GERMANY

INVESTMENT CLIMATE STATEMENT

2015

Table of Contents

Executive Summary

1. Openness To, and Restrictions Upon, Foreign Investment

1.1. Attitude Toward FDI

1.2. Other Investment Policy Reviews

1.3. Laws/Regulations of FDI

1.4. Industrial Strategy

1.5. Limits on Foreign Control

1.6. Privatization Program

1.7. Screening of FDI

1.8. Competition Law

1.9. Investment Trends

1.9.1. Tables 1 and if applicable, Table 1B

2. Conversion and Transfer Policies

2.1. Foreign Exchange

2.1.1. Remittance Policies

3. Expropriation and Compensation

4. Dispute Settlement

4.1. Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

4.2. Bankruptcy

4.3. Investment Disputes

4.4. International Arbitration

4.4.1. ICSID Convention and New York Convention

4.5. Duration of Dispute Resolution

5. Performance Requirements and Investment Incentives

5.1. WTO/TRIMS

5.2. Investment Incentives

5.2.1. Research and Development

5.3. 5.3 Performance Requirements

5.4. Data Storage

6. Right to Private Ownership and Establishment

7. **Protection of Property Rights**
   7.1. *Real Property*
   7.2. *Intellectual Property Rights*
8. **Transparency of the Regulatory System**
9. **Efficient Capital Markets and Portfolio Investment**
   9.1. *Money and Banking System, Hostile Takeovers*
10. **Competition from State-Owned Enterprises**
   10.1. *OECD Guidelines on Corporate Governance of SOEs*
   10.2. *Sovereign Wealth Funds*
11. **Corporate Social Responsibility**
   11.1. *OECD Guidelines for Multinational Enterprises*
12. **Political Violence**
13. **Corruption**
   13.1. *UN Anticorruption Convention, OECD Convention on Combatting Bribery*
14. **Bilateral Investment Agreements**
   14.1. *Bilateral Taxation Treaties*
15. **OPIC and Other Investment Insurance Programs**
16. **Labor**
17. **Foreign Trade Zones/Free Ports/Trade Facilitation**
18. **Foreign Direct Investment and Foreign Portfolio Investment Statistics**
19. **Contact Point at Post for Public Inquiries**

Executive Summary

As the largest market in Europe, Germany is a major destination for foreign direct investment; consequently, a vast FDI stock has accumulated over time. The United States is the leading source of non-EU inward investment to Germany. Germany is consistently ranked as one of the most attractive destinations for FDI, thanks to reliable infrastructure, a highly skilled workforce, a positive social climate, a stable legal environment, and world-class research and development.

The German legal, regulatory and accounting systems can be complex, but are transparent and consistent with international norms. Businesses enjoy considerable freedom within a well regulated environment. Foreign and domestic investors are treated equally when it comes to investment incentives, and the establishment and protection of real and intellectual property. Foreign investors can fully rely on the legal system which is efficient and sophisticated. At the same time, this system requires investors to pay attention to their legal obligations. First-time investors will need to ensure that they have the necessary legal expertise, either in-house or outside consul, to meet all requirements.

Germany has effective capital markets and relies heavily on its modern banking system. State-owned-enterprises are generally limited to public utilities: municipal water, energy and national rail transportation. The primary objectives of government policy are to create jobs and foster economic growth. Labor unions play a constructive role in collective bargaining agreements as well as on companies' work councils.

Germany continues efforts to fight money laundering and corruption. Medium-sized companies are increasingly aware of corporate social responsibility. Despite the fact that Germany has 129 investment protection agreements in force, the ongoing negotiations of the Transatlantic Trade and Investment Partnership (T-TIP) have triggered a public debate on certain issues, including investor-State dispute settlement mechanisms.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

Germany has an open and welcoming attitude towards foreign direct investment (FDI). 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 United States and Germany. Germany subscribes to the OECD National Treatment Instrument and the OECD Codes of Liberalization of Capital Movements and of Invisible Operations. In 2013, the Capital Investment Code replaced the German Foreign Investment Act and the Foreign Trade and Payments Act and the Foreign Trade and Payments Ordinance were amended. For many decades, Germany has experienced significant inbound investment. It is widely recognized that foreign investment has been a considerable contributor to Germany's growth and prosperity. The German government and industry actively encourage foreign investment. U.S. investment has been strong and continues to account for a large share of foreign investment. The investment-related problems foreign companies face are generally the same as for domestic firms, for example, high marginal income tax rates and labor laws that impede hiring and dismissals.

Other Investment Policy Reviews

The World Bank Group's "Doing Business 2015" and Economist Intelligence Unit both provide additional information on Germany investment climate.

Laws/Regulations of Foreign Direct Investment

Companies and entrepreneurs can count on a reliable legal system. The legal framework is solid, and enforcement is effective. The judiciary is independent, and judges are highly professional. German courts have a good record in upholding the sanctity of contracts.

Industrial Promotion

The German government does not have a deliberate policy to attract investment in specific industry sectors, but has more generous incentives available for investments into research and development (see section 5).

However, the promotion agency "Germany Trade & Invest" promotes Germany as a business and technology location to attract foreign investors. Germany Trade & Invest has about 50 offices worldwide including in Chicago, New York, San Francisco, Toronto, and Washington, with specialized experts for all industries. Germany Trade & Invest's information and consulting services also include:
- Market and industry reports
- Market entry analyses
- Business and tax law information
- Business and labor law information
- Funding and financing information

More information is available on http://www.gtai.de/GTAI/Navigation/EN/invest.html.

Limits on Foreign Control

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, in practice, no such restrictions have been imposed.

German law provides foreign investors national treatment: under German law, a foreign-owned company registered in the Federal Republic of Germany (FRG) as a GmbH (limited liability company) or an AG (joint stock company) is treated the same as a German-owned company. There are no special nationality requirements for directors or shareholders.

Privatization Program

There is no privatization program ongoing. As a matter of principle, Germany treats foreigners equally in privatizations.

Screening of FDI

Until 2004, Germany had no special legislation impacting foreign direct investment beyond general restrictions. A national security screening mechanism was introduced in 2004, which requires that investors from countries other than the member states of the European Union (EU) and the European Free Trade Association (EFTA, i.e., Liechtenstein, Iceland, Norway and Switzerland) notify the government of the acquisition of any business engaged in manufacturing or developing war weapons or armaments, or producing cryptographic equipment, in cases where the investor directly or indirectly owns 25 percent or more equity. In such cases, investors must notify the Federal Ministry of Economics and Energy, which then has one month to raise objections. If none are raised within that time, the transaction is regarded as approved. Germany expanded the scope of the law in 2005 to include tank and tracked-vehicle engines.

In the wake of broader discussions on the need for restrictions to foreign investment by sovereign wealth funds, the German Foreign Investment Act was amended in 2009 to apply to a German company of any size or sector in cases where a threat to national security or public order is perceived. The more generic character of this amendment has raised some uncertainty over which transactions should be notified. To date, the government has not made use of it to impose any restrictions. In 2013, the Capital Investment Code replaced the German Foreign Investment Act.

