade. The High Representative for the EU's Common Foreign and Security Policy also participates in these talks. The summits are prepared by a group of Senior Level Representatives (SLG) (see below) composed of senior officials from the European Commission, the EU Presidency, the Council Secretariat and the US State Department, which has been entrusted to oversee work under the NTA.
- Biannual dialogue at the level of EU Foreign Ministers/ US Secretary of State.
- A Senior Level Group at the level of US Undersecretary of State and EU Commission Director-General to oversee the implementation of the NTA. The Senior Level Group meets four to six times a year and prepares reports and assessments of progress to summit leaders on achievements and new priorities. It is supported in its work by a task force, which ensures the day-to-day implementation of decisions taken.
- A NTA Task Force at Director level to facilitate exchanges at the operational level.
- The Transatlantic Economic Partnership, with its own steering group and action plan. This was replaced by the Transatlantic Economic Council. Under the Joint US-EU Action Plan, the US and the EU have started a regular dialogue on a broad range of multilateral trade issues.

⁶ Available at: http://trade.ec.europa.eu/doclib/docs/2006/march/tradoc_127675.pdf.

- A Transatlantic Legislators Dialogue, involving regular exchanges between the European Parliament and the US Congress and House of Representatives.
- A series of people-to-people dialogues, including the Transatlantic Business Dialogue and the Transatlantic Consumer Dialogue.

The activities of the US and the European Union in implementing the the NTA is guided by the Joint EU-US Action Plan. This joint action plan, which sets activities that will be undertaken to accommodate the four major goals, is coordinated by the Senior Level Group. The NTA entrusted the Senior Level Group to oversee the work of on the NTA Agenda and ensure that the priority areas are addressed. The Group use the regular Summits to measure progress and to update and revise the Agenda's priorities. At each Summit, leaders work with the Senior Level Group to review progress in achieving the goals of the NTA and set priorities.

B: Disability and the Transatlantic Dialogue so Far

1. Transatlantic Dialogue between DG Employment, Social Affairs & Equal Opportunities with the US Dept of Labor (1996-2009)

Within the context of the NTA, the European Commissioner for Employment and Social Affairs and the US Secretary of Labor signed a Memorandum of Understanding (MOU) in Washington, DC, on 2nd May, 1996 to establish cooperation in providing a climate for job growth. The MOU created a Working Group on Employment and Labour-related issues, which met for the first time on the same day as the MOU signing.

The MOU stated that the Working Group will address issues such as investments in human capital, active labour market policies, smoothing transitions and improving employability, security and incomes, labour management cooperation, and developments in the wider international context.

Relevant Working Group meetings have generally been held at least once a year since the MOU was signed in 1996.

Additionally, the Working Group has sponsored a number of meetings, workshops and conferences that draw from governments, trade unions, employer organisations and businesses, academia, Non- Government Organisations (NGOs) and other interested private sector institutions. These events provide a forum for exchanging ideas and information regarding employment policy for policy-makers on both sides of the Atlantic. In this regard, the policy exchanges between the Department of Labor and the Directorate-General for Employment, Social Affairs and Equal Opportunities can be divided into three groups. The first

concerns the performance of labour markets (employment policy, job creation, trends and labour mobility) and importantly the inclusion of persons with disabilities into the labour market. The second relates to the “external” aspects of labour: the trade aspects of labour policies and the topic of immigration. The third group comprises health and safety.

2. The addition of Disability to the Agenda in 1998

Disability was added to the agenda of the Senior Level Group in their Report to the US-EU Summit on 18th May 1998.

The NTA provides a unique platform for the first sharing of transatlantic perspectives on disability policy. The opportunity was used to bring all the main stakeholders on disability policy together- business, NGOs, social partners, political representatives and officials from the US Administration and the EU Institutions. It was thought that the disabled populations of the United States and the European Union share the same problems in relation to the employment (or otherwise) of disabled persons, and can look forward to a brighter future if both jurisdictions can complement and share their experiences, for mutual benefit.

In relation to disability, transatlantic dialogue thus far has engaged the EU Commission’s Directorate General for Employment, Social Affairs and Equal Opportunities and the US Department of Labor. Conferences have been organised predominantly in the area of disability in the workplace, with the primary objectives of heightening awareness of the employment of disabled people and further integrating disabled people into society. These conferences have also placed a large emphasis on the use of Information Communication Technologies (“ICTs”) to advance the rights of disabled people and to further integrate disabled people into employment and into society.

