American-German Institute – Konrad-Adenauer-Stiftung

Transatlantic Trade Week 2023

Working Report

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I. Introduction

For its third annual Transatlantic Trade Week in 2023 the American-German Institute and the Konrad-Adenauer-Stiftung convened two webinars on issues that are front and center in the transatlantic and global economy. The first, titled "The U.S.-EU Trade and Technology Council and the Future of Friendshoring," provided the opportunity for a discussion of the efforts underway by the United States and the European Union to integrate domestic, security, and climate concerns into their international economic policymaking and to reorient their trade and investment toward trusted partners.

The second event, "Reconciling Trade and Climate Policies: The WTO and Beyond," focused on an increasing U.S. and EU concern: how to ensure that trade policies—at the bilateral, plurilateral, and multilateral level—are an enabling factor rather than a constraint on government efforts to combat climate change. Two key issues in this context are the differing emphases in the U.S. and EU approaches to climate policies (subsidies vs. carbon pricing) and what that means for the transatlantic trade relationship as well as the extent to which the World Trade Organization's rules need to be reformed for the benefit of both the climate and the global trading system.

During both discussions, it became clear that while the transatlantic economic relationship is indispensable for broader global economic progress, one of the greatest challenges before the United States and the European Union is how to make their ambitions for international economic rulemaking attractive to countries in the Global South. While these countries—Argentina, Brazil, India, Indonesia, South Africa, and Vietnam among others—may not align with transatlantic policies in all areas, they share many interests with the United States and the EU and can play important roles in developing new supply chain relationships that will promote stability and sustainability in the global economy.

II. Transatlantic Trade Week Webinar Summaries

Webinar I: The U.S.-EU Trade and Technology Council and the Future of Friendshoring

The first session of Transatlantic Trade Week 2023 addressed "The U.S.-EU Trade and Technology Council and the Future of Friendshoring." It covered avenues for enhancing the Trade and Technology Council's contributions to the transatlantic economic relationship, with a particular emphasis on supply chain diversification, security, and resilience and the role of both trade and industrial policies in this context.

The event began with the moderator, AGI Vice President Peter Rashish, setting out the framework for the discussion, with the Trade and Technology Council (or TTC) holding its fourth meeting at the end of May in Sweden, which was holding the rotating EU presidency. He pointed to the fact that long-time assumptions underpinning the global trading system are being called into question, and domestic, climate, and national security priorities are playing a larger role in U.S. and EU policymaking. There is a growing interest in diversifying supply chains and increasing the role that like-minded economies play in their trade relations.

In the United States, Treasury Secretary Janet Yellen has spoken of friendshoring as a guiding principle for U.S. international economic policy while National Security Advisor Jake Sullivan has praised the TTC as a way to coordinate industrial and supply chain strategies between the United States and the EU. In the EU, new trade policy tools have recently been adopted, such as the

Anti-Coercion Instrument, that strengthen the EU's ability to deter and respond to challenges to its global economic interests.

The first speaker, Kai Whittaker, Member of the German Parliament, noted that the recent decision by the United States and the European Union to launch negotiations toward a Critical Minerals Agreement in the context of the U.S. Inflation Reduction Act (IRA) shows the vital role of friendshoring in transatlantic policymaking. In a broader context, he noted that it should be asked why we talk about enhancing trade at all and that it is not only about strengthening U.S.-EU ties, but also, especially, about defending the value of freedom against repression—which is the essential battle we are fighting in this century.

To win this fight, three kinds of policy measures should be given priority.

First, Mr. Whittaker saw a need for deeper transatlantic trade ties. The emphasis should be on derisking rather than deglobalization, meaning that stronger relations with friends should be built instead of only focusing on cutting off ties with others. In this context, he asked why the United States is resisting a free trade agreement (FTA) with the EU, stating that he believes that short-sighted considerations are being given too much sway that will not hold up in the long run. He also asserted that if the United States cannot negotiate an FTA with the EU, then it will be inherently difficult to negotiate it with any other country and, consequently, win the long-term battle for global democracy.

> *"Free trade is only possible if there is safe trade. That means the principles of freedom and democracy are key for a world where all countries can thrive." Kai Whittaker, Member of the German Parliament*

Second, he said that the United States and the EU should also strengthen their currently existing trade ties. Both the EU's Fit for 55 and the U.S. IRA are important measures and should tell a shared story of both countries as to how the world around them should develop. This, in part, could also be a response to China's Belt and Road Initiative (BRI). This strengthening of trade ties should also include greater supply chain resilience to become more robust to future shocks like the COVID-19 pandemic.

Third, it is important to open transatlantic trade to new countries. If the United States and the EU want freedom and democracy to win the competition they will need new allies, including "fence-sitters" who are not currently aligned because the United States and the EU are too small on their own faced with China to be a gravity center. Current international formats need to be opened up with level playing field agreements that take them seriously and that will benefit these added countries.