Competition Law

German government ensures competition on a level playing field on the basis of two main legal codes:

The Law against Limiting Competition (amended last in 2014) is the legal basis for the fight against cartels, merger control and monitoring abuse. State and Federal cartel authorities are in charge of enforcing anti-trust law. In exceptional cases the Minister for Economics and Energy can provide a permit under specific conditions; the last case was a merger of two regional hospitals in 2008.

The Law against Unfair Competition (amended last in 2013) can be invoked by regional courts.

Investment Trends

In the last ten years, FDI stocks in Germany doubled. While this FDI mainly originated from other European countries and the United States, FDI from emerging economics, in particular China, has grown substantially since 2005, even if from a low level.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	12 of 174	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2015	14 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	13 of 143	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	USD 45,620	data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Conversion and Transfer Policies

Foreign Exchange

As a member of the Eurozone, Germany uses the euro as its currency, along with 18 other European Union countries. The Eurozone has no restrictions on the transfer or conversion of its currency, and the exchange rate is freely determined in the foreign exchange market.

Germany does not engage in currency manipulation. In March 2015, the European Commission concluded Germany experienced macroeconomic imbalances consisting of large and persistent current account surpluses in need of monitoring and policy action. The report indicated the current account surpluses result from low domestic demand, including low levels of investment, as well as strong competitiveness. In October 2014, the U.S. Treasury's Semiannual Report on International Economic and Exchange Rate Policies cited the EU's inclusion of Germany in the annual Macroeconomic Imbalances Procedure. German policymakers have rejected Treasury's inclusion of Germany in the report, arguing that the country's large current account surplus is the result of market forces rather than active government policies, particularly since Germany, as a Eurozone member, does not control its monetary policy or its exchange rate. Private sector German economists argue that the current account surplus is mainly due to a lack of domestic investment in Germany, as German firms prefer to invest abroad.

Germany is a member of the OECD-based Financial Action Task Force (FATF) and is committed to further strengthening its national system for the prevention, detection and suppression of money laundering and terrorist financing. During the June 2014 FATF Plenary meeting, the group recognized that Germany had made sufficient progress in addressing the deficiencies identified in its 2010 mutual evaluation report to be removed from the regular follow-up process. The Plenary noted Germany has introduced a number of measures to strengthen its regime for anti-money laundering and combating terrorist financing, including 1) Amending of the Criminal Code by including insider trading and market manipulation as well as counterfeiting and piracy of products as predicate offences to money laundering; 2) Amending of the AML Law to ensure that verification of beneficial ownership is required in all cases and that in cases of low risk, a minimum level of due diligence is still carried out; and 3) Enhanced cooperation between relevant ministries, regulatory and supervisory authorities as well as other bodies involved in combating money laundering and terrorist financing.

According to the International Narcotics Control Strategy Report (INCSR), Germany is attractive to organized criminals and tax evaders, because it is one of the largest financial centers in Europe, and it uses a widely available currency. Many indicators suggest Germany is susceptible to money laundering and terrorist financing because of its large economy, advanced financial institutions, and strong international linkages. In 2011, 903 of the 1070 cases prosecuted for money-laundering resulted in convictions. In 2012, the German Parliament passed an amendment to Germany's Law Against Money Laundering to tighten control over the increasing number of casinos and slot machines and to regulate online gaming, which had previously been prohibited in Germany.

There is no difficulty in obtaining foreign exchange.

Remittance Policies

There are no restrictions or delays on investment remittances or the inflow or outflow of profits.

3. Expropriation and Compensation

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.

There have not been expropriatory actions in the last five years and none are expected for the near future. Remaining expropriation cases date back to the Nazi and communist regimes. During the financial crisis, the parliament adopted a law allowing an emergency expropriation if the bankruptcy of a bank had endangered the entire financial system, but the measure expired without having been used.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

German law is both predictable and reliable. Companies can effectively enforce property and contractual rights under German law. Germany's well-established enforcement laws and official enforcement services ensure companies/investors to consistently assert their rights. German courts are fully available to foreign investors in the event of an investment dispute.

The judicial system is independent, and the federal government does not interfere in the court system. The legislature sets the systemic and structural parameters, while lawyers and civil law notaries use the law to shape and organize specific situations. Judges are highly competent. International studies and empirical data have attested that Germany offers an efficient court system committed to due process and the rule of law.

In Germany, all important legal issues and matters are governed by comprehensive legislation in the form of statutes, codes and regulations. The most important legislation in the area of business law includes:

- the Civil Code (Bürgerliches Gesetzbuch, abbreviated as BGB), which contains general rules on the formation, performance and enforcement of contracts and on the basic types of contractual agreements for legal transactions between private entities;
- the Commercial Code (Handelsgesetzbuch, abbreviated as HGB), which contains special rules concerning transactions among businesses and commercial partnerships;
- the Private Limited Companies Act (GmbH-Gesetz) and the Public Limited Companies Act (Aktiengesetz), covering the two most common corporate structures in Germany – the 'GmbH' and the 'Aktiengesellschaft'; and
- the Act on Unfair Competition (Gesetz gegen den unlauteren Wettbewerb, abbreviated as UWG), which prohibits misleading advertising and unfair business practices.

Germany has specialized courts for administrative law, labor law, social law, finance or tax law. The Federal Patent Court hears cases on patents, trademarks and utility rights which are related to decisions by the German Patent and Trademarks Office. Both the German Patent Office (Deutsches Patentamt) and the European Patent Office are headquartered in Munich.

Bankruptcy

German insolvency law, as enshrined in the Insolvency Code, supports and promotes restructuring. If a business or the owner of a business becomes insolvent, or a business is over-indebted, insolvency proceedings can be initiated by filing for insolvency; legal persons are obliged to do so. Insolvency is not a crime, but prosecutors must check for certain types of deliberate behavior.

Under a regular insolvency procedure, the insolvent business is generally broken up in order to release as much money as possible through the sale of individual items or rights or parts of the company. Proceeds can then be paid out to the creditors in the insolvency proceedings. The distribution of the monies to the creditors follows the detailed instructions of the Insolvency Code.

Equal treatment of creditors is enshrined in the insolvency code. Some creditors have the right to claim property back. Post-adjudication preferred creditors are served out of the insolvency assets during the insolvency procedure. Ordinary creditors are served on the basis of quotas from the remaining insolvency assets. Secondary creditors, including shareholder loans, are only served if insolvency assets remain after all others have been served. Germany ranks 3 in the category "resolving insolvency" of the World Bank's Doing Business Report with a recovery rate of 83.4.

Investment Disputes

Investment disputes involving U.S. or other foreign investors in Germany are extremely rare. According to the UNCTAD database of treaty-based investor dispute settlement cases, Germany has been challenged three times:

In 2012, Vattenfall filed a request for ICSID arbitration under the Energy Charter Treaty, after the government of Germany decided to phase out nuclear energy. The case is pending.

In 2009, Swedish energy company Vattenfall brought the government of Germany to arbitration at the International Centre for the Settlement of Investment Disputes (ICSID) under the Energy Charter Treaty. The claim was related to the delay in obtaining, restrictions on, and monitoring of a permit for using water from the river Elbe for cooling a coal power-plant in Hamburg Moorburg. The case ARB/09/6 was settled on the condition of implementing a settlement of the Hamburg Higher Administrative Court stipulating a modified water permit and the construction of a hybrid discharge cooler.