3. Significant Transatlantic Dialogue Events on Disability

1998:⁷ In October 1998, an intercontinental EU/US Conference was held in Madrid on the topic of new technologies for people with disabilities, which aimed to open up new horizons for the development of modern and efficient responses to facilitate the economic and social integration of disabled people. Primary discussion topics included enhancing training for people with disabilities, accommodation of job sites, and closing the gap between supply and demand for disabled workers. The primary objective was to promote cooperation in the expansion of employment opportunities for people with disabilities. The conference was prompted by concern about the dismal unemployment rate for people with disabilities that was evident on both sides of the Atlantic and the

⁷ EU-US Conference, Madrid, 26th-27th October 1998- ‘Harnessing the Information Society to Raise Employment Levels for People with Disabilities’.

inadequate recognition of the rights and interests of disabled persons. This conference proved to be an important forum for the exchange of information between public and private bodies in the US and the EU.

This conference focused on the impact of technologies on the integration and progression of disabled people. It was widely believed that technologies have become the principal ally for the economic and social integration of disabled people. Technological advances can now solve many of the problems and challenges faced by disabled people. The Transatlantic Conference in Madrid in October 1998 was the first step towards the coordination of intercontinental (technological) programmes in this context. The training and employment of disabled people has been placed at the forefront of this technological progress.

2003:⁸ In November 2003 a joint seminar between the EU and the US was held in Brussels within the context of the NTA and in relation to the European Year of People with Disabilities. The purpose of the seminar was to explore barriers to employment that people with disabilities are facing, policies that could address these barriers and increase the integration of people with disabilities into the labour market and to exchange good practices and other ideas. In particular, the discussion sessions covered: the role of employment policies in promoting the access of people with disabilities to the labour market; ICT and eAccessibility; and the management of disability in the workplace. This conference concentrated on employment from the perspective of the supply side, that is to say the employees, and presenters from the mainstream business sector gave examples of how their organisations met the needs of disabled workers.

The seminar identified some key themes (many of which have been identified in the overall tenor of the UN Convention on the Rights of Persons with Disabilities-discussed further below):

1. The need for a multi-faceted approach, recognising that accessible and affordable transport, housing and access to education and community services and added personal supports are also prerequisites to employment.
2. The importance of involvement of people with disabilities in establishing policy and programme directions, to give them an opportunity to indicate what their needs and requirements are.
3. The need for clearer definitions of disability, for better data regarding the disability population, and for more evaluations documenting what strategies are effective or not, for whom and in what situations in enabling people with disabilities to be employed.

The seminar recognised the significant differences that exist between the US and the EU, for example the different political structures and dynamics, historical

⁸ EU-US Seminar, Brussels, 17th-18th November 2003- 'Access of People with Disabilities to Employment' between European Commission DG Employment, Social Affairs and Equal Opportunities and Office of Disability Employment Policy.

traditions and social contexts. As a result of these differences, it is necessary to adapt rather than to transpose good practices from one jurisdiction to another. There is however a great potential to learn from each other's experiences on both sides of the Atlantic. The seminar did conclude however that there is not much difference between the EU and the US in terms of the status of people with disabilities or their participation in the labour market. The overall nature and range of interventions and solutions being used are largely similar. Both jurisdictions face similar challenges, both currently and anticipated for the future.

2006:⁹ In February 2006 a conference was held in Washington DC on 'Information Exchange on Exploring Employment and Retention Strategies for People with Disabilities'. This two-day information exchange began with a panel discussion featuring two US and two EU executives with significant experience in recruiting and retaining workers with disabilities. The panelists described their organisations' experiences and discussed the current and potential role of government assistance in employing people with disabilities. Another aspect of the conference related to 'Employment Supports to Facilitate Employability by Means of Skills Development and Life-Long Learning', which highlighted the benefits of assistive technology, access to lifelong learning and the use of human capital and skills development as a means of fostering successful employment outcomes for disabled workers. Another discussion session covered 'Entrepreneurship Strategies for People with Disabilities'. Presenters included successful entrepreneurs with disabilities who focused on the strategies they use to make their businesses competitive and profitable. Building on the 2003 event, the 2006 conference addressed disability from the demand side, that is to say the employer perspective. The Conference was important in highlighting the rights of disabled persons in the workplace, and in particular, the impact of information technology on progressing the rights and entitlements of disabled persons.

2009:¹⁰ In November 2009, a seminar was held on the topic the Employment of People with Disabilities. One of the primary objectives of the seminar was, firstly, the position of ICT and Assistive Technology in employment, both from the employers' perspective and improving accessibility and achieving reasonable accommodation through assistive technology from the users' perspective. Another aspect of the seminar focused on the transition from education to employment, and the need to facilitate a successful transition.

