EU-US Trade and Technology Council Fifth Ministerial

American Chamber of Commerce to the European Union
Speaking for American business in Europe

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Introduction

The Trade and Technology Council (TTC) is a unique forum for the EU and the US to tackle new and emerging issues arising from the transformation of our economies. In the face of global uncertainty, transatlantic partners can ensure that global standards and governance reflect their shared values, including the defence of human rights, democracy and the rule of law.

American companies in Europe fully support the TTC as a mechanism for the EU and the US to solidify their partnership. Since its launch in 2021, the TTC has met four times in a ministerial setting. Its ten working groups have also convened multiple times in an unprecedented display of transatlantic cooperation between a wide range of officials across the Atlantic. Cooperation on sanctions in the wave of Russia's invasion of Ukraine, a common understanding on artificial intelligence (AI), an early-warning mechanism to address semiconductor supply chain disruptions, connectivity projects in third countries and the creation of a Transatlantic Initiative on Sustainable Trade (TIST) are just a few examples of the TTC's concrete deliverables.

However, there is scope to accelerate and amplify its impact. Both sides should seek to maintain the positive momentum and sustain the level of engagement. It will require continued investment, time and effort to ensure the TTC becomes a sustainable framework that is here to stay. As such, the public and private sectors both have a critical role to play in ensuring the TTC is a success in the long run.

AmCham EU hopes that the fifth ministerial meeting can be scheduled shortly, with appreciation for the pressure on the time of the senior leaders. In a challenging external environment, the upcoming ministerial meeting can serve to demonstrate the ability of the TTC to deliver for citizens and businesses. Additionally, three principles should continue to guide the activities of the TTC:

- **Foster transparency and stakeholder engagement:** building a consistent and transparent system to collect input and engage with business and civil society will ensure the effectiveness of the TTC.

- **Outline roadmaps and clear deliverables:** providing more clarity on the scope of the working groups' activities is critical to enable stakeholders to provide constructive input, and for the TTC to deliver concrete outcomes in a timely manner.

- **Prioritise outcomes with concrete impact**: while both short-term and long-term strategies are important, delivering on a concrete outcomes will help demonstrate the relevance of TTC.

AI Code of Conduct

Context

The recent development of artificial intelligence technologies, such as generative AI and large language models, has accelerated the need for appropriate frameworks to regulate this technology. During the fourth Trade and Technology Council ministerial, transatlantic leaders announced an upcoming AI Code of Conduct. In order for this pathway to encourage safe and sustainable

development of AI technologies without hindering their uptake and innovation, the EU and the US must take into consideration certain aspects of the AI industry.

Recommendations

- Align the definition of AI systems with international organisations (eg OECD and National Institute of Standards and Technology) as a step toward developing international standard.
- Implement the Joint Roadmap on Evaluation and Measurement Tools for Trustworthy AI and Risk Management.
- Ensure that transatlantic efforts complement the G7 Hiroshima AI process and take note on the legislative developments around the European AI Act.
- Encourage more clarity in the distinction between general purpose AI and foundation models in order to ensure that regulatory requirements and enforcement are appropriately targeted.
- Increase and formalise stakeholder engagement – potentially trough code of conducts.
- Develop risk-based and technology-neutral regulatory frameworks.

Critical raw materials

Context

The green and digital transitions rest on the responsible sourcing of rare earth elements and critical compounds. These materials are often in short supply and generally concentrated in third countries, which creates a need for promoting streamlined domestic extraction efforts while cooperating a the multilateral level to increase and diversify the supply chains of CRMs. The EU and the US have agreed to open negotiations on a Critical Minerals Agreement in order to address these issues by diversifying supply chains and strengthening transatlantic cooperation. This transatlantic agreement must address key standing issues.

Recommendations

- Eliminate export duties on minerals used in battery production and implement international labour standards in mineral extraction and processing.
- Develop joint extraction and processing ventures in strategic third countries through initiatives such as the EU Global Gateway project or the US/G7 Partnership for Global Infrastructure Investment.
- Clarify distinctions between 'critical' and 'strategic' raw materials.
- Set realistic targets that adapt to the industry's competitiveness and economic realities.
- Avoid administrative and regulatory burdens.
- Ensure full consistency with WTO rules.
- Prioritise a predictable and coherent regulatory environment that attracts investors.
- Avoid overlap with other legislation (eg ensure consistency between chemicals management and raw materials policy).
- Protect sensitive corporate information when organising joint purchasing projects.