Frances Burwell, Distinguished Fellow at the Atlantic Council and Senior Director at McLarty Associates, focused her remarks on the status of the Trade and Technology Council ahead of its late May meeting in Sweden. She asserted that the TTC has never been about traditional trading elements like market access, which hasn't been a focus of transatlantic economic relations since the negotiations in the 2010s on the Transatlantic Trade and Investment Partnership, and even there it was not a large element and was more focused on regulatory cooperation. This change reflects the political climate in the United States, and the EU also appears to welcome this shift in focus.

In any case, U.S.-EU trade is driven by investment: trade follows investment and intra-company trade plays a large role.

For Ms. Burwell, it is appropriate to modify or examine the U.S.-EU approach and view policy through a friendshoring lens. That helps to make sure investment is balanced on both sides of the Atlantic. But there remains the question of which sectors should qualify for friendshoring. Should it be masks or critical minerals? How should the United States and the EU decide which areas are best for conformity assessment? Should it be machinery, or, given the implantation of the EU Carbon Border Adjustment Mechanism in a couple of years, are steel and hydrogen the right focus?

Beyond traditional trade policy, Ms. Burwell pointed to an area where the TTC can play a role, which is trade with partners globally. The EU is setting out regulations that alter the way it works with its trading partners, for example in areas covered by Working Group 10 on forced labor, and other aspects of Environmental, Social, and Governance (ESG) factors, where countries like Malaysia and Indonesia have expressed concerns about EU due diligence requirements. How these policies will be implemented is important, including whether companies will avoid questionable locations, and the TTC is the right place to talk about this.

In addition to trade, technology is the other big part of the TTC mission. It has met some expectations, but the TTC has been affected by the way the world has changed around it. While the TTC did not fundamentally alter EU regulations like the Digital Market Act (DMA) and the Digital Services Act (DSA), some U.S. concerns have been addressed.

> *"The reaction to the IRA would have been much more negative and much more sustained in the EU without the existence of the TTC." Frances Burwell, Atlantic Council*

From the start, the TTC was not supposed to talk about active legislation, so the DMA, DSA, and the IRA did not become the official focus. But the TTC did provide exceptionally valuable opportunities to address these issues in an informal sense. One example Ms. Burwell referred to was the EU AI Act, where there seems to be a positive feedback loop between the TTC and the EU. Still, the TTC is slow, and national governments and the TTC are not equipped to respond immediately to fast-moving AI developments like ChatGPT.

Ms. Burwell asked what the main value-added is from the TTC. First, geopolitics have changed considerably since it was established. Since Russia's invasion of Ukraine, the TTC has changed, and it has become a key forum to discuss export controls, for example. Now the focus is moving toward China even if the word China will not always be heard.

In addition, it has become clear that the informal attributes of the TTC have become even more important over time, with the chairs steering discussions of issues like the IRA to address them more effectively. She believes the reaction to the IRA would have been much negative and much more sustained in the EU without the existence of the TTC.

Finally, she made the point that while deliverables are important, the TTC shouldn't be judged only on that basis. The TTC's work should target future areas for coordination, including hard issues like the Critical Minerals Agreement, green subsidies tracking, the negotiations on a Global Arrangement on Steel and Aluminum (GASSA), and inward and outward investment screening if it will be relevant to the notion of friendshoring.

Peter Harrell, a lawyer in private practice who is a former Senior Director for International Economics at the U.S. National Security Council in the White House, began his remarks with a focus on the Biden-Harris administration's approach to friendshoring.

Mr. Harrell recalled that friendshoring was something that then-candidate Biden promoted during the 2020 campaign as part of a supply chain strategy. Biden's commitments included working with allies on collective supply chain resilience. In April 2021 as president, one of Biden's very first trade policy actions was to reverse the Trump administration's decision to withdraw certain essential medicines from U.S. commitments in the WTO Government Procurement Agreement as a sign of its desire to work with allies.

Supply chains are a now a focus in the TTC as well as the Indo-Pacific Economic Forum (IPEF) and are a regular topic in bilateral talks with Germany, France, and other important countries. Moreover, the interest in a U.S.-EU Critical Minerals Agreement is indicative of the administration's commitment to work with allies and partners.

But the administration also has strong industrial policy goals and the ambition to retain the U.S. manufacturing base. There is a strong view in the administration that in the transition from fossil fuels to clean energy, the U.S. needs to avoid recreating foreign dependency on inputs like the one on oil imports from the 1970s until the 1990s. And in the transition to electric vehicles, it will be important not to lose what is left of automobile manufacturing.

