



Doing Business in Germany: A Country Commercial Guide for U.S. Companies

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Chapter 1: Doing Business In Germany

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Market Overview

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The German economy is the world's third largest and, after the expansion of the EU, accounts for nearly one-fifth of European Union GDP. Germany is the United States' largest European trading partner and is the sixth largest market for U.S. exports. Germany's "social market" economy largely follows free-market principles, but with a considerable degree of government regulation and generous social welfare programs and protections.

Germany is the largest consumer market in the European Union with a population of over 82 million. However, the significance of the German marketplace goes well beyond its borders. An enormous volume of worldwide trade is conducted in Germany at some of the world's largest trade events, such as CeBIT, Medica, Hannover Fair, Automechanika, and the ITB Tourism Show. The volume of trade, number of consumers, and Germany's geographic location at the heart of a 27-member European Union that added ten members in 2004, and two more in 2007 make it a keystone around which many U.S. firms seek to build their European and worldwide expansion strategies.

Market Challenges

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Real German GDP expanded by 2.7 % in 2006; forecasters predict economic growth to reach 1.8 % in 2007. Consumer demand, which had been sluggish for several years, is picking up. The economy continues to be mainly driven by exports, although there was an uptick in investment spending in 2006. Business confidence indices rose in early 2006 and still show signs of optimism, despite the increase in the value-added tax from 16% to 19% in January 2007. The German economy continues to suffer from structural problems, including inflexibility and over-regulation in labor markets, taxation, and business establishment, as well as high social insurance costs.

The German government recognizes the need for reform and is pursuing a series of initiatives. While many observers regard these programs as a useful start, most expect that additional reforms to enhance Germany's global competitiveness will be required. German firms focusing on exports, especially in the automotive, chemicals, and high tech sectors, recently have enjoyed healthy profits and have exported more goods and services than firms from any other country. The retail sector, by contrast, continues to struggle. Major manufacturing firms have increasingly shifted their production overseas to maintain global competitiveness and reduce costs.

Persistent high unemployment, particularly long-term (longer than one year) unemployment, is among Germany's most serious political and economic problems. While her government has seen initial progress in reducing unemployment during its first year in office, the government of Chancellor Angela Merkel recognizes that it still has a long way to go.

Since the beginning of 2006, what had been an export-led recovery has begun to expand into the domestic economy. Investment in machinery and equipment has grown rapidly and business confidence has risen – the latest survey results from the Munich-based Ifo Institute showed optimism is holding at a 15-year high. More recently there have been signs that the economic recovery has finally reached the labor market. The non-seasonally adjusted unemployment rate dropped to 9.6% in November 2006 – the lowest since the fall of 2001 – compared with a Eurozone average of 7.7%, according to data released by Eurostat, the European Union's statistical office. Average unemployment was forecast to decline to 4.5 million in 2006, with a further decline to 4.3 million in 2007, assuming continued healthy economic growth. While much of the improvement has been the result of an expanding number of temporary or low-paid jobs, more importantly, the numbers of socially-insured jobs and of self-employed have been rising, too.

Germany presents few formal barriers to U.S. trade or investment, although Germany's participation in the EU's Common Agricultural Policy and German restrictions on biotech agricultural products mean barriers for some U.S. goods. Germany has pressed the new EU Commission to reduce regulatory burdens and promote innovation in order to increase the EU member states' competitiveness. The Merkel government has talked about the need of regulatory reform in Germany as well. Germany's regulations and bureaucratic procedures can prove baffling. While not directly discriminatory, government regulation is often complex and may offer a degree of protection to established local suppliers. Safety or environmental standards, not inherently discriminatory but sometimes zealously applied, can complicate access to the market for U.S. products. American companies interested in exporting to Germany should make sure they know which standards apply to their product and obtain timely testing and certification. German standards are especially relevant to U.S. exporters because, as EU-wide standards are developed, they are often based on existing German ones.

Market Opportunities

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For U.S. companies, the German market--the largest in the EU--continues to be attractive in numerous sectors and remains an important element of any comprehensive export strategy to Europe. While U.S. investors must reckon with a relatively higher cost of doing business in Germany, they can count on high levels of productivity, a highly skilled labor force, quality engineering, a first-class infrastructure, and a location in the heart of Europe.

The most successful market entrants are those that offer innovative products featuring high quality and modern styling. Germans are responsive to the innovation and high technology evident in U.S. products, such as computers, computer software, electronic components, health care and medical devices, synthetic materials, and automotive technology. Germany boasts one of the highest Internet access rates in the EU and new products in the multi-media, high tech, and service areas offer great potential as increasing numbers of Germans join the Internet generation. Certain agricultural products also represent good export prospects for U.S. producers. Price will not necessarily be the determining factor for the German buyer, given the German market's demand for quality.

The German market is as decentralized and diverse as the U.S. market, with interests and tastes that differ dramatically from German state to German state. Successful market strategies take into account regional differences as part of a strong national market presence. Experienced representation is a major asset to any market strategy given that the primary competitors for most American products are domestic firms with established presence. U.S. firms can overcome such stiff competition by offering high quality products, services at competitive prices, and sales back-up, as well as establishing a local network of support. For investors, Germany's relatively high marginal tax rates and complicated tax laws may constitute an obstacle, although deductions, allowances and write-offs help to move effective tax rates to more internationally competitive levels.

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Chapter 2: Political and Economic Environment

For background information on the political and economic environment of the country, please click on the link below to the U.S. Department of State Background Notes.

<http://www.state.gov/r/pa/ei/bgn/3997.htm>

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Using an Agent or Distributor

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To a far greater degree than its neighbors in Europe, Germany's population and industry are decentralized and their locations spread throughout much of the country. Major cities and businesses dot the countryside in a landscape that features no one single predominant business center. Often U.S. companies hope to cover Europe from a single European base, or even through periodic visits from the United States. The German commercial customer at the same time expects to be able to pick up the telephone, talk to his or her dealer, and have replacement parts or service work immediately available. American exporters should avoid appointing distributors with impossibly large geographic areas, without firm commitments regarding parts inventories or service capabilities, and without agreements on dealer mark-ups.

Success in the German market, as elsewhere around the world, requires long-term commitment to market development and sales back up, especially if U.S. companies are to overcome the geographic handicap with respect to European competitors. Germans at times perceive U.S. suppliers as tending to process a U.S. domestic order before taking care of an export sale, or being quick to bypass a local distributor to deal directly with its customer. Some German entrepreneurs with selective experience with U.S. companies are skeptical about their long-term commitment and after-sales support. American firms entering Germany today are generally aware of the factors that make for a successful export relationship and are ready to establish a credible support network. Nevertheless, U.S. firms should be ready to address any lingering doubts from prospective German clients/partners.

If a manufacturer wishes to distribute its products abroad by itself, an independent distribution company must usually be established. This step entails not only considerable expense, but also requires extensive organization and control. Medium-sized manufacturing companies, in particular, therefore, tend to engage sales intermediaries to work independently a certain market.

The most important types of distribution intermediaries are commercial agents, distributors, and franchisees. While the law on commercial agents has been revised and harmonized among the European Union member states based on an European Commission Directive, Germany still lacks a codified distributor and franchising law. For EU directives and legislation relevant for selling U.S. products in the European Union, please see the Country Commercial Guide of the U.S. Mission to the European Union available at <http://export.gov/mrktresearch>.

Commercial Agents

Agency Agreement

An agency agreement need not be concluded in writing and can arise informally, verbally or even tacitly. There are, however, two exceptions to this rule: a *del credere* agreement, under which the commercial agent guarantees the fulfillment of liabilities arising from a transaction, must be concluded in writing, as must a post-contractual agreement regulating exclusively.

To attract a talented consultant or salesperson, a firm will need an impressive track record. Germans, in particular, are hesitant to participate in start-up ventures.

Claim to Remuneration

The remuneration of a commercial agent may consist of either performance-related commission, fixed remuneration, or a combination thereof (a so-called guaranteed commission).

In addition to remuneration for the arrangement and conclusion of sales activities, a commercial agent may also be entitled to a commission for other activities, such as collections, assumption of liability, warehousing, and after-sales service.

Distribution

A distributor is always a dealer, i.e., he or she buys and sells in his or her own name and for his or her own account. The distributor undertakes to vouch for the sale of the contractual products on an ongoing basis. He or she often also assumes the obligation to maintain a warehouse, a stock of spare parts or even a repair service.

Exclusivity Clause

A territorial protection or exclusivity clause is often included in distribution agreements. Pursuant to EU competition law, such clauses, however, are allowed to a limited extent only. They prevent a manufacturer from engaging other distributors in a certain contractual region or from conducting transactions directly. It is not unusual for a manufacturer to reserve the right to supply certain major customers with whom business relations already exist before concluding the distribution agreement. For a distributor, exclusivity usually means that only he or she may purchase the same or similar products

from the manufacturer for sale in the contractual region. Exclusivity clauses are generally agreed to when the manufacturer's product is protected by a patent.

Under an exclusive distribution arrangement, a product may or may not receive the attention it deserves. It could become nothing more than a line item in a hefty catalogue. Without someone on the ground to initiate demand, it is unlikely that a new product will sell on its own.

Competitive Restrictions

Objections based on EU and German competition law may be raised against distribution agreements if exclusivity or a territorial protection, non-competition, resale price maintenance, or other restrictive clauses are included. Distribution systems between non-competing companies are widely covered by the Block Exemption Regulation for Vertical Restraints, which applies to products and services in all industries, except for motor vehicle distribution and technology transfer.

The Block Exemption Regulation exempts all types of vertical restraints on competition from the general prohibition, unless the share of the supplier, or for exclusive purchase agreements, of the buyer of the relevant market is not higher than 30%. Some particularly restrictive clauses are "blacklisted"; agreements providing for such restrictions do not benefit from the exemption, such as minimum or fixed resale price maintenance or restrictions regarding the territory in which the buyer may sell the products. Non-competition clauses, which also include exclusive purchasing agreements, are exempted only for a limited time. Special rules apply to agreements between competitors and to post-contractual non-competition agreements.

Agreements that are not covered by the Block Exemption, for instance because the market share threshold is passed, must be reported to the Commission of the European Union to apply for a single exemption or a comfort letter.

German law prohibits resale price maintenance and resale maintenance of terms and conditions. In general, exclusivity or tying agreements can be practiced unless the competent competition authority prohibits the parties from doing so.

Establishing an Office

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If a potential investor intends to form a relationship or entity beyond a strategic alliance with an existing German business on a contractual basis, German law allows a broad variety of business forms. Since corporate, tax, and trade law (containing the provisions regarding partnerships and sole proprietorships) are codified in German Federal law, the actual place of business or incorporation is not a factor in choosing the business vehicle (except for the local trade tax burden).

GmbH

The GmbH (Gesellschaft mit beschränkter Haftung - limited liability corporation) is the corporate entity most commonly used for business enterprises in Germany. The structure of a GmbH is relatively straightforward and flexible. It is designed for private businesses (no IPO possible) with a clear and stable shareholder structure looking for full liability protection of their shareholders. The liability of a GmbH is limited to the value of its assets including its share capital.

For detailed information on the different German business vehicles please visit <http://www.invest-in-germany.de/>

Franchising

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Germany is a mature franchise market in which local entrepreneurs have developed sophisticated concepts. A high concentration of franchising chains in Germany exists in the service sector (45%), trade (37%), building and handcraft (8%), and gastronomy (10%). Industry sources expect the best prospects to be in the areas of training and educational services; express delivery services (all types); theme bistros/restaurants; office management, accounting and tax services; maintenance, cleaning and sanitation services; advertising; telecommunication products and services; energy saving products and services; retail stores (specialized); home care services; and environmental services. U.S. franchisors must be prepared to adapt to required market norms and standards, invest in market research, test market receptivity through pilot projects, and to adjust their concepts to German business practices and consumer tastes.

Restrictions to competition in franchise agreements are generally covered by the Block Exemption on Vertical Restraints of 1999 referred to in the preceding chapter "Distributors."

Direct Marketing

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German consumers are accustomed to purchasing via catalog and have become more receptive to shopping on Internet platforms. More than 80% of German enterprises use direct marketing to sell their products and services. The most frequently used formats are email and Internet marketing (65%), telephone marketing (31%), direct mail (24%) and inserts in publications with a response element (18%). Trading companies, manufacturers, and service companies spend more than EUR 30 billion on direct marketing with mailing expenditures clearly in the lead, followed by inserts with response elements, and telephone marketing. Direct marketing agencies currently employ 48,000, a number which is expected to grow over the next years.

It is important to know the pitfalls of using direct marketing as a selling tool in Germany. Data protection and privacy laws are stringent, and consumer protection guidelines and competitive advertising are also highly regulated. Companies should consult with a lawyer before raising, storing or processing any sort of data in Germany. Other potential challenges regard the laws pertaining to unfair competition and rebates.

Joint Ventures/Licensing

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Joint Ventures

Dealing with joint ventures ranks among the most difficult jobs under German competition law. In Germany, joint venture legislation falls under the purview of the Federal Cartel Office (Bundeskartellamt: <http://www.bundeskartellamt.de>). The law requires that a joint venture must exercise "genuine entrepreneurial" activities. Under German law, this means:

- Organizations which merely carry out auxiliary functions, such as purchasing or distribution on behalf of the parents, are not considered joint ventures; and

- Joint ventures must have at their disposal sufficient assets and personnel to carry out their activities.

The Bundeskartellamt is required to prohibit a merger if it is "expected to create or strengthen a dominant position." Market dominance is defined as an undertaking, which either has no competitors or is not exposed to any substantial competition or has a paramount market position in relation to its competitors.

Licensing

German antitrust law does not, in the absence of a dominant market position, restrict the owner's freedom to use her/his industrial property rights, including the exploitation of a patented innovation.

Selling to the Government

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Selling to German government entities is not an easy process. Although there has been a delay in implementing some facets of the EU Utility Directive, German government procurement is formally non-discriminatory and compliant with the GATT Agreement on Government Procurement and the European Community's procurement directives. That said, it is a major challenge to compete head-to-head with major German or other EU suppliers who have established long-term ties with purchasing entities.

Distribution and Sales Channels

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Distribution channels are varied and similar to the United States. There are certain restrictions, however, concerning multi-level networking systems, i.e., so-called snowball or pyramid distribution systems. More information: <http://www.wettbewerbszentrale.de/>

Selling Factors/Techniques

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Success in the German market, as elsewhere around the world, requires long-term commitment to market development and sales backup, especially if U.S. companies are to overcome the geographic handicap with respect to European competitors. Germans at times perceive U.S. suppliers as tending to process a U.S. domestic order before taking care of an export sale, or being quick to bypass a local distributor to deal directly with its customer. Some German entrepreneurs with selective experience with U.S. companies are skeptical about their long-term commitment and after-sales support. U.S. firms entering Germany today are generally aware of the factors that make for a successful export relationship and are ready to establish a credible support network. However, U.S. firms should be ready to address any lingering doubts from prospective German clients/partners.

Electronic Commerce

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Germany is the European leader in Internet commerce and is among the world's most sophisticated markets, totaling EUR 320 billion in 2005. Internet commerce is expected to grow to EUR 694 billion by 2009. The use of the Internet by individuals and businesses in Germany is continuing to expand: about 63%, or 51.9 million Germans were online in 2005 and this percentage is expected to grow to 79.7% by the end of

2007. The number of Germans accessing the Internet via broadband is expected to increase from 12.6 million subscribers in June 2006 to 22.4 million in 2010.

Business-to-business (B2B) commerce accounted for EUR 289 billion in 2005 and is projected to grow to EUR 580 billion by 2009. Germany holds the highest market share for both B2B and B2C commerce in Europe. Business-to-Consumer (B2C) commerce accounted for EUR 32 billion in 2005 and forecasts expect it to reach EUR 114 billion in 2009. Only about 3% of German retail transactions were online sales in 2005.

B2C - Fifty percent of German adults realized at least one shopping transaction via the Internet in 2005. Favorite B2C products are books, tickets for airlines and trains, hotel reservations and music. Growing online sales are expected for consumer electronics, pharmaceuticals and package tours. Retailers without "physical" retail stores or those lacking brand recognition sometimes encounter difficulties when trying to win the trust of German customers. Besides trust, price and product diversity are the most important competitive factors.

B2B - Almost all German small and medium-sized businesses have Internet access. Online transactions such as e-procurement are growing and Customer and Partner Relationship Management are becoming increasingly important. Most e-commerce strategies focus on quick return on investment. Revenues of industry- or company-specific marketplaces, such as SupplyOn in the automotive industry, are growing. Major users of B2B solutions are the automotive, retail, energy, and pharmaceutical/chemical production industries.

Financial Services - Germans are heavy users of banking and financial sites and increasingly trust online banking services. Fifty-seven percent of German Internet users did online banking in 2005.

E-Government - Germany offers a good number of e-government services. Since August 2005, more than 440 Internet-capable services of German federal agencies can be used online. The German federal and of state governments, backed by national associations and local authorities, adopted a joint strategy called "Deutschland-Online" in 2003. On the basis of successful joint projects, they are intensifying their efforts in e-Government (<http://www.deutschland-online.de>). The central German government online procurement website e-Vergabe is available at <http://www.e-vergabe.bund.de>.

In July 2003, the European Union (EU) started applying Value Added Tax (VAT) to sales by non-EU based companies of Electronically Supplied Services (ESS) to EU-based, non-business customers. U.S. companies that are covered by the rule change must collect and submit VAT to EU tax authorities. European Council Directive 2002/38/EC changed the EU rules for charging Value Added Tax. The U.S. businesses mainly affected by this rule are those that are based in the United States and selling ESS to EU-based, non-business customers or to businesses that are EU-based and selling ESS to customers outside the EU who no longer need to charge VAT on these transactions.