In addition to the employment context, there have also been several seminars/meetings relating to disability, within DG Enterprise and Industry.

⁹ EU-US Conference, Washington DC, 7th-8th February 2006- 'Information Exchange on Exploring Employment and Retention Strategies for People with Disabilities'.

¹⁰ EU-US Seminar, Brussels, 5th-6th November 2009- 'Employment of Persons with Disabilities'.

C: The United Nations Convention on the Rights of Persons with Disabilities as a Spur to Intensify the Dialogue.

1. Why? The United Nations Convention on the Rights of Persons with Disabilities as a Spur to Intensify the Dialogue

The Convention is a milestone for the advocacy of the rights of persons with disabilities and is now steadily gaining worldwide acceptance and support.

The Convention, which covers the rights of people with disabilities aims to ensure that people with disabilities enjoy human rights and fundamental freedoms on an equal basis with everyone else. It will provide protection for 50 million EU citizens and 650 million people with disabilities worldwide. The EU was actively involved in the process of drafting the CRPD, which mirrors its own legal and policy impetus of ensuring that people with disabilities are actively engaged in society from a both a moral and economic perspective.

In addition, in light of the ratification of the Convention by both the US and the EU, the issue of disability is now placed on a firm international forum, with disability rights being highlighted and further issues and challenges arising for both jurisdictions. The ratification of the Convention by the US and EU is an opportunity and an added incentive for both jurisdictions to work together to ensure that the principles and provisions of the Convention are adequately implemented and upheld. It is also an ideal opportunity to expand and broaden the NTA to reflect the provisions and objectives of the CRPD.

The Convention focuses on promoting, protecting and ensuring the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities in a range of different areas such as education, accessibility (including transport) and health. Therefore, within the context of the NTA, further Directorate Generals are implicated in relation to disability, and this needs to be reflected in the structure, objectives and framework of the NTA.

Both the EU and the US are bound by the obligations of the CRPD, in particular with reference to Article 4 which requires States to take steps to “ensure and promote the full realisation of all human rights and fundamental freedoms” of disabled people “without discrimination of any kind on the basis of disability.

In terms of promoting the added value of an enhanced US/EU policy dialogue on disability, it is noteworthy to point out that sometimes the benefits and success of the transatlantic dialogue can be tangible and obvious and can be clearly seen in the form of disability rights policies and legislation (most recently, the introduction of the CRPD). It follows that the NTA advocates strong links between the EU and the US legislators. Members of the European Parliament and US Congress meet regularly to exchange views on a wide range of issues relating to the New

Transatlantic Agenda. For many years the European Parliament and the US Congress inter-parliamentary meetings have been one of the most relevant tools for discussion between legislators across the Atlantic. The launching of the Transatlantic Legislators Dialogue (TLD) in January 1999 has provided a new impulse to relations between elected representatives. The TLD aims to strengthen and enhance interparliamentary relations, and its membership includes key legislators from both sides of the Atlantic. This dialogue could potentially be used as an effective tool as regards the implementation of disability law and policy on both sides of the Atlantic, in line with the CRPD.

In addition, the NTA garners intangible benefits. For example, strengthened transatlantic relations accordingly raise awareness, on an international level as to the fundamental rights and entitlements of disabled people, which in turn may influence individuals' attitudes towards disability and disabled persons in a positive manner. These factors are all important in seeking to advocate an enhanced NTA within the context of disability.

2. Which fields?

(a) Information Society and Media

DG Information Society and Media is already engaged in the NTA process. Its main interlocutor in the US is the TEITAC (Telecommunications and Electronic and Information Technology Advisory Committee)/Access Board. There is also involvement with DG Employment, Social Affairs and Equal Opportunities and DG Enterprise and Industry. The focus of this particular dialogue is on e-Accessibility standards, where there is mutual participation between the EU and US, with reference to Mandate 376 in the EU and the work of the TEITAC/Access Board in the US.

The CRPD places a strong emphasis on the development and promotion of the use and benefits of ICTs and assistive technology for people with disabilities. In particular, Article 9 provides that States Parties shall take appropriate measures to ensure persons with disabilities access, on an equal basis with others, to, inter alia, information and communications, including information and communications technologies and systems (including the elimination of obstacles and barriers to accessibility). Under Article 9, States Parties are also required to promote access for persons with disabilities to new information and communications technologies and systems.

On both sides of the Atlantic, the information society can be seen as having the potential to provide the technology to strengthen the participation of people with disabilities in society, and of improving their quality of life. New information and communication technologies (ICTs) can supply the means to overcome many of the physical and psychological obstacles people with disabilities face, and can be used to increase their role, not only in the labour market, but also in every aspect

of life. However, for people with disabilities to benefit from the financial and social advantages offered by technological progress, the information society must be anchored in equal opportunities, participation and full integration. The coordinated efforts of the US and the EU can ensure that full advantage is taken of the information society, for the benefit and advancement of people with disabilities.

