

Priorities of large French companies for the Trade and Technology Council working groups

COMMENTS BY AFEP (FRENCH ASSOCIATION OF LARGE COMPANIES)

AFEP, the French Association of Large Companies, has been long strongly advocating for a **resumption of a constructive transatlantic dialogue** aimed at **finding a settlement to existing bilateral trade disputes** and addressing in a coordinated manner **new global challenges** posed by **the transition towards a sustainable and digital economy as well as distortive practices by third countries**.

The final statement of the EU-US Summit in June 2021 establishing **the Trade and Technology Council (TTC) and setting a roadmap to close pending bilateral disputes** as well as the statements issued at the first high-level meeting in Pittsburgh in September 2021 detailing main objectives pursued by the 10 individual TTC working groups **proved a very promising outcome regarding these two objective** and large French companies are willing to **actively contribute to the TTC dialogues**.

While the TTC undertaking as well as parallel dialogues on aircraft subsidies or sustainable steel and aluminium will mobilise much energy and negotiating resources, large French companies continue to call for the **resumption, at some stage, of other regulatory discussions launched in 2018 regarding cross-sector and sector-specific mutual recognition agreements** that can be very useful to boost EU-US bilateral trade on a mid-run perspective. It might also be advisable to **take over some of items considered under the Juncker-Trump workplan in the current TTC working groups discussions** when relevant (see below). Large French companies also maintain a strong interest in discussions over the **restoration of a sound regulatory framework for transatlantic personal data transfers** which underpins all possibility discussion on the digital economy under the TTC working groups.

Coming back to the TTC proper setting, the decision by the EU and the US to **engage with their respective stakeholders to fuel individual working group discussions is praised by French companies** and AFEP also thanks the European Commission for putting into place a collaborative on-line platform and to holding stakeholder meetings on working groups discussions.

In addition to live contributions provided during to these meeting, AFEP would like to share the following written comments regarding **the priorities of large French companies for the 9 TTC working groups of interest for them (working groups n°1 to 8 and n°10)**.

- **Working Group n°1 (WG 1): Technology standards**

While China is very active in several international standardization bodies, the EU and the US should intensify their regulatory dialogue in these areas in order to achieve a convergent approach, in particular on **concepts such as trust or the anthropocentric development of artificial intelligence (AI)**, promoted by plurilateral fora such as the G7 and the OECD, on **basic technical features of other emerging technologies such as the Internet of Thing (IoT) and on promoting/maintaining global standards for telecom sectors in the light of the past/on-going success of 4 G and 5 G standards in the roll out of internet technologies at the global level**.

Regulatory exchanges on AI could cover for instance best regulatory practices or the scope of prohibitions envisaged for specific AI uses on both sides of the Atlantic.

Discussions held within the framework of this working group should not, however, **pre-empt the legislation under development in the EU (proposal for a regulation on artificial intelligence for example)** nor the emergence of EU norms and standards in the various sectoral applications of these emerging technologies.

- **Working Group n° 2 (WG 2): Climate and clean technologies**

Possible convergence on the taxation of carbon content for imported products

In addition to provisions adopted to ensure maximum compatibility of the CBAM with GATT rules, increased regulatory dialogue with the United States could minimize the risk of diverging in the taxation principles opted for under the CBAM and a possible equivalence US mechanism, or even to explore reciprocal exemption schemes.

Therefore, large French companies suggest that, as envisaged in the terms of reference of the WG2 outlined in the Pittsburgh Statement, cooperation with the United States focuses on the **adoption of international standards and benchmarks concerning energy performance levels of industrial sectors and the carbon content of products**, with a view to **basing carbon border taxation on objective measurements**. This would include establishing a **common approach to the methodology for calculating carbon content and requirements for transparency and data collection in importing countries**, going beyond what is required by ISO standards on the carbon content of products. Such regulatory discussions should of course maintain a **non-discriminatory approach toward carbon content measurement and carbon taxation principle** to avoid triggering further trade tensions with third countries on carbon border measures.

As in other areas, large French companies call for a **close coordination between discussions held within WG 2 and discussions held within the bilateral working group set up on the basis the EU-US joint Statement on the settlement of the bilateral dispute on additional tariffs on steel and aluminum** (paragraph on the launch of a draft global agreement on sustainable steel and aluminum). If the latter working group should take the operational lead on carbon content measurement and taxation principles, AFEP suggests that the **European Commission engages with stakeholders the same way as it is done for the purpose of TTC working groups**.

Regulatory cooperation on low-carbon technology standards

Prior to a possible relaunch of plurilateral negotiations on the liberalization of the flow of environmental goods and services, the EU and the United States should coordinate their efforts on the **definition of common norms and standards in terms of low carbon technologies** both for **avoid the establishment of bilateral non-tariff barriers** in this area but also to **prevent tariff erosion negotiated in a plurilateral or multilateral framework from encouraging regulatory dumping practices on the part of third countries**. As with WG 1, such coordination should **not preempt the development of autonomous EU standards** in sectors for which the EU will have a technological and regulatory lead.

