

December 21, 2004

Ms. Anita Thomas
Office of Europe and the Mediterranean
Office of the U.S. Trade Representative
600 17th Street, NW
Washington, DC 20508
(Transmitted via fax: 202-395-3974)

Re: FR Doc. 04-18716, "Public Dialogue on Enhancing the Transatlantic Economic Partnership"

Dear Ms. Thomas:

DaimlerChrysler, America's number one motor vehicle exporter, is a leading producer of trucks and automobiles on both sides of the Atlantic. Consumers know us best via our Chrysler Group and Mercedes-Benz cars and light trucks; Freightliner, Western Star and Sterling heavy-duty trucks; Orion, Setra and Thomas Built Buses; American LaFrance emergency vehicles; GEM electric vehicles; and Detroit Diesel and MTU engines. On a revenue basis, at \$171.8 million, DaimlerChrysler is the world's second largest vehicle company. We are also a major service provider – excluding the banking and insurance industry, DaimlerChrysler Services is the world's third largest financial services company.

Here in the United States, sales of DaimlerChrysler vehicles equal nearly one percent of U.S. GDP. We have over 100,000 employees in the U.S.A., located in all 50 states and in Puerto Rico. We spend about \$36 billion a year with suppliers in North America, supporting the operation of more than 8,700 companies. Chrysler Group alone spent nearly \$2.4 billion on capital investments in the United States in 2003, re-confirming our commitment to this market, particularly to urban areas. In fact, 23 of 24 Chrysler Group U.S. manufacturing facilities are still in urban locations, contributing to the economic lifeblood of their communities.

DaimlerChrysler, as a leading transatlantic company, is pleased to contribute the attached comments in response to FR Doc. 04-18716, "Public Dialogue on Enhancing the Transatlantic Economic Partnership". Our comments, which are also being presented to the European Commission, call for a commitment on both sides of the Atlantic to strengthening both the economic and political partnership between the U.S. and Europe. We identify five basic areas that offer opportunities to improve trade and investment across the Atlantic:

- Economic performance of the transatlantic region;
- Motor vehicle standards and certification;
- Customs and import procedures;
- Tort reform in the U.S.; and
- Compatible standards regarding corporate governance and financial reporting.

We look forward to being an active participant in the continuing dialogue on this important issue. Please contact us directly if you have any questions or require more information.

Sincerely,



Robert G. Liberatore
Group Senior Vice President
Global External Affairs and Public Policy



Marie G. Kissel
Senior Manager, Trade Policy
External Affairs and Public Policy – Americas

Contribution to the U.S. and EU consultations concerning the strengthening of the EU-U.S. economic partnership

As a truly transatlantic company, DaimlerChrysler strives to be a leader in advancing the dialogue between trading partners on both sides of the Atlantic. By building consensus between North American and European countries and corporations, our company hopes to move forward issues at the international level by acting as facilitator in discussions between Brussels and Washington. We welcome the effort announced at the EU-U.S. Summit in 2004 calling for partnership to build a stronger transatlantic trade and business relationship.

DaimlerChrysler traditionally is very supportive of all initiatives geared at the improvement of the relations between the U.S. and the EU. We have made a number of contributions, e.g. by sponsoring studies on trade and investment relations between the two regions, and in the framework of the Transatlantic Business Dialogue (TABD), notably in 1998 when the company's chairman, Prof. Juergen Schrempp, held the European co-chair.

DaimlerChrysler strongly pleads for the elimination of all obstacles to trade in goods and services, investment, and movements of people in the 'transatlantic market', which has shown tremendous growth over many years. The importance of this transatlantic market to both economies is well documented in the recent study by Daniel Hamilton of the Center for Transatlantic Relations, "Partners in Prosperity" – transatlantic trade and investment account for 2.5 trillion dollars and employ approximately 12 million people.

We support all bilateral or multilateral initiatives, which aim at the removal of tariffs, the mutual recognition of approvals and certificates, regulatory cooperation, and the elimination of other obstacles to market access, in full compliance with international obligations of the U.S. and the EU. In this respect, we would like to refer i.a. to the proposal by the Transatlantic Policy Network (TPN) to create a borderless transatlantic market by the year 2015 – an idea also supported by a resolution of the Transatlantic Legislators' Dialogue.

Since the adoption of the Transatlantic Declaration in 1990, many important programs for transatlantic economic cooperation have been adopted and appropriate frameworks established for further negotiations. On many issues the U.S. and the EU or its member states are already working together successfully and have facilitated economic relations and cooperation.

However, we feel that now, after nearly 15 years, the time has come to take stock of all these promising activities and to support them by the establishment of an overall framework agreement. In addition, we urge all relevant political players on both sides of the Atlantic to commit to the strengthening of not only the economic, but also the political partnership across the Atlantic. These efforts must involve the private sector as well as the U.S. Administration, the European Commission, the governments of the EU member states, and the legislative bodies (Congress in the U.S. and the European Parliament in Europe).

