

POLICY BRIEF

Promoting Small- and Medium-sized Enterprises Access to and Use of Digital Tools: Recommendations for TTC Action

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The United States and the European Union (EU) have recently launched various initiatives to manage their competition and enhance their cooperation on trade and technology issues. The Transatlantic Leadership Network's Trade and Technology Working Group addresses these topics in its work, including recommendations for more effective action. This report on issues related to small- and medium-sized enterprises benefits from and draws on accompanying policy briefs by Kathryn Lundquist, Marco Bianchini and Lora Pissareva, and Stefano da Empoli and Giusy Massaro, and discussions with them and additional members of the TLN Working Group. Those papers can be read in conjunction with this report. I am grateful to them and to the other members of the Working Group for their insights. I am however solely responsible for the content of this report and its recommendations. All products from the TLN Working Group may be found at <https://www.transatlantic.org/transatlantic-technology-and-trade-working-group/>.

Working Group 9 – Promoting Small- and Medium-sized Enterprises (SME) Access to and Use of Digital Tools: The use of digital tools is a key enabler for SMEs to innovate, grow and compete. Its uptake varies significantly across sectors and regions. Beyond training and education gaps and market access barriers, SMEs face challenges regarding access to technologies, data, and finance. We are committed to ensuring access to digital tools and technologies for SMEs in both the United States and European Union. Working Group 9 is tasked to launch outreach activities that will offer opportunities for SMEs and underserved communities, and their representatives, to share their needs, experience, strategies and best practices with policymakers on both sides of the Atlantic with a view to ensuring a better understanding of the barriers to their digital empowerment. Additionally, through a series of listening sessions with SMEs and underserved communities, as well as the resulting analysis and reporting, the working group is tasked to develop recommendations for U.S. and EU policymakers to implement that will help to accelerate access to and the uptake of digital technologies.

U.S.-EU Trade and Technology Council Inaugural Joint Statement, September 2021 ¹

Introduction

Small- and medium-sized enterprises (SMEs) account for six of every ten jobs in the EU and four of every ten in the United States. Those that are digitally connected are more likely to identify additional customers and markets through trade, including through digitally-delivered services. The rise of online platforms has enabled SMEs to improve productivity, extend their reach, identify niche demand opportunities, ease transaction costs, and generate economies of scale. The transformation of global supply chains into a series of interconnected “trade in tasks” has also opened new commercial opportunities for specialized SMEs. Moreover, some digitally-savvy SMEs are “born global,” exporting their products or services from

initiation. SMEs that leverage digital tools report 80% better sales and 60% more revenue than those that are uncertain about the use of digital tools.²

The COVID-19 pandemic has accelerated SME digitalization; up to 70% of SMEs around the world have turned to digital solutions to connect with customers and overcome supply chain disruptions. Nonetheless, levels of SME digitalization vary greatly across industries, as well as across technologies and services. Overall, SMEs lag in adopting digital technologies, in all areas and in all countries – and the more sophisticated the technology, the greater the gap in adoption. On each side of the Atlantic, structural barriers to SME digital adoption include regulatory costs and complexity, as well as gaps in skills, financing, and access to high-speed, high-quality, reliable and secure digital infrastructure.³

There is also a digital gap across the Atlantic, as SMEs in Europe overall are registering lower rates of digital adoption than those in the United States. Roughly 52% of SMEs in the EU report having implemented at least one digital technology, about 8% less than in the United States.⁴ Adoption rates for various technologies also vary considerably among EU member states.

Moreover, while SMEs are engines of job creation and innovation on both sides of the Atlantic, only a small fraction of the 50 million SMEs in the United States and Europe engage in commercial activity across the Atlantic. There is much untapped potential here. Regulatory divergences and duplicative red tape are especially burdensome for SMEs. They can find it particularly difficult to absorb the cost of building a product to different European and U.S. standards or undergoing multiple inspections of a manufacturing facility. Such costs can be an insurmountable barrier for SMEs wishing to engage in transatlantic commerce.⁵

In this context, the legal uncertainty generated by the Schrems II judgment invalidating the U.S.-EU Privacy Shield arrangement for transfer of certain kinds of personal data across the Atlantic is having an outsized impact on SMEs, given their limited resources and the reliance of tech start-ups on seamless and affordable access to data and digital tools. Without Privacy Shield, SMEs are turning to standard contractual clauses, a more cumbersome and costly alternative that may also be rendered invalid going forward.⁶

