ANALYSIS

Economic Security and Digital Trade: Time for an EU-US Digital Agreement

2024

Preface

Over the National Board of Trade's nearly 400-year history, we have witnessed technological shifts from the industrial revolution to today's AI age. We have also experienced several periods of geopolitical realignment, waves of liberalisation and times of conflict. This has taught us several lessons. One being that accessing new technologies and sharing ideas across borders makes societies richer. Another being that, in certain instances and with certain actors, all trade is unfortunately not possible.

This report takes stock of the challenging times we live in, where trade in general and digital trade in particular is heavily impacted by geopolitical factors. Our ambition is to move the EU's digital integration forward in a way that adds value to competitiveness while addressing some of the security concerns that stem from trade in digital technologies. A central conclusion of this report is that the EU and US can and should negotiate a digital agreement, regardless of who wins the US presidential election. While such negotiations may not be easy, we believe that negotiations are possible and a necessary step to stop what this report brands 'friendmentation', namely the unnecessary fragmentation between otherwise closely allied partners.

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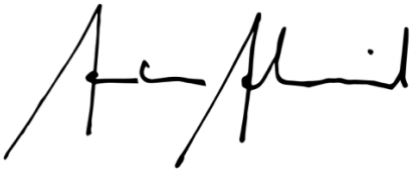

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Executive summary

In response to rising geopolitical tensions, both the EU and the US are increasingly restricting the cross-border flow of trade and investments. This presents a challenge to trade liberalisation efforts in general and affects digital trade in particular. This report reviews ongoing efforts to advance the integration of digital trade and proposes a way forward for the EU's digital trade integration, while acknowledging the need to address certain security concerns related to the digital economy. With this report, we aim to provide input for ongoing discussions on the future of the EU-US Trade and Technology Council (TTC), while contributing to the EU's policy agendas on economic security, competitiveness and de-risking.

We conclude that **the EU can and should pursue negotiations for a digital agreement with the United States regardless of which candidate wins the US presidential election in November 2024**. Such a digital agreement could be inspired by the Digital Economy Partnership Agreement (DEPA), which was initially negotiated between Singapore, Chile and New Zealand as a complement to multilateral efforts. By studying existing EU and US digital trade commitments, we conclude that an EU-US agreement could include binding rules on data flows, data localisation and source code, usually considered among the most important provisions for digital trade today. Importantly, in agreements with other trading partners, both parties have previously agreed to rules on data protection and an exception on audiovisual services, which should help the two parties reach an agreement. Moreover, digital trade facilitation could be part of a potential deal. Finally, an EU-US agreement could build on the framework of the TTC to further improve regulatory cooperation on AI, quantum, connectivity and other emerging technologies and digital infrastructure, such as subsea cables. It would therefore have a strong potential for significant economic benefits for both parties, which would likely only increase in the age of Artificial Intelligence (AI).

Such an agreement could also contribute to both parties' efforts to address intensifying security challenges. Moreover, negotiating a digital agreement could help stabilise the EU-US relationship more generally and open the door for further trade talks in the future. As such, deepening EU-US integration on digital trade would help address what this report brands 'friendmentation', that is, unnecessary fragmentation between otherwise closely allied trading partners.

We also conclude that the **EU should investigate the possibility to include provisions on digital security.** Such provisions would be WTO-compatible measures aimed partly at emergency supply cooperation on critical technologies and partly on limiting the diffusion of dual-use technology to actors that do not respect human rights, intellectual property rights and non-aggression principles.

By better harmonising the parties' digital regulatory agendas and focusing on narrowly defined threats to peace, security and human rights instead of implementing broad industrial policy objectives, an EU-US agreement could have several benefits beyond the bilateral economic and security effects. For example, it could help reduce global trade frictions and incentivise more countries to pursue modern digital agreements.

1 Background

In recent years, the global trading system has increasingly been characterised by a slowdown in negotiations and a reduction in trust between WTO member countries. This is partly a result of the growing number of members in the WTO and the need to address deeper issues, which often reside behind the border. But it is also partly a result of rising geopolitical tensions, not least China's role in the world economy and Russia's illegal invasion of Ukraine.

As a result of these geopolitical tensions, the United States has over the past decade increasingly disengaged from the WTO, and the country's trade policy is now largely determined by concerns over China (Fleming et al., 2024). In a quickly evolving landscape with a fluid definition of what constitutes security, some US initiatives have fused with economic nationalism and led to ineffective or harmful policies aimed at increasing the costs of imports rather than narrowly addressing security concerns. Examples include steep tariff hikes that are not compatible with existing WTO commitments. However, certain restrictions stem from legitimate fears about intellectual property infringements, malicious use of dual-use technologies and similar narrowly defined security concerns (Fleming et al., 2024; Bown & Russ, 2021; Farge & Blenkinsop, 2022; Evenett et al., 2024; ICC, 2024; Dadush, 2024; Dadush & McCaffrey, 2024; Global Trade Alert, 2024).

The EU is also increasingly focussing on security aspects of its international relations, for example, by launching a de-risking strategy towards China (European Commission, 2023). Moreover, the European Commission (2024a) has determined that 'economic security' should be the guiding star for its 2024-2029 priorities for international economic policy. This strategy, while still evolving, includes several initiatives aimed at enhancing the bloc's resilience and protecting its strategic interests, for example, by strengthening its investment screening mechanisms and proposing more coordinated export controls on dual-use and sensitive technologies (an area where certain member states such as the Netherlands and Spain have recently updated their policies) (Bown, 2024; European Commission, 2024d).

The entry of geopolitics into trade policy is increasingly impacting digital trade,[1] an area that is growing rapidly and currently accounts for a quarter of all world trade (OECD, 2024).

A significant degree of technological decoupling between the US and China is already underway. This process started nearly two decades ago, when China embarked on internet sovereignty to restrict the free flow of information to Chinese citizens. Currently, this tendency towards decoupling is signified by security concerns among US and other countries nations over a range of leading technologies with potential dual-use capabilities, such as AI, quantum and connectivity technologies (Rudd, 2022). Moreover, these issues have intensified the ongoing process of securitisation of digital trade stemming from the 9/11 terrorist attacks (Farrell & Newman, 2023).

The EU and the US have put forward initiatives for export controls on certain leading dual-use technologies, such as AI, quantum computing and certain chips (Shivakumar et al., 2024; European Commission, 2024d; Freifeld, 2024). In targeting certain

[1] Defined as trade that is digitally ordered or delivered.

advanced dual-use technologies – sometimes referred to as ‘small yard high fence’ measures – these restrictions focus on a specific security concern related to powerful technologies that can be used for malign purposes (Gaid et al., 2023). In comparison to high tariffs on goods, these measures therefore more narrowly target specific security concerns related to dual-use technologies. This is noteworthy, since trade-restrictive measures that are narrow, proportional and precise have a higher chance of meeting the conditions of the WTO general and security exceptions. It should however be noted that some of these export controls have been complemented by costly industrial policies, for example, the EU and US both have so-called Chips Acts in place, providing subsidies aimed at localising the manufacturing of advanced semiconductors (European Commission, 2024h; The White House, 2024b).

