
Comments by the German Chamber of Commerce and Industry (DIHK) on the Section 301 Investigation Relating to Structural Excess Capacity and Production in Certain Manufacturing Sectors

The German Chamber of Commerce and Industry (DIHK) respectfully submits the following comments in response to the Office of the United States Trade Representative's (USTR) investigation under Section 301 of the Trade Act of 1974 concerning alleged structural excess capacity and production in certain manufacturing sectors by specific foreign economies, including the European Union and Germany.

The DIHK rejects the premise that the European Union or Germany are artificially developing structural excess capacity or expanding production in ways untethered from domestic or global demand. European – and specifically German – industrial output has evolved in response to historic global demand patterns, consistent with the principles of comparative advantage and gains from trade. Made in Germany – an internationally recognized label for first-rate quality – has developed over a long time to become a global standard that has stimulated demand for German products across the globe.

At the same time, German production is not supported by domestic policy measures that distort demand, enforce capacity growth, or subsidize inefficient excess production. Although a bilateral trade surplus exists between Germany and the United States, this surplus does not arise from structural overcapacity, sustained state intervention, or policy induced incentives to maintain idle or inefficient production. Rather, Germany's industrial capacity is the result of market competition, as German companies strive to meet consumer demands from all over the world.

Industrial capacity in Germany and Europe has been scaled back in many sectors in response to changing market dynamics and global competition. Capacity utilisation among European and German industrial firms is below average, standing at just 77% in January 2026. At the same time, German industry for years has reacted to shifts in global demand and in thus has reduced production capacity in Germany: Industrial production is now 18% below 2018 levels, industrial investment in machinery and equipment is 17% below 2018 levels.

German companies do not unfairly benefit from any of the following measures implemented by Germany and the EU, as neither jurisdiction

(1) Promotes production or exports detached from market forces through subsidies as state aid is presumptively prohibited under Article 107 of the Treaty on the functioning of the European Union (TFEU). This system ensures that any public support for German and European companies remains targeted, proportionate, transparent, and time limited, not a vehicle to sustain unused capacity.

(2) Suppresses domestic wages, established by the EU Minimum Wage Directive (EU) 2022/2041 which strengthens adequate minimum wages and collective bargaining coverage, and requires Member States to promote wage setting frameworks that uphold purchasing power, not suppress it. In Germany, the Minimum Wage Act (MiLoG) provides a statutory floor and a tripartite commission that reviews adjustments – again, a system that protects wage adequacy rather than suppresses it. These measures affect all companies operating in European Union and Germany equally.

(3) Relies on non-commercial activities of state-owned or state-controlled enterprises, as EU competition rules apply equally to public and private undertakings. Article 106 TFEU requires Member States not to enact or maintain measures contrary to Treaty competition rules in respect of public undertakings or those with special/exclusive rights.

(4) Maintains sustained market access barriers. The EU's tariff regime is low and predictable: the EU's simple average MFN applied tariff is about 5%, with a large share of MFN duty-free lines; Eurostat notes that around 72% of imports entered at zero tariff in 2023 – evidence of broad openness rather than persistent barriers, which all companies with business in the EU benefit from.

(5) Lowers standards in labor, environmental protection, or social policy to reduce costs: The EU framework sets high labor and social standards for our companies and cannot be characterized as cost-cutting through lax protections.

(6) Provides subsidized lending or engage in financial repression, as the EU protects open capital markets and central bank independence constraining any possible financial repression strategies. Furthermore, the European Central Bank's mandate is price stability, and the European Treaties prohibit monetary financing. These provisions prevent below market financial favoritism via the central bank and underpin a market-based credit system available to all companies.

(7) Manipulates currency practices, as the Euro is a freely floating currency and the ECB does not target the exchange rate and is independent under Article 130 TFEU.

These practices stand in clear contrast to policy actions observed in certain other foreign economies.

Rather than benefiting from structural overcapacity, European companies operate under EU Instruments that are systematically applied to address non-market capacity and distortive subsidisation originating outside the EU. Two frameworks are central in this regard:

- The Basic Anti Subsidy Regulation-Regulation (EU) 2016/1037 which enables the European Commission to investigate subsidised imports and, where warranted, impose countervailing measures in line with WTO rules.
- The Foreign Subsidies Regulation (EU) 2022/2560 which empowers the Commission to screen and remedy distortive foreign subsidies affecting concentrations, public procurement, and other market conduct in the Single Market, including via ex officio investigations.

Public enforcement reporting further shows that the Commission has operationalised the FSR, underscoring that the EU polices foreign subsidisation rather than contributing to it.

German companies share the same issues as US business regarding overcapacities by nonmarket economies, specifically state-owned enterprises. The German business community strongly supports joint efforts in tackling unfair trading practices at the WTO, through the OECD, plurilateral and bilateral cooperation.

Germany is one of the largest foreign direct investors in the United States, with \$677 billion held through U.S. subsidiaries. To date 6200 German companies create close to 1 million jobs in the United States. Taken together, these dynamics demonstrate that the US and European economies operate as integrated production systems rather than competitors characterized by excess capacity. German investment directly creates American jobs and supports US industrial activity, while US inputs are embedded in European exports. Measures such as additional duties would therefore risk undermining a mutually beneficial investment and supply chain integration, rather than addressing any market-distorting overcapacity from third countries.

Furthermore, from a business perspective, it is an unwarranted assumption that German companies use products made with lower labor or environmental standards or even forced labor to gain an unfair competitive advantage over U.S. firms.

In conclusion, German companies are not operating under any unreasonable or discriminatory acts, German or EU policies, or practices that burden or restrict U.S. commerce. The DIHK respectfully submits that the criteria for Section 301 action are not met.

Accordingly:

- No action should be taken against the European Union or Germany under this investigation; and

- No additional duties or import restrictions should be imposed on goods of European origin.

The DIHK encourages continued cooperation to strengthen transatlantic supply chains and mutually beneficial investment, particularly through the mutual reduction of trade barriers, including tariffs.

Who we are:

The German Chamber of Commerce and Industry (DIHK) is the umbrella organisation of the 79 Chambers of Industry and Commerce (IHKs) in Germany. Together, they represent the interests of more than three million companies from industry, trade and services – from small local businesses to globally active corporations. Their shared objective is to ensure the best possible conditions for successful business.

At the national level, the DIHK consolidates the positions of the IHKs through a formal, statutory-based process. It represents the overall interests of the German business community vis-à-vis policymakers, public authorities and the wider public. At both the federal and European levels, the DIHK advocates for competitive framework conditions, including reduced bureaucracy, open markets and modern infrastructure.

The DIHK serves as a platform for the diverse perspectives of its member companies. Its analyses and statements reflect a broad range of views, including minority positions, in order to provide policymakers with a comprehensive and balanced picture. In this way, the DIHK contributes to informed and credible economic policy debates in Berlin and Brussels.

Entrepreneurs play a central role in shaping the DIHK's positions through their engagement in statutory and voluntary bodies such as general assemblies and committees. Their work is supported by more than 200 staff members in Berlin and Brussels. The DIHK's Chief Executive Officer, appointed by the General Assembly, is responsible for day-to-day operations.

In addition to its national role, the DIHK coordinates a global network of more than 150 German Chambers of Commerce Abroad (AHKs), delegations and representative offices in over 90 countries, supporting German businesses worldwide.