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VDMA Proposal for Expanding the 1998 EU-U.S. Mutual Recognition Agreement

Dear Executive Vice-President Dombrovskis,

Since the inception of the EU-U.S. Trade and Technology Council, VDMA has held extensive consultations with industry and government stakeholders on both sides of the Atlantic to determine practical solutions that would reduce conformity assessment barriers between the EU and the U.S. With the 6th meeting of the TTC taking place on April 4 and 5, VDMA urges the parties to reach an agreement that would resolve this longstanding technical barrier to trade. In particular, VDMA considers the following solution to be the most constructive and practical course of action, which would benefit transatlantic exporters of capital goods:

Course of Action

VDMA proposes that the EU and the U.S. reach a regulatory agreement that would create a reciprocity of conformity assessment body access and increase the competition of laboratories in the exporting market that can certify capital goods for the importing market's standards and regulations. In our view, this regulatory agreement can come in the form of expanding the scope of the EU-U.S. 1998 Mutual Recognition Agreement to include machinery and industrial equipment, or creating a brand new "EU-U.S. Agreement on Conformity Assessment" which includes products like machinery and industrial equipment.

Scope

A horizontal regulatory agreement should include all capital goods that require third-party certification in the EU and the U.S. In the EU, machinery or related products that will require third-party certification in varying degrees are listed in ANNEX I of the new Machinery [Regulation](#). This Regulation replaces the Machinery [Directive](#) and will be applied from January 14, 2027 on. In total, this list comprises 25 categories of capital goods. In the U.S., categories of materials and equipment that require third-party certification are [listed](#) under 29 CFR Part 1910. In total, this list comprises 37 categories of capital goods.

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If other products or technologies require third-party certification in either the EU or the U.S., these technologies may also be included in an EU-U.S. regulatory agreement. Otherwise, there is no clear reason why products that do not require third-party certification should be included in a regulatory agreement that focuses on streamlining cross-border conformity assessment.

Regulatory Proposal

The only legal changes that would be required for an EU-U.S. regulatory agreement to come into force would be the following:

The EU recognizes that U.S. conformity assessment bodies are competent to become [Notified Bodies](#) for the EU's Machinery Regulation if they are deemed competent by U.S. accreditation bodies recognized by either the International Accreditation Forum (IAF) or the International Laboratory Accreditation Cooperation (ILAC). Under this system, U.S. conformity assessment bodies would apply to become EU Notified Bodies for the Machinery Regulation by the U.S. National Institute of Standards and Technology (NIST), in collaboration with DG GROW. This format has precedent, as it is the current [structure](#) used when U.S. conformity assessment bodies apply to become Notified Bodies for EU Directives under the 1998 EU-U.S. MRA.

The U.S. exempts the EU from its "[reciprocity consideration](#)" under 29 C.F.R. § 1910.7 Appendix A (I.)(A.)(1.)(b.) that restricts the ability for foreign conformity assessment bodies to become OSHA-recognized NRTLs. This exemption should be done through written guidance issued by OSHA or USTR which would allow conformity assessment bodies located in the EU to have the ability to be approved and recognized as NRTLs if they can prove their competence to meet OSHA requirements, without any other considerations, ensuring reciprocity for these bodies.

Benefits for Exporters, Resilient Supply Chains, and the Environment

Providing such a reciprocal treatment of conformity assessment bodies would lead to significant benefits in both markets. In the EU, increased competition and choice among EU-domiciled NRTLs would reduce certification wait times for capital goods exporters that frequently range from 3-9 months. In the U.S., conformity assessment bodies will finally be able to become notified bodies for the European law governing capital goods at a time when EU third-party conformity assessment requirements are increasing.

Importantly, the streamlined trade of capital goods between the two markets can also help reduce costs for the manufacturing of clean technologies, and hence for consumers. A [study](#) conducted by the European Centre for International Political Economy (ECIPE) found that an EU-U.S. regulatory agreement could increase transatlantic exports of machinery and electrical equipment by \$75 billion, while reducing dependencies on China. This same study found that an agreement on machinery and electrical equipment alone could also increase the transatlantic trade of green goods by \$9.2 billion.

The principles of the proposal outlined above are now supported by multiple major trade associations representing industry on both sides of the Atlantic. Therefore, the circumstances call for the EU and the U.S. to reach a regulatory agreement as soon as possible. Accordingly, we urge policymakers on the TTC to use the contents of this proposal as the precise basis for a regulatory agreement at the 6th ministerial meeting of the TTC in April 2024.

Sincerely,

