

Business 9+ (B9+) Joint Statement to the EU D9+ Ministerial meeting in Las Palmas, Spain – 16 December 2022

Key Messages:

In the coming months, ahead of the Swedish and Spanish Presidencies, the B9+ calls on leading Digital member states to:

- ***Navigate shared economic and societal headwinds through partnership with business as a trusted partner and increased public-private collaboration and enable further beneficial digital and green, driven investment, innovation and adoption.***
- ***Prioritize measures to deepen the digitalized single market while keeping borders open for deep digital integration with other countries. Intensify work with likeminded partners to actively address and avoid market access barriers and distortions to trade and investments, and to lower global barriers to digital trade and innovation***
- ***Support coherence in digital and green transition policy, and enablers. Increasing a country's level of digitization, is directly related to improving its sustainability. -Public policies and regulation should reflect more coherently the essential role that technological innovation plays as an enabler of the green transition.***
- ***Include everyone in further beneficial digital and green, driven opportunities. Particular focus should be on enabling SMEs and start-ups access to digital goods and services.***
- ***Work with, not against, further digital and green driven innovation in governance and regulation. Safeguard trust in further digital opportunities and develop enabling and future-looking frameworks.***

Introduction

Navigate shared economic and societal headwinds through partnership with business as a trusted partner and increase public-private collaboration and enable further beneficial digital and green driven innovation and adoption.

Digital driven innovation is integral to modern economies and societies and have proven to be enablers of our economic and societal resilience. This was accelerated

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during the pandemic as shown in the latest Single Market Annual Report¹ published by the European Commission. The total number of SMEs was divided into digitized and non-digitized, according to basic digitization parameters. Non-digitized SMEs decreased on average by 8 %, while digitized SMEs only decreased by 0.5 %.

As key industry representatives in the D9+ countries, the national business associations support the ambition of a digital and green transition. The shape of Europe's digital future matters. We envisage an open, more competitive, smarter low carbon economy, a safe and trustworthy innovation-friendly digital environment, with a sustainable enterprise base that provides quality jobs and enables a high quality of life on top of an enhanced connectivity layer of very high-capacity networks and a datacenter infrastructure able to cope with the increased traffic related to customer demand and technological developments such as web3 and immersive technologies including virtual/augmented reality. We envisage an outward looking, dynamic, and successful EU, that encourages technological capabilities across the EU while remaining open to further international co-operation and trade with likeminded partners and providing the conditions for organizations and individuals to adapt to technological and environmental change and reach their full potential through a more business-friendly environment.

We welcome and encourage the ongoing joint efforts by our national government Ministers, as the D9+, to proactively promote and enable further digital and green innovation both at home and across the EU, strengthening our collective economic recovery, resilience, and welfare.

Businesses and industry have an essential role as a partner and driver of the digital and green transition and are willing to play their part.

In this context, ahead of the Swedish and Spanish Presidencies, the private sector calls on leading Digital member states to:

1. [Use digital to enable the global economy. Intensify work with likeminded partners to lower global barriers to digital trade, investment and innovation.](#)
 - Adopt policy and regulatory frameworks to ensure the scale needed by the key actors to achieve the Digital Compass targets for 2030, including full coverage of Very High-Capacity Networks such as fibre and 5G as well as ambitious targets for expanded processing capacity, including climate neutral highly secure edge nodes.

¹ [Annual Single Market Report 2022](#)

- Enable international data flows and work with likeminded partners. Leverage the EU-US Trade and Technology Council (TTC) and engage enterprise, including SMES and start-ups. Build on the positive momentum of the recent EU-US political agreement and US Executive Order²; and the expected European Commission preliminary decision on transatlantic data transfers³, and swiftly deliver a revised, robust and resilient overarching framework for EU-US data exchange, addressing privacy issues as well as the needs of modern digitalized business. Ensure that new proposed EU rules, such as the Data Act, do not create new and unnecessary obstacles to the storage and transfer of non-personal data outside of the EU, creating problems for the recently agreed new Trans-Atlantic Data Privacy Framework⁴. The strength of EU-U.S. cooperation and leadership has only become more critical in the face of the ongoing Russian invasion of Ukraine, economic anxieties, and extreme climate events.
- Explore common approaches to data governance, data portability and interoperability. The EU should work with OECD partners to deliver further policy guidance on data governance. In this field, in a context with constant changes, private-public collaboration is essential.
- Strengthen collaboration, research cooperation, and develop market-driven standards in cybersecurity and emerging technologies, including AI, the Internet of Things, 6G, web3 and immersive technologies including virtual/augmented reality in line with WTO/TBT⁵ principles.
- Ensure the free movement of cloud services across Europe through the development of an European Cloud Certification Scheme (EUCS), in accordance with the Cyber Security Act⁶ which will help the EU economy prosper at home and abroad, contribute to Europe's digital ambitions, and strengthen its resilience. We restate our principled approach to the development of the EUCS⁷. EU legislators should ensure the impacts of all proposed requirements in the draft EUCS scheme on businesses and the Single

² https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_6045

³ Add REFERENCE

⁴ https://ec.europa.eu/commission/presscorner/detail/nl/ip_22_2087

⁵ Technical Barriers to Trade (TBT)

⁶ Article 54. Elements of European cybersecurity certification schemes

⁷ See [B9+ statement](#) (September, 2022).

