# Doing Business in Germany:

# 2009 Country Commercial Guide for U.S. Companies




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# Chapter 1: Doing Business in Germany


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## Market Overview Return to top

The German economy is the world's fourth 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.

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 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.

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Real German GDP expanded by 1.3% in 2008 despite the increasing financial turmoil, which began to affect industrial exports; forecasters predict that Germany would register annual economic growth of 1.7% in 2008 and that GDP would decline by more than 2% in 2009. Consumer demand, which had a temporary uptick after years of sluggishness, is declining again. Germany suffered the most dramatic drop in exports of any major Western European economy in 2008. Business confidence indices sank steadily in 2008 in the face of great uncertainty in financial markets. The German economy continues to suffer from structural problems, including over-regulation in labor markets, taxation, and business establishment, as well as high social insurance costs.

The German government's plans for reform have taken a back seat to the more pressing concerns of addressing a major downturn. Most observers believe that additional reforms to enhance Germany's global competitiveness are unlikely to occur before federal elections in 2009.

Persistent high unemployment, particularly long-term (longer than one year) unemployment, has long been among Germany's most serious political and economic problems. The economic growth Germany experienced between 2006 and 2008 rapidly reduced unemployment to levels not seen since before German unification, but forecasters expect a significant rise in unemployment in 2009.

In spite of the deepening crisis, the German labor market displayed remarkably robust growth until year-end 2008 although employment growth flattened during the course of the year. In 2008, the average unemployment rate was 7.8 percent or 3.268 million, down from 9.0 percent or 3.776 million in 2007. This was the lowest average annual unemployment since 1992. In eastern Germany, the average unemployment rate was 13.1 percent, still more than twice as high as in the western part of the country (6.4 percent). For the first time since February 2006, unemployment rose (by 18,000 to 7.6 percent) in December 2008. The number of persons employed rose to a record high of 40.83 million in November 2008 (500,000 more than in November 2007). However, the relative increase of 1.2 percent was the lowest rate of growth since December 2006. Although it often takes several months before the labor market reflects macroeconomic shifts, developments now show that the downturn has reached the labor market. The Federal Employment Agency's Institute for Employment Research (IAB) reversed its more optimistic forecast from October 2008 and projected unemployment figures to rise in 2009, maybe by up to 500,000 or more. The common denominator of most economic forecasts at the beginning of the year 2009 was that non-seasonally adjusted unemployment could exceed 4 million in early 2010 and lift the unemployment rate from slightly under 8 to 9.5 percent.

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 to increase EU member states' competitiveness. The Merkel government has talked about the need for 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.

## Market Entry Strategy

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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 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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Companies wishing to use distribution, franchising and agency arrangements need to ensure that the agreements they put into place are in accordance with European Union (EU) and Member State national laws. Council Directive 86/653/EEC establishes certain minimum standards of protection for self-employed commercial agents who sell or purchase goods on behalf of their principals. In essence, the Directive establishes the rights and obligations of the principal and its agents; the agent's remuneration; and the conclusion and termination of an agency contract, including the notice to be given and indemnity or compensation to be paid to the agent. U.S. companies should be particularly aware that the Directive states that parties may not derogate certain requirements. Accordingly, the inclusion of a clause specifying an alternate body of law to be applied in the event of a dispute will likely be ruled invalid by European courts.

Key Link:
http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31986L0653:EN:HTML

The European Commission's Directorate General for Competition enforces legislation concerned with the effects on competition in the internal market of such "vertical agreements." Most U.S. exporters are small- and medium-sized companies (SMEs) and are therefore exempt from the Regulations because their agreements likely would qualify as "agreements of minor importance," meaning they are considered incapable of affecting competition at the EU level but useful for cooperation between SMEs. Generally speaking, companies with fewer than 250 employees and an annual turnover of less than €50 million are considered small- and medium-sized undertakings. The EU has additionally indicated that agreements that affect less than 10 percent of a particular market are generally exempted as well (Commission Notice 2001/C 368/07).

Key Link:
http://eur-lex.europa.eu/LexUriServ/site/en/oj/2001/c_368/c_36820011222en00130015.pdf

The EU also looks to combat payment delays with Directive 2000/35/EC. This covers all commercial transactions within the EU, whether in the public or private sector, primarily dealing with the consequences of late payment. Transactions with consumers, however, do not fall within the scope of this Directive. In sum, the Directive entitles a seller who does not receive payment for goods/services within 30-60 days of the payment deadline to collect interest (at a rate of 7 percent above the European Central Bank rate) as compensation. The seller may also retain the title to goods until payment is completed and may claim full compensation for all recovery costs.

Key Link: http://ec.europa.eu/enterprise/regulation/late_payments/index.htm

Companies' agents and distributors can take advantage of the European Ombudsman when victim of inefficient management by an EU institution or body.  Complaints can be made to the European Ombudsman only by businesses and other bodies with registered offices in the EU.  The Ombudsman can act upon these complaints by investigating cases in which EU institutions fail to act in accordance with the law, fail to respect the principles of good administration, or violate fundamental rights.

Key Link: http://www.ombudsman.europa.eu/home/en/default.htm

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The EU's general data protection Directive (95/46/EC) spells out strict rules concerning the processing of personal data. Businesses must tell consumers that they are collecting data, what they intend to use it for, and to whom it will be disclosed. *Data subjects* must be given the opportunity to object to the processing of their personal details and to opt-out of having them used for direct marketing purposes. This opt-out should be available at the time of collection and at any point thereafter. This general legislation is supplemented by specific rules set out in the "Directive on the processing of personal data and the protection of privacy in the electronic communications sector" (2002/58/EC). This requires companies to secure the prior consent of consumers before sending them marketing emails. The only exception to this opt-in provision is if the marketer has already obtained the intended recipient's contact details in the context of a previous sale and wishes to send them information on similar products and services.

Key Link: http://ec.europa.eu/justice_home/fsj/privacy/index_en.htm

*Transferring Customer Data to Countries outside the EU*

The EU's general data protection Directive provides for the free flow of personal data within the EU but also for its protection when it leaves the region's borders. Personal data can only be transferred outside the EU if adequate protection is provided for it or if the **unambiguous consent** of the data subject is secured. The European Commission has decided that a handful of countries have regulatory frameworks in place that guarantee the adequate protection of data transferred to them – the United States is not one of these.

The Department of Commerce and the European Commission negotiated the Safe Harbor agreement to provide U.S. companies with a simple, streamlined means of complying with the adequacy requirement. It allows those U.S. companies that commit to a series of data protection principles (based on the Directive), and who publicly state that commitment by "self-certifying" on a dedicated website, to continue to receive personal data from the EU. Signing up is voluntary but the rules are binding on those who do. The ultimate means of enforcing Safe Harbor is that failure to fulfill the commitments will be actionable as an unfair and deceptive practice under Section 5 of the FTC Act or under a concurrent Department of Transportation statute for air carriers and ticket agents. While the United States as a whole does not enjoy an adequacy finding, transfers that are covered by the Safe Harbor scheme will. Companies whose activities are not regulated by the FTC or DoT (e.g. banks, credit unions, savings and loan institutions, securities dealers, insurance companies, not-for-profit organizations, meat packing facilities, or telecommunications carriers) are not eligible to sign up to the Safe Harbor.

EU based exporters or U.S. based importers of personal data can also satisfy the adequacy requirement by including data privacy clauses in the contracts they sign with each other. The Data Protection Authority in the EU country from where the data is being exported must approve these contracts. To fast track this procedure the European Commission has approved sets of model clauses for personal data transfers that can be inserted into contracts between data importers and exporters. The most recent were published at the beginning of 2005; work to update these and develop new ones in ongoing. Most transfers using contracts based on these model clauses do not require prior approval. Companies must bear in mind that the transfer of personal data to third countries is a processing operation that is subject to the general data protection Directive regardless of any Safe Harbor, contractual or consent arrangements.

EU countries' Data Protection Authorities (DPAs) and large multinational companies are also developing a third major approach to compliance with EU rules on transfers of personal data to countries outside the EU. This is based on country-by-country approval of "binding corporate rules" (BCRs). Companies that set up BCRs that satisfy European DPAs will be able to use the presumption of conformity that these approvals provide to transfer personal data from the EU to any location in the world – not just the United States. BCRs can be a tool for compliance with privacy rules on a global scale. The process of negotiation and approval of the BCRs is currently lengthy and complex, and has not been attempted by small or medium-sized companies.

Key Links: http://www.export.gov/safeharbor/
http://ec.europa.eu/justice_home/fsj/privacy/modelcontracts/index_en.htm
http://ec.europa.eu/justice_home/fsj/privacy/workinggroup/wpdocs/2007_en.htm

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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 handicraft (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.

**EU Regulations**

There is a wide range of EU legislation that impacts the direct marketing sector. Compliance requirements are stiffest for marketing and sales to private consumers. Companies need to focus, in particular, on the clarity and completeness of the information they provide to consumers prior to purchase, and on their approaches to collecting and using customer data. The following gives a brief overview of the most important provisions flowing from EU-wide rules on distance selling and on-line commerce. It is worth noting that the EU is currently overhauling its consumer protection legislation. Companies are advised to consult the information available via the hyper-links, to check the relevant sections of national Country Commercial Guides, and to contact the Commercial Service at the U.S. Mission to the European Union for more specific guidance.

***Processing Customer Data***

The EU has strict laws governing the protection of personal data, including the use of such data in the context of direct marketing activities. For more information on these rules, please see the privacy section above.

***Distance Selling Rules***

Distance and Door-to-Door sales

The EU's Directive on distance selling to consumers (97/7/EC) sets out a number of obligations for companies doing business at a distance with consumers.
http://ec.europa.eu/consumers/cons_int/safe_shop/index_en.htm

***Distance Selling of Financial Services***
Financial services are the subject of a separate Directive that came into force in June 2002 (2002/65/EC). This piece of legislation amends three prior existing Directives and is designed to ensure that consumers are appropriately protected in respect to financial transactions taking place where the consumer and the provider are not face-to-face.
http://ec.europa.eu/consumers/cons_int/fina_serv/index_en.htm

***Direct Marketing Over the Internet***
The e-commerce Directive (2000/31/EC) imposes certain specific requirements connected to the direct marketing business. Promotional offers must not mislead customers and the terms that must be met to qualify for them have to be easily accessible and clear. The Directive stipulates that marketing e-mails must be identified as such to the recipient and requires that companies targeting customers on-line must regularly consult national opt-out registers where they exist.
http://ec.europa.eu/internal_market/e-commerce/index_en.htm

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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
- JVs 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.

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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.

**EU Regulations**

The EU public procurement market, including EU institutions and Member States, totals around EUR 1,600 billion. This market is regulated by two Directives:

- Directive 2004/18 on Coordination of procedures for the award of public works, services and supplies contracts, and
- Directive 2004/17 on Coordination of procedures of entities operating in the Utilities sector, which covers the following sectors: water, energy, transport and postal services.

Remedies directives cover legal means for companies who face discriminatory public procurement practices. These directives are implemented in the national procurement legislation of the 27 EU Member States.

