Corporate Political Strategy and Global Policy: A Case Study of the Transatlantic Business Dialogue

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Summary

The Transatlantic Business Dialogue (TABD), set up in 1995 as a joint initiative of the European Commission and US State Department, has evolved into a business-government policy-making body. The TABD brings together 112 top American and European chief executives to co-ordinate business responses to international trade, standards and regulation questions. The TABD’s ability to co-ordinate quick and focused policy responses and its removal of the need for potential intergovernmental bargaining has been an appealing feature for CEOs and government officials. However, for all its policy-making advantages, question marks have been raised about the accountability, representativeness, and legitimacy of big-business forums.
Section 1. Privatisation of Public Policy - The growth of business forums in Brussels.

The creation of the TABD is the continuation of a trend towards direct firm lobbying and US style business-government forums in Brussels. The dramatic boom in businesses direct lobbying of EU institutions can be attributed to the increased regulatory competencies of the European Commission and the introduction of qualified majority voting at the Council of Ministers in the aftermath of the Single Market programme. Between 1987-1997, over 350 firms established direct European lobbying capabilities and 3,000 public interests and 1600 business pressure groups gravitated to Brussels. Faced with this increasingly crowded lobbying environment, the European Commission began to restrict access to the policy process and created new policy committees and industrial forums. Firms that had proven they provided fast and reliable sources of information were invited to join.

The high profile success of the Martin Bangemann forums in telecommunications and pharmaceuticals has led many Commissioners and Director Generals to create their own constellation of industrialists. This need for an industrial constituency has continued with the new Commission, with one of our interviewed firms noting that it had been invited to join Commissioner Liikanen’s forum initiative on “Enterprise and Innovation”.

The creation of these new forums, which included many of the original European Round Table (ERT) committee members and active members of the EU Committee of the American Chambers of Commerce (Amcham), suggested an inner core of
industrial policy makers and the institutionalisation of big business in the policy process. Amcham, drawing on its US lobbying experience, illustrated the importance of focused policy committees that could provide early and detailed information to the policy makers. The ERT, representing 36 of Europe's top CEOs, demonstrated in the run up to the creation of the single market the importance of having high level decision-makers involved in the policy process, as a means of providing credibility to the debate and speed of action and implementation.

Under these favourable conditions big business in Brussels embed itself in the formal and informal policy networks, just as it did in Washington in the 1970s and 1980s. The prominence of the TABD is illustrated by a comment by Stuart Eizenstat former Undersecretary for International Trade and the US Dept of Commerce: "The TABD has become deeply enmeshed and embedded into the US government decision-making process on a whole range of regulatory trade and commercial issues."

However, having created an EU public policy regime, we have to ask whether the terms of the debate have moved to a higher, global level. Because of their domestic success in fast tracking policy business forums were seen as the logical actors in high level global negotiations. As Al Gore noted when discussing the Third generation wireless framework. "A trade group seems to have succeeded in hammering out a basic 3G framework...Because of its make-up, the TABD appears to be a good place for the rest of the industry to bring pressure to bear on the combatants. At the European end Sir Leon Brittan, former Vice-President of the European Commission observed. "The ITA is the biggest success in multilateral trade negotiations since the Uruguay Rounds. The fact that such a positive and far reaching Agreement was
reached so rapidly is due in large part to the inspiration and effective contribution of the TABD.”