In response to the request from the European Commission and the Office of the U.S Trade Representative, what follows is a listing of some areas where DaimlerChrysler as a transatlantic company encounters practical difficulties. We believe that resolving these problems would be beneficial in the long-term to both the U.S. and the EU, and to American and European consumers and businesses. , as well as contribute to the creation of sustainable jobs in Europe and in the U.S.

There are five basic areas that offer opportunities to improve trade and investment across the Atlantic:

- The economic performance of the transatlantic region
- Motor vehicle standards and certification
- Customs and import procedures
- Tort reform in the U.S.
- Compatible standards regarding corporate governance and financial reporting

Economic Performance of the Transatlantic Region

As highlighted in "Partners in Prosperity", the economic and trade relationship between the U.S. and Europe is the deepest and broadest between any two continents in history. Against the background of close trading and investment relations, business has a keen interest in stable economic conditions and the application of sound economic policies in both Europe and the United States.

We therefore call on Europe to pursue growth-oriented policies at all levels of government along the lines of the Lisbon Agenda, primarily to keep Europe attractive as a market and as a place for investment. We fully share the view that growth is not an end in itself but the means to maintain a certain quality of life. However, the high quality of life enjoyed by Western Europeans is unsustainable without substantial improvements in the growth rates of at least some of the EU member states.

European social and economic models differ from those in the U.S. and are not identical in all regions of Europe. There is a need for adjustments in Europe, notably where over-regulation stifles entrepreneurial initiative or where social systems are no longer sustainable or have become a disincentive to work. More room needs to be created for private initiative and responsibility. In addition, policies must be developed to face the challenge of a quickly aging population.

On the U.S. side, policy adjustments are also needed, notably steps against the growing twin deficits (current account and budget). Joint efforts would be useful in areas such as macroeconomic and exchange rate policy.

Multilateral and bilateral liberalization of trade and investment, the opening of public procurement, improvements in the functioning of the internal markets, and the cooperation in military procurement would provide further economic stimuli in both regions.

Motor Vehicle Standards and Certification

DaimlerChrysler, as a transatlantic vehicle manufacturer, sells largely identical passenger cars, trucks, and heavy commercial vehicles in Europe and in the U.S.. However, due to widely differing systems of vehicle standards and certification, we are required to design vehicles to different, and sometimes conflicting sets of standards, and to get prototypes through two different and completely independent approval processes.

This is unnecessarily costly and needs much more time than is justified by the largely identical objectives of legal requirements on both sides of the Atlantic. Moreover, the absence of common rules and procedures weakens the leverage of the two regions to lead global harmonization efforts. Efforts by newly motorizing countries like China or India to develop their own – i.e. third and fourth – systems, impose even higher costs on American and European vehicle manufacturers hoping to compete in these important emerging markets.

We see three areas in which progress could be achieved in U.S. – EU cooperation:

- harmonization of technical requirements,
- harmonization of test procedures, and
- mutual acceptance of test results and (eventually) approvals.

These goals could be achieved over time by concentrating on areas that offer real safety or environmental benefits and where administrative procedures could be reduced significantly. This could be done through the development of completely new regulations or via already planned amendments of existing regulation.

The appropriate mechanism for the global harmonization of motor vehicle standards was created in 1998 with a new “Geneva Agreement” in the framework of the UN/ECE Working Party 29, which has so far (in November this year) produced one “Global Technical Regulation” covering door retention components. Other standards (e.g. pedestrian safety) are in preparation.

Another way of eliminating differing standards is the voluntary adoption of European standards by the U.S. or of U.S. standards by the EU.

Quick results can be achieved if both sides introduce either GTRs or standards of the other region as an alternative (accepting equivalence) before moving to an agreed harmonized standard. The ultimate goal is mutual acceptance of tests and approvals.

For many years DaimlerChrysler has pleaded for a globally harmonized emission test cycle for heavy truck engines. Other issues, on which transatlantic if not global standards should be defined soon are diesel passenger cars, hydrogen powered vehicles and the definition of a side-impact test dummy. We are determined to invest our time and expertise in these and other similar projects.

Customs and Import Procedures

DaimlerChrysler strongly welcomes the various mutual efforts in the U.S. and Europe to facilitate customs and import procedures. Despite these efforts, we still see significant room for improvement with respect to further facilitation of practices and processes.

The enormous trade volume between the EU member states as well as between the EU and the U.S. is only manageable from a customs perspective by use of automated systems that provide for fast, consistent and effective customs clearance. Therefore sufficiently harmonized systems between the EU member states as well as between the U.S. and the EU are essential for DaimlerChrysler.