There are a number of compliance options for businesses. The Directive created a special scheme that simplifies registering with each Member State. The Directive allows companies to register with a single VAT authority of their choice. Companies have to charge different rates of VAT according to where their customers are based, but VAT reports and returns are submitted to just one authority. The VAT authority responsible

for providing the single point of registration service is then responsible for reallocating the collected revenue among the other EU VAT authorities.

Trade Fairs

Few countries in the world can match Germany when it comes to leading international trade fairs. Such a reputation should be no surprise given that the trade fair concept was born in Germany during the Middle Ages. Today, Germany hosts a major world-class trade event in virtually every industry sector, attracting buyers from around the world. Trade fairs thrive in Germany because they are true business events where contracts are negotiated and deals are consummated. The U.S. exhibitors at German fairs should be prepared to take full advantage of the business opportunities presented at these events. While U.S. exhibitors and visitors can conclude transactions, all attendees can use major German trade fairs to conduct market research, see what their worldwide competition is doing, and test pricing strategies. Finally, German fairs attract buyers from throughout the world, allowing U.S. exhibitors to conduct business here with buyers from across Europe, Asia, Africa, Latin America, as well as with other U.S. companies.

German trade fairs, in general, attract impressive numbers of visitors and exhibitors. This reality confirms the conviction that there is no other venue where an American company can get so much product exposure for its marketing dollar. Trade fairs also provide a U.S. company interested in entering Germany with the opportunity to research its market and the potential of its product properly before making a business decision. Website: <http://www.buyusa.gov/germany/en/events.html>

Showcase Europe

Responding to the international nature of German trade shows, the U.S. Commercial Service has a broad-ranging program entitled "Showcase Europe" designed to support U.S. business interests in the expanded European Union. Focused on high priority sectors such as aerospace; energy; medical equipment, including drugs and pharmaceuticals; telecommunications and information technologies; environmental technologies and equipment; and travel and tourism, "Showcase Europe" provides contacts, market information, and commercial guidance for the entire European market region. What makes these programs effective and unique is that they are conducted by trade specialists who regularly work at U.S. embassies and consulates around Europe, but come together at selected trade fairs for the sole purpose of supporting U.S. firms. "Showcase Europe" programs also address trade policy and other business concerns, such as intellectual property rights and other market impediments to U.S. companies, which are common across Europe. Website: <http://www.buyusa.gov/europe/>

Showcase Global

Only recently, U.S. Commercial Service Germany has started to expand "Showcase Europe" into a true "Showcase Global" program, which is designed to promote the presence of U.S. companies at selected trade fairs in Germany globally, through the Commercial Service's worldwide network. Please visit our website at <http://www.buyusa.gov/germany/en/> for more information on Commercial Service Germany's activities at trade fairs.

Advertising

In addition to exhibiting at major German trade fairs, advertising plays a central role in most companies' broad-based marketing programs. Regulation of advertising in Germany is a mix between basic rules and voluntary guidelines developed by the major industry associations. The "Law Against Unfair Competition" established legal rules at the beginning of the 20th Century. Although it has been modified over time, this law continues to be valid today. The law allows suits to be brought if advertising "violates accepted mores."

Many advertising practices that are common in the United States, such as offering premiums, are not allowed in Germany. Any planned advertising campaigns should be discussed with a potential business partner or an advertising agency in Germany. Following is the address of the German association of advertising agencies:

Gesamtverband Kommunikationsagenturen e.V.
(German Association of Advertising Agencies)
Friedensstr. 11
60311 Frankfurt a.M.
Telephone: [49][69] 2560080
Telefax: [49][69] 236883
<http://www.gwa.de>

There are numerous technical or specialized periodicals that deal with all aspects of technology and doing business in Germany. In addition, Germany has a well-developed array of newspapers and magazines which offer the opportunity to gather information and advertise products and services.

Pricing

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Germany has become more price-conscious, especially in consumer goods areas. Consequently, price is increasing in importance as a competitive factor, but quality, timely delivery and service remain equally important, especially in business-to-business relations.

Sales Service/Customer Support

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The German commercial customer expects to be able to pick up the telephone, talk to his or her dealer, and have replacement parts or service work immediately available. American exporters should avoid appointing distributors with impossibly large geographic areas, without firm commitments regarding parts inventories or service capabilities, and without agreements on dealer mark-ups.

Protecting Your Intellectual Property

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The EU's legislative framework for copyright protection consists of a series of Directives covering areas such as the legal protection of computer programs, the duration of protection of authors' rights and neighboring rights, and the legal protection of databases. Almost all Member States have fully implemented the rules into national law, and, the Commission is now focusing on ensuring that the framework is enforced accurately and consistently across the EU.

The on-line copyright Directive (2001/29/EC) addresses the vexing problem of protecting rights holders in the online environment while protecting the interests of users, ISPs and hardware manufacturers. It guarantees authors' exclusive reproduction rights with a single mandatory exception for technical copies (to allow caching), and an exhaustive list of other exceptions that individual Member States can select and include in national legislation. This list is meant to reflect different cultural and legal traditions, and includes private copying "on condition right holders receive fair compensation.":

http://ec.europa.eu/internal_market/copyright/index_en.htm

Patents (Patent) are issued for technical inventions, which are new, involve an inventive step, and are susceptible to a commercial application. The term of protection is 20 years, commencing with the filing date. The pertinent legal source is the Patent Act of 1981 (Patentgesetz, PatentG), which has adapted the former German Patent Act to the European Patent Convention.

The EU countries, including Germany, have a "first to file" approach to patent applications, as compared to the "first to invent" system followed in the United States. This situation makes early filing a top priority for innovative companies. Unfortunately, it is not yet possible to file for a single EU-wide patent that would be administered and enforced like the Community Trademark (see below). For the moment, the most effective way for a company to secure a patent across a range of EU national markets is to use the services of the European Patent Office (EPO) in Munich. It offers a one-stop-shop that enables rights holders to get a bundle of national patents using a single application. However, these national patents have to be validated, maintained, and litigated separately in each member state. EPO's web site is <http://www.european-patent-office.org/>.

http://ec.europa.eu/internal_market/indprop/index_en.htm

Trademarks ("Marken") are signs that serve to distinguish the goods and/or services of one enterprise from those of another. They enable their holders to build up, expand, and maintain a market position. Trademarks are regulated by the German Trademark Act, which covers both trademarks that are used although not registered, as well as registered trademarks. The Trademark Act further provides protection of commercial designations (trade names and other company designations, such as titles, and the trading name of works, e.g., for films and books). A German trademark is registered for ten years, after which the term can be extended for another ten-year term. Additional fees become due if the extension fee is not paid in a timely fashion.

The EU-wide Community Trademark (CTM) can be obtained via a single language application to the Office of Harmonization in the Internal Market (OHIM) in Alicante, Spain. It lasts ten years and is renewable indefinitely. For companies looking to protect trademarks in three or more EU countries, the CTM is a more cost-effective option than registering separate national trademarks. On October 1, 2004, the European Commission acceded to the World Intellectual Property Organization (WIPO) Madrid Protocol. The accession of the Madrid Protocol establishes a link between the Madrid Protocol system, administered by WIPO, and the Community Trademark system, administered by OHIM. As of October 1, 2004, Community Trademark applicants and holders are allowed to apply for international protection of their trademarks through the filing of an international application under the Madrid Protocol. Conversely, holders of

international registrations under the Madrid Protocol will be entitled to apply for protection of their trademarks under the Community Trademark system.:

<http://oami.eu.int/en/default.htm>

<http://www.wipo.int/madrid/en>

A utility model (“Gebrauchsmuster”) is a registered right to technical inventions (e.g., for equipment, technical devices, chemical substances, electrical switches, etc.). Unlike a patent, protection by utility model is not possible or appropriate for processes such as production or assessment.

A design patent (“Geschmacksmuster”) is used to protect the coloring and shape of two-dimensional or three-dimensional commercial products intended to appeal to the eye.

Designs

The EU adopted a regulation introducing a single Community system for the protection of designs in December 2001. The regulation provides for two types of design protection, directly applicable in each EU member state: the registered Community design and the unregistered Community design. Under the registered Community design system, holders of eligible designs can use an inexpensive procedure to register them with the EU’s Office for Harmonization in the Internal Market (OHIM), based in Alicante, Spain. They will then be granted exclusive rights to use the designs anywhere in the EU for up to twenty-five years. Unregistered Community designs that meet the Regulation’s requirements are automatically protected for three years from the date of disclosure of the design to the public. <http://oami.eu.int/en/design/default.htm>

Copyright

The German Copyright Act (“Urheberrechtsgesetz”) grants someone who creates an original work expression the right to control how that work is used. On July 1, 2002, after lengthy and public discussion, the Copyright Act was amended to improve an author’s rights for reasonable compensation, as well as an author’s contractual position vis a vis the industry exploiting the author’s works. Literary works, musical arrangements, graphic works, audio-visual works, compilations thereof and other works are all covered by copyright. The act expressly mentions computer programs and databases. German copyright has no formal requirements. Registration is not required. Copyright protection is limited to 70 years after the death of the author.

European Trademarks

Since 1996, it has been possible to register Community Trademarks at the Office for Harmonization in the Internal Market, Alicante, Spain (<http://oami.europa.eu/>). This step often makes sense if an enterprise seeks protection not only in one country, but in at least three or four EU member states of the European Union. The Community Trademark offers financial advantages in addition to other significant advantages. For example, the use of a Community Trademark in only one member state is sufficient to meet the requirement of use for the entire territory of the European Union. It is advisable to consider use of both community and single country protection systems simultaneously.

European Patent Law

The European Patent Convention, in force in Germany since 1976, provides for a single, centralized and uniform procedure for granting patents in all or part of the contracting or

extension States (i.e., all Member States of the European Union, in addition to Monaco, Switzerland, Albania, and Macedonia). Once a European patent has been granted, the convention stipulates that the European patent assumes the character of individual national patents of the Member States, subject to the authority of the respective States. Patents so derived enjoy the same protection as a national patent. Further information on protecting your intellectual property in Germany and elsewhere in the EU is available from the German Trademark and Patent Office at <http://www.dpma.de>

Due Diligence

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Companies interested in taking over German firms should always conduct their own due diligence before entering into business ventures. One of the Commercial Service Programs, the International Company Profile, has been designed to support due diligence processes. All major consulting companies offer due diligence services, and most large U.S. accounting or consulting firms have subsidiaries in Germany.

Local Professional Services

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The professional services sector is comparable to that in the United States. For all segments of business, there are professional service providers. U.S. Commercial Service Germany has started to build its own network of such companies. The Business Service Provider Directory lists experienced firms which offer services to U.S. exporters and investors interested in Germany:

http://www.buyusa.gov/germany/en/business_service_provider.html

Marketing U.S. Agricultural Products

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Marketing U.S. Agricultural Products

The Foreign Agricultural Service (FAS), of the U.S. Department of Agriculture (USDA) maintains an Agricultural Affairs Office in the U.S. Embassy in Berlin. A primary objective of the Agricultural Affairs Office is to facilitate trade in U.S. agricultural products. To meet this goal, they provide the following support and services:

- Custom Matchmaking Service (CMS): Designed to bring German importers and U.S. exporters of food and agricultural products together.
- Lists of German importers, by product sector, for use by U.S. exporters.
- Attaché Reports: Current Market trends on select commodities, such as fish, wine, and forestry products; basic information on exporting food and agricultural products to Germany; and reports on the retail and food-processing sectors in Germany.
- USA Promotions: Decoration and other promotional materials for use in special USA promotions.
- Trade Shows: Information on key trade shows being held in Germany. Also, coordinate special USA pavilions at certain food shows in Germany, and organize and recruit German buyers for U.S. food and agricultural trade shows.
- American Food Directory: Extensive listings of U.S. food and beverage products imported and available for sale in Germany.

The Agricultural Affairs Office also works closely with numerous U.S. agricultural trade associations and U.S. firms in programs to boost foreign demand for U.S. agricultural products. The Agricultural Affairs Office is also responsible for agricultural trade issues,

such as reform of farm support, food aid, and biotechnology.

Agricultural Affairs Office
American Embassy/Berlin
Clayallee 170,
14195 Berlin, Germany
Tel: [49][30] 8305-1150
Fax: [49][30] 8431-1935
Email: Agberlin@usda.gov
<http://www.usembassy.de/germany/fas/index.html>

Web Resources

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German Patent and Trademark Office (Deutsches Patent-und Markenamt):
www.dpma.de

European Patent Office
<http://www.european-patent-office.org/>

EC Directive on Commercial Agents
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31986L0653:EN:HTML>

EC Directive on Data Protection
http://ec.europa.eu/justice_home/fsj/privacy/law/index_en.htm

Electronic Commerce
http://ec.europa.eu/internal_market/e-commerce/index_en.htm

Industrial Property
http://ec.europa.eu/internal_market/indprop/index_en.htm

Office for Harmonization in the Internal Market (OHIM)
<http://oami.eu.int/en/default.htm>

WIPO Madrid System
<http://www.wipo.int/madrid/en>

OHIM Community Design
<http://oami.eu.int/en/design/default.htm>

Exhaustion of trademark rights
http://ec.europa.eu/internal_market/indprop/tm/index_en.htm

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Chapter 4: Leading Sectors for U.S. Export and Investment

Commercial Sectors

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-

Exchange Rate (used throughout this section)

EUR 1 = USD 1.25

Computer Software

Overview

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(USD million)	2004	2005	2006 (e)
Total Market Size	19,100	19,700	21,100
Local Consumption Of Standard Software	6,600	6,800	7,250
Total Exports of Standard Software	9,000	9,150	9,300
Total Imports	N/A	N/A	N/A
Imports from the U.S.	N/A	N/A	N/A

(Source: EITO, Luenendonk)

The German market for software is the largest in Europe and ranks second in the world, behind only the United States. Economic recovery and a backlog in IT modernization are driving factors prompting companies and institutions to invest in software solutions. Surveys reveal 80% of German companies are ready to invest significantly in IT equipment. The German software market is anticipated to grow 5% (based on EUR currency) over the next few years. Even though German software companies are very competitive, analysts estimate that approximately 80% of software products sold in Germany come from U.S. suppliers (the majority of large U.S. software developers have subsidiaries in Germany.) There are no trade barriers obstructing sales of U.S. software. Industry-specific and niche products will continue to find good sales opportunities in Germany. However, as the European Union continues to expand as a single market, competition from other European software vendors is expected to increase.

Best Products/Services

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IT-security; customer relationship management (CRM) technologies; supply chain management software; document management software; business intelligence software; infrastructure software; storage software; resource management software.

Opportunities

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The German public sector, along with the banking, insurance and medical sectors, are expected to make major software investments in order to standardize and optimize business processes, as well as to implement IT-security, even though all these areas are difficult to penetrate by new-to-market companies. Industry will also invest in production software tools.

Public tenders: www.bundesausschreibungsblatt.de, www.subreport.de

Resources

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German Government Agencies:

BSI (Federal Agency for IT Security): <http://www.bsi.de/english/index.htm>

Trade Fairs:

CeBIT: www.CeBIT.de

Systems: <http://www.systems-world.de>

EBIF: www.ebif.de

CRM-Expo: www.crm-expo.com

Digital Management Solutions: www.dms-expo.de

Trade Associations:

www.bitkom.org

www.eito.com

www.vdbw.de

www.bvdw.org

Trade Publications:

www.computerwoche.de

www.informationweek.de

www.computerpartner.de

www.crn.de

Commercial Service Contact:

doris.groot@mail.doc.gov

Computer Services

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(USD million)	2004	2005	2006(e)
Total Sales	32,000	33,300	35,000
Sales by local firms	N/A	N/A	N/A
Sales by local firms abroad	N/A	N/A	N/A
Sales by foreign-owned firms	N/A	N/A	N/A
Sales by U.S.-owned firms	N/A	N/A	N/A

(Source: Bitkom)

After some difficult years, the market for IT services is expected to grow 4-5% in the next few years. Outsourcing will be the main market growth engine, driven by need for cost reduction and flexibility. In addition, there is growing demand for security, e-business and CRM services. Most large American IT service providers have facilities in Germany and for official statistical purposes are counted as local firms. This affords them national treatment from German and EU authorities. Approximately 60% of overall IT-services sales are attributed to German subsidiaries of U.S. firms. While competition from local companies exists, U.S. firms are often perceived as having more experience in the IT

environment and therefore have the lead. However, as the European Union continues to develop as a single market, U.S. computer services companies will encounter growing competition from other European countries, as well as from India and Israel.

Best Products/Services

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Outsourcing services; IT-security services; E-commerce projects; BPO (Business Process Outsourcing) services; CRM services.

Opportunities

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The following industries are expected to make major software and services investments to standardize and optimize business processes, as well as to implement IT-security features: insurance (Enterprise Application Integration, web services, Business Process Outsourcing – because of legal, demographic and political changes, insurance companies need more flexibility) and banking (primarily outsourcing services).