There is no public information available about the year 2000 case initiated by Indian lawyer Ashok Sancheti.

International Arbitration

Germany has a domestic arbitration body called the German Institution for Dispute Settlement. Book 10 of the German Code of Civil Procedure addresses arbitration proceedings. The International Chamber of Commerce has an office in Berlin. In addition, chambers of commerce and industry offer arbitration services.

ICSID Convention and New York Convention

Germany is a member of both the International Center for the Settlement of Investment Disputes (ICSID) and New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, meaning local courts must enforce international arbitration awards under certain conditions.

Duration of Dispute Resolution

The average duration of proceedings in courts of first instance is 4.5 months and in regional courts 7.9 months.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Germany is in compliance with its WTO Trade-related Investment Measures (TRIMs) obligations.

Investment Incentives

The EU, federal and state authorities offer a broad range of incentive programs for investors in Germany. Cash grants under the Joint Task for the Improvement of Regional Economic Structures, a program administered by the Ministry of Economics and Energy, is one instrument available for improving the infrastructure of regional economies and the economy as a whole – a key objective for Germany’s federal and state governments. The government has promoted investment in the former East Germany and offers several programs only in these regions. The primary 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.

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 alike. Investment incentives and operational incentives can be combined.

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

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 level of economic development of the region, with up to 20% of eligible expenditures channeled to large enterprises, 30% to medium-sized enterprises, and 40% to small enterprises.

Credit Programs: Loans at below-market interest rates from the KfW banking group and state development banks, partially targeting small and medium-sized enterprises (SMEs).

Public guarantees: Loan guarantees of up to 80% of the loan amount from state governments or in the case of Eastern Germany from state and federal government for companies that do not have the collateral that private-sector banks ordinarily require.

Labor-related incentives: Support from over 800 local job centers of the Federal Employment Agency for programs that focus on recruitment support, pre-employment training up to 100% for up to three months, wage subsidies for unemployed candidates for up to 12 months, and on-the-job training up to 50%.

Germany Trade & Invest provides incentives information and consulting http://www.gtai.de/GTAI/Navigation/EN/Invest/Investment-guide/incentive-programs.html .

Research and Development

R&D Incentives are provided by the European Union, the German Government and the German state governments in the form of R&D grants, reduced-interest loans, and special partnership programs. Grants for R&D projects under the EU program Horizon 2020 require transnational cooperation.

Performance Requirements

There are no requirements for local sourcing, export percentage, or local or national ownership. In some cases, there may be performance requirements tied to the incentive, such as creation of jobs or maintaining a certain level of employment for a prescribed length of time.

U.S. companies can generally obtain the resident visas and work permits required to do business in Germany. Some effort and paperwork are necessary, but the relevant laws are quite broad, and considerable administrative discretion is exercised in their application. Citizens from the United States may apply for work and residential permits from within Germany. A number of U.S. states have not yet concluded reciprocal agreements with Germany to mutually recognize driver's licenses. As a result, licenses from those states are not legal in Germany beyond six months, whereas licenses from states that have signed agreements can be converted to German licenses after six months.

Data Storage

There are no localization requirements for data storage in Germany. However, in light of recent controversies, German/European cloud providers have been trying to use the location of their servers as a competitive advantage.

6. Right to Private Ownership and Establishment

With a few exceptions, all foreign and domestic entities have the right to establish and own business enterprises, engage in all forms of remunerative activity, and to acquire and dispose of interests in business enterprises. In the case of airline ownership, an exception based on EU regulations requires EU majority ownership of shares in order to obtain an operating permit as an EU airline.

7. Protection of Property Rights

Real Property

The German Government adheres to a policy of national treatment, which considers property owned by foreigners as fully protected under German law. In Germany, mortgages are given based on recognized and reliable collateral. Secured interests in property, both chattel and real, are recognized and enforced. According to the World Bank's Doing Business Report it takes 40 days to register property in Germany.

The German Land Register Act dates back to 1897 and was last amended in 2014. The land register mirrors private real property rights and provides information on the legal relationship of the estate. It documents the owner, rights of third persons, liabilities and restrictions and how these rights relate to each other. Any change in property of real estate must be registered in the land registry to make the contract effective. Land titles are now maintained in an electronic database and can be consulted by persons with a legitimate interest.

Intellectual Property Rights

Germany boasts a robust regime to protect intellectual property rights. Legal structures are strong and enforcement is good. Nonetheless, internet piracy and counterfeit goods remain an issue. Germany has been a member of the World Intellectual Property Organization (WIPO) since 1970.

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. Many of the latest developments in German IP law derived from European legislation with the objective to make applications less burdensome and to allow for European IP protection.

The following types of protection are available:

Copyrights: National treatment is also granted to foreign copyright holders, including remuneration for private recordings. Under the TRIPS agreement, Germany also grants legal protection for U.S. performing 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 effective. 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.

Trademarks: Foreigners may register trademarks subject to exactly the same terms as German nationals at the German Patent and Trade Mark Office. Protection is valid for a period of ten years and can be extended in ten-year periods.

Patents: Foreigners may register patents subject to exactly the same terms as German nationals at the German Patent and Trade Mark Office. Patents are granted for technical inventions which are new, involve an inventive step, and are industrially applicable. However, applicants having neither a domicile nor an establishment in Germany must appoint a patent attorney in Germany as a representative filing the patent application. The documents must be submitted in German or with a translation into German. The duration of a patent is 20 years, beginning on the day following the invention patent application. Patent applicants can request accelerated examination when filing the application provided that the patent application was previously filed at the U.S. patent authority and that at least one claim had been determined to be allowable. There are a number of differences in patent law which a qualified patent attorney can explain to U.S. patent applicants.

U.S. grants of IP rights are valid in the United States only! It is possible to register in EU countries, such as Germany, individually or, for EU-wide trademark and design protection, apply for the Community Trademark and/or Registered Community Design. These provide protection for industrial design or trademark in the entire 28-nation EU mega market of more than 500 million people. Both national trademarks and the CTM can be applied for from the U.S. Patent and Trademark Office as part of an international trademark registration system (http://www.uspto.gov), or you may apply directly for those trademarks from the Office for Harmonization in the Internal Market (http://oami.europa.eu). U.S. IPR owners should also note that the EU operates on a "first to file" principle and not on the "first-to-invent" principle, used in the United States.

For patents, the situation is slightly different but protection can still be gained via the U.S. Patent Office. Although there is not yet a single EU-wide patent system, the European Patent Office (EPO) does grant individual European patents for the contracting states to the European Patent Convention (EPC), which entered into force in 1977. The 31 contracting states include almost the entire EU membership and several more European countries. As an alternative to filing your patents for European protection with the U.S. Patent Office, the EPO, located in Munich, provides a convenient single point to file a patent in as many of these countries as you like: http://www.european-patent-office.org./index.de.php.