Market are thoroughly considered and addressed. Political considerations should not be delegated as per the ECJ ruling⁸.

- In an international context such as the current one, it is essential that the European Union maintain and strengthen relations with global trading partners to accommodate an increasingly digital driven economy. EU-Latin America digital trade barriers must be lowered, and ties tightened, taking advantage of the upcoming Spanish Presidency of the Council of the EU.
- Boost the entrepreneurial business ecosystem, taking advantage of the scalability of these businesses and their work to facilitate the growth of European firms globally.
- Safeguard a smart technological sovereignty approach. We support a “smart technological sovereignty”⁹ approach that encourages capacities across the EU while remaining open to further international co-operation and trade with likeminded partners so Europe can access and safeguard the economic benefits of further digital transformation.
- Prioritize measures to deepen the single market while keeping borders open for deep digital integration with other countries. B9+ federations would welcome a D9+ initiative to develop a joint position as concrete input to the European Commission’s single market communication expected in Q1 2023. The European Commission should make the Internal Market stand at the heart of its priorities and propose specific measures for easing the burden of businesses, especially for SMEs, when doing business in the Single Market, including facilitating better access to digital goods and services.

2. Use digital to enhance societies and sustainability.

- Enable both, digital and green, agendas to work in tandem. Business driven digital innovations play a key role in advancing a sustainable economy less intensive in resources and emissions of greenhouse gases.

⁸ Recent information provided at ENISA’s Certification conference in June 2022 points to the inclusion of a political requirement for digital sovereignty in the draft EUCS although the notion of “sovereignty” is not yet defined at a European level. The CJEU (Case C-355/10) states that “provisions which, in order to be adopted, require political choices falling within the responsibilities of the European Union legislature cannot be delegated”.

⁹BusinessEurope (2020) [Smart technological sovereignty: how it could support EU competitiveness](#)

- Intensify the roll out of digital infrastructure, such as broadband (including optical fibre), cloud, and 5G and support the development of emerging technologies like web3, immersive technologies including virtual/augmented reality and 6G. It is crucial to develop enabling and future-looking frameworks and policies that foster incentives for sustainable market structures, a dynamic internet ecosystem that drives demand and investments into fast connections, increase spectrum availability for broadband services and push digital infrastructure investment.
- Regarding 5G cybersecurity, we have to work towards improving security risk management and resilience of key activities based on a risk-based and "zero trust" principled approach¹⁰ which leverages international standards (such as ISO) and OECD recommendations¹¹. At the same time, public policies must continue to support a competitive market and the diversity of suppliers in Europe, referring always to commonly accepted EU and industry telecom security standards and assessment mechanisms such as the EU 5G Certification Scheme.
- Recognise that the development of Data spaces in strategic sectors and domains of public interest, while respecting intellectual property, including trade secrets, data privacy and security, will have positive benefits for several areas including climate action and health.
- Digital and green transitions should be effectively supported by necessary cross cutting policies, such as education and employment, to ensure that they are inclusive and address economic and societal needs as we navigate these transitions.
- Some recent studies show that there is a threshold or tipping point in Europe corresponding to a DESI score of 48.8, beyond which one point of growth in DESI reduces annual per capita emissions by 0.003 metric tons.

¹⁰ A zero trust approach complements risk management practices by suggesting an evolution in digital security architecture. It assumes that a breach is inevitable and enhances digital security by implementing the principle of "defense-in-depth" and by eliminating implicit trust to any device, service, or identity.

¹¹ <https://www.oecd.org/digital/ieconomy/digital-security-risk-management.pdf>

3. Include everyone in further beneficial digital and green driven opportunities

- Ensure an inclusive twin transition which provides opportunities for all. It is vital that the digital transition is inclusive and does not leave anyone behind, bridging digital divides in terms of gender, age, access, accessibility, skills and learning opportunities.
- Strengthen the policy responses at the EU and national levels to tackle labour and skills shortages which have become a key concern for businesses. They constitute a bottleneck to economic growth potential and an under-utilisation of human potential¹². In this regard, the 2023 European Year of Skills¹³ should lead to effective responses to current labour shortages and skills mismatches, activating the unemployed as well as inactive persons, and recognising the positive contribution of talents from third countries in answering labour market needs¹⁴.
- Foster digital skills and the wider set of STEM skills, notably among women, in close cooperation with each other at all levels of education and training.
 - Work with education and vocational training providers and the industry to identify and anticipate needs. More agile training and quicker adaptations that give answers to the immediate and identified future needs and demands of the digital transition.
 - Support collaboration between employers and education and training providers in the updating and development of curricula at all levels of the education system.
 - Continue to strengthen Vocational Education and Training (VET) as a critical pathway for the development of basic, transversal and STEM skills. VET is a driver of productivity and innovation.
 - Further efforts to enhance digital skills provision in an initial and lifelong learning context. This can include the use of massive open online courses (MOOCs), short cycle degrees, modular learning, micro-credentials and better use of part-time and distance learning study