The US and the EU are signatories of the World Trade Organization's (WTO) Government Procurement Agreement (GPA), which grants access to most public supplies and some services and works contracts published by national procuring authorities of the countries that are parties to the Agreement. In practice, this means that U.S.-based companies are eligible to bid on supplies contracts from European public contracting authorities above the agreed thresholds.

For more information, please visit the U.S. Commercial Service at the U.S. Mission to the European Union website dedicated to EU public procurement. This site also has a database of all European public procurement tenders that are open to U.S.-based firms by virtue of the Government Procurement Agreement. Access is free of charge. http://www.buyusa.gov/europeanunion/eu_tenders.html

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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/

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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.

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Germany is the European leader in e-commerce and is among the world's most sophisticated markets: Germany, the world's number one exporter, is the largest economy in the European Union and the third largest in the world. As Europe's most populous nation, Germany also has the largest number of Internet users, 41 million people (65 percent of the population) in 2008. 62 percent of German Internet users have used online shops in 2008. More products are sold online than through traditional mail order. The most popular product categories are music, video, travel, tickets, books and consumer electronics. Price, trust and product diversity play a major role in determining where products are purchased. The most popular online shops are ebay.de, amazon.de, tchibo.de and otto.de. A majority of online retailers is also relying on the traditional offline retail channel and 67 percent expect growing e-commerce revenues in 2009 despite the financial crisis

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**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, the Middle East, 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 the protection of 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.

**EU Regulations**

Laws against misleading advertisements differ widely from Member State to Member State within the EU. To respond to this imperfection in the Internal Market, the Commission adopted a Directive, in force since October 1986, to establish minimum and objective criteria regarding truth in advertising. The Directive was amended in October 1997 to include comparative advertising. Under the Directive, misleading advertising is defined as any "advertising which in any way, including its presentation, deceives or is likely to deceive the persons to whom it is addressed or whom it reaches and which, by reason of its deceptive nature, is likely to affect their economic behavior or which for those reasons, injures or is likely to injure a competitor." Member States can authorize even more extensive protection under their national laws.

Comparative advertising, subject to certain conditions, is defined as "advertising which explicitly or by implication identifies a competitor or goods or services by a competitor."

Member States can, and in some cases have, restricted misleading or comparative advertising.

The EU's Audiovisual Media Services Directive lays down legislation on broadcasting activities allowed within the EU. From 2009 the rules will allow for US-style product placement on television and the three-hour/day maximum of advertising will be lifted. However, a 12-minute/hour maximum will remain. Child programming will be subject to a code of conduct that will include a limit of junk food advertising to children.

Following the adoption of the 1999 Council Directive on the Sale of Consumer Goods and Associated Guarantees, product specifications, as laid down in advertising, are now considered as legally binding on the seller. (For additional information on Council Directive 1999/44/EC on the Sale of Consumer Goods and Associated Guarantees, see the legal warranties and after-sales service section below.)

The EU adopted Directive 2005/29/EC concerning fair business practices in a further attempt to tighten up consumer protection rules. These new rules will outlaw several aggressive or deceptive marketing practices such as pyramid schemes, "liquidation sales" when a shop is not closing down, and artificially high prices as the basis for discounts in addition to other potentially misleading advertising practices. Certain rules on advertising to children are also set out.
http://ec.europa.eu/comm/consumers/cons_int/safe_shop/fair_bus_pract/index_en.htm

***Medicine***
The advertising of medicinal products for human use is regulated by Council Directive 2001/83/EC. Generally speaking, the advertising of medicinal products is forbidden if market authorization has not yet been granted or if the product in question is a prescription drug. The Commission plans to present a new framework for information to patients on medicines in 2008. The framework would allow industry to produce non-promotional information about their medicines while complying with strictly defined rules and would be subject to an effective system of control and quality assurance.
http://ec.europa.eu/eur-lex/pri/en/oj/dat/2001/l_311/l_31120011128en00670128.pdf

***Food***
On July 1, 2007, a new regulation on nutrition and health claims entered into force. Regulation 1924/2006 sets EU-wide conditions for the use of nutrition claims such as "low fat" or "high in vitamin C" and health claims such as "helps lower cholesterol". The regulation applies to any food or drink product produced for human consumption that is marketed on the EU market. Only foods that fit a certain nutrient profile (below certain salt, sugar and/or fat levels) will be allowed to carry claims. Nutrition and health claims will only be allowed on food labels if they are included in one of the EU positive lists. Food products carrying claims must comply with the provisions of nutritional labeling directive 90/496/EC.
Nutrient profiles will be developed by January 2009, based on scientific evaluations by the European Food Safety Authority (EFSA). Once they have been set, there will be another two-year period before the nutrient profiles begin to apply to allow food operators time to comply with the new rules. Nutrition claims can fail one criterion, i.e. if only one nutrient (salt, sugar or fat) exceeds the limit of the profile, a claim can still be made provided the high level of that particular nutrient is clearly marked on the label. For example, a yogurt can make a low-fat claim even if it has high sugar content but only if the label clearly states "high sugar content". Health claims cannot fail any criteria.

New products on the EU market must respect the conditions for using nutrition claims set out in detail in the Annex of Regulation 1924/2006. Products already labeled or on the market before January 2007 may remain on the market with the old labels until January 2010. From 2010, only nutrition claims included in the Annex will be allowed. A list of well-established health function claims such as "calcium is good for your bones" will be established by January 2010, based on Member States' lists of health claims already approved at national level. Disease risk reduction claims and claims referring to the health and development of children will require an authorization on a case-by-case basis, following the submission of a scientific dossier to EFSA. A simplified authorization procedure has been established for health claims based on new scientific data. GAIN Report E48055 describes how application dossiers for authorization of health claims should be prepared and presented. A guidance document on how companies can apply for health claim authorizations can be downloaded from EFSA's website at http://www.efsa.europa.eu/EFSA/efsa_locale-1178620753812_1178623592471.htm.
http://ec.europa.eu/food/food/labellingnutrition/claims/index_en.htm

***Food Supplements***

Regulation 1925/2006, applicable as of July 1, 2007, harmonizes rules on the addition of vitamins and minerals to foods. The regulation lists the vitamins and minerals that may be added to foods and sets criteria for establishing minimum and maximum levels.
Key Link: http://useu.usmission.gov/agri/foodsupplements.html

***Tobacco***

The EU Tobacco Advertising Directive bans tobacco advertising in printed media, radio, and internet as well as the sponsorship of cross-border events or activities. Advertising in cinemas and on billboards or merchandising is allowed though these are banned in many Member States. Tobacco advertising on television has been banned in the EU since the early 1990s and is governed by the TV Without Frontiers Directive.
http://ec.europa.eu/health/ph_determinants/life_style/Tobacco/tobacco_en.htm

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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 the B2B relations.

## Sales/Service/Customer Support Return to top

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

**EU Regulations**

Conscious of the discrepancies among Member States in product labeling, language use, legal guarantee, and liability, the redress of which inevitably frustrates consumers in cross-border shopping, the EU institutions have launched a number of initiatives aimed at harmonizing national legislation. Suppliers within and outside the EU should be aware of existing and upcoming legislation affecting sales, service, and customer support.

***Product Liability***

Under the 1985 Directive on liability of defective products, amended in 1999, the producer is liable for damage caused by a defect in his product. The victim must prove the existence of the defect and a causal link between defect and injury (bodily as well as material). A reduction of liability of the manufacturer is granted in cases of negligence on the part of the victim.
http://ec.europa.eu/enterprise/regulation/goods/liability_en.htm

***Product Safety***

The 1992 General Product Safety Directive introduces a general safety requirement at the EU level to ensure that manufacturers only place safe products on the market. It was revised in 2001 to include an obligation on the producer and distributor to notify the Commission in case of a problem with a given product, provisions for its recall, the creation of a European Product Safety Network, and a ban on exports of products to third countries that are not deemed safe in the EU.
http://ec.europa.eu/consumers/safety/prod_legis/index_en.htm

***Legal Warranties and After-sales Service***

Under the 1999 Directive on the Sale of Consumer Goods and Associated Guarantees, professional sellers are required to provide a minimum two-year warranty on all consumer goods sold to consumers (natural persons acting for purposes outside their trade, businesses or professions), as defined by the Directive. The remedies available to consumers in case of non-compliance are:

- repair of the good(s);
- replacement of the good(s);
- a price reduction; or
- rescission of the sales contract.

http://ec.europa.eu/comm/consumers/cons_int/safe_shop/guarantees/index_en.htm

## Protecting Your Intellectual Property

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Several general principles are important for effective management of intellectual property rights in the EU and Germany. First, it is important to have an overall strategy to protect IPR. Second, IPR is protected differently in Germany than in the U.S. Third, rights must be registered and enforced in Germany under EU laws. Companies may wish to seek advice from local attorneys or IP consultants. The U.S. Commercial Service can often provide a list of local lawyers upon request.

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.
http://ec.europa.eu/internal_market/copyright/documents/documents_en.htm

The on-line copyright Directive (2001/29/EC) addresses the 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://eur-lex.europa.eu/pri/en/oj/dat/2001/l_167/l_16720010622en00100019.pdf

***Patents***

EU countries have a "first to file" approach to patent applications, as compared to the "first to invent" system currently followed in the United States. This 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.
http://ec.europa.eu/internal_market/indprop/index_en.htm
http://www.european-patent-office.org

***Trademarks***

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 (EC) acceded to the World Intellectual Property Organization (WIPO) Madrid Protocol. The accession of the EC to 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.europa.eu/
http://www.wipo.int/madrid/en

***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.europa.eu/

***Trademark Exhaustion***

Within the EU, the rights conferred on trademark holders are subject to the principle of "exhaustion." Exhaustion means that once trademark holders have placed their product on the market in one Member State, they lose the right to prevent the resale of that product in another EU country. This has led to an increase in the practice of so called "parallel importing" whereby goods bought in one Member State are sold in another by third parties unaffiliated to the manufacturer. Parallel trade is particularly problematic for the research-based pharmaceutical industry where drug prices vary from country to country due to national price Regulation.

Community wide exhaustion is spelled out in the Directive on harmonizing trademark laws. In a paper published in 2003, the Commission indicated that it had no plans to propose changes to existing legal provisions.
http://ec.europa.eu/internal_market/indprop/tm/index_en.htm

**IPR Resources**

A wealth of information on protecting IPR is freely available to U.S. rights holders. Some excellent resources for companies regarding intellectual property include the following:

- For information about patent, trademark, or copyright issues -- including enforcement issues in the US and other countries -- call the STOP! Hotline: **1-866-999-HALT** or register at www.StopFakes.gov.
- For more information about registering trademarks and patents (both in the U.S. as well as in foreign countries), contact the US Patent and Trademark Office (USPTO) at: **1-800-786-9199**.
- For more information about registering for copyright protection in the US, contact the US Copyright Office at: **1-202-707-5959**.
- For information on obtaining and enforcing intellectual property rights and market-specific IP Toolkits visit: www.StopFakes.gov This site is linked to the USPTO website for registering trademarks and patents (both in the U.S. as well as in foreign countries), the U.S. Customs & Border Protection website to record registered trademarks and copyrighted works (to assist customs in blocking imports of IPR-infringing products) and allows you to register for Webinars on protecting IPR.