Trade Secrets: Trade secrets, both technical and commercial, are protected in Germany by the Law Against Unfair Competition. Currently, the EU institutions are discussing a directive to harmonize protection of trade secrets across EU member states.

In addition, German law offers the possibility to register designs and utility models.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en/.

Resources for Rights Holders

Contact at Mission
- TITLE: Minister Counselor for Commercial Affairs
- TELEPHONE NUMBER: +49-(0)30-8305-1900
- EMAIL ADDRESS: office.berlin@trade.gov
- POC: Dale Tasharski

Country resources:

For additional information about how to protect intellectual property in Germany, please see Germany Trade & Invest website at http://www.gtai.de/GTAI/Navigation/EN/Invest/Investment-guide/The-legal-framework/patents-licensing-trade-marks.html.

Investors can identify IP lawyers in AmCham's Online Services Directory: http://www.amcham.de/services/online-services-directory.html (Type in "intellectual property" as keyword and tick the box "legal references".)

Businesses can as well join the Anti-counterfeiting Association (APM) http://www.markenpiraterie-apm.de/1-1-The-German-Anti-Counterfeiting-AssociationAPM.html or the Association for enforcing copyrights (GVU) http://www.gvu.de.

8. Transparency of the Regulatory System

Germany has transparent and effective laws and policies to promote competition, including antitrust laws. The legal, regulatory and accounting systems can be complex but are transparent and consistent with international norms.

Formally, the public consultation by the federal government is regulated by the Joint Rules of Procedure, which specify that ministries must consult early and extensively with a range of stakeholders on all new legislative proposals. In practice, laws and regulations in Germany are routinely published in draft, and public comments are solicited. According to the Joint Procedural Rules, ministries should consult the concerned industries' associations (rather than single companies), consumer organizations, environmental and other NGOs. Consultation takes between two to eight weeks.

The German Institute for Standardization (DIN) is open to foreign members.

9. Efficient Capital Markets and Portfolio Investment

As an EU member state with a well-developed financial sector, Germany welcomes foreign portfolio investment and has an effective regulatory system. Germany has a very open economy, routinely ranking among the top countries in the world for exports and inward and outward foreign direct investment. As a member of the Eurozone, Germany does not have sole national authority over international payments, which are a shared task of the Eurosystem (and the European Central Bank) and the German Central Bank (Bundesbank). There are no restrictions on capital movements into or out of Germany, based on European law. However, as the case of Cyprus showed, EU national parliaments can, with the permission of the EU and the ECB, impose temporary restrictions in exceptional cases. Global investors see Germany as a safe place to invest, as the real economy continues to outperform other EU countries and German sovereign bonds retain their "safe haven" status.

Listed companies and market participants in Germany must comply with the Securities Trading Act, which bans insider trading and market manipulation. Compliance is monitored by the Federal Financial Supervisory Authority (BaFin) while oversight of stock exchanges is the responsibility of the state governments in Germany (with BaFin taking on any international responsibility). Investment fund management in Germany is regulated by the Capital Investment Code (KAGB), which entered into force on July 22, 2013. The KAGB represents the implementation of additional financial market regulatory reforms, committed to in the aftermath of the global financial crisis. The law went beyond the minimum requirements of the relevant EU directives and represents a comprehensive overhaul of all existing investment-related regulations in Germany with the aim of creating a system of rules to protect investors while also maintaining systemic financial stability.

Money and Banking System, Hostile Takeovers

Although corporate financing via capital markets is on the rise, Germany's financial system remains mostly bank-based. Bank loans are still the predominant form of funding for firms, particularly the small and medium sized enterprises of Germany's famed Mittelstand. Credit is available at market-determined rates to both domestic and foreign investors, and a variety of credit instruments are available. Legal, regulatory and accounting systems are generally transparent and consistent with international banking norms. Germany has a universal banking system regulated by federal authorities, and there have been no reports of a shortage of credit in the German economy. Since 2010, Germany has banned some forms of speculative trading, most importantly "naked short selling." In 2013, Germany passed a law requiring banks to separate riskier activities such as proprietary trading into a legally separate, fully capitalized unit that has no guarantee or access to financing from the deposit-taking part of the bank.

Germany supports a worldwide financial transaction tax and is pursuing the introduction of such a tax along with several other Eurozone countries.

Germany has a modern banking sector, but is often considered “over-banked,” as evidenced by ongoing consolidation and low profit margins. The country’s so-called “three-pillar" banking system is made up of private commercial banks, cooperative banks, and the public banks (savings banks, or Sparkassen, and the regional state-owned banks, or Landesbanken). The private bank sector is dominated by Deutsche Bank and Commerzbank, accounting for 23.5% and 8.0% of all bank assets respectively (2013 figures). In efforts to raise capital ratios in advance of new international guidelines (the Basel III agreement), both banks continue to shrink the size of their balance sheets. Commerzbank received €18 billion in financial assistance from the federal government in 2009, which gave the government a 25% stake in the bank (now reduced to 17%). Germany’s regional state-owned banks were among the hardest hit by the global financial crisis and continue to face major challenges to their business models. The federal government is currently in the process of winding down several so-called “bad banks” composed of toxic assets of failed banks WestLB (now Portigon AG) and Hypo Real Estate.

Foreigners can open bank accounts in Germany with the proper identification, although most banks also require proof of a German address and/or registration with the local Residents’ Registration Office (also required of locals). American citizens living in Germany have complained that certain German banks have closed their investment accounts due to additional administrative burdens and legal complications caused by the U.S. legislation known as the Foreign Accounts Tax Compliance Act (FATCA), which requires German banks to report information on accounts of American citizens to the IRS. Reports of such closures have decreased since the United States and Germany signed a bilateral agreement in 2013 to reduce some of the legal issues related to FATCA, mainly by allowing German banks to report the required information to the German government, which will then share it with the appropriate U.S. government agencies.

Takeovers of publicly listed companies in Germany are regulated by the German Securities Acquisition and Takeover Act, introduced in 2002 and updated several times. Uncommon before 2000, takeovers have increased since then with 344 attempts on German targets occurring between 2002 and the beginning of 2012. Compliance with the Takeover Act is supervised by BaFin, and the main principles include the equal treatment of shareholders, the provision of sufficient information and time for shareholders to reach informed decisions, and the avoidance of market disruptions. The German government has not actively intervened to protect German companies from foreign takeovers, instead professing support for the free functioning of a market economy.

10. Competition from State-Owned Enterprises

The formal term for state-owned enterprises (SOEs) in Germany translates as “public funds, institutions, or companies,” and refers to entities whose budget and administration are separate from those of the government, but in which the government has more than 50% of the capital shares or voting rights. Appropriations for SOEs are included in public budgets, and SOEs can take two forms, either public or private law entities. Public law entities are recognized as legal personalities whose goal, tasks and organization are established and defined via specific acts of legislation, with the best-known example being the publicly-owned promotional bank KfW (Kreditanstalt für Wiederaufbau). The government can also resort to ownership or participation in an entity governed by private law if the following conditions are met: doing so fulfills an important state interest, there is no better or more economical alternative, the financial responsibility of the federal government is limited, the government has appropriate supervisory influence, yearly reports are published, and such control is approved by the federal Finance Ministry and the ministry responsible for the subject matter.