Cooperation in supporting RD and the roll-out of low carbon technologies

While the EU and the United States are committed to a massive support for R&D and the roll-out of low-carbon technologies (increased funding for the European innovation fund, possibility of differential contracts on the EU side, President Biden's infrastructure plan and USICA bill), **cooperation in R&D and low-carbon investments can be an asset for transatlantic leadership in these technologies**. One of the initial targets could be for instance a **concrete cooperation on sustainable aviation and aircraft biofuels and e-fuels as well as on the contribution of internet networks such as 6 G and digital services to climate change mitigation solutions**.

Coordination with the United States should not, however, **prevent the possibility for an autonomous roll-out of advanced EU solutions**.

■ Working Group n°3 (WG 3): Secure Supply Chains

Discussions with the United States should help strengthen the resilience of international value chains for products considered critical by both sides without compromising EU efforts to strengthen its industrial base and relocate elements of these value chains. considered essential / and for which EU companies have a comparative advantage.

Accordingly, WG3 should focus its initial work by **exchanging information on the vulnerability of value chains and exploring the possibility of a common vision of critical value chains**. The initial list of **priority value chains** identified at the first CTT meeting in Pittsburgh with the focus on **semi-conductors, critical materials such as rare earths, pharmaceuticals and renewable energy products** supply chains, fully justified in the present context, is a useful first step toward this direction.

At a second stage, discussions with the United States may explore whether it is opportune to develop a bilateral or plurilateral **coordination in the management of certain critical value chains**, including **regulatory cooperation tools** and options for the **operational sharing of elements of these value chains between the territory of the EU, the territory of the United States and the territory of third countries** considered to be “safe”, subject to **EU relocation priorities** and, conversely, **legal guarantees against the implementation of uncoordinated export control or outgoing investment screening measures** by the United States or other third countries involved.

Regarding regulatory cooperation solutions, large French companies suggest exploring the added value of bilateral **mutual recognition schemes in the field of pharmaceuticals** and of **their extension to a large range of biomedicine products, and in particular, to vaccines or growth media**.

■ Working Group n°4 (WG 4): ITC security and competitiveness

Companies support increased regulatory cooperation between the EU and the US to **reach a convergent analysis grid of threats to value chains and digital networks and appropriate remedial measures**.

The maintaining and development of sound digital supply chains **require a close cooperation in the allocation of resources for 5/6G network design and roll-out, to avoid unnecessary investment duplications and a lack of interoperability**. This possible transatlantic coordination should not, however, **lead to a systematic alignment of the EU with the US restriction policy targeting hardware and software providers from specific third countries**. In this regard, it is important that the purchasing restrictions decided in the EU **remain strictly limited to cases where suppliers from third countries pose proven threats to national security**.

As this roll-out of 5G/6G networks coincides with a shift to virtual, software-run and cloud-based infrastructures, **it will result in an increased reliance of telecom operators on ICT services and, in particular, key network software providers**. Therefore, the regulatory dialogue with the US should include discussions on **how promote a better allocation of responsibilities between telecom operators and ITC service providers for the management of risks and threats to ITC network operations**, ICT service providers being best placed to analyse and mitigate security risks affecting their own products and services. Regulatory exchanges should also explore the possibility of **cooperating on a comprehensive and future-proof cybersecurity framework for key ITC service providers**.

Regulatory dialogue should also be extended to exchanges on how to **establish a fair contribution to network costs rollout and fair frequency allocation policies**.

- **Working Group n°5 (WG 5): Data Governance and Technology Platforms**

Regulatory discussions under WG 5 should explore concrete means to **avoid excessively diverging platform liability regimes** and to **foster a better competition legal framework for their activities on both sides of the Atlantic**, noting that technology platform activities remain still largely underregulated compared to the heavy regulatory framework imposed on the telecom sector.

The fact that the EU is currently designing two major pieces of legislation on these sectors with the DMA and the DSA initiatives is likely to provide a solid ground for regulatory exchanges with the view to also **diffusing concerns over trade frictions resulting from this upcoming legal framework**. That being said, discussions under this working group should not **pre-empt the outcome of the ongoing EU legislative process on these two initiatives or limit the EU regulatory autonomy in this area**.

Without compromising the principle of protecting source codes, algorithms, or encryption devices against disclosure obligations to public authorities, this regulatory cooperation should more specifically **promote greater transparency concerning the functionalities of algorithms** that may lead to competition distortions: parameters classification, moderation of content and treatment of online harassment practices ("cyberhate"), propagation speed or handling of bias. Subject to DSA developments, large French companies also suggest that regulatory discussions touch upon **platforms liability in case of illicit content trading, notably when intellectual property rights are clearly infringed**.

- **Working Group n°6 (WG 6): Misuse of technology threatening security and human security**

Large French companies support deepened exchanges and regulatory cooperation with the United States **in the field of cybersecurity**, with the objective of working on common standards with the other G7 countries.