> *"Climate trade issues are clearly one of the major strategic sets of trade issues we are all going to face over the next several years… that is an area where the TTC can come up with some specific shared values." Peter Harrell, former Senior Director, U.S. National Security Council*

He also said that specific industrial policy actions in Washington are indicative of a broader rethinking of the approach to the domestic economy. The importance of the democracy vs. autocracy competition mentioned by Mr. Whittaker is a view shared by President Biden. There is a rethinking regarding the right domestic economic framework, mainly in the Democratic Party but also among Republicans. National Security Advisor Jake Sullivan's speech on the need for a new Washington Consensus communicated the idea that while remaining a free market, liberal economy, the United States would put more emphasis on state-directed nudges to critical investments domestically.

For the Biden-Harris administration, both industrial policy and friendshoring allies are priorities that are reconciled more "as an art than a science," which is reflected in the way the administration has handled the Inflation Reduction Act. The Critical Minerals Agreement, the more liberal rules for leased electric vehicles, and the more recent tax guidance for solar manufacturing credits will all help non-U.S. firms in the U.S. market. U.S. officials are also encouraging other countries to embrace industrial policy.

In the future, the transparency around industrial policy and subsidies will be a focus, for example coming up with shared concepts—even if not legally binding—for products and sectors that should be covered by these subsidies.

As far as the TTC is concerned, Mr. Harrell had three recommendations.

First, there is a need to change the public narrative from specific deliverables to relationship building and longer-term shared challenges. Relations built through the TTC were instrumental to agreeing export controls on Russia, for example, but this does not show up in the deliverables.

Second, artificial intelligence is a major opportunity for the TTC. The legislative and regulatory processes are in a relatively early stage of development in both economies, so it will be easier to develop a shared framework. The DMA and DSA were different because the EU was far along before diplomatic negotiations started. Mr. Harrell urged particularly the U.S. side to include legislators and their staff in the TTC in order to progress on AI.

Third, the focus on climate needs to be continued, and the challenges that will be faced on the EU CBAM and the GASSA need to be worked through.

According to Mathias Kraemer, Head of External Economic Relation at the Federation of German Industry (BDI), since Russia's invasion of Ukraine there has been a major discussion about how to diversify supply chains on the one hand and how to diversify international markets on the other. BDI member companies have in their global strategy how to balance resilience and efficiency in supply chains and in markets. But if companies lean more to the side of resilience, then new markets are needed, and it becomes more costly. The German government and European Commission are pushing for new free trade agreements with Chile and Mercosur, which the BDI supports. But it is worth asking if it will really be possible to achieve a deep and comprehensive FTA with India. The EU likes to bring European standards and values to their trade agreements—like environmental sustainability and ethical concerns—via sanctions. It is not clear if this sanctions element raises the attractiveness of the EU as a free trade partner. As a result, there may be a need to think about new FTAs on modular base or sequencing the model.

> *"The TTC's success depends on the ability to agree on concrete outcomes that are both commercially relevant and designed to outlast any potential change of leadership on both sides of the Atlantic." Matthias Kraemer, Federation of German Industries*

Regarding the U.S.-EU Trade and Technology Council, Mr. Kraemer believes that it is one of the best tools to make friendshoring concrete. The BDI and other German business organizations created the Transatlantic Business Initiative eighteen months ago to bring their perspectives to the TTC, which they believe is a valuable platform. However, the TTC is now standing at a crossroad, as the meeting at the end of 2022 fell short of expectations. It is also uncertain if the TTC will continue after the 2024 U.S. presidential elections. The upcoming May 2023 meeting in Sweden will be a critical juncture. Nevertheless, following Russia's invasion of Ukraine, the TTC was an invaluable tool for transatlantic coordination.

During the discussion period, Kai Whittaker said it is difficult to define who a friend is and who is a foe. The United States more advanced than the EU in looking at the world and determining which nations could harm their interests and in minimizing the risk of those conflicts happening. EU security issues are complex, including in Africa and the Middle East, and it is also true that friends can look at things differently. That means there is a need to go beyond an attitude of "if you aren't with us, you're against us." There needs to be a focus on the long term and how are countries developing toward free democracies e.g., Ukraine. It is important not to shut the doors too early.

On the one hand, Frances Burwell saw the Russian invasion as a dividing line, but on the other she said that there could be a concentric circle of friends with different tasks. She also noted that friendshoring will be defined not only by the country but also by the kind of products that are involved—consumer goods vs. strategic materials, perhaps? For the first category, price will be the lead determinant, while for the second, security and diversity will be components above price or in league with price. Ms. Burwell also asked who will pay the premium involved in friendshoring strategic materials (the state?), as companies won't comply unless legislated to do so. For Matthias Kraemer, it is important to be flexible, but red lines are needed, and finding the right balance between resilience and efficiency will be a huge challenge. He does not believe governments can pay for friendshoring, so entrepreneurial risk will be key.

