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U.S.-EU Trade Relations

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SUMMARY

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Shayerah I. Akhtar, Coordinator
Specialist in International Trade and Finance

Rachel F. Fefer
Analyst in International Trade and Finance

Renée Johnson
Specialist in Agricultural Policy

Andres B. Schwarzenberg
Analyst in International Trade and Finance

U.S.-EU Trade Relations

Bilateral trade and investment ties between the United States and the European Union (EU) are longstanding and extensive, but some tariff and nontariff barriers remain. Successive U.S. Administrations have sought to address barriers that restrict U.S. firms' access to EU markets and to further liberalize bilateral trade and investment ties, enhance regulatory cooperation, and cooperate on global trade and economic issues of joint interest. Over the past decades, the United States and the EU have engaged on these issues through various bilateral dialogues, summits, and trade agreement negotiations. These include negotiations on a proposed Transatlantic Trade and Investment Partnership (T-TIP), which, along with other U.S.-EU efforts, have not yielded a comprehensive, final trade agreement, to date. The partners also have engaged on these issues multilaterally, such as in the World Trade Organization (WTO) and other multi-party negotiating fora. Congress has a broad, enduring interest in understanding U.S.-EU trade relations and the issues underpinning them, given the magnitude of U.S.-EU trade and investment ties, their significance to the U.S. economy overall and specific constituent interests, and their significance to the global marketplace, such as for setting and shaping international rules and standards.

While U.S. and EU trade policies are aligned in many areas, frictions can emerge between the partners due to the high level of bilateral commercial activity and different policy approaches on some specific issues. U.S.-EU trade ties were fraught during the Trump Administration. President Biden has "underscored his support for the [EU] and his commitment to repair and revitalize the U.S.-EU partnership." In 2021, the partners addressed specific frictions (such as on the WTO Boeing-Airbus subsidies dispute, digital service taxes, and U.S. "Section 232" steel and aluminum tariffs) and launched new modes of cooperation—notably the U.S.-EU Trade and Technology Council (TTC). Currently, the TTC is prominent in U.S.-EU engagement on bilateral trade and economic issues, and is playing a significant role in joint responses to global challenges. Other issues of U.S.-EU contention remain, such as EU regulatory barriers to U.S. agricultural trade, and new differences have emerged on certain approaches to the digital economy.

The Biden Administration has not indicated any plans to revive broader trade agreement negotiations with the EU. Under the Trump Administration, such talks stalled, but the two sides reached limited market-opening and regulatory cooperation commitments. Many Members of Congress supported U.S.-EU efforts to negotiate a T-TIP free trade agreement (FTA) during the Obama Administration. In the wake of Russia's invasion of Ukraine and interest among policymakers to deepen U.S.-EU ties, some observers have called for the United States and the EU to renew efforts to negotiate a bilateral trade deal.

The withdrawal of the United Kingdom (UK) from the EU ("Brexit") on January 31, 2020, could shape dynamics in any future U.S.-EU FTA negotiations or in other aspects of the U.S.-EU trade relationship. The UK historically has been a leading voice, alongside the United States, for trade liberalization, and previously accounted for a significant share of U.S.-EU trade and investment ties.

Multilaterally, the United States and the EU aim to continue cooperating on WTO reform and other global trade issues, including on the challenges posed by China and other nonmarket economies (NMEs) and on a WTO response to the Coronavirus Disease 2019 (COVID-19) pandemic. More recently, a pressing concern has been cooperation on imposing trade consequences and other measures in response to Russia's war on Ukraine.

U.S.-EU trade relations present a number of oversight and legislative issues. Congress may conduct hearings on U.S.-EU trade and economic issues. If U.S.-EU trade negotiations take place, Congress could actively monitor and shape them, and consider implementing the necessary legislation for a potential comprehensive trade agreement to enter into force. Congress also may consider setting objectives for such negotiations through a potential renewal of Trade Promotion Authority (TPA), which expired in July 2021. Other issues for Congress regarding U.S.-EU relations include prospects for further resolution of trade frictions, cooperation on global trade challenges of shared interest, and standards-setting cooperation and competition.

Contents

Introduction 1
U.S.-EU Trade and Investment Ties 1
Key Recent U.S.-EU Trade Developments 4
Trade and Technology Council 4
Resolution of Certain Trade Frictions 6
Boeing-Airbus Subsidy Dispute and Related Tariff Actions 6
Digital Services Taxes 7
Section 232 Steel and Aluminum Tariffs and Retaliatory Tariffs 8
Selected Trade Issues 8
Tariffs 8
Services 9
Digital Trade and Technology 10
Agriculture 11
Government Procurement 12
Intellectual Property Rights 13
Investment 14
Regulatory Approaches and Cooperation 15
Supply Chains 17
China and Other Nonmarket Economies 18
Selected Ongoing and Emerging Issues 19
Worker Rights and Environmental Issues 19
Export Controls 20
Energy Trade and Russia 21
Economic Coercion 21
Bilateral Trade Agreement Negotiations 21
Multilateral Cooperation and Frictions 23
Issues for Congress 24
Resolutions to Current Trade Frictions 25
Engagement in and Prospects for the TTC 25
Potential New Negotiations on a Trade Liberalization Agreement 26
Cooperation on Global Trade Challenges 27
International Competition in Markets and Standards-Setting 27

Figures

Figure 1. U.S. Trade with the EU, 2010-2021 2
Figure 2. U.S. Trade with the EU and Other Top Trading Partners, 2021 2
Figure 3. U.S. Trade in Goods and Services with the EU 3
Figure 4. U.S. Foreign Direct Investment (FDI) with the EU 4

Contacts

Author Information 28

Introduction

The United States and the 27-member European Union (EU) share a highly integrated trade and economic relationship.[1] In 2021, the United States and the EU remained each other's largest overall trade and investment partner, despite recent major economic and other developments that have affected such ties, including the economic challenges and shifts in global activity arising from the ongoing Coronavirus Disease 2019 (COVID-19) pandemic; "Brexit," the departure from the EU of the United Kingdom (UK); and the rise of China as a major bilateral trading partner for both. Their ties are of global consequence, as the United States and the EU bloc are the world's two largest economies, comprising 43% of global gross domestic product (GDP) in 2020.[2]

Given the scope and magnitude of U.S.-EU trade and investment ties, efforts to strengthen and expand them by addressing remaining and new barriers to trade and investment historically have been a key part of U.S. trade policy. Over the past several decades, the United States and the EU have engaged on these issues through various bilateral dialogues and negotiations, such as on a proposed Transatlantic Trade and Investment Partnership (T-TIP)—though T-TIP and other U.S.-EU efforts have not yielded a comprehensive, bilateral free trade agreement (FTA). They also have worked to address these issues multilaterally in the World Trade Organization (WTO). The United States engages with the European Commission (the EU's executive) on trade policy matters, as trade policy is an area of exclusive EU competency.[3]

Bilateral trade relations were especially fraught during the Trump Administration.[4] President Joe Biden has "underscored his support for the [EU] and his commitment to repair and revitalize the U.S.-EU partnership."[5] Developments during the Biden Administration include new means of cooperation, progress toward resolving certain bilateral trade irritants, and cooperation to address pressing global trade challenges. Nevertheless, diverging views and frictions remain. The 117th Congress may examine U.S. trade policy with respect to the EU in terms of resolving current trade frictions, deepening bilateral trade engagement and pursuing further trade liberalization, cooperating on global trade issues, and setting international rules and standards.

U.S.-EU Trade and Investment Ties

Total Trade. U.S.-EU total trade in goods and services grew on average by about 5% annually from 2010 through 2019. During this time, the UK, then a member of the EU, accounted for roughly one-fifth of total U.S.-EU goods and services trade. In 2020, U.S.-EU total trade in goods and services decreased by about 30% (see **Figure 1**).[6] This drop reflected global trade and

[1] The "European Union" (EU) refers to the 27-member bloc that currently comprises the EU. The 27 members of the EU are: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

[2] Based on data from the World Bank for gross domestic product (GDP) in current U.S. dollars.

[3] CRS Report RS21372, *The European Union: Questions and Answers*, by Kristin Archick.

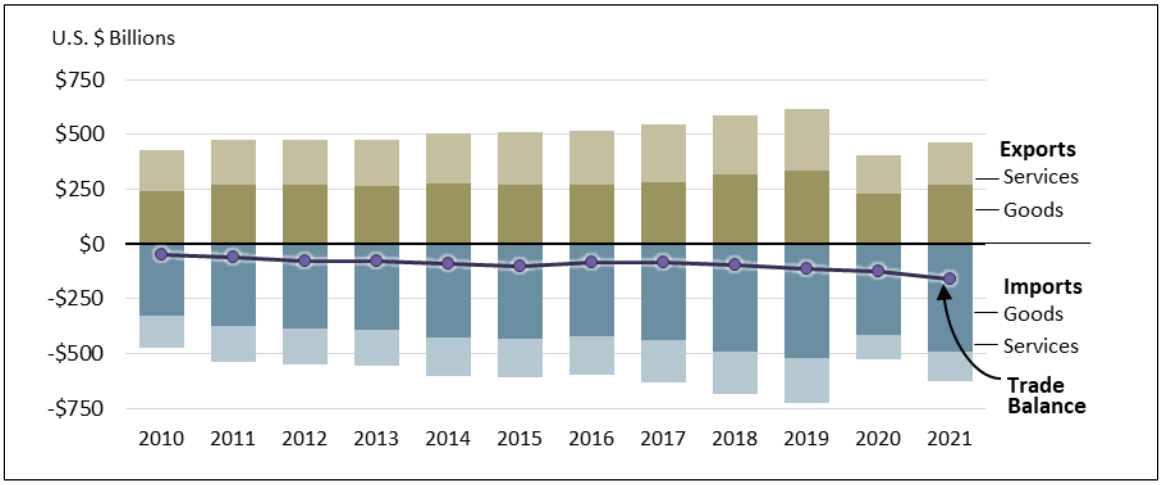
[4] See, for example, Marianne Schneider-Petsinger, *US-EU Trade Relations in the Trump Era: Which Way Forward?*, Chatham House, March 2019; Edward Alden, "Trump is Escalating the Trade Fight with Europe—and There's No Easy Way Out," *Foreign Policy*, July 24, 2020; and Steven Overly, "Trump-Era Tensions Set to Cool Under U.S.-EU Deal," *Politico*, October 30, 2021.

[5] The White House, "Readout of President Joseph R. Biden, Jr. Call with European Commission President Ursula von der Leyen," press release, March 5, 2021.

[6] Unless otherwise noted, data in the "U.S.-EU Trade and Investment Ties" section are from the U.S. Bureau of Economic Analysis (BEA) of the U.S. Department of Commerce.

economic trends associated with the COVID-19 pandemic, as well as the UK's departure from the EU Single Market and Customs Union, after the end of the post-Brexit transition period, among other factors. In 2021, U.S.-EU total trade increased by 17%, reflecting some global economic recovery. The EU bloc remained the United States' largest overall trading partner in 2021 (see **Figure 2**), although U.S. trade with Canada and Mexico combined was 36% larger.

Figure 1. U.S. Trade with the EU, 2010-2021



Source: CRS, with data from the U.S. Bureau of Economic Analysis (BEA).

Notes: The trade balance reflects the overall U.S. goods and services trade balance with the EU (U.S. exports of goods and services less U.S. imports of goods and services). Starting with 2020, the trade data for the EU exclude the United Kingdom (UK), reflecting the UK's withdrawal from the EU.

Figure 2. U.S. Trade with the EU and Other Top Trading Partners, 2021

U.S. $ Billions

	U.S. Imports	U.S. Exports	U.S. Total Trade	Share of U.S. World Trade
EU	$626	$465	$1,091	18.4%
Canada	$395	$363	$758	12.8%
Mexico	$418	$307	$725	12.2%
China	$528	$188	$716	12.1%
Japan	$168	$112	$280	4.7%
UK	$112	$129	$241	4.1%

Source: CRS, data from U.S. Bureau of Economic Analysis (BEA).

Notes: The data are for U.S. goods and services trade with the trading partners. Total trade is exports plus imports. Figures may not add up to the total due to rounding. The EU bloc includes members that are also top trading partners for the United States by country; for instance, in 2021, U.S. trade with Germany totaled $267 billion, accounting for 4.5% of U.S. world trade.

