



EUROPEAN COMMISSION
Directorate-General for Trade

Directorate E - Neighbouring countries, USA and Canada
USA and Canada

Brussels,
USA and Canada

Meeting Report

Meeting with ORGALIME – 12.09.14

- COMM debriefed ORGALIME on the status of negotiations, particular regarding TBT and the EU proposal on establish regulatory cooperation for future legislative proposals on the engineering sectors or acceptance of international standards by the US remains a key issue.
- ORGALIME highlighted the importance of engaging in this sector with the US and the need to identify some sectors in which progress could be made during the negotiations – the issue of recognition of test reports was singled out both between NRTLs but also from other labs.
- ORGALIME informed that they would be present in OSHA's meeting of 22nd October on the NRTL program review and also the that they are working together in a common paper with NEMA and NAM.
- They acknowledged the need of further work in identifying key sub-sectors but also in understanding the economic relevance of issues.
- US reluctance to incorporate ISO/IEC standards remains a problem. They noted that one possible solution – which had already been explored – was to develop common standards. However, copyright issues were an obstacle to those developments. They also warned against ad-hoc US/EU solutions that would leave the rest of the world out.
- On CA they recalled the US claim that 3rd party CA guarantees higher levels of compliance – although it is unclear how the data has been put together.
- COMM highlighted the importance of having a common paper and maintaining a high level of visibility of the sector.

From: [Art. 4.1 (b)] (TRADE)
Sent: 12 December 2014 12:38
To: SCHLEGELMILCH Rupert (TRADE) [redacted]
[redacted] [Art. 4.1 (b)]
(TRADE)
Cc: [Art. 4.1 (b)] (TRADE)
Subject: TTIP professional services: participation in General Assembly of the Architects Council of Europe

Together with a colleague from DG GROW I participated in the General Assembly of the Architects Council of Europe (ACE). ACE represents most (but not all) "competent authorities" in the EU/EEA with responsibility for the recognition of professional qualifications for architects.

I presented the state of play of TTIP negotiations in the area of professional qualifications (broad outline of our recent note to MS) and asked whether architects would see value in using TTIP for making another attempt for an MRA with the US (after the failure of the attempt in 2005). I also specifically asked what the added value of an MRA would be as compared to existing programmes like the "Broadly Experienced Foreign Architect" (BEFA) which allows a foreign based architect to apply for a certificate in the US under certain conditions.

The feedback from the national associations was moderately positive. The BEFA programme was widely seen as no substitute for a proper MRA (too expensive and burdensome inter alia since it requires sitting through exams). A (small) majority saw benefits in another attempt to do an MRA, while there was also a non-negligible minority which thought that it would not be worth the effort (given the experience of the past). A few delegates were undecided.

We will follow-up with ACE in the coming weeks.

[Out of scope] [redacted]

[Art. 4.1 (b)]

ESF Policy Committee, 16th December 2014.

Resume:

As in past occasions, the main purpose of the ESF Policy Committee meeting was to go through the state of play of on-going trade in services negotiations and initiatives. The discussion underlined a keen interest of ESF members to exchange views on these matters:

- On TTIP, COM explained the general state of play and purpose of the negotiations including reference to the "fresh start" with the new Commissioner. The main concerns from ESF Members were related to transparency, e-commerce, ICT and competitive delivery services.

- [REDACTED]
- [REDACTED]
- [REDACTED] [REDACTED]
- [REDACTED] [REDACTED]
- [REDACTED]
- [REDACTED]

[Out of scope]

Details:

- The Policy Committee meeting was chaired by Mr. Tilmann Kupfer from BT Group with broad participation from ESF committee members. [Art. 4.1 (b)] (E1), [Art. 4.1 (b)] and [Art. 4.1 (b)] [Art. 4.1 (b)] (both B1) participated from DG Trade.

TTIP:

- COM informed the Committee about the current state of play of the negotiations. There had been no rounds since the last committee meeting held on October 14th. However, high level contacts had taken place in the meantime, including meetings between new Commissioner Cecilia Malmström and USTR Michael Froman. Among other things, it was noted that objective for 2015 is to ensure progress in all areas of negotiations. On the issue of regulatory cooperation on financial services COM explained that it will continue to reiterate the importance of a meaningful solution as yet there is no change on US position on the issue. The next round of negotiations will take place in February and there will be meetings at senior level in the course of January to prepare such round.
- Some ESF members asked for more information on their sectors of interest, especially in financial services (**The City UK**), e-commerce (**Deutsche Telecom**), competitive delivery services (**European Express Association**) and ICT (**IBM**). Additionally, **The City UK** commented on the relation between transparency and the impact it may have on the confidentiality of the negotiations.
- COM explained the current situation in those sectors and also confirmed that there is always a balance between transparency and confidentiality. It noted that neither consolidated texts nor offers will be made available on the commission's websites.

[Out of scope]

[Out of scope]

[Out of scope]

[Out of scope]

INFORMAL MEETING BETWEEN ESF AND TPC SI ON 16TH DECEMBER 2014.

DG Trade participants: Art. 4.1 (b)

Out of scope

Out of scope

TTIP

The **ESF Secretariat** presented its paper on the matter and, among other things, showed concern on the lack of movement on regulatory cooperation on financial services.

HSBC referred to regulatory coherence in financial services and the need for keeping that issue on the table since the current situation would be causing a fragmentation of the market. **Deutsche Telecom** pleaded for US-EU cooperation in the digital economy sectors, claiming that new technology and new services need regulatory answers. The **Architect's Council of Europe** informed about the contacts they have had in the past with their US counterparts. **Deutsche Post** mentioned that, as a global company, achieving common customs standards is central to their operations. **BusinessEurope** highlighted the fact that regulatory cooperation is crucial for SMEs and asked for both sides to be creative.

ES flagged interest in recognition of engineers and reaffirmed its interest in keeping mobility in general as a part of TTIP. **SE** appreciated ESF efforts to push data flows and also requested more information from the architects' representative. **PL** took the opportunity to ask about the interest of the legal professionals.

The **Architect's Council of Europe** noted that 90% of their members are SMEs and that many of them have an important amount of international work, but unfortunately most countries require re-

examinations to be allowed to undertake work. They are not aware of the engineers' situation, but noted how differently regulated both professions are at an EU level. **The Law Society of England and Wales** informed that for American lawyers it is easy to qualify in the UK by means of the Qualified Lawyers Transfer Scheme (QLTS). On the contrary, since the profession is regulated at a state level in the US, they do not have enough information to comment on the recognition in the US.

The **ESF Secretariat** showed support for mobility on mode 4 and noted its preference for having recognition agreements within TTIP itself and not pursued in parallel.

COM thanked the committee for all the comments and highlighted the importance of industry involvement in this regard. It noted that its intention is to cover services both at a horizontal level and in specific sectors, in order to have tailor made provisions. Work is being undertaken in order to understand to what extent the US government is able to bind state regulators.

Investment Policy

COM updated the committee on the situation of the public consultation on TTIP and ISDS. The consultation is over and a very factual report shall be published during the first half of January. It highlighted that the publication of the report will not be the end of the process and that discussions will continue with institutions and civil society.

Out of scope

Out of scope

Out of scope

Out of scope

AoB

IBM raised its concern about an ICT decree that requires localization in Vietnam.

From: [REDACTED] (TRADE)
Sent: Donnerstag, 18. Dezember 2014 16:41
To: ASENIUS Maria (CAB-MALMSTROM); NYMAN Jon (CAB-MALMSTROM)
Cc: [REDACTED] (TRADE); [REDACTED] (TRADE); RATSO Signe (TRADE);
[REDACTED] (TRADE); [REDACTED] (TRADE);
[REDACTED] (TRADE); [REDACTED] (TRADE);
[REDACTED] (TRADE); GARCIA BERCERO Ignacio (TRADE);
[REDACTED] (TRADE); [REDACTED] (TRADE); [REDACTED] (TRADE);
KONIG Helena (TRADE); [REDACTED] (TRADE); [REDACTED] (TRADE);
[REDACTED] (TRADE); [REDACTED] (TRADE); [REDACTED] (TRADE);
[REDACTED] (TRADE); [REDACTED] (TRADE); [REDACTED] (TRADE);
[REDACTED] (TRADE); [REDACTED] (TRADE); [REDACTED] (TRADE);
[REDACTED] (TRADE); [REDACTED] (TRADE);
Subject: Meeting with EuroCommerce on 17 December 2014

[All redactions in this paragraph are made under art. 4(1)(b)]

Dear both,

Enclosed the report of yesterday's meeting with EuroCommerce.