Fig. 1. Potential Advantages of Forum Politics

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<th>EUROPEAN COMMISSION</th>
<th>BUSINESS</th>
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<td>1. Fast and grass-root information.</td>
<td>1. Faster policy-making process.</td>
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<td>2. Constituency for Commissioners and the Director Generals.</td>
<td>Business, not political time frame.</td>
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<td>3. Legitimacy vis-à-vis European Parliament.</td>
<td>2. Reduce risk of political compromise and lowest common policy.</td>
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<td>4. Policy implementers in Member States.</td>
<td>3. Facilitates mutual recognition in regulation and standard setting.</td>
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<td>5. Use firms in a diplomatic function at the international organisational level.</td>
<td>4. Creates level-playing field and economies of scale.</td>
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A potential consequence of this international business diplomacy is the distancing of national government from the economic actors in their markets. National regimes risk becoming regulatory takers rather than makers. As the *Economist June 1999* noted: “The days are gone when a President could take the commercial pulse by calling in the heads of, say Exxon, Chase Manhatten, GE, GM and IBM for a quiet chat. Mr Clinton could fill the Capitol with business leaders and still not hear the entirety of views. Many multinationals do not consider themselves particularly American any more. One of the American’s biggest companies points out that, since half its sales
come from overseas, it now often prefers to concentrate its lobbying on Tokyo and Brussels. Instead of joining the Brussels offices of American business lobbies, many companies now tend to join a local European organisation”

However, for all the apparent contentment we have to ask ourselves has the TABD developed into what the administrations wanted, how does it make decisions, who are involved in the decision making process and can the administration manage its membership?

Section 2: A Commission perspective on the TABD

From starting as a government led process, the TABD rapidly evolved into one where firms set the agenda. As a Commission official commented in interview, ‘It’s now industry led and industry driven ... US Government and Commission participate, but mainly as respondents.’

What are the benefits to the Commission of participating in such a business led process? These were succinctly summarised in interview by an official from the Enterprise DG. First, there was a strategic benefit. The TABD was invented after the end of the Cold War. It was a means of ensuring continued transatlantic ties by replacing military links with people to people links. Second, it facilitated the intensification of co-operation between the ‘governments’ on both sides. For example, it could be used as a means for preventing the development of trade barriers. Third, it was a means of creating international pressure to get things done in the EU.
Fourth, it was a means of bringing the European business community together and hence of facilitating the overall integration process.

The presence of these advantages did not mean that the Commission would necessarily follow the business line. As the DG Market official made clear: “[We are] always prepared to look very seriously into TABD recommendations, but we have to take action in the best public interest which is broader than TABD. ... Governments are always facing diverging views from different parts of civil society and have to take the best public interest option.” This statement meant listening seriously to what business had to say, but balancing it against broader public interest considerations, particularly where government had a clear policy line on an issue.

Even a business policy process, which is relatively successful like the TABD, can run up against frictions, which occur in business-government relationships, particularly over the time scale within which decisions can be made and implemented. Governments have to answer to a variety of clienteles, while companies are principally accountable to their shareholders. These difficulties are understood on both sides of the process. A senior businessperson with extensive experience of the process commented, ‘One is mixing fire and water. Business companies are not essentially democratic, decisions by board have to be implemented, happen within months. We have a political negotiating process, which has to be oriented on democratic issues.’ This tension could be resolved by offering the Commission ‘subject [s] with clear defined priorities that are politically realistic.’
In similar vein, a Commission official commented, ‘It takes quite a while for the business community to understand policy concepts and law. It takes some education in some areas. These things are incredibly complicated.’ It was not simply a matter of recommendations flowing into policy. Many regulatory matters were being worked on in a multilateral context. Hence, securing radical change in policy concepts might take over twenty years. The official concluded, ‘we don’t want to discourage them, but we don’t want to encourage expectations that can’t be realised.’

This paper has at its starting point the perspective of European actors on the TABD. However, in such a joint process account also has to be taken of the US perspective, at least as seen by European actors. One business respondent described TABD as a ‘typical American approach, hands on, selective, early harvest.’ Tensions between Europeans and Americans had to some extent to be managed by business, a process which was helped by a realisation on both sides of the Atlantic that ultimately the process could be seen as a win-win one. As a TABD official noted “The Commission wants support from TABD for European views, Department of Commerce wants it for American views, have to keep balance. It forces them to do something they are not fundamentally opposed to but where for several reasons they have to take a different stance. Silently they do not mind getting pushed as long as it does not cause a negative problem.