The US and EU have also started controlling certain inward flows from China; for example, the US and several EU member states[2] have excluded Chinese technology companies from public procurement processes for building 5G networks in their countries. This is based on security concerns that data flowing through those networks could end up in the hands of the Chinese Communist Party (Bartz & Alper, 2022; European Commission, 2024c). Moreover, the US and the EU have both enacted and gradually tightened screening rules on inward foreign direct investment (FDI), which in the EU’s case targets critical infrastructure, dual-use technologies and personal data (European Commission, 2024j; Jalinous et al., 2024). The EU and the US are also, to varying degrees, investigating other potential security aspects of trade and investment flows related to high-technology products, services and data. A few such initiatives currently being discussed or developed in the US and EU include rules on the screening of outbound investment to complement existing export restrictions on dual-use technologies, as well as potential limitations on software and product data from smart vehicles, personal data from digital platforms and research cooperation on certain advanced technologies (US Department of the Treasury, 2024a; Harithas, 2024; Cimino-Isaacs & Sutter, 2024; US Department of the Treasury, 2024b; European Commission, 2024i; Federal Register, 2024a; Federal Register, 2024b; Vipers, 2024).

[2] Technically, all EU member states have agreed on minimum security standards, but these have been interpreted differently by member states.

2 Purpose and methodology

While addressing narrowly defined risks related to dual-use technologies may be a legitimate security policy goal, it is becoming increasingly clear that digital trade suffers from the barriers to trade that are currently being erected in response to rising geopolitical tensions (Crosignani et al., 2024). It is therefore important to find a way forward that can increase the EU's digital trade despite ongoing geopolitical tensions.

The purpose of this report is to evaluate the potential opportunities and challenges related to EU-US integration on digital trade. This focus stems from the fact that the EU's most important digital trading partner is the US – and there is no free trade agreement (FTA) in place between the EU and US To evaluate such opportunities and challenges, we analyse ongoing digital regulatory trends in the EU and the US and investigate which digital provisions each party has already committed to with other trading partners.

We aim to explore a way forward that acknowledges some of the existing legitimate security concerns over, for example, dual-use digital technologies. As such, we follow what could be called an *evidence-based approach to economic security*, based on the idea that legitimate security threats can and should be acknowledged and addressed in a way that is compatible with existing WTO rules and exceptions. The approach is guided by a set of key assumptions. First, we believe that security measures in the trade and investment arena must be duly analysed based on economic data, because competitive self-harm does not help security. As such, this approach favours measures that are narrowly focused on identifiable security threats over broad industrial policies. Second, we propose that enhanced trade liberalisation is the best way of diversifying away from trade partners with whom security threats have arisen. And finally, we suggest that security-based restrictions be implemented together with allies, because compared to unilateral actions, cooperative action increases the desired security effect of restrictions while reducing costs and improving predictability for exporters and importers.

3 The status of EU digital trade policy

Digital trade, defined as trade that is digitally ordered or delivered, is growing rapidly and currently accounts for a quarter of all world trade (OECD, 2024). Digital trade is also an area where the EU plays a leading role and has strong interests with companies such as Ericsson, ASML, SAP and Spotify (Köhler-Suzuki, 2023; Bauer et al., 2024).

Yet, in comparison to other areas of trade, international rules on digital trade remain underdeveloped. Accordingly, digital trade suffers from regulatory divergence between countries that adopt their own legislation on data, cybersecurity, consumer protection and more recently, AI.

One attempt to bridge some of this regulatory divergence is the plurilateral negotiations on electronic commerce in the WTO, in which the EU has played an active role. The conclusion of negotiations at the end of July this year marked a significant success in an otherwise often deadlocked WTO. But, as with other plurilateral texts, countries such as South Africa and India seem likely to block it from being integrated into the WTO's legal framework. Accordingly, the EU has played an important role in advocating for the integration of the plurilateral into the WTO legal framework (National Board of Trade, 2024d).

The text in the plurilateral agreement imposes several important rules on its participants, not least a permanent prohibition of customs duties on electronic commerce (a so-called ‘permanent moratorium’). Moreover, the text includes several provisions intended to facilitate digital trade, concerning electronic transactions frameworks, electronic authentication and e-signatures, electronic contracts, electronic invoicing, paperless trading, ‘single windows’ for data submission and electronic payments. The text also sets out some basic provisions on regulations for cybersecurity, online consumer protection and personal data protection. While these regulatory provisions generally lack any significant binding commitments, they should be seen as a first step towards achieving greater alignment and interoperability of the rules governing the digital economy (National Board of Trade, 2024d).

However, the negotiated text excludes some of the most important provisions needed for today’s digital trade. Notably, it lacks rules on data flows, data localisation and source code. Moreover, the plurilateral agreement, while enjoying participation from many important trading partners across the world, was concluded without US participation. That is a serious problem for the EU, as the US is the single most important trading partner in digital trade (Köhler-Suzuki 2023; Bauer et al 2024). In other words, a tension has arisen between the breadth and depth of digital trade liberalisation. A fully multilateral solution appears impossible today, and a broad plurilateral agreement on digital trade fails to include some of the most important provisions and trading partners for the age of AI (National Board of Trade, 2024d)

Therefore, for the EU, the WTO plurilateral agreement will provide a solid foundation once it has taken legal effect – and the agreement’s value will only increase if the EU manages to persuade more WTO members to sign onto the agreement. However, it appears that this approach alone will not be enough to ensure the EU’s competitiveness, especially given that we are in the age of AI. As such, the EU could also complement its active participation in the plurilateral by pursuing more modern digital trade agreements negotiated bilaterally with important trading partners.

The EU has pursued digital trade provisions in FTAs at least since it negotiated the Cariforum Economic Partnership Agreement with a range of Caribbean countries in 2008. That e-commerce chapter should however be understood more as a declaration of intent rather than a deeper agreement with economically significant binding commitments. More recently, the EU has negotiated several of what can be called 'modern digital trade agreements', which include binding commitments on cross-border data flows, protection of source code and rules against localisation requirements for data storage and compute. FTAs with modern digital trade chapters are either in place or being negotiated with countries such as the UK, Chile, Japan, Singapore, the Republic of Korea, Australia and New Zealand (European Commission, 2024).[3] However, the EU does not have a digital trade agreement – modern or otherwise – with the US

The EU's ability to close bilateral digital trade agreements has been reduced in part by its range of unilateral regulatory measures. This has also impacted the EU's relationship with the US on digital trade (Barshefsky, 2020). The EU has lately de-prioritised attempts to expand trade liberalisation with more markets and instead focussed on exporting its own regulatory agenda. According to the so-called 'Brussels effect' – a theory that the EU can single-handedly shape global rules through its market power – the European Commission has unilaterally designed legislation and standards with the intention to spread them to the rest of the world (Bradford, 2020).

