

U.S.-EU Trade & Technology Council Investment Screening Stakeholder Meeting

December 2, 2021

Summary:

As part of the U.S.-E.U. Trade and Technology Council (TTC), the Investment Screening Working Group is engaging with stakeholders to gain perspectives and input from the business community, thought leaders, law firms, academia, and others to help inform the working group's efforts. The European Commission's Directorate General for Trade (DG Trade), U.S. Department of Treasury (Treasury) and U.S. Department of State (State) virtually co-hosted the first outreach event on December 2, 2021.

The event featured updates from DG Trade, Treasury, and State regarding the overall principles and goals of the TTC and the objectives of this working group, and from Treasury and the Danish Business Authority regarding recent regulatory developments. The meeting was attended by more than 70 participants. The Investment Screening Working Group plans to conduct future outreach events.

Event Details:

Representatives from the EU reaffirmed their commitment to open investment while highlighting the progress in implementing the new EU Investment Screening framework and their recently published Annual Report. The EU noted this Working Group, in conjunction with others such as the Export Controls Working Group, provides an opportunity for more structured dialogue especially related to critical technologies. Additionally, cooperation on investment screening issues helps to improve capacity and identify and address foreign investment transactions that may pose a risk to national security or public order in the EU. A representative from the Danish Business Authority also provided background and a status update on the 2021 adoption of the Danish investment screening mechanism.

Representatives from Treasury also reaffirmed the importance of an open investment policy to foster economic growth, innovation, and the functioning of our economies. Treasury representatives noted the importance of exploring common challenges, developing a holistic view of policy tools, exchanging perspectives and sharing best practices, and provided an update on the implementation of the Foreign Investment Risk Review Modernization Act (FIRRMA). The United States also noted its support of the EU's expectation that all 27 EU Member States will adopt foreign direct investment screening mechanisms.

Representatives from State provided an update regarding the TTC's overarching objectives, highlighting the importance of the U.S.-EU relationship, the revitalization of U.S. relationships with allies to meet current challenges, and the deepening of transatlantic cooperation, especially regarding sensitive technologies, through the TTC.

Private sector stakeholders provided thoughtful input throughout the discussion, which both the EU and US noted will be taken into consideration. Specific questions and comments included:

- General support for the TTC as a forum for further collaboration and sharing of experiences and best practices, especially as the EU continues to gain experience in investment screening.
- Attention should be paid so that unilateral investment screening action does not cause unintentional harm or adversely impact partners and allies.
- Investment screening regimes should continue to focus on national security concerns and not expand into other considerations such as economic or industrial policy issues.
- Questions related to potential outward investments screening, how the EU regulation is functioning, how the coordination mechanism will help the EU and Member States, and the scope of investment trend analysis under the TTC framework.
- The importance of having harmonization between regimes, sets of tools, and mitigation plans to allow for better transparency and ability for legal counsel to advise transaction parties.
- Clarification requested on how the United States and EU will work with Member States that have not yet adopted investment screening regimes.
- Suggestion to potentially use the evolution of the bilateral cooperation in the area of competition policy as a benchmark.
- Encouragement to have consistency in definitions and transparency, and to understand the impact of fragmentation on the business community as legislative efforts are initiated and evolve.

In concluding remarks, the United States and EU thanked stakeholders for the informative and productive dialogue and reaffirmed their commitment to ongoing cooperation and practical results.

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