3 A. Organisation and goals: The TABD is an informal process where European and American Companies and business associations develop joint policy
recommendations to discuss with the EC and US administrations. Encouraged initially by Commerce Department Secretary Ron Brown and European Commissioners Leon Brittan and Martin Bangemann, it brings together top American and European CEOs to co-ordinate responses on international trade and regulation issues.

The criterion for membership is theoretically straightforward and requires that the CEO is pro-liberalisation and trade, represents a transatlantic company and is deemed constructive to the policy process. However such definitions provide the TABD with a high degree of discretion as to who is admitted. Unsurprisingly there is a big overlap both with the ERT membership (including ABB, Bayer, Bertelsmann, Ericsson, ICI, Olivetti, Pirelli, Phillips, Siemens, Solvay, SKB and Unilever) and with American firms active in Amcham (Enron, Ford, IBM, Procter and Gamble, Time Warner and Xerox). Hence the TADB can be seen as a large industrial club of insider players. Such a grouping, raises important questions as to the representativeness of the TABD and the role that SMEs and other specific sectors have in the new business-government relationship.

The TABD, like the ERT, relies upon the personal involvement of the CEO. The organisation, or framework, draws on the resources of the participating firms and has a very small secretariat in Washington and Brussels. It currently has 5 working group themes: Standards and Regulation, Business Facilitation, Global issues, Small and Medium-sized Enterprises (SMEs) and E-Commerce. Under these themes are 40 working groups covering a number of different sectors and issues with each sub-issue group co-ordinated by a joint EU/US company chair.
Table 1. TABD Committees.

**Group 1. Standards and Regulatory Policy:** It promotes a new regulatory model based on the principle “approved once, accepted everywhere” on both sides of Atlantic. The group has focused on issues such as mutual recognition, conformity assessment and adoption of international standards. The sub committees are in: Labelling, Aerospace, Agri-biotech, Chemicals, Cosmetics, Dietary supplements, Electrical Telecom and information Services (EETIS), Fasteners, Heavy Equipment Industry, Medical Devices, Pharmaceuticals, Recreational marine, refrigerants, Telecommunication services.

**Group 2. Business Facilitation:** This group focuses on issues that simplify and streamline procedures in: Taxation, Products and Services Liability, Economic Sanctions, Customs, Bribery and Corruption, International Accounting Standards, International Personnel mobility.

**Group 3. Global Issues:** The aim of this group is to support the global trading systems attempting to build a transatlantic consensus to stimulate and strengthen multilateral frameworks at the WTO General and Services, Information Technology Agreement, Government Procurement, Intellectual Property, Climate Change.

**Group 4. Small and Medium sized enterprises (SMES):** This is a sub forum to enable small businesses to contribute their perspective to the TABD agenda.

**Group 5. New Digital Economy.** Focuses on ensuring that there are secure and efficient developments in global e-commerce. Following the Commission and US government calls it has concentrated on personal data, encryption and electronics authentication.

Meeting once a year, the CEOs and senior executives’ come together to discuss, and make recommendations that foster transatlantic trade and investment opportunity. Focusing on the removal of costly inefficiencies caused by excess regulation, duplication and deficiencies, the TABD attempts to identify areas of consensus for EU and US business and government. In recent years it has achieved notable success in the areas of mutual recognition and harmonisation of standards, active leadership of e-commerce and standardisation of “third generation” wireless telecommunications systems.

The CEOs, having agreed to the broad agenda, delegate the operationalisation of the policy process to specialist working groups, which are co-ordinated by the secretariat. The secretariat, operates as a central spoke for the CEOs by organising the scope of contact with European Commission, US government officials, MEPs and US Congress. It takes responsibility for organising the annual conferences of the CEOs and on a day to day basis acts as a contact point for the US/EU working group chairs. The two secretariat offices total 5 people (3 in Brussels and 2 in Washington) and operate jointly as far as this is possible. Numbers in the secretariat have been limited to minimise overhead costs, reduce the bureaucracy and facilitate speed of action, as there is no chain of command. This skeleton secretariat works by drawing resources of the companies of the various working groups’ chairmen. However, conversely, the annual changes in company chairs and the policy-making lag restrict in January and February as individuals are brought up to speed on issues.