The EU has been one of the first major economies to regulate the digital economy, two important examples being the General Data Protection Regulation (GDPR) and the recently adopted AI Act, both of which preceded similar regulations adopted by many of its most important trade partners. This is a sign that the belief in the Brussels Effect has extended into the digital area. To a certain extent, the EU has indeed managed to spread its digital regulatory agenda. For example, since the EU insists on unilateral approval of other countries' data protection frameworks in order to allow personal data flows, several countries have adopted GDPR-like rules. Moreover, the US has shown flexibility in some of its regulations in order to be granted a so-called 'adequacy decision' to allow personal data flows with the EU (Bradford, 2020; Bradford, 2023; Mishra, 2024).

However, in contrast with comparable economies, the EU's digital regulations are sometimes more restrictive and less predictable. As such, in pursuing the Brussels effect, the EU risks harming its relationship with countries that do not design their laws in the same way or have different priorities. This has implications for the EU's opportunities to diversify its supply chains and has impacted digital trade with partners, for example, by making digital trade with the US more challenging (Barshefsky, 2020; Erixon et al., 2023; Weyand, 2024; Lamprecht, 2024). Therefore, it can be said that the 'Brussels effect' in some respects has also started to become the 'Brussels *defect*' (Berggren. 2024).

[3] To advance such binding agreements despite the restraints of diverging regulatory approaches, the European Commission has launched 'Digital Partnerships' with Japan, Korea, Singapore and Canada. These partnerships aim to improve regulatory coordination and satisfy the internal politics of the European Commission, which has enabled the EU to add data free flow provisions with, for example, Japan.

4 Is an EU-US digital agreement possible?

In recent years, there has been much focus on friendshoring, which may be described as the idea to politically intervene in existing supply chains to redirect them from certain trade partners deemed adversarial to more friendly partners (Ellerbeck, 2023). **There has, however, been less focus on what this report brands 'friendmentation', namely unnecessary bilateral fragmentation between otherwise closely allied trading partners**. This is noteworthy, given that one of the best tools to tackle risks involved with the reliance on a country like China is increased trade liberalisation with other countries. One reason for this is that diversification through liberalisation is economically beneficial compared to industrial policies aimed at re-shoring production (National Board of Trade, 2020).

An important example of existing friendmentation is that between the US and EU, which particularly impacts the parties' digital economies (Bauer et al., 2024). The European Union and the US have the largest overall bilateral trade and investment relationship in the world. Although overtaken by China in 2020 as the EU's largest trading partner for goods, when services and investment are considered, the US remains the EU's largest trading partner (European Commission, 2024b). Looking more specifically at digital trade, the US is also the EU's most important trade partner (Köhler-Suzuki, 2023).

Current EU-US trade frictions stem from regulatory divergence on digital policy. The EU has tended to prioritise more comprehensive regulation, for example, with regard to data protection (e.g. the GDPR), while the US has tended to favour a more market-oriented approach, which has been complemented by law enforcement and national security regulations (e.g. the Cloud Act, the Foreign Intelligence Surveillance Act and the Protecting Americans' Data from Foreign Adversaries Act) (Bradford, 2023). This policy divergence has been partly bridged with the help of so-called adequacy decisions, which are unilateral approvals from the EU that the US is safe for personal data transfers. Still, data flows have been disrupted, following the Schrems I & II decisions of the Court of Justice of the European Union (CJEU). Such disruptions have resulted in significant costs by reducing the EU's digital trade with the US and other trading partners (Ferracane et al., 2023).

Regulatory fragmentation is currently growing between the EU and the US over emerging policy areas such as AI and cybersecurity, with the two countries adopting rules that sometimes diverge or appear incompatible (Digital Policy Alert, 2024). This fragmentation is, in certain respects, similar to the fragmentation that the EU and US have encountered over data policies. However, the new fragmentation could potentially have an even larger economic impact given that a significant and growing share of economies are made up of digital products and services that are affected by these new regulations.

To address this fragmentation, a political move where the EU and US launch bilateral negotiations for a digital agreement appears to be a natural step in the right direction. Such an agreement could be inspired by the Digital Economy Partnership Agreement (DEPA), originally negotiated between Singapore, Chile and New Zealand. That agreement is described as a complement to the e-commerce plurilateral and has not been disputed in the WTO. The agreement focuses on enabling digital services trade

and includes hard provisions on data flows, data localisation and electronic customs duties, as well as regulatory cooperation provisions for a range of emerging technologies. The agreement also includes a dispute resolution mechanism for all its provisions, meaning that it is an enforceable treaty (Singapore MTI, 2024; New Zealand Ministry of Foreign Affairs and Trade, 2024).

A modern digital agreement with the US has the potential to boost the EU's competitiveness and economic growth, not only by providing opportunities to export more digital services but also by improving access to digital services used as inputs in wider EU exports (Suh & Roh, 2023; The National Board of Trade, 2024b; Draghi, 2024). For example, the OECD (2023) has found that digital trade chapters have the potential to double the effect of trade agreements, which suggests that agreements on digital provisions have a strong value for the overall economy. Formalised digital negotiations between the US and EU could also serve to stabilise the relationship and address trade frictions beyond digital trade. Moreover, it may serve as a door-opener for further trade talks between the two parties.

An EU-US digital agreement would also have security benefits. First, it could help offset some of the costs related to imposing digital trade restrictions due to security concerns on countries such as China and Russia. Furthermore, a modern digital agreement between the EU and US would help create a significantly larger market for data flows, which would not only be economically beneficial for both parties but would also help address the lack of competitiveness in comparison to China's internal data market, which reaches 1.4 billion people (Rudd, 2022). Moreover, access to American technology has played an important role in Europe's security. For example, Ukraine's defence has been helped by the ability of American tech companies to rescue important societal data, protect cyber environments and provide access to satellite broadband (Bergrengruen, 2024).

Over the past two decades, the EU and US have made two attempts to address the lack of a bilateral FTA, despite being each other's most important allies and trading partners.