Turning to the question of which groups will play a leading role in friendshoring, Peter Harrell said that there has been much discussion of the resurrection of the G7 since Russia's invasion of Ukraine and the latter part of the pandemic. It is useful for the core Western democracies to share views about supply chains and friendshoring and to discuss which sectors should be involved. But it is still a limited grouping even with guest members attending the summits. The G7 is not well set up to engage Latin America or Africa, so this is an area that will need to be explored over the next couple of years. While the United States and the EU may have overlapping preferences about which countries to involve, there could also be differences, but in a positive way that will help involve a broader geography. For example, Mexico will be important for the United States, Ukraine and North Africa for the EU. As there will be different architectures the key will be transparency and non-discrimination.

Matthias Kraemer said that the G7 has to show its model is attractive for other countries, while Kai Whittaker saw Latin America as a region to pursue for friendshoring because it is largely democratic and shares a similar, Western way of life to the United States and the EU. He also noted that the Pacific ASEAN condemned the Russian invasion even though its members are not all democracies. Pursuing that theme, Frances Burwell suggested the challenge will be with those countries outside G7 who voted to condemn Russia but don't see the war as their problem. How can the narrative be shifted in these "fence-sitter" countries? Investment projects like the one sponsored by the U.S.-EU TTC in Kenya are useful but still only small steps.

For Kai Whittaker, the United States and the EU need to step up their game and move from a "cordially invited" approach to a sense that countries beyond the G7 have ownership.

The webinar concluded with an exchange about the role of the World Trade Organization, how much flexibility it has to meet current challenges, and alternatives or complements to it.

Matthias Kraemer recalled the German government initiative of a G7 climate club last year during its presidency which the Business 7 private sector outreach group has endorsed. The Japanese presidency of the G7 in 2023 has promoted a "trade and free investment club" also open to others. Mr. Kraemer detected a "WTO fatigue" among German companies who don't see that it will be able to reform itself. But as the WTO remains an important basis it shouldn't overload its reform agenda, which could lead to failure.

According to Peter Harrell, there is some value to having a baseline in the WTO that all countries would adhere to, but also a friendshoring approach that is deeper with some. China is blocking reform of the WTO, but there are other realities including the likelihood that the IRA is probably not consistent with WTO rules. The current period is characterized by a reconsideration of trade policy and domestic economics, so it is hard to think through what binding international disciplines and rules on a universal basis would be over the next one to three years. During this time when the focus is likely to be on plurilateral efforts and the United States and the EU are developing regional friendshoring, there may emerge a desire for forty to fifty countries to create something not unlike the GATT of the 1960s.

Webinar II: Reconciling Trade and Climate Policies: The WTO and Beyond

Transatlantic Trade Week's second session explored the idea of "Reconciling Trade and Climate Policies: The WTO and Beyond" with a focus on the prospects for reform of WTO rules to facilitate the multilateral trading system's response to climate change, the U.S. Inflation Reduction Act and a potential U.S.-EU Critical Minerals Agreement, the EU Carbon Border Adjustment Mechanism, as well as negotiations toward a U.S.-EU Global Agreement on Steel and Aluminum and the German government's proposal for a "Climate Club."

In his introduction, AGI Vice President Peter Rashish noted that climate change—and the ambition to combat it—has become one of the new key drivers of trade policy along with promoting national security and domestic equity, particularly within the transatlantic relationship.

In 2023, the EU launched its Carbon Border Adjustment Mechanism, or CBAM, that over time will tax imports in five sectors if they are produced in a more carbon-intensive manner than equivalent EU goods. Within their Trade and Technology Council, the United States and the EU have launched a Transatlantic Initiative on Sustainable Trade to facilitate the transition to net-zero economies and are also negotiating a Global Arrangement on Sustainable Steel and Aluminum that aims to develop a common approach to unfairly subsidized and carbon-intensive imports. Moreover, during its 2022 G7 presidency, the German government proposed a "Climate Club" of like-minded countries whose contours are still being worked out.

More recently, President Biden and European Commission President von der Leyen have committed to reaching a Critical Minerals Agreement for electric vehicles as part of the U.S. Inflation Reduction Act that would grant buyers of imported EVs from the EU greater access to tax credits under the IRA.

Finally, Peter Rashish reminded the participants that while the World Trade Organization has not been making headlines in the same way as these bilateral and plurilateral initiatives, climate change and broader environmental issues are also a key part of its agenda, including the Agreement on Fisheries Subsidies at the WTO ministerial conference in 2022. The trade and climate nexus could also become a focus of efforts to reform the WTO before its 2024 ministerial conference.