Public tenders: www.bundesausschreibungsblatt.de, www.subreport.de

Resources

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Trade Fairs:

CeBIT: www.CeBIT.de

Systems: www.systems.de

Trade Associations:

www.bitkom.org

www.eito.com

www.vdeb.de

Other:

Industry research:

www.luenendonk.de

www.pac-online.de

Major trade journals:

www.computerwoche.de

www.informationweek.de

www.computerpartner.de

www.crn.de

Commercial Service Contact:

doris.groot@mail.doc.gov

Computers and Peripheral Equipment

Overview

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(USD million)	2004	2005	2006(e)
Total Market Size	27,190	27,650	28,000
Total Local Production	10,590	11,110	11,500
Total Exports	13,700	14,050	14,500
Total Imports	30,300	34,890	35,500
Imports from the U.S.	7,750	8,520	8,700

(Source: IDC)

U.S. computer products are viewed as innovative, with superior quality and leading edge technology. Germany accounts for approximately one quarter of the EU's total IT market. The United States is expected to retain its 2006 import share of approximately 25% at least until the end of 2007. Exports exceed production due to considerable amounts of imported equipment being directly resold abroad or included as value-added equipment in locally manufactured products that are exported.

Best Products/Services

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Leading edge ICT products, servers, laptops, printers, W-LAN equipment, memory, and networking products.

Resources

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Government:

Federal Statistical Office: <http://www.destatis.de/>

Trade Fairs:

CeBIT, the world's largest trade fair for ICT products and services: www.cebit.de

Associations:

Association of German Electro-technical Manufacturers: www.zvei.de

Association of German Information Technology Manufacturers: www.bitkom.de

Major trade journals:

www.computerwoche.de

www.informationweek.de

www.computerpartner.de

www.crn.de

Commercial Service Contact:

john.lumborg@mail.doc.gov

Drugs & Pharmaceuticals

Overview

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(USD million)	2004	2005	2006 (e)
Total Market Size	17,900	19,700	20,600
Total Local Production	26,100	27,200	28,600
Total Exports	35,900	38,200	42,900
Total Imports	27,700	30,700	34,900
Imports from the U.S.	3,390	4,032	4,917

Germany is the world's third-largest market for pharmaceuticals, behind only the United States and Japan. Expectations for 2007 show modest production growth as a result of continued government health reforms. The overall market will show double digit increases with the rising average life expectancy translating into greater health care demand for seniors. Ireland, the United States, Switzerland, France, the United Kingdom, and Italy are the major suppliers to the German market. Germany has roughly 975 local pharmaceutical manufacturers and an additional 375 biotechnology firms specializing in the development of pharmaceuticals. The exclusion of non-prescription drugs from reimbursement, the expansion of mail order supplies, and multiple ownership have stimulated competition over the past year. The market is increasingly consumer-driven; patients' expenditures for non-reimbursable medication were valued at roughly EUR 7.9 billion in 2005. The adoption of federal level cost-containment laws led to less transparency and more complexity. Legislation, adopted in 2003, that reintroduced a reimbursement system for containing costs for new, innovative, patented pharmaceuticals is still heavily opposed by the large research-based pharmaceutical manufacturers, including U.S. subsidiaries. They consider the fixed reimbursement system a major threat and barrier to biomedical innovation in Germany by limiting companies' fair return on investment. Due to the fact that the patents of many strong-selling original medications are expiring, sector experts expect above-average growth rates of generic drugs. Twenty-two of the 77 patents for such medication expiring in the EU in 2006 were in Germany.

Best Products/Services

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Innovative and improved pharmaceuticals, generic and OTC products. High growth in 2005 was recorded for medications treating the following: Analgesics; cough and cold medications; anti-rheumatic drugs; beta blockers; pain killers.

Resources

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German Government Agencies:

German Health Ministry: www.bmgs.bund.de

Federal Agency for Pharmaceuticals and Medical Products: www.bfarm.de

Federal Agency for Sera and Vaccines: www.pei.de

Federal Institute for Risk Assessment: www.bfr.bund.de

Federal Institute for Consumer Protection and Food Safety: www.bvl.bund.de

Trade Fairs:

Expopharm: www.expopharm.de

Biotechnica: www.biotechnica.de

MEDICA: www.medica.de

Trade Associations:

BPI (Association of the German Pharmaceutical Industry): www.bpi.de
VFA (German Association of Research-Based Pharmaceutical Companies): www.vfa.de
BAH (Federal Trade Association of Pharmaceutical Manufacturers): www.bah-bonn.de
German Generics Manufacturers Association: www.generika.de

Commercial Service Contact:
anette.salama@mail.doc.gov

Medical Equipment

Overview

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(USD million)	2004	2005	2006 (e)
Total Market Size	17,400	19,600	21,700
Total Local Production	21,700	25,300	29,000
Total Exports	10,600	12,700	14,900
Total Imports	6,300	7,000	7,600
Imports from the U.S.	1,700	1,850	2,000

The German market for medical devices stood at USD 19.5 billion in 2005 (+ 9%, approximately 11% of total health expenditures). There are about 1,200 local medical device manufacturers, which produced medical devices valued at roughly USD 25.3 billion in 2005. The market has been mainly export-driven. Ongoing health reform efforts and cost-containment measures have a negative impact on market development. Demand will mainly be driven by demographics and a substantial increase in the number of patients; by the need for economies of scale and efficient procedures; and by a major investment backlog estimated at USD 36 billion in hospitals and doctors' practices. A recent study characterized the medical device market as one with high growth dynamics and continuing consolidation, making it highly attractive for investors. It will also continue to provide excellent potential for U.S. suppliers of innovative and price-competitive products. U.S. medical device exporters to Germany now hold a 27% market share.

Best Products/Services

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High quality advanced diagnostic and therapeutic equipment. Innovative technologies, such as laser-optics in vascular surgery, urology, gastrology, dermatology, and neurosurgery, new diagnostic devices, as well as specialized wound care and easy-to-use home care products. The trend is toward miniaturization of electro-medical equipment and nanotechnology products.

Opportunities

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Due to the general drive to realize cost savings in the medical sector, there are no identifiable major projects in this sector. As a result of ongoing health care reforms, the number of acute care hospitals is expected to decrease from 2,236 in 2003 to 1,500 by

2008. However, investment opportunities may arise through a major drive toward hospital privatization by 2013. Diagnostic centers and the combination of practices with private home care may provide additional opportunities.

Resources

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German Government Agencies:

German Health Ministry: www.bmgs.bund.de

Federal Agency for Pharmaceuticals and Medical Products: www.bfarm.de

Federal Bureau for Physical-Technical Equipment: www.ptb.de

Federal Institute for Risk Assessment: www.bfr.bund.de

Federal Institute for Consumer Protection and Food Safety: www.bvl.bund.de

Trade Fairs:

MEDICA: www.medica.de

Trade Associations:

Federal Association of the Medical Devices Industry: www.bvmed.de

Federal Association of the Electro-Medical Industry: www.zvei.de/medtech

German Hospital Association: www.dkgev.de

Medical Dealers Association: www.zmt.de

Commercial Service Contact:

Anette.Salama@mail.doc.gov

Management Consulting Services

Overview

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(USD million)	2004	2005	2006 (e)
Total Sales	15,300	15,800	17,900
Annual growth in percent	0.8	7.3	8.3

(Source; BDU)

Germany is the second-largest consulting market in Europe with 27.3% of the total European market. In 2005, around 68,500 management consultants worked in about 14,000 management consulting firms. About 37% of the consultants work in firms which achieve revenues below EUR 1 million, and about 33% in large firms with more than EUR 45 million in revenues. Large consulting firms earn nearly half of all revenues in the consulting market.

Management consultants in Germany experienced their most successful year in 2005, with consulting firms of all sizes enjoying revenue growth. The two largest fields are strategic and organizational consulting, with demand for strategic consulting quickly increasing. Consulting firms throughout Germany tend to be located in various regional centers, rather than in one city serving as a national center. Continued overall growth is expected for 2007.

Best Products/Services

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More than half of the demand for consulting services comes from clients in both the manufacturing and financial services industries. There is pressure for mid- and large-sized firms to continue reducing costs and increasing innovations.

Resources

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Associations;

Bundesverband Deutscher Unternehmensberater BDU e.V.
(Federal Association of German Management Consultants)

www.bdu.de

Commercial Service Contact:

Mathias.Koeckeritz@mail.doc.gov

Electronic Components

Overview

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(USD million)	2004	2005	2006(e)
Total Market Size	21,600	21,400	21,900
Total Local Production	21,500	21,200	21,100
Total Exports	11,800	11,600	10,800
Total Imports	11,900	11,800	11,600
Imports from the U.S.	1,700	1,600	1,800

(Source: German Electrical and Electronics Manufacturers Association (ZVEI), unofficial estimates)

Germany is the largest electronics producer within the EU, and the 5th largest worldwide. The German market for electronic components is expected to grow 5.7% (based on USD value) in 2006, reaching a volume of USD 21.9 billion. More than 50% of the products and services provided by the electronic components industry is exported; 65% to European countries. Local production has decreased over the last 5 years due to a growing trend of outsourcing to companies in Central and Eastern Europe as well as in South East Asia. Despite a decline in both the total import value and export value in the period 2001-2005, Germany remained by far the largest importer, as well as exporter, in Europe in 2006. In November 2006, semiconductors accounted for 64.3% (USD 14.1 billion) of the total ELC market in Germany. The market for electromechanical components is valued at USD 3.4 billion (2005: 3.2 billion); electronic sub-assemblies accounted for USD 2.6 billion (2005: 2.4 billion). The market for passive components reached USD 1.6 billion. Prime end-user sectors for electronic components are the automotive industry (32.7%), data processing (29.2%), telecommunications (19.5%), and industrial electronics (15%). As a result of the still ongoing shift of production facilities to Eastern Europe and Asia, the telecommunications sector is expected to be the only industry sector with a negative growth (-8%) in 2007.

Best Products/Services

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Prospects are in the automotive industry (motor management, security, and infotainment, including telematics), and, on a smaller level, data processing (data storage and infrastructure for mobile networks, e.g., cables, switches, fiber-optic connectors, and fuses).

Resources

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Trade Associations:

ZVEI (Electrical and Electronics Manufacturers Association): <http://www.zvei.de>

Trade Fairs:

Embedded World 2007: <http://www.embedded-world-2007.de>

Sensor + Test 2007: <http://www.sensor-test.com>

PCIM Europe 2007: <http://www.mesago.de/de/PCIM/main.htm>

Electronica 2008: Global-Electronics.net

Trade publications:

[Design & Elektronik](#); [ElektronikPraxis](#); [Elektronik](#); [Elektronik Industrie](#); [Markt&Technik](#)

Customer requirement and legal regulations:

[Guidelines and Forms Version 2.1](#) can be downloaded on <http://www.zvei.de>

Commercial Service Contact:

Dagmar.Winkler-Helmdach@mail.doc.gov

Industrial Chemicals

Overview

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(USD million)	2004	2005	2006 (e)
Total Market Size	93,250	95,000	107,500
Total Local Production	130,750	132,000	147,500
Total Exports	120,630	125,600	140,000
Total Imports	83,130	88,600	100,000
Imports from the U.S.	9,300	9,700	11,630

German imports of U.S. chemicals have continued to show positive growth rates over the past few years. Germany offers good opportunities for U.S. chemicals. It is the largest market for chemicals in Europe and, with its central location, a major hub for supplying other European countries. In 2005, Germany's total chemical imports reached USD 88.6 billion (EUR 73.8 billion), USD 9.7 billion (EUR 8.1 billion) of which originated from the United States, an increase of about 21% over the previous year. Due to signs of recovery throughout the German industry, and despite higher crude oil prices, the annual sales by the German chemical industry in 2006 and forecasts for 2007 are expected to exceed the results of 2005.

Best Products/Services

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Coatings, additives, nano materials and other innovations. High quality specialty products have good market potential throughout Europe. In contrast, standard chemicals are highly competitive and price-sensitive in Germany, since competition from Asia, particularly from China, and India is strong. The chemical standards market is therefore less attractive for U.S. exporters.

Opportunities

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Demand in the German chemical sector is usually generated by the German processing industries. While statistics on 2006 will only be available in 2007, the German chemicals industry was highly satisfied with 2006 results. It is likely that this positive trend will continue beyond 2007 providing U.S. chemical exporters with good sales opportunities.

Resources

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German Government Agencies:

Federal Statistical Office: <http://www.destatis.de>

Trade Fairs:

European Coatings: <http://www.european-coatings-show.de>

Cphi: <http://www.cphi.com/>

Trade Associations:

Chemical Industry Association: <http://www.vci.de>

Commercial Service Contact:

Kirsten.Hentschel@mail.doc.gov

Automotive Parts and Services

Overview

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(USD million)	2004	2005	2006 (e)
Total Market Size	36,300	37,000	38,700
Total Local Production	43,300	44,000	46,000
Total Exports	17,000	18,000	18,900
Total Imports	10,000	11,000	11,500
Imports from the U.S.	1,850	1,900	2,000

(Source: GAI)

The automobile industry remains one of the driving forces behind German economic growth. Both, domestic demand and exports of German cars increased slightly in 2006, Because of increased global sourcing by German manufacturers, and a favorable EUR-USD exchange rate, U.S. parts manufacturers were able to increase their exports to

Germany. Orders for new vehicles grew over the last months, indicating that the market may be starting to recover.

Best Products/Services

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Engine electronics; multi-media products; forged and pressed parts.

Resources

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Trade Fairs:

IAA: www.vda.de

Automechanika: www.messefrankfurt.com

Trade Associations:

VDA (German Automobile Association): www.vda.de

ZKF (Central Association for Car and Body Technology): www.zkf.de

Central Association for German Motor Trades and Repair: www.kfzgewerbe.de

Commercial Service Contact:

Paul.Warren-Smith@mail.doc.gov

Franchising

Overview

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USD million	2004	2005	2006 (e)
Total Sales	35,000	38,800	46,300
Sales by local firms	28,200	31,000	37,000
Sales by local firms abroad	N/A	N/A	N/A
Sales by foreign-owned firms	6,800	7,900	9,300
Sales by U.S.-owned firms	3,500	4,000	4,500

(Source: German Franchise Association, trade publications, individual research)

The German franchising industry continues to grow. In 2006, franchising systems in Germany are projected to generate revenues of USD 46.3 billion. At the end of 2006, there were approximately 48,700 franchise outlets operating under the framework of about 870 different franchise systems, supporting over 421,000 full-time jobs. Compared to 2005, this adds up to a 2.3% increase in franchise systems and a 3.7% increase in outlets, reflecting a satisfying industry growth. The growth in the number of outlets in Germany is attributable to both an expansion of existing franchise systems, as well as an increase in the absolute number of franchise systems. German companies hold 80% of the total German franchising market. A healthy annual growth rate of approximately 19% (based on USD value) is anticipated for the year 2006. The structure of the German franchise market has, since 2000, experienced a clear shift towards the service industries, mainly at the expense of the retail systems. The service sector represented the largest block, accounting for 49% of the total franchising industry, followed by the retail sector with 28%. The hotel & restaurant/catering industries accounted for 15%, and the handicrafts industry for 8%.

Franchise systems are at least equally as difficult to introduce in Germany as in other major, non-English speaking EU countries (France, Spain, and Italy). U.S. franchisors must be prepared to adapt to required market norms and standards, invest in market research, test market receptivity through pilot projects, and adjust their concepts to German business practices and consumer tastes.

Best Products/Services

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Training and educational services; express delivery services; business services (incl. management consultancy, recruitment, accounting); maintenance and cleaning services; energy saving products and services; printing services; health food supply; home care services; environmental services; "market niche" services (comparative pricing services, pet food delivery, etc.); wellness and body care services.

Opportunities

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For American franchisors wishing to find potential master/area franchisees, the Commercial Service offers the "Franchise Partner Search Service" (FPS), a program tailored specifically to the needs of U.S. franchisors in locating suitable franchise partners in Germany.

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Trade Associations:

German Franchise Association: <http://dfv-franchise.de>

Other:

Trade Publications:

<http://www.geschaeftsidee.de>

<http://www.unternehmerverlag.de>

<http://www.impulse.de>

<http://www.franchise-net.de>

<http://www.franchiseportal.de>

<http://www.franchise-world.de>

Law and Accounting Firms:

<http://dfv-franchise.de>, <http://www.franchiserecht.de>

Financing:

<http://www.bvk-ev.de>

U.S. Commercial Service Contact:

Dagmar.Winkler-Helmdach@mail.doc.gov

Telecommunications Equipment

Overview

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(USD million)	2004	2005	2006(e)
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Total Market Size	17,300	18,000	18,500
Total Local Production	17,600	17,800	17,800
Total Exports	9,000	9,500	10,000
Total Imports	8,700	9,700	10,700
Imports from the U.S.	1,500	1,700	1,850

Source: RegTP, EITO

Telecommunications spending increased about 1% in 2006 (after a 1.5% increase in 2005). Broadband will remain the key application with more than 7 million connections and a penetration rate of 8 percent. DSL will continue to represent the overwhelming majority of broadband connections, with Deutsche Telekom (DTAG) providing more than 83% of all broadband connections. VoIP is expected to change the competitive landscape. In the mobile segment, providers are investing in UMTS infrastructure and WiMax applications. Demand for mobile phones is beginning to decline due to market saturation.

Best Products/Services

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Broadband equipment and services, W-Lan equipment and services, UMTS Services.

Opportunities

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Germany still lags behind the rest of the EU in broadband deployment. Broadband technologies (DSL and TV cable) will offer considerable opportunities for suppliers of technology and services.