Both the US and the EU should take full advantage of newly developed information technology and services, and work together, towards the realisation of a Transatlantic Information Society, with the issue of disability at the forefront. It follows that technology and the promotion of the Information Society holds great promise of increasingly breaking down barriers to and providing for accessibility for disabled persons. New technologies need to be widely available and accessible and not just confined to the fortunate few. New technologies can and must be part of any active policies on the integration and protection of persons with disabilities.

The underemployment of people with disabilities makes the task of finding innovative ways of raising levels of labour market participation all the more urgent. The advent of the Information Society provides such an opportunity. New opportunities for employment are opening as scientific and technological advances give rise to new industries and occupations unheard of only a few decades ago. The importance of technology for creating an accessible work environment must be emphasised. A barrier-free environment must include, for example, ramps for building access, appropriate door widths, and paths free of impediments. Of equal concern is access to communication. A person who is blind or visually impaired, for example, must be able to read the computer screen and documents. A person who is deaf or hard of hearing must be able to participate in the discussion at a meeting or in a telephone conversation.

In the EU there are a number of soft-law instruments adopted by the Commission to complement the legislation on telecommunications (that only applies to a certain part of the expansive field of information and communication technologies). For example, in 2005, the Commission launched a new strategy framework called “i2010- A European Information Society for Growth and Employment” to provide for an integrated approach to the information society. To meet this objective, the Commission produced a Communication on eAccessibility in 2005, which endeavoured to explore approaches in making ICTs accessible to persons with disabilities. The 2008-2009 Disability Action Plan (see below) focuses on accessibility. The aim is to stimulate inclusive participation of people with disabilities and to work towards full enjoyment of fundamental rights.

In the US, ICT and Assistive Technology has been at the forefront of advancing the rights of persons with disabilities. The Access Board is the only US Federal Government agency whose mission is accessibility for people with disabilities. The Board develops and maintains design criteria for the built environment,

transit vehicles, telecommunications, equipments, and for electronic and information technology. It also provides technical assistance and training on these requirements and on accessible standards that cover federally funded facilities. The Board is constructed to function as a coordinating body among Federal agencies and to directly represent the public, particularly people with disabilities.

Section 508 of the Rehabilitation Act, 1973, as amended, establishes requirements for electronic and information technology developed, maintained, procured or used by the Federal government. Section 508 requires Federal electronic and information technology to be accessible to people with disabilities. The purpose of Section 508 is to ensure that technology does not stand as a barrier to employment and the full productivity by people with disabilities. The Access Board was given the responsibility to develop accessibility standards for such technology for incorporation into regulations that govern Federal procurement practices.

Through the use of the NTA and the development of cohesive EU-US relations, there is the potential for Europe to learn from the established experience and success of the US in this area. The US is more advanced and has established policies highlighting the benefits and advantages of effectively using ICTs and the information society to advance the rights of disabled people. It is also important that accessibility requirements be harmonised throughout the world in line with the requirements of the CRPD.

The Standards Dialogue reinforces the importance of US-EU relations, and the benefits of working together to harmonise laws and policies, for mutual benefit. The Standards Dialogue is focused on the exchange and sharing of information regarding the planned use of ICT standards in support of regulatory and public policy goals, especially on advancing bilateral cooperation on e-accessibility.

(b)Education

Education has recently been included as part of the NTA. The first EU-US Education policy forum took place in Washington DC on 8th and 9th October 2009 and was organised by the European Commission, Directorate General for Education and Culture and by the US Department of Education. The purpose of the policy forum was to strengthen education co-operation across the Atlantic and exchange ideas on challenges and trends in the areas of higher education reforms.

Article 8 of the CRPD states that States Parties should adopt measures fostering at all levels of the education system including in all children from an early age, an attitude of respect for the rights of persons with disabilities. In addition, Article 24 deals directly with education and provides that States Parties recognise the right

of persons with disabilities to education and shall ensure an inclusive education system at all levels and lifelong learning.

It is necessary that individuals with disabilities have the requisite education and effective processes to transition from school to work. Equal access to quality education and lifelong learning enable disabled people to participate fully in society and improve their quality of life. The European Commission supports the inclusion of children with disabilities in mainstream education. It has launched several educational initiatives for disabled persons. These include the European Agency for Development in Special Needs Education, as well as a specific study group on disability and lifelong learning. Community Programmes like the Lifelong Learning programme are bringing the education and training of disabled people into the mainstream. In addition, the seminar which took place in Brussels on 5th and 6th November 2009 referred to the importance of successful transition from school to employment for students with special educational needs and pointed out key factors that need to be considered in the field of transition. It is recommended that there be an added emphasis on disability in the realm of education within the context of the Transatlantic Agenda.