The first attempt was the so-called Transatlantic Trade and Investment Partnership (TTIP), which was an ambitious, comprehensive and high-standard trade and investment agreement negotiated between the US and EU (USTR 2024b). Despite the benefits of engaging in a formal FTA negotiation, the level of ambition in the TTIP led to challenges in the domestic political economy of both the EU and US, especially in issues related to agriculture, food safety and investor-state dispute settlement provisions (Korteweg, 2017). The TTIP did include certain proposals for digital trade, including some on data flows and data localisation. While it has been reported the EU rejected some of these provisions, the EU has since included similar commitments in its more recent digital FTA chapters with other partners (Propp, 2020; European Commission, 2024l).

The second attempt to bridge some of the existing EU-US fragmentation is the ongoing work of the EU-US Trade and Technology Council (TTC). It serves as a forum for the EU and the US to coordinate approaches to key global trade, economic and technology issues and to deepen transatlantic trade and economic relations based on shared democratic values. Since its inauguration, EU-US discussions in the TTC have taken place in working groups focussing on developing technology standards and

advancing supply chain security, export controls and investment screening. Other groups have been exploring ways to develop financing for secure and resilient digital connectivity in developing countries, tackling arbitrary or unlawful surveillance, and promoting the access of SMEs to digital tools (European Commission, 2024b). While these collaboration efforts have been helpful, it should be noted that the TTC is not a formalised trade negotiation and has not produced significant outcomes in terms of hard and enforceable commitments between the two parties (Bertolini, 2024).

As such, the TTC could be considered a good 'floor' of EU-US technology cooperation from which more significant negotiations on digital agreement negotiations could be launched. Yet, given the failures of the TTIP and the resulting stagnation of EU-US integration, such negotiations may seem like a monumental undertaking. The EU's trade policy stance has, as described above, been focused on exporting its regulatory agenda. The US trade policy stance – not least on digital trade – has recently focused less on liberalisation and more on protection, a development deemed likely to continue under a Kamala Harris administration and to potentially intensify under a Donald Trump administration (Lowe, 2024; Francis, 2024b).

However, there are several reasons to believe that digital trade is one of the areas in which agreement can be reached between the EU and the US, regardless of who wins the US presidential election in November. To begin with, the Biden administration has arguably moved closer to the EU's digital regulatory stance, with an increased focus on competition in digital markets and an appetite for some additional digital regulation. With the US having recently shown increased concern over software and data related to products and online platforms, the country may also have an incentive to adopt rules more similar to EU legislation on both personal and non-personal data. For example, the Federal Trade Commission (2024) recently urged congress to pass comprehensive federal privacy legislation, fill gaps in privacy protections for teens over the age of 13, and has stated that companies should examine their privacy policies and practices. This is a stance that Kamala Harris would likely continue as president, which may reduce tensions related to the EU's regulatory stance (Scott, 2024; Bradford, 2023). Moreover, several US states have moved forward with data protection legislation, and industry representatives have advocated for national data protection standards (US Chamber of Commerce, 2022).

The EU, meanwhile, has several good opportunities to review its digital legislation and explore how regulatory design can be improved to make digital trade easier (The National Board of Trade, 2024c). For example, the GDPR's implementation is currently up for review. Finally, regulatory convergence could also benefit from the EU's proposed e-evidence legislation, which is motivated by law enforcement and security concerns similar to those expressed in certain US legislation, such as the CLOUD Act (European Commission, 2024m). As such, the EU and the US are moving closer together on some of the issues that have presented the biggest obstacles to increased digital trade integration (National Board of Trade, 2024b).

Moreover, in his book, *No Trade is Free*, Trump trade czar Robert Lighthizer (2023) – who is otherwise known for criticising some of the EU's and other allies' trade and economic practices – argues that he is open to negotiate agreements on issues in which the US has an interest. Digital trade should be an area of interest, since it is one where the US has a trade surplus, which is of importance to Lighthizer (The White House, 2024a; Lighthizer, 2023). This is confirmed by the fact that two of the most ambitious

digital chapters included in US FTAs are in the USMCA and US-Japan trade agreement, both negotiated under Lighthizer's term as US Trade Representative.

Furthermore, whoever wins the US presidential election will continue to prioritise security concerns over China, given that this is one of the few bipartisan issues in the US today. This has implications for digital trade, where security concerns are very present (Fleming et al., 2024). As such, the US has a security incentive in increased digital trade integration with allies such as the EU, especially since improved EU-US integration could help jointly address positions towards strategic competitors (Bremmer, 2021; Russell Mead, 2024; Rice, 2024; Friedberg, 2024).

It is therefore reasonable to conclude that both US presidential candidates would have incentives to negotiate a digital agreement with the EU. Furthermore, negotiations on a digital agreement would be both more limited than the TTIP – which included the politically challenging issues of agricultural goods, food safety measures and investment settlement – and would add more political pressure than the less formalised TTC talks.

5 What could an EU-US digital agreement include?

If the EU and the US were to pursue a digital agreement, the parties should be able to agree on the provisions usually deemed important for digital trade. Table 1 below investigates how a draft digital agreement between the EU and the US could look. The table was created by putting together aspects that are often considered part of a modern digital agreement, and then using the TAPED (2023) database, as well asEuropean Commission (2024l; 2024b) and USTR (2024a) data on digital trade chapters to investigate if the two parties have already accepted similar provisions in agreements with other trade partners. For a list with examples of the exact wording of the relevant provisions, see Appendix I.

We find that such a 'mock digital agreement', based on both parties' existing commitments, should be able to include rules on non-imposition of customs duties for electronic transmissions, data flows, data localisation and source code, usually considered among the most important provisions for digital trade. Importantly, it could also include rules on data protection and an exception on audiovisual services, both of which are important for the EU. Moreover, digital trade facilitation could be part of the deal, and it could build on the TTC to further improve regulatory cooperation on AI, quantum, connectivity and other emerging technologies and digital infrastructure (e.g. subsea cables). While the EU does not have binding trade commitments on protection of encryption/cryptography in place, recognition of the importance of cryptography was included in the digital trade principles laid out ahead of the EU-Korea and EU-Singapore digital FTA negotiations. Moreover, unlike the US, the EU has no provisions on non-discrimination of digital products, which may stem from differing views on the classification of digital goods and services and could complicate negotiations on these issues.

The previously discussed differences in approaches to data legislation in the EU and the US are worth re-emphasising. This regulatory divergence has implications for data flow provisions that the EU and US negotiate in their bilateral digital agreements, with a slightly different approach used by the respective parties. However, it should be noted that both parties have a data flow provision in place with partners such as Japan, which signals that the slight differences in their approaches may be able to be bridged (see Appendix I). It should also be noted that the US has agreed to data protection exceptions in its data flow provision with Japan, which is a key EU sticking point. Moreover, the concept of 'data free flow with trust', initiated by Japan and currently hosted by the OECD secretariat, could help the two parties find common ground for a data flow provision (Mishra, 2024). The economic and security arguments needed to reach an agreement are certainly in place.