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German Government Agencies:

German Regulatory Authority: www.bundesnetzagentur.de

Trade Fairs:

CeBIT, the world's largest trade fair for ICT products and services: www.cebit.de

Trade Associations:

Electro-technical Manufacturers: www.zvei.de

German Information Technology Manufacturers: www.bitkom.de

German telecommunications service providers: www.vatm.de

Commercial Service Contact:

Volker.Wirsdorf@mail.doc.gov

Sporting Goods

Overview

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(USD million)	2004	2005	2006 (e)
Total Market Size	8,250	8,295	8,265

Total Local Production	6,300	6,290	6,285
Total Exports	1,700	1,690	1,710
Total Imports	3,650	3,695	3,690
Imports from the U.S.	680	690	685

Germany is Europe's largest sporting goods equipment market and a very sport-minded country. There are no fewer than 86,000 clubs, with nearly 27 million members, associated with the Deutscher Sportbund (German Sports Federation). It is through these clubs' training and other programs, rather than school programs as in the United States, that the nation's elite athletes rise to the top. Excellent opportunities exist for U.S. firms in the German sporting goods market. American sporting goods products, especially those that are "Made in the USA", continue to set trends and enjoy great popularity in Germany.

Best Products/Services

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Exercise equipment; outdoor sports equipment; biking equipment; hunting equipment; athletic goods; in-line skating; skateboarding; snow sports equipment; golf equipment; water skis

Opportunities

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In 2005, Germans spent USD 8.3 billion on sporting goods. Germans have traditionally been active sports enthusiasts. Sports that have the best outlook for growth in the next few years: Exercise Equipment (25%), Outdoor Sports (20%), Biking (15%), Soccer (10%), Team Sports (5%) and Golf (5%).

Resources

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Trade Fairs:

ispo, www.ispo.com

FIBO, www.fibo-messe.com

OutDoor, www.messe-friedrichshafen.de

EuroBike, www.spogagafa.de

IFMA, www.ifma-cologne.de

Golf Europe, www.golf-europe.de

Fairway, www.fairway.de

IWA & Outdoor Classics, www.iwa.info

Trade Associations:

German Sporting Goods Manufacturers Association: www.bsi-ev.com

German Association of Sporting Goods Retailers: www.vds-sportfachhandel.de

Commercial Service Contact:

Bernd.Kietz@mail.doc.gov

Travel & Tourism

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(USD million)	2004	2005	2006 (e)
Total Market Size	71,400	72,800	74,300
Local Sales	N/A	N/A	N/A
Total Exports	N/A	N/A	N/A
Total Imports	N/A	N/A	N/A
U.S. Expenditure by German Tourists	3,636	3,810	N/A

Travel to the United States from Germany is expected to improve slightly in 2007 with the strong Euro, creative packaging and promotional activities of German tour operators and their U.S. industry partners. Germans are still the world's number one travelers per capita and are expected to take advantage of the strong Euro to visit the United States. Continuing negative public perceptions of entry and visa regulations are a barrier.

Best Products/Services[Return to top](#)

Flexible itinerary elements for FITs; innovative and unique study tours; value-added accommodation and rental offers; Native American inventory packaged with local attractions and service providers, which should be activity-based rather than language dependent; sports packages, both spectator and participatory; incentives for small groups.

Resources[Return to top](#)**Government:**

www.usembassy.de/visa Entry and visa regulations information

Trade Fairs:

Reisen Hamburg, www.hamburg-messe.de/reisen

Reise Camping Essen, www.reise-camping.de

CBR Munich, www.c-b-r-muenchen.de

ITB Berlin, www.itb-berlin.com

IMEX Frankfurt, www.imex-frankfurt.de

Reisen u. Freizeit Friedrichshafen, www.reisenfreizeit.de

Touristik & Caravaning International Leipzig, www.tmsmessen.de/de/tc

Reisemesse Köln International, www.reisemarkt-koeln.de

Reisemarkt Rhein NeckarPfalz, www.reisemarkt-rhein-neckar-pfalz.de

CMT Stuttgart, www.messe-stuttgart.de/cmt

Other:

www.usa.de German language consumer travel website on USA

www.vusa-germany.de Official site of the Visit USA Committee Germany e.V.

Commercial Service Contact:

Elizabeth.Powell@mail.doc.gov

Biotechnology

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	(USD million)	2004	2005	2006 (e)
A)	Total sales related to Biotechnology (incl. the estimated sales of the biotech segments of big pharmaceutical companies)	23,090	23,100	24,300
B)	Total sales of German core biotech companies	1,030	1,000	1,050

While agricultural biotech applications, in Germany often referred to as “green biotech,” are controversial, demand for so-called “white biotechnology” applications aiming at making industrial processes more environmentally sound is expected to increase. Medical applications, referred to as “red biotech,” remain an important area for German pharmaceutical research and product development.

In 2005, Germany became the European leader in the number of cross-border biotech alliances. Out of the 110 alliance deals that have been negotiated internationally, 32 alliances were entered into with a U.S. company. The current German climate offers good prospects for in-licensing German start-up technology, biotech-to-biotech consolidation, and out-licensing U.S. technology to Germany's pharmaceutical majors. The difficulty in classifying biotech products and the plethora of institutions engaged in biotech make precise statistics for the field scarce. The most accurate figures available are those specifying annual sales.

Best Products/Services

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Cardio-, cancer- and neuro-therapeutical products. Peptides in the treatment of diabetes find more and more applications. Enzymes used in washing powders and in the textile industry are in high demand.

Resources

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Trade Fairs:

Analytica, <http://www.analytica-world.com>

Biotechnica, <http://www.biotechnica.de>

Trade Associations:

Bio Germany, <http://www.biodeutschland.org>

European Private Equity & Venture Capital Association,
<http://www.evca.com/html/home.asp>

BVK (Association of Equity Firms), <http://www.bvk-ev.de>

Dechema (Chemical Manufacturers), <http://www.dechema.de>

VCI (Chemical Industries), <http://www.vci.de>

Commercial Service Contact:
Sebastian.Redlin@mail.doc.gov

Scientific and Laboratory Instrumentation

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(USD million)	2004	2005	2006 (e)
Total Market Size	4,130	4,100	4,150
Total Local Production	5,180	5,100	5,200
Total Exports	2,650	2,600	2,650
Total Imports	1,600	1,600	1,600
Imports from the U.S.	750	750	750

The market for scientific and laboratory instruments (S&LI) is supported by growth in the pharmaceutical, nutraceutical and environmental industries, as well as in biotechnology and the food processing industries. Private testing laboratories offering drug analysis constitute a growing market. The S&LI usage is rising rapidly in many areas, including pollution monitoring and industrial quality control. On-line analytical instruments are penetrating the traditional process control market as customers require faster and more accurate data to improve control of product processes for better quality and less waste.

Best Products/Services

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Laser and opto-electronic instrumentation, laboratory automation and information systems (LIMS), and the broad spectrum of chromatographic technologies.

Opportunities

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Due to the strong export orientation of German manufacturers (60% of the annual production output is exported), the industry depends greatly on imported technologies, significantly from the United States. With an import market share of 45%, the United States continues to be by far the No.1 foreign supplier of S&LI to Germany.

Resources

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Trade Fairs:

Analytika (Instrumental analysis, laboratory technology and biotechnology),
www.analytika-world.com
Interkama (Automation technology), www.interkama.com
Laser (World of Photonics): www.laser.de
Medica, www.medica.de
Optatec (Optical Technologies, Components, Systems and Manufacturing),
www.optatec-messe.com

Trade Associations:

Association of German Electrotechnical Manufacturers ZVEI, www.zvei.org
 European Optical Society, www.europeanopticalsociety.org
 Spectaris (Optical, Medical and Mechatronical Technologies Inc.), www.spectaris.de
 VDE (Electrical, Electronic and Information Technologies), www.vde.de
 AIF (Federation of Industrial Cooperative Research Associations), www.aif.de

Other:

Fraunhofer Institut für Angewandte Optik und Feinmechanik IOF, www.fhg.de
 Fraunhofer-Institut für Lasertechnik ILT, www.ilt.fraunhofer.de
 VDI Technologiezentrum GmbH, www.kompetenznetze.de

Commercial Service Contact:

Volker.Wirsdorf@mail.doc.gov

Agricultural Sectors

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BEST PROSPECTS FOR AGRICULTURAL PRODUCTS

(All figures are in metric tons, unless otherwise stated.)

- 1: Tree Nuts
- 2: Fishery Products
- 3: Wine
- 4: Pet Food
- 5: Dried Fruits

1	Tree Nuts	HTP		
The category of tree nuts includes pistachios, almonds, pecans, hazelnuts and walnuts. Germany does not produce significant quantities of these nuts; therefore, supply is met virtually entirely by imports. Germany is the largest export market for U.S. almonds. A number of U.S. associations actively promote their products in Germany, including the Almond Board of California, California Pistachio Commission and the California Walnut Commission. The leading competitor for the United States in the German tree nut market is Turkey. In 2005, U.S. total exports of tree nuts to Germany were valued at USD 388 million out of a total import value of USD 1.06 billion.				
		2004	2005	2006(e)
		MT	MT	MT
Total market		149,345	131,998	144,800
Production		*	*	*
Total exports		30,071	30,261	38,600
Total imports		179,416	162,259	183,400
Imports from the		75,004	65,839	74,600

U.S.				
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* Production of tree nuts in Germany is negligible

2 Fishery Products		FFPD		
<p>Fish and fishery products enjoy growing popularity in Germany. The two most important fishery products the U.S. exports to Germany are lobster and frozen Alaska Pollock. Shipments of the latter increased significantly after a major German fish processor decided to source only groundfish that was frozen on the trawler directly after catch. In 2005, U.S. total exports of fishery products to Germany were valued at USD 172 million, out of a total import value of USD 3.2 billion. The biggest U.S. competitors are China (for Alaska pollock) and Canada (for lobster).</p>				
		2004	2005	2006(e)
		MT	MT	MT
Total market		897,639	831,528	920,300
Production		474,404	469,903	470,000
Total exports		405,334	510,822	497,400
Total imports		828,569	872,447	947,700
Imports from the U.S.		65,569	64,000	53,800

3: Wine		HTP		
<p>Germany is the world's largest importer of wine with imports totaling 14.2 million hectoliters in 2005, valued at USD 2.5 billion. The import figure represents about 67% of total German wine consumption. Italy, France and Spain are the leading suppliers of wine to Germany with a combined import market share of nearly 75%. U.S. wines, together with other "new-world" wines, have developed an increasingly good reputation for quality in the German market. In 2005, the value of Germany's imports of U.S. wines totaled USD 75 million.</p>				
		2004	2005	2006 (e)
		hl (1,000)	hl (1,000)	hl (1,000)
Total market		21,073	20,000	20,300
Production		10,000	9,170	9,000
Total exports		3,140	2,310	3,600
Total imports		14,254	14,241	14,900

Imports from the U.S.		482	451	496
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4: Pet Food	G&FD			
<p>Germany is one of the leading countries for pet ownership in the world. Interest in specialty, healthy foods for pets is growing rapidly. German pet owners are willing to pay premiums to properly feed their pets. The majority of pet foods is produced domestically (the market leader is a U.S. firm). In 2005, the value of U.S. pet food exports to Germany totaled USD 16 million, out of a total import value of nearly USD 1.3 billion. In 2004, the EU began requiring pet foods be derived from meat that is fit for human consumption.</p>				
		2004	2005	2006(e)
		USD Million	USD Million	USD Million
Total market		2,604	2,289	2,300
Production		2,489	2,188	2,400
Total exports		1,068	1,185	1,200
Total imports		1,183	1,286	1,100
Imports from the U.S.		48	16	29

5: Dried Fruits	HTP			
<p>The category of dried fruits includes prunes and raisins. Germany does not produce significant amounts of dried fruits. Therefore, supply is virtually met entirely by imports. Marketing efforts on the part of the California Prune Board are expected to assist in the expansion of U.S. exports to this market. More than half of the German prune imports are sourced from the United States. The leading competitors for the United States in the German dried fruit market are Chile (prunes) and Turkey (raisins). In 2005, U.S. total exports of dried fruit to Germany were valued at USD 28 million out of a total import value of USD 127 million.</p>				
		2004	2005	2006(e)
		MT	MT	MT
Total market		86,532	76,899	84,000
Production		*	*	*
Total exports		9,626	12,036	18,000
Total imports		96,158	88,955	102,000
Imports from the		18,059	12,324	16,255

U.S.				
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* Production of dried fruits in Germany is negligible

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Chapter 5: Trade Regulations and Standards

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- [Import Requirements and Documentation](#)
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- [Customs Regulations and Contact Information](#)
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Import Tariffs

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U.S. exporters seeking to enter the German market can obtain useful information from the Office of European Union and Regional Affairs at the U.S. Department of Commerce. When provided with a product's Schedule B Number, the Office for EU and Regional Affairs supplies tariff information for American products exported to Germany. The Office's phone number is 1-800 USA TRADE or (202) 482-0543. For the Schedule B Number, please contact the [Bureau of the Census](#)

An alternative source for EU customs tariffs is http://europa.eu.int/comm/taxation_customs/dds/de/home.htm

A general overview of customs issues can also be obtained by visiting the following web page: www.export.gov (TIC Trade Information Center, U.S. Department of Commerce).

Import Turnover Tax

All industrial imports into Germany are subject to an "Import Turnover Tax" of 19%, which is charged on the duty-paid value of the import article plus the customs duty, which varies by item. (Exemptions: certain agricultural and a few other products, which are taxed 7% ad valorem). The Import Turnover Tax is designed to place the same tax burden on imported goods as goods produced domestically, on which is levied a 19% "Value-added Tax" (VAT). The German customs authorities collect both customs duty and Import Turnover Tax.

It is important, however, to collect and present all invoices as originals in order to deduct any VAT charges from one's own tax liability or to get reimbursed by the German Ministry of Finance, if eligible.

Trade Barriers

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Germany's regulations and bureaucratic procedures can be a difficult hurdle for companies wishing to enter the market and require close attention by U.S. exporters.

Complex safety standards, not normally discriminatory but sometimes zealously applied, complicate access to the market for many U.S. products. U.S. suppliers are well advised to do their homework thoroughly and make sure they know precisely which standards apply to their product, and that they obtain timely testing and certification.

Import Requirements and Documentation

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Imported goods must be accompanied by a customs declaration, which has to be submitted in writing, and an invoice in duplicate. Normally the German importer files this declaration. The commercial invoice must show the country of purchase and the country of origin of the goods. The invoice should contain:

- Name (company) and address of seller and buyer;
- Place and date of issue;
- Number, kind of packages;
- Precise description of articles
- Volume or quantity in normal commercial units;
- Invoice price (in invoice currency);
- Terms of delivery and payment.

In addition, a certificate of origin may be required in some cases.

Import duties and taxes are subject to change and companies are well advised to verify the correct tariff level shortly before carrying out any export transaction. For further information, including current customs tariffs, please visit:

<http://www.zoll.de>

http://www.germany-info.org/relaunch/info/consular_services/customs/tariff.html

For EU import requirements (including information on WEEEs, RoHs and batteries) please see the Country Commercial Guide of the U.S. Mission to the European Union available at <http://export.gov/mrktresearch>.

U.S. Export Controls

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The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies is one of four multilateral export control regimes in which the United States and Germany participate. The Arrangement's purpose is to contribute to regional and international security and stability by promoting transparency and greater responsibility in transfers of conventional arms and dual-use (i.e., those having both civil and military uses) goods and technologies to prevent destabilizing accumulations of those items. The Wassenaar Arrangement establishes lists of items for which member countries are to apply export controls. Member governments implement these controls to ensure transfers of the controlled items do not contribute to the development or enhancement of military capabilities that undermine the goals of the Arrangement and are not diverted to support such capabilities. In addition, the Wassenaar Arrangement imposes some reporting requirements on its member governments.

The U.S. Government controls all items for export that are controlled multilaterally by the Wassenaar Arrangement. In general, export controls for dual-use goods and

technologies controlled in the Wassenaar Arrangement are administered by the U.S. Department of Commerce and controlled for national security reasons on the Commerce Control List. The U.S. Department of State administers export controls on conventional arms.

More information under: <http://www.bis.doc.gov>

Temporary Entry

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For temporary entry it is usually advisable to purchase an ATA Carnet, which allows for the temporary, duty-free entry of goods into over 50 countries and is issued by the United States Council for International Business by appointment of U.S. Customs: <http://www.uscib.org>

Labeling and Marking Requirements

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The European Union does not generally legislate packaging and labeling requirements, but does so for what it sees as specific high-risk products. In the absence of any EU-wide rules, the exporter has to consult national regulations or inquire about voluntary agreements among forwarders that affect packaging and labeling of containers, outside packaging, etc. Importers or freight forwarders should be able to advise U.S. exporters on shipping documents and outer packaging/labeling. European Union customs legislation only regulates administrative procedures, such as type of certificate and the mention of rule of origin on the customs forms and shipping documents.

Product-specific packaging and labeling requirements applicable throughout the EU apply to food, medicines, chemicals, pharmaceuticals, and other items EU authorities regard as high-risk. The stated purpose of harmonizing such legislation throughout the EU is to minimize the risk for consumers (the end user).

The CE mark is mandatory in the 25 EU countries for any electrical apparatus and often more than one CE mark law may apply.

The relevant EU website with more details regarding CE mark/electrical equipment is http://europa.eu.int/comm/enterprise/electr_equipment/index.htm. For example, for medical devices, it is http://ec.europa.eu/enterprise/medical_devices/index_en.htm.

In addition to product-specific labeling and packaging requirements, there is also more general consumer-related legislation.

http://europa.eu.int/comm/consumers/policy/developments/labelling/lab01_en.pdf

Eco-Label

Since its inception ten years ago, many companies have recognized the benefits of adopting the EU Eco-Label scheme. There are currently 135 companies licensed under the regime, and it has been awarded to 21 product groups. The products range from paints, detergents, and refrigerators to tourist accommodation. The number is growing and it is the only voluntary scheme that covers products moving across borders within the EU. It sets ecological criteria for a range of products and services in a transparent way so that the consumer can make a more informed choice in order to support sustainable consumption patterns. The EU Eco-Label program takes the lifecycle (from

cradle to grave) of a product into account, e.g., the materials, health implications, and waste factors that may have an impact on the environment.