Dual-use goods exports

Context

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The EU and the US currently have disparate dual-use goods export regimes, despite their relevance in the context of the war in Ukraine. As a means to align their trade frameworks in this area and encourage dialogue among stakeholders, the EU and the US have been working through the TTC's Export Control Working Group. These efforts are a way to identify and streamline possible duplicative actions to ultimately reduce administrative burden for economic operators and government authorities. However, there are areas that need further alignment in order to avoid divergent interpretations and adoptions.

Recommendations

- Align transatlantic regimes to multilateral frameworks (eg Wassenaar Agreement) to avoid companies from being disproportionately burdened.
- Encourage regulatory exchanges and joint actions – including with industry – to align and simplify export control regimes.
- Develop joint guidelines on intangible software and technology transfers.
- Clarify the definition of 'export' for cloud technologies so that it excludes encrypted technology and the provision of Software as a Service.
- Avoid duplication of export licensing.

Electro-mobility and interoperability of smart grids

Context

As part of the Climate and Clean Tech Working Group's engagements, the European Commission's Joint Research Centre (JRC) and the US Department of Energy's Argonne National Laboratory (ANL) are leading transatlantic efforts on electro-mobility and interoperability with smart grids. This initiative demonstrates the bilateral commitment to decarbonise and increase the uptake of clean energy by relying on the rise in global demand of electric vehicles.

In May 2023, the JRC and the ANL released joint technical recommendations to advance the rollout of electric vehicles on both sides of the Atlantic. While this is a great success of the TTC, there remain areas to finetune in this field.

Recommendations

- Apply a balanced approach that does not prioritise certain actors or technologies.
- Avoid prescriptive legislation.
- Use clear definitions of terms such as 'zero' and 'low-emission' vehicles or 'sustainable' mobility.
- Account for existing digital and intelligent technologies that can be used to assess emission reduction. For instance, Intelligent Transport Systems can revolutionise how vehicles interact with each other and with road infrastructure in order to increase efficiency and improve safety and environmental performance.
- Incentivise the aviation sector to uptake sustainable fuels and reduce emissions.
- Increase investments in connected and automated mobility systems to ensure interoperability and user safety.
- Adapt road infrastructure ahead of the deployment of autonomous vehicles.
- Create a digital policy framework that encourages the uptake of electro-mobility, by addressing data protection, cybersecurity and liability, among others.

EU-US Clean Energy Incentives Dialogue

Context

The United States and the European Union are fully committed to addressing climate change and decarbonise their economies. To act on this goal, they must accelerate the global clean energy economy, as well as build resilient and diversified clean energy supply chains. In March 2023, the transatlantic partners launched the EU-US Clean Energy Incentives Dialogue to coordinate their incentive programmes and ensure that they are mutually reinforcing. In order for this forum to be efficient and result on tangible actions, there are several areas that the EU and the US must consider.

Recommendations

- Coordinate their strategic investments and incentives to avoid duplication and shift supply chains away from strategic rivals.
- Apply an open approach that prevents discriminatory domestic policies.
- Facilitate transatlantic investment in low-carbon technologies such as low-carbon hydrogen, gas and fuels.
- Continue to cooperate on funding and standards around joint recycling, waste management and carbon pricing mechanisms.
- Ensure realistic targets for renewable energy use.
- Clearly define and promote advanced biofuels.
- Promote hydrogen and hydrogen infrastructure for fuel cell electric vehicles.

Trade and Labour Dialogue

Context

Forced labour is a violation of international labour laws, it drags down global wages and prevents the development of appropriate work conditions. In May 2022, the transatlantic partners announced the Trade and Labour Dialogue as a means to align on how to eradicate forced labour from their supply chains. Nonetheless, it is a difficult practice that will require key actions.

