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VDMA Recommendations for the May 2023 Meeting of the EU-US Trade and Technology Council (TTC)

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Introduction

The Joint Statement of the 3rd Ministerial Meeting of the EU-U.S. Trade and Technology Council presented some encouraging developments for transatlantic machinery and industrial equipment manufacturers. Notably, the VDMA has been supportive of the TTC's continued work towards achieving an agreement that would reduce conformity assessment barriers for EU and U.S. exporters of machinery and electrical equipment, in addition to the TTC's Roadmap aiming to align certain standards for Artificial Intelligence. However, with major elections happening both in the EU and the U.S. in 2024, which could complicate policymaking throughout the year, it is imperative that the TTC achieve concrete results that would reduce trade barriers for transatlantic manufacturers of capital goods before the end of 2023.

Provide a Concrete Strategy to Reach a Conformity Assessment Regulatory Agreement by the End of 2023

Following the TTC's 3rd Ministerial Meeting in December 2022, the VDMA was pleased to see the Joint Statement's explicit mention of the machinery sector as an industry where the EU and the U.S. would like to "improve cooperation in conformity assessment." Transatlantic conformity assessment barriers have been a long-standing irritant for American and European exporters of capital goods, and the VDMA's "Roadmap to an EU-U.S. Mutual Recognition Agreement on Conformity Assessment for Machinery and Electrotechnical Products," provides a pathway for these frictions to be reduced. Therefore, the VDMA is encouraged to know that discussions on this issue through the TTC have been active over the past few months.

Nevertheless, the TTC must now achieve the concrete result of reaching a Mutual Recognition Agreement that would streamline conformity assessment procedures for EU and U.S. exporters of machinery and industrial equipment. Stakeholders in both the EU and the U.S. have spoken, reasonable proposals have been submitted, and a precedent (1998 EU-U.S. Telecom MRA) has been established, so there is no principled reason why a transatlantic regulatory agreement for machinery and industrial equipment should not be achievable by the end of 2023. Therefore, during the 4th Ministerial Meeting, the TTC must provide a concrete strategy for how this agreement can finally be reached by the end of the year before the political uncertainties of 2024 arise.

Permanently End the Trade Dispute Over Steel and Aluminium Tariffs

The temporary agreement reached in October 2021 to alleviate U.S. tariffs on steel and aluminium and eliminate EU retaliatory tariffs provided some relief to this dispute initiated by the former Trump Administration, but it did not permanently solve the problem. With the EU and the U.S. issuing a self-imposed deadline to reach a more indefinite agreement by October 2023, the VDMA urges the two sides to swiftly reach an agreement that permanently ends this dispute and lifts all remaining tariffs. At the very least, it is imperative that both sides avoid an escalation where U.S. steel and aluminium tariffs on Europe and subsequent EU retaliatory measures return, as this outcome would increase costs for machinery manufacturers in both markets—as well as their customers.

The Trade and Technology Council has been a positive force in addressing many trade frictions between the two markets, but if tariffs are reimposed, the transatlantic relationship would face a major setback at a time when the partnership cannot afford to look divided. Therefore, it is critical that policymakers on both sides reach a lasting agreement that allows for the tariff-free trade of steel and aluminium between the EU and the U.S. as soon as possible, ideally well before the October 2023 deadline. This could very well be achieved through a Global Arrangement on Sustainable Steel and Aluminium since the EU and the U.S. have some of the highest environmental standards in the world for the production of these goods.

Continue to Cooperate on the China Challenge

While China remains an important export market for the mechanical engineering sector, China continues to undermine elements of the rules-based global trading system. Being democratic societies with free markets and the world's two largest economies, the EU and the U.S. are uniquely situated to set guardrails for global trade. For example, the two economies can partner in curbing abuses of industrial subsidies, intellectual property violations, and forced technology transfers. The VDMA is supportive of the language in the Joint Statement of the 3rd TTC Ministerial Meeting, which noted that the EU and the U.S. will use the forum to address non-market practices, foster supply chain diversification, build resistance to economic coercion, and reduce dependencies.

Accordingly, the VDMA is supportive of the concept, communicated in recent speeches by European Commission President Ursula von der Leyen and U.S. National Security Advisor Jake Sullivan, that the EU and the U.S. should “de-risk” from China, not “de-couple.” The EU and the U.S. must jointly address common challenges faced by China and find ways to become less dependent on Chinese supply chains, but a complete decoupling of investment and trade from China would create significant challenges for machinery manufacturers on both sides of the Atlantic. Therefore, during this upcoming TTC Ministerial Meeting, the EU and the U.S. should continue to align their priorities on reasonably addressing the various challenges faced by China.

Coordinate on Investment Screening and Export Controls

The VDMA is supportive of the TTC highlighting the need to coordinate investment screening and export control decisions in the Joint Statement of the December 2022 Ministerial Meeting. During the situations where exports and investments to third countries must be restricted due to transatlantic national security concerns, it is critical that the EU and the U.S. cooperate to ensure that neither side is imposing extraterritorial sanctions on the other market. The TTC should continue to serve as the proper forum to collaborate on export controls and investment screening, just as it has throughout Russia's unjustified war in Ukraine.

