



ASSOCIATION OF
EQUIPMENT MANUFACTURERS

AGRICULTURE
CONSTRUCTION
FORESTRY
MINING
UTILITY

**Comments by the Association of Equipment Manufacturers (AEM) on the
Transatlantic Trade and Investment Partnership (TTIP)
Docket No. USTR-2013-0019
May 10, 2013**

The Association of Equipment Manufacturers (AEM) is the U.S.-based international trade group serving the off-road equipment manufacturing industry. Our members number more than 850 companies that manufacture equipment, products and services used worldwide in the agriculture, construction, forestry, mining and utility fields. Collectively our member companies employ hundreds of thousands of workers and produce some of the world's most innovative products and services.

The proposed Transatlantic Trade and Investment Partnership (TTIP) will bring considerable benefits for machinery manufacturers and their customers in both the U.S. and EU by reducing red tape, production and transaction costs, and facilitating a more competitive marketplace. Despite growing integration of business and production processes in these markets, considerable discrepancies still persist in the legislative and regulatory regimes covering machinery.

As the Office of the U.S. Trade Representative begins negotiations on TTIP, we would like to highlight the following areas that would have the greatest benefit for manufacturers and consumers alike.

- Achieving greater regulatory and standards harmonization for machinery entering the U.S. and EU markets
- Achieving mutual recognition of design and safety provisions between the U.S. and the EU
- Ensuring a coordinated U.S. and EU legislative and regulatory approach for machinery
- Eliminating restrictions on remanufactured industrial machinery and extending same-as-new treatment to remanufactured finished goods

AEM welcomes the opportunity to provide the Office of the U.S. Trade Representative our industry's priorities for TTIP.

Achieving regulatory and standards harmonization for machinery in U.S. and EU markets

Greater harmonization and mutual recognition of certifications for machinery in the U.S. and the EU would substantially reduce transaction costs for businesses for the benefit of customers. In addition, common technical standards and common standards for machine and environmental safety would lower production costs considerably in Europe and the United States. At the same time, this would not come at any expense in terms of the quality or safety of the final products. As such, the U.S. and EU should promote the development of common standards in the field of cross-sector safety aspects for machinery.

Common standards should apply to both occupational safety, road safety of machinery and tractors, and the protection of the environment. For instance, in terms of the regulatory regime governing exhaust emissions from mobile machinery, we have already seen a certain alignment between the U.S. and the EU in recent years. However, this was not governed by an explicit written agreement. In the future, closer cooperation and formal alignment between the U.S. and Europe in the areas of occupational safety, road safety of machinery and tractors, and protection of the environment should occur.

The existence of different national or regional standards can also create technical barriers to trade and increase the cost of doing business. The economic impact of meeting duplicative or conflicting requirements in multiple markets can be staggering. We urge that the TTIP either accept or adopt the International Organization for Standardization ("ISO") standards for industrial equipment. ISO is the world's largest developer of voluntary standards and ISO's 19,500 international standards cover almost all aspects of technology and manufacturing. Many multi-national corporations already use and meet ISO standards in their manufacturing processes and we urge the TTIP to promote the general acceptance or adoption of ISO standards. Signatories to the TTIP should explicitly acknowledge that manufacturers who meet applicable ISO standards also meet applicable EU and U.S. standards: this acknowledgement would promote greater economic and manufacturing efficiency and promote international trade.

Achieving mutual recognition of design and safety provisions between U.S. and the EU

Design and safety provisions exist between the U.S. and the EU, mainly on tractors (European tractor directives in the EU versus industry standards, such as ASABE, SAE, and ISO in the U.S.) and occupational safety for agricultural machines, trailers and interchangeable towed equipment (Machinery Directive with harmonized standards in the EU versus ISO standards in the U.S.).