The goal of the TABD is to get government talking to business. It must therefore provide concrete and actionable recommendations and reliable information. There
was some scepticism at the first conference in Seville 1995, but as the numbers and involvement of CEOs increased, so too has the credibility of the TABD to deliver operational policy. Significantly, CEOs have recognised that the TABD is not a single-issue conference, but a policy-making organisation that needs to be nurtured if it is to maximise its influence with government. As one TABD official observed: "CEOs see that it is not an organisation just to promote itself, its there to get results. We're not there banging the drum, we're here to have a forum for CEOs to sit down and talk with the relevant government players".

Recognising that the political relationship is not a one shot game with government, but an iterative process where trust must be established if influence is to be achieved, CEOs have become active participants in the TABD. However, while the CEOs set the working group issues at the annual conference and establish issue profiles with senior Commission and State Department figures, it is important that the TABD working groups deliver on implementation and policy initiatives or funding and enthusiasm will dry up. For this reason the secretariat has been keen to limit the numbers of actors at the working group table and has attempted to maintain a homogenous membership. This strategy however has come under pressure from EU and American administrations, excluded business and countervailing public interest groups.

By remaining primarily a policy process the TABD hopes to keep itself flexible and reactive to focused and topical needs of a limited number of CEOs as opposed to a more rigid but representative association. As one TABD official observed: "We have got a bit cumbersome, we need to focus on hotter items, low hanging fruit (like
product liability)...Three years ago we had 115 recommendations all equal priority and it seemed a lot. Today we have 130 - 140. You can do more, but the secretariat gets behind and people don't necessarily want it, you become an infrastructure.” However, a core of 20 issues exist that the TABD secretariat attempts to move forward and bases its credibility with the CEOs on.

Section 3B: Process management: Issues can be identified simply by a chief executive officer calling the secretariat. However, if there is no joint (US-EU business) consensus on an issue, it will not develop further. Issues are not run through any formal checking process. However, as a TABD staffer put it, ‘there is an implicit belief and trust that they need to be vetted, we cast as wide a net as possible.’ This process has been facilitated by the development of information technology. As a TABD staffer put it, ‘It couldn’t be done six or seven years ago in terms of making a consensual working recommendation, technology has been crucial.’

It is clearly important to limit the demands that are made on the time of CEO’s. The main participation of the CEOs comes in the two weeks leading up to the annual conference when the broad issues are discussed. The technical issue managers in the respective working groups produce a briefing book that includes draft outline recommendations on each issue.

This is very much a company driven process and one of the difficult issues has been how to involve associations. This is not a straightforward procedural question as the TABD is very much based on a ‘company state’ as defined by Grant (2000). The
assumption is that chief executive officers and other senior managers in firms are the key decision-makers. The TABD is consistent with developments in Brussels that have seen an increasing emphasis on direct representation of firms in federations. As one of our respondents commented, ‘Classic business associations [that] have been in Brussels for thirty years are now facing a challenge just as traditional political parties are facing a challenge from organisations of civil society.’ It is therefore not surprising that when associations ‘see a forum dedicated to CEOs, there is a defensiveness.’

A businessperson involved in TABD acknowledged that there was ‘a certain tension with associations like UNICE. We want to benefit from their knowledge, but we don’t want to be held up by their democratic process.’ Nevertheless, a series of informal links have been set up. The European Round Table (ERT) acts as an adviser at steering committee level through its chair along with the president of UNICE. At the executive level of group leaders, the secretary-general of UNICE and his counterpart at ERT act as advisers.