In addition, with prospective proposals being weighed in the EU and the U.S. to create new outbound investment screening mechanisms, the VDMA is concerned over the prospect that these new mechanisms could unintentionally restrict investments between the two markets. Both sides should ensure that any prospective outbound investment screening mechanism is narrowly tailored to target specific actions taken by third countries threatening transatlantic security and lacks the power to restrict investments that are made between the EU and the U.S. now and in the future.

Prevent New Trade Irritants Forming from New Domestic Content Requirements

The “Inflation Reduction Act” (IRA) signed into law by President Biden in August 2022 provides clean energy equipment suppliers, many being VDMA member companies, new opportunities to sell products to the American market. However, the IRA's new domestic content requirement laws discriminate against multiple European industries, including the machinery industry, increasing the risk of a new prolonged trade dispute. With so much progress being made to improve the EU-U.S. relationship since 2021, it is critical to the success of the TTC that the EU and the U.S. work together through this forum to proactively find solutions that would resolve these frictions and prevent the escalation of a prolonged trade dispute.

Specifically, the apprenticeship requirements of the IRA's Clean Electricity Production Tax Credit and Clean Electricity Investment Tax Credit create uncertainties for European machinery manufacturers, especially small-and-medium-sized companies. In short, the IRA makes it more difficult for European machinery manufacturers to supply and service clean

electricity projects in the U.S., due to the requirement that each contractor and subcontractor with at least four workers on the project site also employ at least one U.S. “registered apprentice,” which is impossible for most European machinery SMEs. The EU and the U.S. should address solutions to this barrier at the upcoming TTC, as doing so would help both European machinery exporters and American clean electricity projects.

Align Standards Related to Artificial Intelligence and Machine Interoperability

The use of Artificial Intelligence in machines has grown over the past few years as the industry has become increasingly digitalized. To foster innovation in this sphere and to prevent new trade barriers from emerging which may further force American and European machinery and electrotechnical manufacturers to develop separate products for separate markets, it is vital that the TTC align emerging standards that are in the process of being developed for Artificial Intelligence. The VDMA is supportive of the collaborative principles laid out in the EU-U.S. AI “Roadmap” published alongside the Joint Statement of the TTC’s December 2022 Ministerial Meeting and urges the TTC to use these principles to ensure that specific AI standards developed in both markets are compatible with one another.

In addition, with the increase of “Industry 4.0” technologies on shopfloors in the EU and the U.S., there is a growing need for machines produced by different companies to communicate with each other in a secure and efficient way. The Open Platform Communication Unified Architecture (OPC-UA) as an international standard (IEC 62541) in addition to the OPC-UA Companion Specification have been proven to provide this secure and efficient platform incurring standardized semantics for machine interoperability across different vendors. However, the use of this platform varies by industrial market, so promoting the salience of this industrial global production language should be explored as a potential topic of discussion in Working Group 1 of the EU-U.S. Trade and Technology Council.

Strengthen Transatlantic Data Flows

For the export-oriented mechanical engineering sector, the flow of machine data between companies and across borders is essential. Therefore, we hope that the EU-U.S. Data Privacy Framework will soon enter into force. During the May 2023 Ministerial Meeting, the TTC should continue discussions to coordinate policy that would protect transatlantic data flows while avoiding new regulatory barriers, data localization obligations, prescriptive national technical requirements, or unjustified data disclosure requirements which risk the security of proprietary information for machinery manufacturers. To allow and promote cross-border digital services, any new corresponding rules should be streamlined and harmonized to the greatest extent feasible.

Prevent Blanket Bans on Non-Substitutable PFAS Chemicals in Manufacturing

For manufacturers of indispensable machinery components like pumps, valves, seals, hoses, and fittings, the use of certain PFAS chemicals, primarily fluoropolymers, is critical for production. In many cases, there is no substitute for the use of PFAS in these critical components. This is why new proposed and enacted regulations in both the EU and the U.S. which would restrict, and in some cases outright ban PFAS chemicals create major concerns for the machinery, plant engineering, and electrical equipment industry. Due to the non-substitutable nature of these chemicals, outright bans of PFAS directly threaten the very existence of machine component manufacturers and indirectly put the business of machinery manufacturers at risk. As a result of banning PFAS chemicals, businesses may either shut down or shift their operations to third countries, risking industrial employment in both the EU and the U.S. and slowing green energy transitions in both markets, as components containing PFAS chemicals are used in products like wind turbines and heat pumps.

This is why the EU and the U.S. must work together through the TTC to provide reasonable solutions that would protect the environment without risking industrial capacity in both

markets and creating trade frictions. Not all PFASs are the same, as fluoropolymers, which are the PFAS chemicals most commonly used in machine components, pose a minimal threat to the environment and public health compared to other types of PFAS products like perfluorooctanoic acid and perfluorooctanesulfonic acid. If restrictions are enacted in either market, the constraints should be based on the risk of each individual classification of PFAS rather than a blanket ban. In addition, more focus should be driven towards the prevention of PFAS leakage into the environment, rather than banning PFAS chemicals outright.

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