The "Blue Angel" is a voluntary environmental labeling program. Created in 1977 by the Interior and Environmental Ministry, it is the oldest environment-related label in the world. The mark is awarded to products and services, which are beneficial to the environment. High standards of occupational health and safety, ergonomics, economical use of raw materials, service life and disposal are also factors covered under this "seal of approval."

According to the German Ministry for Environmental Affairs, the Blue Angel offers companies the opportunity to document their environmental competence in a simple and inexpensive way, thereby enhancing their market image. About 3,700 products and services have been awarded the label, including, recently, mobile phones and marine transport.

Customs Regulations and Contact Information

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The website of the German Customs Authorities is: <http://www.zoll.de>

Standards

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Overview

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Most manufacturers believe the EU's attempt to harmonize the various product safety requirements and related standards for industrial products of its member states has generally helped open member state markets. It did not, however, get entirely rid of voluntary national requirements, a fact which complicates the issue. Theoretically, during a transition period, national requirements must be met. (After the transition period, the EU "CE" mark supersedes all other compliance certificates, provided the products in question are covered by an EU directive.) The EU's efforts to harmonize standards through the "New Approach" certification-facilitating directives (and separately developed European standards) are incomplete as far as sectors covered. In some cases, U.S. firms (for example, in the automotive or pharmaceutical sectors) will have to worry about complying with the specific requirements of all applicable "Old Approach" product-specific EU technical legislation.

This is doubly important because, to the extent EU-wide standards are developed, there is a high probability that the existing German standard will form the basis for the eventual European standard. In many cases, Germany will also be the first Member country to implement EU-wide standards. The implementation of electromagnetic

compatibility standards (EMC), despite a five-year phase-in period, surprised many affected companies - not only foreign, but also German.

German buyers may require additional performance or quality marks, which are not necessarily legally required, but which greatly enhance a product's chances to be marketed. Both EU requirements and the standards for a German quality or performance mark will, in many cases, require modifications for an imported product. Even if the product does not require modification, it may still need testing and certification before it can be marketed.

Two non-mandatory marks which may still be critical to successfully marketing product in Germany are the "geprüfte Sicherheit" (GS) mark, for mechanical products, and the "Verband Deutscher Elektrotechniker" (VDE) mark for electrical components. Neither the "GS" nor the "VDE" mark are mandatory for most products sold in Germany except for products for use in certain work place applications, where these marks are required to meet insurance requirements. However, many German consumers look for these marks as an additional sign of quality, similar to the UL mark in the U.S., regardless of legal requirement.

Standards Organizations

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The German organization that compiles standards is the Deutscher Industrie Normenausschuss - DIN (German Standards Institute, www.din.de). The DIN also compiles the standards that lay down the requirements for a "GS" mark. Since 1975, DIN has been recognized by the German government as the national standards body and represents Germany's interests at the international and EU levels. DIN offers a forum in which interested parties meet in order to discuss and define their specific standardization requirements and to record the results as German Standards. In DIN, standard work is carried out by some 26,000 external experts, serving as voluntary delegates in more than 4,000 committees. Draft standards are published for public comment, and all comments are reviewed before final publication of the standard. Published standards are reviewed for continuing relevance at least every five years. According to DIN, standards are designed to promote rationalization, quality assurance, safety, and environmental protection, as well as improving communication between industry, technology, science, government, and the public domain.

The input of external experts into standardization is organized through standards committees and working groups. Each standards committee is responsible for a distinct area of activity and coordinates the corresponding standardization work at the EU and international levels. As a rule, the standards committee in DIN includes a number of technical sub-committees. There are currently 76 standards committees that maintain their own websites. Basic details of their area of activity and a list of the standards are published in English. Links to these committees are available on the [DIN website](#).

NIST Notify U.S. Service

Member countries of the World Trade Organization (WTO) are required under the Agreement on Technical Barriers to Trade (TBT Agreement) to report to the WTO all proposed technical regulations that could affect trade with other Member countries. **Notify U.S.** is a free, web-based e-mail subscription service that offers an opportunity to review and comment on proposed foreign technical regulations that can affect your

access to international markets. Register online at Internet URL:
<http://www.nist.gov/notifyus/>

Conformity Assessment

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Accreditation of conformity assessment bodies

Conformity assessment bodies evaluate the competence of German entities to carry out tests and certifications in accordance with third country law. Following a successful appraisal, the entities are accredited, and the scope of their accredited work is designated by the conformity assessment body of a Federal Ministry.

EC agreements with third countries

The Mutual Recognition Agreements on Conformity Assessment (MRAs) form the basis of the accreditation and designation of conformity assessment bodies. These agreements stipulate that the authority in the importing country recognizes the evaluation of devices or quality management systems conducted by a conformity assessment body located in the exporting country. This situation means that EU manufacturers can receive confirmation of compliance with third country regulations from EU conformity assessment bodies. The agreements imply the mutual acceptance of conformity assessment bodies and systems. They do not however imply mutual recognition (harmonization) of regulation. Thus, the regulations of the importing contract party apply.

MRA with the United States

The Agreement on Mutual Recognition with the United States of America was signed with the EU on May 18, 1998, and came into effect June 22, 1998.

The [texts of the agreement](#) and further information can be found on the EU website, <http://europa.eu.int/comm/trade>. All conformity assessment bodies accredited are obliged to participate in the confidence-building exercises and in the national MRA information exchange. This [information exchange](#) of the notified bodies is in accordance with the Medical Devices Law (EK-Med).

Recognized conformity assessment bodies

An overview of existing recognized conformity assessment bodies can be found on the website of the European Commission, http://europa.eu.int/index_en.htm

Product Certification

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Organizations responsible for testing and certification are, for example, Underwriters Laboratories or the "Technischer Überwachungsverein e.V. - TÜV" (Technical Inspection Association). TÜVs are private companies set up by various German states to inspect and test products for compliance with German safety standards. Individual TÜVs have also been authorized by the German Government to test products for compliance with EU legislation and many have established representative offices in the United States. Within the DIN group, certification services are offered by: DIN CERTCO (product and services certification), and DQS (management systems).

For the VDE (Association for Electrical, Electronic & Information Technologies) mark, which is applicable for electrical products only, companies can obtain information directly from the VDE (for contact information please see below).

The process for "VDE" certification is the same as that of the "GS" mark. Firms interested in certification should contact a U.S.-based test laboratory or a Conformity Assessment Body (see: <http://ts.nist.gov/Standards/Global/europe.cfm>).

Self-Certification

For certain products, self-certification by manufacturers (through a Manufacturer's Declaration of Conformity) is sufficient. Further information is available from the contacts listed at the end of this chapter (see <http://www.buyusa.gov/europeanunion>).

Agreements on Certification

CB - IEC System for Conformity Testing to Standards for safety of electrical equipment

CCA - CENELEC Certification Agreement

CECC - CENELEC Electronic Components Committee - System for electronic components of assessed quality

ENEC - [ENEC Agreement](#)

HAR - CENELEC Agreement for the use of an agreed marking for cables and cords in combination with harmonized standards

IECQ - IEC System for the quality assessment of electronic components and associated materials

Accreditation

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The German Accreditation Council (DAR) is a working group established in 1991 by ministries of the German Federal Government, ministries of the German federal states, and by representatives of the German industry.

The DAR coordinates the activities in the field of accreditation and recognition of laboratories, certification, and inspection bodies as far as they are represented in the DAR; it represents German interests in national, European and international organizations dealing with general issues of accreditation and recognition, including voluntary and mandatory (KOGB) areas. The DAR itself does not carry out any accreditations or recognitions.

All accreditation bodies represented in the DAR are operating on the basis of the EN 45000/EN ISO/IEC 17000 standard series and the DAR resolutions. With permission of the DAR, they may therefore use DAR certificates for accreditation.

Publication of Technical Regulations

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Technical regulations are published by the publishing house of DIN, Beuth Verlag: www.beuth.de

Agricultural Products

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General Veterinary Requirements: In April 1997, the U.S. and the EU reached an equivalency agreement on an overall framework for recognizing each other's veterinary inspection systems. The veterinary equivalency agreement covers more than USD 1.5 billion in U.S. animal product exports to the EU and an equal value of EU exports to the United States. The agreement preserved most pre-existing trade in products, such as pet food, dairy, and egg products. The agreement should have also opened new trade opportunities for red meat. However, despite progress under the agreement and a WTO ruling in favor of the United States, the EU continues to bar imports of red meat.

All beef and pork exported to Germany for human consumption must come from slaughterhouses, cutting plants, and cold stores approved for export to the EU. Since 1989, the EU has prohibited imports of beef from cattle treated with growth hormones. Soon after this ban went into effect, an agreement was reached between the United States and the EU that allows American producers of beef from animals not treated with hormones to export to the EU. Under the terms of the agreement, the beef must come from an EU-approved source, and the animals must be slaughtered in a slaughterhouse that has been approved by the EU.

Beef: The EU beef market is largely insulated from the world market by high import duties. Import opportunities do exist, however, for selected products that are covered by fixed, relatively low tariffs or special quota. Most notably, the EU grants market access through a quota for annual imports of up to 11,500 MT of high-quality beef (HQB) from the United States and Canada. Beef entering the EU under the HBQ tariff-rate quota are subject to a 20 percent duty.

Pork: Selected market opportunities exist for imports of pork. Market access within the EU has improved through the creation of a tariff-rate quota (TRQ) totaling 66,500 MT. The TRQ includes a 39,000 MT allocation for tenderloins, boneless loins, and boneless hams.

Poultry: Unfortunately, U.S. and EU negotiators were not able to reach agreement on a number of important points during the veterinary equivalency negotiations, particularly in the poultry sector. The most contentious issue in the negotiations concerned the use of chlorinated water and other anti-microbial treatments in U.S. poultry processing. Most forms of anti-microbial treatments are prohibited in the EU. The EU's ban on anti-microbial treatments effectively blocks U.S. poultry exports to the EU, which were estimated at USD50 million in 1996.

Dairy Products: The veterinary agreement allows for the resumption of U.S. dairy product exports to Germany. Under the Uruguay Round Agreement, the variable levy on dairy products was replaced by a fixed tariff equivalent.

Pet food: U.S. pet food exports to the EU must comply with EU regulation 1774/2002. This regulation, implemented in 2004, requires that animal by-products used in the production of feeds and pet food be derived from the carcasses of animal declared fit for human consumption following veterinary inspection. Provisions include a ban on intra-species recycling, fallen stock and restrictions on yellow grease. Certain categories of pet food have to be denatured with specified substances. Pet food plants have to be dedicated to the production of product fit for human consumption.

Plant Health: As part of the Single Market exercise, plant health regulations in the 27 European Union Member States have been harmonized. The new regulations went into effect on June 1, 1993, for the 15 members then in the EU and in 2004 for the new accession countries. The EU has been successful in reducing the number of phytosanitary restrictions and new marketing opportunities have been created for U.S. horticultural exports. Phytosanitary certificates are required for many imported fresh products.

With respect to the use of solid wooden packing materials (SWPM), it is important to note that the EU intends to require that all SWPM be either heat treated or fumigated beginning January 1, 2009. In addition to these treatment requirements, the material has to be free of bark. EU scientists fear that improperly treated SWPM is at risk for re-infestation. International plant protection standards as agreed upon by the United States do not require the absence of bark. Exporters should carefully follow the status of EU import requirements to avoid problems at the EU port of entry.

Horticultural Products: Germany is an important market for United States horticultural products. Principal products include almonds, walnuts, pistachios, prunes, raisins, citrus, and pears. Horticultural products entering Germany face a number of import restrictions. In addition to considerable tariffs that vary by product, imports of selected produce (tomatoes, cucumber, artichokes, zucchini squash, citrus, table grapes, apples, pears, apricots, cherries, peaches, nectarines and plums) are subject to an entry price system. Under such a system, imports that have a price at or above the respective entry price are assessed only the appropriate ad valorem duty. Imports, which have a price below, but within a certain range of the entry price, are assessed the ad valorem duty plus a specific duty that is the difference between the import price and the entry price. "Within a certain range" generally means within eight percent of the entry price. Imports having a price more than eight percent below the entry price are assessed the ad valorem duty plus a very large specific duty (known as the tariff equivalent) which generally takes the cost of the product (import price plus duties) far above the entry price.

Organic Products: There is a growing market within Germany for certified organic products. Since July 1992, EU-wide regulations on marketing organic products have been in effect. Administrative hurdles still slow down the development of this promising import market. The U.S. National Organic Program Final Rule became effective April 21, 2001, for full implementation in October 2002. Adherence to EU regulations should help to reduce bureaucratic import requirements. Nonetheless, until the EU and the U.S. negotiate an organic equivalency agreement, importers must work through German authorities to submit oversight information on certified organic products on a case-by-case basis. In 2004, the EU implemented an Action Plan to promote the production and consumption of organically grown and produced foods. Since this is a very generic promotion program, suppliers of organic products worldwide should also be able to take advantage of it. Currently, about 4 percent of German agricultural output is organic.

Consumer-Ready Products: Imports of consumer-ready food products into Germany face many market access restrictions and very strict food laws. In addition to bound import duties, the EU has established a complex system of border protection measures for food products. Since prices for basic agricultural commodities, such as dairy products, sugar, and cereals, are considerably higher than world market prices, the EU maintains a mechanism to protect European consumer-ready food products from imports

made with lower-price inputs. Therefore, most processed products entering the EU are subject to additional import charges based on the percentage of sugar, milk fat, milk protein, and starch contained in the product. These additional import charges have made many imported processed food products non-competitive in the EU market. Reports on the German retail and gastronomy sectors are available under "attaché reports" at <http://www.fas.usda.gov/scriptsw/attacherep/default.asp>

Packaging Disposal: With the tremendous increase in waste and disposal problems, Germany has established legislation that contains certain rules for the disposal of packaging materials. In response to this legislation, a cooperative effort for the collection and recycling of packaging materials was initiated. The organization involved is called the "Duales System Deutschland" and it administers the use of the "Green Dot," a recycling symbol that is found on the packaging material of virtually all products sold in Germany. While packaging materials for products sold in Germany are not legally required to carry the Green Dot, it is almost impossible to market a product in Germany without it. Typically, the importer pays a license fee to the user of the Green Dot, depending on the type and amount of packaging, and provides the exporter with the information necessary. In 2003, German retailers began requesting a deposit for disposable or "one-way" drink packages, i.e., soft drink or beer cans. Since the requested deposit is about three times as high as that requested for returnable beer bottles, it could disadvantage imported drinks.

U.S. Agricultural Commodity Associations Active in Germany

A number of U.S. agricultural commodity and other trade associations conduct market development programs in Germany. In some cases, these associations maintain field offices in Germany, while others may have a trade representative or public relations company representing their interests. Others may cover Germany from elsewhere in Europe or from offices in the United States. The USDA-operated Market Access Program (MAP) and Foreign Market Development program (FMD) provides a portion of the funding for the market development programs of these associations. For further information about the MAP and FMD program or to know more about which associations are active in Germany, please contact the Office of Agricultural Affairs at the U.S. Embassy in Berlin (see first section for phone, address and e-mail).

Web Resources

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1. Product legislation

http://ec.europa.eu/enterprise/index_en.htm

<http://www.ts.nist.gov/ts/htdocs/210/217/export-alert.htm>

2. CE Mark legislation

<http://europa.eu.int/comm/enterprise/newapproach/legislation/guide/>

<http://www.newapproach.org/>

3. European standards

<http://europa.eu.int/comm/enterprise/newapproach/legislation/guide/>

<http://www.newapproach.org/>

<http://www.cenorm.be/catweb>

4. EU Notified bodies

http://www.europa.eu.int/comm/enterprise/newapproach/legislation/nb/notified_bodies.htm

5. Test laboratories

<http://www.ts.nist.gov/ca>

6. Deutscher Akkreditierungsrat (DAR),

<http://www.dar.bam.de>

7. Labeling:

http://europa.eu.int/comm/consumers/policy/developments/labelling/lab01_en.pdf

8. TÜV:

<http://www.tuvamerica.com>

9. Other Sources:

BMU – (Federal Environment Ministry)

<http://www.bmu.de>

BMWI –(Federal Ministry of Economics and Technology)

<http://www.bmwi.de>

DAR – (German Accreditation Council)

<http://www.dar.bam.de>

DIN – (German Standards Institute)

<http://www2.din.de>

NIST – National Institute of Standards and Technology

<http://www.nist.gov>

UL - Underwriters Laboratories, Inc.

<http://www.ul.com>

VDE – Verband der Elektrotechnik, Elektronik und Informationstechnik

(Association for Electrical, Electronic & Information Technologies.)

<http://www.vde.de>

VDMA - Verband deutscher Maschinen- und Anlagenbau e.V.

<http://www.vdma.de>

ZLG – Zentralstelle der Länder für Gesundheitsschule bei Arzneimitteln und Medizinprodukten

(Central Authority of the Federal States for Health Protection regarding Medicinal products and Medical Equipment)

<http://www.zlg.nrw.de>

ZVEI - Zentralverband Elektrotechnik- und Elektronikindustrie e.V.

