ITI Recommendations for an EU-U.S. Trade and Technology Council

The European Union (EU)-United States (U.S.) economic relationship is the largest bilateral trade and investment relationship in the world. Digital and information and communications technology (ICT) products and services are a key enabling component of that relationship: over half of digitally-enabled services imported by the United States from the EU are used to produce U.S. products for export, and vice-versa.[1] The two economies' shared commitment to fair and open trade policies and common transatlantic values, together with the robust history of bilateral and multilateral cooperation, form a solid basis for fostering a closer partnership. Enhanced cooperation on trade and technology is critical to future economic growth as both markets recover from the COVID-19 pandemic. With a foundation of common values, the U.S. and the EU should jointly promote global solutions involving digital technology and in areas where technology can play a key role in facilitating progress, such as climate change.

The Information Technology Industry Council (ITI) strongly supports the establishment of **an EU-U.S. Trade and Technology Council** (Council) as a timely and necessary forum to expand on recent trade discussions and enhance transatlantic cooperation, facilitate regulatory compatibility, and to address current and prevent the emergence of market access barriers. We believe that by prioritizing openness, shared economic objectives, and market-driven global competitiveness, the **United States and EU can chart a path for sustainable, values-driven global leadership in the digital-driven 21st century economy**.
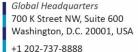
Acknowledging that **ensuring transatlantic data flows is an integral pillar of the EU-U.S. trade relationship**, and any disruption to their free flow constitutes a major challenge to the technology sector and the entire transatlantic economy, **it is important that the EU and the U.S., in parallel to work undertaken in a transatlantic Council, continue and swiftly conclude their negotiations for an enhanced transatlantic data transfer agreement** that respects European citizens' fundamental rights as well as the legitimate security and public safety interests of EU Member States and foreign governments, while ensuring continuity of commercial activities.

Below, we outline tech sector recommendations for a transatlantic Council. We look forward to continuing to partner with policymakers on both sides of the Atlantic in support of these recommendations and a reinvigorated and deepened partnership between the United States and EU.

Digital Trade and Digital Policy

As part of a transatlantic Council, the technology sector sees great benefit in the establishment of a structured bilateral dialogue to discuss and resolve policy approaches to digital trade matters of importance to either side, including **open, trade-facilitative approaches to data governance and data flows, digital taxation, and the regulation of new technology.** Such discussions should be undertaken with a view to **promoting transparent, compatible approaches to digital policy at the global level**. The structured dialogue should provide opportunity for meaningful stakeholder

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[1] Hamilton, Daniel and Joseph Quinlan (2020), "The Transatlantic Economy 2020: Annual Survey of Jobs, Trade and Investment between the United States and Europe," *Foreign Policy Institute, Johns Hopkins University SAIS,* https://www.uschamber.com/sites/default/files/te2020_report_final.pdf

engagement in accordance with best practices for transparency, and through public statements and consultations where appropriate. Specific areas of engagement may include:

- **Artificial intelligence:** Consistent with the OECD Principles on AI, advance the adoption and uptake of trustworthy AI and facilitate interoperability across borders, emphasizing the importance of risk-based, flexible governance approaches that are aligned with international standards. Additional engagement on explainability and ethical design may be worthwhile.
- **Data governance and data-sharing:** capitalize on the large potential for data innovation and economic growth by facilitating the removal of barriers to widespread data-sharing and open data use, including those related to the quality, usability, and compatibility of datasets, while still supporting privacy considerations.
- **Cloud computing:** realize the full benefit of cloud computing by accelerating the digital transformation of public and private sectors and ensuring free flow of data and a competitive, secure IT environment, with fair access to markets, and alignment with international standards.
- **Cybersecurity**: foster compatible, risk-based approaches to strengthening cybersecurity that rely on global, industry-led, voluntary consensus standards – including services standards – including through bilateral engagement and information sharing on the development and implementation of cybersecurity certification schemes under the EU Cybersecurity Act.
- **Platform governance:** collaborate to identify and develop thoughtful, internationally compatible approaches to platform governance to advance a healthy online ecosystem.
- **5G:** continue bilateral discussions around ideas encapsulated in the Prague Proposals, including ways in which the U.S. and EU can work together to facilitate competition globally, foster increased innovation and investment in use cases, and encourage an alignment of approaches to address 5G security.
- **Competition:** consider deepening cooperation around proportionate instruments that guarantee a consistent policy approach and fair competition wherever necessary, with the goal of ensuring market access for innovative challengers, safeguarding consumer welfare and economic efficiency, and focusing on resolving proven market failures.
- **Digital taxation:** collaborate to advance a multilateral solution under the auspices of the OECD/G20 Inclusive Framework to address the tax challenges arising from the digitalization of the global economy, and the removal of unilateral taxation measures.
- **Digital trade commitments**: collaborate to advance strong digital trade provisions in bilateral, regional and multilateral fora, including those that enable cross-border data flows and prohibit data localization across sectors while ensuring appropriate protection of citizens' personal information.
- **Services market access**: collaborate to facilitate market access for digitally enabled services and service providers in sectors including retail and wholesale, telecommunications, computer and related (including online and cloud), transportation, logistics, warehousing, advertising, electronic payments, and others vital to the functioning of e-commerce and the digital-driven economy.