More research on the value of an EU-US agreement is needed, but previous research on digital trade provisions in existing trade agreements validate their value (OECD 2023; Suh & Roh, 2023). Moreover, stabilising EU-US digital relations has been found to boost trade. Ferracane et al. (2023) find that countries that received EU adequacy exhibit an increase in digital trade of between 6-14 percent, representing a trade cost reduction of up to 9 percent. They also find that this is mostly driven by the EU granting adequacy to the US, reflecting the importance of the EU-US relationship in global digital trade.

Table 1. What could be included in an EU-US digital agreement?

Provision	Included in any EU agreement	Included in any US agreement
Commitment on non-imposition of customs duties on electronic transmissions	Yes	Yes
Commitment on cross-border data flows with exceptions for legitimate public policy goals	Yes	Yes
Commitment on protection against compute and storage localisation requirements	Yes	Yes
Commitment on protection of source code	Yes	Yes
Commitment on protection of encryption or cryptography	No, but included in digital trade principles	Yes
Commitment on non-discriminatory treatment of digital products	No	Yes
Commitment to data protection	Yes	Yes
Commitment on consumer protection	Yes	Yes
Exception for audiovisual services	Yes	Yes
Encouragement of open government data	Yes	Yes
Collaboration on cybersecurity rules	Yes	Yes
Digital trade facilitation (e.g. electronic authentications, signatures, payments, paperless trade, digital single windows)	Yes	Yes
Collaboration on emerging technologies such as AI, quantum, semiconductors, digital identities, platforms, connectivity	Yes	Yes

6 Is it possible to include digital security provisions in a digital agreement?

The expectation that China's accession to the WTO in 2001 would transform the country into a market economy has not been realised (Sapir & Mavroidis, 2021; Ezel,l 2021). Moreover, China retains a large degree of central control over its economy through significant state ownership, and reports have shown that forced technology transfers and other infringements of intellectual property continue (USTR, 2018; ISDP, 2018; DiKötter, 2022; Hillman, 2020; Rudd, 2022; Greig, 2023; Enright, 2024). Analysts have observed that in several areas, China has become more authoritarian in recent years and that the country is now trying to export its development model with initiatives outside of the post-war global order. Such initiatives include the Belt and Road Initiative (BRI), the Digital Silk Road and the Asian Infrastructure and Investment Bank (AIIB) (Hillman, 2020; Rudd, 2022). China has also been reported to be acting more assertively, and the country maintains an ‘unlimitied friendship’ with Russia even after the illegal invasion of Ukraine (Fix & Crebo-Rediker, 2024; Applebaum, 2023).

More importantly for the purposes of the present analysis,several security concerns have surfaced in relation to the digital trade and investment relationship with China and certain other countries. The flow of advanced technology to China has raised concern that the country is using these powerful digital tools to suppress human rights and individual liberties, or may use them to build up its military capabilities and assert its power in relationships with other countries. Today's digital revolution, which has introduced potential dual-use technologies such as artificial intelligence (AI) and quantum computing, exacerbates these concerns. Furthermore, many countries are increasingly aware of the risks of making themselves dependent on products that can be affected by supply chain disruptions due to geopolitical tensions and for which supply is inelastic (Hillman, 2020; Atkinson, 2021; Miller, 2022; Gaida et al., 2023; Tardell, 2023; Bown, 2024; Mejean & Rosseaux, 2024; Ferry et al., 2024).

Accordingly, it appears necessary to acknowledge and address certain security threats stemming from digital trade integration with China. However, it is important that such restrictions narrowly focus on identified threats to peace, security and human rights rather than targeting broad industrial policy goals, such as the homeshoring of manufacturing jobs. Failing to strike the appropriate balance will have real consequences on the global rules-based trading system, as well as on US and EU competitiveness, their standing in the world, ability to undertake the green transition and their national and economic security. While the notion of a seamless integration with China may have come and gone, there are benefits – including to global stability – if Beijing continues to have a stake in the international system (Bergsten, 2022). Moreover, enhancing trade liberalisation with other partners should be the primary approach used to diversify away from countries with whom security threats have arisen. And finally, given that multilateral export control arrangements such as the Wassenaar Arrangement are now defunct, security-justified restrictions should be implemented together with allies where possible in order to reduce fragmentation and improve predictability for the private sector, while reducing the costs of compliance (Van Assche, 2024; Presnick & Estes, 2024; Lipke et al., 2024; Evenett & Ruge, 2024).

The EU and the US have been discussing and to a certain extent cooperating on issues such as export controls and investment screenings through the TTC (European Commission 2024b). The US is likely to continue focusing on security concerns with China regardless of who wins the US election, meaning that discussions on digital security are likely to form part of the transatlantic relationship for some time to come. The exact format of such discussions, however, is currently being considered. Given that the two parties have different approaches to these issues there are benefits in continuing such discussions in the more informal setting of the TTC rather than including them in an EU-US digital agreement negotiation. Moreover, a digital trade agreement with security provisions would also likely require ratification by member states. This would give individual member states more leverage over the shape and content of digital trade commitments and might slow down or prevent the adoption of a digital trade agreement.

However, there may be benefits to a more formal approach. We therefore suggest that the EU investigatesthe possibility of including provisions for mutual digital security in a digital agreement with the US Such digital security provisions could include two aspects of security: I) security in supply of digital inputs and II) the protection of intellectual property and data, human rights and national security.

First, the digital security provisions could outline a mutual support commitment for emergency situations, listing several important digital inputs (e.g. semiconductors, connectivity infrastructure and cloud services), which the parties agree to continue helping each other source in emergencies. This idea would build on existing collaborations for resilient semiconductor supply chains already being developed under the TTC. Such collaboration could be inserted into a formal agreement with inspiration from the EU-New Zealand FTA, which includes a provision to cooperate on contingency plans in relation to food security in times of international crisis (European Commission, 2024g).

Second, digital security provisions could also state that both parties must maintain sufficient digital protection. One aspect of this is cooperation on cybersecurity regulation, which is already included in many digital agreements, and where the EU and US should be able have a deep collaboration. But in addition, the parties could include a provision that they must have measures in place against transfers of certain advanced dual-use technology to actors that do not sufficiently protect intellectual property, human rights and national security (including respect for peace and territorial integrity). Such a digital security clause would focus on WTO-compatible restrictions justified by digital threats that enable WTO exceptions for national security, public morals and human life and health. The provisions should aim for standardisation of security-based trade restrictions and thus make compliance easier and cheaper for firms. Moreover, such provisions would have to be developed with due consideration to the somewhat complicated question of EU competencies on issues such as export controls (Gehrke, 2023; Francis, 2024a). Finally, digital security provisions should entirely exclude industrial policy initiatives aimed at objectives such as reshoring jobs.