(Central Federation for the German Electrical and Electronics Industry)

<http://www.zvei.de>

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Chapter 6: Investment Climate

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Openness to Foreign Investment

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The German government and industry actively encourage foreign investment in Germany, and German law provides foreign investors national treatment. Under German law, foreign-owned companies registered in the Federal Republic of Germany as a GmbH (limited liability company) or an AG (joint stock company) are treated no differently from German-owned companies. Germany also treats foreigners equally in privatizations. There are no special nationality requirements on directors or shareholders, nor do investors need to register investment intent with any government entity except in the case of acquiring a significant stake in a firm in the defense industry. The investment-related problems foreign companies do face are generally the same as for domestic firms, for example high marginal income tax rates and labor laws that impede hiring and dismissals. The German government has begun to address many of these problem areas through its reform programs. German courts have a good record in upholding the sanctity of contracts.

The 1956 U.S.-FRG Treaty of Friendship, Commerce and Navigation affords U.S. investors national treatment and provides for the free movement of capital between the U.S. and Germany. Germany subscribes to the OECD Committee on Investment and Multinational Enterprises' (CIME) National Treatment Instrument and the OECD Code on Capital Movements and Invisible Transactions (CMIT). While Germany's foreign economic law contains a provision permitting restrictions on private direct investment flows in either direction for reasons of foreign policy, foreign exchange, or national security, no such restrictions have been imposed in practice. In such general cases, the federal government would first consult with the Bundesbank and the governments of the federal states. Specific legislation requiring government screening of foreign equity acquisitions of 25% or more of German armaments companies took effect in July 2004.

Under the 2004 law, foreign entities that wish to purchase more than 25% equity in German manufacturers of armaments or cryptographic equipment are required to notify the Federal Economics and Technology Ministry, which then has one month in which to veto the sale. The transaction is regarded as approved if the Economics and Technology Ministry does not react in that time. Industrial policy considerations and lobbying by business interests have occasionally delayed decision-making on investment. There is no broad authority other than in the defense sector to screen or block foreign direct investment.

Conversion and Transfer Policies

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As a result of European Economic and Monetary Union (EMU), the Deutsche Mark (DM) was phased out on January 1, 2002, and replaced by the Euro, which is a freely traded currency with no restrictions on transfer or conversion, and which is the unit of currency in Germany and thirteen other EU countries. There is no difficulty in obtaining foreign exchange. There are also no restrictions on inflows and outflows of funds for remittances of profits or other purposes.

Expropriation and Compensation

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German law provides that private property can be expropriated for public purposes only in a non-discriminatory manner and in accordance with established principles of constitutional and international law. There is due process and transparency of purpose, and investors and lenders to expropriated entities receive prompt, adequate and effective compensation.

Dispute Settlement

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Investment disputes concerning U.S. or other foreign investors and Germany are rare. Germany is a member of the International Center for the Settlement of Investment Disputes (ICSID), as well as a member of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. German courts are fully available for foreign investors in the event of investment disputes. The government does not interfere in the court system and accepts binding arbitration.

Performance Requirements and Incentives

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There are about 3,000 incentive programs for investors in Germany, offered by EU, federal, and state authorities. Cash Grants under the Joint Agreement for the Improvement of Regional Economic Structures are available for improving the structure of regional economies and the economy as a whole – a primary objective of the German federal and state governments. Distribution of these subsidies is generally subject to approval by the European Union.

A comprehensive package of federal and state investment incentives is available to domestic and foreign investors. In some cases, there may be performance requirements tied to the incentive, such as maintaining a certain level of employment. There are no requirements for local sourcing, export percentage, or local national ownership. Offsets have been a part of procurements by some state and local governments and by the

federal government for some defense procurement, but they are infrequently used at present. Germany is in compliance with its WTO TRIMS notification.

The government has placed particular emphasis on investment promotion in the New States of the former East Germany and has offered a large number of incentives to this end. Ongoing efforts to reduce government budget deficits and EU efforts to reduce state aid to industry are putting pressure on these programs. With the beginning of the new budgetary period of the EU, which starts in January 2007 (and runs through 2013), Germany is going to receive a total of EUR 26.3 billion. The accession of 10 new EU member countries in 2004 has resulted in reduced subsidy levels for Germany going into effect in 2007. Especially eastern Germany felt the impact of the change, losing its status as "target one" region for highest priority support. The new German states are still going to receive the lion's share of the EU subsidies going to Germany, EUR 15 billion, for the budget period of 2007 -2013.

Available incentives currently include:

For the eastern German states and eastern Berlin:

- Tax Incentives: investment allowances, special depreciation allowance.
- Investment Grants: Improvement of Regional Economic Structures Program; grants for research and development; consulting fee and training costs; export, marketing and fair participation assistance.
- Credit Programs: loans at below-market interest rates from the government-owned Bank for Reconstruction (KfW) and its subsidiary the Mittelstandsbank; the European Recovery Program (ERP); EU programs; and loan guarantee and credit programs.

Programs for all of Germany:

- Still applicable are cash grants under the Joint Agreement. Investments in eastern Germany in particular profit from this program, with outright grants of 50% available to SME's (small and mid-size companies – defined by the EU as having fewer than 250 employees, a maximum turnover of EUR 40 million, or a balance sheet total of no more than EUR 27 million); larger firms receive grants of 35% of investment costs. As noted above, the EU is reviewing this program and while there may be cuts for some regions, by and large the program and grant volumes are expected to remain relatively constant after 2005.
- Tax Incentives: special depreciation allowance, capital reserve allowance.
- Investment Grants: Improvement of Regional Economic Structures Program, grants for research and development, consulting fees, and training costs.
- Credit Programs: loans at below-market interest rates from the Equalization Funds Bank, Reconstruction Funds Bank, the European Recovery Program, European Union programs, loan guarantee programs, and other programs for small technology firms and environmental demonstration projects.

United States and other foreign firms may also participate in government and/or subsidized research and development programs, provided that:

- The company is legally established in Germany;

- The activity is a long-term operation with significant R&D capacities;
- The project engages in sponsored research entirely performed in Germany;
- The firm can exploit intellectual property rights independent from a parent company;
- The Federal Ministry of Education, Science, Research and Technology (BMBF) may exploit intellectual property rights from funded research;
- Any licensing of technology outside of the EU is done with the written approval of the BMBF;
- Preference is given to locating manufacturing facilities in Germany for any production resulting from the research (this criterion can be modified on a case-by-case basis.)

American business representatives generally report that these formal requirements and the administration of the programs by German authorities do not constitute barriers for access to this R&D funding.

Foreign investors can obtain more information on investment conditions and incentives from:

Federal Commissioner for Foreign Investment in Germany
 Anna-Louise-Karsch-Strasse 2
 10178 Berlin, Germany
 Telephone: [49][30] 206-570
 Telefax: [49][30] 206-571-11
 Email: office@invest-in-Germany.com
<http://www.invest-in-germany.de>

Federal Commissioner for Foreign Investment in Germany
 345 Park Avenue – 15th floor
 New York, NY 10154
 Telephone: (646) 454-1905
 Telefax: (646) 454-3220
 Email: ny-office@fdin.de

Foreign investors can obtain information specifically for the new states in eastern Germany from the respective investment promotion agency IIC (Industrial Investment Council):

Industrial Investment Council IIC
 Friedrichstrasse 60
 10117 Berlin
 Telephone: [49][30] 200 099 250
 Telefax: [49][30] 200 099 111
 Email: info@iic.de
 Internet: <http://www.iic.de>

Industrial Investment Council
 700 13th Street, NW
 Washington, D.C. 20005-3960
 Telephone: 202 347-7470

Telefax: 202 347-7473
Email: washington@iic.de
http://www.iic.de/iic_offices.0.html

American companies can, with effort, generally obtain the resident and spouse work permit visas they need to do business in Germany, but the relevant laws are quite broad and considerable administrative discretion is exercised in their application. A number of U.S. states have not yet concluded reciprocal agreements with the German government to recognize one another's driver's licenses. As a result, licenses from those states are not usable in Germany for longer than six months, whereas licenses from states that have signed agreements can be converted to German licenses after six months.

Right to Private Ownership and Establishment

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Foreign and domestic entities have the right to establish and own business enterprises, engage in all forms of remunerative activity, and acquire and dispose of interests in business enterprises.

Privatization of state-owned utilities has promoted competition and led to falling prices in some sectors. Following deregulation of the telecommunications sector in 1998, scores of foreign and domestic companies invested vast sums in that sector. Since then, former state monopoly Deutsche Telekom (DT) has lost more than 49% of the fixed-line market to competitors (while at the same time profiting from the latter who must lease the last mile from the incumbent), although it still controls 86% of DSL broadband connections. The 2003 introduction of call-by-call and pre-selection in the local loop allowed competitors to increase their share of the local call market to an estimated 49% by mid-2006. In June 2004, a new telecommunications law to implement EU directives entered into force. The law mandates less regulation in some areas while giving the regulator new powers to address abuse of market dominance and ensure competitors' access to services. A second amendment to the telecommunications law became effective in early 2007. Aimed to strengthen consumer rights it also includes a controversial component, entitling the incumbent to a regulatory holiday in return for a sizeable investment in a VDSL network, providing the investment creates a "new market." The regulator must determine the definition of "new markets" by early 2007 and subsequently rule on the entitlement to a regulation-free timeframe accordingly. The German government continues to hold a 38% share in DT, although it has expressed its desire to sell these shares eventually.

Some competition has come to the gas and electricity markets since 1998 as well, but competitors have had enormous difficulty gaining access to the incumbents' networks. In July 2005, RegTP became the Federal Networks Agency and took over responsibility for gas and electricity network prices and access. In summer 2006, it began issuing orders to incumbents to cut prices. Faced with rising energy prices and rising profits in the energy sector, consumer and political pressure on the industry to contain prices has increased. The EU has raided leading energy utilities twice this year looking for evidence of suspected price fixing and territorial demarcation while the Economics Ministry drafts legislation to increase the authority of the Bundeskartellamt in this sector. After years of competitive stagnation, some new foreign competitors have entered the market in the last year.

The government partially privatized Deutsche Post (DP) in November 2000 and is slowly divesting its remaining shares. After successive rounds of liberalization, DP's monopoly on letter delivery is slated to expire on December 31, 2007. Germany's Cartel Office, which enjoys an excellent international reputation, and Germany's other regulatory agencies address problems and settle complaints brought forward by foreign market entrants and bidders. However, as noted above, German law and court decisions have limited these agencies' effectiveness in some areas.

Pushed by the desire of the 100% government-owned Deutsche Bahn (DB) to have private ownership by 2008, Government and Parliament hotly debated the sale of DB during 2006. To date, however, no agreement has been reached on how this would occur. The DB favors retaining the ownership of both rolling stock and the rail network in any privatization scheme. The Government appears to support DB's position. Some members of Parliament, however, are considering unbundling the infrastructure from the rolling stock, to increase competition. On January 1, 2006, the Bundesnetzagentur (BNA) took over responsibility for access and prices issues for competitors' access to the railroad network.

Protection of Property Rights

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The German Government adheres to a policy of national treatment, which considers property owned by foreigners as fully protected under German law. There is almost no discrimination against foreign investment and foreign acquisition, ownership, control or disposal of property or equity interests, with airline ownership being an exception. In Germany, the concept of mortgages is subject to a recognized and reliable security. Secured interests in property, both chattel and real, are recognized and enforced.

Intellectual property is well protected by German laws. Germany is a member of the World Intellectual Property Organization (WIPO). Germany is also a party to the major international intellectual property protection agreements: the Bern Convention for the Protection of Literary and Artistic Works, the Paris Convention for the Protection of Industrial Property, the Universal Copyright Convention, the Geneva Phonograms Convention, the Patent Cooperation Treaty, the Brussels Satellite Convention, and the Treaty of Rome on Neighboring Rights.

National treatment is also granted foreign copyright holders, including remuneration for private recordings. Under the TRIPS agreement, the federal government also grants legal protection for practicing U.S. artists against the commercial distribution of unauthorized live recordings in Germany. Germany has signed the WIPO Internet treaties and ratified them in 2003. Foreign and German rights holders, however, remain critical of provisions in the German Copyright Act that allow exceptions for private copies of copyrighted works. Most rights holder organizations regard German authorities' enforcement of intellectual property protections as comprehensive, although problems persist due to lenient court rulings in some cases and the difficulty of combating piracy of copyrighted works on the Internet.

Transparency of Regulatory System

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Germany has transparent and effective laws and policies to promote competition, including anti-trust laws. German authorities recently lifted many restrictions on store

business hours, which had formerly restrained competition and business opportunities. There are concerns in Germany and abroad about the level of regulation prevailing with regulatory authority dispersed over the federal, state, and local levels. Many investors consider Germany's bureaucracy excessive, which has prompted most state governments to establish investment promotion offices and investment banks to expedite the process. The Merkel government has talked about the need to cut red tape in Germany and in the EU as a whole. New rules have simplified bureaucratic requirements, but industry must sometimes contend with officials' relative inexperience with deregulation and lingering pro-regulation attitudes.

Laws and regulations in Germany are routinely published in draft and public comments are solicited. The legal, regulatory and accounting systems can be complex but are transparent and consistent with international norms.

Efficient Capital Markets and Portfolio Investment

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Germany has a modern financial market sector but is often considered "over-banked," as evidenced by on-going consolidation and low profit margins. The IMF's assessment of the German financial sector in spring 2003, the so-called stress tests, found that the system is robust. To improve their international competitiveness, the large private banks in particular have launched massive cost cutting programs. Consolidation among the banks is continuing. Regional state banks have increased their cooperation with affiliated local savings banks in an effort to cut costs and remain competitive.

At the end of September 2004, the total assets of 2,166 domestic banks were EUR 6.63 trillion. The 255 reporting commercial banks accounted for 1.9 trillion Euro of this amount. The four largest commercial banks (Deutsche Bank, Commerzbank, Hypovereinsbank, and Dresdner Bank) accounted for nearly 58% of Germany's total commercial bank assets.

Credit is available at market-determined rates to both domestic and foreign investors and a variety of credit instruments are available. Legal, regulatory and accounting systems are generally transparent and consistent with international banking norms. Germany has a universal banking system that is effectively regulated by federal authorities.

Given the prevailing overall economic conditions, mergers and acquisitions (M&A) have basically decreased over the last few years in line with global trends. Analysts expect this trend to change and M&A transactions to pick up again given Germany's improved economic condition and financial assets of – especially – the top 30 companies listed in the German stock exchange "DAX." "Cross shareholding" exists among some large German companies, in particular among banks that hold shares in large industrial customers. However, Germany's major banks have been reducing their cross-shareholdings in recent years.

In response to a 2004 EU directive, the government has implemented legislation that established new rules ensuring greater transparency for takeovers. The new law went into effect in 2006.

In recent years, Germany has implemented a series of laws to improve its securities trading system, including laws against insider-trading and the Fourth Financial Market

Promotion Law in 2003. In 2002, a corporate governance code was adopted, which, while voluntary, requires listed companies to "comply or explain" why the code or parts thereof have not been followed. The code is intended to increase transparency and improve management response to shareholder concerns. The Finance and Justice Ministries drew up a ten-point plan in 2003 to improve investor protection. As a part of that plan, the government tabled a bill in November 2004 that would (a) increase the liability of boards of directors for false or misleading statements; and (b) improve oversight of auditing operations. The EU's Financial Services Action Plan – an effort intended to create a more integrated European financial market by 2005 – has helped stimulate changes in the German regulatory framework, including adoption of International Accounting Standards for listed firms and use of company investment prospectuses on an EU-wide basis.

Political Violence

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Political acts of violence against either foreign or domestic business enterprises are extremely rare. Isolated cases of violence directed at certain minorities and asylum seekers have not affected U.S. investments or investors.

Corruption

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Among industrialized countries, Germany ranks in the middle, according to Transparency International's corruption indices. The construction sector and public contracting, in conjunction with undue political party influence, represent particular areas of continued concern. Nevertheless, U.S. firms have not identified corruption as an impediment to investment.

The German government has sought to reduce domestic and foreign corruption. Strict anti-corruption laws apply to domestic economic activity and the laws are enforced. Germany ratified the 1998 OECD Anti-Bribery Convention in February 1999, thereby criminalizing bribery of foreign public officials by German citizens and firms abroad. The necessary tax reform legislation ending the tax write-off of bribes in Germany and abroad became law in March 1999. Germany has signed the UN Anti-Corruption Convention but has not yet ratified it. The country participates in the relevant EU anti-corruption measures. Germany has increased penalties for bribery of German officials, for corrupt practices between companies, and for price-fixing by companies competing for public contracts. It has also strengthened anti-corruption provisions applying to support extended by the official export credit agency and tightened the rules for public tenders. Most state governments and local authorities have contact points for whistleblowing and provisions for rotating personnel in areas prone to corruption. Government officials are forbidden from accepting gifts linked to their jobs.

Opinions, however, differ on the effectiveness of these steps, particularly in the area of foreign corruption. German industry - while generally in favor of creating a central, national-level register of corrupt companies that would be barred from bidding for public contracts - refrained from openly calling for its creation out of fear of added regulatory burden. Draft legislation to create such a register passed the lower chamber of the German Parliament but was blocked by opposition parties in the upper chamber in 2002. The CDU-SPD Government, which took over in November 2005, did not include a similar initiative in its program. Nevertheless, some individual states maintain their own

registers and pressure is growing to reintroduce such legislation on the federal level. Transparency Deutschland, the German Chapter of Transparency International, sees a national corruption register as one of its main goals in Germany, closely followed by freedom of information legislation on the federal and state level, and a speedy ratification of the UN Anti-Corruption Convention placing bribery of parliamentarians on the same level as bribery of public officials. The German government has successfully prosecuted hundreds of domestic corruption cases over the years. Numbers rose especially significantly in the last two years. Corruption cases involving major (internationally operating) German companies in 2006 may lead to greater public awareness and increased enforcement of the laws. To date, charges have been filed in only one case involving the bribery of foreign government officials since the 1999 changes in German law to comply with the OECD Anti-Bribery Convention were enacted.