REPORT
Meeting Head of Cabinet Maria ÅSENIUS with EuroCommerce
17 December 2014, 16:30-17:15 at BERL 11/334

Participants:

- Mr Christian VERSCHUEREN (EuroCommerce)
- Mr Ralph KAMPHÖNER (EuroCommerce)
- Mr Stefan KVARFORDT (Svensk Handel)
- Ms Maria ÅSENIUS
- Mr Jon NYMAN
- [Art. 4(1)(b)] (DG TRADE, G3)

- [REDACTED]
[Out of scope]
[REDACTED]
[REDACTED]
- [REDACTED]
[Out of scope]
- As regards TTIP, EuroCommerce presented its Common Declaration (enclosed) issued on the same day. EuroCommerce has an on-going dialogue with trade unions.

- [Redacted]
[Redacted]
[Out of scope]
[Redacted]
[Redacted]
- EuroCommerce is mainly interested in [Redacted], TTIP, [Redacted]
[Redacted]
[Out of scope]
[Redacted]
[Redacted]
[Redacted]
- [Redacted] [Out of scope]
- [Redacted] [Out of scope]
[Redacted]
- [Redacted]
[Redacted]
[Out of scope]
[Redacted]
[Redacted]
[Redacted]
- [Redacted] [Out of scope]
[Redacted]

Season's greetings,

[Art 4(1)(b)]



European Commission

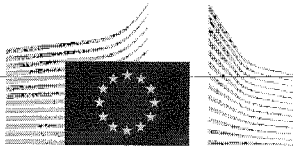
DG TRADE G3 - Market Access, Industry, Energy and Raw Materials

[Art 4(1)(b)]

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[Art 4(1)(b)] [@ec.europa.eu](mailto:[Redacted]@ec.europa.eu)



EUROPEAN COMMISSION
Directorate-General for Trade

Directorate E - Neighbouring countries, USA and Canada
USA and Canada

Brussels,
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Meeting Report

Meeting with ORGALIME – 13.01.2015

Participants:

ORGALIME Trade Group members, see attachment.

Commission: [Art. 4(1)(b)] and [Art. 4(1)(b)], Trade F3.

- ORGALIME reiterated that they continue to work in order to establish joint positions with US sectorial associations, in the sectors of household appliances, machine tools and lifting equipment. They also continue work with NEMA in order to achieve a more developed common position. Commission welcomed this approach as this is a very effective way to move the discussions forward with the US.
- ORGALIME announced that they are preparing another mission to the US in the near future.
- VDMA representative recalled concerns on standardisation and certification and insisted on the idea of tackling the issue of certification, in particular regarding the modernisation of the NRTL scheme and how this could also benefit US industry.
- Some members requested additional information about the possible outcomes of the CEN-CENELEC discussions with ANSI, in particular about deliverables of such cooperation could undermine ISO and IEC.
- [Out of scope]
- [Out of scope]

Trade Policy Working Group

Meeting Report

13 Jan 2015

	DigitalEurope	
	TEKNIKFÖRETAGEN - The Association of Swedish Engineering Industries	Sweden
	AGORIA - The Federation for the Technology Industry	Belgium
	CECED - European Committee of Domestic Equipment Manufacturers	
	FMMI - Fachverband Maschinen & Metallwaren Industrie	Austria
	Robert Bosch GmbH	
	ZVEI - Zentralverband Elektrotechnik- Und Elektronikindustrie E.v. - Germany	Germany
	VDMA - Verband Deutscher Maschinen- und Anlagenbau e.V. - Brussels	Germany
	ZVEI - Zentralverband Elektrotechnik- Und Elektronikindustrie E.v. - Germany	Germany
	CECE – Committee for European Construction Equipment	
	Orgalime	
	SERCOBE - Asociación Nacional de Fabricantes de Bienes de Equipo	Spain
	Siemens AG	
	Orgalime	
	The Federation of Finnish Technology Industries - Helsinki	Finland
	SWISSMEM - Schweizer Maschinen-, Elektro- und Metallindustrie	Switzerland
	CECIMO	
	VDMA - Verband Deutscher Maschinen- und Anlagenbau e.V. - Germany	Germany
	FME - Association of Enterprises in the Technological Industrial Sector	Netherlands
	Total attending:	19

[Art. 4.1 (b)]

Subject:

FW: Cabinet meeting with [Art. 4.1 (b)] IBM chief privacy officer (21 Jan 2015)

Ares(2015)260054

From: [Art. 4.1 (b)] (TRADE)

Sent: Thursday, January 22, 2015 2:43 PM

To: EICHHORN Nele (CAB-MALMSTROM); [Art. 4.1 (b)] (TRADE); [Art. 4.1 (b)] (TRADE); [Art. 4.1 (b)] (TRADE); [Art. 4.1 (b)] (TRADE); [Art. 4.1 (b)] (TRADE); [Art. 4.1 (b)] (TRADE)

Cc: SCHLEGELMILCH Rupert (TRADE); [Art. 4.1 (b)] (TRADE); [Art. 4.1 (b)] (TRADE)

Subject: Cabinet meeting with [Art. 4.1 (b)] IBM chief privacy officer (21 Jan 2015)

Meeting with IBM chief privacy officer, who is on a "soft lobby" tour in Brussels to alert several cabinets to IBM's concerns with the current state of the discussions on the data protection regulation and the Safe Harbour review – and how the debate on data flows is kept hostage by this according to IBM.

Participants:

- IBM: [Art. 4.1 (b)] (IBM Chief Privacy Officer), [Art. 4.1 (b)] (IBM Brussels, following the personal data regulation) [Art. 4.1 (b)] (IBM Brussels, following more the trade agenda)
- COM: Nele Eichhorn (CAB), [Art. 4.1 (b)](B1)

At the outset, Nele explained the work methods of the new Commission, that Commissioner Jourova is in charge for the data protection regulation, but that we are happy to convey messages to Commissioner Malmström. She also informed about the organisational set-up for the DSM, coordinated by VP Ansip.

Main issues raised:

- IBM stressed that data flows is "a full blown trade issue". The use of data is growing exponentially (due to mobile devices, sensors, cloud, cognitive analytics) and EU companies will need to have access to data in order to stay competitive globally.
- They hope TTIP will be able to set a gold standard also on data issues, which could then be used in the next generation of FTAs - with countries that tend to have different approaches [on TTIP, Nele recalled that Commissioner Malmström's top priority for the moment is increased transparency in order to rebuild trust]

[Out of scope]

[Out of scope]

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[Art. 4.1 (b)]



Brussels,
USA and Canada

Meeting with HSBC on TTIP (mostly SME) – 28.01.2015

Today [Art 4.1b] and I met representatives from HSBC on TTIP – they mostly wanted to talk about SMEs.

On financial sector we summarized briefly the current state of play in the negotiations: promising signals from the US, but further discussions necessary. According to HSBC they are satisfied with the market access in the US, but think that more regulatory cooperation in FS is needed. [Art 4.1a]

On SMEs: they are interested in TTIP and SME as a service to clients + showing that TTIP is not only about big business. They did a survey on US SMEs and now working on UK, DE, FR. With this they want to do communication materials with examples/real stories showing the current barriers to transatlantic trade for SMEs and how TTIP could improve the situation and benefit SMEs.

We explained where we see the general benefits of TTIP for SMEs and presented the SME chapter and flagged upcoming report. On the website they were very positive about the EU's ambition and though it would be well received by SMEs.

They are going to Washington and for SMEs we suggested to meet [Art 4.1b]. They are thinking about hosting roundtables with real SMEs to talk about their experience with EU-US trade, maybe in EP, maybe in MS, we thought it was good idea and offered to participate in principle if possible.

On TTIP in general, they refer to our public texts and background documents in their internal communication and advice to clients, they think the material online is very good and useful in debunking myths.

They also flagged an article on Die Zeit 2 weeks ago from a consumer protection organisation where it was argued that TTIP is good for consumers as it raises standards, as well as an econometric study from IFA (? Feblemeyer?) in Munich showing 2-3% GDP gains from TTIP but more mixed results on third countries impact.