At group level, a number of association executive’s act as issue managers. This is particularly apparent in the area of standards and regulatory policy where fourteen association executives (eight from the US, six from Europe) serve in this capacity. This is in area where the technical expertise possessed by associations is of particular value. It is noticeable that no association executives are issue managers in the business facilitation area, although four serve in that way in the global issues area.
One sectoral association stated that although its director-general was not invited to the annual conference as such, each chief executive was allowed to bring one person with him and the director-general attended in that capacity. The respondent argued, ‘It’s a good combination of action between the federation and the firm. Company alone could lead to some kind of problem, we have more experience in political delivery.’

This respondent stated, ‘I don’t see why TABD could be an alternative to the work of the federation.’ In a strict sense, this is true. The day-to-day processing of directives through the increasingly complex procedures of the European Union is likely to remain the bread-and-butter work of associations. As has been noted above, TABD and the associations do co-operate and in many respects their role is complementary. Nevertheless, TABD is based on a ‘company state’ model while the associations are part of an ‘associative state’ model that is increasingly being supplanted. As one company respondent commented, ‘Industry associations played a very useful role in the past decades, they are not vehicles for lobbying the European Commission for the next ten years.’

The processes of TABD itself are well set up to focus on key issues and to minimise the demands on the time of chief executives. However, the process is not an end in itself. Its purpose is to influence public policy, to produce policy outputs that are different or occur on an accelerated time scale from those that would have resulted in its absence.

This perspective was confirmed by a DG Market official who stated, ‘It can deliver things that cannot be delivered by any other process.’ This was evident during
negotiations for Mutual Recognition Agreements (MRAs) which were concluded in June 1997. They reduced the costs of testing and certification in seven key industrial sectors.

Although the Commission stresses that it does not give the TABD ‘a blank cheque’, it does all it can to facilitate the TABD’s work. A list of Commission contact points is made available for TABD sector groups. There is an attempt to pull matters together before and after the annual conferences. However, the TABD does not rely on systematic contacts with Commission officials, but on the fact that it is taken seriously by the college of Commissioners. The Prodi Commission has renewed its commitment to TABD.

*European Voice* perhaps used journalistic hyperbole in its account of the TABD (21/27 October 1999) before the TABD Berlin conference but the broad picture it presents is confirmed by our interviews:

*Captains of industry in the EU and US are preparing, once more, to remind politicians who really holds the power … Hanging on their every word will be government ministers from both sides of the Atlantic including US Commerce Secretary Bill Daley and top officials such as new European Trade Commissioner Pascal Lamy … When the big guns of industry speak with one voice, only the bravest of governments ignores their demands.*

Nevertheless, there are some imperfections in the process. In organisational terms, the changing of chairs each year produces continuity problems and there is also an
absence of long-term thinking about where TABD is going. At least one respondent was uncertain whether TABD would still be here in five years’ time.

3C. Legitimacy and Credibility of the TABD: From the description that has been provided of the TABD policy process, it can be seen that it is generally regarded as credible by both sets of participants. From the perspective of both government and business, it is largely seen as a win-win process.

Government gets agreed, feasible, packaged solutions to problems. Business gets access to public decision-makers at the highest level. This credibility could, however, easily be undermined on the business side if agreements are not effectively implemented. As one business respondent commented in relation to implementation problems with the MRA:

*I still haven’t heard that it’s really there, if not going to change quickly, credibility of TABD is at stake ... TABD makes sense only if you really solve the problem, including implementation. You don’t do it for the dialogue only. The whole process is driven by the commitment of a number of CEOs, they want results. They are not going to waste their time if it is only ceremonial. TABD makes sense in the end only if it gets things done.*

Credibility is thus very much results driven. If the process delivers the desired results, it will continue to attract the required level of support. There may be other side benefits such as networking with other companies, but these are not the principal reasons for participating.
The issue of legitimacy raises much more difficult issues. In one sense the process is legitimised by its authorisation by the United States and the European Union as part of the US-EU summit process. The two administrations lend their own legitimacy to the process, although it might be objected that the EU does not have much legitimacy to lend. However, the process is open to the objection that it represents a privatisation of public policy, which is not subject to any of the normal mechanisms of democratic accountability. One of our business respondents spontaneously commented, ‘It’s not manipulating governments as some civic society groups believe.’