Bilateral Investment Agreements

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Germany has investment treaties in force with 120 countries and territories. Of these, eight are with predecessor states and indicated with an asterisk (including Czechoslovak SFR, Soviet Union, Yugoslavia [SFRY]). Treaties are in force with the following states: Albania; Algeria; Antigua and Barbuda; Argentina; Armenia; Azerbaijan, Bangladesh; Barbados; Belarus; Benin; Bolivia; Bosnia and Herzegovina*; Brunei; Bulgaria; Burundi; Cambodia; Cameroon; Cape Verde; Central African Republic; Chad; Chile; China (People's Republic); Congo (People's Republic); Congo (Democratic Republic); Costa Rica; Croatia; Cuba; CSFR**; Czech Republic*; Dominica; Ecuador; Egypt; El Salvador; Estonia; Ethiopia; Gabon; Georgia; Ghana; Greece; Guatemala; Guinea; Guyana; Haiti; Honduras; Hong Kong; Hungary; India; Indonesia; Iran; Ivory Coast; Jamaica; Jordan; Kazakhstan; Kenya; Republic of Korea; Kuwait; Kyrgyzstan*; Laos; Latvia; Lebanon; Lesotho; Liberia; Lithuania; Macedonia; Madagascar; Malaysia; Mali; Malta; Mauritania; Mauritius; Mexico; Moldova*; Mongolia; Morocco; Namibia; Nepal; Nicaragua; Niger; Oman; Pakistan; Panama; Papua New Guinea; Paraguay; Peru; Philippines; Poland; Portugal; Qatar; Romania; Russia*; Rwanda; Saudi Arabia; Senegal; Sierra Leone; Singapore; Slovak Republic*; Slovenia; Somalia; South Africa; Soviet Union**; Sri Lanka; St. Lucia; St. Vincent and the Grenadines; Serbia and Montenegro*; Sudan; Swaziland; Syria; Tajikistan*; Tanzania; Thailand; Togo; Tunisia; Turkey; Turkmenistan; Uganda; Ukraine; United Arab Emirates; Uruguay; Uzbekistan; Venezuela; Vietnam; Yemen (Arab. Rep.); Yugoslavia (SFRY)**; Zambia; and Zimbabwe.

(Note: Asterisk * denotes treaty in force with predecessor state; Asterisks ** denote continued application of treaties with former entities, which have not been taken into account in regard to the total number of treaties.)

Germany has ratified treaties, which are not yet in force, with the following countries:

<u>Country</u>	<u>Signed</u>	<u>Temporarily Applicable</u>
Angola	10/30/2003	No
Bosnia and Herzegovina	10/18/1901	No
Botswana	05/23/2000	No
Brazil	09/21/1995	No
Burkina Faso	10/22/1996	Yes
Gabon (new/revised)	09/15/1998	No
Indonesia (new)	05/14/2006	*
Israel	06/24/1976	Yes
Morocco (new treaty)	08/06/2001	*
Mozambique	03/06/2002	*
Nigeria	03/28/2000	No
Palestine	07/10/2000	No

Germany has signed, but not yet ratified, treaties with the following 7 countries. These include new treaties signed with some of the countries of the former Soviet Union and former Yugoslavia, which also remain listed above, as prior treaties with these entities remain in effect.

<u>Country</u>	<u>Signed</u>	<u>Temporarily Applicable</u>
Afghanistan	07/20/2005	No
Egypt	06/16/2005	*
Libyan Arab Jamahiriya	10/15/2004	No
Madagascar	08/01/2006	No
Timor-Leste	08/10/2005	No
Trinidad and Tobago	09/08/2006	No
Yemen (Arab Republic) (new)	09/02/2005	*

(*) Previous treaties apply

Protocols of modification to existing treaties with the following countries have been signed:

<u>Country</u>	<u>Signed</u>	<u>Temporarily Applicable</u>
Poland	05/14/2003	No
Moldova	08/26/2003	No

Germany does not have a bilateral investment treaty with the United States. Taxation of U.S. firms within Germany is governed by the 1989 "Convention for the Avoidance of

Double Taxation with Respect to Taxes on Income." It has been in effect since 1989 (and since January 1, 1991, for the area that comprised the former German Democratic Republic.) With respect to income taxes, both countries agree to grant credit to their respective federal income taxes for taxes paid on profits by enterprises located in each other's territory. The German system is more complex, but there are more similarities than differences between the German and U.S. business tax systems. On June 1, 2006, the United States and Germany signed a protocol amending their 1989 income tax treaty and protocol. The new protocol updates the existing treaty and includes several changes, including a zero-rate provision for subsidiary-parent dividends, a more restrictive limitation-on-benefits provision and a mandatory binding arbitration provision. It has yet to be ratified in Germany.

OPIC and Other Investment Insurance Programs

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OPIC programs were available for the new states of eastern Germany following reunification for several years during the early 1990s, but were suspended following progress in the economic and political transition.

Labor

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The German labor force is generally highly skilled, well educated, disciplined, and very productive. However, the performance of the German labor market since the late 1990s, as measured by the level and growth of job creation and unemployment, has been weaker than in many comparable countries, and has only improved in the last year. Compared to other OECD countries, Germany has lower than average workforce participation rates (in part due to traditionally lower rates for women in the western German labor force) and lower levels of employment. In addition, factors such as limited acceptance of older workers as well as "structural mismatches" in the supply and demand of skilled workers contribute to Germany's persistently high unemployment (a projected 10.9% average in 2006, according to national calculation methods, 8.5% by OECD standards). The portion of those among the unemployed classified as long-term unemployed (i.e., over one year) is high (more than 40%, projected 2006 average). Unemployment is particularly high among low-skilled and older workers. The latter are often "pushed," through early retirement or restructuring programs, from the primary labor market into the social welfare system.

Among the most important reasons for Germany's high unemployment during the past decade were macroeconomic stagnation, the declining level of domestic plant investment, company restructuring, flat domestic consumption, structural rigidities in the labor market, and high interest rates. In addition, Germany is still grappling with the enormous financial burden of reunification, which involves annual transfers of around € 80 billion. For this reason, the annual growth rate over the past years has only hovered around the one percent mark. Within the labor market itself, another factor in this development is the difficult situation in eastern Germany, where unemployment remains nearly twice as high as in western Germany, in part due to the legacy of communist rule.

In the last three years, the German government has taken steps to improve labor market performance. The former government of Chancellor Gerhard Schroeder launched a complex set of reforms of labor market and welfare-related institutions. The current government of Chancellor Angela Merkel has initiated other reform measures, such as a

gradual increase in the mandatory retirement age from 65 to 67 – a move that would add 2.5 million to the workforce by 2030 – and an initiative aimed at reducing unemployment among older workers and discouraging early retirement. Moreover, the government plans to encourage female labor market participation by measures that would make it easier for mothers to work – for example, longer school hours, and more day care centers. To address the problem of Germany's low birth rate, it has also adopted a new "parents allowance," which entitles parents who give up work or reduce their hours of work in order to care for their newborn children to a compensatory monthly payment for one year.

Since the beginning of 2006, the initially export-led recovery has begun to extend to the domestic economy. Investment in machinery and equipment has grown rapidly and business confidence has been high – the latest survey results from the Munich-based Ifo Institute showed optimism remaining at a 15-year high. More recently there have been signs that the economic recovery has finally reached the labor market. The non-seasonally adjusted unemployment rate fell to 9.6% in November 2006 – the lowest since the fall of 2001 – compared with a Eurozone average of 7.7%, according to data released by Eurostat, the European Union's statistical office. Average unemployment was forecast to decline to 4.5 million in 2006, with a further decline to 4.3 million in 2007, assuming economic growth continues at a healthy rate. While much of the improvement has been the result of an expanding number of temporary or low-paid jobs, more importantly, the numbers of socially-insured jobs and of self-employed have been rising, too.

The government measures were complemented by a series of changes in the collective bargaining system. In fact, the need to reduce labor costs has helped to achieve Germany's remarkable economic turnaround (under growing competitive pressure, unit labor costs in Germany have declined by 10% since 1999), but this has also generated a downward pressure on real income. According to federal statistics office data, disposable incomes of German households in 2005 were, in real terms, 2% lower than in 1991.

Germany's system of wage determination through multi-company, industry-wide contracts has become considerably more decentralized in recent years. Although sector-wide labor agreements can set wages and working conditions at high levels in some industries, company-level agreements frequently deviate significantly from them. Many industry-wide contracts have been revised in recent years, not only to include highly flexible working time arrangements but also to introduce escape clauses for ailing companies, and to lower entrance pay scales and performance-based annual bonuses. Moreover, the coverage of collective agreements has been declining. Multi-company, industry-wide contracts cover about 43.4% of all firms; 5.3% are covered by a company-level agreement; and 51.3% are not covered at all. Coverage in the eastern states is even lower than in the west. In terms of workers covered by a collective agreement, 73.6% of workers are covered, while 26.4% are uncovered. Again, the coverage is higher in the west than in the east.

The country's system combining on-the-job and in-school training for apprentices produces many of the skills employers need. There are rigidities in the training system, e.g., rules that are in effect protective, such as restrictions on night work for apprentices, to which some employers object. Another criticism is that the system is inflexible with regard to occupational categories and training standards. Labor unions complain

employers do not establish enough training slots and do not hire enough of the trainees after their training is completed. Despite continuing overall high unemployment, regulatory obstacles to workers' mobility remain high in Germany (and throughout the EU) and have also contributed to serious labor shortages in many high-skilled fields. The German government has tried to address shortages of IT specialists through a "Green Card" program that has made available 20,000 work visas to foreign IT workers. In addition, a new immigration law went into effect January 1, 2005, easing the entry of highly qualified immigrants and promoting their integration into German society. Critics of the legislation, however, argue that a so-called "points system" would have been substantially more effective.

About 23% of the workforce is organized into unions. The overwhelming majority are in eight unions largely grouped by industry or service sector. These unions are affiliates of the German Trade Union Federation (DGB). Several smaller unions exist outside the DGB, principally in white-collar professions. Since peaking at more than 13 million members shortly after German re-unification, union membership has steadily declined to about 8.3 million at the end of 2005.

Unions' right to strike and the employers' right to lockout are protected in the German constitution. Court rulings over the years have limited management recourse to lockouts, however. Labor-management agreements have resulted in relatively few work stoppages (in 2006, about 1 day of work lost per 1,000 workers).

At the company level, works councils represent the interests of workers vis-à-vis their employers. A works council may be elected in all private companies employing at least five people. The rights of the works council include the right to be informed, to be consulted, and to participate in company decisions. Works councils often help labor and management to settle problems before they become disputes and disrupt work.

"Codetermination" laws give the workforce in medium-sized or large companies (stock corporations, limited liability companies, partnerships limited by shares, co-operatives, and mutual insurance companies) significant voting representation on the firms' supervisory boards. This codetermination in the supervisory board extends to all company activities.

Foreign-Trade Zones/Free Ports

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There are eight free ports in Germany established and operated under EU Community law: Bremen, Bremerhaven, Cuxhaven, Deggendorf, Duisburg, Emden, Hamburg and Kiel. These duty-free zones within the ports also permit value-added processing and manufacturing for EU-external markets, albeit under certain requirements. All of them are open to both domestic and foreign entities. Falling tariffs and the progressive enlargement of the EU have in recent years gradually eroded much of the utility and attractiveness of duty-free zones, but there are currently no plans to eliminate them.

Foreign Direct Investment Statistics

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According to the German Bundesbank (central bank), foreign direct investment in the German manufacturing industry in 2004 increased to USD 16.25 billion (EUR 13.0

billion) – about two billion more than in 2003. Since 2001, the foreign direct investment in Germany increased approximately 26%.

Foreign investment has been particularly strong in eastern Germany where about 1 trillion Euro have been invested since 1991, the majority, an estimated 84%, from private, non-government sources. Some 2,000 foreign companies, including 300 U.S. firms, have invested in eastern Germany since reunification.

According to the Bundesbank, 2004 total accumulated stock of German direct investment in the United States decreased 4.5 percent to USD 167.5 billion (EUR 134 billion), while the stock of U.S. direct investment in Germany increased 18 percent compared to the previous year to USD 110 billion (EUR 88 billion).

Germany's International Investment Position (EUR billion) – manufacturing industry

Calendar Year	2002	2003	2004
German Direct Investment Abroad	20.8	19.2	19.2
Direct Foreign Investment In Germany	10.8	11.4	13.0

(Source: Deutsche Bundesbank “Kapitalverflechtung mit dem Ausland” April 2006, p. 30, 60)

Foreign Direct Investment in Germany by key sectors (2004 – EUR million)

Holding Companies	81,091
Chemical Industry	25,548
Data Processing	19,910
Services	15,692
Credit and Banking	17,358
Automobiles and Parts	18,555
Electric Power Equipment, distribution	4,467
Insurance	6,148
Medical-, Measuring equipment, Optics	6,610
Rubber and Plastic	6,676
Machine Tools	10,520

(Source: Deutsche Bundesbank “Kapitalverflechtung mit dem Ausland” April 2006 p. 60/61)

Top 20 U.S. Companies in Germany by sales in 2005:

1. Adam Opel GmbH	11. Dow Gruppe Deutschland
2. Exxon Mobil Central Eur. GmbH	12. Ingram Micro GmbH
3. Ford-Werke AG	13. Johnson Controls GmbH
4. GE Deutschland	14. Wal-Mart Germany GmbH & Co.
5. IBM Gruppe	15. Goodyear Dunlop Tires Germany
6. Phillip Morris GmbH	16. McDonald's Deutschland Inc.
7. Conoco Philips Germany	17. Microsoft GmbH
8. Hewlett-Packard GmbH	18. Deere and Company - Europe Ofc.
9. Motorola GmbH	19. Abbot GmbH & Co. KG
10. Proctor & Gamble	20. Intel

(Source: American Chamber of Commerce in Germany "Commerce Germany" October 2006)

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How Do I Get Paid (Methods of Payment)

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The majority of import transactions by German customers, especially those involving large German distributors, take place under seller-buyer terms, such as the common 30/60/90-day accounts, or payment against documents. The most popular payment mechanism by which German importers remit payment to their U.S. suppliers is the electronic funds transfer (EFT, equivalent to SWIFT or wire transfers), the fastest and cheapest way to transfer funds. Current technology makes online transfers reasonably secure and transparent.

The letter of credit is still used in some industry sectors, but now covers a fraction of total imports, largely due to its cost and time requirements, as well as the ease in obtaining credit ratings in Germany, which increases transparency and transactional surety. L/C's for payments under USD 5,000 are almost unseen in Germany. U.S. exporters may also encounter Bills of Exchange, (Wechsel), usually payable within two or three months, but this antiquated payment mechanism is also passing from the scene.

Cash-in-advance is also rare in German import payment, although German's economic doldrums have recently led to an increase of financially strapped firms on whom such terms are imposed.

Both private and public credit insurance are available in Germany. Euler Hermes, Coface, and Atradius are among the private providers (which also offer ranking and scoring services); and the main public insurer is the Staatliche Kreditversicherung (Hermes-Buergschaften), which is administered by Euler Hermes and is used to cover German exports to countries with high political and country risk. United States exporters tend to purchase credit insurance to a much lesser extent than European exporters, due to the relatively greater recourse to factoring in the United States.

Overall, German firms continue to enjoy a relatively good reputation for their payment practices and management of credit. However, the macroeconomic situation in Germany (high structural unemployment, increasing corporate bankruptcies, high public indebtedness, flat growth) has generally increased the probability of defaults by German importers. Critical industries for U.S. exporters are construction, furniture, paper, and publishing. Default risk is somewhat higher for firms in unevenly performing eastern Germany. The U.S. Commercial Service Germany offers the [International Company Profile](#) as a tool to help evaluate the credit-worthiness of potential customers or partners,

and recommends U.S. exporters to consider normal, prudent credit practices in Germany in all transactions.

The Export-Import Bank of the United States (Ex-Im Bank) is the official export credit agency of the United States. The Ex-Im Bank's mission is to assist in financing exports of U.S. goods and services to international markets. The Ex-Im Bank enables U.S. companies -- large and small -- to turn export opportunities into real sales that help to maintain and create U.S. jobs and contribute to a stronger national economy. The Ex-Im Bank does not compete with private sector lenders, but provides export-financing products that fill gaps in trade financing. The bank assumes credit and country risks that the private sector is unable or unwilling to accept and helps to level the playing field for U.S. firms by matching the financing that other governments provide to their exporters. The Ex-Im Bank provides working capital guarantees (pre-export financing); export credit insurance; and loan guarantees and direct loans (buyer financing). Primarily focusing on developing markets worldwide, Ex-Im Bank has recently supported U.S. firms supplying to the world's largest solar energy facility in Bavaria. For further information on Ex-Im Bank's objective and programs please see: <http://www.exim.gov/>.

How Does the Banking System Operate

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Germany has a non-discriminatory, well-developed financial services infrastructure. Germany's universal banking system allows the country's more than 39,000 bank offices not only to take deposits and make loans to customers, but also to trade in securities. The traditional German system of cross-shareholding among banks and industry, as well as a high rate of bank borrowing relative to equity financing, allowed German banks to exert substantial influence on industry in the past. Germany's recent tax reform, however, eliminated the capital gains tax on holdings sold by one corporation to another as of January 2002. This change is considered especially important to promote industrial restructuring, unwind Germany's complex web of interlocking corporate ownership, and rationalize capital allocation.