In the US, the Department of Education and the Office of Civil Rights endeavour to ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights. In addition, the Individuals with Disabilities Education Act 2004 requires public schools to make available to all eligible children with disabilities a free appropriate public education in the least restrictive environment appropriate to their individual needs.

It is submitted that both the EU and US can benefit from further cooperation and consultation in the area of disabled people and education, particularly in light of their obligations under the CRPD.

(c) Housing

There is no specific housing dialogue contained within the NTA.

Article 28 of the CRPD provides that States Parties recognise the right of persons with disabilities to an adequate standard of living for themselves and their families, including, inter alia, adequate housing and States Parties shall take appropriate steps to safeguard and promote the realisation of this right without discrimination on the basis of discrimination. States Parties have many obligations in this regard, including ensuring access by persons with disabilities to public housing programmes.

In the EU, DG Employment, Social Affairs and Equal Opportunities has the responsibility to ensure all individuals, including disabled people, have access to decent housing. Since 2000, the EU has provided, through the Open Method of

Coordination, a framework for national strategy development as well as for policy coordination between EU countries on issues of poverty and social exclusion (to include ensuring decent housing for everyone). This coordinated action at EU level is reflected in national action plans, and encourages EU countries to examine their policies critically.

Within the US Department of Housing and Urban Development, the Office of Fair Housing and Equal Opportunity (FHEO) administers and enforces federal laws and establishes policies that make sure that all Americans have equal access to the housing of their choice. Title VIII of the Civil Rights Act 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental and financing of dwellings and other housing-related dwellings based on, inter alia, disability.

(d)Health

There is no specific dialogue on the specific issue of health contained within the NTA. However, there is a US-EU Cooperation on Workplace Health and Safety, organised by the US Department of Labor, Occupational Safety and Health Administration (OSHA) and the EU European Agency for Health and Safety at Work.

Article 25 of the CRPD provides that States Parties recognise that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of discrimination.

The NTA should be expanded further in this context, particularly as regards access to health care for people with disabilities. There is a need to ensure that people with disabilities have satisfactory access to health care. It is important that the US and EU work together to improve access to services for individuals who face social and health care barriers due to disability, chronic illness, or other circumstances that present unique needs.

The EU promotes the coordination of national healthcare policies through the Open Method of Coordination with a particular focus on access, quality and sustainability. More particularly, European programmes of Community action in the field of public health (Decision No 1786/2002/EC of the European Parliament and of the Council of 23th September 2002 adopting a programme of Community action in the field of public health), although not mentioning disability specifically, are nevertheless relevant as they provide for a significant financial basis for implementing actions that are relevant to persons with disabilities and chronic illnesses, such as promoting health, including reducing health inequalities, disseminating health information and improving citizens' health, including mental health. More generally on health, in 2008 the Commission launched a consultation on the European Workforce for Health (Green Paper on European

Workforce for Health COM(2008)725), that attempts to find responses to the increasing challenges to the health systems today, taking into account factors such as ageing population and the role of new technologies. The Green Paper discusses the actions that need to be taken to ensure, inter alia, training of providers of services to disabled and elderly persons.

In the US, within the Department of Health and Human Services, the Office for Civil Rights (OCR) promotes and ensures that people have equal access to and opportunity to participate in certain health care and human services programs without facing unlawful discrimination. The OCR carries out this mission by enforcing Federal laws and regulations that prohibit discrimination on the basis of inter alia, disability. The OCR also enforces a Federal law and regulation that prohibit discrimination on the basis of disability in health care and social services programs of State and local governments. The Americans with Disabilities Act 1990 Title II requires that State and local governments give people with disabilities an equal opportunity to benefit from, inter alia, health care.

(e)Transport

There is no specific transatlantic dialogue on the issue of transport contained within the NTA.

Article 9 of the CRPD has an emphasis on accessibility, and states that States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to, inter alia, transportation.

Within the US Department of Transportation, the Federal Transit Administration works to ensure non-discriminatory transportation in support of their mission to enhance the social and economic quality of life for all Americans. The Federal Transit Administration's Office of Civil Rights is responsible for civil rights compliance and monitoring to ensure non-discriminatory provision of transit services. The Americans with Disabilities Act 1990, Title II provides that public transportation authorities may not discriminate against people with disabilities in the provision of their services. They must, inter alia, comply with requirements for accessibility in newly purchased vehicles, make good faith efforts to purchase or lease accessible used buses, provide paratransit where they operate fixed-route bus or rail systems.