Thanks to the close links that exist between the U.S. and the EU within the large producers of agricultural machinery, the technical provisions that are outlined in the ISO standards for agricultural machinery are often made within the Vienna agreements between ISO and European Committee for Standardization (CEN) so that a duplication of work is avoided. However, the procedures on how to certify machines which comply with these standards are markedly different between the U.S. and the EU. Therefore the U.S. and EU should create one common platform- within ISO - to decrease the engineering development costs for companies by developing common safety and design provisions for machinery while avoiding the requirement of third party certification to achieve this recognition.

Ensuring a coordinated U.S. and EU legislative and regulatory approach for machinery

In order to ensure the proper functioning of free trade in off-road equipment between the U.S. and the EU in the years ahead, AEM believes that closer cooperation and alignment between the U.S. and EU on future legislative and regulatory initiatives will be essential. The U.S. and EU should devise procedures that will ensure that both sides consult each other before the introduction of new technical legislation or regulations covering machinery. As part of this procedure, transparency and the views of key stakeholders on both sides of the Atlantic, including industry representatives, should be sought and taken into account.

While diverging views exist – and are likely to continue to exist – between the U.S. and the EU on certain policy topics of relevance to machinery such as energy efficiency, a greater focus needs to be placed on bridging these divergent views by encouraging alignment and harmonization of actual and future engine emissions requirements. In addition, the benefits of greater harmonization between the U.S. and EU in certain areas (e.g., standards and certification) should not be effectively cancelled out by any future diverging legislation between the U.S. and the EU.

Eliminating restrictions on remanufactured industrial machinery and extending same-as-new treatment to remanufactured finished goods

One of the principal issues that should be addressed in the TTIP is eliminating restrictions, including a joint effort to eliminate trade barriers with third countries, with respect to remanufactured finished goods and equipment. U.S. exports of remanufactured finished goods totaled \$11.7 billion in 2011, up 50 percent from 2009. Remanufactured finished goods are end-of-life components that have been returned to a “same-as-when-new” condition and are sold with a new warranty. Remanufactured products are environmentally-friendly. By salvaging and reusing existing cores, remanufacturers save tremendous amounts of energy, minimize carbon emissions and the creation of greenhouse gases, and reduce the waste sent to landfills.

Remanufacturing maintains the product’s integrity so that a large fraction of the product’s input materials and energy are preserved and used again. This contrasts with recycling, which destroys the finished product to recover the raw materials for use in creating a different product. U.S. remanufactured industrial equipment are thoroughly tested to ensure that they meet or exceed specifications in the case of industrial equipment, or that they meet stringent safety and reliability standards, in order to equal or exceed their expected life cycle service demands. In fact, remanufactured products often have better durability, life span and performance than when the item was originally manufactured.

Non-tariff trade barriers often preclude or complicate the import and/or export of remanufactured finished goods as well as the core material needed to feed the remanufacturing process. In some countries there is little differentiation between used, refurbished and remanufactured finished goods. The most typical example of non-tariff trade barriers is the absence of a definition of remanufactured finished goods. In this case, customs officials may treat remanufactured finished goods as “used” goods and prohibit their import. Similarly, countries may impose age restrictions on certain imports and treat remanufactured goods as having the age associated with the original manufacture of the components comprising the remanufactured finished good. With durability, performance, quality and warranty equal to new, U.S. remanufactured finished goods are clearly not “used” goods. Accordingly, restrictions on the import of remanufactured goods should be eliminated and rules of origin should allow remanufactured finished goods to qualify as an originating good, thereby facilitating increased trade.

Rules of origin usually impose a method of calculating the regional value content (“RVC”) for certain remanufactured finished goods and components. In some cases, rules of origin provide that goods manufactured in, or otherwise qualifying as originating goods from, a certain trade territory lose their originating status once they leave the territory. Manufacturers acquire cores from numerous independent sources, including from outside the relevant trade territory. In

some cases, the cores may be more than 10 years old. Due to the number of suppliers, the several countries involved and the age of the core products, it is not commercially feasible to segregate among cores sourced from within the relevant territory and cores sourced from outside the relevant trade territory, and track inventory according to the source of the cores. Accordingly, we urge the U.S. and EU to adopt rules of origin that enable goods (especially cores) to retain (or regain) their originating status upon their return into the relevant trade territory from a third party country, and to eliminate third party requirements for Certificates of Origin for cores or any exportation of a good for which an importer may claim preferential tariff treatment on importation of the good into the territory of another Party.