The first speaker in this session was Maria Martin-Prat, Deputy Director-General for Trade at the European Commission, who emphasized that ensuring trade tools supporting the global transition toward a climate neutral economy has been a consistent focus since the start of the current European Commission in 2019. Trade can accelerate investment in clean energy, foster trade in products and services for green transition, and promote sustainable value chains.

The EU has focused its policies at three different levels: multilateral (which also includes plurilateral efforts), bilateral, and unilateral (or autonomous) measures.

As far as the multilateral level is concerned, it is important to make the WTO relevant to tackle global challenges, including the fight against climate change. The Agreement on Fisheries Subsidies adopted at the 12th Ministerial Conference in 2022 was an important step, and in parallel there is a need to invigorate the work of the committee on trade and environment that plays a key role at a time when many important countries are taking measures that have an effect on trade. Plurilateral avenues include work on fossil fuel subsidies reform and the reduction of plastic pollution.

Transparency is crucial, and the EU is bringing its Green Deal measures and its Carbon Border Adjustment Mechanism for discussion at the WTO. The coalition of fifty-six trade ministers on climate, which includes the United States and the EU, focuses on trade, climate, and sustainable development and helps to build bridges among the trade, climate, and finance communities.

> *"We believe that trade can accelerate investment in clean energy, fostering of trade in products and services needed for the green transition, and also can promote sustainable value chains." Maria Martin-Prat, DG Trade, European Commission*

On the bilateral level, the EU has a strong network of free trade agreements (FTAs), is continuing to negotiate them, and has been reinforcing their trade and sustainable development aspects with its own chapter. Trade in clean technology is being addressed in a novel manner in the EU-New Zealand FTA, for example, as well as energy and raw materials. The EU is also negotiating FTAs with Australia, Indonesia, India, and Thailand.

But these are not the only form of engagement. The EU's most important bilateral is not an FTA but rather the Trade and Technology Council with the United States, which is putting 1 trillion euros into the clean energy transition in the two economies. A dialogue aiming to ensure that their respective climate incentives produce the results both sides want is one of the EU priorities in its relations with the United States.

Another strand of work is the aim to achieve a Global Arrangement on Steel and Aluminum linked to Section 232 national security tariffs by October 2023. The EU wants it to be WTO compatible, include permanent tariff removal, and to be compatible with EU climate measures including the CBAM. The right agreement can help drive innovation and the decarbonization of the steel and aluminum sectors.

Part of the Inflation Reduction Act (IRA) is the Critical Minerals Agreement (CMA), which aims for an outcome that strengthens cooperative mineral production and processing, expands access of sources of critical minerals in a sustainable manner, and does away with IRA discriminatory aspects toward European players. Linked to the CMA talks is a clean energy incentives dialogue to avoid facing similar problems in the future on incentives that are approved and that we think create unintended consequences. And the Transatlantic Initiative on Sustainable Trade will promote the transition toward a climate neutral economy.

Finally, there are unilateral measures or autonomous instruments. The CBAM and deforestation measures that have been worked on over the last two to three years are absolutely necessary to fight climate change. The EU is aware of its impact on trade but there is a need to assess how environmentally friendly imports are in their production. The EU has made an effort to ensure compliance with its WTO obligations and avoid discrimination and to pursue transparency and proportionality in the measures.

She concluded by asserting that trade and climate policies are increasingly interlinked, and there is a responsibility to avoid discriminatory and distortive effects but also to make sure these policies help us achieve the type of development we want—measures that help benefit all of us and avoid a zero-sum game.

Chad Bown, Reginald Jones Senior Fellow at the Peterson Institute for International Economics, focused his remarks on the U.S. Inflation Reduction Act and particularly the transatlantic controversy over electric vehicles (EVs) it has produced.

The underlying problem for the United States was that it was lagging behind on the consumption and export of EVs. While EVs comprise 4.5 percent of cars in the United States, the equivalent figures for the EU and China are 18 and 16 percent. In the United States, gasoline is cheap, and because of the long distances traveled there is "range anxiety"—the fear that a vehicle will run out of power before a charging station can be found. So there needed to be incentives for consumers to purchase them. But there is also a fear of job losses in the legacy internal combustion engine industry and another "China shock" arising from competition from imports. In addition, China dominates the supply chain for battery inputs, components, and critical minerals.

As a result, the Biden administration included in the IRA section 30B which offers consumer tax credits of $7500 but only for purchasers below a certain income level and for cars below a certain price in order to incentivize a mass market for EVs. This measure uses supply side criteria that turned the tax credit into a production subsidy and a form of industrial policy including requirements regarding final assembly in North America and the origin of critical minerals and battery components that aim to create a second supply chain outside of China.