In the EU, in 2008, the Commission adopted technical specifications on interoperability (TSI) relating to persons with reduced mobility that will apply to the trans-European conventional rail system. (Commission Decision 2008/164/EC concerning the technical specification of interoperability relating to 'persons with reduced mobility' in the trans-European conventional and high-speed rail system). The TSI is a set of technical rules aimed to improve accessibility for persons with a reduced mobility when travelling by rail. They

cover issues such as width of doors, positioning of toilets and wheelchair accessible seats and provision of information in accessible formats.

The Directorate General for Energy and Transport needs to ensure that, on a European level, people with disabilities have satisfactory access to all public transportation services, and in particular that they have a means by which to get to work. This transport needs to be accessible and affordable. It is also worth pointing out that there is little point in providing someone with a job if there is a lack of accessible transport enabling a person to get to and from work.

In this regard, the EU can learn from the US and its experience as regards ensuring that public transportation systems are widely available and accessible to all individuals.

(f) Enterprise and Industry

Within the NTA the following transatlantic dialogues are included within the NTA: Transatlantic Business Dialogue, Transatlantic Economic Partnership and Transatlantic Innovation Dialogue, all of which focus on the sharing of good policy practice and the improvement of policy environment in relation to business, entrepreneurship and innovative activities on both sides of the Atlantic.

Article 27 of the CRPD requires States Parties to promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business. In addition to promoting the rights of disabled persons in mainstream employment, it is also important to highlight the need to promote the entrepreneurship of disabled persons and to encourage disabled persons to set up competitive and profitable businesses.

At the 2003 seminar in Brussels it was pointed out that it is not good business sense to fail to take advantage of the skills and abilities offered by individuals who happen to have a disability. It was also observed at the seminar that it represents an expensive waste of skilled and experienced staff to fail to support employees who develop a disability while employed. It was further observed that the economic argument for employing people with disabilities is becoming stronger, due to the aging populations and the coming retirement of many of the "baby boom" generation. Both sides of the Atlantic are therefore likely to experience a jobs and skills gap at some stage. It is also true to say that with an increasingly aging workforce, a larger share of current employees can be expected to be developing disabilities.

It is recommended that the NTA be expanded further in the context of Enterprise and Industry, and the US and EU should aim to use the the NTA to broaden their dialogue to include promoting the importance of encouraging disabled people to become actively involved in enterprise.

(g) Employment, Social Affairs and Equal Opportunities

DG Employment, Social Affairs and Equal Opportunities has an established position within the NTA. Its main interlocutor in the US is the Department of Labor.

The majority of intercontinental conferences and transatlantic dialogue on the topic of disability have taken place within the context of employment. Such EU-US dialogue has proven successful in raising awareness of the importance of the integration of disabled people into the workplace and therefore into society. There is an established need to further promote social inclusion and non-discrimination by supporting efforts to combat poverty and social exclusion, reform social protection systems, access new demographic and social developments, take action against discrimination, promote fundamental rights and enhance the integration of disabled people.

In the US, the Department of Labor's Office of Disability Employment Policy (ODEP) seeks to increase employment opportunities for people with disabilities by expanding access to training, education, employment supports, assistive technology, integrated employment, entrepreneurial development, and small-business opportunities. The agency also builds partnerships with employers and state and local agencies to increase awareness of the benefits of hiring people with disabilities, and to facilitate the use of effective strategies. ODEP does not enforce any laws.

The Department's Employment and Training Administration (ETA) provides grant programs and other services to enhance the employment opportunities of people with disabilities.

The US Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of, inter alia, the person's disability. The EEOC has the authority to investigate charges of discrimination against employers who are uncovered by the law. The EEOC provides leadership and guidance to federal agencies on all aspects of the federal government's equal employment opportunity program. The Americans with Disabilities Act 1990 Title I protects qualified individuals with disabilities from discrimination in employment. Title I provides that complaints in relation to discrimination must be filed with the US Equal Employment Opportunity Commission.

Within the EU, the objective of the European Commission's disability strategy since 2003 has been to make equal opportunities for disabled people a reality. At the forefront, is the EU Disability Action Plan (2003-2010), which endeavours to ensure that disability issues are integrated within all relevant EU policies (including employment).