Recommendations

- Establish long enough review periods to ensure that supply chains do not use forced labour.
- Ensure proportionality when assessing the use of forced labour in a complex good.
- Avoid the complete destruction of goods tainted with forced labour, rather, they should be recycled.
- Avoid blacklisting regions and countries, as it does not incentivise the reduction of forced labour and can cripple these countries' economies.
- Harmonise transatlantic approaches to eliminate forced labour by using the UN's Guiding Principles on Businesses and Human Rights, the OECD MNE guidelines and the ILO Conventions.
- Establish a multi-stakeholder task force to identify areas of improvement and coherence.
- Use past partnerships and industry initiatives as learning opportunities.

Trade facilitation: digital tools for customs and conformity assessments

Context

The transatlantic partnership is the biggest economy in the world. In order to maintain this level of economic activity, the EU and the US must encourage trade facilitation measures. For instance, the use of new technologies like blockchain, data analytics and cognitive computing can enhance trade at the national and international level. However, transatlantic leaders can also facilitate trade through other actions.

Recommendations

- Cooperate on non-tariff barriers, especially local content requirements.
- Collaborate on cross-border and transatlantic data transfer projects.
- Digitalise trade, customs clearance and government remittance of duties and taxes on low-value shipments.
- Encourage SMEs to use digital tools and exporting technologies, as well as to upgrade their digital skills.
- Collaborate on establishing common principles and interoperable frameworks to avoid discrimination.
- Work on a Mutual Recognition Agreement (MRA) on conformity assessment for machinery and electrical equipment while accounting for the specificities of the sector of use.
- Expand the existing MRA on pharmaceutical Good Manufacturing Practices to include vaccines and veterinary products, and to cover inspections of manufacturing sites in third countries, pre-approval inspections as well as plasma-delivered pharmaceuticals.

Transatlantic Initiative on Sustainable Trade (TIST)

Context

Trade policy has a crucial role in shaping the transition towards a net-zero economy. Thus, in December 2022 the EU and the US announced the Transatlantic Initiative on Sustainable Trade. This project aims to offer a forum for dialogue to encourage trade and investment in goods and services that are essential for the green transition. It also looks to strengthen resilient supply chains as well as ensure fairness and inclusivity in trade. At the last TTC ministerial, the transatlantic partners developed a work programme that divided their efforts on four building blocks and laid out a specific timeline. In order to achieve their targets within the TIST, the transatlantic partners must account for certain key issues.

Recommendations

- Make existing laws, regulations, standards, procedures and approach more consistent and compatible.
- Avoid the introduction of substantial new regulations that can overlap or contradict requirements.
- Develop and enable a regulatory framework that promotes fast track regulatory approval of 'green' renewable or circular alternatives to fossil carbo content in final products.

- Consider e-labelling solutions to facilitate evidence of product compliance, reduce paper, increase accessibility and remove barriers for products and services, notably in the ICT sector.
- Develop common EU-US definitions of environmental goods and services to promote policies that support a transition to low-carbon economy and further address climate change.
- Create a joint framework on trade related climate measures, such as the Carbon Border Adjustment Mechanism (CBAM) to support a global green transition, a green transatlantic marketplace and to avoid unintended trade barriers and trade tensions.
- Enhance cooperation on green steel and green aluminium in the context of the Global Sustainable Arrangement for Steel and Aluminum negotiations.
- Clarify how TIST (and the TTC) interacts with the scope and content of the Critical Minerals Agreement.
- Facilitate trade in electronics and ICT (including semiconductors and mattresses), energy (solar), textiles (including footwear)as well as construction and buildings.
- Harmonise due diligence approaches and work to eradicate the use of forced labour in supply chains. A risk-based approach based on UNGPs, OECD MNE guidelines and ILO Conventions is critical to enable businesses to focus on enforcing due diligence.
- Align to promote global standards of ESG and sustainability reporting criteria to enhance transparency and comparability.
- Establish a multi-stakeholder task force (as announced at TTC4) to identify technical areas of implementation of transatlantic due diligence with a view to enhancing global policy coherence.
- Avoid unilateral measures without scientific backing as they infringe trade operations between the EU and the US.