In the EU, the Commission has launched a project which aims at harmonizing the various IT-based customs processes between the member states by 2009/2010. This project mainly focuses on the implementation of a common interface to the various national customs IT systems.

Although we very much appreciate these efforts and fully understand the difficulties in implementing this interface for all IT based customs systems within the 25 EU member states, we nevertheless deem it advisable to pursue a similar goal transatlantically in parallel with the Commission's effort.

In addition, we see also a need for further facilitation of customs for big traders, e.g. expanded use of simplified and less burdensome administrative procedures for clearance, storage and processing operations.

With respect to trade between the EU and the U.S., we commend the efforts made by the Commission towards a general harmonization of customs related data. This is of great importance for DaimlerChrysler and all companies with a global reach, as it would help develop common international standards allowing for direct use of data created in an export system for use in the corresponding import system.

The implementation of the so called "Customs–Trade Partnership Against Terrorism" (C-TPAT) in the U.S. and similar efforts on the EU side towards tighter controls over trade between third countries and the EU, threatens to lead to significant restraints on trade in goods.

Anti-terrorism efforts in the U.S. and EU aimed towards tighter security for goods moving across borders raise significant challenges in keeping trade flows moving. In the U.S., DaimlerChrysler is proud to be one of the first companies that entered enter into the C-TPAT program aimed at bringing government and the private sector together to address these challenges. Just as been done with C-TPAT in the U.S., we deem it advisable to start talks between the U.S. and the EU aimed at achieving a reasonable balance between security controls and a smooth customs clearance. This should include expertise from the private sector. Involving experts from both government and business could open the door to innovative and more effective security procedures that also enhance trade flows.

DaimlerChrysler welcomes all efforts towards a further harmonization and facilitation of both national and international customs procedures between the EU member states as well as between the EU and the U.S.

U.S. Extraterritorial Jurisdiction

Like many multi-national companies, DaimlerChrysler notes with concern a growth in the extraterritorial application of U.S. law. For some considerable time, particularly in recent years, international trade has been affected by an observable and increasing tendency for any non-U.S. related disputes to be brought before U.S. courts. DaimlerChrysler itself is involved as a defendant in litigation where there is no nexus to the U.S..

With its plaintiff-friendly procedural rules, the possibility of class actions and its compensation awards that from a European perspective appear exaggerated, the U.S. legal system has encouraged plaintiffs throughout the world to bring legal actions in the U.S. Moreover, there is concern about the practice of the U.S. courts to extend their competence to cover actions beyond the U.S.'s traditional jurisdictions (for instance under the Alien Tort Claims Act).

The business world on both sides of the Atlantic is concerned about unpredictable litigation risks. It is in the interest of the U.S. to curb such global forum shopping, as it clogs the U.S. court system and wastes U.S. tax dollars on matters that should not and need not be decided in the United States. We therefore strongly support any legislative proposals that result in an improvement in procedural rules to restrict the somewhat unlimited access to U.S. courts, and bring it in line with international practice."

Tort Reform in the U.S.

Even independent from the problems described in the previous section, reasonable tort reforms that balance the interests of consumers and producers are required in the U.S. civil justice system. The purpose of these reforms is to restore predictability and fairness – for American and foreign citizens and businesses - to the tort system without restricting access to courts for legitimate claims. This can be accomplished by reducing, if not eliminating, perverse incentives for over-claiming, frivolous lawsuits, and unwarranted damage awards.

Some of the laws or procedures that provide these perverse incentives are:

- unlimited punitive and non-economic-damage awards, joint liability,
- venue rules that permit lawsuits to be filed in jurisdictions that have no relation to the claim or the parties,
- class action rules that allow no-injury class actions and/or a great disparity between the lawyers' fees and the client's awards (usually semi-worthless coupons), and discovery rules that permit "discovery abuse."

As noted above, possible remedies would be the enactment of laws or court rules that reduce, if not eliminate, these perverse incentives.

Compatible Standards Regarding Corporate Governance and Financial Reporting

Within a few years, transatlantic companies like DaimlerChrysler will be required to report financial results simultaneously in line with International Accounting Standards (according to EU and German law) and in line with GAAP (because of its listing on the NYSE). This will lead to confusion because the resulting figures will differ, and will add considerable additional costs for accounting and auditing. Transparency for investors – the ultimate objective of all reporting standards – will also suffer.

To improve transparency, it is imperative that work on the development of a single transatlantic accounting and reporting standard is completed urgently and that requirements do not exceed what is practicable and really necessary in the interest of investors.

These and other corporate governance rules need also take into consideration differences in either legal requirements or corporate governance practices on both sides of the Atlantic and accommodate appropriate solutions. Necessary steps of harmonization should be used for reducing complexity and not lead to additional burdens for companies.