During the 2003 European Year of Persons with Disabilities, the Commission adopted a rolling multi-annual Action Plan to mainstream disability into relevant Community policies and develop concrete actions to advance the well-being of persons with disabilities through accessibility and full application of the Employment Directive. The Action Plan is divided into biennial phases, each of which focuses on a set of priority areas of intervention. The DAP is developed in two-year phases with policy priorities that respond to the equality gaps disabled people face.

Article 27 of the CRPD provides, *inter alia*, that States Parties recognise the right of persons with disabilities to work, on an equal basis with others; and this includes the right to the opportunity to gain a living by work freely chosen or accepted in the labour market and a work environment that is open, inclusive and accessible to persons with disabilities.

Both the US and the EU have comprehensive strategies and policies for advancing disabled people in the workplace and ensuring that the rights of disabled people are recognised and upheld. It is also clear that both jurisdictions have utilized the NTA to their advantage in this regard and realised the benefits of working together with a common goal. In light of the ratification of the UN CRPD by the US and the EU, it is recommended that the US-EU dialogue in this context continues, with an added emphasis on the provisions enshrined in the CRPD in the employment context. The NTA should continue to focus efforts on the area of employment and build upon its existing successes.

3. How?

It is recommended that the NTA be re-animated and broadened within the context of disability. It is recommended that a greater focus and emphasis be placed on the disability dialogue between the US and the EU across a range of sectors. As explained above, further Directorate Generals are now implicated (in addition to DG Employment, Social Affairs and Equal Opportunities) and this needs to be reflected in the structure, aims and objectives of the NTA. It is clear that, in relation to disability, the previous conferences, seminars and events were focused and centred around the area of employment, and in particular, employment management of disability at the workplace and the integration of disabled people into the workplace.

This aspect of the NTA needs to be broadened and expanded upon. Intercontinental conferences need to branch out to encompass the recognition of disability rights in such areas as Transport, Education, Enterprise and Industry and Health (while accepting that arguably employment still remains the most important element of social inclusion of disabled people. It follows that employment provides the opportunity for individuals to gain economic independence, and the means to be able to live independently in the community with dignity). Although ICTs and assistive technology have featured strongly in

the various intercontinental conferences, the area of Information Technology generally needs to be further promoted as an effective tool in the advancement of disability rights. These intercontinental conferences would facilitate an exchange of ideas and experiences to build upon existing disability rights.

In particular, these conferences should endeavour to examine the above mentioned areas within the context of the CRPD, and having regard to the fact that both the EU and the US will ratify the Convention and consequently have significant obligations as regards ensuring that disability rights are recognised. The CRPD is revolutionary in not only highlighting and promoting the rights and entitlements of disabled people, but also in imposing onerous obligations on signatories to the Convention to take steps to ensure and promote the realisation of all human rights and fundamental freedoms of disabled people. Intercontinental meetings and conferences can be used as a forum to discuss and evaluate the effectiveness and the impact in practice of the Convention across these additional areas. The EU and the US should endeavour to confer and consult on the introduction and implementation of policies on the topic of disability (and the interaction with such areas as employment, education, transport, enterprise and industry). It is noteworthy to mention the fact that the following Directorate Generals are already involved in the NTA and therefore it would be relatively straightforward to further incorporate disability into these areas: DG Employment, Social Affairs and Equal Opportunities, DG Information Society and Media, DG Education and Culture and DG Enterprise and Industry.

In including the above mentioned areas in the intercontinental disability dialogue, it would be beneficial to incorporate participation from various social groups, disability rights groups and business people and disabled people themselves. It follows that EU-US relations are not limited to contacts at government level; they are also about people. One of the fundamental aims of the NTA has been to involve citizens and establish stronger links between communities on either side of the Atlantic. Individuals and groups (particularly in the disabled community) should be encouraged to reinforce links with their transatlantic counterparts, to learn more about each other and to share experiences on the challenges faced, for mutual benefit. People with disabilities need to be involved directly in establishing policy and programme directions, to give them an opportunity to indicate themselves what their needs and requirements are.

The US and the EU attach great importance to Chapter Four of the NTA, entitled "Building Bridges", and accordingly the following dialogues have been initiated: the Transatlantic Consumers Dialogue, the Transatlantic Environmental Dialogue, the Transatlantic Legislators Dialogue and the Transatlantic Business Dialogue. These Dialogues are all an important element in the relationship between the US and the EU and are particularly important in formulating an invaluable network of people with common interests and objectives.

