

Additional Questions for the Record

**The Honorable Lee Terry**

**In your testimony, you mention that G20 countries are responsible for 65% of these protectionist policies. How can the ongoing trade negotiations, including TPP, the U.S.-E.U. Safe Harbor, TTIP, and TiSA, improve the marketplace for small businesses that use the eBay Marketplace?**

Trade negotiations can remove barriers that currently inhibit technology-enabled small businesses from selling across borders. The US is currently involved in several negotiations that can serve to reduce barriers to trade. Each negotiation has unique issues that it could potentially address:

TPP

Small businesses face challenges when navigating and complying with trade laws around the world, and must dedicate their limited resources to compliance costs that are proportionally higher for their smaller size. Technology-enabled small businesses, in particular, confront complex customs procedures that complicate access to the international marketplace. Many small businesses avoid selling internationally all together because of confusing customs procedures. The TPP can help to resolve this issue for small businesses by raising and harmonizing the de minimis thresholds of all negotiating parties. The de minimis threshold is the monetary level below which an importer is exempted from customs duty and paperwork requirements. De minimis levels can be quite low in TPP nations; for example the de minimis in Canada is just \$20.

The TPP Customs chapter would be the ideal location for codifying a de minimis level for all TPP parties. Moreover, the TPP will be the first trade agreement to have an intense focus on improving the global supply chain, and raising de minimis would fit perfectly into that overarching method. Increasing the de minimis threshold would benefit small businesses by reducing customs and shipping burdens. Increased thresholds would improve access to the global supply chain. Also, as retailers integrate an e-commerce presence into their business model, it's important to break down barriers to low-cost goods for consumers.

In the US, eBay supports the Low Value Shipment Regulatory Modernization Act (S. 489/H.R. 970). This legislation would increase the US de minimis level from \$200 to \$800. The legislation also includes a Sense of Congress that US trade negotiators should seek similar commitments from our trading partner nations to ensure that the international marketplace is open to US exports. We advocate that an \$800 de minimis threshold should be codified in the Customs chapter of the TPP to create an open marketplace for technology-enabled small businesses.

TTIP

The TTIP negotiations are timely, and present a unique opportunity to create rules and principles for today's and tomorrow's trade. With the characteristics of the new trade as our starting point, this section makes specific proposals for what we believe should be included within the three broad areas identified as the pillars of a TTIP agreement.

Break new ground on customs relief thresholds

Under the *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 \$1,000 dollar/€800, trade generated by micro and small businesses would receive a significant boost as cost, paperwork and delays would be reduced for exporting SMEs.<sup>i</sup> The TTIP should include a commitment to a minimum threshold of \$1,000 dollar/€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.

Support cross-border delivery services through partnerships

Micro and small businesses in particular rely on postal systems for cross border shipping services. 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 recently published the results of a survey<sup>ii</sup> among SMEs and “transport of goods” was mentioned as 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 micro and small businesses

The US and the EU 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 Authorized Economic Operator (AEO) program in the EU. Reciprocal implementation is effective since 31 January 2013.

This is a welcome development which the TTIP should build on by:

- 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 micro and small businesses 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 programs<sup>iii</sup>, 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 ITAIDE<sup>iv</sup> but focused on micro and small businesses 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.)

Web-enabled micro and small firms 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.<sup>v</sup> 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 corporate sources) should inform risk assessment as well as compliance with trusted trader criteria.

### TISA

The International Services Agreement should ensure an open and competitive environment for e-commerce to thrive. It should include provisions that allow users to access and use services, applications, and devices of their choice. It should make permanent, and strengthen, the 1998 WTO e-commerce moratorium in which WTO members committed to the practice of not imposing customs duties on electronic transmissions. Moreover, TISA should create strong, binding, rules that support the cross-border flow of data and bar forced localization requirements including requirements for the building of local infrastructure in order to offer services. It should include Internet intermediary liability protections, for providers online platforms, designed to ensure that intermediaries are not treated as publishers of content, exclusive of criminal law, communications privacy law, and intellectual property claim. Such a provision will encourage innovation and the development of new types of cross border services. Finally, TISA should mandate the concept of technological neutrality, so that all technologies are given an equal chance to compete in the marketplace.

### The Honorable Jerry McNerney

**You mentioned that U.S. leadership in data flow is key. How do you envision this: internal policy, trade policy, or other?**

The US must adopt smart policies in domestic legislation and regulation as well as in the trade context in order to maintain its leadership stake in the digital arena. In terms of domestic policy, the US should avoid any outright restrictions on data transfers, onerous licensing requirements that

Subcommittee on Commerce, Manufacturing, and Trade  
Cross Border Data Flows: Could Foreign Protectionism Hurt U.S. Jobs?  
Response to Questions Submitted for the Record:  
Mr. Brian Bieron, Executive Director, Global Public Policy, eBay Incorporated

might inhibit the growth of new digital services, and taxation of digital transmissions. In the trade context, the US should create enforceable rules against localization requirements for digital service providers, onerous customs requirements that effectively inhibit digital transmissions that support physical goods, and seek out interoperable privacy regimes that protect citizens' sense of dignity while enabling data-based innovation.

---

<sup>i</sup> 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](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>)

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

<sup>iii</sup> 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*".

<sup>iv</sup> [www.itaide.org](http://www.itaide.org)

<sup>v</sup> 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")