## 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

Local service providers focusing on EU law, consulting, and business development can be viewed on the website maintained by the Commercial Service at the U.S. Mission to the European Union at: www.buyusa.gov/europeanunion/services.html

For information on professional services located within each of the EU member states, please see EU Member State Country Commercial Guides which can be found at the following website: http://www.export.gov/mrktresearch/index.asp under the Market Research Library.

## Marketing U.S. Agricultural Products

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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

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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.europa.eu/en/default.htm

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

OHIM Community Design
http://oami.europa.eu/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**


- Computer Software
- Computer and Peripheral Equipment
- Drugs and Pharmaceuticals
- Medical Equipment
- Industrial Chemicals
- Management Consulting Services
- Automotive Parts and Services
- Telecommunications Equipment
- Sporting Goods
- Travel and Tourism
- Biotechnology
- Renewable Energies
- Scientific and Laboratory Instrumentation
- Educational Services
- Farm Machinery and Equipment
- Agricultural Sectors


**Exchange Rate (used throughout this section)**

EUR 1 = USD 1.45

## Computer Software

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| (USD million) | 2007 | 2008 | 2009 (e) |
|---|---|---|---|
| Total Market Size | 20,155 | 21,025 | 21,315 |

The German market for software ranks second in Europe, after the United Kingdom. Growth rates in the 5% range were originally expected for 2009, but due to the global financial and economic crisis analysts were forced to lower their estimates significantly. While some IT users are expected to postpone or cancel some of the planned IT projects, industry insiders expect IT investments to pick up again in the near future, since companies still need to focus on cost reduction, efficiency increase and compliance.

Even though German software companies are very competitive, analysts estimate that approximately 80% of software products sold in Germany are supplied by U.S. companies (the majority of large U.S. software developers have subsidiaries in Germany). In 2007, the largest software companies in Germany accounted for more than USD 10 billion in sales. This represents 50% of the German market. Despite this fact, Germany is still open for imports.

Industry-specific and niche products will continue to find good sales opportunities in Germany. U.S. software products are well accepted and the United States is still widely acknowledged as a supplier of innovative and quality software products. There are no trade barriers obstructing sales of U.S. software. 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** Return to top

Business intelligence software, storage management software, customer relationship management software, IT security software, middleware, databank software, control tools, software as a service (Saas).

**Opportunities** Return to top

The German public sector, along with the banking, insurance, medical and utilities sectors, offers the best opportunities. Despite the fact that the banking sector was badly affected by the financial crisis, financial institutes need to complete or initiate IT projects, due to the strategic role that IT plays in most banking operations.

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

**Resources** Return to top

**German Government Agencies:**
BSI (Federal Agency for IT Security): http://www.bsi.de/english/index.htm

**Trade Fairs:**
CeBIT: www.CeBIT.de
IT Security Trade Show: www.it-sa.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.crn.de

**Commercial Service Contact:**
doris.groot@mail.doc.gov

## Computers and Peripheral Equipment

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| (USD million) | 2007 | 2008 | 2009 (e) |
|---|---|---|---|
| Total Market Size | 28,500 | 29,000 | 29,000 |
| Total Local Production | 11,760 | 12,000 | 12,000 |
| Total Exports | 14,830 | 15,000 | 15,000 |
| Total Imports | 37,000 | 37,000 | 37,000 |
| Imports from the U.S. | 9,185 | 9,200 | 9,200 |

U.S. computer products are generally viewed as innovative, with superior quality and leading edge technology. Germany accounts for approximately one quarter of the EU's total IT market. Assisted by the very weak dollar, the United States retained its 2007 import share of approximately 25% in 2008. The market is expected to stagnate in 2009 due to the overall economic downturn. 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 Prospects/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 and Pharmaceuticals

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### Overview

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| (USD million) | 2007 | 2008 | 2009 (e) |
|---|---|---|---|
| Total Market Size | 23,380 | 23,950 | 24,100 |
| Total Local Production | 35,900 | 37,700 | 39,200 |
| Total Exports | 57,200 | 62,900 | 69,200 |
| Total Imports | 44,680 | 49,150 | 54,100 |
| Imports from the U.S. | 8,100 | 9,072 | 9,080 |

The cash-rich pharmaceutical industry is afloat despite the current economic gloom. Germany continues to be the most important destination for U.S. pharmaceuticals, representing the third largest market in the world after the U.S. and Japan. For 2009 production growth is still expected in a still vastly overregulated market. According to the German "Rote Liste" 2007 drug directory, 8,834 pharmaceuticals of 2,500 active ingredients from more than 500 companies were registered on the German market. The number of available pharmaceuticals in different dosages and concentrations may account for over 40,000 pharmaceuticals registered with the German Federal Agency for Pharmaceuticals, BfArM, in 2007. Synthetic drugs make up 80% of the market. Ireland, the United States, Switzerland, France, the United Kingdom and Italy are the major suppliers to the German market. Germany has roughly 1,031 local pharmaceutical manufacturers, among them 395 biotechnology firms specializing in the development of pharmaceuticals. The exclusion of non-prescription drugs from reimbursement, the expansion of mail order supplies and varied ownership have stimulated competition over the past year. Proposed legislation on drug benefits assessment for new, innovative, patented pharmaceuticals is heavily opposed by the large research-based pharmaceutical manufacturers, including U.S. subsidiaries. They consider the proposed procedure a major threat and barrier to biomedical innovation in Germany since it would impose high costs for additional clinical studies and jeopardize reimbursement of innovative drugs by German insurance funds. Germany registered 11,499 pharmaceutical patents in 2007, an increase of 5.3%, ranking Germany second worldwide after the United States. The sale of generic pharmaceuticals increased by 5.6% in the first quarter of 2008, with growth just below average and generic drug manufacturers increasingly becoming acquisition targets. Generic pharmaceuticals accounted for 60% of the market total in 2008, according to Insight Health. Along with France, Germany has the lead in the homeopathic medicines segment, which should see good growth over the coming months.

### Best Prospects/Services

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Diagnostic and therapeutic drugs for dementia; auto immune diseases; inflammation; oncology; pain management. Vaccines and cell- and bio-therapeutics; biosimilars.

### Resources

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**German Government Agencies:**
German Health Ministry: www.bmg.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:**
CphI: http://www.cphi.com
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 Return to top

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| (USD million) | 2007 | 2008 | 2009 (e) |
|---|---|---|---|
| Total Market Size | 23,960 | 30,990 | 34,000 |
| Total Local Production | 23,800 | 31,100 | 34,200 |
| Total Exports | 15,300 | 16,800 | 18,200 |
| Total Imports | 15,460 | 16,690 | 18,000 |
| Imports from the U.S. | 4,328 | 5,040 | 5,300 |

The German market for medical devices stood at USD 24 billion in 2007, up 6.9% from 2006. Health expenditures in Germany amounted to USD 335 billion in 2007, approximately 10.6% of Germany's GDP. There are about 1,250 local medical device manufacturers, which produced medical devices valued at roughly USD 24 billion in 2007. The market continues to be export-driven, with 64% of local production going into foreign markets. Major barriers to local market expansion are ongoing health reform efforts and cost-containment measures. 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 63 billion in hospitals and doctors' practices. The German medical market defies the financial crisis and expects healthy growth between 5-8% for the next twelve months. Industry experts characterize 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 continue to hold a 28-30% market share, depending on product.

## Best Prospects/Services
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High quality advanced diagnostic and therapeutic equipment. Innovative technologies and minimally invasive equipment, such as laser-optics in vascular surgery, urology, gastrology, dermatology, and neuro-surgery, new diagnostic and imaging devices, as well as specialized wound care and easy-to-use home care products. The trend is toward miniaturization of electro-medical equipment and nano-technology products. Preventive diagnostics and medical products; innovative orthopedic and physiotherapy devices. Biomaterials; cardiovascular and endoscopy products. Natural orifice surgery; novel imaging technologies, e-health, telemedicine and telemonitoring products.

## Opportunities
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As a result of the general need for 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 decreased to 2,087 in 2007. Private hospitals account for 26% of the total. Investment opportunities may arise through a drive toward further hospital privatization and consolidation. Diagnostic and integrated care centers and the combination of practices with private home care may provide additional opportunities.

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**German Government Agencies:**
German Health Ministry: http://www.bmg.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 Medical, Optical and Mechatronic Technologies Industry Association (SPECTARIS): www.spectaris.de
German Hospital Association: www.dkgev.de
Medical Dealers Association: www.zmt.de

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

## Industrial Chemicals
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| (USD million) | 2007 | 2008 | 2009 (e) |
|---|---|---|---|
| Total Market Size | 136,260 | 126,730 | 126,350 |
| Total Local Production | 188,100 | 188,210 | 188,260 |
| Total Exports | 188,000 | 203,150 | 203,430 |
| Total Imports | 136,160 | 141,670 | 141,520 |
| Imports from the U.S. | 15,107 | 15,862 | 16,030 |

The German market offers good opportunities for U.S. chemical exporters. Germany is the largest market in Europe and a major hub for supplying other European countries. In 2007, Germany's total chemical imports reached USD 136 billion, approximately USD 15.1 billion of which originated from the United States, up 10% over the previous year. By the Fall of 2008, the German chemical industry started to be affected by the global financial crisis. While the first half of 2008 showed good growth, the results of the second were disappointing and the fiscal year concluded at pre-year levels. However, insiders anticipate the market to improve by the end of 2009 or early 2010. The outlook for 2010 and onwards is a positive one and predicts a return to healthy growth rates. Demand in the German chemical sector is usually generated by the German processing industries. Approximately 2,000 companies in Germany produce chemicals, among them global players such as Bayer, BASF, and Henkel. Ninety percent of German chemical producers are small to medium in size.

### Best Products/Services
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U.S. manufacturers offering innovative coatings, additives and nano materials have good market prospects in Germany. In addition, biotechnologically-engineered chemical products see a growing market in Europe. Products and processes resulting from a combination of biotechnology and chemistry, the so-called white biotechnology segment, are expected to have good sales potential at moderate cost. Hence, demand for these products is high in Germany. Fields of application are: High performance enzymes for eco-friendly chemical processes (detergents, paper, and textiles production); active ingredients for cosmetics; active ingredients and bio-catalysts for chemical and pharmaceutical production (i.e., building blocks for polymers, fine chemicals, intermediates, or antibiotics).