As many Europeans—including French President Macron—became upset about these measures, President Biden went ahead and promised "tweaks." These included the "big bombshell" of the Treasury Department's December 29, 2022, interpretation that these requirements would apply to leased automobiles under Section 45, as well as the decision to open up the definition of what constitutes a "free trade agreement," potentially making it easier for European and other producers to qualify for the critical minerals portion of the tax credits. The consequences of these changes are that in December 2022, 9.7 percent of EVs in the United States were leased while by March 2023 this figure rose to 34 percent. But the new leasing provision also means there is no income or price cap for these cars, as well as no disincentives to cars with Chinese inputs.

> *"What's been amazing about the fight between the U.S. and Europe over IRA on electric vehicles is how quickly it has been resolved." Chad Bown, Peterson Institute for International Economics*

Looking at transatlantic trade in automobiles, Mr. Bown noted that the EU maintains a 10 percent tariff on imported cars while the U.S. figure is 2.5 percent. To an economist, a tariff is like a consumption tax plus a production subsidy, which means that the EU already has a kind of local content provision similar to what is found in the IRA via its tariff. Moreover, because the EU has FTAs with Korea and Japan, cars from those countries are not exposed to the EU's tariff, putting U.S. cars at a disadvantage in the EU. And because the United States levies a tariff on Chinese cars, EU exports of EVs face less competition in the U.S. market. However, the United States doesn't export EVs to the EU: its imports of U.S.-brand cars like Tesla come from China.

William (Bill) Reinsch, who holds the Scholl Chair in International Business at the Center for Strategic and International Studies, described the dynamic of this session as a battle between "trade wonks vs. environmental nerds." The former say we have rules (WTO) on most-favored nation and national treatment that need to be complied with. The latter say climate is an existential crisis, and we need to change the rules to move forward. Mr. Reinsch's view was that the rules will accommodate climate action but there is a need to design these programs more carefully.

On the IRA, Mr. Reinsch pointed to a departure from the usual practice between the executive and legislative branches. Usually when a bill is being crafted in Congress, the White House will weigh in if there are elements that may violate U.S. commitments to the WTO, such as Buy American provisions, and ask for a waiver. But that did not happen with the IRA, so the bill passed as drafted. This has led to a twofold complaint from the EU—that it is protectionist and that its subsidies are so big they will lead to European investment relocation to the United States.

He said there was some truth to both accusations about the IRA but also to the U.S. response: that it is a transition problem and companies will eventually adjust, although that may happen through companies altering their supply chains with more assembly in the United States—even if to a lesser degree than the EU believes. One big question is where EU car companies will produce batteries. Companies won't wait around for a "U.S. or EU miracle"—they will navigate the rules and move on, in part because of the IRA, and in part because of a reassessment of the risk of doing business in and with China that the IRA gives a push to.

In terms of what might happen next, Mr. Reinsch saw three possibilities.

One is that the Congress could slow down the date for implementing the IRA, since no car companies can comply with all requirements under the current timeframe. Another is that complications could arise over the U.S.-EU Critical Minerals Agreement, as the two sides can't agree on whether to call it a "free trade agreement," which is needed for the purposes of the IRA. But that would require the Congress and the European Parliament to approve it. A third development could be better coordination on subsidies to avoid new plants that are competing with each other instead of with China. Here the U.S.-EU Trade and Technology Council could play a role.

> *On the EU's Carbon Border Adjustment Mechanism: "It ends up being a question of how the EU emissions trading system is implemented once companies have to start paying rather than get free allowances because at that point Article III of the GATT, which is the national treatment article, kicks in." William Reinsch, Center for Strategic and International Studies*

To close his remarks, Mr. Reinsch offered a few perspectives on the EU's CBAM. He said while the WTO jury is out as to whether it is consistent with global trade rules, he believes it can be. The key will be how the Emissions Trading System is implemented once free allowances are ended, because that is when WTO Article 3 on national treatment will come into play. The issue will be whether the allowances EU companies will have to buy are identical to the tax that the EU assess on imports.

His organization, the Center for Strategic and International Studies, has developed three scenarios: virtuous circle, death spiral, and so-so. In the first, the EU acts as first mover and inspires others to do same thing, including the United States. But there will need to be a domestic carbon price and an international agreement on how to measure carbon content, something the United States and the EU are trying to do on steel. Under the second, the United States and the EU sue each other in the WTO, domestically, and in third countries. With the third scenario, the United States won't take any action because in the short term the CBAM will not affect United States industry, even if it will when chemicals are added. Some artful design will be required from the EU and some U.S. forbearance on litigation; the TTC could play a role here.

Claudia Schmucker, Head of the Center for Geopolitics, Geoeconomics, and Technology at the German Council on Foreign Relations, focused her remarks on the multilateral trading system and the World Trade Organization. She began by stating that trade has a strong impact on climate change both positive and negative. According to the WTO, 20-30 percent of CO_2 emissions are owing to the production and transportation of goods and services. On the other hand, trade can improve the distribution of low carbon technologies, reduce costs, and enable adoption of green technologies that reduce the emission intensity of goods production.