It is recommended that a specific Transatlantic Disability Dialogue be promoted. This Dialogue would seek to further involve networks of people and groups who know each other and understand each other's concerns and interests, in addition to an intergovernmental dialogue. The ratification of the CRPD by both the US and the EU may be an added impetus to introduce a specific Disability Dialogue. Although there has been a successful intercontinental dialogue and a great deal of awareness raised, there needs to be a much broader and better-informed debate on this particular topic. It is important to promote informed and continual dialogue over a range of areas. Disability rights are now an important international issue, relevant to all countries worldwide. If the US and the EU can work together and cooperate, the jurisdictions can learn from each other's experiences and implement cohesive, well-planned and successful law and policies on the issue of disability.

It is recommended that the **Transatlantic Legislators Dialogue ("TDL")** be strengthened in the context of disability, particularly in light of the recently adopted CRPD. The Transatlantic Legislators Dialogue constitutes the formal response of the European Parliament and the US Congress to the commitment in the NTA, to enhanced parliamentary ties between the EU and the US. In practical terms, the Transatlantic Dialogue includes the bi-annual meetings of the European and the US Congress delegations and a series of teleconferences, organised on specific topics of mutual concern, with a view to fostering an ongoing and uninterrupted dialogue. The TLD Steering Committee is responsible for coordinating the TLD activities (in accordance with the TLD Terms of Reference). The TLD Steering Committee maintains regular contacts with the Senior Level Group and ensures appropriate representation of the relevant parliamentary committees in TLD activities.

It is recommended that the Transatlantic Legislators Dialogue be reinvigorated by focusing on specific legislations and generally developing a closer connection between the Transatlantic Legislators Dialogue and the official NTA process. In addition, specific exchanges between the European Parliament and the US Congress and House of Representatives on the implementation of disability law, policy and reform would be of mutual benefit for both the EU and US and would ensure that both jurisdictions consult on a wide range of relevant issues regarding disability law. The Terms of Reference of the TLD refers to strengthening cooperation between the EU and US on matters of common interest, and this can be interpreted as being sufficiently flexible to include disability law matters within the ambit of inter-parliamentary dialogue. The recent introduction of the CRPD elevates the importance of the issue of disability law to a global level and makes the implementation of satisfactory legislation a priority for both the EU and the US. Therefore, the strengthening of Transatlantic Legislators Dialogue merits serious consideration.

CONCLUSIONS

As the two greatest powers on the world scene, the relationship between the EU and the US is central and irreplaceable. It has a long, mutually beneficial history based on shared and strong fundamental beliefs in democratic government, human rights and market economies. This transatlantic relationship culminated with the signing of the Transatlantic Declaration in 1990 and further with the signing of the NTA in 1995. The NTA has moved the transatlantic relationship from one of consultation, as foreseen by the 1990 Transatlantic Declaration, to one of joint action. As set out above, the NTA is comprised of four chapters; the promotion of peace, stability, democracy and development around the world; responding to global challenges; contributing to the expansion of world trade and closer economic relations; and building bridges across the Atlantic. The NTA has proved successful in addressing global issues within the four goals set out, and this is an incentive to work towards strengthening transatlantic links in the area of disability.

The addition of disability as part of the NTA is welcomed as there can be great potential for both the EU and the US to learn from each other's experiences on both sides of the Atlantic. Particular issues have already been highlighted, for example, the impact of the Information Society or ICTs on the lives of disabled persons, particularly in the workplace. Both the US and the EU have been successful in developing and promoting the use and benefits of ICTs, and both jurisdictions have worked together in this regard in sharing and exchanging experiences as well as best practice and policy implementation, with the ultimate goal of advancing the rights and entitlements of disabled persons.

One of the primary aims of the EU and US transatlantic dialogue in this regard is to increase the employment of disabled persons. Employment provides the opportunity for individuals to gain economic independence, and to be able to live independently in the community with dignity. Employment is the most important element to social inclusion. Indeed, the EU and US have established experience in successfully working together to promote the importance of the effective employment of disabled people.

In addition to employment, the inclusion of and emphasis on other relevant areas/sectors (such as, for example, transport, education, and health) is also important to further the rights and interests of disabled persons and would add greater value and enhance the effectiveness of the EU/US dialogue as regards disability. The emphasis on these additional sectors is also in line with the overall theme and objectives of the UN Convention on the Rights of Persons with Disabilities.

Both jurisdictions must take simultaneous action on multiple fronts and focus their objectives on several areas, recognising for example that barriers to employment and indeed in society arise in other seemingly unrelated areas, such as transport, housing, education and health, and that the ratification of the CRPD by the EU and the US is an added incentive and opportunity for the NTA to be re-

animated and modernised in line with the objectives of the CRPD. It is therefore necessary to make recommendations towards broadening the NTA in relation to disability law and policy, to take account of global impact of the CRPD, and to intensify the EU-US dialogue for mutual advantage.