A natural starting point for investigating the possibility to include such digital security provisions would be to build on the discussions already ongoing in the TTC on dual-use technologies (e.g. AI and quantum). Additional mutually agreed initiatives may also be relevant for inclusion in any digital security provisions developed in the future,

for example, the outbound investment screenings on FDI for certain dual-use technologies, which is currently in various stages of consideration in both the EU and the US However, any measure considered for inclusion in digital security provisions must be duly analysed for WTO-compatibility and potential risks to EU competitiveness and innovation, as well as potential spillover, retribution and threats to ongoing trade talks (e.g. talks on improved access to Chinese non-personal data) (Goujon, 2024; Dempsey & White, 2024; European Commission, 2024e).

7 Conclusion and policy recommendations

In this report, we have demonstrated that **the EU can and should pursue digital agreement negotiations with the US regardless of who wins the US presidential election in November 2024.** We see an opportunity for the EU and the US to negotiate binding rules on data flows, data localisation and source code, usually considered among the most important provisions for digital trade. Importantly, an EU-US agreement may also include rules on data protection and an exception on audiovisual services, both of which are important for the EU. Moreover, digital trade facilitation could be part of the deal and could build on the TTC to further improve regulatory cooperation on AI, quantum, connectivity and other emerging technologies and digital infrastructure, such as subsea cables. Such an agreement would therefore be likely to offer significant economic benefits for both parties, which could increase in the age of Artificial Intelligence (AI). As such**, deepening EU-US integration on digital trade would help address what this report brands 'friendmentation', that is, unnecessary fragmentation between otherwise closely allied trading partners.**

To improve coordination on digital security, **the EU should explore the possibility to include provisions on digital security measures into the agreement**. Such digital security provisions could include two aspects of security: I) security in supply of digital inputs and II) duly analysed WTO-compatible measures aimed at limiting the diffusion of dual-use technology to actors that do not respect human rights, intellectual property rights and peace and security principles.

A digital agreement could therefore not only have potentially significant economic benefits but could also contribute to both parties' security. Moreover, negotiating a digital agreement could help stabilise the EU-US overall relationship and open the door to further trade talks in the future.

Several additional benefits may stem from this approach, beyond the bilateral economic and security benefits of agreeing on modern digital trade rules. For example, an agreement between the EU and US could help create a larger digital market area by building on existing digital trade integration among a wider set of countries with similar digital trade provisions, such as CPTPP and/or G7 countries. In the longer term, domino theory[4] suggests that this approach could also incentivise other countries (e.g. Quad country India or NATO member Turkey) to seek the economic and security benefits of signing on to such rules.

In turn, if a larger block of countries with diverse regulatory agendas agree on digital trade rules, it could facilitate progress in the WTO. Multilateral negotiations in general, and digital trade negotiations in particular, could also benefit if the US is able to address some of its security concerns together with the EU. For example, with EU-US digital security provisions in place, the US may feel more comfortable joining the WTO e-commerce plurilateral knowing that it can accept those provisions and still take the measures necessary to ensure digital security together with its allies.

Finally, institutionalising EU-US limitations on certain actors' access to dual-use technologies, such as AI and quantum, could help standardise and focus trade restrictions, which would improve predictability for the private sector and reduce harm

[4] See Baldwin (1993)

to international trade. In turn, this approach could make multilateral discussions on these topics more fruitful. Therefore, **the EU and the US would be wise to complement a bilateral agreement by also initiating a dialogue on digital security, AI safety[5] and similar basic rules and concepts within the WTO.**

It is our hope that this report can contribute to the EU's policy agenda on digital trade, economic security, de-risking and competitiveness – as well as provide input to ongoing discussion on the future of the EU-US Trade and Technology Council (TTC).

[5] See, e.g. World Economic Forum (2024)

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9 Appendices

Appendix I. Examples of existing digital commitments for the EU and US. Note that the table only includes examples and is not intended to be an exhaustive list of all the agreements where each party has made such commitments.

Provision	Example from EU agreement	Example from US agreement
Commitment on non-imposition of customs duties	EU-Japan: 'The Parties shall not impose customs duties on electronic transmissions.'	US-Japan: 'Neither Party shall impose customs duties on electronic transmissions, including content transmitted electronically, between a person of a Party and a person of the other Party.'
Commitment on cross-border data flows with exception for legitimate public policy goals	EU-Japan: '…a Party shall not adopt or maintain measures which prohibit or restrict the cross-border transfer of information set out in paragraph 1 by: (a) requiring the use of computing facilities or network elements in the territory of the Party for information processing, including by requiring the use of computing facilities or network elements that are certified or approved in the territory of the Party; (b) requiring the localisation of information in the territory of the Party for storage or processing; (c) prohibiting storage or processing of information in the territory of the other Party; (d) making the cross-border transfer of information contingent upon use of computing facilities or network elements in the territory of the Party or upon localisation requirements in the territory of the Party; (e) prohibiting the transfer of information into the territory of the Party; or requiring the approval of the Party prior to the transfer of information to the territory of the other Party. Nothing in this Article shall prevent a Party from adopting or maintaining measures inconsistent with paragraphs 1 and 2 to achieve a legitimate public policy objective, provided that the measure: (a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade; and (b) does not impose restrictions on transfers of information that are greater than necessary to achieve the objective.' 'Nothing in this Article shall prevent a Party from adopting or maintaining measures on the protection of personal data and privacy, including with respect to cross-border transfers of information, provided that the law of the Party provides for instruments enabling transfers under conditions of general application for the protection of the information transferred.'	US-Japan: 'Neither Party shall prohibit or restrict the cross-border transfer of information, including personal information, by electronic means, if this activity is for the conduct of the business of a covered person.' 'Nothing in this Article shall prevent a Party from adopting or maintaining a measure inconsistent with paragraph 1 that is necessary to achieve a legitimate public policy objective, provided that the measure: (a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and (b) does not impose restrictions on transfers of information greater than are necessary to achieve the objective.'

