



TTIP- What's in for Small and Medium-sized Enterprises

Small and medium-sized enterprises (SMEs) are the backbone of the European economy, more than 20 million firms that account for over 98% of all enterprises, 67% of total employment and 58% of gross value added. They are a key driver for economic growth and job creation and play an important role in generating innovation.

Micro, small and medium-sized enterprises in Europe are poised to receive significant benefits from the TTIP negotiations. TTIP will include a chapter especially dedicated to SMEs, but more generally all chapters will have provisions that will allow SMEs to benefit from the agreement in different areas such as **increased transparency, improved access to public procurement markets, duty elimination, trade facilitation** or **protection of Intellectual Property Rights**.

TTIP means EU SMEs will have extra chances to reap the benefits of an improved access to the US market by:

- Eliminating custom duties and tariffs;
- Simplifying customs and administrative procedures;
- Reducing non-tariff barriers;
- Liberalising trade in services;
- Enhancing investment conditions;
- Lowering existing barriers in public procurement;
- Prevent future regulatory differences to become an obstacle to trade
- Setting high standards in IPR protection

Benefits for SMEs in TTIP

- **Dedicated chapter:**

SMEs need predictability: they must be able to easily find information on market conditions so they can take appropriate decisions to start, maintain or expand business. They must also be able to adapt to changes in the business environment.

- It is very difficult for an EU small company to follow regulatory developments in all the US states, for example to know when a new standard or regulation becomes applicable or if the same technical requirement applies in two different states.
- ⇒ The TTIP chapter dedicated to SMEs should include rules to ensure transparency and early-on availability of information. An SME help desk/contact point and a web portal collecting all relevant information should be established. It could serve as a first entry point for companies, collect information and give advice on market access issues like trade barriers, challenges in public procurement, requirements necessary to fulfil standards.
- ⇒ The chapter should also foresee that the EU and the US take into account the SME dimension, e.g. SME competitiveness proofing when developing new regulations.



- **Eliminating custom duties:**

- When exporting to the US, EU companies are confronted with tariff peaks of 32% on synthetic t-shirts, of 28% on EU ceramic tableware, of 25% on EU porcelain tableware and kitchenware for hotels and restaurants and of 20% on certain processed food. As a consequence, EU products are sold at a higher price on the US market. This hampers export possibilities for EU companies in particular SMEs that have also to face the exchange rate difference.
- Some EU companies import from the US raw materials and/or “intermediate” products that are necessary for the manufacturing of the final product, which is then re-sold in the US. No duty would mean increasing the competitiveness of companies importing such intermediate products.
- Different tariffs are applied to machinery and equipment and their components, hampering a cost-efficient delivery from EU to US that affects SMEs’ interests. For example, the delivery of an x-ray system would be most appropriate as separate parts rather than as a whole system: currently, when the system is exported to the US in separate parts (Taric 9022 900090) a 2,4% import tariff is applied, whereas when the system is exported as a whole (Taric 9022 190090) it is tariff free.

⇒ TTIP should eliminate current tariffs, providing for maximum front loading as it enters into force with remaining tariffs being eliminated in a short period of time after entrance into force.

- **Simplification of customs procedures**

Administrative procedures are complex, slow, and entail much paperwork. A company may decide that they are just not worth the effort. Some examples:

- US authorities require that some products destined to the US market are stored separately from others and are inspected under special procedures before shipping. This entails additional costs especially for SME. Equally, in certain cases US extra-territorial controls at the EU factories before shipment are sometimes so deterrent that SMEs may choose to drop the US market. On some occasions products are inspected twice, before being shipped and also when they reach the US customs. Scans or x-rays are required even for products that are shipped regularly and the costs are to be covered by the company.
- Specific insurances, certificates of compliance with US regulations must be presented at customs. Some certificates take months to be obtained.
- The US tariff classification is different from the European. When a company decides to place a new product in the US market, it is often unclear which duty level will be applicable.
- Rules of Origin are usually different in the EU and the US. Many companies especially SMEs cannot afford to change production processes just to comply with a different set of rules. Furthermore, rules are often inconsistent, complex and restrictive and the management of preferences brings in high costs and red tape.