Climate change is global, so there is a need for global rules. But the WTO is in dire need of reform as its rules are out of date. There are no binding rules on trade and the environment and climate. This needs to change for the sake of WTO credibility, and in this regard the agreement on fisheries subsidies at the 12th Ministerial Conference in 2022 was an important first step.

Ms. Schmucker highlighted three WTO dialogues in the trade and climate area:

1. The Trade and Environmental Sustainability Structured Discussions (TESSD) has seventy-four participants including the EU and the United States, accounting for 85 percent of world trade. There are four working groups, including goods and services, climate measures, circularity, and subsidies. There are also external stakeholders: the private sector, civil society, international organizations, and academia take part in the discussions, which is useful.

2. The Informal Dialogue on Plastics Pollution or IDP has seventy-six members. It maps the plastics value chain life cycle and includes efforts at transparency, best practice, and technical assistance to bring least developed countries into the discussions.

3. The talks on fossil fuel subsidy reform include external stakeholders like the TESSD and have forty-eight members including the EU but not the United States.

She made several recommendations.

The United States and the EU should take part in and advance all three dialogues and translate them into action.

The United States and the EU should launch a new, plurilateral Environmental Goods Agreement on a most-favored nation (MFN) basis with a new approach that should include a shorter list of goods and later be extended to services.

Subsidies are the main cause of tensions in trade relations, not only transatlantically, but also globally. There needs to be a clear definition of what constitutes green subsidies, and the WTO would be worthwhile to start such a discussion.

The WTO needs a roadmap on circularity and trade and how they interact.

> *"The way forward at the WTO right now is not through multilateral negotiations but through plurilateral agreements." Claudia Schmucker, German Council on Foreign Relations*

To conclude, she said that the United States and the EU can no longer break the WTO stalemate alone since there is a multipolar world, but they can play a more robust role leading by example to promote an open, rules-based, and sustainable trading system.

In response to a question about trade and climate engagements at the transatlantic and multilateral level, Maria Martin-Prat from the European Commission said that she was not convinced the main engine behind all the transatlantic action on climate is because of the slowness of the WTO. The EU is investing a lot of resources into the reform of the WTO, where it is not just a matter of speed but of having the right rules and framework. Transatlantic action is more related to efforts to accelerate industrial policies needed for the green transition—with the risk of a subsidy race—and concerns about access to and dependencies on raw materials and technologies that are essential for it, with the reality of China playing an enormous role.

Neither she nor Bill Reinsch thought a mooted "climate waiver" in the WTO—where countries would be allowed a temporary derogation from the rules for the purpose of climate action—would be useful. Ms. Martin-Prat thought it would add to the uncertainties, while Mr. Reinsch said the rules are adequate. He thought the biggest controversy in the WTO will be over subsidies, but it can be dealt with if they are designed right. Reform is a slow process at best, he said, especially on climate, which will have to come after reform of the Appellate Body. In the meantime, plurilaterals or coalitions of the willing are the best way to get around any obstacles.

Another question revolved around the notion of a "Climate Club," an idea put forward by the German G7 presidency in 2022. Claudia Schmucker found it to be a difficult issue, partly because it is not clear what elements will be part of it, what the incentives are to join it, and what its connections are to existing efforts—in particular whether membership in the Climate Club would exempt a country from coverage by the EU's CBAM.

The discussion then turned to the U.S. IRA, the proposed U.S.-EU Critical Minerals Agreement (CMA) that would allow EU imports to benefit from EV tax credits, and how it can satisfy both the U.S. executive and legislative branches, which appear to have different approaches to the CMA. Bill Reinsch's view was that executive-legislative relations in trade policy have worked rather well, but neither President Trump and nor President Biden have submitted deals to the Congress for approval. It is a mistake not to let the Congress weigh in because it will insist on its prerogatives. There is a mechanism that has worked—Trade Promotion Authority—but it expired in 2021.

For Chad Bown, it was amazing how fast the U.S.-EU dispute over the IRA was resolved. Previously, countries would file a dispute at the WTO, which would take three years to litigate and appeal and five years for a decision. This time, bilateral talks took only eight months. So far the United States and the EU have handled the issue well, since there should not be litigation for climate issues, which would slow things down. But beyond the EV part of the IRA, it will be more problematic, in part because of an asymmetric approach: the United States subsidizes clean production while the EU taxes dirty production. On the other hand, the local content rules in the IRA are going to make things more expensive in the United States, which will offset some EU concerns. But it will take time to know how expensive depending on the subsidy uptake.