Recommendations

Start at Home. Much important work to enable SMEs to recover from pandemic-induced disruptions and to take advantage of opportunities presented by digital technologies and the transatlantic marketplace begins at home -- by U.S. federal and state authorities, the European Commission and EU member states within their own jurisdictions. This includes targeted, sector-specific recovery initiatives, domestic upskilling efforts, enhanced financing opportunities, better e-government and e-services for SMEs, improved digital security practices, and build-out of accessible, high-speed, reliable broadband infrastructure.⁷

Conclude a Privacy Shield successor deal that takes account of SME concerns. The Schrems II judgment hangs over the entire landscape. Current negotiations on a successor to Privacy Shield may offer a temporary work-around, but since the Court's decision is rooted not in policy but in law, ultimately the only sustainable resolution will be revamped privacy legislation in the United States, and that could take some time. A successor regime should address the profound hurdles SMEs encounter when it comes to certifying GDPR compliance. Despite good faith efforts, only half of small businesses feel they are in fact compliant.⁸ The two parties might draw on UK experience in elaborating on what types of data processing purposes are considered lawful and would not require additional consent; and consider criteria for small business exemptions included in the California Privacy Rights Act, Virginia Consumer Data Protection Act, and the Colorado Privacy Act.⁹

Build on the draft SME chapter in the U.S.-EU Transatlantic Trade and Investment Partnership (TTIP). When TTIP was put in the deep freeze in January 2017, the two parties had essentially agreed on a chapter dedicated to SMEs. Various provisions in the draft¹⁰ could be revived and updated:

- *Work to facilitate trade and address regulatory and tariff barriers*, such as removal of customs duties, elimination of double certification requirements, simplification of customs procedures, reduction of costs linked with diverging standards, and improved protection of intellectual property (IP) rights. Introduce ‘fast-track’ procedures at the border or eliminate specific tariff peaks that continue to exist.
- *Coordinate to ensure that U.S. and EU SMEs can use digital tools and trade technologies in either jurisdiction.*
- *Establish a web-based information system as a one-stop shop to facilitate SME participation in transatlantic trade and investment*, with SME stakeholders participating in its development. Such a portal could include useful information on customs procedures; tariff and taxes; technical regulations in force; IP rights regulations; SPS measures; public procurement regulations; registration, licensing and authorization procedures by sector; opportunities for financial support; and programs for SME internationalization. Such efforts can draw on the WTO’s Trade4MSME’s web platform resources, tailoring them to transatlantic commercial opportunities.
- *Develop and share best practices* on training SMEs and workers to effectively use digital technologies; fostering diversity, equity and inclusion by facilitating digital access to underserved communities.

Agree on legally transferable and enforceable electronic documents and instruments, which would remove a major bottleneck in for SME digitalization. The G7 has agreed to facilitate the adoption of electronic transferable records, recognizing that different domestic systems will require different legal solutions. The United Kingdom is a first-mover in this area. The U.S. and the EU could draw on UK experience as well as guidance from the Model Law on Electronic Transferable Records (MLETR) devised by the United Nation’s Commission on International Trade Law (UNCITRAL).

Craft regulatory solutions that recognize the unique needs of SMEs. Explore tailored measures based on firm size and the scale and scope of data that enterprises collect. Tailor filing requirements to the size, scope, and resources of differently-sized businesses. Create appropriate exemptions from overly burdensome and resource-intensive requirements for SMEs.¹¹

Provide SMEs with flexibility or support for compliance costs associated with developing and using AI technologies. The draft EU Artificial Intelligence Act is likely to raise costs disproportionately on SMEs.¹²

Partner with the private sector to develop U.S.-EU credentialing and apprenticeship programs, cross-border education and training opportunities, including through existing efforts including the EU’s Digitalization Hubs, DG Trade’s Access2Markets platform, and the U.S. Commerce Department’s Export.gov portal, SelectUSA Summit and Startup Global initiative.

Convert the TTC’s general pledge to consult with SMEs into a more structured dialogue with SME stakeholders that generates regular updates and reports with appropriate recommendations.