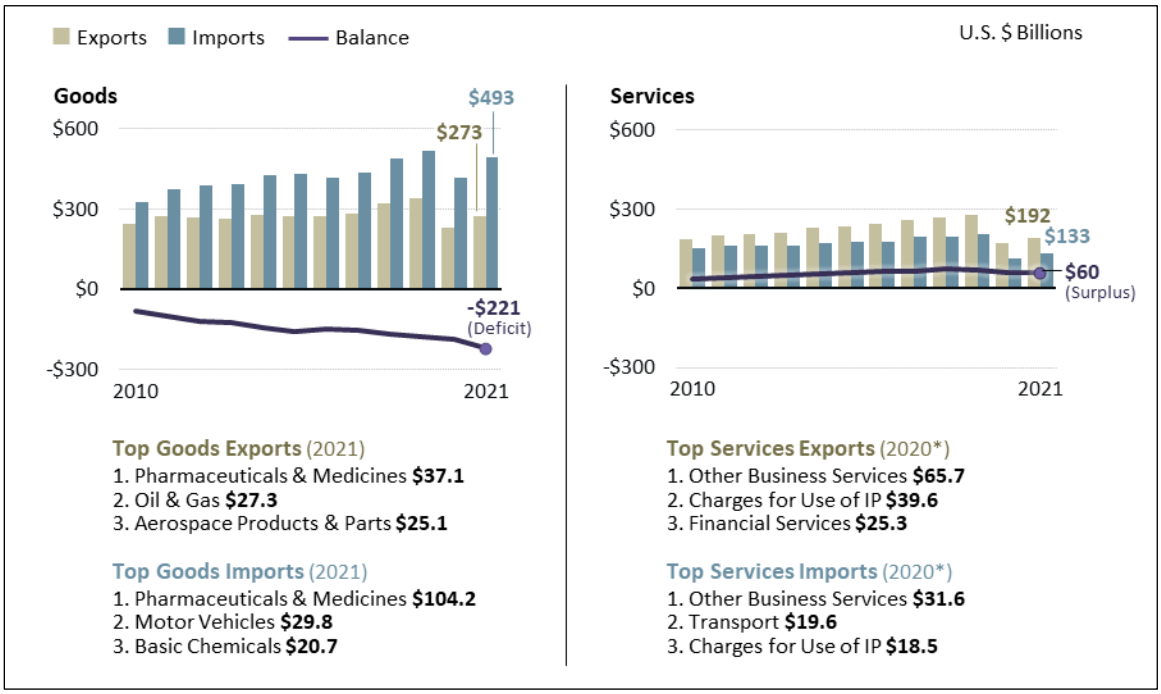
Goods. In 2021, the EU accounted for almost one-fifth of total U.S. goods trade. It was the United States' third largest goods export destination, after Canada and Mexico; and its second largest supplier of goods, after China. Total goods trade grew by 18% in 2021, after contracting by 24% in 2020 (see **Figure 3**). The U.S. goods trade deficit with the EU has increased over time.

In addition to conducting trade of products that belong to different industries ("inter-industry trade"), the United States and the EU, as highly advanced economies, trade heavily in similar goods within the same industry ("intra-industry trade"). The latter often consists of trade in components or intermediate goods used to produce complex products such as cars and machinery,

allowing firms to specialize and benefit from economies of scale by focusing on different parts of the supply chain. Intermediate goods often are traded across the Atlantic between multinational enterprises (MNEs) and their affiliates (e.g., BMW in Germany trading with BMW in South Carolina). The UK formerly comprised around 15% of total U.S.-EU goods trade. Currently, U.S. top goods trading partners within the EU are Germany, the Netherlands, and France.

Services. The United States and the EU have the world's two largest services economies, which are highly integrated, reflecting the presence of supply chains, affiliate activity, and cross-border data flows. In 2021, the EU accounted for one-quarter of total U.S. services trade. While significant, U.S.-EU services trade flows in 2021 were 33% lower, compared to 2019 (see **Figure 3**). For many years, the United States has had a services trade surplus with the EU, but it has not been enough to offset the goods trade deficit. The UK formerly comprised about one-third of U.S.-EU services trade, and it was the United States' top services trading partner within the EU. Presently, Ireland and Germany are the top U.S. services trading partners within the EU.

Figure 3. U.S. Trade in Goods and Services with the EU



Source: CRS, with data from the U.S. Bureau of Economic Analysis (BEA, for goods and services trade trends and services trade product breakdowns) and the U.S. International Trade Commission (ITC, for goods trade product breakdowns).

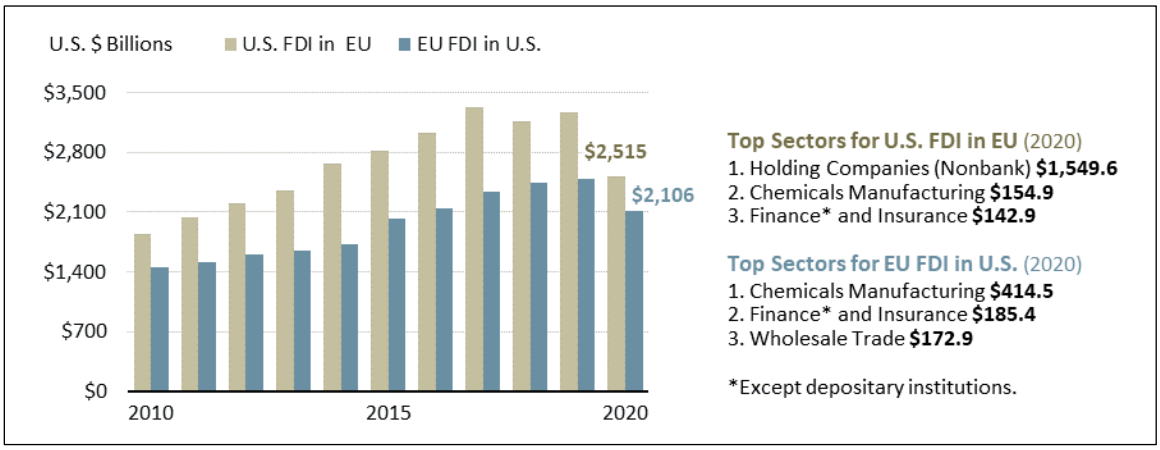
Notes: *Latest data available. Starting with 2020, the trade data for the EU exclude the United Kingdom (UK), reflecting the UK's withdrawal from the EU. The goods product categories are at the four-digit level of the North American Industry Classification System (NAICS) and exclude certain special categories.

Agriculture. U.S.-EU food and agricultural trade accounts for less than 1% of the value of overall U.S. goods and services trade. Yet the EU continues to be a leading market for U.S. agricultural exports, accounting for about 7% of the value of all U.S. exports and ranking as the fifth-largest market for U.S. food and farm exports in 2021—after China, Canada, Mexico, and Japan. Growth in U.S. agricultural exports to the EU, however, has not kept pace with growth in trade to other U.S. markets, and EU food and agricultural imports to the United States exceed U.S. exports to the EU. In 2021, U.S. exports of agricultural and related products to the EU totaled $12.7 billion, and U.S. imports of agricultural and related products from the EU totaled

$36.7 billion, resulting in a U.S. trade deficit of $24.0 billion.[7] Leading U.S. agricultural exports to the EU include corn and soybeans, tree nuts, distilled spirits, fish products, wine, beer, planting seeds, and processed foods. Leading U.S. imports from the EU include wine, spirits, beer, drinking waters, olive oil, cheese, and processed foods.

Investment. U.S.-EU foreign direct investment (FDI) ties are significant given their size and interdependent nature, and these ties are a key driver of trade. While the UK previously held a significant share of these ties—accounting for roughly 20%-25% of U.S inbound and outbound FDI with the EU in recent years, the United States and the EU remained each other's largest FDI partners in 2020. The magnitude of FDI reflects the partners' overall investment-friendly business climates and some firms' preference to reach customers through local presence. In 2020, U.S. FDI stock in the EU declined by about 23%, and the EU direct investment stock in the United States declined by about 15%, consistent with global contraction in FDI flows (see **Figure 4**).

Figure 4. U.S. Foreign Direct Investment (FDI) with the EU



Source: CRS, with data from the U.S. Bureau of Economic Analysis.

Notes: FDI reflects stock on a historical-cost basis. Starting with 2020, the FDI data for the EU exclude the United Kingdom (UK), reflecting the UK's withdrawal from the EU.

Key Recent U.S.-EU Trade Developments

Trade and Technology Council

The Trade and Technology Council (TTC) is a new high-level mechanism that aims to enhance wide-ranging cooperation between the United States and the EU and to promote their prosperity and competitiveness. The partners announced the TTC at their June 2021 Summit, at which they committed, among other things, to work together to strengthen their trade, investment, and technological cooperation.[8] The TTC is led on the U.S. side by the U.S. Trade Representative

[7] Trade data are compiled from U.S. Department of Agriculture (USDA) trade statistics for "Agricultural and Related Products," available at USDA's Global Agricultural Trade System data (BICO-HS6 product group). This grouping covers bulk and intermediate agricultural products, consumer-oriented products, and other agricultural-related products such as fish and shellfish products, distilled spirits, forest products, ethanol and biodiesel blends, and other products.

[8] The White House, "U.S.-EU Summit Statement," June 15, 2021. The June 2021 Summit also led to the launch of a Joint Technology Competition Policy Dialogue (to cooperate on competition or antitrust policy and enforcement).

(USTR), the Secretary of Commerce, and the Secretary of State; and on the EU side by the Commissioners for Trade and Competition of the European Commission.

At the inaugural TTC ministerial meeting in September 2021, the partners established ten working groups on various topics, including standards cooperation on emerging technologies, data governance and technology platforms, and export controls (see **text box**). These working groups are to engage on coordination and cooperation approaches, best practices, technical consultations, information exchange, and outreach, among other activities.[9] An initial TTC priority is to address semiconductor supply chain vulnerabilities.

U.S.-EU Trade and Technology Council (TTC) Working Groups

1. Technology Standards
2. Climate and Clean Technology
3. Secure Supply Chains
4. Information and Communications Technology and Services Security and Competitiveness
5. Data Governance and Technology Platforms
6. Misuse of Technology Threatening Security and Human Rights
7. Export Controls
8. Investment Screening
9. Promoting Small- and Medium-Sized Enterprises Access to and Use of Digital Tools
10. Global Trade Challenges (e.g., nonmarket economies)

Source: The White House TTC Inaugural Joint Statement, September 29, 2021.

The TTC has emerged as a key tool in U.S.-EU cooperation to address global challenges, such as export controls, in response to Russia's war on Ukraine. It also may have ongoing significance in U.S.-EU cooperation to address major concerns presented by China's state-led model and trade practices and those of other nonmarket economies (NMEs, see "China and Other Nonmarket Economies").[10]

Members of the Transatlantic Legislators Dialogue (TLD), a mode of bilateral engagement between Members of Congress and the European Parliament, welcomed the first TTC meeting.[11] Business groups on both sides of the Atlantic have voiced support about the TTC's potential to deepen U.S.-EU trade ties, and some have also expressed their priorities for it.[12]

A second TTC meeting is planned for May 15-16, 2022, at which the United States and the EU may focus heavily on ongoing cooperation to respond to Russia.[13] The partners reportedly also may announce at the second meeting a number of other new joint initiatives, such as an artificial intelligence (AI) sub-working group; a work stream on secure information and communications technology (ICT) financing; a policy dialogue on disinformation; and a Trade and Labor Dialogue, among others.[14]

[9] White House, "U.S.-EU Trade and Technology Council Inaugural Joint Statement," Statements and Releases, September 29, 2021 (hereinafter: White House, "TTC Inaugural Joint Statement," September 29, 2021).

[10] Office of the U.S. Trade Representative (USTR), *2022 Trade Policy Agenda*, March 2022, pp. 12-13.

[11] U.S. Congressman Jim Costa, "Transatlantic Legislators' Dialogue Co-Chairs Costa, Sikorski, Member of Parliament Miapetra Kumpula-Natri Issue Statement on First Trade and Technology Council Meeting," press release, September 28, 2021.

[12] See, for example, Trans-Atlantic Business Council (TABC), "TABC Position Paper on the EU-U.S. Trade and Technology Council After Inaugural Pittsburgh Meeting," December 13, 2021; U.S. Chamber of Commerce, "Chamber, BusinessEurope Outline Priorities for the 2nd U.S.-EU TTC Ministerial," May 3, 2022.

[13] European Commission, "Speech by Executive Vice-President Dombrovskis at European Parliament Discussion on EU-U.S. Trade & Technology Council," press release, March 22, 2022; USTR, "Readout of Ambassador Tai's Meeting with European Commission Executive Vice President for a Europe Fit for the Digital Age Margrethe Vestager," press release, April 8, 2022.