Government oversight of existing SOEs is decentralized and handled by the ministry with the appropriate technical area of expertise. The primary goal of such involvement is the furtherance of the public interest rather than the generation of profits. The government is required to end its ownership stake in a private entity if tasks change or technological progress provides more effective alternatives, though certain areas, particularly science and culture, remain permanent core government obligations. German SOEs are subject to the same taxes and the same value added tax rebate policies as their private sector competitors. There are no laws or rules that seek to ensure a primary or leading role for SOEs in certain sectors/industries. Private enterprises have the same access to financing as SOEs, including access to state-owned banks such as KfW. Under the law, SOEs are subject to hard budget constraints which are generally enforced.

The Federal Statistics Office maintains a database of SOEs from all three levels of government (federal, state, and municipal) listing a total of 15,186 entities for 2012, or 0.4% of the total 3.6 million companies in Germany. SOEs in 2012 had €516 billion in revenue and €495 billion in expenditures. 41% of SOE revenue was generated by water and energy suppliers, 11.9% by ground transportation-related entities, and 11.8% by health and social services. Measured by number of companies rather than size, 90% of SOEs are owned by municipalities, concentrated in water and electricity services, 8% are owned by Germany’s 16 states, mostly related to public administration, and 2% by the federal government.

The Federal Finance Ministry is required to publish a detailed annual report on public funds, institutions, and companies in which the federal government has direct participation (including a minority share), or an indirect participation greater than 25% and with a nominal capital share worth more than €50,000. The federal government had a partial or total stake in 107 companies at the end of 2013, most prominently Deutsche Post (21%), Deutsche Telekom (31.7%) and Deutsche Bahn (100%). Federal government ownership is concentrated in the science, culture, transportation and logistics sectors. As the result of federal financial assistance packages from the federally-controlled Financial Market Stability Fund during the global financial crisis of 2008-9, the federal government still has a partial stake in several private banks, including a 17.15% share in Commerzbank, Germany’s second largest private bank.

Publicly-owned banks also constitute one of the three pillars of Germany’s banking system (cooperative and commercial banks are the other two). Germany’s savings banks are mainly owned by the municipalities, while the so-called Landesbanken are typically owned by regional savings bank associations and the state governments. State guarantees for the publicly owned banks were abolished in 2005 due to pressure from the EU Commission, though outstanding debt at that time was grandfathered until the end of 2015. There are also many state-owned promotional/development banks which have taken on larger governmental roles in financing infrastructure. This increased role removes expenditures from public budgets, particularly helpful in light of Germany's balanced budget rules, which go into effect for the states in 2019.

One case of a German partially state-owned enterprise is automotive manufacturer Volkswagen, in which the German state of Lower Saxony owns a 12.7% stake (the fourth largest), but controls 20% of the voting rights. The so-called Volkswagen Law, passed in 1960, limited individual shareholder's voting rights in Volkswagen to a maximum of 20% despite the actual number of shares owned, so that Lower Saxony could veto any takeover attempts. In 2005, the European Commission successfully sued Germany at the European Court of Justice (ECJ), claiming the law impeded the free flow of capital. The law was subsequently amended to remove the cap on voting rights, but Lower Saxony's 20% share of voting rights was maintained, preserving its blocking minority against hostile takeovers. In 2013, the ECJ judged that the amended law complied with the required modifications of the earlier ruling.

Deutsche Bahn, the 100%-federally controlled railroad company, has been investigated for potential abuse of a dominant market position. In 2012, the European Commission (EC) opened an investigation into whether the subsidiary Deutsche Bahn Energy operated an anticompetitive pricing system for electricity supplied to the railway's network, including whether discounts applied by Deutsche Bahn to its subsidiaries led to higher prices for its competitors in the rail freight and passenger markets. The EC closed the investigation in 2013 after Deutsche Bahn implemented a new pricing system without rebates or discounts from July 2014 onwards and paid a one-time retroactive refund of 4% for 2013. The Federal Cartel Office announced in January 2014 its intention to investigate whether Deutsche Bahn has taken advantage of its market position by restraining competitors from selling tickets at Deutsche Bahn's stations.

In November 2013, the EC initiated legal proceedings against Deutsche Post at the European Court of Justice over a long-running case in which Deutsche Post was ordered to repay public pension subsidies. The original complaint was raised by U.S. parcel delivery firm UPS. Deutsche Post allegedly used public money to cover losses resulting from below-cost pricing in its parcel delivery services, thereby undercutting rivals. The subsidies were intended to go towards Deutsche Post's public service functions including letter delivery in Germany. At the time, the EC competition commissioner told reporters, "Beneficiaries of state support for public interest services must not use this support to finance sectors open to competition." The subsidies under question were provided since 2003 to cover the pension liabilities of civil servants taken on by Deutsche Post from the previous government-owned postal administration during the company's partial privatization in the mid-1990s. The EC said Deutsche Post was "overcompensated" for these legacy pension costs since it was getting both a subsidy from the government as well as an increase in regulated letter prices, which was specifically intended to cover pension costs.

OECD Guidelines on Corporate Governance of SOEs

The government codified the corporate governance considerations for SOEs in 2009 in the Public Corporate Governance Codex. The codex obligates the federal government to consider environmental sustainability and social responsibility, avoid conflict of interests, support transparency through mandatory public reports, improve oversight and quality of leadership, and increase efficiency. SOEs are required to make a formal annual declaration of their compliance with the codex. According to the OECD, the codex strengthened the reporting requirements of previous arrangements, and, in this sense, Germany has moved toward a central coordination of SOE-related practices and, arguably, taken a step from a sectoral toward a dual ownership model for SOEs.

Sovereign Wealth Funds

The German government does not currently have a sovereign wealth fund or an asset management bureau. Following German reunification, the federal government set up a public agency to manage the privatization of assets held by the former East Germany. In 2000, the agency, known as TLG Immobilien, underwent a strategic reorientation from a privatization-focused agency to a profit-focused active portfolio manager of commercial and residential property. In 2012, the federal government sold TLG Immobilien to private investors.

11. Corporate Social Responsibility

The Federal Ministry of Labor and Social Affairs is the leading ministry for corporate social responsibility (CSR). In 2010, at the suggestion of the Ministry of Labor and Social Affairs and in concert with the UN Working Group on Business and Human Rights, the Federal Cabinet approved a National Action Plan for CSR aimed at anchoring CSR more firmly in enterprises and public bodies, including small and medium-sized enterprises. The National Action Plan is based on recommendations of the National CSR Forum, which consists of 44 experts from business, unions, non-governmental organizations and academia and which convenes once or twice a year for plenary consultations. This multi-stakeholder forum has advised the Labor Ministry since early 2009 on the development and implementation of a national strategy. The National Action Plan for CSR takes into account the OECD Guidelines for Multinational Enterprises, the UN Global Compact, UN Guiding Principles for Business and Human Rights, the EU strategy for CSR, and the ILO Tripartite Declarations.