They'll send us what they have already on SME examples/narrative (on US SMEs) and will keep in touch on their European SMEs examples.

[Art. 4.1 b)] (TRADE)

Subject: Report cabinet meeting with ebay - 10 Feb 2015
Attachments: eBay learning by exporting.pdf; eBay_Input to TTIP_Feb2015_EU.pdf

From: [Art. 4.1 b)] (TRADE)
Sent: Wednesday, February 11, 2015 10:57 AM
To: ASENIOUS Maria (CAB-MALMSTROM); EICHHORN Nele (CAB-MALMSTROM); [Art. 4.1 b)] (TRADE);
 [Art. 4.1 b)] (TRADE)
Cc: SCHLEGELMILCH Rupert (TRADE); [Art. 4.1 b)] (TRADE)
Subject: Report cabinet meeting with ebay - 10 Feb 2015

*** for registration in Ares please ***

Cabinet meeting with ebay, who explained their refreshing views on how TTIP could become a "Trade Agreement for People"; elaborating on the presentation made last week in the TTIP stakeholder event.

Participants:

- ebay: Tod Cohen (Vice Pdt Global Gvt Relations), Hanne Melin (Director at ebay's internal think tank called "Connected Commerce Policy Lab"), [Art. 4.1 b)] (Head EMEA Gvt Relations), [Art. 4.1 b)] (Gvt Relations Europe)
- COM: Maria Åsenius, Nele Eichhorn (CAB), [Art. 4.1 b)] (B1)

[Art. 4.2]

Ms Melin presented their vision of customer-led trade and explained that the underlying conceptual premise for that, drawing on the experience of ebay, is that their clients are far more internationally active – but in what they call "randomised trade": small traders, very often relatively newcomers, serving directly the customer in an average of 20-40 different countries (vs 3-4 on average with traditional trade patterns). Because of this atypical new trade pattern (distinct from the well-established big multinational who are well resourced and tend to serve traditional markets in big volumes) ebay clients have specific needs:

- raising *de minimis* schemes (treat purchasers like travellers - \$ 800 threshold in the US) [COM informed that the aim is the abolition of all import duties under TTIP]
- revise regional exhaustion rules (exclusive distribution rights for branded goods within geographical boundaries) – ebay claimed that the impact of abolition of duties would be limited if exhaustion rules remain unchanged
- delivery remains very costly
- trade facilitation by improved customs procedures: they would want authorised economic operator (AEO) schemes to be revised to also take into account the digital trade of small players selling directly to customers (currently AEO is limited to exporters – importers)
- streamlined consumer legislation, possibly modelled on the proposed Common EU Sales Law
- standard VAT return formats

Questions were raised on why consumer organisations remain sceptical about trade negotiations. ebay mentioned perception among consumers on an uneven distribution of gains from globalisation, and the continued backlash from ACTA.

As a US company with strong EU foothold, ebay committed to continue to feed positively into TTIP debate. ebay would be happy to mobilise and get SME clients to promote benefits of TTIP when the Commissioner does public outreach events in Europe. They mentioned a letter from 150 SME clients from ebay writing to Congress in support of Obama's state of the union position on TPA (according to USTR allegedly the first SME letter in support of trade ever).

They will also remain in contact with VP Ansip and Commissioner Oettinger (and possibly others) as the Digital Single Market plans are rolled out.

Annex:

- ebay position paper on TTIP: "A Trade Agreement for People"
- leaflet on "Learning by Exporting"

[Art. 4.1 b)]

Policy Officer - Services Trade Negotiator



European Commission
DG TRADE

[Art. 4.1 b)]

LEARNING BY EXPORTING

E-COMMERCE IS THE PLATFORM FOR EUROPEAN ENTREPRENEURS TO TEST, TRY, SELECT & GROW

The large majority of small firms using eBay and PayPal trade cross-border. These entrepreneurs operate in a different environment empowering them to think and act globally.

The main characteristic of the online marketplace is that it is almost flat. Geographical distance reduces online EU cross-border trade by less than 3% compared to 16% observed for offline.

The key beneficiary of this flatter marketplace is the small entrepreneur. By leveraging the global reach of the Internet and the efficiency of various digital services, entrepreneurial small firms build up a customer base that spans across countries – not cities! It is not unusual to serve consumers in as many as 170 markets. The average customer pool for a UK firm on eBay taps 21 different markets.

E-commerce is thus a platform from where entrepreneurs can test and try out product categories and service models, select which ones work or don't work based on experience and feedback, and from there go on to grow global businesses with a local basis.

Our suite of "Commerce 3.0" reports¹ describes how firms on the eBay Marketplace initially grow by trading different product categories; but as they gain experience, they specialize and grow through higher sales per category rather than trying to expand into new categories. The "flatness" of the marketplace to learn what works is achieved through real life experience.

It did start very small because it's a frightening step going from employment to self-employment. ... With eBay, you can start with £50 of stuff. I think it is a great way to start, and you can test the market.

Rachel White, founder of www.thingimijigs.com

The idea that your product could be available to the whole world, that was mind-blowing to me.

Erik Fagerlind, founder of Sneakersnstuff

We used our own experience to build it up.

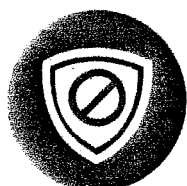
John Hewitt, founder of Bamford Trading, UK

¹ Available: <https://www.ebaymanstreet.com/commerce-3>

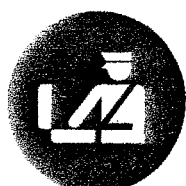
An EU policy agenda fit for this "learning by exporting" mindset should focus on:



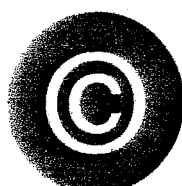
Harmonizing shipping and postal regimes



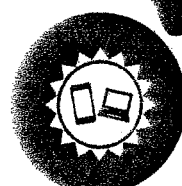
Fortifying intermediary liability exemption regimes



Increasing de minimis thresholds for customs duties



Introducing international copyright and trademark exhaustion



Creating confidence in digital payments



Rolling out electronic customs

SUPPORTING LEARNING BY EXPORTING: EU POLICY TO HELP OVERCOME THE CHALLENGES FACED BY EUROPEAN ENTREPRENEURS

CHALLENGE 1

EXPENSIVE CROSS-BORDER SHIPPING

"It is currently very expensive to ship cross border and we're constantly working on our pricing structure because of it."

Erik Fagerlind in Sweden started Sneakersstuff together with a friend in 1999. Today they employ 53 people across three physical stores and an online shop. The online shop makes their products "available to the whole world" says Erik. Indeed 70% of the business is export.

"It has become a very successful business ... we have seen our hard work pay off."

Andrea and Hans Goenner in Germany sought to liquidate a failed textile company selling the wool online. It turned into a very successful venture – Garnwelt – specializing in high quality, branded wool and trading online as well as through a small store. They sell mainly domestically with a little exporting to the US, Russian and Australia; they would expand further internationally if shipping rates were lower and the services more predictable.

RECOMMENDATION

Create a Parcel Delivery Scoreboard to measure progress on the actions set out by the European Commission in its 2013 roadmap for completing the single market for parcel delivery, and including the recommendations by the European Parliament in its resolution of 4 February 2014.