[14] Doug Palmer, "PoliticoPro Trade Morning Trade Newsletter," *PoliticoPro*, May 4, 2022.

Resolution of Certain Trade Frictions

Boeing-Airbus Subsidy Dispute and Related Tariff Actions

The United States and the EU each have long claimed that the other either directly or indirectly subsidizes its domestic large civil aircraft (LCA) industries.[15] The United States has claimed that the EU and certain states—France, Germany, Spain, and the UK (then as a EU member)—have provided, over the years, financing and other subsidies to their respective Airbus-affiliated companies to support LCA development, production, and marketing. The EU, on the other hand, has claimed that Boeing benefits from U.S. government support, mainly in the form of research and development (R&D) funds, as well as subsidies and infrastructure support.

From the 1970s to the 1990s, the United States and the EU negotiated bilaterally and multilaterally to address their respective concerns. These efforts failed and, in 2004, the United States resorted to WTO dispute settlement proceedings against the EU. The EU, in turn, initiated a WTO case against the United States. After nearly 15 years of litigation at the WTO, in October 2019, the WTO issued its final ruling on countermeasures in the U.S. case against the EU.

The WTO determined that the EU (including the UK) had not complied with a WTO ruling recommending the withdrawal of WTO-inconsistent subsidies on LCA manufacturing.[16] As a result, the United States began imposing additional tariffs, under "Section 301" (Title III of the Trade Act of 1974), on $7.5 billion worth of U.S. imports from the EU (about 1.5% of all U.S. goods imports from the EU in 2018), effective October 2019.[17] The action, consistent with the WTO finding on the appropriate level of countermeasures, aimed to pressure the EU into ending the subsidies or negotiating an agreement with the United States. The U.S. tariff list targeted mainly U.S. imports from the countries responsible for the illegal subsidies (France, Germany, Spain, and the UK), but was not limited to the aircraft industry.

In the parallel dispute case, the EU also received WTO authorization to take countermeasures against the United States for failing to abide by WTO subsidies rules with regard to U.S. support for Boeing.[18] In November 2020, the EU began imposing additional tariffs on approximately $4.0 billion worth of EU (and UK) imports from the United States. The USTR asserted no valid basis existed for the EU's retaliation due to full U.S. implementation of the WTO's recommendations as of early 2020.[19]

In March 2021, the United States and the EU announced a four-month tariff moratorium to ease the economic burden on their respective LCA industries and workers, and to allow both sides to works towards a preliminary agreement.[20] Then, in June 2021, they announced an "Understanding

[15] See CRS In Focus IF11364, *Boeing-Airbus Subsidy Dispute: Recent Developments*, by Andres B. Schwarzenberg.

[16] WTO, "Arbitrator Issues Decision in Airbus Subsidy Dispute," October 2, 2020.

[17] 19 U.S.C. §§2411-2420. See CRS In Focus IF11346, *Section 301 of the Trade Act of 1974*, by Andres B. Schwarzenberg; USTR, "Notice of Determination and Action Pursuant to Section 301: Enforcement of U.S. WTO Rights in Large Civil Aircraft Dispute," 84 *Federal Register* 54245, October 9, 2020.

[18] WTO, "WTO Arbitrator Issues Decision in Boeing Subsidy Dispute," October 13, 2020. See also WTO Case "DS353: United States—Measures Affecting Trade in Large Civil Aircraft—Second Complaint." U.S. exports to the UK targeted by the EU action were affected only while the UK remained in the EU customs union. The UK opted to suspend the tariffs in what some observers viewed as an attempt to curry favor with the Biden Administration.

[19] USTR, "EU Has No Legal Basis to Impose Aircraft Tariffs; WTO Award Relates Only to Now-Repealed Tax Break, Rejects EU Request on Other Measures," press release, October 13, 2020.

[20] The United States and the UK formally reached an agreement in March 2021, as part of which the United States suspended retaliatory tariffs related to the LCA dispute on imports from the UK.

on a Cooperative Framework for Large Civil Aircraft," under which they committed to suspend their countermeasures (i.e., tariffs) for five years and address longstanding disagreements and prevent new ones from arising.[21] They also expressed their aim to offer any financing to Boeing and Airbus for LCA production and development on market terms and to provide LCA-related R&D funding through an open and transparent process. Both sides agreed to cooperate on addressing the challenge posed by NMEs to the U.S. and EU LCA sectors—including by sharing information and developing common approaches to screening inward and outward investments.

Digital Services Taxes

The United States and the EU have worked to reduce tensions over the EU's proposal and some EU members' measures to tax revenues that certain companies generate from providing digital services, measures commonly referred to as digital services taxes (DSTs).[22] In October 2021, the United States reached a "political agreement" with Austria, France, Italy, and Spain on each of these countries' treatment of its DST.[23] Per the political agreement, each country agreed to transition from its DST to a new global tax framework under the Organisation for Economic Co-operation (OECD)/Group of Twenty (G-20).[24] Expected to come into effect in 2023, the framework aims to address digital economy taxation issues and update the global tax system. MNEs would face a minimum 15% tax rate from 2023. Countries would need to take domestic procedures to implement the framework. The USTR, in conjunction with the U.S. Department of the Treasury, is monitoring DST-related implementation of the political agreement.[25]

Per the political agreements, the Biden Administration cancelled additional U.S. duties on certain goods of the EU member states; the USTR had previously suspended the duties temporarily to allow time for the international tax negotiations to finish. The duties stemmed from past Section 301 investigations initiated by the Trump Administration, which concluded that the DSTs discriminated unfairly against U.S. firms and were inconsistent with prevailing international tax policy principles.

The Biden Administration previously ceased a Section 301 investigation of the EU's proposed DST. In an effort to support the negotiations on the global tax deal, the EU had not implemented a DST, which affected procedural time limits for the Section 301 investigations.[26] U.S.-EU cooperation to ease tensions over the EU's proposed DST measure reportedly was central to reaching a deal on the global tax framework.[27]

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[21] USTR, "USTR Announces Joint U.S.-E.U. Cooperative Framework for Large Civil Aircraft," press release, June 15, 2021. The United States and the UK also reached an understanding related to the dispute. See USTR, "Joint US-UK Statement on a Cooperative Framework for Large Civil Aircraft," press release, June 17, 2021.

[22] CRS In Focus IF11564, *Section 301 Investigations: Foreign Digital Services Taxes (DSTs)*, by Andres B. Schwarzenberg.

[23] The USTR also reached agreement with the UK on these issues. See USTR, "USTR Welcomes Agreement with Austria, France, Italy, Spain, and the United Kingdom on Digital Services Taxes," press release, October 21, 2021.

[24] OECD, "International Community Strikes a Ground-Breaking Tax Deal for the Digital Age," press release, October 10, 2021; U.S. Department of the Treasury, "Statement from Secretary of the State Janet L. Yellen on the OECD Inclusive Framework Achievement," press release, October 8, 2021.

[25] USTR, *2022 National Trade Estimate Report on Foreign Trade Barriers*, March 2022, p. 218.

[26] USTR, "Termination of Section 301 Digital Services Tax Investigations of Brazil, the Czech Republic, the European Union, and Indonesia," 86 *Federal Register* 16828, March 31, 2021.

[27] Alan Rappeport, "EU Delays Digital Levy as Tax Talks Proceed," *The New York Times*, July 12, 2021.

Section 232 Steel and Aluminum Tariffs and Retaliatory Tariffs

In 2018, President Trump used authority under Section 232 of the Trade Expansion Act of 1962 to apply new tariffs on certain steel and aluminum imports after determining that they "threaten to impair" national security.[28] The EU strongly objected to the tariffs, especially on the national security grounds the United States used to apply them.[29] The EU imposed retaliatory tariffs of 10-25%, covering $1.3 billion in U.S. trade (2020 trade data), targeting sectors viewed by many as "iconic" in U.S. trade (e.g., Harley-Davidson motorcycles, Kentucky bourbon, Levi's jeans).[30] In October 2021, the United States and the EU announced a multifaceted agreement to address the tariffs on EU exports and EU retaliatory tariffs on certain U.S. exports.[31] The deal established a new TRQ system with specific conditions to replace the original Section 232 tariffs. The parties also agreed to suspend their related WTO disputes.

The agreement created a forum to strengthen U.S.-EU cooperation to address global overcapacity (e.g., with China), ensure market-oriented conditions, and reduce carbon intensity in these industries. The United States and the EU aim to establish a "Global Arrangement on Sustainable Steel and Aluminum" to tackle both overcapacity and greenhouse gas (GHG) emissions. They plan to invite partners to the arrangement who meet certain qualifications, such as supporting lowering carbon intensity and ensuring market-oriented conditions, and willingness to restrict market access to nonparticipants who do not meet such conditions.[32]

Selected Trade Issues

Tariffs

After successive rounds of multilateral trade liberalization, average U.S. and EU tariffs are relatively low. In 2020, the simple average most-favored-nation (MFN) applied tariff rate was 3.4% for the United States and 5.1% for the EU.[33] For each side, over 60% of bilateral merchandise flows and 40%-45% of agricultural trade are duty free. The tariffs that remain make imports more expensive. The USTR has highlighted, for instance, EU tariff rates of up to 26% for fish and seafood, 22% for trucks, 14% for bicycles, 10% for passenger vehicles, 10% for processed wood products, and 6.5% for fertilizers and plastics.[34] USDA reports a calculated average EU tariff rate of 30% across all agricultural products, including products imported under an applied tariff and products imported under a tariff rate quota (TRQ).[35] In recent years, due to

[28] 19 U.S.C. §1862. U.S. Department of Commerce, Bureau of Industry and Security (BIS), "The Effect of Imports of Steel on the National Security," January 11, 2018; and U.S. Department of Commerce, BIS, "The Effect of Imports of Aluminum on the National Security," January 17, 2018. See CRS Report R45249, *Section 232 Investigations: Overview and Issues for Congress*, coordinated by Rachel F. Fefer.

[29] European Commission, "European Commission Responds to the US Restrictions on Steel and Aluminum Affecting the EU," press release, March 1, 2018.

[30] U.S. Department of Commerce, "Raimondo, Tai Statements on 232 Tariff Agreements," press release, October 31, 2021. Top U.S. exports affected were steel, whiskies, beauty products, yachts, and motorcycles.

[31] In March 2022, the United States and the UK reached a similar agreement on parallel issues. See USTR, "Tai, Raimondo Statements on 232 Tariff Agreement with United Kingdom," press release, March 22, 2022.

[32] See CRS Insight IN11799, *What's in the New U.S.-EU Steel and Aluminum Deal?*, by Rachel F. Fefer.

[33] WTO "Tariff profiles" for the United States and the EU. In 2019, the trade-weighted average tariff rate was 2.4% for the United States and 2.9% for the EU. This measure skews away from products which may have prohibitive tariffs.

[34] USTR, *2022 National Trade Estimate Report on Foreign Trade Barriers*, March 2022, p. 177.

[35] Most recent USDA estimates from 2015, which still reflect current rates for EU imports under an applied tariff or

certain trade actions, the United States imposed higher tariffs on certain products that it imports from the EU, and the EU raised tariffs on certain products that it imports from the United States; each has eliminated or replaced some of these tariffs with less restrictive arrangements (see "Resolution of Certain Trade Frictions").

Additional U.S. and EU tariff liberalization could have significant economic impact for the transatlantic economy, given the magnitude of commercial ties. Tariff reduction and elimination were a focus of past U.S.-EU trade agreement negotiations, but faced challenges, particularly in terms of sensitivities over agricultural tariffs.

Services

Europe represents the largest regional destination for U.S. cross-border exports of services, dominated by other business services and, specifically, professional and management consulting.[36] Total U.S. services trade (imports plus exports) with Europe were $548 billion in 2021, with the EU accounting for 59% of that trade.[37]

Cross-border services are often provided online or on the telephone. These services are considered ICT-enabled or potentially ICT-enabled (PICTE) services, and include insurance and financial services; customer service; and business services like research, consulting, and engineering. PICTE services account for 85% of U.S. cross-border services exports to the EU and 68% of U.S. cross-border services imports from the EU.[38]

Many services require direct contact between the supplier and consumer and, therefore, service providers often need to establish a presence in the country of the consumer through FDI. In 2019, Europe accounted for 57% of U.S service exports supplied to foreign consumers through U.S. company affiliates ($998 billion). Services revenue from U.S. affiliates operating within the EU was more than three times the value of U.S. cross-border exports ($291 billion) to Europe.[39]

U.S. service providers have voiced concern about regulatory barriers in the EU and in some EU countries, especially for services provided locally (through affiliates) or digitally (PICTE services).[40] Trade barriers include, for example, "overly burdensome" procedures for certain licensing authorization (e.g., legal services) or EU nationality requirements for some services (e.g., pharmacy operations). Other barriers of note are in the telecommunications and audiovisual space, such as content requirements for cultural or language-based programming or local films. Many of these requirements extend to on-demand providers such as streaming services. Regulatory divergences can disrupt cross-border data flows and create barriers for services trade,

TRQ. By commodity group, EU tariffs average more than 40% for imported meat products, grains, and grain products and average at or above 20% for most fruit and vegetable products; for some products, EU tariffs are higher, averaging more than 80% for imported dairy products, more than 50% for sugar cane and sweeteners, and nearly 350% for sugar beets.

