

CETA – Product testing from one source facilitates market access

In September 2014, the European Union (EU) and Canada completed the bilateral negotiations regarding a Comprehensive Economic and Trade Agreement (CETA). The Agreement targets to facilitate mutual market access and intensify trade. With its comprehensive and ambitious regulatory approach, CETA sets new standards for modern free trade agreements. The objective of CETA, which is successively eliminating technical barrier to trade, is supported by the VdTÜV (Verband der TÜV e.V. - Association of Technical Inspection Agencies).

Reducing technical trade barriers and regulatory cooperation

CETA contains regulations which, within the framework of a closer regulatory cooperation, aim to lead to greater transparency and to establish ties between the trading partners in the area of technical rules and regulations. In addition, CETA provides for more intensive cooperation between the standardisation committees of the trading partners and their testing, certification and accreditation organisations. With this approach, the TÜV organisations provide to bring their technical expertise to these new bilateral cooperation structures.

CETA envisages that, in the course of extended cooperation, common technical regulations will also be developed between the EU and Canada in the future. In order to design efficient and appropriate regulatory processes the relevant groups of stakeholders should be involved early and fully, especially in the areas of product safety, health and safety and environmental protection. However, the regulatory autonomy of the legislators must be granted on both sides.

As per VdTÜV position, the essential concept of the common regulatory approach has to come with an unconditional and non-discriminatory mutual market access, both in legal terms and in fact. In addition, the regulatory cooperation should at all times follow the highest standards of protection and the international standards (ISO/IEC) while accommodating the precautionary principle.

Recognition of independent conformity assessments

Products that enter the European or Canadian market must be compliant, in other words, they must fulfil the current valid legal and normative requirements. In both economies, some product groups, particularly those with increased risk and hazard potential, require the involvement of independent third-party testing bodies for the assessment of conformity. However, to this day, market access is still restricted due to the fact that testing and certification results are not mutually recognised. Thus, manufacturers currently have no possibility to benefit from comprehensive conformity assessment of a product against the requirements of the target market by a body based in the country of the product's origin. This issue leads to increased administration and expense for the manufacturers and to non-tariff market access barriers.

A separate CETA Protocol¹ now states the mutual acceptance of conformity assessment bodies² and their results³ by the contractual partners for certain product groups⁴. These bodies require accreditation and are designated by the EU member states or by Canada. Thereby, market access will be facilitated in future.

The VdTÜV welcomes the CETA's regulatory approach targeting the overcoming of present obstacles to the acceptance of conformity assessments and the recognition of bodies registered in the product country of origin. In the near future, for instance, an independent conformity assessment body registered in the EU will be able to assess certain products for not just the European but also the Canadian market. By so-called one-stop shopping conformity with the legal and normative requirements applying in Canada will be assessed at the body's own national location. Such a body has to demonstrate its competence through valid accreditation by an accreditation body recognised by Canada.⁵ This is in accordance with the system used in Europe, where competence is confirmed by a national accreditation body.⁶ The official German accreditation body (DAkKS) should, in the course of the implementation of CETA, promptly make the necessary arrangements for an official admission as a competent accreditation body⁷ on the part of Canadian authorities.

The regulatory approach described above will facilitate market access in Canada, especially for small and medium sized enterprises. Moreover, it will provide for some manufacturers for a first market access, as they will already be able to have the conformity of their products with the Canadian requirements comprehensively assessed by an accredited independent body at their local European base. Consequently, they will no longer be obliged twice to take the complex path of conformity assessment by a local body in Canada. The VdTÜV therefore argues for an incorporation of the regulations corresponding to CETA Chapter 27 into the Transatlantic Trade and Investment Partnership between the European Union and the USA (TTIP).⁸

1 CETA - Chapter 27, "Protocol on the mutual acceptance of the results of conformity assessment"

2 Cf. Chapter 27, Article 3

3 Cf. Chapter 27, Article 9

4 Cf. Chapter 27, Article 1, No. 1 und ANNEX 1

5 Cf. Article 3, No. 1 a) und b)

6 Regulation (EC) No. 765/2008 on Accreditation and Market Surveillance

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:218:0030:0047:en:PDF>

7 Cf. Chapter 27, Articles 12 and 15

8 Cf. VdTÜV position paper 'Making TTIP a success', available at: http://www.vdtuev.de/en/dok_view?oid=516465