

## ZVEI-Pager

# Reduction of technical barriers to trade within the framework of the Transatlantic Trade Council (TTC)

For the German electrical and digital industry, the USA is one of the most important trading partners. Free mutual market access between the EU and the US is of great importance for our industry. To this end, it is important to work towards the further reduction of existing non-tariff trade barriers, especially in the area of technical regulation. In principle, we therefore support efforts to work towards uniform market access conditions within the framework of the Transatlantic Trade Council (TTC). Uniform standards that are recognised by both sides play an important role in this, as they should be jointly developed from the outset in the area of cyber security and artificial intelligence, for example. When reducing non-tariff barriers to trade in the area of technical regulation, it is important to find mutually beneficial solutions in order to achieve reciprocity in market access for the other partner and to reduce costs for companies on both sides of the Atlantic.

## Our positions

- **A reduction of technical barriers to trade** between the US and the EU is only **possible through the harmonisation of technical standards and product requirements**. So far, technical barriers to trade in bilateral trade between the EU and the USA have arisen due to different conformity assessment procedures and technical regulation structures. The basic principle of any negotiations must be that there must be no mutual recognition of technical standards or product requirements without prior harmonisation.
- A **complete dismantling of** these technical barriers to trade can only be implemented in the long term and **involves several steps: 1) Mutual recognition of US conformity assessment bodies** (Nationally Recognized Testing Laboratories (NRTL)) **among themselves** should be promoted. This could be achieved with the introduction of a uniform NRTL mark (single NRTL marking), which proves that the certification body complies with the NRTL requirements. **2) The harmonisation of technical standards and product requirements** in the EU and the USA **based on international standards**. **3) The mutual recognition of approval procedures on** both sides of the Atlantic (goal: "One standard, one test, accepted everywhere").
- A **Mutual Recognition Agreement (MRA)**, which provides for the **recognition of conformity assessments** by US inspection bodies of products for the European market according to European market access conditions and vice versa, **is in principle a possibility to partially improve market access without, however, removing** the underlying **technical barriers to trade**.
- The EU and the US have had an **agreement** since 1998 on mutual recognition of conformity assessments in areas where the **responsibility lies with the federal authorities (FCC, FDA)** (including for radio equipment and electromagnetic compatibility (EMC) and medical devices). This agreement could form a basis for a future MRA for machinery and electrotechnical products.
- **The prerequisite for such an MRA must be** that the **certificates** issued by recognised inspection bodies within the framework of the MRA are **recognised by all authorities** at the federal level, **all subordinate authorities** at the state and local level **and the NRTLs among themselves**. While this is guaranteed in the EU by the internal market, the **USA**, whose market access is structured much more inconsistently, would have to **oblige its subordinate authorities to take this step**. **Only with an obligation to recognise** test results and certificates from recognised NRTL bodies **can reciprocal market access be guaranteed**. Without such a requirement, US companies would gain easier market access in the EU, while European companies would continue to face the heterogeneous requirements of US market access.

# Current state

## Different starting points of market access conditions in the EU and the US

- **In the USA**, unlike in the EU internal market, it is **not the market access for a product that is regulated, but the use of a product** ("almost everything may be sold, but not everything may be used").
- The **EU has established a single market for goods**. If products are in compliance with the legal requirements for placing goods on the market (in the field of electrical engineering almost exclusively by European harmonisation regulations in accordance with the NLF), products can circulate freely in the internal market. In most cases, conformity assessment and affixing of the CE mark is done on the sole responsibility of the manufacturer himself. Only in a few specific areas (e.g. mechanical engineering, protection against explosion, medical devices) is the involvement of a notified body (certifier) necessary for certain product groups.
- In the **USA**, on the other hand, the regulation of market access differs and has no uniform structure. In the commercial sector, there are **hardly any regulations on market access** ("almost everything may be sold"). Instead, **regulation focuses on health; safety and operator regulations** ("but not everything may be used"). **Products** in the commercial use as well as electrical products intended for installation in the home predominantly **require a mark of conformity from an NRTL**. These NRTLs test predominantly according to US standards (UL or ANSI standards), the selection of which is determined either by the NRTL themselves or in binding legislation (including the National Electric Code).
- While technical market access barriers exist on both sides of the Atlantic, the **barriers on the US side in particular are more difficult to address**, as there may be state-level requirements or local requirements in addition to national specifications and requirements for products. These can **often not be easily negotiated by the national government due to the lack of competences laid down in the US Constitution**. Against this background, **concessions to the US by the European side should be carefully examined in order to achieve reciprocity in market access**.
- **Demands in this regard were already addressed by the EU Commission in October 2019 in the negotiation paper "European Union's (EU) proposal for the EU-U.S. agreement on conformity assessment" as the basis for an agreement in the area of conformity assessment.**

## Challenges for European manufacturers of electrical products in the US market

- **In the USA**, there are various so-called NRTLs that carry out tests and can issue NRTL certificates. However, **certificates are often not recognised among each other**. This is due on the one hand to the lack of a uniform national test marking and on the other hand to differing requirements at state or local level.
- In practice, this leads to **re-testing of components in the certification of end products**, if, for example, the NRTL certificate of components of another NRTL are not recognised. Also, **not all NRTL certificates are recognised by all subordinate authorities** (e.g. "Authorities Having Jurisdiction" or "Fire Marshals" at local level).

# Background: Numbers & Facts

## US is a major trading partner of the EU for electronic and electrical products

- For the German electrical and digital industry, the US is the second largest market for electrical products and the third largest importer of electrical products.
- In 2022, exports of electrical products increased strongly compared to the previous year (+23.8% to a total of €23.6 billion).<sup>1</sup>

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<sup>1</sup> ZVEI Foreign Trade Report February 2023: [https://www.zvei.org/fileadmin/user\\_upload/Presse\\_und\\_Medien/Publikationen/2023/Februar/ZVEI-Aussenhandelsreport\\_Februar\\_2023/ZVEI-Aussenhandelsreport-Februar-2023.pdf](https://www.zvei.org/fileadmin/user_upload/Presse_und_Medien/Publikationen/2023/Februar/ZVEI-Aussenhandelsreport_Februar_2023/ZVEI-Aussenhandelsreport-Februar-2023.pdf)

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