[36] BEA, Interactive Data, Table 2.2. U.S. Trade in Services, by Type of Service and by Country or Affiliation, dated July 2, 2021.

[37] Ibid. The UK accounted for another 24% of U.S. services exports in 2020.

[38] Ireland and Germany are the largest U.S. services trading partners in the EU. BEA, Interactive Data, Table 3.3. U.S. Trade in ICT and Potentially ICT-Enabled Services, by Country or Affiliation, dated July 2, 2021.

[39] BEA, Interactive Data, Table 4.1. Services Supplied to Foreign Persons by U.S. MNEs Through Their MOFAs, by Industry of Affiliate and by Country of Affiliate, dated October 19, 2021. EU-level affiliate data are not available.

[40] USTR, *2022 National Trade Estimate Report on Foreign Trade Barriers*, March 2022, pp. 210-211.

whether for providers of PICTE services delivered digitally or for EU affiliates exchanging data with their U.S. headquarters (see "Digital Trade and Technology").

Digital Trade and Technology

U.S.-EU differences on issues such as digital regulation, privacy, and national security, have posed challenges in U.S.-EU relations. The United States and the EU have concluded several data transfer agreements to enable cross-border data flows in the commercial and law enforcement sectors. In July 2020, the Court of Justice of the European Union (CJEU) invalidated the most recent commercial data transfer accord, the U.S.-EU Privacy Shield Framework, finding that it failed to meet EU data protection standards due to the extent of U.S. surveillance laws. As a result, U.S. and EU companies that relied on the framework face legal uncertainty and limited options for cross-border data flows, threatening their ability to conduct trade. In March 2022, the Biden Administration and European Commission announced a new Trans-Atlantic Data Privacy Framework to replace Privacy Shield.[41] While details have yet to emerge, the "deal in principle" is to strengthen the privacy and civil liberty safeguards and include new accountability mechanisms to address the CJEU's concerns. Some policymakers and experts suggest, however, that a recent U.S. Supreme Court ruling that reinforces the federal government's state secret privilege for surveillance cases may pose a threat to the new framework's safeguards.[42]

The EU aims to strengthen and improve the bloc's digital competitiveness, especially vis-à-vis the United States and China.[43] European Commission initiatives include proposals that address prominent, and often controversial, digital trade and technology issues (see **text box**). Some Members of Congress, Administration officials, and analysts have raised concerns that the proposals may unfairly target large U.S. technology firms.[44] Other Members have proposed U.S. legislation to address similar concerns around online competition and content that could target the same large technology firms as the EU proposals.[45]

The TTC has several digital trade-related working groups: technology standards (e.g., AI[46]), supply chains, ICT security and interoperability, data governance and technology platforms, and small- and medium-sized enterprise access to digital tools. Some observers see an opportunity through the TTC to better align U.S. and EU technology policies and incentives, and help U.S. and EU firms to partner and build synergies rather than duplicate or compete in certain areas.[47]

[41] White House, "Fact Sheet: United States and European Commission Announce Trans-Atlantic Privacy Framework," Statements and Releases, March 25, 2022. See CRS Report R46917, *U.S.-EU Privacy Shield and Transatlantic Data Flows*, by Kristin Archick and Rachel F. Fefer; and CRS Report R46724, *EU Data Transfer Requirements and U.S. Intelligence Laws: Understanding Schrems II and Its Impact on the EU-U.S. Privacy Shield*, by Chris D. Linebaugh and Edward C. Liu.

[42] See *Federal Bureau of Investigation v. Fagaza* (March 4, 2022). Patrick Toomey and Ashley Gorski, "The Supreme Court just made a US-EU Privacy Shield agreement even harder," *The Hill*, March 21, 2022.

[43] See CRS Report R46732, *EU Digital Policy and International Trade*, by Rachel F. Fefer.

[44] Letter from Rep. Suzan DelBene et al. to Joseph R. Biden, President, February 23, 2022, https://delbene.house.gov/uploadedfiles/eu_digital_markets_act_letter.pdf.

[45] See, for example S. 3197, S. 1204, or H.R. 3827.

[46] White House, TTC Inaugural Joint Statement - Annex III Statement on AI, September 29, 2021.

[47] Discussion during Center for Strategic and International Studies (CSIS) webinar, "Inaugural US-EU Trade and Technology Council Meeting Recap," October 1, 2021.

Select EU Digital Trade and Technology Proposals

The **Digital Markets Act (DMA)**, which was provisionally agreed to by the European Council and Parliament in March 2022, would establish competition rules for certain online platforms.

The **Digital Services Act (DSA)**, which was provisionally agreed to by the European Council and Parliament in April 2022,[48] would set rules for online intermediaries.

The **proposed Data Act**, published February 23, 2022, and **Data Governance Act (DGA)**, published November 11, 2020, aim to increase voluntary and mandatory data sharing amongst public and private sector entities, as well as individuals.

The **proposed ePrivacy Regulation**, under debate since 2017, would ensure the privacy of electronic communications by setting rules for traditional telecommunications providers and messaging services.

The **proposed Artificial Intelligence Act**, published April 21, 2021 by the European Commission, would set common rules for artificial intelligence across the EU to protect safety and fundamental rights.

Agriculture

Longstanding U.S. objectives with respect to U.S. agricultural trade with the EU have included greater market access, changes to the EU's administration of tariff rate quotas (TRQs), and changes to a variety of EU regulations, such as those involving sanitary and phytosanitary (SPS) standards and geographical indications (GIs).[49] However, past U.S. efforts to negotiate a trade agreement with the EU on food and agriculture issues were unsuccessful, and certain trade disputes involving agricultural products are longstanding and remain unresolved. These disputes have limited U.S. agricultural product exports to the EU, including some beef, poultry, and dairy products. U.S.-EU trade agreement negotiations during the Obama Administration stalled partly due to disagreement on how to address certain food and agricultural topics.

The EU's SPS standards can limit trade in food products that use biotechnology and other types of restricted production practices that are often commonplace in the United States. The EU's GI regulations also limit trade in certain foods, wine, and spirits that are labeled with EU-protected names that U.S. producers view as generic names. For example, U.S. cheeses using certain product names, such as parmesan and asiago, may not be exported for sale in the EU since only parmesan and asiago cheese produced in countries or regions currently holding GI registrations may be sold commercially. U.S.-EU trade agreement negotiations during the Obama Administration stalled partly due to disagreement on how to address EU TRQs and EU regulations involving SPS standards and GIs.[50] The Trump Administration's effort to negotiate a new U.S.-EU trade agreement was limited by the EU's decision to restrict the talks to "the

[48] The legal text of the DMA and the DSA would need to be finalized and then approved by both the Council and Parliament before being entered in the EU Official Journal; the regulation would enter into force six months later after entry in the Journal.

[49] SPS measures are laws, regulations, standards, and procedures that governments use to protect human, animal, and plant health from the risks associated with the spread of pests, diseases, or disease-carrying and causing organisms or from additives, toxins, or contaminants in food, beverages, or feed. GIs are geographical names that act to protect the quality and reputation of a distinctive product originating in a certain region. The term GI is most often applied to wines, spirits, and agricultural products. USTR's annual *National Trade Estimate Report on Foreign Trade Barriers* report highlights current SPS and GI trade concerns between the United States and the EU.

[50] See CRS Report R44564, *Agriculture and the Transatlantic Trade and Investment Partnership (T-TIP) Negotiations*, by Renée Johnson; and CRS Report R46241, *U.S.-EU Trade Agreement Negotiations: Trade in Food and Agricultural Products*, by Renée Johnson and Andres B. Schwarzenberg.

elimination of industrial goods only" and to exclude agricultural products from its negotiating mandate (see "Bilateral Trade Agreement Negotiations").[51]

The EU is actively pursuing changes within its food and agricultural sectors under its proposed Farm to Fork (F2F) and Biodiversity Strategy for 2030—both of which are part of the European Green Deal.[52] Combined, the F2F and Biodiversity Strategies would impose restrictions on EU agriculture (and potentially imported products); set 2030 targets to reduce methane emissions, environmental degradation, and chemical inputs and waste; and provide increased support for small-scale and organic farmers, tree planting, and wildlife habitat and animal welfare, among other goals. The proposal includes a carbon farming initiative as an example of a "new green business model" to reward carbon sequestration in agriculture and forestry. The EU expects to complete its related legislation by 2024-2025.

The EU's F2F and Biodiversity Strategies have drawn criticism from both the Trump and Biden Administrations. In general, U.S. trade officials have expressed concerns that the EU's proposed targets could restrict the use of certain types of production-related practices and create barriers to U.S. exports to the EU. An analysis by USDA found that the EU's proposal could result in reduced food production and higher food prices worldwide.[53] Several other WTO member countries have raised similar concerns.[54] USDA has also expressed concerns about the EU's reluctance to accept agricultural biotechnology and new plant breeding techniques. As part of the 2021 U.N. Food Systems Summit, the United States is inviting countries to join USDA's "Coalition of Action for Sustainable Productivity Growth for Food Security and Resource Conservation" (SPG Coalition) to promote "agricultural productivity growth to meet food and conservation needs" through technology use and innovation.[55] Preliminary press reports indicate that the EU is considering joining USDA's SPG Coalition. USDA also has announced its plans to invest in certain "climate smart commodities" in U.S. agricultural sectors.[56] In November 2021, the United States and the EU issued a formal statement on a newly created joint collaboration platform on agriculture, reaffirming their "mutual commitment to sustainable and climate-smart agricultural production."[57]

Government Procurement

EU and U.S. firms' access to government procurement markets in the United States and the EU is governed by the WTO Agreement on Government Procurement (GPA).[58] The GPA enables U.S.-

[51] Council of the European Union, "Trade with the United States: Council Authorizes Negotiations on Elimination of Tariffs for Industrial Goods and on Conformity Assessment," press release, April 15, 2019.

[52] See CRS In Focus IF11704, *U.S. Trade Concerns Regarding the EU's Farm to Fork Strategy*, by Renée Johnson.

[53] See USDA, *Economic and Food Security Impacts of Agricultural Input Reduction under the European Union Green Deal's Farm to Fork and Biodiversity Strategies*, November 2020.

[54] WTO Committee on Sanitary and Phytosanitary Measures, Meeting Notes (March 25-26, 2021)," G/SPS/R/101, May 19, 2021.

[55] USDA's SPG Coalition website and backgrounder, https://www.usda.gov/oce/sustainability/spg-coalition.

[56] USDA, "USDA to Invest $1 Billion in Climate Smart Commodities, Expanding Markets, Strengthening Rural America," Release No. 0038.22, February 7, 2022.

[57] European Commission, "EU-US Joint Press Statement," November 3, 2021.

[58] See CRS In Focus IF11651, *WTO Agreement on Government Procurement (GPA)*, by Andres B. Schwarzenberg. An exchange of letters also exists involving EU access to procurement markets in North Dakota and West Virginia (not covered by the GPA), and Illinois; Massachusetts Port Authority; and the cities of Boston, Chicago, Dallas, Detroit, Indianapolis, Nashville, and San Antonio. USTR, "Agreement in the Form of an Exchange of Letters between the European Community and the United States of America on Government Procurement," May 30, 1995.

based businesses to bid for certain government contracts in the EU and its members. Likewise, it allows EU-based companies to bid for contracts tendered by certain U.S. procuring entities in areas where federal and state governments have agreed to open up their procurement markets.

Because parties bound by the GPA negotiate market access commitments on a reciprocal basis, procurement coverage in each market varies considerably. Since the 1970s, the United States and the EU have sought to open each other's procurement markets to increase their own exports of goods and services. In recent years, U.S. and EU procurement expenditures are estimated to have equated to around 10% to 14% of GDP, respectively.[59] As a result, further market access in this sector could be of significant benefit to both partners.