Commitment on protection against compute and storage localization requirements	See above box for the commitment included for EU-Japan.	US-Japan: 'Neither Party shall require a covered person to use or locate computing facilities in that Party's territory as a condition for conducting business in that territory.'
Commitment on protection of source code	EU-Japan: 'A Party may not require the transfer of, or access to, source code of software owned by a person of the other Party. Nothing in this paragraph shall prevent the inclusion or implementation of terms and conditions related to the transfer of or granting of access to source code in commercially negotiated contracts, or the voluntary transfer of or granting of access to source code for instance in the context of government procurement.'	US-Japan: 'Neither Party shall require the transfer of, or access to, source code of software owned by a person of the other Party, or the transfer of, or access to, an algorithm expressed in that source code, as a condition for the import, distribution, sale, or use of that software, or of products containing that software, in its territory.'
Commitment on protection of encryption or cryptography	No provision in place to the best of our knowledge. However, recognition of the importance of cryptography was included in the digital trade principles laid out for the EU-Korea and EU-Singapore digital FTA negotiations.	US-Japan: 'With respect to an ICT good that uses cryptography and is designed for commercial applications, neither Party shall require a manufacturer or supplier of the ICT good, as a condition of the manufacture, sale, distribution, import, or use of the ICT good, to: (a) transfer or provide access to any proprietary information relating to cryptography, including by disclosing a particular technology or production process or other information, for example, a private key or other secret parameter, algorithm specification, or other design detail, to the Party or a person in the territory of the Party; (b) partner or otherwise cooperate with a person in the territory of the Party in the development, manufacture, sale, distribution, import, or use of the ICT good; or (c) use or integrate a particular cryptographic algorithm or cipher.'
Commitment on non-discriminatory treatment of digital products	No provision in place to the best of our knowledge.	USMCA: 'No Party shall accord less favorable treatment to a digital product created, produced, published, contracted for, commissioned, or first made available on commercial terms in the territory of another Party, or to a digital product of which the author, performer, producer, developer, or owner is a person of another Party, than it accords to other like digital products.'
Commitment to data protection	EU-Singapore digital FTA ('agreement in principle' – the latest version seen of the at the time of writing): 'Each Party shall adopt or maintain a legal framework that provides for the protection of the personal data of individuals.' 'In the development of its legal framework for the protection of personal data, each Party should take into account principles and guidelines developed by	US-Japan: 'Each Party shall adopt or maintain a legal framework that provides for the protection of the personal information of the users of digital trade.' 'Each Party shall publish information on the personal information protections it provides to users of digital trade, including how: (a) natural persons can pursue remedies; and (b)

	relevant international bodies or organisations, such as the principles referred to in the Joint Declaration on privacy and the protection of personal data5F6, and the OECD Guidelines Governing the Protection of Privacy and Trans-Border Flows of Personal Data.' 'Recognising that Parties may take different legal approaches to protecting personal data, they should explore ways to increase convergence between these different regimes, including to facilitate cross-border data flows. This may include the recognition of regulatory outcomes, whether accorded autonomously or by mutual arrangement, broader international frameworks, or joint guidance on the utilisation of common cross-border data transfer mechanisms.' EU-UK TCA: 'Each Party recognises that individuals have a right to the protection of personal data and privacy and that high standards in this regard contribute to trust in the digital economy and to the development of trade.' 'Nothing in this Agreement shall prevent a Party from adopting or maintaining measures on the protection of personal data and privacy, including with respect to cross-border data transfers, provided that the law of the Party provides for instruments enabling transfers under conditions of general application for the protection of the data transferred.'	an enterprise can comply with any legal requirements.' 'Recognizing that the Parties may take different legal approaches to protecting personal information, each Party should encourage the development of mechanisms to promote interoperability between these different regimes.'
Commitment on consumer protection	EU-UK TCA: 'Recognising the importance of enhancing consumer trust in digital trade, each Party shall adopt or maintain measures to ensure the effective protection of consumers engaging in electronic commerce transactions, including but not limited to measures that: (a) proscribe fraudulent and deceptive commercial practices; (b) require suppliers of goods and services to act in good faith and abide by fair commercial practices, including through the prohibition of charging consumers for unsolicited goods and services; (c) require suppliers of goods or services to provide consumers with clear and thorough information, including when they act through intermediary service suppliers, regarding their identity and contact details, the transaction concerned, including the main characteristics of the goods or services and the full price inclusive of all applicable charges, and the applicable consumer rights (in the case of intermediary service suppliers, this includes enabling the provision of such information by the supplier of goods or services); and (d) grant consumers access to redress for breaches of their rights, including a right to remedies if	US-Japan: 'Each Party shall adopt or maintain consumer protection laws to proscribe fraudulent and deceptive commercial activities that cause harm or potential harm to consumers engaged in online commercial activities.'

	goods or services are paid for and are not delivered or provided as agreed.' 'The Parties recognise the importance of entrusting their consumer protection agencies or other relevant bodies with adequate enforcement powers and the importance of cooperation between these agencies in order to protect consumers and enhance online consumer trust.'	
Exception for audiovisual services	Always required by the EU. EU-UK TCA: 'This Title does not apply to audio-visual services.'	US-Australia: 'For greater clarity, paragraphs 1 and 2 [on non-discrimination and equal treatment of digital products] do not prevent a Party from adopting or maintaining measures, including measures in the audio-visual and broadcasting sectors, in accordance with its reservations to Chapters Ten and Eleven.'
Encourage open government data	EU-UK TCA: 'To the extent that a Party chooses to make government information available to the public, it shall endeavor to ensure that the government information is in a machine-readable and open format and can be searched, retrieved, used, reused, and redistributed.'	US-Japan: 'The Parties shall endeavor to cooperate to identify ways in which each Party can expand access to and use of government information that the Party has made public, with a view to enhancing and generating business opportunities, especially for small and medium-sized enterprises.'
Collaboration on cybersecurity rules	EU-Singapore ('agreement in principle'): 'Parties recognize the evolving nature of cyber threats. In order to identify and mitigate those threats and thereby facilitate digital trade the Parties shall endeavour to: (a) build the capabilities of their respective national entities responsible for cybersecurity incident response; and (b) collaborate to identify and mitigate malicious intrusions or dissemination of malicious code that affect electronic networks of Parties and to address cybersecurity incidents in a timely manner as well as to share information for awareness and best practices.' 'Given the evolving nature of cyber threats and their negative impact on digital trade, the Parties recognise the importance of risk-based approaches in addressing those threats while minimising trade barriers. Accordingly, each Party shall endeavour to employ, and to encourage enterprises within its jurisdiction to use, risk-based approaches that rely on risk management best practices and on standards developed in a consensus-based, transparent, and open manner, to identify and protect against cybersecurity risks, to detect cybersecurity events, and to respond to and recover from cybersecurity incidents.' EU-UK TCA: 'The Parties shall endeavour to establish a regular dialogue	US-Japan: 'The Parties recognize that threats to cybersecurity undermine confidence in digital trade. Accordingly, the Parties shall endeavor to: (a) build the capabilities of their respective competent authorities responsible for computer security incident response; and (b) strengthen existing collaboration mechanisms for cooperating to identify and mitigate malicious intrusions or dissemination of malicious code that affect electronic networks, and use those mechanisms to swiftly address cybersecurity incidents, as well as for the sharing of information for awareness and best practices.'

