



European Office

Position Paper in the Context of the Public Consultation “EU-US High Level Working Group on Jobs and Growth”

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VDMA
Technology for people

Contents

I. VDMA in general	2
II. Specific problems	3
1. Buy American clause	3
2. Industrial property rights	3
3. Barriers to trade in the EU's relations with third countries	3
4. Harmonization and mutual recognition of certification	3
5. Business administration / controlling / risk management	3
6. Future legislation in the area of the automotive industry and standardization	3
7. Unpredictability of the US legal system	4
8. Extra-territorial application of US law	4
III. Outlook	4

I. VDMA in general

The German Engineering Federation (VDMA) is the largest federation representing the engineering industry in Europe. Its approximately 3,100 German and international member companies have a total of approximately 948,000 employees (December 2011) in Germany and have a turnover of 187 billion euro (2011). In 2011 alone, the industry created an additional 35,000 new permanent jobs. The engineering industry is characterised by a large number of SMEs. About 80% of all VDMA members are small and medium-sized enterprises (SMEs), according to the EU definition, and two-thirds of them have fewer than 100 employees. The industry's exports account for an average 75% of output, making it not only highly export-oriented, but also extremely successful globally. This is reflected, among other things, in the fact that 60% of exports are sold outside the EU. The high level of innovation in the industry is also highlighted by the fact that VDMA member companies are currently the world market leader in 18 of 32 product fields in mechanical engineering.

The United States is the second most important export market for our industry. In 2011, the volume of exports by our industry to the United States was approximately 12 billion euro. That constitutes growth of over 25% compared with the previous year.

2011 was generally a good year for the German mechanical engineering sector. Adjusted for inflation, production grew by 12%, and capacity utilization averaged 88%. For the year 2012, we expect zero growth for the industry. The recent trend in order intake is explained in particular by political uncertainty in Europe but also by the levelling-out of the

Chinese economy. It is therefore important that we push through our demands on trade policy and achieve policy success again in 2012.

II. Specific problems

1. Buy American clause

The Buy American clauses in public procurement are open to criticism. Although the US stimulus package expired in September 2011, it is currently impossible to predict whether a similar program will be adopted.

2. Industrial property rights

The harmonization of patent law and cooperation to combat product piracy are of particular interest to the engineering industry. Since the US has now revised its patent law - as demanded by the EU side - harmonization has also moved closer.

3. Barriers to trade in the EU's relations with third countries

When considering the problem of market access to third countries, reciprocity should be borne in mind. Regulations, which basically oblige contracting authorities to exclude companies, products and services from third countries from public tenders, may, in turn, lead to new distortions of competition and trade conflicts and therefore adverse consequences for the industry as a whole. Instead, it is proposed that a package of measures of targeted, non-discriminatory legislative and non-legislative initiatives is created. One might consider measures that are not aimed at a general foreclosure of EU markets to third countries, but instead non-discriminatory anti-dumping measures, and especially public procurement provisions targeting abnormally low bids. Here, this is particularly aimed at offers from state companies from third countries.

4. Harmonization and mutual recognition of certification

Greater harmonization and mutual recognition of certifications would reduce transaction costs for businesses and consumers.

Common technical standards and common standards in the field of machine safety would lower production costs in Europe and the United States. This would not be at the expense of quality or safety of the products.

Therefore we call on you to develop common standards in the field of cross-sector safety aspects. This applies especially to the electrical safety of machinery. We would also welcome closer cooperation between Europe and the US in other areas, such as the approach to emissions from mobile machinery.

5. Business administration / controlling / risk management

It would be desirable to harmonize the accounting rules, or at least accelerate mutual recognition of the respective regulatory authorities and the relevant regulations.

Experts have been working together on this subject for some time, but unfortunately, it has proven difficult to achieve results.

6. Future legislation in the field of the automotive industry and standardization

For future legislation in the automotive sector and standardization, close cooperation is required between the US and the EU. Both should agree to consult each other before the introduction of technical legislation. All key stakeholders, particularly the automotive component supply industry as well as the mechanical engineering sector, must be actively involved in the relevant legislative process.

7. Unpredictability of the US legal system

The US legal system represents a significant risk for German industry. It is often perceived by businesses, particularly small and medium-sized companies, as an investment risk. Above all, critical elements, including punitive damages, class actions based on the “opt-out” principle and the determination of attorneys’ fees and the discovery process should be mentioned here. The local legal system should be less a barrier to investment, but rather a mechanism to safeguard the pursuit of legitimate business interests.

8. Extra-territorial application of US law

The partial extra-territorial application of US law is a matter of great concern. This applies particularly to the financial market legislation and the “Alien Tort Statute”. Although European companies comply with European law and also respect international law, US law can sometimes pose a significant risk to companies.

Therefore, European companies should, in principle, not be subject to jurisdiction by third countries.

III. Outlook

As the representative of a very export-oriented industry, we welcome open markets. They safeguard and create growth and trade as well as jobs, both at home and abroad.

This is also true of a free trade agreement with the US. In geostrategic terms, the US is the principal partner of the Europeans, so deeper mutual trade relations could send an important signal globally.

However, in our industry, customs duties of approximately 3% - 4% are already quite low, so reciprocal market entry is not currently hindered by the level of duty.

For our industry, the problems lie more in the area of assessing the safety of machinery. This is assessed very differently either side of the Atlantic and assessment can sometimes be inconsistent even within the USA. We would appreciate it if there could be a more consistent regulatory approach within the United States. Furthermore, “greater” harmonization between the EU and the United States in the assessment of the safety of machinery is desirable.

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