
Association of German Chambers of Industry and Commerce

EU and US call for input on regulatory issues for possible future trade agreement

DIHK supports the priorities identified for the High Level Working Group to concentrate on standards and regulations, tariffs, non-tariff barriers (NTBs), investments and services as well as public procurement and protection of intellectual property rights. Among these, feedback from German companies shows that regulatory issues are the first priority for developing better transatlantic relations. Current standards and regulations represent the most important obstacle for German companies, followed by non-tariff barriers and sector-specific tariffs. Therefore, the private sector and business organisations, like the Chambers of Commerce, should have an active role in shaping a new EU-U.S. regulatory regime.

The United States and European Union both have highly developed regulatory systems seeking similar regulatory outcomes. However, the regulations adopted often differ, creating divergences that unnecessarily restrict trade. Concerning existing standards, mutual recognition of compatible regimes has to be pushed forward – as well as the principle of functional equivalence. Mutual recognition agreements should be based on a “negative listing” approach where each other’s standards would be recognised and accepted in all sectors except those explicitly exempted. Moreover, a legal mechanism for regulators to recognise the equivalence of decisions made by their transatlantic counterparts is required.

An EU-U.S. regulatory agreement should consider the provisions currently negotiated between the EU and Canada and implemented in the agreement EU-Mexico (NAFTA) in different fields. This is important in order to avoid new bureaucracy. Both parties have a number of FTAs and preferential trade agreements (PTAs) with other countries and regions. In the framework of their bilateral negotiations on regulatory issues, the EU and the U.S. should integrate and modernise their agreements with third countries. In this way, the broadest benefits of trade liberalisation can be extended to more countries by reducing the inconsistencies between these agreements.

DIHK has supported the Transatlantic Economic Council (TEC) since its creation at the 2007 EU-U.S. Summit in Washington, DC. Especially with respect to the reduction of non-tariff barriers (NTBs), DIHK considers the TEC as an extremely important institution. Nevertheless, the TEC is not able to take binding decisions and does not have an implementing mechanism. Therefore, initiatives in this sector should build on a stronger TEC with the power to take binding decisions. Moreover,

the TEC should not dissolve within a new initiative nor should its activity be blocked in the case of the start of negotiations in other areas within a partnership agreement of any kind.

Different regulatory regimes on both sides of the Atlantic cause unnecessary transaction costs for companies and consumers. More harmonization and mutual acceptance would serve the vital interests of companies as well as consumers on both sides and would strengthen the global competitiveness and growth of the transatlantic economy. Different regulatory regimes also increase the complexity of product development. On both sides they cause unnecessary variations of product characteristics and hence increased efforts (workforce, costs) for compliance reasons. Additional R&D activities are needed for development of specific product characteristics in order to comply with regional regulations.

Today the EU essentially applies the UNECE 1958 Agreement and the U.S. the FMVSS standards. Both countries have signed the 1998 Agreement, but did not adopt any of the global technical regulations. An adoption of the global technical regulations would facilitate trade between both sides of the Atlantic.

Companies in general identify standards and regulations as the most relevant field where the transatlantic cooperation should be enhanced. This is even more the case for SMEs since they tend to engage in international activities more through exports than through direct investment. Different standards can require adapting products to US-requirements and therefore they play an even more important role for export oriented companies. Customs and non-tariff barriers are also more difficult for SMEs to handle because they typically do not have an export unit or even an expert specialised in customs issues. The information costs concerning rules and documents that are necessary in order to enjoy the preferential tariffs are very high.

SMEs face difficulties in sending technicians for installation works or setting up machineries in the USA. Particularly these types of activities should be clearly covered by B1/visa waiver programme. In addition necessary installations, repair and warranty duties should be also allowed in building and construction sector.

In general, the posting of workers for multinational companies should be facilitated. The Working Group should therefore consider the simplification of visa processes, especially for the "L visa".

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