CHALLENGE 2

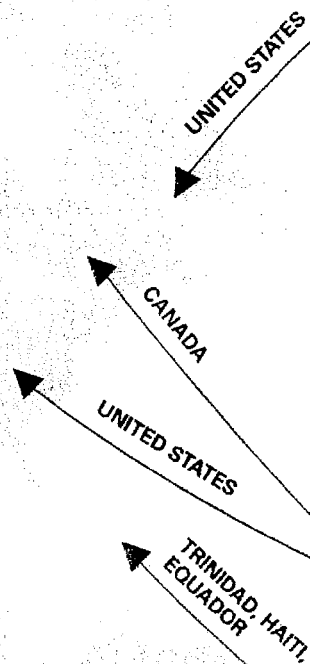
BURDENSOME CUSTOMS ADMINISTRATION IN INTERNATIONAL TRADE

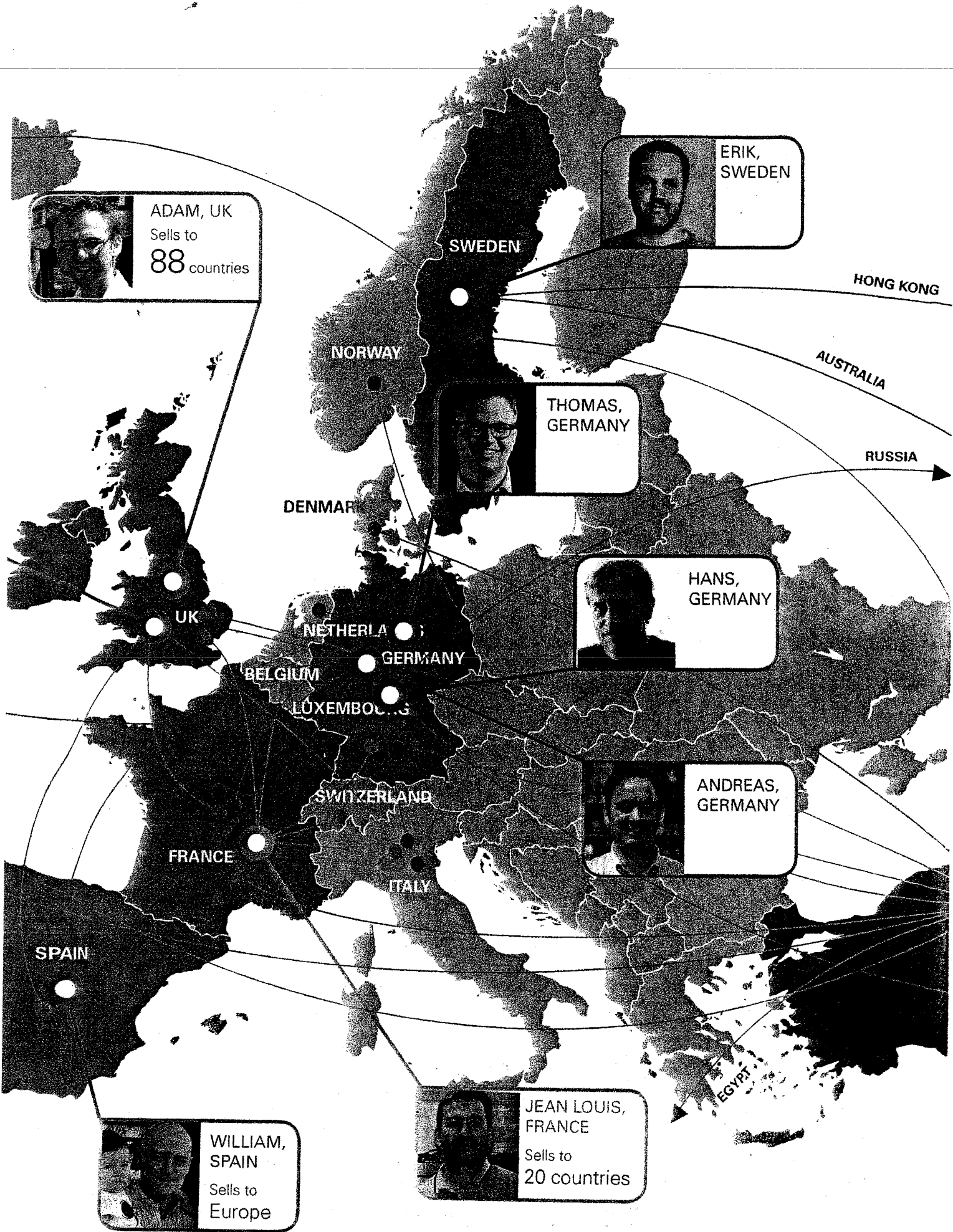
"The secret to our success is the variety and quality of our products. Our competitors were only offering ham and chorizo so we decided to diversify."


William van de Merwe's business JamonShop in Spain sells Spanish ham and culinary products to Spanish ex-pats and gourmets across the EU. The US would be a fantastic market but legal requirements around permits for bio-matter shipments prevent this from becoming a viable business prospect.


RECOMMENDATION


Conclude a free trade agreement with the US that reduces administrative burdens for small businesses and set a global best practice standard for SME-friendly trade deals.





 ADAM, UK
Sells to
88 countries

 ERIK,
SWEDEN

 THOMAS,
GERMANY

 HANS,
GERMANY

 ANDREAS,
GERMANY

 JEAN LOUIS,
FRANCE
Sells to
20 countries

 WILLIAM,
SPAIN
Sells to
Europe

CHALLENGE

3

PRESRIPTIVE 20TH CENTURY PAYMENTS REGULATION THAT IMPEDES ROLL-OUT OF INNOVATIVE ONLINE PAYMENT METHODS

"The power of PayPal lies within the security and protections that it provides to the customer."

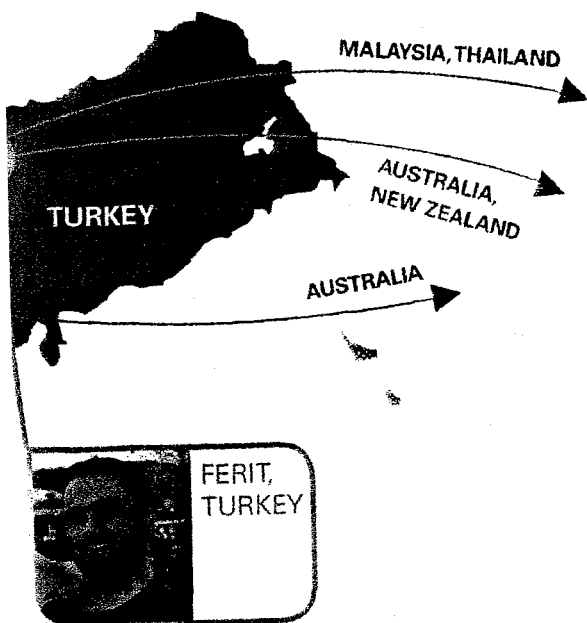
Jean Louis Gone was quick to establish his business Varionet as an online player even if the online optical market is still very new to French consumers. The ambition was to enable his business to join the global optical industry while also position it as a leader in the French market. Gone uses PayPal finding it a quick and trusted solution.

"Most of my customers use [PayPal] because of its convenience and security."

Oliver Margaron in the UK turned his part time venture into a full time business in 2008 outgrowing his bedroom, the garage, a shipping container and a small warehouse. He sells audio-visual items and accessories, doubling sales every year and today exports account for about 40% of operations.

RECOMMENDATION

Risk-based approach should be the preferred regulatory methodology in the area of payments security legislation. It could be implemented in a measurable, objective and balanced manner through dynamic performance standards, and enforced by a single supervisor through the application of the home member state principle.



CHALLENGE

4

ONLINE SALES RESTRICTIONS

"I'm seriously concerned about manufacturers' efforts to forbid me from selling on online marketplaces – often for poor reasons. We're basing ourselves on an Omni-Channel retail strategy: we reach consumers through our brick-and-mortar stores, through our own online shop, and through our presence on online marketplaces."

Andreas Müller, CEO of Deltatecc/extpert Müller Group, was just a student looking to make some extra cash in his spare time when he and his friends decided to start a business selling items online on the eBay platform in 2002. Today, Deltatecc is among the most successful online companies of branded entertainment and household goods in Germany.

RECOMMENDATION

Stop discriminatory distribution restrictions in online commerce by vigorously enforcing competition law against vertical restraints

CHALLENGE

5

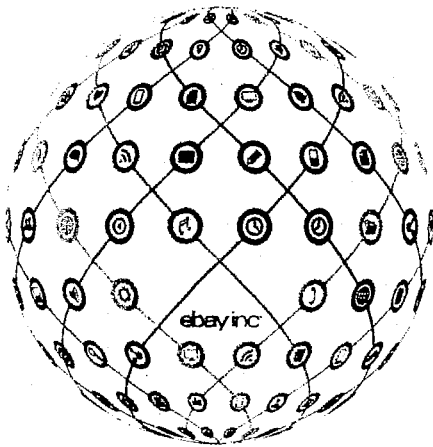
MAINTAINING OPEN MARKETPLACES AS DISTRIBUTION TOOL FOR SMES

"Without eBay we would not be where we are today. eBay gave us the possibility to sell our products and it allowed us to grow."

Thomas Berkenkämper's company Bedifol started out with one I-did-it-myself product, successfully sold on eBay, and now sells 148,000 protective film products for 19,000 different devices. 50% is exports, mainly to Europe.