Finally, with reference to WTO Director-General Ngozi Okonjo-Iweala's comment supporting a solution to the U.S.-EU IRA dispute outside the WTO and a question about taking the stress off the WTO system this way, Maria Martin-Prat said that she did not disagree but that it was important to be careful because very quickly one can get to a situation where not all partners are treated the same—where a country reacts to the actions of certain partners' actions but not others. This could be problematic for issues like export prohibitions on raw materials. It could be argued that the system is strengthened by not resorting to litigation, but not reacting could also weaken the system.

In his concluding remarks to Transatlantic Trade Week 2023, Kai Whittaker, Member of the German Parliament, made three key points.

First, we need to think carefully about what we want between the United States and the EU. In his recent remarks, U.S. National Security Advisor Jake Sullivan envisioned foreign economic policy as working with particular allies on issues one at a time. This, Mr. Whittaker said, sounds a lot like an "America First" policy, which is not going to work in a world with climate change issues and international security risks like China. To win the challenge of the free world over dictatorships there needs to be an equal footing among allies. The IRA, for example, was an internally driven policy that had trade consequences for Europe, but the EU does not want to be "tweaked in," as a solution; it wants to be talked to. The different U.S. and EU auto tariffs —2.5 vs. 10 percent—show that an FTA is needed in the long run if there is to be a united front against China.

Second, there is a need to make much clearer to the world what the West has to offer regarding climate change and what benefits can be reaped. The United States and the EU view fighting climate change as the key challenge of the century, with the EU "Fit for 55" and the U.S. IRA. The United States mainly uses the carrot, while the EU has used the stick and now some carrots as well. There needs to be an international framework for CO2 pricing between the United States and the EU which includes other countries. They need to tell the world that if they fight climate change the way the United States and the EU do it, it will benefit their economies and create jobs. It could be the big answer to China's Belt and Road Initiative and could be highly attractive to countries sitting on the fence.

Finally, there is a need to offer a level playing field to the fence-sitters. The Climate Club as proposed by Chancellor Scholz may be vague, but if it could promote CO2 pricing and a CBAM internationally, that would be more concrete, and if it included access to U.S. and EU markets it would offer benefits to fence-sitters. Additionally, the WTO needs to be reformed to include the fight against climate change, even though there may not be very high hopes for that because the rules are as they are, and the processes are slow. We need to face the fact that we may need a work around—which would be a shift for German and European policy which is usually multilaterally oriented. The idea would be to keep the international institutions where they are but also set up new ones in an attempt to work around them, to cobble together a coalition of the willing where negotiations can take place to tackle climate change and other international issues.

III. Conclusion

The United States and the European Union face a global economy that is in need of reform and rebalancing for at least four important reasons.

First, the emergence of China's state-capitalist economy has contributed to a stalemate in the multilateral trading system, whose founders did not envision the need to accommodate a large, non-market economy.

Second, climate change has sharpened the realization that there is considerable uncertainty about what decarbonization actions the World Trade Organization's rules allow its member governments to pursue without triggering accusations of protectionism and the launch of cases before the WTO's dispute settlement system.

Third, technologies like artificial intelligence—including natural language tools that imitate human thought or programs that enable state surveillance—are advancing faster than governments can write rules to govern their use, including the trade of AI programs across borders.

Fourth, a confluence of factors—the disruptions from the COVID-19 pandemic, China's dominance of supply chains in key inputs important for national security and the green transition, Russia's invasion of Ukraine and the energy dependencies it highlighted, and increased concerns about domestic equity—are leading to a reconsideration of the free-market and free-trade economic model (sometimes called "neoliberalism") that has dominated U.S. and European policymaking for at least the last 40 years.[1]

Within the general spirit of the seventy-five-year-old rules-based international economic order, the transatlantic economic partners have created the U.S.-EU Trade and Technology Council to identify the means to help them derisk their supply chains from overreliance on single sources of inputs and untrustworthy providers, create high standards and carbon measurement tools for clean industrial production, and forge rules for new technologies like AI that can be extended to other, like-minded economies.

The United States and the European Union are also experimenting with new approaches that can leverage trade policy on behalf of the fight against climate change. These include the Global Agreement on Sustainable Steel and Aluminum, the Transatlantic Initiative on Sustainable Trade that is part of the TTC, Critical Minerals Agreements, a potential Climate Club that could encompass a suite of options including standards, rules, tariffs, and financing, and perhaps at some point a return to negotiations on environmental goods (and services) at the WTO.

In both these areas, there will be two keys to success. One is transatlantic harmony on the means and ends of policy. The other is socializing these approaches more widely so that there will be a critical mass of countries working on behalf of a more secure, stable, and sustainable global economy.

[1] See the April 2023 speech by U.S. National Security Advisor Jake Sullivan for one example of this reappraisal: https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/04/27/remarks-by-national-security-advisor-jake-sullivan-on-renewing-american-economic-leadership-at-the-brookings-institution/