The question of legitimacy has to be placed within the context of the erosion of the unique territorial authority of the Westphalian nation state. Policy-making is dispersed between several levels of governance, rather than being concentrated in a nation-state with defined boundaries with direct lines of accountability to democratic institutions, or at any event in negotiations between nation-states. Although globalisation is an essentially contested concept, there are processes going on in the international political economy which, whatever one chooses to call them, are changing the way in which political decisions are made.

Somewhat tentative attempts by the TABD to reach out to ‘civil society’ and to Congress and the European Parliament are unlikely to resolve these problems of legitimacy. However, while the TABD might at one level be seen as the globalisation of the policy process, particularly if one takes the view that globalisation is most apparent in the integration of the US and EU economics, a more traditional interpretation is also possible. This would argue that the EU and US need more effective mechanisms so that they manage their relationship more effectively and
avoid debilitating conflicts about relatively minor issues. In order to do this one needs to go beyond traditional diplomacy between politicians and involve a wider range of actors who are likely to be more solutions oriented. Hence the TABD.

Finally, however, the TABD is aware that if it fails to capture a large constituency of views there is a risk that its credibility will be undermined or its views marginalised in both Washington and Brussels. Two cases have brought this home: The first was the Commissions request that SMEs be involved in the TABD working groups and the second, the Bolar case where the FDA demand the inclusion of the generic drug companies in the discussions of the patent time. Both recent issues have had huge effects on what the TABD is and could become.

4. TABD Insiders and Outsiders: Case of intellectual property rights in the Pharmaceuticals Sector.

In 1992 the European Generic Drug Association (EGA) was formed, primarily as a single issue group focused on intellectual property rights and patent expiry times. Reacting to the Bolar agreement, which allowed generic drug firms to build up capacity in the period prior to the expiry of a patent, the EGA brought together some 400 SMEs in a sector that had traditionally created ad-hoc lobbying alliances. The larger research based pharmaceutical firms had since the early days of the single market, found themselves at the forefront of Commissioner Bangemann’s industrial forums and were against any reduction in their European patent times. Hence, with the creation of the TABD, companies like SmithKline and Beechams and Glaxo were keen to use the new forum to put pressure on national drug agencies and governments
to lengthen or maintain patents. Generic drug firms' voices were excluded from the debate. As an EGA official noted: "They (Commission and European federation) didn't know us or didn't want to know the generic drug firms as they were seen as the killers of research."

Hence with the creation of the TABD in 1995, the European Commission, big business and the European Federation of Pharmaceutical Industries and Associations (EFPIA) did not seek to incorporate what they considered the generic producers' marginal position – as they noted “the EGA is only 1.5% of the EU market”. Faced with outsider status with the Commission at DG Market, and the insider position of research-based rivals and the established trade association, EGA looked for a wider constituency at the European Parliament. The EGA’s break through came in 1996 with the EP "Single Market Report" which favoured the Bolar provisions and lower drug prices. Armed with this document the EGA lobbied other DGs, such as the Food and Drink Unit, but found that it was resisted all the way by the EFPIA as the quote below illustrated: "Generics problem lies basically in their hands. This is the pharmaceutical world, research, innovation is the future...In practice member companies (of EDA) are purely copying companies which are not interested in any kind of balanced approach, their interest is to be on the market with copied products as soon as possible"