The United States has sought to ensure fair, transparent, and predictable rules for government procurement, and nondiscriminatory treatment for U.S. suppliers. According to the USTR, gauging accurately the current level of U.S. participation in EU government procurement markets is difficult due to the EU's lack of country-of-origin data for winning bids.[60] In contract competitions conducted by EU member state governments, U.S. firms point to concerns over a lack of transparency, including overly narrow definitions of tenders, language and documentation barriers, and implicit biases in favor of local or EU vendors and state-owned enterprises (SOEs).[61]

The EU, on the other hand, has sought to achieve greater access for EU firms to sub-central government procurement markets in the United States—access which only U.S. states, counties, and municipalities themselves can voluntarily grant.[62] EU officials have also pointed to U.S. laws such as the Berry Amendment—which restricts government purchases of certain items to U.S. businesses for security reasons—and the Buy American Act—which provides a preference for U.S. goods in government purchases—as potentially injurious to EU companies that want to bid for U.S. procurement contracts.[63]

Intellectual Property Rights

The United States and the EU are both major innovation economies, maintain strong overall standards domestically to protect and enforce intellectual property rights (IPR), and generally prioritize IPR protection and enforcement as a key trade-negotiating objective. They were instrumental in the incorporation of IPR in the multilateral trade negotiations that led to the 1995 WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).[64] At the same time, some IPR issues have been contentious between the partners.

Treatment of IPR was a key focus in the past T-TIP negotiations. Some observers saw potential for T-TIP to include rules to protect and enforce IPR, as well as to cooperate on emerging challenges, such as cyber theft of trade secrets, to set global rules.

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[59] OECD, National Accounts Statistics (database).

[60] USTR, *2022 National Trade Estimate Report on Foreign Trade Barriers*, March 2022, p. 204.

[61] Ibid, pp. 204-205.

[62] See, for example, Christopher R. Yukins, George Washington University Law School, Testimony Submitted to the European Parliament Committee on the Internal Market and Consumer Protection and the Committee on International Trade, for the Joint Public Hearing on TTIP: Public Procurement—Challenges and Opportunities for the European Union and the United States, European Parliament, Brussels, Belgium, April 20, 2016.

[63] For an overview of EU concerns regarding access to U.S. central and sub-central procurement markets, see European Commission, Directorate General for Trade, Access2Markets Web Portal (last updated on January 14, 2022).

[64] See CRS Report RL34292, *Intellectual Property Rights and International Trade*, by Shayerah I. Akhtar, Ian F. Fergusson, and Liana Wong.

Differing approaches to protection and enforcement of GIs, however, was and remains a key difference (see "Agriculture"). The USTR has identified ongoing U.S. concerns and engagement in various fora regarding the EU's "overbroad" approach to GIs and efforts to advance its GI approach through its other trade agreements, which the United States argues negatively affects U.S. trademarks and access to foreign markets for U.S. products that use common names.[65]

Among other things, the USTR also notes that U.S. stakeholders have raised concerns that the EU's Digital Services Act (see "Digital Trade and Technology") could weaken the current liability regime and constrain existing standards and practices for addressing illegal content and activities, including online infringement of copyright and related rights.[66] The United States is monitoring the DSA and other copyright issues in the EU.

Multilaterally, the partners have been engaged in WTO discussions on potential "TRIPS waivers" for COVID-19 vaccines and other treatments. While the Biden Administration had voiced support for the concept of a limited IPR waiver for COVID-19 vaccines—a position that divides Members of Congress. The EU had resisted, arguing that existing TRIPS flexibilities to respond to the pandemic in terms of IPR issues were sufficient, and favoring other options, such as limiting the use of export restrictions and boosting manufacturing supply, as more effective means to support global COVID-19 vaccines access.[67] High-level talks in which they have been involved, however, led to a breakthrough on a potential waiver of WTO patent obligations for COVID-19 vaccines, but WTO members have not reached a final agreement on the issue.[68]

Investment

The United States and the EU's generally favorable investment policies and overall business environments have helped to facilitate extensive transatlantic FDI and bilateral economic integration, although certain investment barriers remain, largely at the EU member-state level. The USTR cites, for instance, some EU members' foreign ownership limits, corruption, weak law enforcement, and unpredictable judicial processes as of concern for U.S. investors.[69]

In launching the TTC, the United States and the EU stated they view openness to foreign investment as important to economic growth and innovation, and that they face common challenges in addressing related risks to national security. In recent years, both partners have adopted regulations to strengthen their respective reviews of the potential national security implications of inbound foreign investment transactions. Both have faced growing concerns in this area due to the more assertive role of China and its state-led firms in the global economy, and both seek to focus more on the exchange of information regarding proposed foreign investments. The U.S. investment review mechanism, the Committee on Foreign Investment in the United States (CFIUS), dates to 1975, and Congress gave it additional authorities in 2018.[70] The EU's

[65] USTR, *2022 National Trade Estimate Report on Foreign Trade Barriers*, March 2022, pp. 207-208; and USTR, *2022 Special 301 Report*, April 2022, pp. 26-27.

[66] USTR, *2022 Special 301 Report*, April 2022, pp. 34-35.

[67] See, e.g., European Commission, "EU Proposes a Strong Multilateral Trade Response to the COVID-19 Pandemic," press release, June 4, 2021.

[68] Ashleigh Furlong, "Compromise Reached on COVID-19 Vaccine Intellectual Property Rights Waiver," *Politico*; and WTO, "WTO DG Okonjo-Iweala Welcomes Breakthrough on COVID-19 Vaccine Waiver," press release, March 16, 2022. CRS Insight IN11901, *Breakthrough on a Potential COVID-19 Intellectual Property Rights Waiver*, by Shayerah I. Akhtar.

[69] USTR, *2022 National Trade Estimate Report on Foreign Trade Barriers*, March 2022, pp. 220-222.

[70] CRS Report RL33388, *The Committee on Foreign Investment in the United States (CFIUS)*, by James K. Jackson.

mechanism, which became fully operational in October 2020, aims to harmonize and coordinate varying member state-level investment review mechanisms.[71]

In the past T-TIP negotiations (see "Bilateral Trade Agreement Negotiations"), both sides sought to include investment market access and investor protections, but they disagreed on whether to include investor-state dispute settlement (ISDS).[72] While historically a core part of U.S. and European investment agreements with other countries, ISDS has been the subject of past active debates among U.S. and European policymakers and various stakeholders, particularly regarding the level of investor protection and related provisions to preserve governments' ability to regulate in pursuit of national public policy objectives.[73] In the T-TIP negotiations, the EU proposed to replace ISDS with a new bilateral Investment Court System (ICS)—which it has secured in some of its other trade agreements—that would include a standing body of judges and an appellate tribunal.[74] The Obama Administration and U.S. industry opposed the EU's proposal, preferring to retain ISDS, while some civil society groups asserted that the proposed ICS would not resolve their concerns about ISDS.[75]

Debate over ISDS could re-emerge in any future U.S.-EU trade agreement negotiations. One policy question is what precedence the curtailment of ISDS in the United States-Mexico-Canada Agreement (USMCA) during the Trump Administration might have for potential future U.S. investment agreements and whether it may affect any gaps in future U.S. and EU positions on ISDS.[76] The EU, meanwhile, continues to pursue ICS, securing its inclusion in bilateral trade agreements with Canada, Mexico, Singapore, and Vietnam. The EU also has called for a Multilateral Investment Court (MIC) in international settings.[77]

Regulatory Approaches and Cooperation

For decades, U.S. businesses and farmers have consistently identified divergent regulatory frameworks for goods and services as major barriers to transatlantic commerce.[78] While their purpose might be to protect consumers or the environment, regulations can also serve as nontariff barriers (NTBs), affecting the market access and competitive positions of foreign firms and adding to the costs of doing business, such as for exporting to or operating in the foreign market.[79] These measures generally include procedures or requirements with which it might be costly or administratively burdensome to comply (e.g., re-labeling, re-testing, or re-licensing), or do not reflect the United States' widely shared assessments of risks—generally based on scientific

[71] European Commission, "EU Foreign Investment Screening Mechanism Becomes Fully Operational," press release, October 9, 2020.

[72] Investor-state dispute settlement (ISDS) provides for binding international arbitration of private investor claims against host country governments.

[73] CRS In Focus IF10052, *U.S. International Investment Agreements (IIAs)*, by Martin A. Weiss and Shayerah I. Akhtar.

[74] European Commission, "Commission Proposes New Investment Court System for TTIP and Other EU Trade and Investment Negotiations," press release, September 16, 2015.

[75] Krista Hughes and Philip Blenkinsop, "U.S. Wary of EU Proposal for Investment Court in Trade Pact," Reuters, October 29, 2015.

[76] CRS In Focus IF11167, *USMCA: Investment Provisions*, by Christopher A. Casey and M. Angeles Villarreal.

[77] See European Parliamentary Research Service (EPRS), *Multilateral Investment Court: Overview of the Reform Proposals and Prospects*, January 2020.

[78] For more information, see USTR, *National Trade Estimate Report on Foreign Trade Barriers*, annual editions.

[79] See USTR, T-TIP Issue-by-Issue Information Center, "Non-Tariff Barriers and Regulatory Issues"; and WTO, Understanding the WTO: The Agreements, "Non-Tariff Barriers: Red Tape, Etc."

risk assessments—to consumers or the environment (e.g., on genetically modified organisms, GMOs, and chemicals).[80] Other ongoing U.S. concerns relate to transparency, notification, and public participation in EU regulatory processes. The USTR holds that EU notifications often take place when it is too late to revise the measure to take into account legitimate concerns, including substantive or scientific, raised by other WTO members (e.g., on chemicals).[81] The USTR also notes concerns that the EU's promotion of European regional or harmonized standards in other markets impedes market access for products that conform to international standards, even though international standards may meet or exceed the EU (or third country) regulatory requirements.[82]

Given the magnitude of U.S.-EU commercial interaction, many economists agree that more cooperation, convergence, and transparency in regulations and standards-setting processes could lead to greater market access for both U.S. and EU firms and yield significant economic gains for certain sectors.[83] Many stakeholders acknowledge these potential gains, while others warn that domestic health and safety standards could be compromised if such efforts are driven solely by business interests.[84] They also caution against a potential "race to the bottom" as jurisdictions seek to advance the competitiveness of their own industries through lower standards and regulations.[85]

Despite well-established channels and fora for exchanging views on these issues regularly, U.S.-EU progress over the years appears to have been limited. Longstanding differences in regulatory approaches have been stumbling blocks in previous U.S.-EU negotiations. Some differences relate to divergent public preferences and values. For example, more consumers in the EU than in the United States are averse to genetically modified foods.[86] In addition, the United States and the EU operate two different systems of risk management.[87] In the United States, regulators tend to work cooperatively with industry, leading them to engage in science-based, cost-benefit analysis, and be supportive of technological innovation. In the EU, regulators favor a more precautionary approach, often leading to relatively more stringent risk regulation.[88]

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[80] USTR, *2022 National Trade Estimate Report on Foreign Trade Barriers*, March 2022, pp. 189-190, and 197-198.

[81] USTR, *2022 National Trade Estimate Report on Foreign Trade Barriers*, March 2022, pp. 189-190.

[82] Ibid., p. 186.

[83] See, e.g., ECORYS Nederland BV (for the Directorate-General for Trade of European Commission), "Non-Tariff Measures in EU-US Trade and Investment–An Economic Analysis," Final Report, December 11, 2009. See also, OECD, *International Regulatory Cooperation and Trade: Understanding the Trade Costs of Regulatory Divergence and the Remedies*, May 24, 2017, and U.S. Department of State, "Integrated Country Strategy: U.S. Mission to the European Union," March 20, 2020.

[84] See, e.g., Dale D. Murphy and Oxford University Press, *The Structure of Regulatory Competition: Corporations and Public Policies in a Global Economy*, New York: Oxford University Press, 2007; Reeve T. Bull, Neysun A. Mahboubi, Richard B. Stewart and Jonathan B. Wiener, "New Approaches to International Regulatory Cooperation: The Challenge of TTIP, TPP, and Mega-Regional Trade Agreements," *Law and Contemporary Problems*, 78(4), 1–29, 2015.

[85] Ibid.

[86] Shahla Wunderlich and Kelsey A. Gatto, "Consumer Perception of Genetically Modified Organisms and Sources of Information," *Advances in Nutrition*, Vol. 6(6), pp. 842-51, November 13, 2015; Brian Kennedy and Cary Lynne Thigpen, "Many Publics Around World Doubt Safety of Genetically Modified Foods," Pew Research Center, November 11, 2020.