Notes

¹ White House, “U.S.-EU Trade and Technology Council Inaugural Joint Statement,” September 29, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/09/29/u-s-eu-trade-and-technology-council-inaugural-joint-statement/>.

² See the papers prepared for this initiative: Stefano da Empoli and Giusy Massaro, “SME adoption of digital technologies: a Transatlantic view,” October 2021; Kathryn Lundquist, “Digitalization & Micro, Small, and Medium-Sized Enterprises,” <https://www.transatlantic.org/wp-content/uploads/2021/12/11-03-2021-Lundquist-TTC-SME-v2.pdf>; and Marco Bianchini and Lora Pissareva, “SME digitalisation for more resilient economies,” https://www.transatlantic.org/wp-content/uploads/2021/12/11-03-2021-OECD_SME-Digitalisation_FINAL.pdf. Also OECD, *The Digital Transformation of SMEs* (Paris: OECD Publishing, 2021). OECD SME Outlook 2021: Country profiles, <https://www.oecd.org/industry/smes/SME-Outlook-2021-Country-profiles.pdf>; United States Small Business Administration, *Small Business GDP*, <https://cdn.advocacy.sba.gov/wp-content/uploads/2018/12/21060437/Small-Business-GDP-1998-2014.pdf>; European Parliament Research Service, “Key Figures for SMEs in the European Union,” <https://epthinktank.eu/figure19e28093keyfiguresonsmesintheeuropeanunion/>.

³ Lunquist; OECD; Da Empoli and Massaro; Bianchini and Pissareva.

⁴ Da Empoli, citing EIB Group Survey on Investment and Investment Finance.

⁵ Asian Development Bank et al., “Global Value Chain Development Report 2021: Beyond Production,” November 2021, <https://www.adb.org/sites/default/files/publication/747966/global-value-chain-development-report-2021.pdf>.

⁶ Nigel Cory and Ellyse Dick, “How to Build Back Better the Transatlantic Data Relationship,” ITIF, March 25, 2021, <https://itif.org/publications/2021/03/25/how-build-back-better-transatlantic-data-relationship>.

⁷ Asian Development Bank.

⁸ See gdpr.eu, 2019 GDPR Small Business Survey (May 2019).

⁹ Bianchini and Pissareva; Cory and Dick; UK Department for Digital, Media, Culture, & Sport, “Data: A New Direction,” December 2020; Letter to The Honorable Dianne Farrell, Acting Undersecretary of International Trade, International Trade Administration, U.S. Department of Commerce, from Jeffrey Joseph, President and CEO, Software & Information Industry Association (SIIA), regarding the U.S.-EU Trade & Technology Council - Working Group 9 - Promoting SME, December 3, 2021, <https://www.siiia.net/wp-content/uploads/2021/12/SIIA-Formal-Comments-to-TTC-Working-Group-9-Promoting-Access-to-and-Use-of-Digital-Tools.pdf>; C_Tec, *Growing Small Business Exports*, <https://americaninnovators.com/small-business-exports/>; Connected Commerce Council, “European Small and Medium-Sized Enterprises (SMEs): Transformation, Innovation, and Resilience During the COVID-19 Pandemic,” <https://digitallydriven.connectedcouncil.org/europe/>.

¹⁰ See the EU’s draft proposal for legal text for an “SME Committee” in the SME chapter of TTIP, which was presented to the United States in October 2015 and made public in November 2015:

https://trade.ec.europa.eu/doclib/docs/2015/november/tradoc_153934.pdf Also “European Parliament resolution of 8 July 2015 containing the European Parliament’s recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP) (2014/2228(INI)),” https://www.europarl.europa.eu/doceo/document/TA-8-2015-0252_EN.html?redirect; http://amchameu.eu/system/files/documents/promoting_sme_access_to_and_use_of_digital_technologies_3.pdf

¹¹ Jeffrey letter.

¹² Benjamin Mueller, “How Much will the Artificial Intelligence Act Cost Europe?” Center for Data Innovation, July 26, 2021, <https://datainnovation.org/2021/07/how-much-will-the-artificial-intelligence-act-cost-europe/#:~:text=The%20AIA%20will%20cost%20the%20European%20economy%20%E2%82%AC31.Data%20Innovation%2C%20focusing%20on%20AI%20and%20technology%20governance>.