Welcome to Trade Talking Points 2 November 2023, your fortnightly newsletter on the latest insights from EY’s Trade Strategy team

In this edition of Trade Talking Points, we provide updates on the G7 trade ministers' meeting in Japan, the US withdrawal from key digital trade disciplines at the WTO, the EU’s Anti-Coercion Instrument, US export control expansion and the Chinese response, and the US International Trade Commission’s report on COVID-19 and the TRIPS Waiver.

G7 trade ministers’ meeting in Osaka-Sakai

On 28-29 October 2023, the G7 Trade Ministers met in Japan to reaffirm their cooperation in tackling contemporary geopolitical challenges, including the war in Ukraine, prolonged non-market policies and long-term structural shifts. The statement sets out eight priority areas including:

- Reforming the WTO and supporting a successful 13th WTO Ministerial Conference: taking place in February 2024 in Abu Dhabi, UAE
• Ensuring a level playing field: sharing concerns about the pervasive use of state-owned enterprises to channel state support
• Supply chain resilience: with private sector stakeholders and governments beyond the G7
• Economic coercion: calling for the repeal of unnecessary trade-restricting measures
• Digital trade: reaffirming the importance of free data flow and dissuasion of data localisation
• Trade and environment: committing to pursue policies that drive decarbonisation and emission reduction aligned with the G7’s target of net-zero emission by 2050
• Business and human rights: promoting human rights and international labour standards in business activities and global supply chains beyond the G7
• Strengthening engagement with emerging and developing economies: affirming trade as a driver for sustainable economic development and poverty reduction

On the margins of the ministerial meeting, Japan concluded two additional agreements:

• The UK Secretary of State for Business and Trade, Kemi Badenoch, and Japan’s Minister of Economy, Trade and Industry, Yasutoshi Nishimura, signed a bilateral memorandum of cooperation on critical minerals, providing a framework for deepening cooperation and fostering dialogue on research, partnerships and infrastructure.
• The European Commission Executive Vice-President, Valdis Dombrovskis, and Yasutoshi Nishimura agreed a deal on cross-border data flows at the EU-Japan High-level Economic Dialogue. The deal had been negotiated since October 2022 and – once ratified – will be included in the EU-Japan Economic Partnership Agreement. The agreement aims to enable efficient data handling and storage rules and removes data localisation requirements.
US withdrawal from key digital trade disciplines

The US Trade Representative, Katherine Tai, has withdrawn support for longstanding US digital trade priorities at the WTO during a meeting of the WTO’s Joint Statement Initiative on E-Commerce on 25 October. The move comes alongside engagement with the US Congress and negotiations on digital trade as part of the US-led Indo-Pacific Economic Framework for Prosperity.

The withdrawals affect key commitments to digital trade, initially made in 2019 by the Trump administration, including the promotion of free cross-border data flows, reviews of software source code and the prohibition of data localisation requirements.

US businesses and industry associations have expressed concerns, expecting this decision to have highly negative consequences and put the US services sector at a disadvantage. Businesses further noted that the withdrawal would justify foreign governments seeking to impose data transfer barriers.

Businesses operating in the US or working with US businesses should monitor any new regulations or changes to regulation on cross-border data flows.

EU Anti-Coercion Instrument

The Council of the EU has adopted new legislation, the Anti-Coercion Instrument (ACI), to help protect the EU and Member States from economic coercion by third countries. The regulation is intended to deter third countries from threatening to impose trade or investment-related measures as a way of coercing the EU or a Member State into making certain choices.

In cases where coercive measures cannot be de-escalated through dialogue, the legislation enables the EU to adopt countermeasures. The EU will therefore be able to impose its own trade restrictions – for example, through increasing customs duties, reducing access to foreign
direct investment or restricting public procurement access – but only as a last resort. The regulation is expected to be signed on 22 November 2023 and will be effective from 20 days after it is published in the EU’s Official Journal.

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**US export control expansion and Chinese graphite export permits**

The US Department of Commerce’s Bureau of Industry and Security has implemented [further export controls](#) on Artificial Intelligence chips and equipment used for semiconductor manufacturing to China. While earlier restrictions allowed Chinese companies to buy slowed-down versions of some processors, the new restrictions will now also prohibit the purchase of those, and controls will be expanded to some other countries to prevent circumvention. Controls on semiconductor manufacturing equipment will be refined and expanded.

China’s Ministry of Commerce has [responded](#) by requiring export permits for some Chinese graphite products, with the ministry arguing that the move is to ensure global supply chain stability and to safeguard national security. Graphite is a key component of electric vehicle batteries, with more than 90% of the world’s graphite refined in China. From 1 December 2023, graphite exporters will be required to apply for permits to ship synthetic graphite and natural flake graphite products. This news comes against the backdrop of the EU launching its anti-subsidy investigation into Chinese electric vehicle exports.

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**US ITC report on COVID-19 and TRIPS Waiver**

The US International Trade Commission (USITC) has published a [report](#) on COVID-19 diagnostics and therapeutics, and on flexibilities under the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement (TRIPS Waiver). In summer 2022, the WTO agreed to consider extending the flexibilities under the TRIPS Waiver beyond vaccines to include COVID-19 diagnostics and therapeutics, but the report highlights that those providing input to the USITC disagreed on
any extension. This will be a key determinant in the US position on the TRIPS Waiver ahead of the 13th WTO Ministerial Conference to be held in February 2024.

The report found a wide disparity between countries of different incomes when it comes to accessing COVID-19 diagnostics and therapeutics. High prices and lack of price transparency were identified as factors that are detrimental to many of the countries seeking access, but the importance of these factors and others is highly variable between countries.

We also publish the following UK tax newsletters which can be subscribed to below: EY VAT News for indirect tax news, Midweek Tax News for corporate tax news and People Advisory Services Weekly News Round Up for employment, reward and mobility news.

Further information

If you would like to discuss any of the articles in this week’s edition of Trade Talking Points, please contact the individuals listed below, or your usual EY contact.

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