[87] See, for example, European Parliament, Directorate General for Internal Policies, Policy Department A: Economic and Scientific Policy, "The Transatlantic Trade and Investment Partnership (TTIP): Challenges and Opportunities for Consumer Protection," June 2015.

[88] See EPRS, "The Precautionary Principle: Definitions, Applications and Governance," December 2015.

Traditional forms of U.S.-EU regulatory cooperation include "horizontal" information exchanges and dialogues between regulators, Mutual Recognition Agreements (MRAs, see **text box**), and harmonization of regulatory standards. U.S. and EU regulators have engaged actively in these information exchanges since 1998, when the Transatlantic Economic Partnership (TEP) action plan called for both sides to identify and implement general government guidelines for effective regulatory cooperation.[89] In recent years, U.S. and EU negotiators, regulators, and industry representatives have been involved in regulatory cooperation and enhanced convergence in a number of sectors, including pharmaceuticals and medical device manufacturing. The TTC also has a working group to cooperate on technology standards, especially emerging technologies.

Mutual Recognition Agreements (MRAs)

MRAs represent a form of cooperation in which regulators agree to accept products or services from another jurisdiction under specified conditions, so that actors complying with the regulations in one jurisdiction will be considered to be in compliance with the rules in another jurisdiction. MRAs operate using "tested once" criteria, where product testing conducted in one market is considered to have been tested in both markets. The United States and the EU have signed MRAs in seven industry sectors: (1) telecommunications equipment; (2) electromagnetic compatibility; (3) electrical safety; (4) recreational craft; (5) pharmaceutical good manufacturing practices; (6) medical devices; and (7) marine equipment.

Among recent developments, in November 2017, the United States and the EU amended the U.S.-EU Pharmaceutical Good Manufacturing Practices (GMP) MRA concluded in 1998.[90] They sought to address many regulatory differences and remove duplicative requirements that may impede efficiency in global drug development. Despite greater cooperation, important differences remain between U.S. and EU testing protocols, submission of clinical data, and certification practices, as well as variation within the EU, given that public health policy is governed by individual EU member states.

EU negotiators reportedly agreed in principle to expand the MRA's scope to include veterinary drugs (as the United States did in 2020) and to start joint inspections of certain manufacturing facilities. In addition, they explored the scope for improved coordination in medical device regulation. Discussions have centered on the alignment and compatibility of electronic database specifications for a common device identification system.

Supply Chains

U.S.-EU trade and investment ties are more integrated with the growth of global supply chains. Many U.S. and EU companies rely on transatlantic supply chains and sometimes-overlapping networks. For example, the U.S.-based Boeing and Europe-based Airbus each employ thousands of workers and have extensive supplier networks across the Atlantic.[91]

[89] These efforts were reinforced during regular U.S.-EU summits, beginning in 2004 with the first Roadmap for EU-U.S. Regulatory Cooperation and Transparency, and in a Common Understanding on Regulatory Principles and Best Practices in June 2011. Since 2005, U.S.-EU High-Level Regulatory Cooperation Forums have aimed to build effective mechanisms to promote better quality regulations and minimize regulatory divergences. The Transatlantic Economic Council (TEC), established in 2007, also engaged in regulatory cooperation. These groups made progress in some former areas of contention—for example, by signing a mutual recognition decision on U.S. and EU "trusted trader" programs, and advancing collaboration on testing methods for electric vehicles and nanotechnology.

[90] U.S. Food and Drug Administration (FDA), "Mutual Recognition Promises New Framework for Pharmaceutical Inspections for United States and European Union," March 2, 2017.

[91] Daniel S. Hamilton and Joseph P. Quinlan, "The Transatlantic Economy 2021, Annual Survey of Jobs, Trade and Investment between the United States and Europe," AmCham EU, U.S. Chamber of Commerce, Johns Hopkins and the Wilson Center, 2021.

U.S. and European policymakers and industry groups have raised shared concerns about China's position in global supply chains, particularly in light of recent supply challenges during the COVID-19 pandemic.[92] Notable supply chains of concern include personal protective equipment (PPE), active pharmaceutical ingredients (APIs), and rare earth elements, among others. In May 2021, the European Commission updated its industrial strategy to support forming "industrial alliances" across several sectors named in the Biden Administration's June 2021 supply chain report as "priority sectors," such as batteries and certain APIs, potentially opening new cooperation avenues. These shared interests present an opportunity to collaborate on supply chain diversification, deepen transatlantic ties, and develop alternative global markets.

The third TTC working group, led by Commerce and State on the U.S. side, was tasked with advancing supply chain resilience and security of supply in key sectors for the green and digital transition. It is to focus initially on clean energy, pharmaceuticals, and critical materials.[93] Through increased transparency, identification of U.S. and EU respective sectoral capabilities, information sharing, and cooperation on strategies, the group aims to promote supply chain resilience and diversification.

A dedicated track on semiconductors is to focus initially on short-term supply chain issues, with a view to enhancing U.S. and EU security of supply and the capacity of both sides to design and produce semiconductors.[94] The United States and the EU represented 21% of the world's semiconductor manufacturing capacity in 2020,[95] and each has respective strengths, significant mutual dependencies, and common external dependencies in supply chains. Both sides have proposed plans to invest in their domestic bases.[96] According to the TTC statement, the working group is to partner with the semiconductor industry and relevant stakeholders to identify bottlenecks, gaps and vulnerabilities, map domestic ecosystems, and enhance transparency and cooperation to improve resiliency in the supply chain.[97]

China and Other Nonmarket Economies

Under the Biden Administration, the United States and the EU have committed to intensifying cooperation on the strategic and economic challenges posed by China and other NMEs. Several measures announced at the June 2021 U.S.-EU summit aim to foster collaboration to counter China's growing influence, especially in relation to trade and technology.[98] For example, the Administration has characterized the TTC, launched at the summit, as a key component of U.S.-EU cooperation to address common challenges with respect to nonmarket policies and practices,

[92] EU High Representative Josep Borrell, "The Coronavirus and the New World it is Creating," European External Action Service, March 23, 2020.

[93] During the November 18, 2021, U.S. Stakeholder Event, the idea of other sectors being added in the future was raised. The event was held under Chatham House rules.

[94] Ibid and White House, "TTC Inaugural Joint Statement" – Annex IV Statement on Semiconductor Supply Chains, September 29, 2021. See also CRS Report R46581, *Semiconductors: U.S. Industry, Global Competition, and Federal Policy*, by Michaela D. Platzer, John F. Sargent Jr., and Karen M. Sutter.

[95] Jennifer Meng, et al., "Actions the U.S. and EU Can Take Together to Strengthen Both Regions' Semiconductor Supply Chain Resilience," Semiconductor Industry Association, September 28, 2021.

[96] See S. 1260 and Thierry Breton, "How a European Chips Act will put Europe back in the tech race," European Commission, September 15, 2021.

[97] For example, Paul Massaro, U.S. Helsinki Commission, speaking at the U.S. Europe Alliance and Center for Security and Emerging Technology event on September 16, 2021.

[98] The White House, "Background Press Call by a Senior Administration Official Previewing the U.S.-EU Summit" and "U.S.-EU Summit Statement," Statements and Releases, June 15, 2021.

including combatting economic coercion (see "Trade and Technology Council").[99] While the TTC statement does not explicitly mention any country in its objectives or work streams, a number of the TTC working groups are expected to focus on China-related issues. In November 2021, the United States, the EU, and Japan also renewed a trilateral partnership initiated by the Trump Administration to address the global challenges posed by NMEs, including under WTO rules.[100]

At the same time, the EU has approached the U.S.-China trade tensions with caution. Such tensions took on a new level of focus under the Trump Administration's unilateral tariff actions against China—actions that remain in effect under President Biden—and increasingly focus on U.S.-China strategic competition. Some U.S. commentators hold that EU policymakers view China's economic growth as potential opportunities for EU firms and are reluctant to challenge a major economic partner.[101] The EU has indicated a need to cooperate with China on common global concerns, such as climate change, health security, arms control, and nonproliferation.[102] These are areas in which the United States seeks to work with China to varying degrees as well. Different views or approaches among EU member states with respect to the extent of their economic ties with China could make the formulation of an EU-wide position more difficult and potentially hinder efforts to promote closer U.S.-EU policy alignment toward China.

Selected Ongoing and Emerging Issues

Worker Rights and Environmental Issues

The United States and the EU maintain high levels of domestic protection on worker rights and the environment. Their trade agreements with other countries include commitments in these areas, but have similarities and differences.[103] For example, they both commit to uphold International Labor Organization (ILO) commitments and multilateral environmental agreements (MEAs). Recent EU trade, however, also often refer to additional ILO instruments (e.g., conventions) and include climate-related commitments, with goals to reduce greenhouse gas emissions. In contrast, amendments to the 2015 Trade Promotion Authority (TPA) legislation, now expired, added an overall negotiating objective "to ensure that trade agreements do not establish obligations for the United States regarding greenhouse gas emissions... other than those fulfilling the other negotiating objectives" in TPA.[104] At the same time, U.S. FTAs have greater enforcement mechanisms for labor standards and environmental commitments, compared to EU FTAs.[105] The European Commission has been conducting a review of the 15-Point Action Plan on Trade and

[99] USTR, *2022 Trade Policy Agenda and 2021 Annual Report*, March 2022, p. 12.

[100] USTR, "Joint Statement of the Trade Ministers of the United States, Japan, and the European Union After a Trilateral Meeting," press release, November 30, 2021.

[101] See, e.g., Stephen M. Walt, "Will Europe Ever Really Confront China?" *Foreign Policy*, October 15, 2021; and Andrea Kendall-Taylor and Rachel Rizzo, "The U.S. or China? Europe Needs to Pick a Side," *Politico Magazine*, August 12, 2019.

[102] See, e.g., the European Commission, Climate Action webpage, "Cooperation with Non-EU Countries and Regions – China."

[103] For background on these issues, see CRS Report R46842, *Worker Rights Provisions and U.S. Trade Policy*, by Cathleen D. Cimino-Isaacs; and CRS In Focus IF10166, *Environmental Provisions in Free Trade Agreements (FTAs)*, by Richard K. Lattanzio and Christopher A. Casey.

[104] The Trade Facilitation and Trade Enforcement Act of 2015 (P.L. 114-125) amended TPA (P.L. 114-26) to add this provision.

[105] For background, see Velut, JB. et al., *Comparative Analysis of Trade and Sustainable Development Provisions in Free Trade Agreements*, The London School of Economics and Political Science, February 2022.

Sustainable Development (TSD), which is to cover all aspects of TSD implementation and enforcement, including the scope of commitments, monitoring mechanisms, and the possibility of sanctions for noncompliance.[106]

In its trade policy, the Biden Administration has highlighted ongoing and planned cooperation with the EU through the TTC to advance the Administration's "worker-centered trade policy" and shared priorities "to address climate change."[107] Additionally, the TTC joint statement articulates U.S.-EU aims to protect fundamental labor rights, including by combatting forced and child labor and through bilateral and multilateral trade policies, which may intersect with policy responses regarding global supply chains. In the TTC, the partners committed to reaching net-zero emissions and increasing access to and availability of clean energy technologies, as well as to consulting on including trade-related climate and environmental issues in their work streams.[108]

U.S. policymakers may closely monitor the EU's proposal, introduced in July 2021, to establish a new carbon border adjustment (CBA) mechanism that could place a fee on certain carbon-intensive imports, based on costs that the EU currently imposes on domestic industry through its Emissions Trading System (ETS).[109] The United States is among the countries whose exporters could face such a fee. Some analysts have called for the WTO to pursue rules regarding decarbonization, and for trading partners to hold off on unilateral measures in the meantime.[110]

Export Controls

Through the TTC and related working group activity, the partners seek to cooperate on improving U.S. and EU systems for dual-use export controls, including for sensitive emerging technologies, and on protecting human rights.[111] Some U.S. business groups have voiced support for such cooperation, while urging that controls be the least trade-restrictive possible and narrowly targeted to continue to promote economic competitiveness.[112] The TTC reportedly helped to facilitate coordination among the United States, the EU, and other allies on export controls against Russia, such as on certain technologies, in response to Russia's war on Ukraine.[113] According to press reporting, a few officials remarked that the TTC's working groups allowed for

[106] European Commission, *Trade Policy Review – An Open, Sustainable and Assertive Trade Policy*, February 18, 2021, pp. 13-14.

[107] USTR, *2022 Trade Policy Agenda and 2021 Annual Report*, March 2022, pp. 3 and 6.