¹² [BusinessEurope. Policy Orientation Note: Labour force and skills shortages: how to tackle them?](#)

¹³ [Commission kick-starts work on the European Year of Skills](#)

¹⁴ [Facilitating innovation and bridging the skills gap. STOCKHOLM DECLARATION BUSINESSEUROPE'S COUNCIL OF PRESIDENTS](#)

options. It is important to promote different pathways to acquire digital skills, which also helps to increase and diversify the talent pool. We encourage Member States to share best practices on approaches and methods.

- Promote digital security, privacy and ethics in a way, which still enables the widespread use of technology and data to solve the main societal challenges. The important work of heightening our digital security and fostering a human-centred digital development must be done with the possibilities for companies to do business in mind.
- Ensure harmonised implementation and application to the regulation of digital markets and online safety. Support contestability and fairness while ensuring non-discrimination, proportionality, and predictability in line with OECD economic goals. Consider flexibility in addressing the different needs and purposes of distinct sectors.
- Have an open and inclusive debate on the rights of people in an increasingly digital economy and society. Promote awareness on the risks of disinformation.

4. [Harness the Power of AI and Emerging Technologies: work with, not against, further digital innovation in governance and regulation, and safeguard trust in further digital opportunities.](#)

- Stand up for a proportionate, human-centered approach to the governance and regulation of AI development and adoption, based on evidence and risk, and emerging technologies.
- Focus on where most widespread and significant societal damage is likely to arise particularly in proposals around the definition of AI systems, the allocation of responsibilities between different actors in the AI value chain, criteria for determining prohibited practices and the classification of high-risk systems. High-risk definition must be clear and simple and focus only on high-risk areas.
- Reassess potential administrative and compliance burdens, which could discourage investment in the development and deployment of AI systems and consequently hurt Europe's twin digital and green transitions and its competitiveness:

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- We acknowledge progress made at Council in the past six months on the Artificial Intelligence Act (AIA), however we would like to highlight outstanding issues that we encourage the Council to clarify and defend in future negotiations:
 - The Council's efforts to give a focused definition of AI systems is highly positive, reflecting the idea of autonomy in the definition helps align with the work done at the OECD level. The Council must continue defending this approach in the future negotiations.
 - Ensure an impact assessment is carried out in full consultation with all stakeholders, which addresses in a fair and proportionate manner the allocation of responsibilities and distribution of information between the various actors of AI in the AI supply chain in a manner that ensures the purpose¹⁵ of the regulation can be met. Ensure the outcome of this process is reflected in the negotiations. Again, safeguard a proportionate and risk-based approach to AI regulation.
 - Regulate high-risk AI applications in areas where a clear regulatory gap has been demonstrated. Focus on systems with an intended purpose which are truly considered as high-risk and avoid regulating software and "general purpose" tools which are not considered AI per se or act as building blocks of AI systems.
 - Ensure consistency with sectoral legislation as well as to limit the list of uses of AI that are considered as high risk to use cases posing significant risk to health, safety and fundamental rights. Avoid prolonging uncertainty with secondary legislation but defend the spirit of having an unequivocal way of identifying high-risk usage.
- Stimulate development of European data spaces and support B2B sharing; that facilitate easy data sharing; fairness in B2B data sharing contracts while maintaining contractual freedom of businesses as a guiding principle, provide for adequate compensation for making data available and clear enforceable obligations for third parties receiving data. This should be done without lowering the protection of users' privacy and security, databases and without endangering intellectual property and commercially sensitive information of

¹⁵ The Commission had signalled a "balanced and proportionate horizontal regulatory approach to AI that is limited to the minimum necessary requirements to address the risks and problems linked to AI, without unduly constraining or hindering technological development or otherwise disproportionately increasing the cost of placing AI solutions on the market." Section 1.1, [COM\(2021\) 206 final](#)

European businesses¹⁶ as a guiding principle. Maintain the exceptions for micro- and small-sized enterprises, while stimulating voluntary data sharing.

- The legislation should support regulators in their task to help businesses to comply, as well as to take a learning approach due to fast evolving technological development and avoid fragmentation in the internal market. Support this approach by including innovation measures such as regulatory sandboxes schemes, with well-established criteria to ensure an effective access to businesses, particularly SMEs, and in a trusted environment. It should also support controlled experimentation by our innovators and regulators to build capacities, assess risks, locate potential legal barriers and inconsistencies and develop solutions.
- Further reinforce the EU's ties in standardization with key trading partners and promote the participation of European stakeholders in international standardization activities in the field of AI, including SMEs. This will ensure interoperability of markets and reduce regulatory fragmentation.



¹⁶ [Accelerating the digital transition. STOCKHOLM DECLARATION BUSINESSEUROPE'S COUNCIL OF PRESIDENTS](#)

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