RECOMMENDATION

Member States must safeguard the important role of internet intermediaries in the ecosystem, and refrain from imposing general monitoring obligations or liability without actual knowledge on intermediaries.

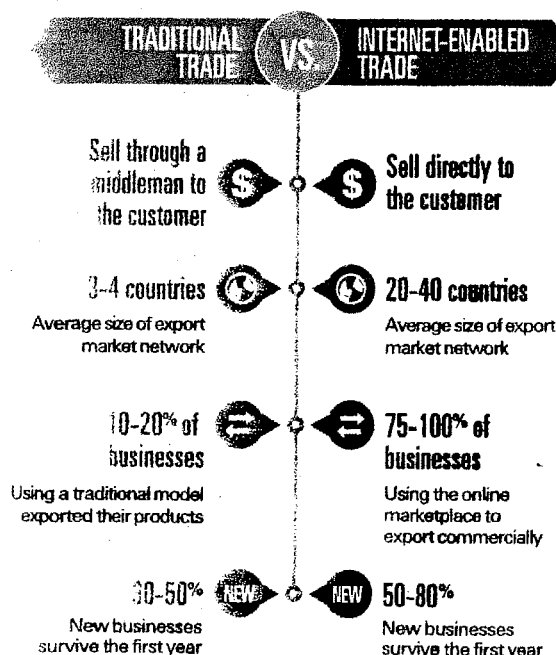


21st CENTURY TRADE

Through the power of the Internet and technology, small businesses are able to reach beyond a local consumer base and access global markets like never before.

WE CALL IT COMMERCE 3.0

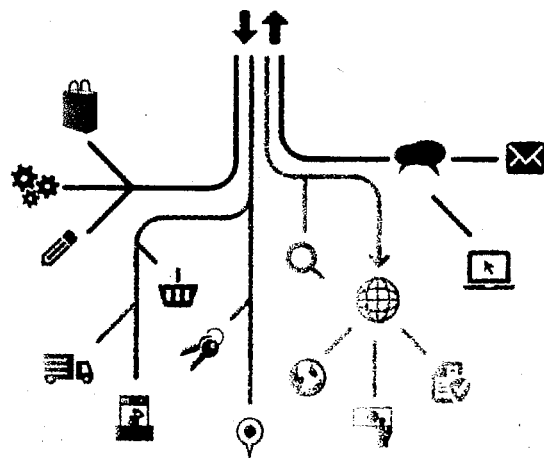
Commerce 3.0 represents the change taking place when international trade is no longer the privilege of the largest players or select countries.



TECHNOLOGY-ENABLED BUSINESSES

- ✓ Maintain local presence
- ✓ Contribute to local economy
- ✓ Increase revenue through global customer base

Trade barriers are 83% lower on global digital marketplaces;
94% lower for trade from developing countries



MOVING COMMERCE 3.0 FORWARD

What it takes:

Government policies that better empower technology-enabled small businesses to grow and thrive globally.



SERVICES

Electronic payment methods, marketing services and translation



LOGISTICS

Improved customs processes, harmonized shipping regimes



INTERNET

Investment in interconnected broadband, smartphone technology



POLICY

Fortifying intermediary liability exemption regimes, introducing SME-friendly free trade agreements, raising de minimis thresholds for customs duties, introducing balanced intellectual property rights regimes

The EU-US Transatlantic Trade and Investment Partnership

“A Trade Agreement for People”

21st Century trade patterns are more diverse than those of the 20th Century. The Internet and ever evolving digital services have empowered Micro and Small Businesses (MSB) and consumers to trade directly with each other irrespective of geographical location. This means that MSBs today can build international operations on their own terms and without investing in local establishments. At the same time, individuals can complement local choice with global offerings.

A recent report by Nielsen, prepared for PayPal, estimated that about 30 million individuals in the UK and Germany made cross-border purchases of total £18 billion in 2013. The majority of those purchases were made from the US and dominated by fashion, home electronics and computer hardware. This is mirrored by research by Sidley Austin LLP showing that more than 96% of firms using the eBay marketplace from the UK, France and Germany sell internationally: 64% of those French firms reach the US market; over 5 foreign markets are reached by 73% of the German firms; and while the US is unsurprisingly a top destination for the UK firms, they also manage to serve customers in an average of 21 different countries.

The EU and the US could design the very first trade agreement for people. The direct dealings between MSBs and consumers make up a new form of world trade that runs alongside traditional exporting by and between larger corporations. The Transatlantic Trade and Investment Partnership (TTIP) should cater also to these trade patterns by addressing the issues consumers, entrepreneurs and small businesses face in the context of international trade. As such, TTIP would become an instrument for democratising trade.

We have in previous reports (see section Sources at the end of this paper) described some of the issues that small businesses and consumers encounter when engaging in international trade. With this note, we put forward suggestions for solutions that could be promoted through the TTIP negotiations. Some of those solutions are not normally discussed in the context of trade agreements. However, with the changing landscape of trade comes the opportunity to now think and talk about trade policy as something that can produce direct benefits for individuals as “trade actors” in their own right and capacity of consumers, entrepreneurs and business owners. A modern trade agreement should be one that speaks directly to citizens.

A GLIMPSE OF WHAT IS POSSIBLE

International trade has traditionally been an activity confined to and carried out between larger corporations. This is changing as the combination of the Internet and digital services provides MSBs with options for expanding internationally without linking into the value chains of large corporations or investing in local establishments. MSBs can today serve customers in foreign markets directly using global online networks and services to connect, communicate, create trust, transact and get paid.

The eBay marketplace, representing one combination of the Internet and digital services, presents a snapshot of what 21st Century trade offers:

- **Lower trade costs** - The eBay marketplace reduces by about 83% the negative effect that distance between trading partners has on international trade. This means that transactions happen on the eBay marketplace that would not happen offline because of the higher costs involved in matching trading partners, communicating, establishing trust, etc..
- **Inclusive participation** - Exporting on the eBay marketplace is more equally distributed between small and large firms compared to traditional markets¹ and we see that the smallest and the largest firms using eBay have similar market survival rates.
- **Learning by exporting** - Trade literature has traditionally held that firms have to become more productive before they export. In stark contrast, technology-enabled traders learn and grow by exporting. In fact, serving global markets is a very condition for their successful growth. These firms specialise as they grow; with experience from trading internationally comes a better understanding of markets and customer demand.²
- **Increased market reach** - 70%-80% of French, UK and German firms³ reach five or more foreign markets. Illustrating the increased market reach, a recent Deloitte report for eBay revealed that the top 100 UK retailers of women's dresses on eBay have sold to 182 markets between them, reaching on average 138 markets.
- **Consumer benefits** - If costs for traditional international trade were reduced to the level found on the eBay marketplace, the consumer welfare gain would amount to 3.4% of GDP for the EU27 average.

We are at the beginning of a paradigm shift where international trade goes from being the privilege of a few corporations and countries to an activity open also to individuals and remote locations. This presents both challenges and opportunities for trade policy. Challenges in that there are novel and different issues that impede or facilitate international trade for those new actors. Opportunities in

¹ Using the so-called "Lorenz curve", Sidley Austin LLP found that eBay trade is less concentrated, i.e. less dominated by large firms, compared to studies of traditional US and French firms.

² See Dan Curiak, "Learning by Exporting", (2013 working paper); page 15 of eBay's Turkey report available here: http://www.ebaymainstreet.com/sites/default/files/ebay_commerce_3.0_turkey.pdf as well as eBay's report "Learning by exporting – e-commerce is the platform for European entrepreneurs to test, try, select and grow", available here: <http://www.ebaymainstreet.com/sites/default/files/ebay-turkey-learning-by-exporting.pdf>

³ Sellers with annual sales of more than €10,000 on the eBay marketplace.

how governments will finally be able to create and present trade policy so that it resonates with citizens.

A TRADE AGREEMENT FOR PEOPLE

As the above description suggests, technology-enabled trade by MSBs presents some unique characteristics: (1) MSBs are often significantly smaller than the general definition of Small and Medium-sized Enterprises, reflected in their much limited human and financial resources; (2) they export to a very large number of different markets, many markets are not predetermined but entered into as a result of customer action; (3) it follows that the shipment patterns are often infrequent and to varying destinations, in stark contrast to the regular shipments to predetermined countries that characterize traditional trade; (4) this type of international trade does not entail setting up physical establishments in foreign markets; and (5) the share of newcomers is quite substantial, these are firms new to exporting and lacking experience.

