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ITI Promoting Innovation Worldwide

Global Tech Priority Outcomes for the May 2022 U.S.-EU TTC Ministerial Meeting

The months since the inaugural ministerial meeting of the U.S.-EU Technology and Trade Council (TTC) have yielded significant engagement across the 10 working groups of the U.S.-EU Trade and Technology Council (TTC). They have also further demonstrated the importance of transatlantic leadership in the face of crisis, as the U.S. and EU have led globally coordinated, robust actions in response to Russia's ongoing invasion of Ukraine. Our industry stands in strong support of Ukraine and will continue to work with governments across the globe to ensure we are a resource and partner in the coordinated, international response.

The next TTC meetings are an opportunity to further strengthen transatlantic leadership. The agreement in principle announced by Presidents Biden and von der Leyen on the Trans-Atlantic Data Privacy Framework (TADPF) is a major step forward for the transatlantic relationship and one that is essential to restoring business certainty, stabilizing commercial data flows across the Atlantic, and safeguarding citizens' fundamental rights to privacy. A sustainable solution for international data flows forms the foundation from which TTC priorities and outcomes can be fully realized. While we appreciate the TADPF is outside the immediate scope of the TTC, we urge negotiators to finalize the legal text of the agreement to enable transatlantic data transfers and uphold European citizens' fundamental rights and the legitimate security and public safety interests of the EU and U.S. governments.

Against this backdrop and ahead of the May 15-16 meetings, ITI emphasizes the following process considerations and concrete policy outcomes that build on the TTC's work to date and will support the TTC's objectives of promoting U.S. and EU competitiveness and the spread of democratic, market-oriented values.

Process considerations

- **Stakeholder engagement.** To date, the global technology industry has appreciated participating in formal opportunities to provide feedback.[1] We strongly encourage the TTC to prioritize the use of structured and transparent mechanisms for engagement with the private sector and civil society. There should also be consistent, joint public briefings to provide readouts from political and working group-level engagements.
- **Common guiding principles.** Building on past cooperative efforts such as the *European Union-United States Trade Principles for Information and Communication Technology Services*, the TTC should codify and publish guiding principles for transatlantic development of coordinated, trade-facilitative regulatory approaches to risk-based digital and technology policy, including non-discrimination, consultative rulemaking, proportionality, and due process. Such principles will be critical to facilitating forward-looking and productive engagement on nascent technologies.

[1] ITI's January 2022 comment on areas and priorities for U.S. and EU export control cooperation under the TTC.

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Discrete outcomes

Advancing 6G
In past engagements, ITI has encouraged the TTC to establish commitments on expanding research, development, and deployment of trusted 5G network infrastructure and applications globally. The research and development of technologies that will form the foundation for 6G and become part of 6G standards are already underway. This rapid pace of technological innovation and the intensity of investments in R&D by the private sector in next generation wireless communications provide an opportunity for the TTC to supplement this activity by supporting transatlantic R&D collaboration among private sector and academic institutions in the U.S. and EU. The applications of the next generation technology will generate massive economic value, potentially in a range of economic sectors including logistics, healthcare, smart cities, and advanced manufacturing. The EU and the U.S. should prepare for this future by making commitments to support 6G R&D as a near-term TTC outcome.

Promoting reliance on internationally recognized, industry-driven, voluntary technical standards
The TTC should seek to develop a commitment to base regulatory or procurement requirements on international, industry-driven, voluntary technical standards,[2] including those for digital services and green procurement. This will be a powerful opportunity to model openness, reliance on global expertise, non-discrimination, and interoperability as core tenets of good governance, which is especially important to facilitate forward-looking international regulatory compatibility in areas where governments necessarily depend on technical standards to fully realize the benefits of and inform approaches to new technology (*e.g.*, artificial intelligence (AI), cybersecurity, data portability, Internet of Things (IoT) products, sustainability and climate). Where necessary, governments should commit to accepting test results and/or associated certifications from accredited bodies located in the territory of the other Party by leveraging international standards and international accreditation schemes, and implementing domestic legislative changes where necessary.

Supporting more resilient and secure supply chains
The global technology industry strongly supports EU and U.S. efforts to bolster supply chain resilience and strengthen ecosystems for semiconductors and the broader information and communications technology (ICT) industry. We believe governments and industry must work together to achieve the trusted, secure, and reliable global supply chain that leverages technology and best practices from the private sector to support continued innovation, economic growth, and competitiveness. As the parties continue to develop and implement funding, incentives, and other programming for semiconductors, the TTC should commit to making schemes accessible to all technology companies that meet the agreed-upon standards and guidelines, without prioritizing domestic companies over non-domestic ones, and assert that policymakers should not interfere in the market allocation of supply, even in the short term. The TTC can also be a springboard to deepening collaboration with like-minded partners and allies to ensure the stability of the global semiconductor supply chain and strengthen investments in the broader ICT ecosystem.

[2] *i.e.,* All those developed in accordance with Annex 2 to Part 1 (Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5 and Annex 3 of the Agreement) in the Decisions and Recommendations adopted by the WTO Committee on Technical Barriers to Trade Since 1 January 1995 (G/TBT/1/Rev.13), as may be revised, issued by the WTO Committee on Technical Barriers to Trade.

Collaborating on Artificial Intelligence

ITI was pleased to see several short-term goals related to AI agreed upon during the inaugural TTC meeting, with a particular emphasis on emerging technology standards cooperation. We encourage the U.S. and EU to build upon this set of outcomes, launching a specific workstream aimed at developing a set of common risk evaluation criteria. As the EU continues to develop its AI regulation, and the U.S. is in the process of developing a voluntary AI Risk Management Framework, we believe that a consensus set of criteria that can be leveraged to determine what constitutes a high-risk AI use case would be a useful step. Such a set of criteria will ideally foster a common understanding of what sorts of characteristics might constitute a high-risk application that may implicate fundamental human rights or safety and help to ensure that both regulatory and non-regulatory approaches are aligned to the extent possible. We also encourage the EU and the U.S. to seek alignment on other key concepts and definitions related to AI and AI governance, including a definition of AI based on the OECD terminology.

Enforcing multilateral commitments

In line with the Working Group 10 objective of promoting multilateral outcomes that benefit U.S. and EU workers and companies, we encourage making the TTC a means of collaborating to confront systemic contraventions of WTO obligations, including:

- **Multiple countries' imposition of tariffs on information and communications technology (ICT) products, in violation of Information Technology Agreement (ITA) commitments**. Such tariffs directly impact EU and U.S. exports, hinder development outcomes, exacerbate supply chain uncertainty, and erode international respect for multilateral commitments.
- **Non-notification and/or advancement of technical regulations impacting technology where less trade-restrictive means are available**, in contravention of multilateral TBT commitments. In addition to WTO engagement to promote **improved transparency and notification of measures**, both sides should review and, where necessary, amend or withdraw measures in violation of core TBT principles.

Cooperating on third-market issues

In certain instances, the U.S. and EU have already pursued discrete engagement as individual governments. The TTC can serve as means of coordinating that engagement to more effectively address policies and/or trends of concerns, such as increased data flows restrictions in privacy and data governance proposals. Requirements such as strict data localization requirements, restrictions on cross-border transfers of data, and country-specific requirements are fundamentally at odds with the vision of global integration and evidence- and values-based governance that the EU and United States are trying to advance. Particularly as both parties seek to deepen security and supply chain cooperation with each other and third-party partners, they should jointly reaffirm their commitment to countering non-tariff barriers to trade and make clear that countries actively pursuing policies at odds with these objectives must commit to more open and trade-facilitative approaches.