- **Working Group n°7 (WG 7): Export control**

With a view to reducing bilateral trade frictions and in particular the collateral effects of export bans decided by the United States on the value chains of EU countries, large French companies suggest that **WG 7 discussions aim at cooperating on the management of risks for national security and in particular the possibility of a common approach and / or common criteria for the implementation of export control measures**, covering both an objective analysis of the threats posed by third countries and the level of the mitigation measures adopted. As clarified for other working groups, **such cooperation should nonetheless not be conducive to a systematic alignment of EU doctrine on export control with the US positions**.

- **Working Group n°8 (WG 8): Investment screening**

As for working group n°7 on export control, large French companies suggests that WG 8 is dedicated to **a cooperation on the management of risks to national security and public order posed by third countries direct investments with a better understanding of respective screening doctrine and practices** and explore the possibility of **a common approach and / or common criteria for the implementation of screening measures**, with a focus on the **objective analysis of threats** posed by third countries investors and **the level of remedies adopted**. As clarified for other working groups, such cooperation **should however not result in a systematic alignment of EU and Member States investment screening doctrine with the US position**.

The companies also call for a tight coordination between the **discussions held within WG 8 and discussions held within the bilateral working group set up on the basis the EU-US joint Statement on the settlement of the bilateral dispute on additional tariffs on steel and aluminum** (paragraph on the launch of a draft global agreement on sustainable steel and aluminum), in particular with respect to the **scope of public policy considerations** taken into account to trigger investment screening mechanisms and adopt remedial measures.

- **Working group n°10 (WG 10): Global Trade challenges**

Cooperation concerning the implementation of trade defence policies with respect to products originating in non-market economies

Large French companies support exchanges of information and data on the practices of third countries and their companies likely to distort competition with EU and US companies collected within the framework of trade defence investigations (in particular anti-dumping and anti-subsidy) and the future regulation on subsidies from third countries inducing distortions on the internal market on the EU side and Section 301 or 232 investigations on the US side to improve the implementation of these instruments.

Likewise, French companies support a medium-term cooperation on **strengthening multilateral rules on industrial subsidies and on developing a set of rules to govern interventions by state-owned enterprises** in competitive sectors, whether **in the bilateral format of WG 10** or in the **recently relaunched trilateral format of EU-US-Japan cooperation**.

On the other hand, as for other working groups, WG 10 discussions should **not result in a systematic alignment of the EU's trade defence policy with the United States course of action toward non-market economies** in this area. Furthermore, **the articulation between WG10 discussions and discussions held within the ad-hoc working group set up for the settlement of the bilateral dispute on aircraft subsidies** with respect to exchange of information on aircraft harmful subsidies and trade defence investigations **should be clarified**.

Preventing technical barriers to trade in emerging technologies

As explained above in recommendations for discussions within WG 1 or WG 3, the EU and the United States should intensify their regulatory dialogue in this field to achieve a convergent approach, in particular **on common principles for technical requirements applicable to emerging technologies, without preventing the adoption of autonomous EU norms and standards**.

Inclusion of sustainable development considerations in EU and US trade policies

Large French companies are in favour of an **in-depth bilateral regulatory dialogue to ease an EU and US convergence on the inclusion of sustainable development objectives** in multilateral rules, respective bilateral trade agreements and unilateral trade policy measures adopted on both sides of the Atlantic.

It would be particularly useful to reach a **common approach in the handling of labour-related standards** (labour-related human rights or decent working conditions, for example), in **references to relevant multilateral environmental agreements obligations** (either by an obligation to comply with these treaties or by an obligation to comply with their substantive commitments) and in **the fight against climate change**.

On the latter, French companies call for a **tight coordination between discussions held within WG 10, discussions within WG 2 and within the bilateral working group set up on the basis the EU-US joint Statement on the settlement of the bilateral dispute on additional tariffs on steel and aluminum** (paragraph on the launch of a draft global agreement on sustainable steel and aluminum). AFEP recommendations for the work to be carried out in WG 2 on low carbon technologies **also applies for this aspect of regulatory discussions under WG 10**.

For areas of cooperation not covered by WG 2 such as environmental services, large French companies suggest that **the EU and the US take advantage of the WG 10 forum to inventory the most relevant services sectors for climate change mitigation and explore best tools to increase trade in these services**.

Last but not least, regulatory discussions under WG 10 should be **expanded to taxonomy and trade finance with a view to avoiding diverging approaches on principles and operational modalities**.

About AFEP

Since 1982, AFEP brings together large companies operating in France. The Association, based in Paris and Brussels, aims to foster a business-friendly environment and to present the company members' vision to French public authorities, European institutions, and international organisations. Restoring business competitiveness to achieve growth and sustainable employment in Europe and tackle the challenges of globalisation is AFEP's core priority. AFEP has around 113 members. More than 8 million people are employed by AFEP companies and their annual combined turnover amounts to €2,600 billion.

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