At the same time that the generic drug lobby attempted to embed itself within the EU consultation process, it also attempted to mobilise the American generic sector, and lobbied actively at state government and agency level. It was through this US lobbying that EGA became aware of the growing importance of the TABD in 1997.
Significantly, DG Market had failed to ask them to join or even inform them of its developments. EGA approached the Commission to sponsor its membership of the TABD and the International Committee of Harmonisation (ICH) at the International Federation of Pharmaceutical and Medical Associations (IFPMA), and also approached the TABD directly. Bangemann and TABD rejected them initially because their members did not have transatlantic business activities and CEOs of stature. When EGA demonstrated its transatlantic membership, the TABD said that they could not join, as generics did not meet the TABD rules with respect to intellectual property rights. The EGA appealed to the Commission arguing that it fitted with the ideal of liberalisation of trade regimes and that the membership criterion was not transparent or fair. It soon became apparent however, that the TABD was not accountable for its membership, regardless of its favoured position in the EU/US policy process. "It just seemed to make up its own rules" as the EGA official noted. The TABD was thus seen to be an elite business club by the SMEs in the Generic sector. Alternatively, the EFPIA saw the TADB as a "Very global view, we are a big church, EGA a very minor segment of the generic market that does not make any concessions or compromises, their life is easy to some extent." Thus we observed a problems of collective action, where the TABD wished to maintain a focused and homogeneous membership to help it reach a consensus position at the expense of being representative of the whole sector’s position.

Change only occurred when the European Generic firms working with the US National Pharmaceutical Association (NPA) convinced the US Food and Drug Administration (FDA) not to attend any TABD discussions on mutual recognition agreements (MRAs). Thus while the FDA called for generic firm membership of the
ICH and TABD, it also pushed the State Department to tone down its links to the TABD. In parallel with this alliance building strategy, the NPA implied that it would take anti-trust proceeding against the TABD on the grounds of collusion and the EGA threatened the European Commission with the EU onsbudman in Strasbourg. These lobbying strategies were high profile and intentionally loud as the generic sector wanted to demonstrate to government and public that a single unified sector position was not being presented. By undermining the reputation of the TADB in the courts, its use as a fast and credible forum for big business and government would be reduced. Moreover, the strategy was also aimed at influencing the sectors within the TABD that had a consensus position and did not want the negotiation process slowed down with a return to intergovernmental negotiations or worse totally discredited. Significantly, Bangemann continued to resist the enlargement of the TABD to allow SMEs and generic drug producers even with internal unrest within the wider organisation of the TABD (interviews Large pharmaceutical firm and EGA).

Finally, with additional pressure now being placed on the Commission and American administration by the World Health Organisation, consumer groups, FDA and the risk of legal action the EGA was allowed to participate in the ICH in 1998, but only as single representative for the US/EU generic drug sector. The large research based firms argued successfully that aggregation was required, as individual SMEs would not have the expertise to deal with all the technical issues. The above experience illustrated the importance of developing complex institutional and public interest alliances to create a lobbying critical mass, expertise and ultimately credibility to participate in the new global business policy process. Conversely, the experience
shows how the large firms did not wish to see the decision-making function of the newly formed international organisations slowed by a large membership.

In succeeding at the ICH, the EGA legitimised itself within the international business-government policy process. Hence by 1998, the TABD was coming under huge political pressure - the FDA was losing patience with the TADB and the European Commission under new management at Commissioner and Unit level were more open to the EGA after its success at the ICH. The above changes also corresponded with changes in the TABD management and recognition that the bad press from the generic lobby was undermining the organisation. The introduction of Xerox as the 1999 TABD chair in 1999 was the final turning point as a generic drug official noted: "we now had a sympathetic chairman from a company that's business had always been to make copies." Thus in late 1999 the generic drugs firms were allowed to attend the Berlin CEOs meeting as non-voting members. The EGA submitted a list of CEO's that it wished to attend, but the EFPIA fought to reduce their actual influence and voting rights within the TABD on the grounds of working efficiency of the group. Hence the EGA, acting as a focal point for the generic CEOs, has had to take a lead as a policy shaper for the generic voice within the TABD. The EFPIA still attempted to set the agenda, but now as an insider the EGA can veto if still not initiate policy. Improved legitimacy of the TABD was demonstrated by the European Voice 27: 10: 1999 quote from TABD delegates talking about the Berlin summit which "argued that the limited scope of the existing MRAs should be widened to include more controversial areas such as drug and vehicle testing. There is progress being made, says Echenschwiller (a TABD official), pointing out that top officials from the US
Food and Drug Administration - which has so far opposed such moves - will attend the TABD meeting for the first time to listen to the industry's views."