There is general awareness of environmental, social and governance issues among both producers and consumers, and various surveys suggest that consumers increasingly care about the ecological and social impacts of the products they purchase. In order to encourage businesses to factor environmental, social and governance issues into their decision-making, the government provides information online and in hard copy. The government awards several CSR related prizes, promotes CSR at business fairs, produces regular reports and newsletters, and has created a website on CSR in Germany (http://www.csr-in-deutschland.de/en/home.html in English). The German government maintains and enforces domestic laws with respect to labor and employment rights, consumer protections and environmental protections. The German government does not waive labor and environmental laws to attract investment.

Social reporting is voluntary, but publicly listed companies frequently do so by including information on their CSR policies in their annual reports and on their websites.

The following civil society groups work on CSR: 3p Consortium for Sustainable Management, amnesty international Germany, Bund für Umwelt und Naturschutz Deutschland e. V. (BUND), CorA Corporate Accountability – Netzwerk Unternehmensverantwortung, Forest Stewardship Council (FSC), Germanwatch, Greenpeace Germany, Naturschutzbund Deutschland (NABU), Sneep (Studentisches Netzwerk zu Wirtschafts- und Unternehmensethik), Stiftung Warentest, Südwind - Institut für Ökonomie und Ökumene, TransFair - Verein zur Förderung des Fairen Handels mit der "Dritten Welt" e. V., Transparency International, Verbraucherzentrale Bundesverband e.V., Bundesverband Die Verbraucher Initiative e.V., World Wide Fund for Nature (WWF).

On the business side, the American Chamber of Commerce in Germany (AmCham Germany) is active in promoting standards of social responsibility within their members' corporate activities. AmCham Germany issues regular publications on selected member companies' approaches to CSR. Its CSR Committee serves as a platform to exchange best practices, identify trends and discuss regulatory initiatives. Other business initiatives, platforms and networks on sustainable corporate conduct and CSR exist. In addition, Germany's four leading business organizations have provided information on a common CSR internet portal: www.csrgermany.de.

OECD Guidelines for Multinational Enterprises

The Ministry of Economic Affairs and Energy houses the National Contact Point (NCP) for OECD Guidelines for Multinational Enterprises with dedicated staff in the Division responsible for foreign investment policy. Flyers in several languages, including English, can be obtained electronically or from German embassies. Basic information is available on the ministry's website, which is regularly updated. http://mneguidelines.oecd.org/ncps/germany.htm

In addition, the government promotes the MNE Guidelines to foreign investors on the main website for foreign trade and investment, iXPOS. Companies applying for investment guarantees are explicitly encouraged to respect the Guidelines. The German NCP promotes the Guidelines at the invitation of business associations and is working on a handbook targeting SMEs.

12. Political Violence

Political acts of violence against either foreign or domestic business enterprises are extremely rare. A recent example of a violent incident occurred at the opening of the new European Central Bank building in Frankfurt in March 2015, where protesters set several cars on fire and threw rocks at police. Isolated cases of violence directed at certain minorities and asylum seekers have not affected U.S. investments or investors.

13. Corruption

Germany is a country with an overall good to very good system for preventing corruption. Among industrialized countries, Germany ranks in the middle, according to Transparency International's corruption indices. The auto industry, the construction sector, and public contracting, in conjunction with questionable political party influence and party donations, represent areas of continued concern. Nevertheless, U.S. firms have not identified corruption as an impediment to investment in Germany. Germany is a signatory of the OECD Anti-Bribery Convention and a participating member of the OECD Working Group on Bribery.

Over the last two decades, Germany has increased penalties for the 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 on financial support extended by the official export credit agency and has tightened the rules for public tenders. Government officials are forbidden from accepting gifts linked to their jobs. Most state governments and local authorities have contact points for whistle-blowing and provisions for rotating personnel in areas prone to corruption. There are serious penalties for bribing officials and price fixing by companies competing for public contracts.

Parliamentarians are subject to financial disclosure laws that require them to publish earnings from outside employment. Members of parliament must disclose categories of outside employment and earnings greater than EUR 1,000 (USD 1,400) in a month or EUR 10,000 (USD 14,000) in a year. No special institution has responsibility for monitoring and verifying disclosures. Additional revenues of parliamentarians through business connections have been a matter of public debate. Disclosures are available to the public via the Bundestag website (next to the parliamentarians' biographies) and in the Official Handbook of the Bundestag. Sanctions for noncompliance can range from an administrative fine to as much as half of a parliamentarian's annual salary.

In February 2014, the German parliament amended the criminal law clarifying corruption offenses by parliamentarians and increasing penalties for violations. In May 2013, it was revealed that several members of the Bavarian parliament had employed family members on the basis of their parliamentarian allowance. The Bavarian parliament promptly adopted a law prohibiting the employment of family members. The Highest Bavarian Court published a report that reimbursements paid after July 2004 to certain family members must be paid back.

Donations to political parties are permitted. However, if they exceed 50,000 euros, they must be reported to the President of the Bundestag. Donations of 10,000 euros or more must be included in the party's annual accountability report to the President of the Bundestag. Transparency International would like political parties to commit more strongly to the fight against corruption and to make their financing and recruitment of political personnel more transparent.

State prosecutors generally are responsible for investigating corruption cases, but not all state governments have prosecutors specialized in corruption. Germany has successfully prosecuted hundreds of domestic corruption cases over the years, including large scale cases against major companies. An OECD monitoring report released in 2010 noted that the country's enforcement efforts have increased steadily and resulted in a significant number of prosecutions and sanctions imposed in foreign bribery-related cases against individuals. However, the report highlighted that sentences for corruption were generally within the lower range of available penalties and that most prison sentences were suspended, raising concerns that punishment was not always fully effective, proportionate, or dissuasive. Transparency International criticized the number of plea bargains and the statutory limitation periods.

Media reports about bribery investigations against Siemens, Daimler, Deutsche Telekom and Ferrostaal increased awareness of the problem of corruption. As a result, an increasing number of listed companies and multinationals have expanded their compliance departments, tightened internal codes of conduct, established points of conducts, and offered more ethics training to employees in the last five years. A recent survey by the Center for Business Compliance and Integrity at the Konstanz University of Applied Sciences among 60 companies with 500-plus employees found that 83% had compliance codices and 50% internal controls in place. Similar studies found prevalence of compliance codices in 63% to 84% of sampled companies. Increasingly, medium-sized companies have beefed up their compliance programs. Medium-sized companies with business relations with the United States or top legal or tax advisors tend to be more advanced.

The Federation of Germany Industry (BDI), the German Chamber of Commerce (DIHK) and the International Chamber of Commerce (ICC) provide guidelines in paper and electronic format on how to prevent corruption trying to convince all including small and medium sized companies to catch up. In addition, BDI provides model texts if companies with two different sets compliance codes want to do business.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Germany signed the UN Anti-Corruption Convention in 2003, but did not immediately ratify it. In February 2014, the German parliament amended the criminal law clarifying corruption offenses by parliamentarians and increasing penalties. This law removed the main obstacle to the ratification of the UN Anti-Corruption Convention. The Bundestag ratified the Convention in November 2014.

