
German Industry's Priorities for a Transatlantic Trade and Investment Partnership (TTIP)



**Nord- und Lateinamerika,
Global Governance**

Preface

German Industry welcomes the launch of negotiations for a comprehensive and ambitious transatlantic trade and investment partnership. A transatlantic agreement will have a significant economic impact on both economies by creating growth and jobs. In addition, it will strengthen the transatlantic partnership politically and strategically by demonstrating transatlantic leadership and its positive impact on the global economy. The BDI has therefore long supported a deeper transatlantic economic integration and will continue to advocate for a high-quality agreement.

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The goal of this paper is to outline the priorities of German Industry for successful negotiations. These priorities have been developed after consultations with our members.

German industry will continue to contribute to this discussion and will – in cooperation with its members and partners – provide advice and input to the governments and parliaments in Berlin, Brussels and Washington during negotiations.

A. Nature of the Agreement

1. Ambitious and Comprehensive

The agreement should be ambitious and comprehensive, as it has been outlined in the final report of the “EU-U.S. High Level Working Group on Jobs and Growth”. Studies commissioned by the German Federal Ministry of Economics and Technology as well as by the European Commission clearly indicate that the full potential of economic benefits and welfare gains can only be realized if an agreement addresses all barriers to trade, including standards and regulations as well as trade facilitation measures. This is particularly true for small and medium sized enterprises (SME) that face de facto-barriers to entry through regulatory discrepancies.

In order to achieve an ambitious and comprehensive agreement, no party should impose red lines and preconditions upon entering into the negotiations.

2. Openness

The agreement should be open to third countries that want to join. In addition, it should aim at developing rules and standards that could be adopted beyond the transatlantic market. Only through an open agreement can the TTIP realize its strategic potential and advance the global trading system. For example, joint efforts to improve data and IPR protection could lead to an overall global improvement and higher global standards in these areas (“systemic reach”). Rules developed within the TTIP should not limit opportunity and market access in other countries.

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B. Market Access

3. Phasing- out and eliminating industrial tariffs

The agreement should eliminate or phase-out all industrial tariffs, including for intermediate goods. Even though tariffs in the transatlantic market place are low on average, some sectors and products still face steep tariffs. As a significant share of transatlantic trade is intra-company or intra-industry trade, existing tariffs constitute a competitive disadvantage for those companies and branches involved in transatlantic trade. This is also true for low-tariff-sectors who still face significant payments due to the large trade volume. The agreement should strive to achieve common views on rules of origin. As concerns rules of origin, we call for rules that, in view of existing or future agreements of the EU with Canada and Mexico, would also discipline the cumulation of origin from North America.

4. Liberalizing Investments and Services

Investments and services are a key element of the transatlantic market and should be a key component of the TTIP. We therefore welcome the approach to liberalize market access for investment and services based on the highest levels of liberalization that both sides have negotiated to date. However, we call on the negotiators to go beyond these existing levels of liberalization and to open investments on all levels of government (federal, state, local) on a non-discriminatory national treatment basis. The agreement should cover all sectors, including financial services. While enhancing market access, the agreement should safeguard high data protection standards, particularly for digital data.

5. Granting access to public procurement on all levels

Public procurement should be liberalized on all levels of government (federal, state, local), going beyond the WTO Agreement on Government Procurement (GPA). This should be done at the level of national treatment. The agreement should also define products and services coming from either market as meeting “Buy National” criteria, preventing all discrimination from these provisions (such as the “Buy America Provision” from 2009). Both parties should ensure transparent and open procedural requirements for public procurement.

C. Regulatory Cooperation

6. Creating mechanisms for horizontal regulation

The agreement should develop processes and mechanisms to achieve regulatory coherence, including early consultations, impact assessments and regulatory reviews. The agreement should further define an institutional process and procedural requirements for regulator-to-regulator cooperation after negotiations conclude (“living agreement”). The paper on “Regulatory Cooperation in the EU-US Economic Agreement”, submitted by BUSINESSEUROPE and the U.S. Chamber of Commerce in October 2012, could serve as a blueprint for this approach (see attachment). Both parties should utilize and work within standards development organizations which enable global markets and adhere to the WTO’s “Principles of International Standards”, such as the International

Organization for Standardization (ISO). In addition, the U.S.-EU High Level Regulatory Cooperation Forum, established under the TEC, could continue to serve as a platform. Regulatory cooperation should increase legal certainty, e.g. with regard to liability risks for exports to the U.S.

7. Achieving mutual recognition of sector-specific regulation

An agreement should include substantial progress regarding regulatory and standards convergence for specific sectors and products. Mutual recognition of existing regulations and standards should be realized where possible. Counterpart regulatory agencies in the EU and the U.S. should assess existing regulations in order to determine to what degree regulatory frameworks are compatible regarding their approach and their outcomes, particularly with regard to safety standards. On this basis, regulatory coherence should be maximized, potentially resulting in full mutual recognition (“once approved – accepted everywhere”).

D. Global Rules

8. Strengthening the protection of Intellectual Property Rights

As innovative and knowledge-based economies, the EU and the U.S. have a common interest in a strong protection of intellectual property worldwide. They should therefore act as strategic partners to promote the robust protection of intellectual property rights on a global level.

The agreement should foster IPR protection beyond existing TRIPS provisions through regulatory and enforcement cooperation. In addition, it should strengthen IPR in the multilateral dialogue and vis-à-vis third countries. The EU and the U.S. should also improve their cooperation in fighting counterfeiting as well as industrial espionage and the infringement of trade secrets.

The agreement should help drive the quality and efficiency of the patent acquisition process

9. Ensuring access to raw materials

Raw materials and energy are key components of energy competitiveness. The agreement should therefore ensure the unrestricted export of raw materials and energy within and beyond the transatlantic market. The nature of an agreement needs to go beyond actual WTO rules on export restrictions and should lead to a common approach and strategy to decrease export restrictions in these areas on a global level.

10. Competition Rules

The agreement should develop fair competition rules, including the treatment of state-owned enterprises.

11. Trade Facilitation

The EU and U.S. should work to enhance electronic customs procedures and to cooperate towards implementing a system of standardized

custom processes, efficient central customs clearance and harmonized customs and security related standards. This is particularly important regarding the movement of goods, as the lack of alignment of custom procedures harms transatlantic and global supply chains.

12. Extraterritoriality

The agreement should ban all regulations being partly or entirely designed to develop extra-territorial effects, especially but not limited to U.S. controls on the exports of “dual use” and military products by foreign companies that export from non-US territory (“EAR”/ ITAR regulation) as well as U.S. or EU sanctions with extra-territorial effects.

About the BDI

The BDI is the umbrella organization of German industry and industry-related service providers. The BDI is the voice of 38 sector associations, 15 regional offices and 100,000 companies with a workforce of eight million.