In sum, the above lobbying case demonstrates that new global public policy is increasingly complex with actors attempting to establish multiple identities and alliances to access multiple organisations. While some issues may remain embedded in nation states with traditional association arrangements, others will require more disaggregated "issue focused" responses. In both cases Coen (1998) observed that lobbying is mutually reinforcing with action at one level providing credibility and reputation at another. In the case of new forum structures and policy processes, like the TABD, recognition is vitally important and can act as a positive constraint - forcing it to become more open and transparent. The success of the FDA to change the membership of the TABD through its absences from the table can in part be explained by the fact that it is the dominant regulatory agency in the sector. Hence a Vogel (1995) style “regulatory California effect” can be seen to be in operation where access to the largest market area dictates the rules and standards of international lobbying behaviour. In this case it was less significant that the research-based firms had favoured access at the European Drugs and Medicine Agency in London than they had the ear of the FDA and harmonisation with the US market. Hence, the advantages for a small and focused policy group are undermined if the credibility and legitimacy of the organisation are called into question. This leaves us with the question, can the TABD continue to find enough common ground policies or will it slowly congeal as its membership continues to grow? With scale may come legitimacy but it may lose its comparative advantage of speed and focus and with it its favoured access to governments.
5. Conclusions.

Governments are increasingly dependent on large firms for fast and effective information. In the case of EU institutions this is magnified by the need for actors to implement directives and a political constituency to legitimise their policies. Perhaps then, the new corporate political strategy and global policy-making can be characterised as a company state relationship as we have observed in the US and UK. However, while this policy regime has given business a favoured place at the table, due in part to the nature of the issues, it does not mean that governments are not aware of the risks of capture.

Our empirical findings have shown that before industrial forums are legitimised within the political process and given favoured access, they must be seen to be representative of the sectors’ views and capture a wider constituency of public interests. Business, however, has to weigh the advantages of fast access and focused goals (a short run business time frame) against the long run political considerations of the administrations. For example the lame duck president was seen as a concern of the TADB as the European Voice reported in October 1999 “Such a vacuum at the top is just what the TABD dreads. While their masters have their minds on other things, it allows the bureaucrats in government departments and administrations below to dictate the pace of change. That pace is often painfully slow because many bureaucrats themselves have a vested interest in keeping barriers in place.”
But in accepting that the new business forums must provide information and fit certain transparency and openness criteria, who are they accountable to? It is clear from the interviews that while the TABD was set-up to facilitate intergovernmental negotiations between the EU and US administrations and as such were given favoured access to both the State department and the European Commission. We have seen that the domestic regulatory agencies that regulate access and standards in the market place exert a large influence on forum membership, by potentially withholding recognition of the body or refusing to enter negotiations. In our case study we observed a policy style “California Effect” where the FDA determined the nature of the issues and the type of membership of the TABD pharmaceuticals committees.

Whether TABD will still be around in five years time is a more open question than one might suppose. It is very much a results driven process and companies might become quickly dissatisfied if they do not achieve the kinds of outcomes they expect. Its advocates would not want to see a dynamic process ossify into an organisation following set routines. Pressure to make the process more inclusive may make it less effective as the more encompassing an organisation becomes the more likely it is to produce consensual lowest common denominator outcomes. It may be that the state-corporate interface in 21st century politics will be less characterised by long surviving organisations as typified by the traditional trade association and more by loosely organised processes which achieve a set of goals and then disappear or mutate into something new.

REFERENCES