Private banks control roughly 30% of the market, while publicly owned savings banks partially linked to state and local governments account for 50% of banking turnover, and cooperative banks make up the balance. All three types of banks offer a full range of services to their customers. A state-owned bank, KfW, provides special credit services, including financing homeowner mortgages, providing guarantees to small and medium-sized businesses, financing projects in disadvantaged regions in Germany and providing export financing for projects in developing countries.

Virtually all major U.S. banks are represented in the German market, principally but not exclusively in the city of Frankfurt am Main, Germany's main financial center. A large number of German banks, including some of the partially state-owned regional banks, similarly maintain subsidiaries, branches and /or representative offices in the United States. Germany's major private banks are Deutsche Bank, Commerzbank, HVB, and Dresdner Bank.

Foreign-Exchange Controls

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Practices regarding finance, availability of capital and schedules of payment are comparable to those, which prevail in the United States. There are no restrictions or barriers on the movement of capital, foreign exchange earnings or dividends.

U.S. Banks and Local Correspondent Banks

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Citibank AG
Reutterweg16
60323 Frankfurt am Main, Germany
Telephone: [49] [69] 1366-0
Website: <http://www.citibank.de>

JP Morgan GmbH
Junghofstr. 14
60311 Frankfurt am Main, Germany
Telephone: [49] [69] 7124-0
Telefax: [49] [69] 7124-2209
Web site: <http://www.jpmorgan.com>

Goldman-Sachs & CO OHG
Messeturm
Friedrich-Ebert-Anlage 49
60308 Frankfurt am Main, Germany
Telephone: [49] [69] 7532-1000
Telefax: [49] [69] 7532-2800
Web site: <http://www.gs.com/>

Merrill Lynch Bank AG
Neue Mainzer Strasse 52
60311 Frankfurt am Main, Germany
Telephone: [49] [69] 5899-0
Telefax: [49] [69] 5899-4000
Web site: <http://www.ml.com/>

Project Financing

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Germany possesses the financial framework and institutions to support the development of large infrastructure works. However, the volume of project finance operations has been relatively modest in Germany in comparison to other EU countries, particularly the U.K. or France. Although the rising indebtedness of the German federal state, and local authorities would seem to favor this type of financing, the relatively stagnant economic conditions have also limited anticipated rates of return for potential project finance developers. Other inhibiting factors are Germany's complex juridical and federal frameworks, which make project financed works relatively harder to structure than in other countries. One area that has attracted project finance, including that involving a few U.S. developers and investors, is alternative energy production. Clean and renewable energy projects generally have gained prominence in Germany through the country's commitment to meeting sharply reduced CO2 emission targets.

The principle German institutions active in facilitating project finance deals are the state-owned KfW Bank Group (Kreditanstalt fuer Wiederaufbau), which plays a major role in virtually all industry fields, commercial banks Commerzbank and HVB, and several of the publicly-owned savings banks controlled by state and local governments (Landesbanken) located in northern Germany. The KfW Group includes KfW IPEX-Bank, which supports consortia with German members to design and finance infrastructure projects in Germany and overseas. Another group member, KfW Development Bank (Förderbank), helps municipalities finance infrastructure.

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Export-Import Bank of the United States: <http://www.exim.gov>

Country Limitation Schedule: http://www.exim.gov/tools/country/country_limits.html

OPIC: <http://www.opic.gov>

Trade and Development Agency: <http://www.tda.gov/>

SBA's Office of International Trade: <http://www.sba.gov/oit/>

USDA Commodity Credit Corporation: <http://www.fsa.usda.gov/cc/default.htm>

U.S. Agency for International Development: <http://www.usaid.gov>

European Bank for Reconstruction and Development (EBRD) <http://www.ebrd.com/>

U.S. Commercial Service Liaison Office to the EBRD <http://www.buyusa.gov/ebrd/>

The German Bankers' Association <http://www.bdb.de>

Federal Financial Supervisory Authority <http://www.bafin.de>

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Business Customs

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- Never underestimate the importance of punctuality in German business culture. Arriving even five to ten minutes after the appointed time is perceived as late; a fifteen minute variance would be considered a very serious faux pas and could mean a shaky start to any potential business relationship.
- Be prepared to make an appointment for most things.
- The preferred times for business appointments are between 10:00 a.m. and 1:00 p.m. or between 3:00 p.m. and 5:00 p.m.
- Avoid scheduling appointments on Friday afternoons, as some offices close by 2:00 p.m. or 3:00 p.m. on Fridays.
- Giving compliments is not part of German business protocol and can often cause embarrassment and awkwardness.
- Germans traditionally use: "Wie geht es Ihnen?" ["How are you?"] as a literal question that expects a literal answer, in contrast to the common English usage of "How's it going?" to simply mean "Hi." It may, therefore, be considered strange or superficial to ask the question and keep on moving without waiting for an answer.

Travel Advisory

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Germany remains largely free of terrorist incidents. However, like other countries in the Schengen area, Germany's open borders with its European neighbors allow the possibility of terrorist groups entering/exiting the country with anonymity. Overall, the security risk to travelers in Germany is low.

For the latest security information, Americans traveling abroad should regularly monitor the State Department's Internet web site at <http://travel.state.gov/> where the current

[Worldwide Caution Public Announcement, Travel Warnings and Public Announcements](#) can be found. Up-to-date information on security can also be obtained by calling 1-888-407-4747 toll free in the United States, or, for callers outside the United States and Canada, a regular toll line at 1-317-472-2328. These numbers are available from 8:00 a.m. to 8:00 p.m. Eastern Time, Monday through Friday (except U.S. federal holidays).

Visa Requirements

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A passport is required. A visa is not required for tourist/business stays up to 90 days within the Schengen Group of countries, which includes Germany. Further information on entry visa and passport requirements may be obtained from the German Embassy at 4645 Reservoir Road N.W., Washington, D.C. 20007, telephone (202) 298-4000, or the German Consulates General in Atlanta, Boston, Chicago, Houston, Los Angeles, Miami, New York, or San Francisco, and on the Internet at <http://www.germany-info.org>.

Inquiries from outside the United States may be made to the nearest German embassy or consulate.

United States companies that require travel of foreign businesspersons to the United States should allow sufficient time for visa issuance if required. Visa applicants should go to the following links:

State Department Visa Website: <http://travel.state.gov/visa/index.html>

United States Visas: <http://www.unitedstatesvisas.gov>

United States Embassy Berlin <http://www.usembassy.de>

Telecommunications

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Thousands of miles of high-quality fiber optical cable make the country ready for the applications of the future.

Mobile phones are based on GSM 800 and 1600 Mhz standards. UMTS/IMT 2000 frequencies are 1900 to 2170 MHz.

Transportation

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Travel by plane, train or car meets international standards, but prices exceed U.S. averages. The number of in-country flights has been picking up and the train stations that dot the country provide sufficient access to nearly all cities. Nevertheless, cars are the most popular means of transport and Germany's famous highway system is extensive.

Geographic distances are relatively short, when compared to the United States, but as Germany is much more densely populated than its European neighbors, it may take a little longer to travel the same distance in the FRG than it may take in France or Scandinavia.

Language

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German. In larger towns, many people can communicate in English.

Health

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Good medical care is widely available. Doctors and hospitals may expect immediate payment in cash for health services from tourists and persons with no permanent address in Germany. Most doctors, hospitals, and pharmacies do not accept credit cards.

Medical Insurance: The Department of State strongly urges Americans to consult with their medical insurance company prior to traveling abroad to confirm whether their policy applies overseas and if it will cover emergency expenses, such as a medical evacuation. U.S. medical insurance plans seldom cover health costs incurred outside the United States unless supplemental coverage is purchased.

Local Time, Business Hours, and Holidays

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See <http://www.buyusa.gov/germany/en/holidays.html> for German holidays in 2007.

Central European Time (CET): UTC/GMT +1 hour
Central European Summer Time (CEST): UTC/GMT +2 hours

Daylight saving time in Germany starts on Sunday, March 25, 2007, at 2:00 AM local standard time and ends on Sunday, October 28, 2007, at 3:00 AM local daylight time. See <http://www.timeanddate.com/> for more information.

Temporary Entry of Materials and Personal Belongings

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When bringing professional equipment, such as electronic goods, cameras, and musical instruments, into Germany, it is strongly recommended that you first contact the consulate or embassy in your area for customs information. You might also want to consider purchasing an ATA Carnet. The ATA Carnet, which allows for the temporary, duty-free entry of goods into over 50 countries, is issued by the United States Council for International Business by appointment of the U.S. Customs Service; <http://www.uscib.org/>

Note: Voltage in Germany is 230. Electronic equipment from the United States will require an adaptor.

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Chapter 9: Contacts, Market Research and Trade Events

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Contacts

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A. Country Contacts

Federal Ministry of Economics and Technology
Bundesministerium fuer Wirtschaft & Technologie
www.bmwi.bund.de

Federal Bureau for Foreign Trade Information
<http://www.bfai.de>

Federal Ministry of Finance
Bundesministerium der Finanzen
<http://www.bundesfinanzministerium.de>

B. Country Trade Associations/Chambers of Commerce

Bundesverband der Deutschen Industrie e.V. (BDI)
(Federation of German Industries)
<http://www.bdi-online.de>

Deutscher Industrie und Handelskammertag (DIHK)
(Federation of German Chambers of Industry and Commerce)
<http://www.dihk.de>

Bundesverband des Deutschen Gross- und Aussenhandels e.V. (BGA)
(Federation of German Wholesale and Foreign Trade)
<http://www.bga.de>

Zentralverband Elektrotechnik- und Eletronikindustrie e.V. (ZVEI)
(German Electrical and Electronic Manufacturers Association)
<http://www.zvei.de>

Verband Deutscher Maschinen- und Anlagenbau e.V. (VDMA)
(German Association of Machinery and Plant Manufacturers)
www.vdma.org

Centralvereinigung Deutscher Handelsvertreter- und Handelsmakler-Verbaende (CDH)
(General Association of Commercial Agents and Brokers)
<http://www.cdh.de>

C. Country Market Research Firms

It would exceed the scope of this guide to list even only the major market research or consultant companies. Most of these firms belong to one or both of the following associations and can be contacted through these:

Bundesverband Deutscher Unternehmensberater e.V. (BDU)
(Federal Association of German Consultants)
<http://www.bdu.de>

Arbeitskreis Deutscher Markt- und Sozialforschungsinstitute e.V. (ADM)
(Federation of German Market and Social Research Institutes)
<http://adm-ev.de>

D. Country Commercial Banks

There are numerous domestic and foreign banks represented in Germany; among the largest German institutions are:

Deutsche Bank AG <http://www.deutsche-bank.de>

Dresdner Bank AG <http://www.dresdner-bank.com>

Westdeutsche Landesbank <http://www.westlb.de>

Commerzbank AG <http://www.commerzbank.com>

E. U.S. Embassy Trade Personnel

United States Embassy, Berlin <http://www.usembassy.de>
Commercial Service <http://www.buyusa.gov/germany/en/berlin.html>

U.S. Consulates

Dusseldorf <http://duesseldorf.usconsulate.gov>
Commercial Service <http://www.buyusa.gov/germany/en/duesseldorf.html>

Frankfurt/Main <http://frankfurt.usconsulate.gov>
Commercial Service <http://www.buyusa.gov/germany/en/frankfurt.html>

Hamburg <http://hamburg.usconsulate.gov>
Commercial Service <http://www.buyusa.gov/germany/en/hamburg.html>

Leipzig <http://leipzig.usconsulate.gov>
Commercial Service <http://www.buyusa.gov/germany/en/leipzig.html>

Munich <http://munich.usconsulate.gov>
Commercial Service <http://www.buyusa.gov/germany/en/munich.html>

F. Washington-based USG Country Contacts

U.S. Department of Commerce, International Trade Administration
<http://www.trade.gov>

U.S. Department of State
<http://www.state.gov>

USDA - Foreign Agricultural Service, Agricultural Export Services Division. The website has trade and production statistics, exporter assistance information, marketing information, trade policy news and links to the attaché reports.

<http://www.fas.usda.gov>

U.S. Department of the Treasury

<http://www.ustreas.gov>

Office of the U.S. Trade Representative, Office of Europe and the Mediterranean

<http://www.ustr.gov>

<http://www.useu.be/agri> - the office of Agricultural Affairs at the U.S. Mission to the European Union has a very comprehensive website on EU food laws, import requirements, and duties and quotas.

G. U.S.-based Multipliers

Embassy of the Federal Republic of Germany

<http://www.germany-info.org>

CMA - German Agricultural Marketing Board

North American Office

<http://www.germanfoods.org>

German American Chamber of Commerce Inc. (Headquarters)

<http://www.gaccny.com>

German Representative for Industry and Trade

<http://www.rgit-usa.com>

H. Other Contacts

<http://www.buyusa.gov/germany/en/contact.html> - U.S. Commercial Service Germany's trade specialists can help you identify trade opportunities, find local trading partners, launch your company, and obtain market research reports.

<http://www.export.gov> - U.S. Government Export Portal

<http://www.buyusa.gov/europeanunion> - As EU member states harmonize their regulations and increase their economic integration, a direct connection to the U.S. Commercial Service at the U.S. Mission to the European Union can be the key to success in the EU market.

<http://www.agbc.de> - American-German Business Club

<http://www.agbc-berlin.de> - American German Business Club Berlin

<http://www.amcham.de> - American Chamber of Commerce in Germany

<http://www.useu.be/agri/> - the office of Agricultural Affairs at the U.S. Mission to the European Union has a very comprehensive website on EU food laws, import requirements, and duties and quotas.

<http://www.fas.usda.gov> - The Foreign Agricultural Service website has trade and production statistics, exporter assistance information, marketing information, trade policy news and links to the attaché reports.

Agricultural Affairs Office
American Embassy/Berlin
Clayallee 170
14195 Berlin, Germany
Tel: [49][30] 8305-1150
Fax: [49][30] 8431-1935
Email: Agberlin@usda.gov
<http://www.usembassy.de/germany/fas/index.html>

<http://www.useu.be/agri/> - the Office of Agricultural Affairs at the U.S. Mission to the European Union has a very comprehensive website on EU food laws, import requirements, and duties and quotas.

<http://www.tradestatsexpress.gov> - provides statistical data on trade between the United States and Germany.

<http://www.bundesbank.de> - provides information and key indicators on Germany's economy.

Market Research

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To view market research reports produced by the U.S. Commercial Service, please go to the following website: <http://www.export.gov/mrktresearch> and click on Country and Industry Market Reports. Please note that these reports are only available to U.S. citizens and U.S. companies. Registration to the site is required, but free of charge.

<http://www.buyusa.gov/germany/en/marketresearch.html> - Comprehensive and up-to-date information about the German market and the export potential for U.S. products and services.

<http://www.buyusa.gov/europe/> - The Showcase Europe website of the U.S. Commercial Service provides trade opportunities, new business partners, market research and one-on-one assistance.

http://www.buyusa.gov/europeanunion/tender_search.html - Public Procurement Opportunities in Europe

Agricultural Reports

Attaché Reports

Attaché reports provide information on market opportunities, crop conditions, new policy developments, and information on the German food industry. Some standard reports include: Retail Market Report, Exporter Guide, Food Service Report, and market briefs on wine, seafood, and other select products. Attaché reports can be found at <http://www.fas.usda.gov/scriptsw/attacherep/default.asp> In recent years, many of the

German reports have been consolidated and are submitted as EU reports. We recommend that companies interested in the German market also review the EU reports.

American Food Directory

The Agricultural Affairs Office has produced a food directory entitled "American Foods in Europe (AFE) 2004 Directory of European Importers of U.S. Food and Beverage Products." The AFE directory contains listings of about 200 European companies, from 16 European countries within the EU-25, handling about 500 branded and a wide assortment of generic U.S. food and beverage products available in Europe. The directory is a useful resource for retailers, hotels, caterers, restaurants and others seeking to purchase U.S. food or beverage products but who do not wish to import directly. In addition to a hardcopy, an Internet version of the 2004 Directory is available at www.american-foods.org.

For further information please review the FAS Homepage and the FAS Processed Products Division. The FAS homepage may be visited on line at: <http://www.fas.usda.gov>.

Trade Events

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Please click on the link below for information on upcoming trade events:

<http://www.buyusa.gov/germany/en/events.html>

Directory of important trade fairs in Germany and the U.S.

<http://www.export.gov/tradeevents> Worldwide trade events

Agricultural Trade Shows in Germany

For some of the major trade shows being held in Germany that are dedicated to the food and agricultural sector and products, please see:

http://www.usembassy.de/germany/fas_tradeshows.html

Note: The promotional events listed are provided for informational purposes only. No endorsement should be implied unless specifically stated.

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Chapter 10: Guide to Our Services

The U.S. Commercial Service offers customized solutions to help your business enter and succeed in markets worldwide. Our global network of trade specialists will work one-on-one with you through every step of the exporting process, helping you to:

- Target the best markets with our world-class research
- Promote your products and services to qualified buyers
- Meet the best distributors and agents for your products and services
- Overcome potential challenges or trade barriers

For more information on the services the U.S. Commercial Service offers U.S. businesses, please click on the link below.

<http://www.buyusa.gov/germany/en>

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U.S. exporters seeking general export information/assistance or country-specific commercial information should consult with their nearest **Export Assistance Center** or the **U.S. Department of Commerce's Trade Information Center** at **(800) USA-TRADE**, or go to the following website: <http://www.export.gov>

To the best of our knowledge, the information contained in this report is accurate as of the date published. However, **The Department of Commerce** does not take responsibility for actions readers may take based on the information contained herein. Readers should always conduct their own due diligence before entering into business ventures or other commercial arrangements. **The Department of Commerce** can assist companies in these endeavors.