Similarly, countries should not inhibit the movement and export of cores necessary to enable remanufacturing by original equipment manufacturers ("OEMs"). Countries sometimes restrict the movement of cores due to concerns that the cores could be resold in the used goods market. However, OEMs need cores to create their remanufactured finished goods. Stringent export documentation requirements can make it cumbersome or impossible for the current owner to export a core and thus receive a refund of its core deposit or avoid a penalty for not returning a usable core. There are examples where countries require a customer to provide documentation connecting the core being exported with the original product that was imported. It could be very difficult for the current owner of a machine, engine or component to track down the importation documents of the original purchaser/importer used to import the machine or component years before.

Imprecise or underdeveloped tax laws can negatively impact remanufacturers and their customers. Value added tax ("VAT") laws in some countries impose a tax on the initial core deposit and later impose a second tax on the refund of the core deposit. Similarly, many countries assess tariff duties based on the full value of a remanufactured finished product even though imported in connection with the export of a used core as part of a single exchange transaction. A transaction involving the exchange of a used core engine or other equipment for a remanufactured replacement good is essentially an efficient form of repairing or overhauling such equipment and should be treated as such from an economic perspective. Thus, countries should establish import valuation policies that treat equipment or engine exchange transactions similar to repair or overhaul transactions, such that the value to be declared upon import of the remanufactured finished product (acquired "in exchange for" a used core) is the "net transaction value" – i.e., the net price being charged for the exchange service or the difference between the full value of the finished product being imported and the value of the core being returned. Treating a single exchange transaction as two separate transactions and assessing duty on the full value of the remanufactured finished good adds significant cost to the remanufacturing exchange model and makes it more expensive for both the OEM and the end user customer to purchase and utilize remanufactured products.

Finally, for government owned assets, such as an engine used by a state-owned oil company, exchange transactions are often difficult or impossible because of restrictions on exporting or disposing of government-owned assets (i.e., the cores). These regulations need to be reformed to authorize government customers to repair/overhaul government owned assets through remanufacturing exchange programs.

The TTIP should encourage unrestricted trade of these high-quality, environmentally friendly products. Countries participating in the global economy should treat remanufactured goods the same way they treat new finished goods. One important country that should be considered for further participation in remanufacturing should be Turkey. Since Turkey was accepted as a candidate to join the EU, the EU has been committed to supporting Turkey in its path for

membership. This would present opportunities to alleviate some of the bigger issues we face in remanufacturing, such as the restrictions of importing remanufactured spare parts into Turkey.

Conclusion:

AEM considers U.S. and EU trade to be an increasingly important component of global manufacturing and global food security in light of the enormous challenge of feeding a growing, more affluent and increasingly urbanized world population in the decades ahead. Freer trade in machinery and new technologies will benefit manufacturers, farmers, construction workers and consumers by broadening the choice of, and access to, quality equipment. Enabling those tasked with producing our food and building our infrastructure to safely boost productivity and output should be the goal of the Transatlantic Trade and Investment Partnership agreement.

AEM stands ready to assist the Office of the United States Trade Representative in achieving these goals and looks forward to continuing to be an industry resource.

1000 Vermont Avenue, NW
Suite 450
Washington, DC 20005

T 202.898.9064
F 202.898.9068

HEADQUARTERS: MILWAUKEE, WI
OFFICES: WASHINGTON, DC OTTAWA, CANADA BEIJING, CHINA

WWW.AEM.ORG
AEM@AEM.ORG
Toll Free: 866.AEM.0442