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**Trade Fairs:**
European Coatings: http://www.european-coatings-show.de/
CphI: http://www.cphi.com
Analytica: http://www.analytica.de/link/en/18285323
**Trade Associations:**
Chemical Industry Association: http://www.vci.de/
Dechema: http://www.dechema.de/en/The+DECHEMA.html

**Commercial Service Contact:**
kirsten.hentschel@mail.doc.gov

3/25/2009

## Management Consulting Services

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| (USD million) | 2007 | 2008 | 2009 (e) |
|---|---|---|---|
| Total Market Size | 19,100 | 21,300 | 23,600 |

(Source: BDU)

Germany is the largest consulting market in Europe, followed by the UK. In 2006, around 73,000 management consultants worked in about 14,250 management consulting firms. About 35% of the consultants work in firms, which achieve revenues below EUR 1 million, and about 34% in large firms with more than EUR 45 million in revenue. These large consulting firms earn nearly half of all revenues in the consulting market.

Management consultants in Germany experienced their most successful year in 2007, with consulting firms of all sizes enjoying revenue growth. The two largest fields are strategic and organizational/process consulting. Consulting firms throughout Germany tend to be located in various regional centers, rather than in one city serving as a national center. Estimates for 2008 and especially 2009 are very difficult due to the economic crisis. The market may shrink by up to 10 percent.

### 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. Many large projects are being canceled or postponed. A demand increase is expected for projects in restructuring, cost-cutting and supply optimization. Six week quick-checks and long-term reorganization projects are expected to grow.

### 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

## Automotive Parts and Services

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| (USD million) | 2007 | 2008 | 2009(e) |
|---|---|---|---|
| Total Market Size | 38,700 | 38,700 | n/a |
| Total Local Production | 46,000 | 46,000 | n/a |
| Total Exports | 18,900 | 18,900 | n/a |
| Total Imports | 11,500 | 11,500 | n/a |
| Imports from the U.S. | 2,000 | 2,000 | n/a |

(Source: GAI)

In 2008, the automobile industry was one of the driving forces behind German economic growth. During the first three quarters of 2008, both domestic demand and exports of German cars increased slightly. 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. At the end of 2008, the German automotive industry was hit by the worst downturn in demand since the late 1950's – demand for parts and services is expected to be negatively affected. Experts anticipate that the German automotive industry will have to face serious challenges until 2013 and are not in a position to provide forecasts for 2009..

### Best Products/Services

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

### Resources

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**Trade Fairs:**
IAA: http://www.iaa.de/
Automechanika: http://automechanika.messefrankfurt.com/frankfurt/de/home.html

**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

## Telecommunications Equipment

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## Overview

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| (USD million) | 2007 | 2008 | 2009 (e) |
|---|---|---|---|
| Total Market Size | 20,900 | 21,100 | n/a |
| Total Local Production | 20,100 | 20,100 | n/a |
| Total Exports | 11,500 | 11,500 | n/a |
| Total Imports | 12,300 | 12,500 | n/a |
| Imports from the U.S. | 2,100 | 2,150 | n/a |

(Source: RegTP, EITO)

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.  Equipment suppliers hope that they can benefit from planned government investment in infrastructure and especially schools.  Due to the economic situation, forecasts for 2009 are not possible at this point in time.

## Best Products/Services

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Broadband equipment and services, W-Lan equipment and services

## Opportunities

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Broadband technologies (DSL and TV cable) will offer considerable opportunities for suppliers of technology and services.

## Resources

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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

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| (USD million) | 2007 | 2008 (e) | 2009 (e) |
|---|---|---|---|
| Total Market Size | 4,205 | 4,226 | 4,247 |
| Total Local Production | 2,868 | 2,883 | 2,898 |
| Total Exports | 1,128 | 1,134 | 1,140 |
| Total Imports | 2,465 | 2,477 | 2,489 |
| Imports from the U.S. | 856 | 860 | 864 |

With 25 million Germans participating in sports activities, Germany is the second largest sporting goods market within the EU and accounted for 19% of the total EU market in 2007 (2003: 21%). The market is anticipated to grow annually by at least 0.5% over the next two years. Germany is the 3rd largest importer within the EU with total imports amounting to USD 2.5 billion, thus accounting for 13% of all EU imports by value. In 2007, the United States was Germany's 10th largest import partner, achieving a 3.2% import market share. With an actual import gain of about USD 186 million between 2001 and 2007, there are excellent opportunities for U.S. sports products manufacturers. The major competitors on the German market include China (53% import market share), Italy (8.9%), Poland (7.8%), the Netherlands (4.3%), France (4.1%), and the Czech Republic (3.2%).

The ten most popular sports in Germany in terms of club membership are soccer (6.3 million), fitness (5.2 million), tennis (1.7 million), track and field (0.9 million), handball (0.8 million), horseback riding (0.8 million), fishing (0.7 million), table tennis and skiing ( both 0.6 million), volleyball and golf (both 0.5 million). Outdoor sports such as climbing, Nordic walking, and hiking have developed into one of the most important sports market segments in the last 15 years and appeal to a large part of the general public. Golf is another sport which has enjoyed a similar boom in recent years.

Team sports accounted for 27% (USD 1.1 billion) of the total sport market in Germany, with soccer (USD 113 million) being the most popular, followed by handball and volleyball. The market for outdoor activities ranks 2nd with 22% (USD 943 million), with camping goods accounting for 42% (USD 396 million) followed by equestrian sports with 30% (USD 283 million). Individual sports activities (e.g., track and field, swimming, combative sports, gymnastics, ice-skating, etc.) rank 3rd with USD 870 million sales, followed by fitness equipment (USD 580 million), winter sports (USD 539 million), and water sports (USD 181 million). While the demand for fitness, outdoor sports, and water sports is expected to increase, sales related to winter sports activities are expected to decline.

## Best Products/Services

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Fitness equipment for physical exercise, gymnastics, or track and field; Footwear (all sports); golf equipment; inflatable balls for soccer, basketball, field hockey, handball; in-line skates; outdoor goods for hiking, climbing, trekking, and Nordic walking activities; roller blades; snow boards.

## Resources

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**Trade Fairs:**
EQUITANA 2009 (Equestrian Sports): http://www.equitana.com
FIBO 2009 (Fitness): http://www.fibo.de/en/index.php
Outdoor 2009: www.european-outdoor.de
EuroBike 2009: www.eurobike-exhibition.de
GOLF Europe 2009: http://www.golf-europe.com/link/en/16206330
ISPO Winter 2010 (Winter Sports): www.ispo-winter.com

**Trade Associations:**
German Sporting Goods Manufacturers Association: www.bsi-ev.com
German Association of Sporting Goods Retailers: www.vds-sportfachhandel.de
European Outdoor Group: www.europeanoutdoorgroup.com
Association of the German Fitness Industry: http://www.vdf-fitnessverband.de
German Golf Association: www.golf.de

**Major Trade Journals:**
www.saz.de
www.outdoor-magazin.com
www.golf.de/journal
www.skimagazin.de
www.wassersport-magazin.com
www.reitsport-markt.de

**Commercial Service Contact:**
dagmar.winkler-helmdach@mail.doc.gov

## Travel and Tourism

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## Overview

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| (USD million) | 2007 | 2008 | 2009 (e) |
|---|---|---|---|
| Expenditure by German Tourists Abroad | 89,900 | 89,175 | 87,725 |
| U.S. Expenditure by German Tourists | 5,156 | 6,700 (e) | 6,700 |

Facilitated by a strong Euro, creative packaging and promotional activities of German tour operators and their U.S. industry partners, German travel to the United States increased 17% in 2008, totaling nearly 1.8 million visitors. 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 and aggressive marketing by other destinations are barriers to development. The "Obama Effect" has already provided positive media coverage for the destination USA and is expected to help influence public perception about the United States to the extent that travel will be positively influenced. Additionally, as other regions in the world lose tourism business due to war, terrorism, natural disasters, etc., the United States is perceived to be a safer destination.

## Best Products/Services

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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

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**Government:**
Entry and visa regulations information
http://germany.usembassy.gov/germany/visa/
https://esta.cbp.dhs.gov
**Trade Fairs:**
Reisen Hamburg, http://www.hamburg-messe.de/reisen
f.re.e Munich, http://www.free-muenchen.de
ITB Berlin, http://www.itb-berlin.com
IMEX Frankfurt, http://www.imex-frankfurt.de
TravelTour & Trends Cologne, http://www.reisemarkt-koeln.de
CMT Stuttgart, http://www.messe-stuttgart.de/cmt

**Other:**
http://www.usa.de German language consumer travel website on United States
http://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) | 2007 | 2008 | 2009 (e) |
|---|---|---|---|
| Total sales related to Biotechnology (incl. the estimated sales of the biotech segments of big pharmaceutical companies) | 26,700 | 30,700 | 33,800 |
| Total sales of German core biotech companies | 948 | 1,003 | 1,055 |

While agricultural biotech applications (in Germany, often referred to as “green biotech”) are controversial, demand for so-called “white biotechnology” applications, which aim to make 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.

The biotech sector in Germany is growing and will continue to grow. Despite the financial crisis, more than 90% of German biotech companies regard their current situation as good or satisfactory. This is revealed in a survey conducted by the Biotechnology Industry Organization of Germany, BIO Deutschland. According to the results of the survey, 2009 investments in research and development, however, are expected to slightly decrease by 7% – while 40% of the firms plan to increase their investment in this area in 2009. According to the results of the survey, one can expect to see a continued increase in jobs in biotechnology during 2009. Half of the surveyed biotech companies stated that they plan to expand the number of employees in the coming year (71% last year). Peter Heinrich, Chairman of the Board of BIO Deutschland said, "The notably more cautious optimism shown in the survey results clearly indicates the increasingly more difficult times facing innovative small and medium-sized enterprises in particular."

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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.

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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/
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:**
nils.roeher@mail.doc.gov

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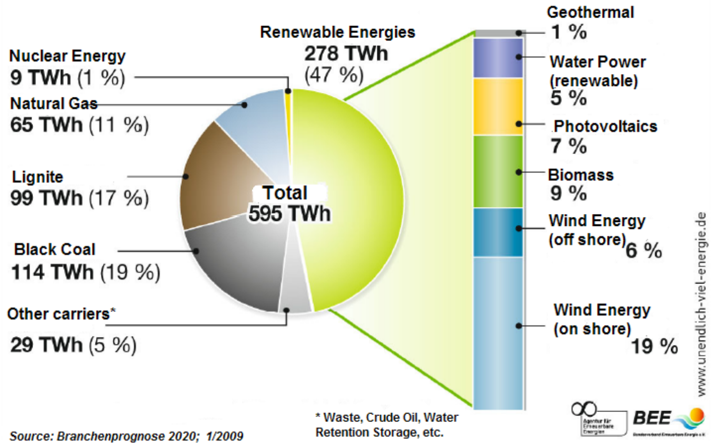
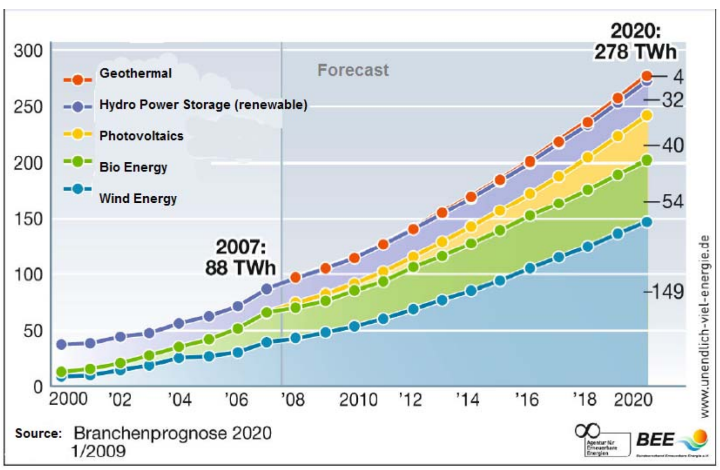
As prices for conventional fuels continue to increase and prices for renewable energy steadily decrease, the renewable energy sector is expected to continue to grow. Electricity generation from renewable energies is substantially based on the German Renewable Energy Sources Act (*Erneuerbare-Energien-Gesetz*, EEG), which is in accordance with European policy (Directive 2001/77/EC). Germany aims for 12.5 percent of electricity to be produced from renewable sources by 2010. Experts forecast as much as 47 percent of German electricity from renewable sources by 2020.

