

The third Trade and Technology Council meeting: political, tech and trade implications

Blog post by Practice Director Jon Garvie, Associate Director Max von Thun, and Senior Associate Alexander Bobroske - 9 December 2022

This week saw the third meeting of the Trade and Technology Council (TTC) take place in the United States. What was discussed by the negotiators, and how significant is what was announced? In this blog, experts from across Global Counsel's TMT, Trade and International Policy practices share their insights on what took place at the summit.

Jon Garvie, International Policy Practice Director, sets the scene and looks ahead to what comes next.

After the collapse of TTIP and the traumas of the Trump years, the creation of the EU-US Trade and Technology Council (TTC) seemed to offer hope of a new era of transatlantic cooperation. The reality so far has been bumpy. The first ministerial meeting of the Council in late 2021 took place in the wake of the AUKUS deal, with French President Macron denouncing underhand US-Australian negotiations. The second meeting in May this year was focused on responding to Russia's invasion of Ukraine. The meeting this week was almost derailed by disagreements over the distorting impacts of the US Inflation Reduction Act (IRA).

What conclusions can be drawn about the long-term prospects of the format at this point? Firstly, for all the talk of values, we should not expect any return to liberalism. In an increasingly multipolar world, even the largest powers are under pressure to protect their interests quickly and in a manner easily comprehensible to voters. One of the US responses to European complaints over the 'Buy American' clauses in the IRA was to suggest that the EU should come up with an analogous subsidy regime. This may be unlikely, but the TTC will have to weather worse storms, particularly if the Republicans win back the White House in 2024.

Secondly, while the US' overarching objective for the format has always been a joint transatlantic front against China, divergent interests have been increasingly obvious over the past few months. Chancellor Scholz's visit to Beijing, accompanied by a raft of CEOs, was followed quickly by that of European Council President Charles Michel. There are now rumours that the EU-China Comprehensive Agreement on Investment might return to the table next year. The US has found Europe's perceived unwillingness to take as hard a line on Beijing increasingly frustrating.

Thirdly, the format needs a big political win (of a different order to the relatively minor initiatives announced this week). Ideally, that would be a landmark agreement on the "friendshoring" of key

technology inputs or long-term joint investment badged under a joint strategy on, for example, artificial intelligence. The intensity and frequency of the working groups meeting at official level remains positive. But, given that both the European Commission and Biden's first term have under two years left to run, there is limited time to embed the format as an indispensable feature of the relationship.

Alexander Bobroske, Trade Senior Associate, unpacks the heated debate over US subsidies and what it means for the EU.

As mentioned, the unresolved EU-US tensions over the \$369 billion US IRA cast a shadow over the 3rd TTC meeting, including on trade matters. Brussels' argument that US tax credits for electric vehicles and clean energy discriminate against European producers is hitting a wall with US policymakers who point to Europe's own subsidies. Despite President Biden's remarks that 'glitches' would be fixed during President Macron's state visit on the eve of the TTC, the White House has only signalled an openness to tweak provisions at the margins. How the EU reacts to the US Treasury implementation guidelines due at the end of the year will impact the long-term effectiveness of the TTC as well as the direction of transatlantic relations more generally.

If the US does not budge, the EU must decide whether - and how - to retaliate. Berlin is warming to Paris' calls to revamp European industrial policy. However, stark ideological disagreements within and across member states will pose significant hurdles to European Commission President Ursula von der Leyen's proposal to relax state aid rules and pursue common EU funding for subsidies. Building on TTC efforts to improve transparency of semiconductor subsidies (more on that below), the White House prefers managed - and ideally, interoperable - subsidies rather than a tit-for-tat trade war. Brussels may ultimately agree, although WTO litigation and trade defence measures remain options on the table.

Despite the rise in transatlantic tensions, the TTC produced a few modest deliverables on the trade front. First, a new Transatlantic Initiative on Sustainable Trade was launched. While the initiative may simply rehash existing co-operation efforts such as on a building a green global steel and aluminium framework, the two sides notably set concrete goals to develop common international standards for EV charging infrastructure. Second, the TTC in 2023 may see a greater emphasis on regulatory cooperation to reduce non-tariff barriers, such as expanding mutual recognition agreements for vaccines, as well as exploring digital trade facilitation policy tools to reduce red tape.

Third, co-operation on China has moved up the agenda - a key objective for Washington - despite scarce direct references in the joint statement. The pair will consider policy tools to address China's non-market practices on medical devices and investment funds. The potential development of outbound investment screening mechanisms on both sides of the Atlantic will also be a key development for investors and corporates to watch next year. However, neither side has produced a coherent strategy on how to comprehensively tackle China's heavy subsidisation of industries across sectors.

Max von Thun, TMT Associate Director, reviews what was agreed from a technology perspective.

The row between the EU and the US over the IRA also affected their ability to make significant strides on technological collaboration. Where the issue did arise it often led to tension, such as US efforts to bully a reluctant Netherlands into replicating its export control regime for semiconductors. Having said that, a number of commitments were announced at the summit which, while not ground-breaking, could be seen as laying the foundations for more ambitious agreements in future.

A set of joint initiatives with Jamaica and Kenya on digital infrastructure and connectivity will, among other things, expand internet access for schools, support the development of digital skills, and accelerate the digital transformation of businesses. The initiatives are seemingly intended to rival China's Belt and Road global infrastructure development scheme, although the limited number of countries taking part and the lack of significant funding attached point towards a lack of serious ambition. Connectivity also came up in the context of "subsea cables" and "supplier diversification" in ICT supply chains, but in these critical areas the negotiators only agreed to ongoing discussions rather than any concrete measures.

So-called 'deep tech' featured heavily on the agenda, although here again what was agreed was relatively underwhelming. A "Joint Roadmap on Evaluation and Measurement Tools for Trustworthy AI and Risk Management" will seek to inform how both the EU and US approach the notion of trustworthy AI, including by building a shared repository of metrics, developing common tools, and working through international standards bodies. Yet while the Roadmap should generate useful insights, it is unlikely to change the fact that the US and EU approaches to regulating AI remain far apart. On quantum computing, another crucial field of emerging technology, the TTC was only able to agree on the creation of an expert task force, a measure which by itself is unlikely to produce any real degree of alignment between the two powers.

The most concrete announcements, at least when it comes to technology, related to semiconductors. Building on a pilot project announced at the second TTC summit, the EU and US will establish an "early warning mechanism" to ensure greater coordination in response to future disruption in the semiconductor supply chain. This was coupled with a commitment to share information on public subsidies provided to the semiconductor sector, most notably under the respective EU and US Chips Acts, to minimise the risk of an unproductive 'subsidy race'. But while these initiatives may improve resilience in the chip supply chain and prevent a transatlantic trade dispute, they fall short of more ambitious measures one might have envisioned, such as a programme of joint investment in cutting-edge chips or joint sanctions on Chinese chip manufacturers.

This week's summit has failed to dispel scepticism regarding the usefulness of the TTC as a forum for significant EU-US collaboration. Whether or not the next meeting of the Council, scheduled to

take place in Europe in mid-2023, is successful will ultimately depend on whether a solution is found to ongoing disputes between the EU and US, above all the IRA. Looking further ahead, elections in the US and European Parliament in 2024 may raise questions regarding the TTC's long-term viability, particularly if Republicans win back the White House. Global Counsel's team of experts will continue to monitor developments in Transatlantic relations closely.