

## CEMA – European Agricultural Machinery Industry Association

### Position on EU-US: Call for proposals for regulatory cooperation activities

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#### Introduction

As the European agricultural machinery industry association, CEMA represents over 4,500 manufacturers, both large multinational companies and European small and medium-sized enterprises (“SME”s), through 11 national member associations. CEMA members produce more than 450 different machine types and generate an aggregated turnover of more than EUR 26 billion. 135,000 people are directly employed in the sector, with a further 125,000 people working in distribution and maintenance.

CEMA welcomes the new free trade agreement talks between the European Union and the United States following President Juncker and President Trump’s Joint Statement last July in Washington D.C. CEMA also welcomes the scope of these negotiations on conformity assessment and the elimination of tariffs for industrial goods.

In recent years, CEMA actively contributed to the former TTIP negotiation process and participated as a formal stakeholder during the fifth, six and seventh round of TTIP consultations with the EU and US chief negotiators. On these occasions, CEMA published several position papers which are still relevant for the new EU-US negotiations, though the political and international context has changed over the past two years.

CEMA hopes that current trade tensions between the EU and US deescalate through constructive dialog and a positive trade agenda in order to avoid a cycle of restrictive measures. Trade restrictions between the largest economic and most integrated trade partners in the world would only harm American and European consumers, farmers, workers as well as manufacturers.

The EU and US markets for agricultural machinery are closely interconnected as several manufacturers produce equipment in both markets. In addition, many European companies export machinery produced in Europe to the US and vice versa. The key barriers that hamper trade in agricultural machinery between the EU and the US are mainly regulatory divergences and technical barriers to trade (TBT). High tariffs are less an issue for the agricultural equipment manufacturers than for other industries as they tend to no-tariff for mounted-equipment and 5% tariff as an average for parts and components. However, the US’s imposition of Section 232 tariffs on steel (25%) and aluminium (10%) imports has negatively impacted agricultural equipment manufacturers with globally integrated supply chains due to increased steel and aluminium prices. These tariffs remain an obstacle to a successful conclusion of the current talks as does the threat of new Section 232 tariffs on autos and auto parts, which could have a significant impact on agricultural equipment manufacturers as many components and parts share common tariff codes with auto parts. The July Joint Statement makes clear that current talks are based on the condition that the US will impose no new tariffs or taxes on EU exports, including on autos and auto parts. EU Commissioner Malmström has also clearly stated that the conclusion of negotiations on the elimination of industrial tariffs is dependent on the US lifting its current measures on EU steel and aluminium, in place since June 2018.

CEMA supports the joint declaration and any future EU-US harmonisation of the use of international standards as the key barriers hampering EU-US agricultural machinery trade are technical barriers to trade (“TBT”).

To make a future EU-US FTA successful for our industry, CEMA believes it is essential to remove existing TBTs and achieve a greater and coordination of relevant regulatory provisions between the EU and US as part of the agreement.

## 1. Conformity assessment a first step towards regulatory cooperation

**CEMA welcomes the recent Council decision authorising the European Commission to open negotiations of an agreement with the US on conformity assessment.**

**CEMA fully shares the following views embedded in the Commission’s mandate on conformity assessment:**

*“The European Union and the United States have their respective practices of conformity assessment to ensure that manufacturers can only place a product on the market when it meets all the applicable requirements to ensure that unsafe or otherwise non-compliant products do not find their way to their respective markets. These may include testing, inspection and certification. Differences in approaches to conformity assessment can result in additional costs and lengthy and complex administrative processes without necessarily improving the safety of products. In case of mandatory third party conformity assessment (approximately 70% of cases in the United States), enabling exporters to seek certification in the country of export of products to prove compliance with the applicable rules in the country of importation can facilitate trade. (...) Costs of conformity assessment can thus be significant for EU exports in particular in key sectors such as machinery and equipment. The reduction in the costs of conformity assessment can bring significant economic benefits, in particular for small and medium-sized enterprises (SMEs) who are disproportionately affected by them”.*

These observations are very close to CEMA’s recommendations in 2014 during the TTIP negotiations.

Regarding testing methods: it is important to achieve comparable levels of predictability in technical provisions including use of common standards in support of legislation on both sides of the Atlantic and at all territorial levels (e.g., promotion of common technical standards such as international ISO-CEN Standards or UN-ECE Regulations). It is also important that the parties work towards alignment of existing requirements and test protocols, so to ensure that the same product may be accepted everywhere (in EU & US).

At that time CEMA also emphasized that **mutual recognition of test results will not work and would be a disadvantage for our industry without harmonisation of standards**. This sentence remains valid and should be considered in the general context of regulatory divergences and technical barriers to trade (TBT).

EU-US negotiations should focus on high impact issues for our industry: such as braking, steering, lighting and environmental systems, where the cost of additional testing is particularly high.

Reaching an agreement on regulatory cooperation of the requirements for approval of testing services with assurance of a high quality of performance on both sides of the Atlantic would be beneficial. The lack of harmonization of test results requires companies to undergo revolving certification processes with a heavy cost burden.

## 2. Going beyond conformity assessment: removing technical barriers to trade

In order to be meaningful for the agricultural machinery industry, the future EU-US FTA should build upon greater cooperation:

- To assess boost regulatory cooperation and eliminate regulatory divergences where possible.
- To effectively avoid the emergence of new Technical Barriers to Trade.

Concrete institutionalised transatlantic mechanisms for cooperation are the key tools to facilitate such technical cooperation in subjects and sectors where industry on both sides of the Atlantic is willing to engage in joint work.