**Forecast of Electricity Mix in 2020 in Germany: 47% of all grid power stemming from Renewable Energy Sources**




**Renewable Energy Electricity Generation Development**




## Wind Energy

Of all renewable energy sources, wind energy will remain the most significant. Until 2020, 25 percent, or 149 TWh, of the entire electric consumption in Germany is expected to be met by wind energy.  Most of this production will be realized on shore, with installed capacities expected to reach 45 GW in 2020 (24 GW in 2008). Off-shore installations are expected to reach 10 GW.

## Bio Energy

Total installed capacity of bio energy power plants is expected to more than double from 4.1 GW (2007) to 9.3 GW in 2020 to reach an electricity production of 54 TWh. The major share will come from biogas, followed by solid biomass (mainly wood and plants), liquid biomass (plant oils), and sewage and landfill gas. Bio energy is expected to be the second largest source for electric power.

**Photovoltaic (PV) Energy**
In 2020, 39.5 GW of installed cells will generate 40 TWh (2007: 4.3 TWh). PV will then generate around seven percent of the electricity used in Germany. To reach these ambitious growth goals, a further increase in efficiency combined with drastic price reductions are necessary, particularly since the feed-in tariffs for power generated by PV installations are subject to an annual digression of eight percent on average. It is expected that PV-generated power will cost as much as 'conventional' power by 2015. According to the German Solar Association (BSW), EUR 2.9 billion will be invested in upgrading or new construction of PV manufacturing plants, and EUR 224 million Euro in additional R & D activities by 2010.

**Hydro Power**
Major investments are expected in the hydro power segment, not only for refurbishing existing facilities and upgrading them to meet environmental standards (e.g., elimination of barriers, installation of fish passes) but also by reactivating decentralized small units.

**Geothermal Energy**
At present, total installed electrical power equals to 7 MW generating 150 Million kWh per year. It is expected that this energy form will reach as much as 6000 MW and 400 Million kWh/year by 2020. 150 designated areas for geothermal exploration have been designated in Germany, some of which allow for the realization of several projects. About 62,000 heat pumps are installed, mostly in private residences. More than half use water-to-water or brine-to-water technology for which vertical drilling or horizontal netting is required. A little less than half use air-to-air heat pump technology, which is expected to carry the highest growth potential.

**Overview** Return to top

| (USD million) | 2007 | 2008 (e) | 2009 (e) |
|---|---|---|---|
| 1) New domestic installations, not including resulting energy generation or sales | 15,950,000 | 18,125,000 | n/a |
| 2) Energy sales generated using renewable energies | 21,025,000 | 24,735,000 | 28,000,000 |
| Total Domestic Market (1+2) | 36,975,000 | 42,860,000 | n/a |
| Total exports (products, parts, manufacturing equipment and services only, not including energy sales) | 13,050,000 | 13,000,000 | 13,500,000 |

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**Trade Associations:**
**Hydro Energy**:
Bundesverband Deutscher Wasserkraftwerke e.V. (BDW): www.wasserkraft-deutschland.de/
**Wind Energy**:
Bundesverband Windenergie (BWE): www.wind-energie.de
**Solar Energy**:
Bundesverband Solarwirtschaft (BSW): www.solarwirtschaft.de
**Geothermal Energy**:
Bundesverband Geothermie (GtV-BV): www.geothermie.de
**Biogas**:
Fachverband Biogas: www.biogas.org
**Renewable Energy:**
Bundesverband Erneuerbare Energie (BEE): www.bee-ev.de
Agentur fuer Erneuerbare Energien: www.unendlich-viel-energie.de

**Government:**
Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU): www.bmu.de , www.erneuerbare-energien.de
German Energy Agency (DENA): www.dena.de
International Renewable Energy Agency (IRENA): www.irena.org

**Trade Fairs:**
**Hydro Energy:**
E-World energy + water, www.e-world-2009.com
**Wind Energy:**
Husum Wind Energy, www.husumwind.de,
Hannover Messe Energy, www.energy-hannover.de
**Solar Energy:**
Intersolar, www.intersolar.de

**Geothermal Energy:**
GeoTherm expo + congress, www.geotherm-offenburg.de
**Biogas:**
Eurotier, www.eurotier.de,
IFAT, www.ifat.de,
Entsorga, www.entsorga-enteco.com

**Renewable Energy:**
Hannover Messe Energy, www.energy-hannover.de
enertec, www.enertec-leipzig.de
E-World energy + water, www.e-world-2009.com
RenExpo, www.renexpo.de

**Commercial Service Contact:**
Andrea.stahl@mail.doc.gov

## Scientific and Laboratory Instrumentation

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| (USD million) | 2007 | 2008 | 2009 (e) |
|---|---|---|---|
| Total Market Size | 8,300 | 8,700 | 9,135 |
| Total Exports | 4,500 | 4,700 | 5,075 |
| Imports from the U.S. | 888 | 900 | 920 |

The German market for scientific and laboratory instruments (S&LI) experienced a steady increase over the last few years and is expected to rise in the 5-6% range in the near future. The market growth for S&LI is supported by growth in the pharmaceutical, nutraceutical and environmental industries, as well as in biotechnology and the food processing industries. Other factors for this positive market development are increased focus on food safety and rising expenditures from the industry into research and development, which are required so that the companies remain competitive.

German suppliers of S&LI equipment are very competitive as they invest above average in research and development (about 8.6% of total sales). Their most important customers are the industry, the public, as well as the pharmaceutical and chemical sectors, which account for roughly 90% of their direct business.

### Best Products/Services

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Laser and opto-electronic instrumentation (primarily for medical applications – applications for the automotive and semiconductor industries are presently declining); Laboratory automation and information systems (LIMS), as well as the broad spectrum of chromatographic technologies; other trends within the S&LI industry are automation, process analysis, and miniaturization.

### Opportunities

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Due to the strong export orientation of German manufacturers (about 55% of the annual production output is exported), the industry depends greatly on imported technologies. Imports derive mainly from European countries (approx. 41%) and from Asia (approx. 26%). However, with 31% imports from the U.S., the United States remains an important foreign supplier of S&LI to Germany.

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**Trade Fairs:**
Analytica (Instrumental analysis, laboratory technology and biotechnology):
http://www.analytica-world.com
Achema (Chemical Engineering, Environmental Protection and Biotechnology):
http://www.achema.de/ACHEMA-lang-en.html

Interkama (Automation technology): http://www.hannovermesse.de/interkama_e
Laser (World of Photonics): www.world-of-photonics.net
Medica**:** www.medica.de
Optatec **(**Optical Technologies, Components, Systems and Manufacturing)**:**
http://www.optatec-messe.com/en/optatec

**Trade Associations:**
Association of German Electrotechnical Manufacturers (ZVEI): http://www.zvei.org
European Optical Society: http://www.europeanopticalsociety.org/
Spectaris (Optical, Medical and Mechatronical Technologies Inc.): www.spectaris.de
VDE (Electrical, Electronic and Information Technologies): http://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
Chemie.de Information Service GmbH: www.chemie.de

Commercial Service Contact:
Doris.Groot@mail.doc.gov

## Educational Services

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| (Students visiting the U.S) | 2007 | 2008 | 2009 (e) |
|---|---|---|---|
| total | 582,984 | 623,805 | 642,436 |
| from Germany | 8,656 | 8,907 | 9,173 |

The United States is home to many of the world's top universities and is a popular destination for students of all subject areas, hosting 623,805 international students of higher education in 2008. Germany is the twelfth leading sender of international students to the United States, sending 8,907 students in 2008, an increase of 2.9% over the previous year. The academic year of 2006 saw 82,174 German students of higher education studying abroad. More than one-third of German students prefer to study in an English-speaking country, with the United Kingdom and United States the most popular destinations. The majority of German students in the United States study at the graduate level.

### Best Products/Services

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| Percentage of Students (%) | Level of Education |
|---|---|
| 37.20 | undergraduate |
| 42.80 | graduate students |
| 4.90 | other |
| 15.10 | OPT (Optional Practical Training) |

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|---|---|

**Associations:**
German Academic Exchange Service www.daad.de
Institute of International Education, Opendoors – Report on International Educational Exchange www.iie.org/opendoors

**Recruitment Fairs**:
QS World MBA Tour, Oct. 26th 2009 in Munich and Oct. 31st 2009 in Frankfurt
www.topmba.com

**Commercial Service Contact**:
Elizabeth.Powell@mail.doc.gov

## Farm Machinery and Equipment

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### Overview

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| (USD million) | 2007 | 2008 | 2009 (e) |
|---|---|---|---|
| Total Market | 8,182.0 | n/a | n/a |
| Ag. Machines (German Production) | 3,037.3 | 3,955.6 | n/a |
| Tractors (German Production) | 3,023.5 | 3,547.9 | n/a |
| Total Exports | 4,493.2 | 5,625.8 | n/a |
| Ag. Machines | 2,111.9 | 2,829.0 | n/a |
| Tractors | 2,381.3 | 2,796.8 | n/a |
| Imports (Total) | 2,121.0 | n/a | n/a |
| Imports from the U.S. | 437.0 | n/a | n/a |

Germany ranks third as a destination for U.S. farm equipment exports after Canada and Australia and before Mexico, the U.K., and Russia. The industry grew by 29% in the first half of 2008 and by 17% in the second half, in comparison to the previous year. The tractor segment increased by 10%, and for other machinery the demand was likewise consistently higher than in previous years. The 2007/2008 harvesting machinery season ended with growth rates of 22% (to 2,365 units) for combine harvesters, 33% for round balers (2,057 units) and 8% for forage harvesters (540 units) in Germany. Even at the end of 2008, unlike other industries, the agricultural machinery industry is not facing an abrupt decline in orders. While business is expected to become more difficult in the large Eastern European markets over course of the year, a better economic environment can still be found in Western Europe.