	in order to exchange information about relevant policy developments, including in relation to international security, security of emerging technologies, internet governance, cybersecurity, cyber defence and cybercrime.' 'Where in their mutual interest, the Parties shall cooperate in the field of cyber issues by sharing best practices and through cooperative practical actions aimed at promoting and protecting an open, free, stable, peaceful and secure cyberspace based on the application of existing international law and norms for responsible State behaviour and regional cyber confidence-building measures.'	
Digital trade facilitation (e.g. electronic authentications, signatures, payments, paperless trade, digital single windows)	EU-Singapore (agreement in principle): 'Each Party shall endeavour to adopt or maintain a legal framework governing electronic transactions that is consistent with the principles of the UNCITRAL Model Law on Electronic Commerce 1996.' EU-Japan: 'Unless otherwise provided for in its laws and regulations, a Party shall not adopt or maintain measures regulating electronic transactions that: (a) deny the legal effect, validity or enforceability of a contract, solely on the grounds that it is concluded by electronic means; or (b) otherwise create obstacles to the use of contracts concluded by electronic means.' 'Unless otherwise provided for in its laws and regulations, a Party shall not deny the legal validity of a signature solely on the grounds that the signature is in electronic form.' 'A Party shall not adopt or maintain measures regulating electronic authentication and electronic signature that would: (a) prohibit parties to an electronic transaction from mutually determining the appropriate electronic authentication methods for their transaction; or (b) prevent parties to electronic transactions from having the opportunity to establish before judicial or administrative authorities that their electronic transactions comply with any legal requirements with respect to electronic authentication and electronic signature.'	USMCA: 'Each Party shall maintain a legal framework governing electronic transactions consistent with the principles of the UNCITRAL Model Law on Electronic Commerce 1996.' 'Except in circumstances provided for under its law, a Party shall not deny the legal validity of a signature solely on the basis that the signature is in electronic form.' 'Each Party shall encourage the use of interoperable electronic authentication.' 'Each Party shall endeavor to accept a trade administration document submitted electronically as the legal equivalent of the paper version of that document.'
Collaboration on emerging technologies such as AI, quantum, semiconductors, digital identities, platforms, connectivity	The EU-US TTC includes various collaboration on connectivity (6G), artificial intelligence, semiconductors and emerging technology standards. The Digital Partnerships with countries such as Japan, Korea, Singapore and Canada also establish collaboration on emerging technologies.	The EU-US TTC includes collaboration on connectivity (6G), artificial intelligence, semiconductors and emerging technology standards.

Sammanfattning

Executive summary in Swedish

Som svar på ökande geopolitiska spänningar begränsar både EU och USA handel- och investeringsflöden. Det försvårar handelsliberalisering i allmänhet och påverkar den digitala handeln i synnerhet. Denna rapport analyserar möjligheten att främja digital handelsintegration med USA och föreslår en väg framåt som erkänner behovet av att ta itu med vissa säkerhetsutmaningar kopplade till den digitala ekonomin. Vi hoppas att denna rapport ska bidra till pågående diskussioner om framtiden för EU-US Trade and Technology Council (TTC) och EU:s politiska agendor om ekonomisk säkerhet, konkurrenskraft och minskad risk (’de-risking’).

Vi drar slutsatsen att EU kan och bör driva förhandlingar om ett digitalt avtal med USA oavsett vem som vinner det amerikanska presidentvalet i november 2024. Ett sådant digitalt avtal skulle kunna inspireras av Digital Economy Partnership Agreement (DEPA), initialt förhandlat mellan Singapore, Chile och Nya Zeeland som ett komplement till multilaterala digitala handelsförhandlingar. Ett avtal mellan EU och USA skulle kunna omfatta bindande regler om dataflöden, datalokalisering och källkod, som vanligtvis anses vara bland de viktigaste åtagandena för digital handel. Båda parterna har också tidigare kommit överens med andra handelspartners om regler för dataskydd och ett undantag för audiovisuella tjänster, båda viktiga för EU. Dessutom kan digital handelsfacilitering vara en del av avtalet. Slutligen skulle det kunna bygga vidare på TTC för att ytterligare förbättra regleringssamarbete om AI, kvantdatorer, konnektivitet och annan framväxande teknik och digital infrastruktur såsom undervattenskablar. Ett sådant avtal skulle därför ha betydande ekonomiska fördelar för båda parter, och sannolikt kommer öka i eran av artificiell intelligens (AI).

Ett sådant avtal skulle också kunna bidra till båda parters ansträngningar att ta itu med ökande säkerhetsutmaningar. Att förhandla ett digitalt avtal skulle dessutom kunna hjälpa till att stabilisera relationen mellan EU och USA i allmänhet och möjliggöra ytterligare handelssamtal i framtiden.

Vi drar också slutsatsen att EU bör undersöka möjligheten att inkludera bestämmelser om digital säkerhet i ett avtal med USA. Sådana provisioner skulle innefatta WTO-kompatibla åtgärder som dels syftar till försörjningssamarbete om kritisk teknik, dels på att begränsa spridningen av digital teknik med dubbla användningsområden till aktörer som inte respekterar mänskliga rättigheter, immateriella rättigheter och fredsprinciper.

Genom att bättra synkronisera sina digitala regleringsagendor och fokusera på snävt definierade hot mot fred, säkerhet och mänskliga rättigheter istället för att implementera breda industripolitiska program, skulle en sådan gemensam ansats mellan EU och USA kunna leda till flera fördelar utöver de bilaterala ekonomiska och säkerhetsmässiga effekterna. Det kan till exempel bidra till att minska globala handelsfriktioner och uppmuntra fler länder att ingå moderna digitala avtal. Det kan också bidra till att USA blir mer bekväma med att åter engagera sig i WTO i frågor om digital handel.

The National Board of Trade Sweden is the government agency for international trade, the EU internal market and trade policy. Our mission is to facilitate free and open trade with transparent rules as well as free movement in the EU internal market.

Our goal is a well-functioning internal market, an external EU trade policy based on free trade and an open and strong multilateral trading system.

We provide the Swedish Government with analyses, reports and policy recommendations. We also participate in international meetings and negotiations.

The National Board of Trade, via SOLVIT, helps businesses and citizens encountering obstacles to free movement. We also host several networks with business organisations and authorities which aim to facilitate trade.

As an expert agency in trade policy issues, we also provide assistance to developing countries through trade-related development cooperation. One example is Open Trade Gate Sweden, a one-stop information centre assisting exporters from developing countries in their trade with Sweden and the EU.

Our analyses and reports aim to increase the knowledge on the importance of trade for the international economy and for the global sustainable development. Publications issued by the National Board of Trade only reflect the views of the Board.

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