The process should aim for greater alignment on both technical issues of societal nature (e.g., the determination of common engine emissions limits and test protocols) as well as specific technical provisions including standards. As for exhaust emission limits, EU emissions legislation was aligned with US EPA regulations until 2014 when they began to diverge. EU Stage III/IV requirements were harmonized to a large degree with the US Tier 3/4 standards. However, at Stage V the harmonization has been largely lost.

CEMA is greatly concerned that through new regulations these limits and test protocols could differ once again between the EU and the US after 2020, when the EU Commission will produce a report on further pollutant emissions reduction potential, and the identification of potentially relevant pollutant types that do not fall within the scope of the Stage V regulation. CEMA calls for a fruitful dialog between the EPA and the EU Commission so that no unnecessary costs and administrative burden are created for our industry.

Looking forward, EU-US regulatory divergences could impact future business of the agricultural equipment industry, noticeably in the following areas:

- Digitalization
- Electrification
- Autonomous vehicles
- Robotic
- Artificial intelligence
- Cloud-based data exchanges
- Cybersecurity

For these reasons CEMA is of the opinion that the EU-US relationship needs a strong framework and processes to define the fundamental conditions of regulatory cooperation through the establishment of a Transatlantic Regulatory Cooperation Council.

### 3. Establishing a Transatlantic Regulatory Cooperation Council

Since the early 2000s, CEMA has advocated for the establishment of a Transatlantic Regulatory Cooperation Council. This position was first discussed within the Transatlantic Business Dialogue (TABD) which included EU and US officials as well as industry representatives. At that time, the concept was well received and later partially integrated into the TTIP negotiations.

Both EU and US positions have evolved since then. One envisaged option during the negotiations between the two parties would have been the following: any industrial product being placed on the US or EU market should have free-access to both markets. CEMA acknowledges that EU internal market rules do not allow full-reciprocity. In other words, it would be extremely difficult to get mutual recognition of already existing and divergent standards between the EU and the US without dismantling the existing EU legal order. That's certainly the reason why both trade partners limited the scope of their negotiations to conformity assessment. Ultimately, it should be possible to place a product with the same technical content and fulfilling equivalent technical requirements, in both EU and US markets.

However, CEMA is still of the opinion that formal regulatory cooperation between the EU and the US is possible for future regulations and standards. This cooperation should be sought through an institutionalised dialogue by establishing a Transatlantic Regulatory Cooperation Council.

Such a Council would enable a transparent and structured dialogue between regulators on both sides of the Atlantic, industry experts inclusive of other key stakeholders related to key technical issues on regulatory cooperation and coordination.

The Transatlantic Regulatory Cooperation Council (TRCC) would analyse and address the challenges and gaps of the regulatory status quo.

It would provide a forward-thinking element to ensure coherence and streamlining of requirements in future legislation. Future regulatory changes should be assessed with regards to their possible impact on, among other things, transatlantic trade, and future legislation/revisions of existing legislation should be developed with the input and, ideally, the consensus, of both parties in mind.

Within the future TRCC, CEMA also proposes setting up a dedicated Sectorial Regulatory Cooperation Working Group for Agricultural Machinery.

As regards the agenda of the Sectorial Regulatory Cooperation Working Group for Agricultural Machinery, the following issues should be addressed as a matter of priority:

- **Focus on high impact issues:** such as braking, steering, lighting, etc. where the cost of additional testing or, in some cases, of diverging requirements is particularly high. Here, regulations regarding testing methods differ significantly on both sides of the Atlantic, albeit only on rather minor technical details. This makes compliance unnecessarily costly.
- **Review and harmonisation of standards:** it should be recognised that a long tradition exists in the development of ISO standards on technical requirements which take into account the regulatory frameworks and sensitivities of both sides. An overall assessment and review of international standards (ISO, UNECE Regulations) should be performed to detect existing harmonised areas and those areas where further harmonisation of the respective regulation on agricultural machinery is needed. This could be part of a broader, long-term commitment of US and EU regulators to use more standards developed in close connection with IEC and ISO.

• **Find consensus on common requirements and officially recognize the need for mutual cooperation and consultation prior, or parallel to, any legislative revisions that may affect agricultural machinery.** As part of this exercise all technical legislation should be screened systematically to assess where consensus is possible. Also, risk assessments and technical requirements should be harmonized as much as possible. When a risk assessment is structurally done in the same way, it will be easier to find consensus on more specific requirements. Mutual acceptance should therefore be achieved for fundamental standards such as ISO 12100, ISO 13857, ISO 13849-1 and ISO 14122.

This institutionalised dialogue would eventually help nurturing a higher level of trust among EU and US partners.

### Conclusion: fostering trust among trade partners

CEMA welcomes the perspective of a quick and successful EU-US free-trade agreement on industrial goods and regulatory cooperation. CEMA sees this potential EU-US FTA as an indispensable step for fostering trust among the two partners and broader trade cooperation.

### ABOUT CEMA

CEMA ([www.cema-agri.org](http://www.cema-agri.org)) is the association representing the European agricultural machinery industry. With 11 national member associations, the CEMA network represents both large multinational companies and numerous European SMEs active in this sector.

CEMA represents about 4,500 manufacturers, producing more than 450 different machine types and generating an aggregated annual turnover of more than EUR 28 billion. 135,000 people are directly employed in the sector, with a further 125,000 people working in distribution and maintenance.

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