⇒ TTIP could lay down trade facilitation rules that improve predictability, simplify and harmonise customs procedures and rules making it easier for an SME to enter the US market. Rules should be developed so that EU companies can benefit from being part of the global value chains, as often it is in the EU that high value parts are added to a



product. Simpler, more coherent and less restrictive rules are vital for the competitiveness of SMEs.

- **Reduction of non-tariff barriers**

- Every product, no matter whether it is a big or small company producing it, has to comply with regulations. This means that the costs of complying with divergent requirements are proportionally higher for SMEs and leave them with onerous administrative burdens discouraging them from engaging in transatlantic trade. In most cases these diverging requirements fulfil the same objectives but entail burdensome and time-consuming tasks and SMEs often do not have enough resources to handle them. So they simply dismiss the market.
 - A plug of a different shape, a wire in a different colour, a cable one yard instead of one meter long, a button placed slightly more to the left or a different symbol on a label mean that a company has to replace these elements in the production line when the final product is to be sold in the US. Differences in technical specifications, standards and conformity assessment procedures, and licensing procedures can be equivalent up to a 20% duty and sometimes even more depending on the sectors.
 - Companies producing equipment for the food industry have to obtain the approval according to EU food safety standards, but when exporting to the US their product needs to be reapproved by US authorities.
 - Some agricultural products cannot be sold in the US market directly by the producer: there is an obligation to have intermediaries, and this implies additional costs.
 - The EU and the US have different definitions for cosmetics: roughly 60-70% of formulations including antiperspirants, sun protection products, most toothpastes, anti-wrinkle, anti-cellulite, anti-dandruff products and other modern personal care and hygiene cosmetics, that are placed on the EU market as cosmetics are considered over the counter drugs (OTC) in the US. Requirements regarding OTC drugs are much more demanding and costly (approval and registration processes, GMP plant inspections, clinical trials). Most EU cosmetics should be adapted to OTC requirements in order to be placed on US market. For SMEs this is a substantial trade barrier. Most of SMEs refrain from exporting to the US or export only products which could be placed as cosmetics.
 - Underwriters Laboratories-certification is a safety standard for electrical devices and components required in the US market. This entails several tests during the year and the renewal of the certification once a year, which cause significant extra costs in SME-scale.
 - New products often need very laborious acceptance tests and cost can be even 10-15 % of the total machine sales price even if the machine has been already accepted by other authorities in a very similar way.
- ⇒ An ambitious regulatory chapter in TTIP could therefore have a positive impact by allowing many small companies to explore new business opportunities across the Atlantic for the first time. Additionally, if large companies are able to increase their sales in the transatlantic market, SMEs will also benefit indirectly from TTIP as suppliers of these companies.



- **Liberalising trade in services**

- Services have an increasing importance in the EU economy and represent 35% of all EU exports to the US. Furthermore, data driven innovation is key for jobs and growth in Europe, estimated to be €330 billion a year in the EU by 2020. Data flowing across borders, combined with solid trust of users in the protection of their personal data, is a precondition for international trade, the digital economy and the internal functioning of European companies, large and small, operating internationally. Cross-border data flows are relevant for companies of all sizes and in every sector. SMEs in particular don't have the resources to establish operations all around the world and therefore data flows are vital for them to engage in trade.
- In the US, there is not an integrated market for services. This means for example that an EU insurance company is obliged to have 50 different authorisations to open businesses in all US states.
- An EU consultancy firm cannot provide its services in the US if the professionals it employs - lawyers, accountants, architects, engineers - are not accredited in the USA.
- Lengthy procedures for visas and work permits are a big obstacle for SMEs, as in practice they need to establish a subsidiary in the US in order to get work permits.
- ⇒ TTIP can help remove current hurdles and widen the choice of services available on the market in sectors like catering, cleaning, finance, telecommunications, repair, maintenance and assembly services, technical planning and consultancy services, ICT related services, information security and digital services, maritime transport support services, knowledge intensive business services..
- ⇒ TTIP should ensure that data can flow contributing to competitiveness and growth of European companies and in particular SMEs at the same time giving users adequate protection of their personal data.

