"German Business Priorities for Standards and Regulatory Cooperation in TTIP"

Presentation by the Representative of German Industry and Trade

Stakeholder Dialogue, TTIP Negotiations, October 1st 2014

Who we are:

The Representative of German Industry and Trade (RGIT) is the Washington, DC liaison office of the Federation of German Industries (BDI) and the Association of German Chambers of Commerce and Industry (DIHK). The BDI – Bundesverband der Deutschen Industrie – speaks for 37 sector associations, 15 regional offices, and approx. 100,000 companies with a total workforce of about eight million people. The DIHK – Deutscher Industrie- und Handelskammertag – represents the interests of the 80 German Chambers of Commerce and Industry (CCIs) and their 3.6 million member companies from the industry, trade and service sectors.

Introduction:

RGIT is a major advocate of a comprehensive and ambitious TTIP agreement. TTIP is of particular importance considering that the United States is Germany's most important trading partner outside of the European Union. Last year alone, the import of goods to the U.S. from Germany amounted to $108.8 billion. This relationship is not one sided though, as Germany is among the first five export destinations for 18 states. In 2012, goods worth more than $48.8 billion were exported to Germany from all 50 states. All of this trade also has a positive effect on job creation, as German subsidiaries are among the top five foreign employers in 43 states, accounting for 581,000 jobs – half of which are in manufacturing.

Crucial to this robust trading partnership are the standards and regulatory practices which shape the market. Studies have shown that the biggest economic potential in TTIP lies in decreasing costs which arise from non-tariff barriers (NTBs) to trade across the Atlantic. This, coupled with the fact that our companies – both big and small – tell us that red tape and redundant provisions and rules are the largest impediment to transatlantic trade, make regulatory cooperation a crucial aspect of the agreement.

Current Challenges in the Transatlantic Market:

One of the most costly aspects of transatlantic trade at the moment is **the double certification** which companies face on both sides of the Atlantic. For example, one of our companies operating in the medical and safety technologies sector faces an additional cost of $750,000 a year to certify their products with both UL and ATEX. These additional costs, in turn, have a limiting effect on those products which are made available to the U.S. market.

Lengthy waiting periods for duplicative product certification result in costly delays in product release to specific market segments/industries**.** One of our manufacturers in the electronics industry has experienced delays as long as two years while awaiting approval. For small companies, particularly those producing high-tech components, these sorts of delays not only have immediate monetary consequences, but can also directly impact their market share.

Divergent standards and certification processes can also lead to costly delays in product shipment. One of our companies operating in the processed foods industry faces exactly these challenges when exporting to the U.S. For example, once their container arrives in a U.S. port, it must be inspected by four separate government agencies: Customs and Border Protection, FDA for non-meat products, FSIS for meat products and APHIS for animal diseases. This is of course in addition to the pre-shipment inspection procedures that are performed by USDA representatives in Germany. In addition to the costs of the services themselves, the company must pay $600-$700 a day in demurrage fees per container/day while the containers are being inspected at the port, which can last up to a month.

The costs of double certification and redundancies in the regulatory process can be prohibitively high for small and medium-sized enterprises. Small and medium-sized enterprises face disproportionately higher costs due to non-tariff barriers to trade. While the costs of these barriers are significant for larger companies, for many of our smaller firms who wish to export to the U.S., the costs of producing to an entirely separate specification for the U.S. market are simply too high.

Priorities for Regulatory Cooperation in TTIP:

We believe that all of these challenges can and should be addressed in a comprehensive TTIP agreement which addresses the following priorities.

1. Focus on both the horizontal and sector-specific components of TTIP. If we merely focus on the sector-specific component, we run the risk that future regulations will be as divergent as they are now because we failed to implement mechanisms for improved cooperation moving forward. On the other hand, if we neglect the sector-specific work that has been done on both sides of the Atlantic, we would forego substantial benefits that could be felt immediately when the agreement comes into effect.
2. With regard to sector-specific provisions, negotiators should recognize that regulatory cooperation looks very different from sector to sector. For some of our sectors and companies, the principle of mutual recognition (or recognition of equivalence) is highly desirable, e.g. in the automotive industry. In other sectors, current regulations are too far apart to consider this approach. In these cases (e.g. in the electronics, chemical and manufacturing sectors), we should focus on aligning processes and procedures and avoiding unnecessary red tape and duplicative work.
3. The convergence of technical standards is an important prerequisite for the reduction of trade barriers. This must be done based on internationally recognized standards such as those of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC).

4. TTIP should establish a new mechanism for regulatory cooperation between the EU and U.S. For increased regulatory cooperation to be successful, it must be founded upon trust, confidence and political will. To achieve this, future regulatory cooperation should be based on regulator-to-regulator dialogue. This exchange of information concerning regulatory initiatives as well as their corresponding impact assessments would not only alleviate existing NTBs, but would serve as an early warning mechanism to avoid future barriers.
5. The EU and the U.S. should ensure so called "good regulatory practices." That is to say that they must ensure transparency, accountability and participation throughout the process. Additionally, all stakeholders should be able to provide timely comments on draft rules and impact assessments. However, increased transparency can only be achieved on a mutual basis and in a way that respects our constitutional constraints and the basic pillars of our legislative and regulatory systems.
6. Common rules and standards developed in the transatlantic market should serve as a template for third countries and promote further engagement at the multilateral level.

Guiding Principles:

1. TTIP must not be a race to the bottom and cannot lead to a lowering of safety, health, environment, or consumer protection standards in the U.S. or EU. Mutual recognition will only be possible if the standards are comparable in their effectiveness.
2. Intensified regulatory cooperation in the future does not mean that regulatory autonomy and regulatory oversight will be called into question or undermined. The obligation to cooperate cannot be an obligation to agree.

Concluding Statement:

It is important to note that these priorities are not without precedent. We have a long tradition of regulatory cooperation across the Atlantic and have seen great success in streamlining the regulatory processes and eliminating redundancies in certain sectors. A perfect example of this is the agreement reached between the EU and U.S. in 2012 on the mutual recognition of organic foods (Organic Equivalence Arrangement). There are also examples where the U.S. and EU have managed to uphold high standards by acting jointly vis-à-vis third countries, for instance when negotiating with China about the safety of toys and children's products.

We encourage negotiators to build on these successes as we move forward in TTIP and to take an ambitious approach in making our two systems more compatible. An ambitious approach to standards and regulatory cooperation based on the aforementioned priorities and principles would not only lower the costs for businesses to trade and for consumers to buy, but would make it easier for SMEs to engage in transatlantic trade, thus providing them with the opportunity to grow their businesses and create jobs.