The TTIP negotiations present a unique opportunity to create rules and principles that cater to these types of trade patterns. This would also mean that governments and trade negotiators could present TTIP as an effort to address issues felt by individuals when selling and buying across borders as entrepreneurs, small businesses and consumers. Thus, there are both economic and social gains.

For example, key barriers that impede consumers from purchasing across borders include cost, time, reliability and tracking of delivery; customs and tax policies; and their rights including ease of return. The barriers are very similar from a small business perspective. The results of our surveys reflect those of European Commission studies with key concerns being transportation and delivery as well as customs formalities and administration. An additional concern is knowledge of and compliance with differing consumer protection legislation.

Against this background, we suggest that the TTIP negotiations explore the following solutions:

Break new ground on customs relief thresholds and associated processes

Many small businesses avoid selling internationally out of concern that they could misclassify the goods and be penalized. They also fear that the confusion caused by customs procedures will create a negative buyer experience. These concerns could partly be addressed by raising and harmonizing customs relief thresholds.

Under the so-called *de minimis* rule in the US and the customs relief thresholds in the EU, products less than \$200 and €150 respectively are exempt from customs duties. By raising that threshold to the equivalent of \$800, trade generated by micro and small businesses would receive a significant boost as cost, paperwork and delays would be reduced for exporting MSBs as well as for MSBs accepting returns which may then be subject to import duties.⁴ The TTIP should include a

⁴ This is a proposal put forward also by the National Board of Trade in their report 2013:4 (available: <http://www.kommers.se/publikationer/Rapporter/2013/Global-Value-Chains-and-the-Transatlantic-Trade-and-Investment-Partnership-/>); by the World Economic Forum in their 2013 report "Enabling Trade" (available: http://www3.weforum.org/docs/WEF_SCT_EnablingTrade_Report_2013.pdf); and in a summary report by the OECD (available at <http://www.oecd.org/trade/tradedev/IBD2013Report.pdf>)

commitment to a minimum threshold of the equivalent to \$800; this baseline level could be linked it to the consumer price index. This level should be applicable regardless of country of origin. Creating a baseline *de minimis* level between the EU and the US and where the aim is to have such a baseline level adopted by other trading partners would support small business to fully take part in the global economy.

Together with a baseline threshold, TTIP should promote the standardisation of processes for reclaiming customs duties by consumers in case of returning the product. These processes vary between countries and are unnecessarily complex and in many cases still paper-based. This fits naturally with the proposal that TTIP requires the EU and the US to accept electronic payments for the payment of customs duties. With the participation of MSBs and consumers in international trade, the modernisation and simplification of customs administrative processes

Support cross-border delivery services through partnerships

Micro and small businesses in particular rely on postal systems for shipping services. In cross-border situations, this often means that they miss out on important services such as tracking, that the service is perceived as unreliable by consumers, and that it is expensive relative to the service level and delivery time. The European Commission's survey⁵ among SMEs revealed that "transport of goods" is one of the most burdensome policy areas for both EU and non-EU SMEs. Shipping solutions as those proposed below are often overlooked in trade negotiations even though they are integral to supporting the participation in trade small businesses and consumers.

The TTIP could:

- Create harmonised rules for EU and US postal operators to deal with damaged packages, tracking requirements and data requirements. The objective is to make it simpler for small businesses to manage the intricacies of transatlantic and global trade.
- Create interoperable tracking systems.
- Become an instrument for strengthening the links between services of commercial courier companies and postal operators on both sides of the Atlantic. We believe in partnerships between postal operators and express carriers for the development of the type of delivery services small businesses and their customers demand (e.g. end-to-end tracking; standardized return solutions; affordable, sufficiently fast and reliable services).
- Encourage creating tools to improve customer knowledge about the nature of EU and US postal services.

Trusted trader schemes for MSBs

The EU and the US have signed a decision on the mutual recognition of their respective trusted trader program: the Customs-Trade Partnership Against Terrorism (C-TPAT) program in the U.S. and the Authorised Economic Operator (AEO) program in the EU. Reciprocal implementation is effective since 31 January 2013. This is a welcome development the TTIP should build on:

⁵ Available: <http://www.ebaymainstreet.com/news-events/european-commission-publishes-list-top-barriers-small-businesses-eu>

- The TTIP should extend the scope beyond (i) safety and security to cover also customs simplification and (ii) manufacturers and exporters to cover also all other operators in the supply chain.
- The TTIP negotiations should explore how to ensure that MSBs can participate and benefit from a transatlantic trusted trader scheme. To the extent that micro and small businesses are dissuaded from joining the AEO and C-TPAT programs⁶, the TTIP should put in place mechanisms that would have the effect of linking those businesses to those programs, e.g. through the use of intermediary authorized operators.
- The TTIP negotiations could be used to set up an eCustoms project similar to the ITAIDE⁷ but focused on MSBs and developing practical customs solutions for seamless transatlantic trade and adapted to their needs and resources (ITAIDE runs “Living Labs”, which are pilots centered around large European exporters in four different sectors.)

Technology-enabled MSBs exporting have a very different risk profile to large corporations. Our research shows that, compared to traditional firms, they export to several countries; they trade in several product categories; and the export pattern is generally infrequent.⁸ In the context of investigating and ensuring small businesses’ participation in transatlantic trusted trader scheme, the TTIP negotiations should investigate what new types of data and data sources (including the data points created by the digital environment where these traders operate, such as feedback scores, ratings, performance measured by intermediaries and platforms) should inform risk assessment as well as compliance with trusted trader criteria.

Transatlantic consumer rights

The European Commission’s proposed Common European Sales Law (CESL) could be used for transatlantic trade to help, in particular, small businesses and consumers overcome legal risks and fears associated with cross-border transactions. The idea behind CESL is to simplify life for exporting traders by giving them the option to export based on one single law irrespective of where the consumers are situated. Explicitly incorporating CESL into a trade agreement would be a novel mechanism to address an issue which with “global commerce” will grow in importance (and which has not yet found its solution in international efforts by, e.g., the UN and OECD⁹).

⁶ National Board of Trade makes the following remark in their report 2013:4 “Global Value Chains and the Transatlantic Trade and Investment Partnership”: *“Recent improvements in trade logistics, such as ‘authorized economic operators’ and other trusted trader programs, also typically benefit large economic actors.”* Likewise, World Economic Forum suggests in their 2013 report “Enabling Trade”: *“For example, one relatively straightforward policy [...] is to ensure that initiatives to reduce regulatory compliance such as trusted trader programmes are open to smaller firms”.*

⁷ See: www.itaide.org

⁸ The National Board of Trade describes the characteristics of e-traders as (1) selling into a large number of markets simultaneously, (2) seldom established in the markets they sell into, (3) small, and (4) often shipping a large number of small consignments rather than single big ones. (Report 2012:4 “E-Commerce: New Opportunities, New Barriers”)

⁹ It is raised in a recent report by the OECD, “OECD International Business Dialogue 2014, Better Regulation to Enhance Trade”.

Indeed, Recital 14 of the proposed CESL provide for such an application:

“The use of the Common European Sales Law should not be limited to cross-border situations involving only Member States, but should also be available to facilitate trade between Member States and third countries. Where consumers from third countries are involved, the agreement to use the Common European Sales Law, which would imply the choice of a foreign law for them, should be subject to the applicable conflict-of-law rules.”

Applying a legal instrument similar to CESL to trade between the EU and the US would create a framework for further cooperation in the area of consumer policy. For example, the legal rights and obligations could be translated into symbols or icons that can be used in an easy and practical manner by traders in their communications with potential and actual customers. The symbols would create a common language and would facilitate for both businesses and consumers when communicating via screens of computers, mobile phones and wearable devices. This is not dissimilar to the information function of apparel and textile symbols and the process towards harmonisation of such symbols carried out within the NAFTA.

The aim here is of course to transform a legal instrument into a practical tool for businesses and consumers in order to facilitate uptake and ensure comprehensibility. At the same time, there is value in the very process of reaching a common taxonomy.¹⁰ The taxonomy process could take place at the level of national authorities, private actors and civil society.