### Best Products/Services

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Tractors (average performance of 103 kW), ploughs, fertilizer spreaders, combine harvesters, round balers, forage harvesters

### Resources

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**Trade Fairs:**
Agritechnica: www.agritechnica.com

**Trade Associations:**
German Engineering Association (VDMA):
http://www.vdma.org/wps/portal/Home/en/Branchen/A/LT/Wirtschaft_und_Recht?WCM_GLOBAL_CONTEXT=/Home/en/Branchen/A/LT/Wirtschaft_und_Recht&initsearch=
DLG German Agricultural Society: http://www.dlg.org/home-en.html

**Commercial Service Contact:**
bettina.kutsche@mail.doc.gov

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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

| **1** | **Tree Nuts** | **HTP** | | |
|---|---|---|---|---|
| The category of tree nuts includes almonds, pistachios, pecans, hazelnuts and walnuts. Germany does not produce significant quantities of these products, therefore, supply comes primarily from imports. A number of U.S. agricultural 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 2007, U.S. tree nut exports to Germany were valued at $328 million out of a total import value of $1.5 billion. | | | | |
| | | **2006** | **2007** | **2008(e)** |
| | | **MT** | **MT** | **MT** |
| Total market | | 144,800 | 146,300 | 143,400 |
| Production | | * | * | * |
| Total exports | | 41,748 | 56,397 | 49,639 |
| Total imports | | 223,380 | 261,743 | 269,600 |
| Imports from the U.S. | | 60,421 | 65,880 | 71,800 |

| **2** | **Fishery Products** | **FFPD** |
|---|---|---|
| Fish and fishery products enjoy growing popularity in Germany. The two most important fishery products the U.S. exports to Germany are frozen Alaska Pollock and codfish. In 2007, U.S. total exports of fishery products to Germany were valued at $259 million, out of a total import value of $4.3 billion. China is the main U.S. competitor for Alaska | | |

| Pollock and codfish exports. | | | | |
|---|---|---|---|---|
| | | 2006 | 2007 | 2008 |
| | | MT | MT | MT |
| Total market | | 920,300 | 900,800 | 864,700 |
| Production | | 473,361 | 482,000 | 475,600 |
| Total exports | | 541,600 | 527,652 | 511,822 |
| Total imports | | 908,523 | 952,579 | 914,480 |
| Imports from the U.S. | | 55,889 | 77,407 | 71,200 |

| **3:** | **Wine** | **HTP** | | |
|---|---|---|---|---|

Germany is the world's largest importer of wine. In 2007, German wine imports were valued at more than $2.9 billion. Italy, France and Spain are the leading suppliers of wine to Germany with a combined import market share of nearly 78%. U.S. wines, together with other “new-world” wines, have developed an increasingly good reputation for quality in the German market. In 2007, the value of Germany's imports of U.S. wines totaled approximately $68 million.

| | | 2006 | 2007 | 2008(e) |
|---|---|---|---|---|
| | | hl (1,000) | hl (1,000) | hl (1,000) |
| Total market | | 36,428 | 34,620 | 34,014 |
| Production | | 9,005 | 10,361 | 10,500 |
| Total exports | | 3,643 | 3,850 | 3,500 |
| Total imports | | 14,437 | 15,080 | 11,000 |
| Imports from the U.S. | | 372 | 415 | 400 |

| 4: | Pet Food | G&FD | | |
|---|---|---|---|---|
| Germany is one of the leading countries for pet ownership in the world. Germans are willing to pay a premium to properly feed their pets, and interest in specialty health pet food products is growing rapidly. The majority of pet foods are produced domestically and the EU requires pet foods to be derived from meat that is fit for human consumption. In 2007, the value of U.S. pet food exports to Germany totaled $2.9 million, out of a total import value of nearly $842 million. Despite the bureaucratic obstacles, opportunities for exporting pet food products to Germany are available given the considerable size of the market. | | | | |
| | | **2006** | **2007** | **2008(e)** |
| | | **USD Million** | **USD Million** | **USD Million** |
| Total market | | 2,355 | 2,575 | 2,600 |
| Production | | 2,464 | 2,443 | 2,500 |
| Total exports | | 543 | 681 | 800 |
| Total imports | | 775 | 842 | 900 |
| Imports from the U.S. | | 4 | 3 | 6 |

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# Chapter 5: Trade Regulations and Standards


- Import Tariffs
- Trade Barriers
- Import Requirements and Documentation
- U.S. Export Controls
- Temporary Entry
- Labeling and Marking Requirements
- Customs Regulations and Contact Information
- Standards
- Agricultural Products
- Trade Agreements
- Web Resources


## 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://ec.europa.eu/taxation_customs/dds/home_en.htm

A general overview of customs issues can also be obtained by visiting the following web page: http://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.

For information on existing trade barriers, please see the National Trade Estimate Report on Foreign Trade Barriers, published by USTR and available through the following website: http://www.ustr.gov/Document_Library/Reports_Publications/2007/2007_NTE_Report/Section_Index.html?ht.

Information on agricultural trade barriers can be found at the following website: http://www.useu.usmission.gov/agri/usda.html.

To report existing or new trade barriers and get assistance in removing them, contact either the Trade Compliance Center at http://www.trade.gov/tcc or the U.S. Mission to the European Union at http://www.buyusa.gov/europeanunion.

## Import Requirements and Documentation

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The Integrated Tariff of the Community, referred to as TARIC (Tarif Intégré de la Communauté), is designed to show various rules applying to specific products being imported into the customs territory of the EU or, in some cases, when exported from it. To determine if a license is required for a particular product, check the TARIC.

The TARIC can be searched by country of origin, Harmonized System (HS) Code, and product description on the interactive website of the Directorate-General for Taxation and the Customs Union. The online TARIC is updated daily.

Many EU Member States maintain their own list of goods subject to import licensing. For example, Germany's "Import List" (Einfuhrliste) includes goods for which licenses are required, their code numbers, any applicable restrictions, and the agency that will issue the relevant license. The Import List also indicates whether the license is required under German or EU law.

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/Vertretung/usa/en/Startseite.html

The summary declaration is to be lodged by:

- the person who brought the goods into the customs territory of the Community or by any person who assumes responsibility for carriage of the goods following such entry; or
- the person in whose name the person referred to above acted.

Non-EU goods presented to customs must be assigned a customs-approved treatment or use authorized for such non-Community goods. Where goods are covered by a summary declaration, the formalities for them to be assigned a customs-approved treatment or use must be carried out:

- 45 days from the date on which the summary declaration is lodged in the case of goods carried by sea;
- 20 days from the date on which the summary declaration is lodged in the case of goods carried other than by sea.

Where circumstances so warrant, the customs authorities may set a shorter period or authorize an extension of the period.

The Modernized Customs Code (MCC) of the European Union is expected to be passed into law in the first half of 2008. The MCC will replace the existing Regulation 2913/92 and simplify various procedures such as introducing a paperless environment, centralized clearance, and more. Check the EU's Customs website periodically for updates:
http://ec.europa.eu/taxation_customs/customs/procedural_aspects/general/community_code/index_en.htm.

## 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

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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 the U.S. Customs Service: http://www.uscib.org

## Labeling and Marking Requirements Return to top

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, ergonometrics, 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.

An overview of EU mandatory and voluntary labeling and marking requirements has been compiled in a market research report that is available at: http://www.buyusainfo.net/docs/x_4171929.pdf.

The subject has been also been covered in the section about standards (see below).

## 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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Products tested and certified in the United States to American standards are likely to have to be retested and re-certified to EU requirements as a result of the EU’s different approach to the protection of the health and safety of consumers and the environment. Where products are not regulated by specific EU technical legislation, they are always subject to the EU’s General Product Safety Directive as well as to possible additional national requirements.

European Union standards created under the New Approach are harmonized across the 27 EU Member States and European Economic Area countries to allow for the free flow of goods. A feature of the New Approach is CE marking. While harmonization of EU legislation can facilitate access to the EU Single Market, manufacturers should be aware that regulations and technical standards might also function as barriers to trade if U.S. standards are different from those of the European Union.

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.

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Standards setting is a process based on consensus initiated by industry or mandated by the European Commission and carried out by independent standards bodies, acting at the national, European or international level. There is strong encouragement for non-governmental organizations, such as environmental and consumer groups, to actively participate in European standardization.

Many standards in the EU are adopted from international standards bodies such as the International Standards Organization (ISO). The drafting of specific EU standards is handled by three European standards organizations:

- CENELEC, European Committee for Electrotechnical Standardization (http://www.cenelec.org/Cenelec/Homepage.htm)

- ETSI, European Telecommunications Standards Institute (http://www.etsi.org/)

- CEN, European Committee for Standardization, handling all other standards (http://www.cen.eu/cenorm/homepage.htm)

Standards are created or modified by experts in Technical Committees or Working Groups. The members of CEN and CENELEC are the national standards bodies of the Member States, which have "mirror committees" that monitor and participate in ongoing European standardization. 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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Conformity Assessment is a mandatory step for the manufacturer in the process of complying with specific EU legislation. The purpose of conformity assessment is to ensure consistency of compliance during all stages of the production process to facilitate acceptance of the final product. EU product legislation gives manufacturers some choice with regard to conformity assessment, depending on the level of risk involved in the use of their product. These range from self-certification, type examination and production quality control system, to full quality assurance system. You can find conformity assessment bodies in individual Member State country in this list by the European Commission. http://ec.europa.eu/enterprise/newapproach/nando/

**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/index_en.htm

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To sell products on the EU market of 27 Member States, as well as Norway, Liechtenstein and Iceland, U.S. exporters are required to apply CE marking whenever their product is covered by specific product legislation. CE marking product legislation offers manufacturers a number of choices and requires decisions to determine which safety/health concerns need to be addressed, which conformity assessment module is best suited to the manufacturing process, and whether or not to use EU-wide harmonized standards.

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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Independent certification bodies, known as notified bodies, have been officially accredited by competent authorities to test and certify to EU requirements. However, under U.S.-EU Mutual Recognition Agreements (MRAs), notified bodies based in the United States and referred to as conformity assessment bodies, are allowed to test in the United States to EU specifications, and vice versa. The costs are significantly lower which results in U.S. products becoming more competitive. At this time, the U.S.-EU MRAs cover the following sectors: EMC (in force), RTTE (in force), medical devices (in transition), pharmaceutical (on hold), recreational craft (in force) and marine equipment (in force). The U.S. Department of Commerce, National Institute of Standards and Technology (NIST), has a link on its website to American and European Conformity Assessment bodies operating under a mutual recognition agreement. http://ts.nist.gov/Standards/Global/mra.cfm

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 Return to top

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

The Official Journal is the official gazette of the European Union. It is published daily on the internet and consists of two series covering draft and adopted legislation as well as case law, questions from the European Parliament, studies by committees, and more (http://europa.eu.int/eur-lex/lex/JOIndex.do?ihmlang=en). It lists the standards reference numbers linked to legislation (http://www.newapproach.org/Directives/DirectiveList.asp).

National technical Regulations are published on the Commission's website http://ec.europa.eu/comm/enterprise/tris/ to allow other countries and interested parties to comment.

