EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20502

July 21, 2014

MEMORANDUM FOR MAURICE OBSTFELD

FROM: JESSICA SCHUMER
Chief of Staff and General Counsel
Designated Agency Ethics Official
Council of Economic Advisers (Council)

SUBJECT: Limited Waiver under E.O. 13490

This purpose of this memorandum is to provide a waiver of the restrictions in Section 1, Paragraph 2, of Executive Order 13490 (the Ethics Pledge or E.O.) to permit your participation in particular matters involving specific parties that involve the European Commission (EC).

Background Regarding the Ethics Pledge

The Ethics Pledge provides that a political appointee will not, for a period of two years from the date of appointment, participate in any particular matter involving specific parties that is directly and substantially related to the appointee's former employer or former clients, including regulations and contracts. *See* E.O. 13490, § 1, ¶ 2. For purposes of applying this restriction, the term "particular matter" has been interpreted to include "meetings or other communications relating to the performance of one's official duties with a former employer or client." *See* DO-09-011, OGE Memorandum to Designated Agency Ethics Officials, March 26, 2009. The E.O. defines former client to include any person for whom the appointee has, within the two years prior to the date of his appointment, personally served as an agent, attorney, or consultant

Section 3 of the E.O. provides for waiver of the recusal provisions. As the Council of Economic Adviser's (Council) Designated Agency Ethics Official (DAEO), I exercise that waiver authority in consultation with the Office of the Counsel to the President and pursuant to a delegation from the Director of the Office of Personnel Management. *See* Office of Government Ethics Memorandum Re: Authorizations Pursuant to Section 3 of Executive Order 13490, DO-09-008 (Feb. 23, 2009). The standard for waiving the restriction in the Ethics Pledge is that the literal application of the restriction is inconsistent with the purposes of the restriction, or that it be in the public interest to grant the waiver. *See* E.O. 13490, § 3(a).

Analysis

Within two years prior to your appointment to the Council, you personally provided consulting services to the EC. Specifically, between April 2012 and April 2013, you spent approximately

25 days providing consulting and writing services related to conferences hosted by the European Commission. The EC is an international organization made up of commissioners from 28 member states that represents the interests of the European Union as a whole. Its responsibilities include upholding the EU treaties and proposing new legislation to the European Parliament and the Council of the European Union. The EC's proposals have usually centered on economic regulation. Before making proposals, the EC consults widely so that all stakeholders' views can be taken into account, and the EC conducts an extensive assessment of the potential economic, social and environmental impact of each proposal.

As a Member of the Council, your official duties include: (1) assisting and advising the President, the Chairman and Senior Staff on the general state of the economy and assisting in the preparation of the Economic Report; (2) gathering timely and authoritative information concerning economic developments and economic trends to analyze and interpret the information; and, (3) advising on policies to foster and promote free competitive enterprise, avoid economic fluctuations, and maintain full employment and purchasing power. One of the areas in which the Council is Congressionally-mandated to focus is trade deficits, which requires the Council to examine policies to promote the achievement of a free and fair international trading system and a sound and stable international monetary order.

If paragraph 2 of the Ethics Pledge was applied literally, you would not be able to participate in particular matters, including meetings and other communications, relating to the EC or any of the EC's bodies, officers or components and therefore could not fully advise the Chairman, White House Senior Staff, or President on matters of international economics or their impact on the U.S. domestic economy.

After reviewing all relevant facts and circumstances, and after consultation with the Office of the Counsel to the President, I have concluded that a waiver of paragraph 2 of the Ethics Pledge is appropriate for you with respect to your former client, the European Commission, because the literal application of the restriction is inconsistent with its purpose and because a waiver is in the public interest.

First, the European Commission is not a private company but rather is an international organization made of up 28 member states, which represent the European Union. The European Union and the U.S. have held diplomatic relations since 1953, and this relationship is viewed as one of the most important bilateral relationships in the world. The European Union and the U.S. are among the biggest economic powers in the world and dominate global trade, accounting for about half of world GDP in terms of value.

Second, in your capacity as Member of the Council of Economic Advisers, you may need to exercise discretion on particular matters where the European Commission is or represents a party. For example, you may need to meet with representatives from the EC to get additional information or adequately assess the economic impact on the U.S. of proposals submitted by the EC. Trade agreements, including the Transatlantic Trade and Investment Partnership, will likely include particular matters where the European Commission is or represents a party, such as the position on a specific provision of the agreement. As one of the leading and most influential international economists in the world, it will be difficult to assign such matters to another

employee nor can adjustments reasonably be made to your official duties. You were appointed by the President based in large part on your international economic expertise and the Council will rely on you for your expertise in international macroeconomic policy. Third, it should be noted that you will not be in a position to financially benefit from your EC relationship while with the Council. Moreover, there is little likelihood that you could take official action to favor the European Commission at the expense of the United States. Accordingly, a literal application of paragraph 2 in this situation is inconsistent with the purposes of the restriction and a waiver is appropriate.

In addition, it is in the public interest for you to participate in specific-party matters relating to the European Commission. It is essential that the Council, and the U.S. Government as a whole, have an effective voice in discussions with the European Commission on the many important issues that arise in that forum. You have significant expertise in the field of international macroeconomic policy. For over 30 years you have been a professor of economics. You have been a visiting professor and scholar and honorary advisor to various international economic organizations, such as the Bank of Japan, the International Monetary Fund, the Kiel Institute of World Economics, and Stockholm University. You have authored hundreds of research publications in the area of international economics and global markets, and you have no fewer than six published textbooks that focus on global or international economics. You have worked with multiple international organizations, including the EC, and have provided consulting and teaching services to organizations across the globe. The knowledge, skills and relationships that you possess will allow you to significantly advance the Council's and United States' interests before the EC. Accordingly, a waiver is appropriate for the separate and independent reason that it is in the public interest for you to participate in matters relating to your former client.
Based on the above, analysis I waive the requirement of paragraph 2 of the Ethics Pledge as it pertains to your future involvement in particular matters relating to the EC and any of its bodies, officer or components.

Impartiality Rules under Section 2635.502

The Standards of Ethical Conduct for Employees of the Executive Branch (Standards) require an employee to take appropriate steps to avoid an appearance of any lack of impartiality in the performance of the employee's official duties. 5 C.F.R. § 2635.502(a). Under section 502, when an employee knows that a person with whom he has a "covered relationship" is a party or represents a party to a specific party matter and a reasonable person would question the employee's impartiality in the matter, the employee should not participate in the matter without informing an agency official and receiving authorization to participate. An employee has a "covered relationship" under this section with any entity for which the employee has, within the last year, served as a consultant, contractor or employee. 5 C.F.R. § 2635.502(b)(1)(iv). More than a year has passed since you provided consulting services to the EC, and therefore, you no longer have a "covered relationship" with the EC under the Standards.