[108] White House, "TTC Inaugural Joint Statement," September 29, 2021; and Noah Barkin and Agatha Kratz, *Transatlantic Tools; Harmonizing US and EU Approaches to China*, Atlantic Council, November 2021.

[109] Targeted imports may include aluminum, cement, fertilizer, iron and steel, and electricity. With its proposal, the EU aims to address "carbon leakage," by which companies transfer production out of the EU to countries with less stringent emissions reduction policies.

[110] See, for example, Gary Clyde Hufbauer et al., "Can EU Carbon Border Adjustment Measures Propel WTO Climate Talks?," Peterson Institute for International Economies, November 2021.

[111] See, for example, White House, "TTC Inaugural Joint Statement," September 29, 2021; Bureau of Industry and Security, Department of Commerce, "Request for Public Comments Regarding Areas and Priorities for U.S. and EU Export Control Cooperation Under the Trade and Technology Council," 86 *Federal Register* 67904, November 11, 2021. For a related effort, see White House, "Fact Sheet: Export Controls and Human Rights Initiative Launched at the Summit for Democracy," Statements and Releases, December 10, 2021.

[112] See, for example, U.S. Chamber of Commerce, "U.S.-EU Trade and Technology Council: Recommendations for Working Group 7 – Export Controls Cooperation," January 2022.

[113] *Inside U.S. Trade*, "EU Ambassador: Trade and Technology Council Aided Joint Response to Russia," March 11, 2022; and Frances Burwell, "Rethinking the U.S.-EU Trade and Technology Council After Ukraine," *The National Interest*, March 13, 2022; and CRS In Focus IF12062, *New Financial and Trade Sanctions Against Russia*, coordinated by Rebecca M. Nelson.

faster action and cooperation because the appropriate individuals were already in communication with each other and could quickly refocus on Russia.[114] By some accounts, future TTC meetings may focus heavily on export controls issues, in light of recent events.[115]

Energy Trade and Russia

Energy trade was part of the past T-TIP negotiations in terms of market access and regulatory frameworks. The issue has taken on renewed importance in the face of growing concerns about Russia's war on Ukraine and the EU's dependency on Russian energy imports. The United States supports efforts to diversify the EU's energy resources away from Russia. Congress, for instance, directed various agency heads to prioritize support for energy infrastructure projects in Europe and Eurasia, and some policymakers are examining other opportunities to support efforts to strengthen the EU's energy security.[116] In addition, the TTC supply chains working group includes a focus on clean energy, among other sectors.

Economic Coercion

U.S. policymakers may closely monitor a potential new anti-coercion instrument (ACI) in EU trade policy. The ACI could allow the EU to restrict access of third countries to the EU's trade and investment markets, in order to deter these countries from pursuing trade or investment restrictions against the EU to bring about a change in EU policy.[117] According to an EU impact assessment report on the proposed ACI, the EU's concerns about economic coercion by third countries emerged with the possible imposition of DST-related trade measures by the United States (see "Digital Services Taxes").[118] The EU has also cited, as an example, actions taken by China, including its discriminatory trade practices against Lithuania after the latter expanded commercial ties with Taiwan.[119] Some observers see the proposed ACI as a parallel to the U.S. "Section 301" statute, which provides the U.S. executive with authority to impose unilateral trade restrictions in response to foreign trade barriers and other trade partner practices.[120] Some observers see China's economic pressure on Lithuania as a case-in-point of the proposed ACI's utility, while others are concerned that the ACI is protectionist and may pull the EU into tit-for-tat measures in trade disputes.[121]

Bilateral Trade Agreement Negotiations

The United States and the EU have overlapping networks of FTAs (see **text box**), but no FTA with each other. Successive U.S. Administrations have sought to address remaining barriers to U.S.-EU trade and expand ties, including through trade liberalization negotiations. The most

[114] Mark Scott, "Digital Bridge: Trade and Tech Council 2.0...," Politico, April 21, 2022.

[115] Ibid.

[116] European Energy Security and Diversification Act of 2019 (P.L. 116-94, Div. P, Title XX).

[117] European Commission, "EU Strengthens Protection Against Economic Coercion," press release, December 8, 2021.

[118] European Commission, Impact Assessment Report accompanying the document, "Proposal for a Regulation of the European Parliament and of the Council on the protection of the Union and its Member States from economic coercion by third countries," Commission staff working document, December 8, 2021, p. 3.

[119] European Commission, "EU Refers China to WTO Following its Trade Restrictions on Lithuania," press release, January 27, 2022.

[120] See, for example, Emily Benson, "What are the Trade Contours of the European Union's Anti-Coercion Instrument," CSIS, April 21, 2022. For background, see CRS In Focus IF11346, *Section 301 of the Trade Act of 1974*, by Andres B. Schwarzenberg.

[121] "EU Plan for Anti-Coercion Trade Measure Faces Skepticism," Reuters, December 7, 2021.

extensive of these efforts was during the Obama Administration on a proposed T-TIP to boost U.S.-EU economic growth and jobs, respond to increased competition from emerging markets, and develop globally relevant trade rules. In the T-TIP negotiations, launched in 2013, the partners sought to address remaining U.S.-EU barriers to trade and investment in goods, services, and agriculture through: reducing and eliminating tariffs; further opening services and public procurement markets; enhancing cooperation and transparency in regulations and standards-setting; and strengthening rules in areas such as IPR, investment, digital trade, the environment, worker rights, and SOEs.

After 15 rounds, T-TIP negotiations stalled in 2016 over key differences—some of which persist—in U.S. and EU positions on certain issues. U.S. concerns included EU regulatory measures that limit the use of growth hormones and pathogen reduction treatments (e.g., chlorine washes) in meat production; treatment of GIs; and approach to ISDS. Talks on digital trade faced complications due to EU engagement on parallel issues in its internal market and EU concerns over U.S. government surveillance. Other sensitivities included agricultural tariff reductions and access to sub-central public procurement markets.

U.S. and EU Trade Agreements

The EU has over 40 trade agreements with more than 70 countries.[122] These vary in integration and scope. While earlier EU trade agreements typically focused on goods trade liberalization, some more recent ones have been more comprehensive, variously including, since 2006, services, public procurement, intellectual property rights, investment, and regulatory cooperation, and, since 2010, sustainable development.[123] The United States has a more limited number of FTAs—14 FTAs with 20 countries—but U.S. FTAs generally have been more "comprehensive" in scope, for instance, with near complete elimination of tariffs and more coverage of services trade and nontariff barriers. Issues such as labor standards have been more enforceable, i.e., subject to the full spectrum of FTA dispute settlement procedures, unlike EU FTAs. Historically, the United States has advocated for comprehensive tariff liberalization in FTA negotiations in line with WTO requirements that FTAs must cover substantially all trade.[124] While EU and U.S. FTAs take similar approaches on many issues, reflecting shared interests, they differ, on other issues (see "Selected Trade Issues").

The Trump Administration and the EU Commission did not renew the stalled T-TIP negotiations. U.S.-EU trade relations faced heightened tensions largely related to the Administration's criticism of "unfair" EU trade practices and U.S. unilateral tariff measures. After a July 2018 visit by the President of the European Commission to the White House, the partners sought to deescalate trade tensions by working to address remaining trade barriers and expand trade. In October 2018, the Trump Administration notified Congress under the 2015 TPA (P.L. 114-26, now expired) of a potential U.S. trade agreement negotiation with the EU. In comparison to the U.S. interest in addressing tariffs and NTBs, the EU sought limited negotiations on industrial tariffs (i.e., non-agricultural) and regulatory issues (via a conformity assessment agreement)—reportedly to defuse bilateral trade tensions.[125] The EU's desire to exclude agriculture from the negotiations was a key sticking point for many Members. Potential U.S. Section 232 auto tariffs and Brexit-related uncertainty added complications.

[122] European Commission, "Negotiations and Agreements" webpage, updated November 18, 2021.

[123] Commission of the European Communities, *Global Europe: Competing in the World*, June 4, 2006; and WTO, *EU Trade Policy Review*, pp. 39-44.

[124] U.S. tariff commitments in the 2020 U.S.-Japan trade agreement, however, covered a very small share of bilateral trade. The Trump Administration justified this at the time by envisioning a more comprehensive "second-stage" negotiation, but the United States has yet to pursue such an agreement. See CRS Report R46140, *"Stage One" U.S.-Japan Trade Agreements*, coordinated by Brock R. Williams.

[125] *Voice of America*, "EU Green Lights Trade Talks with Washington to Defuse Tension," April 15, 2019.

The talks stalled in 2019, but the two sides reached a limited tariff agreement in August 2020 under which the EU eliminated tariffs on certain lobster products and the United States reduced by 50% tariffs on certain products (e.g., certain prepared meals, certain glassware, surface preparations, propellant powders, cigarette lighters and parts)—both on an MFN basis.[126] They expressed an aim for this "package[...] to mark just the beginning of a process that will lead to additional agreements that create more free, fair, and reciprocal transatlantic trade."[127]

The Biden Administration has not indicated interest in taking up the previous U.S.-EU negotiations. The EU also has not appeared to push for a renewal of FTA negotiations, potentially still wary of the T-TIP experience. A European Parliament resolution, however, previously called for building on the momentum from the August 2020, limited tariff deal to work on a broader U.S.-EU trade agenda.[128] More recently, in the wake of Russia's invasion of Ukraine and interest among policymakers to deepen U.S.-EU ties, some commentators have called for the United States and the EU to renew efforts to negotiate a bilateral trade deal.[129]

Multilateral Cooperation and Frictions

In the post-World War II period, the United States and the EU led in promoting trade liberalization and developing the rules-based international trading system that is underpinned by the WTO.[130] The Trump Administration's skepticism of the WTO and threats to flout WTO rules deeply concerned EU officials.[131] More broadly, many observers remain concerned that the WTO's effectiveness has diminished since the collapse of the last round of multilateral trade negotiations and believe the WTO needs to negotiate new rules and adopt reforms.[132] To date, WTO members have not reached consensus for a new comprehensive agreement, though negotiations on discrete topics continue. During the Biden Administration, the United States and the EU have pledged to "uphold and reform" the rules-based multilateral trading system.[133] Divergent trade policy views among many major trading economies within the WTO, however, present challenges to a path forward on negotiations.

The United States and the EU, along with like-minded partners, cooperate on a range of global trade issues, although U.S. and EU views on the approaches differ in some cases.[134] A major joint focus is tackling the challenges posed by China and other NMEs on global overcapacity, subsidies, SOEs, forced technology transfer, and global supply chains—issues for which both sides view current WTO rules as insufficient. A recent area of cooperation is on responses to

[126] USTR, "Joint Statement of the United States and the European Union on a Tariff Agreement," press release, August 21, 2020.

[127] Ibid.

[128] European Parliament, "European Parliament Resolution of 26 November 2020 on the EU Trade Policy Review" (2020/2761(RSP)).

[129] See, e.g., "Now's the Time for a U.S.-EU Trade Deal," opinion by the editors (Bloomberg), *The Washington Post*, March 23, 2022; and "Germany Calls for New Talks on Transatlantic Trade Deal," Reuters, March 20, 2022.

[130] CRS Report R45417, *World Trade Organization: Overview and Future Direction*, by Cathleen D. Cimino-Isaacs and Rachel F. Fefer.

[131] See, for example, Jakob Hanke Vela, "Europe Fears Trump is Out to Kill the World Trade Organization," POLITICO Europe, March 18, 2018.

[132] See, for example, Wendy Cutler, "Can the WTO Reform and Remain Relevant?," Asia Society Policy Institute, May 20, 2020; James Bacchus, "Eleventh Hour for WTO Reform," Cato Institute, February 23, 2021.

[133] The White House, "U.S.-EU Summit Statement," June 15, 2021.

[134] Ibid.

Russia's war on Ukraine. In April 2022, Congress passed legislation (P.L. 117-110) to suspend permanent normal trade relations status with Russia; permanent normal trade relations status provides unconditional, nondiscriminatory, MFN treatment by the United States to goods and services trade with the trading partner.[135] The EU also has moved to revoke Russia's MFN status.[136] The partners are cooperating on imposing export controls against Russia as well. Within the WTO, other priority issues for cooperation include ongoing WTO negotiations on fisheries subsidies, and developing a trade response to the COVID-19 pandemic.

The WTO dispute settlement mechanism (DSM) has been a vehicle for U.S. and EU efforts to resolve disagreements on some trade matters, including China-related concerns.[137] The United States and the EU have also used the DSM to address trade disputes against each other—a classic example being the long-running Boeing-Airbus subsidies disputes (see "Boeing-Airbus Subsidy Dispute and Related Tariff Actions").