## Labeling and Marking Return to top

Manufacturers should be mindful that, in addition to the EU's mandatory and voluntary schemes, national voluntary labeling schemes might still apply. These schemes may be highly appreciated by consumers, and thus, become unavoidable for marketing purposes.

Manufacturers are advised to take note that all labels require metric units although dual labeling is also acceptable until end of December 2009. The use of language on labels has been the subject of a Commission Communication, which encourages multilingual information, while preserving the right of Member States to require the use of language of the country of consumption.

The EU has mandated that certain products be sold in standardized quantities. Council Directive 2007/45/EC, to replace 80/232/EC in April 2009, harmonizes packaging of wine and spirits throughout the EU. Existing national sizes will be abolished with a few exceptions for domestic producers.
http://ec.europa.eu/enterprise/prepack/packsize/packsiz_en.htm

***The EU Eco-label***
EU legislation in 1992, revised in 2000, distinguishes environmentally friendly products and services through a voluntary labeling scheme called the Eco-label. Currently, the scheme applies to 7 product groups: cleaning products, appliances, paper products, clothing, lubricants, home and garden products and tourism services. The symbol, a green flower, is a voluntary mark. The Eco-label is awarded to producers who can show that their product is less harmful to the environment than similar products. This "green label" also aims to encourage consumers to buy green products. However, the scheme does not establish ecological standards that all manufacturers are required to meet to place product on the market. Products without the EU Eco-label can still enter the EU as long as they meet the existing health, safety, and environmental standards and Regulations.

The EU Eco-label is a costly scheme (up to EUR 1,300 for registration and up to EUR 25,000/year for the use of the label, with a reduction of 25% for SMEs) and has therefore not been widely used so far.  However, the Eco-label can be a good marketing tool and, given the growing demand for green products in Europe, it is likely that the Eco-label will become more and more a reference for green consumers.
http://buyusainfo.net/docs/x_4284752.pdf
http://ec.europa.eu/comm/environment/ecolabel/index_en.htm
http://www.eco-label.com/

## 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. 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 certain conditions.

**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 have not been able to reach agreement on a number of important points during the veterinary equivalency negotiations, particularly in the poultry sector. The most contentious issue is the use of pathogen reduction 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 animals 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 July 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 8% 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 fully implemented 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% 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).

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For a list of trade agreements with the EU and its Member States, as well as concise explanations, please see http://tcc.export.gov/Trade_Agreements/index.asp.

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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.cen.eu

**4. EU Notified bodies:**
http://www.europa.eu.int/comm/enterprise/newapproach/legislation/nb/notified_bodies.htm

**5. Test laboratories:**
http://ts.nist.gov/

**6. DAR - Deutscher Akkreditierungsrat** – (German Accreditation Council)**:**
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/

**BMWA** –(Federal Ministry of Economics and Labor)
http://www.bmwi.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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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 or encryption industries. 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. A new law passed by Parliament in March 2009 broadened these rules and established a procedure similar to the U.S. CFIUS. Industrial policy considerations and lobbying by business interests have occasionally delayed decision-making on investment.

## Conversion and Transfer Policies Return to top

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 20 other European 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 Return to top

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 Return to top

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 Return to top

European Union, federal and state authorities offer a broad range of incentive programs for investors in Germany. Cash Grants under the Joint Agreement for the Improvement of Regional Economic Structures is one available instrument for improving the infrastructure of regional economies and the economy as a whole – a primary objective of the German federal and state governments.

A comprehensive package of federal and state investment incentives, including cash, labor-related, and R&D incentives, interest-reduced loans, and public guarantees is available to domestic and foreign investors. In some cases, there may be performance requirements tied to the incentive, such as employment creation and maintaining a certain level of employment for a prescribed length of time. 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 emphasized investment promotion in the states of the former East Germany and offers several programs only in these regions. The major program is the Investment Allowance Act, which provides tax incentives for investments in the eastern states in the form of tax-free cash payments or tax credits. 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 new EU member countries in 2004 reduced subsidy levels for Germany beginning in 2007. The German states located in former East Germany receive the majority of the EU subsidies allocated to Germany, EUR 15.1 billion, for the budget period of 2007-2013.

Foreign investors are generally subject to the same eligibility conditions as German investors for incentive programs.

**Programs in Germany:** Investment grants: Cash incentives in the form of non-repayable grants usually based on investment costs or assumed wage costs. Incentives vary according to the economic development level of the region and the overall investment costs, with up to 30 percent of eligible expenditures channeled to large enterprises, 40 percent to medium-sized enterprises and 50 percent to small enterprises.

***Credit programs*: loans at below-market interest rates from the Bank for Reconstruction, the European Recovery Program, and other programs for small technology firms and environmental demonstration projects.

***Public guarantees:*** Public guarantees for companies which do not have the securities private banks ordinarily require.

***Labor incentives:*** Recruitment support from 800 local job centers, including of free services, training support, wage subsidies, and on-the-job training.

Firms from the United States and other countries 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 firm can exploit intellectual property rights independent from a parent company
- Preference is given to locating manufacturing facilities in Germany for any production resulting from the research
- The project engages in sponsored research entirely performed in Germany.

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 R&D funding.

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

Germany Trade and Invest
The inward investment promotion agency of the Federal Republic of Germany
Friedrichstraße 60
10117 Berlin, Germany
Telephone: [49][30] 2000 99 0
Telefax: [49][30] 2000 99 111
www.gtai.com

Germany Trade and Invest
1776 I Street, N.W.
Suite 1000
Washington D.C. 20006
Telephone: 202 347 7471
Telefax: 202 347 7473
www.gtai.com

Germany Trade and Invest
401 N. Michigan Ave, Suite 3330
Chicago, IL 60611-4212
Telephone: 312 377 6131
Telefax: 312 377 6134
www.gtai.com

Germany Trade and Invest
201 California St., Suite 450
San Francisco, CA 94111
Telephone: 415 248 1246
Telefax: 415 627 9169
www.gtai.com

Germany Trade and Invest
75 Broad Street, 21st Floor
New York, NY 10004
Telephone: 212 584 9715
Telefax: 212 262 6449
www.gtai.com

Germany Trade and Invest is the new foreign trade and investment agency of the Federal Republic of Germany, formed by the merger of Invest in Germany with the German Office for Foreign Trade in January 2009.

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 determines the definition of "new markets" and can subsequently rule on the entitlement to a regulation-free timeframe. 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 until recently 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. However, the severe economic downturn could potentially decrease the demand for energy and the upward pressure on energy prices. The EU has withdrawn plans to bring charges of price fixing and territorial demarcation against leading German energy utilities after two major German utilities agreed to sell their long-distance power or gas transmission lines, thereby submitting to the EU's unbundling demands. At least one other major German energy utility is expected to follow suit shortly. Legislation to force utilities to accept new competing power stations into their nets went into force in 2007; legislation increasing the authority of the Bundeskartellamt in this sector came into force in 2008. It has used this authority already to force approximately 30 gas suppliers to lower their prices and in many cases to repay customers. As consumers begin to change their suppliers in the electricity market in particular, courts are also increasingly supporting consumers against energy suppliers, especially gas providers. After years of competitive stagnation, some new foreign competitors have entered the power market in recent years and are beginning to move into the gas market.

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 expired on December 31, 2007; full competition now exists in the German postal sector. A new minimum wage law in the postal sector was regarded by some competitors, however, as favoring Deutsche Post (DP) and as leading to the demise of several major competitors.  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.

The planned sale to private investors of just below a 25% blocking minority of the 100% government-owned Deutsche Bahn (DB) did not take place as scheduled in 2008.  The government scaled down from the original privatization plan for just below 50% to just below 25%.  The change was largely due to unresolved disputes between the DB and rail unions and within the CDU/SPD coalition government over the retention of ownership of both rolling stock and the rail network.  The SPD supported DB's position to retain DB control over both rolling stock and the rail network in the midst of increasing grass roots opposition to any privatization at all.  The CDU was also divided, but generally favored unbundling ownership of rolling stock and the rail network for competitive reasons.  On January 1, 2006, the Bundesnetzagentur (BNA) took over responsibility for access and prices issues regarding competitors' access to the railroad network.  Privatization during 2009 will remain difficult, particularly in light of the deepening financial crisis.

## 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 based on EU regulations, which require an EU majority ownership of shares to obtain an operating permit as an EU airline.  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 sufficient, although problems persist due to lenient court rulings in some cases and the difficulty of combating piracy of copyrighted works on the Internet.

In 2008, Germany implemented the EU enforcement directive with a national bill, thereby strengthening the privileges of rights holders and allowing for improved enforcement action.

## Transparency of the 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.

In response to the problem, the federal government continues to reduce bureaucracy. In 2006, the National Regulatory Control Council was established, tasked with policy evaluation and the impact assessment of lawmaking. Based on its findings, the council reports annually and recommends further measures. The federal government also set the target of reducing the costs of law-induced bureaucracy by 25 percent by 2011.

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.

In 2006 the total assets of Germany's 2,089 domestic banks were worth EUR 7.18 trillion. Their assets have shrunk considerably during the most recent financial turmoil, but no exact industry figure is available. The 5 largest banks (Deutsche Bank, Commerzbank, Dresdener Bank, Post Bank, and Landesbank Baden-Wuerttemberg) accounted for over 20% of 2006 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, but in light of the current global financial turmoil, Germany is pushing for even more transparency in international financial markets 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 decreased in recent years in line with global trends. Prior to the global financial crisis, Germany had seen an upswing in M&A transactions given Germany's improved economic condition, the increased financial assets of especially the top 30 companies listed in the German stock exchange "DAX", and the high value of the euro. "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. In 2008, Germany passed legislation that makes private equity firms subject to greater transparency rules including the publication of a business plan for the acquired company.

## Political Violence Return to top

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 Return to top

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 whistle-blowing 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. Transparency Deutschland, the German Chapter of Transparency International, sees a national corruption register as one of its main goals in Germany and a speedy ratification of the UN Anti-Corruption Convention placing bribery of parliamentarians on the same level as bribery of public officials. Federal freedom of information legislation entered into force in January 2006, but is seen by many as ineffective. Several states have introduced their own freedom of information laws. The German government has successfully prosecuted hundreds of domestic corruption cases over the years. Numbers rose especially significantly in the three years. To date, only a small number of , charges have been filed involving the bribery of foreign government officials since the 1999 changes in German law to comply with the OECD Anti-Bribery Convention were enacted. However, the corruption scandal involving Siemens AG with its ongoing litigation and fines and the recent agreement with the Securities & Exchange Commission on an $800 million fine has focused attention on foreign bribery for the first time.