“Omnichannel trade”

Today, 86% of UK and German consumers use their computer, mobile phone and tablets for a range of purchasing research activities. For example, emerging mobile-specific technologies are used for taking a picture of a product to retrieve information, comparing prices in a store, retrieving information on local offers, scanning barcodes to access additional information, and searching for reviews.¹¹

Retailers who are present and offer their services and products through an integrated and aligned system of stores, e-commerce, mobile apps and social media (“omnichannel” retail) can capture additional sales and expand internationally. The 2014 Deloitte study for eBay found that around 95% of non-store sales are incremental to store sales; increasing a retailer’s relative share of web searches by 10% increases total sales by up to 2.1%; and in the UK and Germany, up to 25% of recent online and mobile purchases involved products that could not have been bought locally, which represents nearly €9 billion in the UK.

The EU has adopted measures to address data roaming charges between Member States with price caps and protection so that people can use their smartphones in the way describe above also when travelling. In our 2011 Mobile Manifesto, we urged European policymakers to reduce roaming costs further and faster to address the discrepancy between national and cross-border charges and support omnichannel behaviour by travelling consumers.

The TTIP negotiations should include discussions on a mobile roaming agreement between the US and the EU with the aim of ensuring consumers can use their smartphones effectively also abroad.

¹⁰ See e.g. the OECD report “International Regulatory Cooperation: addressing global challenges”, (2013): “common language and definitions contribute to trust building and form the foundations of collaborative relations” and make up one out of ten “critical elements” of successful International Regulatory Cooperation.

¹¹ Deloitte omnichannel consumer survey, 2013

This will benefit travelling consumers as well as retailers who can engage in omnichannel trade with visiting consumers.

“One-Stop-Shop” (OSS) Principle

The setting up of single entry points – or “local hubs” – could facilitate transatlantic trade by making administration and processes more familiar for both consumers and businesses even though they are engaging in cross-border transactions.

Application areas could include dispute resolution and VAT:

- **Provide simple online processes for solving disputes between consumers and traders** - The TTIP could provide for an online “one-stop-shop” consisting of (1) a single entry point and (2) online and standardised processes for filing complaints and solving disputes. The recently adopted EU Alternative and Online Dispute Resolution (ADR and ODR) package could provide a blueprint for such a “one-stop-shop”. Mutually recognised ADR schemes of the EU and the US could be linked to an ODR platform through which consumers and traders could submit disputes arising from online cross-border transactions. (This would not affect choice of law rules under International Private Law or the Rome II Regulation.)
- **Commit to an OSS for MSBs in the area of VAT** - As of 1 January 2015, EU and non-EU businesses providing digital services to final consumers in the EU will be able to use a web portal in the EU Member State in which they are identified to declare the VAT due in the Member States of their customers. Registration, payment and reporting will be handled through the tax administration of that Member State. This type of solution could cover also physical goods traded online between the EU and the US, at least for micro, small and medium sized businesses. Indeed, the European Commission recognises in its Communication of 9 January 2013 on an action plan for entrepreneurship that one-stop electronic VAT registration constitutes a measure to facilitate cross-border commerce for small businesses.¹² The EU-US negotiations should strive to put in place an OSS for small businesses engaged in transatlantic B2C trade in goods.

Optional instruments

The idea of providing an optional (and additional) instrument designed for cross-border situation could be used to facilitate transatlantic trade, applied to appropriate issues, without harmonising EU and US legislation. Examples of how such instruments could look include:

- 1) We have already mentioned CESL and our suggestion of applying this instrument to transatlantic technology-enabled trade between businesses and consumers.
- 2) Another example of an optional instrument is the proposed “Common EU Standard VAT Return” developed by PwC. It would enable taxable persons VAT-registered in more than one Member State to submit VAT returns with the same format, information requirements and submission rules to national tax authorities of each of the EU Member States. PwC

¹² Available : <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0795:FIN:en:PDF>

estimates that the biggest costs savings for businesses are achieved when all companies can freely choose between their national VAT return and a Common Standard Return.¹³

- 3) A third example of a new approach to convergence is the proposed EU Regulation on electronic identification (eID). It provides a framework with conditions for notification of eID schemes to the European Commission coupled with the principle of mutual recognition by Member States of these notified schemes. There is no obligation on Member States to notify schemes; instead, the expectation is that economies of scale, created through the cross-border use of these notified electronic identification means, will encourage Member States to notifying schemes.

Educational efforts

Research from the World Economic Forum finds that the use of the Internet and technology services can increase cross-border small business sales by 60 – 80%.¹⁴ TTIP should encourage the EU and the US to put in place the educational infrastructure for MSBs to learn about online opportunities for exporting and building international operations. This requires the effective dissemination of information to business communities about how the Internet can be leveraged for growth. TTIP could provide for cooperation and coordination between the EU and the US on educational and information efforts as well as with the private sector, and not the least companies offering the online and digital services that empower MSBs and consumers as international trade actors.

¹³ PwC estimated current costs per VAT return : For the sample SMEs, the cost per VAT return is estimated at €453. For the sample micro companies, the cost per VAT return is estimated at €244. (Study on the feasibility and impact of a standard EU VAT return, 8.3.2013 , available: http://ec.europa.eu/taxation_customs/common/publications/studies/index_en.htm)

¹⁴ World Economic Forum, "Enabling Trade – Valuing Growth Opportunities", 2013.

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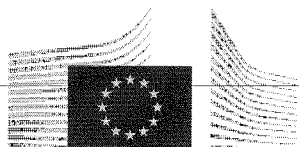
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EUROPEAN COMMISSION

Directorate-General for Trade

Directorate B - Services and Investment, Intellectual Property and Public Procurement
Services

Brussels, 25 February 2015

DG TRADE/B1/Art. 4.1 (b) (2015) 853665

NOTE FOR THE FILE

Subject: Meeting on EU-US Mutual Recognition of Professional Qualifications for Architects – 13 February 2015

Summary

Constructive first meeting of negotiators from both sides with EU and US representatives of the architects profession, which allowed to put the process towards a possible MRA on track. Discussions allowed us to map out respective differences on either side that will have to be addressed during the negotiations, but no red flags were raised, and neither NCARB nor ACE considered these issues as insurmountable.

Discussions between professions will now start subject to approval by their respective boards. Key point is likely to be the modalities and duration of the “compensatory mechanism” (the number of years in professional practice after obtaining qualification, which should even out possible differences in respective education or traineeship requirements). If successful, they will present a proposed draft arrangement to the two negotiating sides for review and possible adoption.

First stocktaking in the same format (architects, COM, USTR) is planned in the margins of the July TTIP round.

Earliest possibility for adoption on the US side would be June 2016, with possible entry into force from 2017. Further clarification is needed on whether adoption by NCARB will be sufficient to bind the US in the TTIP context. On the EU side the ideal solution remains to link the MRA to TTIP but this will have to be further negotiated with USTR in future rounds.

* * *

Participants:

USG: Art. 4.1 (b) (USTR), Art. 4.1 (b) (Commerce), Art. 4.1 (b) (US Mission)
US architects: Art. 4.1 (b) (NCARB)
EU architects: Art. 4.1 (b) (Secretary General ACE), Art. 4.1 (b) (Vice-President)
COM: Art. 4.1 (b)

Details

The meeting was called by the EU and the US as part of the 8th round of negotiations. Its purpose was for the negotiators to explore and understand the issues that a future MRA agreement on architects would have to address. To this end, representatives of professional bodies from the EU and the US were invited with a view for them to share information and experience in negotiating non-binding arrangements and to confirm their willingness to engage in providing the necessary ground work for a possible future MRA agreement on architects.

Both USTR and COM stressed that negotiations have to be bottom-up and are largely in the hands of the profession. Neither USTR nor COM obliged the professions to conclude a deal, or mandated what needed to be in it. No set deadline was fixed either. It was however stressed by both the USTR and COM that whatever the profession comes up with, the power to shape the final contents and the responsibility for adoption rest with the negotiating sides.