Germany adheres to the OECD Anti-Bribery Convention which criminalizes bribery of foreign public officials by German citizens and firms. The necessary tax reform legislation ending the tax write-off for bribes in Germany and abroad became law in 1999. Germany actively enforces the convention and is increasingly dealing better with the risk of transnational corruption.

The country participates in the relevant EU anti-corruption measures and signed two EU conventions against corruption. However, Germany has not ratified the Council of Europe Criminal Law Convention on Corruption and the Civil Law Convention on Corruption.

Resources to Report Corruption

There is no central government anti-corruption agency in Germany.

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14. Bilateral Investment Agreements

Germany does not have a bilateral investment treaty (BIT) with the United States. However, a Friendship, Commerce and Navigation (FCN) treaty dating from 1956 contains many BIT provisions: national treatment, most-favored nation, free capital flows and full protection and security. The United States and EU are currently negotiating the Transatlantic Trade and Investment Partnership which will include an investment chapter.

Germany has investment treaties in force with 129 countries and territories. Treaties with former sovereign entities (including Czechoslovakia, the Soviet Union, Sudan and Yugoslavia) continue to apply in an additional seven cases. These are indicated with an asterisk (*) and have not been taken into account in regard to the total number of treaties. Treaties are in force with the following states, territories or former entities:
Afghanistan; Albania; Algeria; Angola; Antigua and Barbuda; Argentina; Armenia; Azerbaijan; Bahrain; Bangladesh; Barbados; Belarus; Benin; Bosnia and Herzegovina; Botswana; Burkina Faso; Brunei; Bulgaria; Burundi; Cambodia; Cameroon; Cape Verde; Central African Republic; Chad; Chile; China (People's Republic); Congo (Republic); Congo (Democratic Republic); Costa Rica; Croatia; Cuba; Czechoslovakia; 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; Kosovo*; Kuwait; Kyrgyzstan; Laos; Latvia; Lebanon; Lesotho; Liberia; Libya; Lithuania; Macedonia; Madagascar; Malaysia; Mali; Malta; Mauritania; Mauritius; Mexico; Moldova; Mongolia; Montenegro*; Morocco; Mozambique; Namibia; Nepal; Nicaragua; Niger; Nigeria; Oman; Pakistan; Palestinian Territories; Panama; Papua New Guinea; Paraguay; Peru; Philippines; Poland; Portugal; Qatar; Romania; Russia*; Rwanda; Saudi Arabia; Senegal; Serbia*; Sierra Leone; Singapore; Slovak Republic*; Slovenia; Somalia; ; South Sudan*; Soviet Union; Sri Lanka; St. Lucia; St. Vincent and the Grenadines; Sudan; Swaziland; Syria; Tajikistan; Tanzania; Thailand; Togo; Trinidad & Tobago; Tunisia; Turkey; Turkmenistan; Uganda; Ukraine; United Arab Emirates; Uruguay; Uzbekistan; Venezuela; Vietnam; Yemen; Yugoslavia; Zambia; and Zimbabwe.

A BIT with Bolivia ended in May 2014 and a BIT with South Africa ended in October 2014; neither were renewed.

Germany has ratified treaties with the following countries and territories that have not yet entered into force:

Country	Signed	Temporarily Applicable
Brazil	09/21/1995	No
Congo (Republic)	11/22/2010	*
Guinea	11/08/2006	*
Iraq	12/04/2010	No
Israel	06/24/1976	Yes
Madagascar	08/01/2006	*
Pakistan	12/01/2009	*
Timor-Leste	08/10/2005	No
Panama*	01/25/2011	No

(*) Previous treaties apply

Bilateral Taxation Treaties

Taxation of U.S. firms within Germany is governed by the "Convention for the Avoidance of Double Taxation with Respect to Taxes on Income." It has been in effect since 1989 and was extended in 1991, to the territory of the former German Democratic Republic. With respect to income taxes, both countries agreed to grant credit for their respective federal income taxes on taxes paid on profits by enterprises located in each other's territory. A Protocol of 2006 updates the existing tax 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. In 2013, Germany and the United States signed an agreement on legal and administrative cooperation and information exchange.

Germany has bilateral treaties with respect to taxes on income and assets with a total of 95 countries and, with respect to inheritance taxes, 6 countries. It has special bilateral treaties with respect to income and assets by shipping and aerospace companies with 10 countries and treaties relating to the exchange of information and administrative assistance with 31 countries. Germany has initiated and/or is renegotiating new income and wealth tax treaties with 54 countries, special bilateral treaties with respect to income and assets by shipping and aerospace companies with 4 countries, and information exchange and administrative assistance treaties with 9 countries.

15. OPIC and Other Investment Insurance Programs

OPIC programs were available for the new states of eastern Germany for several years during the early 1990s following reunification, but were later suspended due to economic and political progress which caused it to 'graduate out'.

16. Labor

The German labor force is generally highly skilled, well-educated, and productive. The labor market remained resilient during the economic and financial crisis and was stronger in 2014 than ever before. Employment in Germany has continued to rise for the ninth consecutive year and reached an all-time high of 42.7 million in 2014, an increase of 371,000 (or 0.9 percent) from 2013. In particular, women and the elderly have benefitted from the positive trends in the labor market.

Simultaneously, unemployment has fallen by almost two million since 2005, and reached in 2014 the lowest level since German reunification (1990). In 2014, less than 2.9 million people were unemployed, and the jobless rate was 6.7 percent, according to official data from the German Federal Statistical Office (using the internationally comparable concept of the International Labor Organization (ILO), the German unemployment rate stands at 5 percent). Using comparable data of the European Union, Germany has the lowest unemployment rate (4.8 percent in February 2015) among all other European Union member states (European Union average: 9.8 percent, EUROSTAT). Although the unemployment rate gap between eastern Germany’s and western Germany’s federal states has considerably narrowed in recent years, the unemployment rate in the eastern states (9,8%) still significantly exceeded that of the western states (5.9 percent) in 2014. The number of individuals affected by underemployment also further decreased by almost 100,000 within one year to 3.8 million.

Germany's youth unemployment was 5.7 percent in 2014 - even lower than the overall population's rate. The German vocational training system has gained international interest in recent years, as it is seen as a reason for Germany's highly skilled workforce and its low youth unemployment rate. Germany's so-called "dual vocational training," a combination of theoretical courses taught at schools and practical application in the workplace, teaches and develops many of the skills employers need. There are more than 500,000 apprenticeship positions per year in about 330 recognized training professions in all sectors of the economy and public administration available each year. Around 50 percent of students in every age group choose to start an apprenticeship. The government is promoting apprenticeship opportunities, in partnership with industry, through the "National Pact to Promote Training and Young Skilled Workers."

An element of growing concern for German business is a shrinking labor force, especially with respect to skilled labor, due to an aging population. Official forecasts at the behest of the Federal Ministry of Labor and Social Affairs predict that the working age population will shrink by almost 3 million from 2010 to 40.8 million in 2030 resulting in an overall shortage of labor. Labor bottlenecks are already a reality in certain industries, occupations and regions. According to the Federal Employment Agency, doctors, medical and geriatric nurses and mechanical, automotive and electrical engineers as well as IT professionals are in short supply. The government has begun to enhance its efforts to ensure an adequate labor supply by improving programs to integrate women, elderly, young people as well as foreign nationals into the labor market. The government has also facilitated the immigration of qualified workers.