## Bilateral Investment Agreements Return to top

Germany has investment treaties in force with 121 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: Afghanistan; Albania; Algeria; Angola; Antigua and Barbuda; Argentina; Armenia; Azerbaijan, Bangladesh; Barbados; Belarus; Benin; Bolivia; Bosnia and Herzegovina; Botswana; 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; Mozambique; Namibia; Nepal; Nicaragua; Niger; Nigeria; 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; 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:

| Country | Signed | Temporarily Applicable |
|---|---|---|
| Bahrain | 2/5/2007 | |
| Brazil | 09/21/1995 | No |
| Burkina Faso | 10/22/1996 | Yes |
| Egypt | 06/16/2005 | * |
| Guinea | 11/08/2006 | * |
| Israel | 06/24/1976 | Yes |
| Madagascar | 08/1/2006 | * |
| Oman | 05/30/2007 | * |
| Palestine | 07/10/2000 | No |
| Timor-Leste | 08/10/2005 | No |
| Trinidad & Tobago | 09/08/2006 | No |

Germany has signed, but not yet ratified, treaties with the following 2 countries.

| Country | Signed | Temporarily Applicable |
|---|---|---|
| Jordan | 11/13/2007 | * |
| Libya | 10/15/2004 | No |

(*) Previous treaties apply

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

| Country | Signed | Temporarily Applicable |
|---|---|---|
| Poland | 05/14/2003 | N/A – In force as of 10/28/2005 |
| Moldova | 08/26/2003 | N/A – In force as of 06/15/2006 |

Germany does not have a bilateral investment treaty with the United States, but an FCN treaty dating from 1956 remains in force. 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 December 28, the U.S. and Germany ratified the Protocol of June 1, 2006, 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.

## OPIC and Other Investment Insurance Programs Return to top

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 Return to top

The German labor force is generally highly skilled, well educated, disciplined, and very productive. Germany was often seen as unable to institute necessary labor market and social welfare reforms as reflected by notoriously sluggish employment growth and rising unemployment. Recent years, however, saw a complex set of reforms of labor and social welfare related institutions, such as labor market deregulation, cuts of social benefits, more emphasis on active and activating labor market policies and attempts to reduce the burden of payroll taxes and – last but not least – a series of changes in collective bargaining.

The labor-market related reforms implemented by the former SPD/Greens Government have in fact contributed to overcoming structural weaknesses of the German welfare state and creating an institutional setup more conducive to strong employment growth and lower unemployment. Chancellor Angela Merkel's Grand Coalition 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. The government has also encouraged 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 to care for their newborn children to a compensatory monthly payment for one year.

To address ever rising health care costs, Germany implemented numerous health care reforms, most recently in April 2007. The introduction of a Health Fund is the key pillar of reform: Beginning in 2009, insured persons' contributions to the statutory health insurance companies will be standardized. For each insured person, the health insurance companies will receive a flat rate from the Health Fund. At the same time, tax financing of health insurance services, such as contribution-exempt insuring of children of insured parents, will commence. From 2009 onward, insurance will be compulsory for everyone and private health insurance companies will be obliged to accept insured persons at the base rate. While Germany has achieved relative financial stability in its social insurance system, the ongoing debate over a national minimum wage and an alleged rollback of unemployment insurance reforms suggest that the Grand Coalition government will have difficulties pursuing significant additional reforms in the remainder of the legislative term.

The political debate in Germany over the introduction of a national minimum wage has intensified in recent years. Supporters subscribe to three arguments: a minimum wage is needed to ensure fair payment to workers in low wage sector jobs; a minimum wage would stop (indirect) wage subsidies to employers (note: about 1.2 million employees – half of them working full-time – currently qualify for supplemental government benefits due to low wages); and a minimum wage would ensure that employers compete on products/services, and not on low wages.

The critics argue that a national minimum wage would interfere in free collective bargaining, destroy employment, and extend the role of government. Although the coalition government has agreed to allow minimum wages on a sector-by-sector basis if employers and unions in these sectors applied for coverage by March 31, 2008 under the relevant legislation, the SPD-led Labor Ministry and the CSU-led Economics Ministry remain deeply divided over the best possible approach.

After several years of strong growth and rising employment, the global economic downturn has struck the German economy. The German government has repeatedly revised its 2009 growth forecasts downward, and the Economics Ministry is now projecting that Gross Domestic Product (GDP) will shrink by 2.25 percent in 2009. Economic research institutes and private forecasters projected even an greater contraction, ranging from an annual rate of 5 to 7 percent. Exports – the engine of Germany's economic growth – are likely to decline by almost 9 percent or more in 2009. The government's second stimulus package, worth some 50 billion euro, has raised hopes that a fiscal boost may soften the crisis' impact. Economists believe that the package could dampen the expected contraction by 0.5 to 1.0 percentage points, thereby saving up to 250,000 jobs. However, they also warned that the package's impact on employment may not be felt until 2010.

Beginning in November 2008, the German labor market deteriorated quickly, following a record 34-month expansion. German unemployment increased in February 2009 for a fourth straight month as falling exports and a deepening recession prompted companies to cut production and jobs. The number of people out of work rose by a seasonally adjusted 40,000 to 3.311 million, for an adjusted jobless rate of 7.9 percent in February 2009. The more closely watched and politically sensitive seasonally non-adjusted unemployment rate rose by 63,000 to 3.552 million, or 8.5 percent. The three most important indicators of the labor market all moved in a negative direction: unemployment rose, employment decreased and demand for labor further declined. Unemployment is expected to rise to 8.4 percent in 2009, up from 7.8 percent in 2008. Short-time work benefit programs assisted an estimated 670,000 workers in January 2009, up by about 400,000 from the previous month. This steep increase indicated that companies were keeping positions on the payroll. The continuing slump in German exports and decline in business investment, however, signal that unemployment will further increase in the coming months.

Employment growth also slowed and reversed the gains made in recent years. German employment hit a record 40.3 million in 2008, the highest level since German reunification in 1990. Since then, however, major manufacturers have cut working hours, and Germany's key heavy-machinery industry has been hit especially hard, leading some experts to predict further job cuts.

Although a considerable gap in earnings between men and women persists in Germany, special provisions to tackle wage discrimination and to promote equal opportunities were not included in those collective agreements concluded in the first half of 2008.

Since the late 1990s, Germany's system of wage determination through multi-company, industry-wide contracts has become considerably more decentralized. 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 education system for skilled labor, combining on-the-job and in-school training for apprentices, produces many of the skills employers need. There are rigidities in the training system, however, 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. 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, above all of engineers, technical professions and manufacturing trades. 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.

On November 1, 2007, the German government implemented a measure allowing companies to hire electrical and mechanical engineers from the eastern European countries that had joined the EU in 2004 without giving priority to German applicants. Concerns have been raised, however, that the move, intended to ease the skilled labor shortage in Germany, could lead to a "brain drain" in the ten new EU member states. A comprehensive immigration program (a points-based immigration system for skilled workers, such as the Canadian system) is reportedly under consideration.

The increasing demand for skilled labor is resulting in the first staffing problems in some economic sectors. Vacant positions can no longer be filled as quickly as in previous years. Small and medium-sized businesses often have problems finding personnel – they are not as well known and the applicants do not queue up at their doors. Engineering companies and medium-sized businesses are feeling the labor shortage more than large companies, whose personnel departments are able to recruit new employees more easily.

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, total union membership has steadily declined to about 7 million at the end of 2007.

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. Although 2006 and 2007 were years of major industrial conflicts by German standards, the country reports on average a low volume of industrial action compared with other European countries. Labor-management agreements have resulted in relatively few work stoppages (in 2006, about 2.4 days 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 Trade Zones Return to top

There are seven free ports in Germany established and operated under EU Community law: 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 Return to top

According to the U.S. Department of Commerce's Bureau of Economic Analysis, in 2007 German direct investment in the United States was worth $ 203 billion while U.S. direct investment in Germany was worth $107 billion. Foreign investment has been particularly strong in eastern Germany where about 1 trillion Euros have been invested since 1991, of which an estimated 84% came from private, non-government sources. Some 2,000 foreign companies, including 300 U.S. firms, have invested in eastern Germany since reunification.

**Top 20 U.S. Companies in Germany by sales in 2007:**

| | |
|---|---|
| 1. Ford-Werke GmbH | 11. Ingram Micro Holding |
| 2. Adam Opel | 12. TRW Automotive (Gruppe) |
| 3. ExxonMobil Central Europe Holding | 13. McDonald's Deutschland Inc. |
| 4. GE Deutschland | 14. Motorola GmbH |
| 5. IBM Gruppe | 15. MTU Aero Engines Holding AG |
| 6. ConocoPhillips Germany | 16. Goodyear Dunlop Tires Germany GmbH |
| 7. Hewlett-Packard GmbH | 17. Microsoft Deutschland GmbH |
| 8. Philip Morris GmbH | 18. Deere & Company – European Office |
| 9. Dow Gruppe Deutschland | 19. Intel |
| 10. Proctor & Gamble | 20. Abott GmbH & Co. KG |

(Source: American Chamber of Commerce in Germany "Commerce Germany" October 2008)

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# Chapter 7: Trade and Project Financing


- How Do I Get Paid (Methods of Payment)
- How Does the Banking System Operate
- U.S. Banks and Local Correspondent Banks
- Project Financing
- Web Resources


## 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 one of the world's largest solar energy facilities, located 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 communities.

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. Triggered by the international financial crisis, the German Banking sector has seen major consolidation with Commerzbank buying up Dresdner Bank and Deutsche Bank taking over Postbank.

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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Bank of America
An der Welle 5
60322 Frankfurt, Germany
Telephone: 49-69-71001-0
Website: http://www.bankofamerica.com

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/

Morgan Stanley AG
Junghofstrasse 13-15
60311 Frankfurt am Main
Tel: 49-69-2166-0
Telefax: 49-69-2166-2099
Web site: http://www.morganstanley.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 $CO_2$ 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/ccc/default.htm
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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# Chapter 8: Business Travel


- Business Customs
- Travel Advisory
- Visa Requirements
- Telecommunications
- Transportation
- Language
- Health
- Local Time, Business Hours and Holidays
- Temporary Entry of Materials and Personal Belongings


## 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 relations.
- 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 meaning “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/[1] 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 Untied 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 (for train schedules, please see www.db.de). 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 Germany 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.

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

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; www.uscib.org

**Note**: Voltage in Germany is 230. Electronic equipment from the U.S. will require an adaptor.

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# Chapter 9: Contacts, Market Research, and Trade Events


- Contacts
- Market Research
- Trade Events


## Contacts Return to top

**A. Country Contacts**
Federal Ministry of Economics and Technology
Bundesministerium fuer Wirtschaft & Technologie
http://www.bmwi.de

Germany Trade and Invest
http://www.gtai.com

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 |
| Commerzbank AG | http://www.commerzbank.com |
| Bayerische Hypo- und Vereinsbank AG | http://www.hypovereinsbank.de |
| Deutsche Postbank AG | http://www.postbank.de |

**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 |
| Leipzig | http://leipzig.usconsulate.gov |
| 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

**G. U.S.-based Multipliers**
German Missions in the United States
http://www.germany.info

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.amcham.de - American Chamber of Commerce in Germany

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

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

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://germany.usembassy.gov/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.

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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 http://www.american-foods.org/, http://www.fas.usda.gov

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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/

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/find_partners.html

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