The WTO DSM is also the subject of ongoing reform efforts by WTO members. A key EU concern is the U.S. practice under successive Administrations of blocking new appointments to the WTO Appellate Body (AB, which reviews appeals of dispute panel findings). The United States justifies its actions by citing concerns about perceived judicial overreach in the AB. Due to U.S. actions, since December 2019, the AB has lacked a quorum and has been unable to hear new cases. Thus far, the United States has rejected proposed reforms by the EU and others to address U.S. concerns. In 2020, over 20 WTO members led by the EU put into effect an *ad hoc* arbitration arrangement to hear appeals on cases amongst themselves.[138] Some European officials have expressed frustration with what they describe as a mismatch between U.S. rhetoric to support WTO reform and a lack of U.S. willingness to address some issues, such as the AB.[139]

The United States and the EU also engage on bilateral and global trade issues in other international economic bodies. In some cases, this engagement has helped to resolve ongoing bilateral tensions. For example, the OECD/G-20 global tax framework facilitated political agreements between the United States and several EU member states regarding their DSTs, previously an area of U.S.-EU friction (see "Digital Services Taxes"). However, bilateral trade frictions remain on certain issues under these bodies. For instance, the USTR notes U.S. concerns over EU efforts to pursue enhanced disciplines for GIs in the World Intellectual Property Organization (WIPO).[140]

Issues for Congress

The magnitude and multifaceted nature of U.S. trade and investment ties with the EU makes U.S.-EU trade relations a key part of U.S. trade policy. U.S.-EU trade relations are highly consequential to the U.S. economy as a whole and overall U.S. prosperity, U.S. businesses and

[135] See CRS In Focus IF12071, *Russia's Trade Status, Tariffs, and WTO Issues*, by Cathleen D. Cimino-Isaacs et al.

[136] European Commission, "Ukraine: EU Agrees Fourth Package of Restrictive Measures Against Russia," press release, March 15, 2022. See also the White House, "Joint Statement by the G7 Announcing Further Economic Costs on Russia," Statements and Releases, March 11, 2022.

[137] For instance, in January 2022, the EU filed a request for WTO consultations regarding trade restrictions that China imposed on Lithuania due to its stance on Taiwan. The United States, among other countries, requested to join the consultations. See DS610, *China – Measures Concerning Trade in Goods and Services* (European Union), request for consultations by the EU, January 26, 2022.

[138] European Commission, "The WTO multi-party interim appeal arrangement gets operational," August 3, 2020.

[139] Sarah Anne Arrup, "'All Talk and No Walk': America Ain't Back at the WTO," *PoliticoPro*, November 23, 2021; *Reuters*, "Let's Reform Not Run the WTO, EU Trade Chief Urges U.S.," September 27, 2021.

[140] See USTR, *2022 National Trade Estimate Report on Foreign Trade Barriers*, March 2022, p. 208.

workers in many sectors, and constituent interests. These ties also are globally significant, given the weight that U.S.-EU cooperation or divergence on issues can have for setting and shaping international rules and standards. As such, Members of Congress have a broad and enduring interest in engaging on U.S.-EU trade relations, as part of their overall role in overseeing and shaping U.S. trade policy. Key oversight and legislative issues include the following.

Resolutions to Current Trade Frictions

The United States and the EU have made progress on addressing a number of trade frictions; however, in some cases, the solutions are temporary and require longer-term arrangements or further implementation to fully resolve the issues. Congress may continue to monitor the Administration's progress in the implementation of the agreements, and engage with the Administration to ensure a comprehensive and durable U.S.-EU negotiated solution to the issues. This may include overseeing the implementation of interim agreements and shaping longer-term solutions for both aircraft subsidies and steel and aluminum trade. Congress also may seek to examine the benefits and costs to the U.S. economy, specific industries and workers of the implementation of these and other resolutions, such as on the DST framework. (See "Key Recent U.S.-EU Trade Developments" for a discussion of these various trade frictions and solutions.)

If U.S. trade policy towards the EU continues to focus on addressing specific trade issues, Members may seek to shape how the Biden Administration prioritizes them, including in the TTC. Members also may monitor developments in EU internal proposals regarding digital trade, economic coercion, and decarbonization concerns, which may have implications for the openness of EU commercial markets and for U.S. firms doing business in those markets.

Engagement in and Prospects for the TTC

Given the prominent position of the U.S.-EU Trade and Technology Council in bilateral trade relations since its establishment in 2021, Members of Congress may examine and weigh in on the TTC's structure, priorities and scope, and prospects for "success."

In terms of the TTC's organizational structure, Members may consider whether to establish a parliamentary component—for instance, creating opportunities for select Members to hold bilateral sessions with their counterparts in conjunction with the TTC meetings, potentially as part of the U.S. delegation, or creating a related congressional advisory council. In doing so, Members may examine how such potential additions relate to other ongoing congressional engagement in U.S. trade policy and bilateral parliamentary engagement in the TLD.[141] Members also may examine how TLD discussions could shape TTC priorities and outcomes.

Another potential issue of congressional interest might be the TTC's scope and its alignment with congressional priorities for U.S.-EU trade relations and other matters. Members may weigh in on the TTC's anticipated prioritization of more recent or urgent issues (such as joint responses to Russia's aggression in Ukraine), compared to other bilateral trade and technology issues (such as digital inclusion) that were priorities at the time of the TTC launch.[142] Members may explore potential trade-offs in priorities and/or opportunities to expand the TTC, such as by creating

[141] For example, the Congressional Advisers for Trade Policy and Negotiations—a statutorily created group composed of five members of the House Ways and Means Committee and five members of the Senate Finance Committee—is to provide advice on developing trade policy and priorities and their implementation, be accredited by the USTR on behalf of the President as official advisers to U.S. delegations to international conferences, meetings, and negotiating sessions relating to trade agreements, and to be briefed by the USTR on U.S. trade policy matters (19 U.S.C. §2211).

[142] Samuel Stolton, "EU-U.S. Trade and Technology Council to Pitch Anti-Russia Vision," *Politico*, April 22, 2022.

additional working groups or structures to sustain intensified cooperation on major bilateral trade issues. This may include a review of whether to modify the scope of the TTC's working groups to address bilateral tariffs and other market access issues. Congress also may explore opportunities through the TTC to intensify U.S.-EU cooperation to remove regulatory barriers.

Further, Members may examine the TTC's prospects for success and its ability to produce concrete outcomes, and also seek to establish the metrics by which to gauge the TTC's effectiveness. While many frictions remain in U.S.-EU trade ties, a desire by the partners to show transatlantic unity in the face of Russia's war on Ukraine could give a boost to U.S.-EU cooperation and joint action on trade issues, including with respect to China.[143]

Potential New Negotiations on a Trade Liberalization Agreement

Over the years, many Members of Congress have voiced support for expanding or renewing U.S.-EU trade engagement and negotiations to eliminate and reduce remaining tariff and nontariff barriers. While President Biden pledged to work to deepen the U.S.-EU trade and economic relationship, the current outlook for bilateral trade agreement negotiations is unclear. Members may examine whether to pursue potential market opening opportunities through the TTC for future formal FTA talks, or pursue such talks separately. On one hand, potential FTA negotiations that develop out of the TTC could benefit from the intensified cooperation and renewed trust that the TTC may foster. On the other hand, such talks may be limited if they do not address bilateral tariffs or other market access issues. As part of other economic initiatives, such as the proposed Indo-Pacific Economic Framework (IPEF), some Members have urged the Administration to prioritize addressing tariffs and other market access issues.[144]

If the Administration revisits formal U.S.-EU trade negotiations, Congress would likely seek to shape and oversee them. If the Administration seeks to request TPA reauthorization and Congress considers it, a key issue could be U.S. negotiating objectives for future trade agreements, such as a potential U.S.-EU FTA. Additional issues include how to best address previous sticking points, how the removal of the UK's leading voice on trade liberalization from the EU may affect gaps in U.S. and EU trade negotiating positions, any lessons learned from past efforts such as T-TIP, and the likelihood of attaining a successful outcome. Congress also may examine whether such negotiations should focus on a limited trade deal (e.g., the U.S. approach with Japan under the previous Administration) to secure targeted "wins," or a more comprehensive and commercially meaningful FTA to secure liberalization across sectors.

Congress also may examine the effects of a potential agreement on the U.S. economy. A general consensus exists that the aggregate economic benefits of an FTA would outweigh the costs for specific sectors and industries. Most studies find that a U.S.-EU FTA, whether addressing tariffs or also NTBs, would yield net gains for the U.S. economy, although estimates vary about the magnitude.[145] Given the relatively low U.S.-EU tariffs on average, such assessments find that more gains could come from reducing NTBs. Ultimately, the impact would depend on the FTA's scope and level of commitments.

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[143] See, for instance, Gregory Arcuri, "How is the U.S. Cooperating with Its European Allies on Issues of Technology?," CSIS, April 5, 2022.

[144] See, for example, U.S. Congress, House Committee on Ways and Means, *The Biden Administration's 2022 Trade Policy Agenda*, 117th Cong., 2nd sess., March 30, 2022; and Senate Committee on Finance, *The President's 2022 Trade Policy Agenda*, 117th Cong., 2nd sess., March 31, 2022.

[145] See, for example, Hylke Vandenbussche, William Connell Garcia, and Wouter Simons, "The Cost of Non-TTIP: A Global Value Chain Approach," KU LEUVEN: Discussion Paper Series, DPS18.02, February 2018.

In addition to or in the absence of U.S.-EU FTA negotiations, Congress may seek to intensify regulatory cooperation, such as through the TTC. Past efforts suggest that intensive regulator-to-regulator cooperation has the potential to remove many of the regulatory barriers to expanding U.S.-EU trade and investment.

Cooperation on Global Trade Challenges

The United States and the EU have a long history of cooperating bilaterally and multilaterally to address trade and economic issues and shared concerns. The robustness of this cooperation may take on more significance given the perceived magnitude of the challenges that the two partners face, whether in terms of the trade practices and economic policies of China and other NMEs, modernizing and reforming current multilateral trading rules, climate change, the COVID-19 pandemic, and more recently, Russia's war on Ukraine. The positions and approaches of the partners have varied on some issues. Members of Congress may examine to what extent U.S. and EU approaches are aligned, and the opportunities for and constraints to further cooperation. They also may examine the utility of different vehicles for cooperation on global trade challenges, whether through intensifying engagement in the WTO, renewing bilateral FTA discussions, or pressing for expanded cooperation in the TTC.

International Competition in Markets and Standards-Setting

The United States and the EU are not only trading partners, but their firms compete commercially in each other's markets and third-country markets around the world. They employ differing standards and regulatory approaches in certain sectors rooted in different cultures and traditions, and each is keenly interested in advancing its own approaches globally to streamline costs and mitigate disadvantages for their respective firms engaged in commercial activity.

Given EU and U.S. economic weight, commitments in each side's FTA network could set precedents for future agreements, as well as the development of global rules and standards. The strategic implications of EU FTAs—particularly as the number concluded has increased in recent years, and with trade partners that the United States has yet to conclude agreements—are of interest to U.S. stakeholders. If the United States and the EU can reach consensus on trade and regulatory issues, they may have an opportunity to jointly write global "rules for the road." Such harmonization could benefit not only U.S. and EU firms, but also those in developing countries, which currently may face prohibitive costs in attempting to comply with differing regulatory requirements in the world's two most important export markets. However, if the United States and the EU continue pursuing different standards, they may not only entrench different spheres of standards and potentially create inefficiencies in global supply chains and trade, but also provide openings for other economies, such as China, to advance its own standards.

Some analysts hope the TTC results in cooperation on common standards and guidelines to ensure shared foundations and complementary approaches, even if EU and U.S. regulatory or legal systems vary, that may lead to the better establishment of international norms.[146] Creating a bilateral consensus could strengthen their joint position to counter China in forums such as international standards bodies or the WTO, and promote economic development by making it easier for firms in developing countries to export to both markets. Yet, internal differences in the United States (e.g., on national data privacy legislation) or the EU (e.g., on online content rules) may continue to create challenges for broader agreement.

[146] See, e.g., The White House, "Fact Sheet: U.S.-EU Establish Common Principles to Update the Rules for the 21st Century Economy at the Inaugural Trade and Technology Council Meeting," September 20, 2021.

Author Information

Shayerah I. Akhtar, Coordinator
Specialist in International Trade and Finance

Renée Johnson
Specialist in Agricultural Policy

Rachel F. Fefer
Analyst in International Trade and Finance

Andres B. Schwarzenberg
Analyst in International Trade and Finance

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