At the meeting both NCARB (National Council of Architects Registration Boards) and ACE (Architects Council of Europe) explained their respective regimes. Art. 4.1 (a)

Art. 4.1 (a), and through the exchange – often already in a hypothetical scenario on how a future MRA would be implemented – it was possible to identify a **number of sensitivities and issues that may need to be addressed in the negotiations.**

- NCARB repeatedly stated that regulatory systems are very similar between US and CAN, whereas the US and EU have **two different models** of regulation. In the US licensure is State competence, but this is facilitated through an accreditation and certification process managed by NCARB. 30 jurisdictions rely exclusively on the NCARB certificate to give licensure to architects licensed in another jurisdiction. With an NCARB registration, a US or foreign architect can get a license in all 54 US jurisdictions (“NCARB registration gives a kind of seal of approval irrespective of citizenship”). In the EU the Professional Qualifications Directive (PQD) ensures automatic recognition for intra-EU mobility for EU nationals, but recognition of non-EU nationals left to the discretion of the MS of entry”.

Art. 4.1 (a)

- NCARB’s mission is the development and application of “Standards for licensure and credentialing of architects”. As a result, NCARB stressed their traditional focus on the “three Es”: Education, Experience and **(post internship) Examination**. This leads to licensure, and then NCARB accreditation. Experience is obtained via a 2 to 3 year internship (the “Intern Development Program”) of 3,740 to 5,600 hours. Art. 4.1 (a)

Art. 4.1 (a)

Art. 4.1 (a)

Art. 4.1 (a)

- NCARB mentioned that **language differences** may come up and that the US regulators may have problems with the EU's language diversity.

Art. 4.1 (a)

- NCARB briefly explained the modalities of its "BEFA – programme" - an expensive (USD 9 000) and time-consuming unilateral recognition process based on additional examination and addressed to foreign architects with over 7 years of professional experience.

Art. 4.1 (a)

Art. 4.1 (a)

Art. 4.1 (a)

- NCARB has a strong focus on certification of courses and "**accredited degrees**" but stressed that accrediting training courses is very labour-intensive work. They also mentioned the Canberra Accord signed with CAN, AUS, NZ, KOR.

Art. 4.1 (a)

Art. 4.1 (a)

- NCARB also mentioned that in the revision of the PQD the EU has failed to bring the **education period** up to 5 years

Art. 4.1 (a)

Art. 4.1 (a)

- Also under the MRA with CAN the US works with NCARB certificates for the Canadian architects. For NCARB, the ideal scenario would be to issue a NCARB certificate to EU architects pursuant to the MRA. However US side cannot guarantee that all US architects travelling to Europe would do so via NCARB.

Comment: NCARB could not yet indicate if there would be different NCARB certificates for US nationals compared to EU nationals entering the US under the MRA: “we do normally not work with different colours, but certificates may come in different flavours” (?). Under the MRA with CAN there is some difference with the traditional NCARB certificate since pursuant to the MRA architects self-certify that they have done over 2000 hours of post-licensure experience.

- ACE flagged the high interest from national associations for temporary, short term access and that the MRA should not be restricted to foreign establishment (something that will have to be linked with mode 4 market access).

Next steps

Both professional associations confirmed they are willing to enter negotiations and to invest time and resources in developing a draft MRA arrangement to be proposed to the negotiating parties. Both sides still have to get full endorsement from their respective boards but both expect this to be a mere formality.

Going forward, each side will liaise back with its respective authorities as each sees fit. ACE will also liaise back with **ENACA** (the European Network of Architects Competent Authorities) which provides for an informal liaison between competent authorities. There is, indeed, an imbalance between the two professional bodies, NCARB representing licensing authorities while ACE represents professional bodies.

In terms of overall timing, and assuming that discussions between the two associations run smoothly, NCARB reported that the first reasonable opportunity for adoption of the agreement/proposal at their side would be June 2016 - at their annual assembly (they only have one assembly per year). To reach this target, an agreement should be more or less stabilized by early 2016.

As per the example of the US-CAN MRA, in the most optimistic scenario the MRA could then enter into force on e.g. 1 January 2017 if a sufficiently high number of states (precise thresholds to be set in the negotiations) would sign up by 31 December 2016 and provided, of course, that the two negotiating sides (US and EU) have agreed on substance and form with the content and scope of the MRA proposal jointly submitted by NCARB and ACE.

In that context, it is important to note that negotiations on important issues like the adoption mechanism and legal link to TTIP (make the MRA an Annex to TTIP, or adopt the MRA by a decision of a body under TTIP [the CETA model]) are still to be had with the US, and may already come up at the April round. We also need to further discuss the issue of the territorial scope of any future arrangement (critical mass) and agree internally on what would be acceptable to us.

Author:

Art. 4.1 (b)

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From: [Art. 4.1(b)] (TRADE)
Sent: Thursday, March 05, 2015 7:13 PM
To: GARCIA BERCERO Ignacio (TRADE); [Art. 4.1(b)] (TRADE-WASHINGTON); [Art. 4.1(b)] (TRADE); [Art. 4.1(b)] (TRADE); [Art. 4.1(b)] (TRADE); [Art. 4.1(b)] (TRADE); [Art. 4.1(b)] (TRADE); [Art. 4.1(b)] (EEAS-WASHINGTON)
Cc: [Art. 4.1(b)] (TRADE)
Subject: 04/03/2015 Chevron - TTIP - report

Chevron: Mr [Art. 4.1(b)] (law department), Ms [Art. 4.1(b)] (Brussels office), Mr [Art. 4.1(b)] (Weil, law firm)
 TRADE: Mr [Art. 4.1(b)], Ms [Art. 4.1(b)] (report)

Short meeting organised at the request of the company interested in the overall progress of the negotiations, the dynamics and the main elements of the discussion. HH debriefed according to the usual line. On energy, [Art. 4.1(b)] presented our interest to solve in TTIP our bilateral issues, set rules on energy trade and investment beyond WTO (e.g. transit through pipelines, trading monopolies, non-discriminatory accessed to monopolised infrastructure) as a stepping stone for global standard, as well as our wish to work on consolidation of existing common environmental principles (e.g. offshore safety) and disciplines for renewable energy and energy efficiency. Several example of a geopolitical value of such a chapter were discussed (UA, Central Asia, Russia). Chevron asked principally questions on ISDS and was interested in the dynamic and arguments used in the current debate in the EU.

[Art. 4.1(b)]

European Commission

DG TRADE

Unit G3 Market Access, Industry, Energy and Raw Materials

[Art. 4.1(b)]

B-1049 Brussels/Belgium

[Art. 4.1(b)]

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From: [Art. 4.1 b)] (TRADE)
Sent: 19 March 2015 08:48
To: [Art. 4.1 b)] (TRADE)
Subject: FW: meeting with ESF

[Art. 4.1 b)]

[Out of scope]

From: [Art. 4.1 b)] (TRADE)
Sent: Thursday, March 19, 2015 8:47 AM
To: SCHLEGELMILCH Rupert (TRADE); GARCIA BERCERO Ignacio (TRADE); [Art. 4.1 b)] (TRADE); [Art. 4.1 b)] (EEAS-WASHINGTON); [Art. 4.1 b)] (TRADE)
Cc: [Art. 4.1 b)] (TRADE)
Subject: FW: meeting with ESF

On 16 March, [Art. 4.1 b)] met with Pascal Kerneis (PK) from ESF to discuss the EU proposal of the horizontal chapter on regulatory cooperation. The discussion focused on the issue of the coverage of the chapter as regards state-level measures. PK argued that the current proposal is not ambitious enough and unfavourable for the EU using the following arguments:

- Most of services sectors in the EU are regulated at EU level, whereas in the US at state level. This leads to asymmetrical gains for the EU from the cooperation.
- By excluding state-level, we are excluding important sectors in the US such as professional services and insurance,
- The cooperation is limited to measures which have "significant impact on trade and investment". [Art. 4.1 (a)]

[Art. 4.1 (a)]

[Art. 4.1 b)] pushed back on these points arguing that:

- Member states are very defensive on regulatory cooperation,
- The main purpose of the proposal is to create tools for the cooperation. Whether the cooperation delivers depends mainly on good faith and mutual interest and not legal obligations.
- Large part of EU regulation is done at MS-level so the argument on asymmetry is not valid.
- two main services sectors regulated in the US at state level (insurance and professional services) will be subject to specific rules on regulatory cooperation. PK couldn't provide examples of additional sectors regulated at state-level which should be covered by regulatory cooperation in his view.

PK argued that the defensiveness of MS is caused by the lack of understanding of the EU proposal among services experts. To address this, we agreed that we would highlight all initiatives related to regulatory cooperation in the TPC SI (e.g. under AOB points).