- **Enhancing investment conditions**

SMEs have already been using the ISDS mechanism: according to the OECD, 22% of ISDS cases filed so far around the world have been initiated by SMEs. Although the EU and the US have well-developed legal systems, discrimination against foreign companies cannot be ruled out completely, i.e. foreigners may not be treated in the same way as domestic players.

- The right of non-discrimination is not guaranteed in the US, unless there is an international agreement to which foreign investors can refer to. Companies' claims result from the breach of an International Treaty like TTIP.
- In general domestic courts do not consider themselves competent to interpret and apply International Law.
- ⇒ SMEs could especially benefit from an investment protection chapter in TTIP that takes up reform proposals on ISDS.
- ⇒ TTIP could lay down provisions for ambitious market access for investments that may open up new opportunities for SMEs in economic activities currently out of reach.



⇒ Lack of legal certainty and lack of trust in the (potential) host country's legal and political system are the main obstacles that prevent companies from investing abroad¹. TTIP could lay down modern, effective, transparent rules in what concerns investment protection that could inspire a worldwide reform of ISDS.

- **Lowering existing barriers in public procurement**

Public tenders often include clauses that give preference to domestic companies over foreign ones. These clauses have increased significantly after the 2009 financial/economic crisis. A frequent restriction is represented by local content requirements, which make it compulsory for bidding companies to use American-made goods (as laid down by the famous Buy America Act).

- There are many restrictions in the maritime sector: an EU company cannot operate in the US unless it has a US flag, US crew and uses vessels built in the US.
- In some sectors EU SMEs are excluded to supply the final product but also all the intermediary products (e.g. uniforms but also the fabrics and yarns they are composed of)
- SMEs struggle in understanding procedures and criteria in force in all the US states, as there are no nation-wide uniform rules.

⇒ TTIP could bring transparency on procurement opportunities in the US, make rules and procedures simpler for SMEs and reduce substantially obstacles stemming from the Buy America Act and other provisions that impose local content requirements

- **Prevent future regulatory differences to become an obstacle to trade**

There must be an improvement in coordination between regulatory authorities, to increase convergence of regulatory approaches and mutual recognition of policies in as many sectors as possible. This would significantly reduce regulatory compliance burdens for small firms, allowing them to bring innovative products to the market faster.

- Electric vehicles, nanotechnologies and 3D printing technology are good examples of fields so new that so far few regulations have been adopted in the EU or in the US. Environmental technologies and renewables are also areas where more regulatory activity is expected in the future.

⇒ TTIP could set up a process to facilitate exchanges between regulators on both sides of the Atlantic so that they can share the scientific data analysed before adopting regulations, or use the same parameters to assess the data available. This could lead to the adoption of rules in new areas like electric vehicles or nanotechnologies possibly avoiding the differences than we currently have in other fields.

- **Ambitious Intellectual Property Rights provisions**

A considerable number of European SMEs base their competitive hedge on creativity and innovation whether they are active on traditional or in new sectors. For these companies the protection of Intellectual Property is key, being it designs (e.g. textiles), patents (e.g. nanotechnologies), trademarks (e.g. luxury goods) or geographical indications (e.g. agri-food).

⇒ TTIP could set high standards in IPR protection and enforcement paving the way for enhanced worldwide provisions.

¹ According to a study on the internationalization of German SMEs carried out by the German public investment promotion bank KfW in 2012