The net migration rate of foreigners (total number of immigrants minus the number of emigrants) rose from a 2008 low of 10,700 to 437,000 in 2013, the highest level for 20 years. This high influx is partly due to the positive labor market situation in Germany and the comparatively high unemployment in other European states.

Labor Relations

The cooperation and partnership of labor unions and employer associations is considered a fundamental principal of the German social market economy and has contributed to the country's resilience during the economic and financial crisis.

German labor unions are generally constructive in their cooperation with employers. Securing jobs is one of the German labor's core objectives. Consequently, labor unions have frequently shown restraint in their wage demands in weak economic times. In the last few years, Germany experienced a considerable rise in the number of work stoppage actions, as labor unions became more insistent that employees should also benefit from Germany's strong economic recovery. Nevertheless, employee strikes in Germany are relatively rare and short in comparison to other industrialized countries. According to the Institute of Economic and Social Research (WSI), an average of 16 per 1000 work days were lost to strikes per year between 2005 and 2013, compared to 139 days in France, 102 in Canada and 9 in the United States. Unions' right to strike and employers' right to lock out are protected in the German constitution. All workers have the right to strike, except for civil servants (including teachers) and staff in sensitive or essential positions, such as members of the armed forces.

The constitution, federal legislation, and government regulations contain provisions designed to protect the right of employees to form and join independent unions of their choice. The overwhelming majority of unionized workers are members of one of the eight largest unions - largely grouped by industry or service sector - which are affiliates of the German Trade Union Confederation (Deutscher Gewerkschaftsbund, DGB). Several smaller unions exist outside the DGB. Trade union membership has, however, continued to decline, a trend that accelerated in the 1990s partly because of a sharp fall in manufacturing employment in Eastern Germany after reunification. In 2013, less than 18 percent of the workforce belonged to unions. Since peaking at around 12 million members shortly after German reunification, total DGB union membership has steadily declined to 6.1 million in 2014. However, IG Metall, the largest German labor union, as well as educational union GEW and the police labor union GDP, reported membership gains in 2014.

The constitution and enabling legislation protect the right to collective bargaining, and agreements are legally binding to the parties. Collective bargaining agreements in 2013 covered approximately 58 percent of all employees, 60 percent of the labor force in the western part of the country and approximately 47 percent in the East. Many industry-wide collective bargaining agreements have been revised in recent years, not only to include flexible working time arrangements, but also to introduce escape clauses for ailing companies, and to lower entry pay scales and performance-based annual bonuses. The collective bargaining agreements were valid for 23 months on average (2013).

Collective bargaining agreements concluded in 2014 provided nominal pay increases of 3.2 percent in 2014, ranging from 0.7 percent in the aviation industry, up to 4.2 percent for workers in the recycling and pollution reduction industry. With a low inflation rate of 0.9 percent in 2014, collective bargaining resulted in an overall real wage gain of, on average, 2.3 percent. Labor unions have achieved wage rises that were above the inflation rate since 2009.

In summer 2014, Germany’s first statutory country-wide minimum wage of EUR 8.50 (USD 10.62) per hour was introduced, taking effect on January 1, 2015. The new law exempts young people under the age of 18 and the long-term unemployed within their first six months at a new job. Sectors with existing collective agreements that set minimum wages below the new statutory minimum wage have until January 2017 to transition. As of September 2014, sector-wide binding minimum wages set by collective bargaining agreements were in place in 15 sectors, including construction (including electrical trades, painting, scaffolding, and roofers), waste management, large-scale laundries and cleaning management, nursing care, hair-dressing, the meat industry, special mining services, and temporary employment agencies. These sectoral minimum wages ranged from EUR 7.75 (USD 9.90) per hour in the meat industry to EUR 13.95 (USD 17.80) per hour for skilled construction work.

By law, workers can elect a works council in any private company 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. In addition, “co-determination” laws give the workforce in medium-sized or large companies (corporations, limited liability companies, partnerships limited by shares, co-operatives, and mutual insurance companies) significant voting representation on the firms' supervisory boards. This co-determination in the supervisory board extends to all company activities.

17. Foreign Trade Zones/Free Ports/Trade Facilitation

There are four free-trade zones in Germany established and operated under EU law: Bremerhaven, Cuxhaven, Deggendorf and Duisburg. These duty-free zones within ports also permit value-added processing and manufacturing for EU-external markets, albeit with certain requirements. All of them are open to both domestic and foreign entities. In recent years, falling tariffs and the progressive enlargement of the EU have gradually eroded much of the utility and attractiveness of duty-free zones. Kiel and Emden lost free-trade zone status in 2010. Hamburg lost free-trade zone status in 2013.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source*		**USG or international statistical source**		**USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other**
Economic Data	**Year**	**Amount**	**Year**	**Amount**	
Host Country Gross Domestic Product (GDP) ($M USD)	2014	2,903,790 (EUR Bn)	2013	3,730,260	www.worldbank.org/en/country
Foreign Direct Investment	**Host Country Statistical source***		**USG or international statistical source**		**USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other**
U.S. FDI in partner country ($M USD, stock positions)	2012	77,051 (EUR Mn)	2013	118,361	http://bea.gov/international/factsheet/factsheet.cfm?Area=308
Host country's FDI in the United States ($M USD, stock positions)	2012	168,054 (EUR Mn)	2013	208,841	http://bea.gov/international/factsheet/factsheet.cfm?Area=308
Total inbound stock of FDI as % host GDP	2012	22.7%	2013	24.8%	http://www.oecd.org/daf/inv/FDI-in-Figures-Dec-2014.pdf

*Host country statistical sources: Destatis, Deutsche Bundesbank

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*					
Inward Direct Investment			**Outward Direct Investment**		
Total Inward	926,532	100%	Total Outward	1,435,940	100%
Netherlands	207,655	22%	United States	196,428	14%
Luxembourg	161,530	17%	United Kingdom	167,810	12%
United States	94,001	10%	Luxembourg	128,439	9%
United Kingdom	62,154	7%	Netherlands	121,926	8%
Switzerland	59,991	6%	France	97,067	7%
"0" reflects amounts rounded to +/- USD 500,000.					

Source: IMF Coordinated Direct Investment Survey

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			**Equity Securities**			**Total Debt Securities**		
All Countries	3,083,617	100%	All Countries	919,610	100%	All Countries	2,164,006	100%
Luxembourg	530,573	17%	Luxembourg	429,817	47%	France	329,086	15%
France	405,224	13%	United States	101,565	11%	Netherlands	254,238	12%
Netherlands	281,729	9%	France	76,137	8%	Italy	219,256	10%
United States	262,827	9%	United Kingdom	53,464	6%	United Kingdom	174,063	8%
Italy	232,453	8%	Ireland	52,316	6%	United States	161,262	7%

Source: IMF Coordinated Portfolio Investment Survey

19. Contact for More Information

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