Standardization and Conformity Assessment

Industry welcomes bilateral discussions aimed at facilitating regulatory compatibility through concrete policy actions, including trade- and innovation-facilitative approaches to standardization policy. It remains our firm position that **the development of international standards should be undertaken through open, industry-driven, consensus-based processes,** and the most effective

means of facilitating regulatory compatibility is through governments' **reliance on international – rather than country- or region-unique – standards.** We recommend that policymakers explore innovative and transparent mechanisms that **allow industry and regulators alike to consistently rely on global, industry-driven, voluntary consensus standards – including services standards – as a means of demonstrating conformance with new regulatory requirements**. Such policy advancements would not only enable necessary regulatory compatibility in areas of new technologies going forward, but would equip regulatory authorities with the broadest range of tools to pursue innovation-friendly, fit-to-purpose solutions. Complementing this engagement, the Council should promote expert-level coordination in the development of new regulations in emerging areas, such as artificial intelligence, data governance, and robotics, including through the identification of relevant, global, industry-driven standards.

We also support continuation of engagement on **conformity assessment** with a view to **facilitating acceptance of conformity assessment results** (particularly where testing and/or certification may be required for new technologies). To this end, both sides should **expand reliance on proven, reliable international accreditation schemes, the IECEE CB Scheme, and other mutual recognition programs** to support the acceptance of test results furnished by any competent test facility regardless of that facility's geographic location. Finally, we recommend continuing engagement to facilitate, wherever appropriate, regulatory acceptance of **supplier's declaration of conformity** that complies with relevant international standards.[2]

Technology, Investment, and Security

As the world's leading innovation economies, the United States and EU have significant shared interests in aligning policy approaches in areas including **export controls and investment screening**. By deepening existing engagement on review processes for inward investments, the U.S. and EU can support their respective efforts to **identify and block transactions that have potential implications for national security while encouraging foreign direct investment flows that benefit both economies**. The U.S. and EU should work collectively to ensure that **any proposed export controls are targeted and tailored to the security threat at issue, agreed to at the multilateral level** and do not detract from either economy's leadership on innovative technologies. Authorities on both sides should also collaborate in exploring the potential for the **use of novel approaches to export controls** to make them more effective and dynamic, while preserving the technological leadership of both economies, including the viability of **end-use and end-user controls on the most sensitive technologies** and the potential for plurilateral controls amongst the EU, U.S., and other trusted allies.

Combatting Unfair Trading Practices and Facilitating Multilateral Collaboration

Through bilateral engagement as well as U.S.-EU-Japan trilateral discussions, the United States and EU have made laudable progress toward **shared, rules-based approaches to addressing unfair trading practices, including with respect to industrial subsidies, state-owned enterprises, forced technology transfers, and other distortionary practices not currently disciplined by WTO rules**. Under the auspices of a transatlantic Council, the EU and U.S. should further this engagement to develop shared perspectives on necessary updates to the existing rulebook, and advance strategies to promote the acceptance of such approaches by like-minded countries, including at the World Trade Organization (WTO). Furthermore, **the United States and EU should seek alignment on other**

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[2] e.g., ISO/IEC 17050 Parts 1 and 2.

areas of engagement at the WTO, such as institutional reform and plurilateral negotiations on E-Commerce, and in other international bodies, as appropriate.

Climate, Sustainability, and Innovation

Recognizing that **digital technologies are crucial to facilitating a transition toward carbon neutrality**, the United States and EU should leverage a transatlantic Council to explore measures ensuring that emerging technologies such as artificial intelligence (AI), 5G, cloud and edge computing, and Internet of Things (IoT) **help accelerate and amplify the impact of policies aimed at achieving common environmental and sustainability objectives**. As part of such engagement, both economies should pursue alignment in the development of **compatible and mutually reinforcing regulatory approaches, including through regulator-to-regulator engagement, reliance on global, industry-driven, voluntary consensus standards, adherence to transparency and good regulatory practices, and respect of multilateral commitments**. We also encourage collaboration in the Council to assess market access opening opportunities for trade in environmental goods and services, including at the WTO, as a means of facilitating the growth of green industries and the development of green technologies.

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ITI is a global trade association that represents over 70 of the world's leading information and communications technology (ICT) companies. ITI's membership comprises the leading global innovators from all corners of the technology sector, including hardware, software, digital services, semiconductors, network equipment, and platforms, as well as "technology-enabled" companies that rely on ICT to evolve their businesses. ITI engages policymakers around the world to promote innovation, security, and sustained economic opportunity.