ITI Comments to Support the U.S.-EU TTC Secure Supply Chains Working Group

June 22, 2022

The Honorable Thea D. Rozman Kendler
Assistant Secretary for Export Administration
U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Re: Request for Public Comments on Supply Chain Issues to Support the U.S.-EU Trade and Technology Council Secure Supply Chains Working Group

Dear Assistant Secretary Rozman Kendler:

Thank you for the opportunity to provide comments in support of the U.S. Bureau of Industry and Security’s (BIS) engagement with the U.S.-EU Trade and Technology Council (TTC) Secure Supply Chains Working Group (BIS-2021-046).

The Information Technology Industry Council (ITI) is the premier global advocate for technology, representing the world’s most innovative companies. Founded in 1916, ITI is an international trade association with a team of professionals on four continents. We promote public policies and industry standards that advance competition and innovation worldwide. Our diverse membership and expert staff provide policymakers the broadest perspective and thought leadership from technology, hardware, software, services, and related industries.

Our membership includes 80 high-tech and tech-enabled companies, including semiconductor designers, manufacturers, and producers; wireless and wireline network equipment providers, computer hardware and software companies; internet and digital service providers; mobile computing and communications device manufacturers; consumer electronics companies; payment networks; and network security providers. All of our members are headquartered in, operate U.S. subsidiaries, or otherwise have significant operations in the United States, and their investments have propelled economic growth and innovation across the country. Many (if not all) of these statements also accurately characterize our members’ engagement with the European Union (EU), which underscores both our commitments to the U.S. and EU markets and the importance of promoting alignment to foster stronger trade, investment, and research & development (R&D) flows.

Collaboration on global supply chains encourages strong, positive relationships between the United States and its allies, especially in light of today’s geopolitical situation. The first few months of 2022 have once again highlighted the range of risks and contingencies that may pose disruptions to the semiconductor supply chain, including geopolitical crises, pandemics, natural disasters, climate shifts, and regulatory constraints. The TTC has demonstrated its value as an essential forum to catalyze transatlantic leadership, as the U.S. and EU led globally coordinated, robust actions in
response to Russia’s invasion of Ukraine. Any approaches the U.S. and EU will take to support more secure and resilient supply chains through the TTC will likely set precedents for actions by other jurisdictions.

As the Working Group continues to build on outcomes from the first two Ministerial Meetings, ITI has developed key principles to guide BIS’s consideration of transatlantic cooperation on supply chains, such as identifying clear objectives, mitigating collateral damage from discrete domestic measures, and looking for opportunities to drive greater collaboration with other like-minded partners. The importance of robust industry engagement underpins all these principles, as governments and industry will have to work in close coordination to bolster supply chain resilience. We see this consultation as an important step and look forward to continuing our engagement with BIS in support of realizing ambitious outcomes in the Working Group.

**ITI’s engagement with the TTC**

ITI strongly supported the establishment of the TTC 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 digitally driven 21st century economy.

ITI appreciated the opportunity to represent the global technology industry during the TTC’s inaugural meeting in Pittsburgh and the second meeting in Saclay. During his remarks in Pittsburgh, ITI’s Executive Vice President for Policy Rob Strayer underscored the importance of basing future work across all working groups, including export controls, on shared tenets of non-discrimination, proportionality, and fostering international compatibility. ITI’s President and CEO Jason Oxman focused his comments in Saclay on the ways in which the TTC can advance the information and communications technology (ICT) sector’s contributions to the green and digital transformations globally.

Other recent ITI engagements include participating in the TTC Technology Standards Hybrid Workshop Event, submitting comments\(^1\) to BIS’s request for comment to inform the U.S. approach to the Export Controls Working Group, outlining priorities\(^2\) for TTC Global Trade Challenges Working Group, and identifying key policy outcomes\(^3\) ahead of the TTC Ministerial in May 2022. We as industry overwhelmingly support the mission of the TTC to grow bilateral technology trade and investment while strengthening global cooperation on digital policy, technology, and supply chains, and we want to do our part in supporting the realization of tangible outcomes.

We therefore applaud the U.S. and EU governments for convening these initial events and opportunities to provide input, and we urge policymakers to continue prioritizing transparency and stakeholder engagement, particularly as policy discussions become more discrete and/or technical in nature. Mechanisms could include hosting consistent, joint public briefings alongside political- and working-level TTC engagements, arranging for written public consultations where necessary to inform working group activities, and providing for regular, detailed public readouts. We are eager to

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1. [https://www.itic.org/documents/europe/2022.01.14ITIresponseetoBISTTCWG7consultation.pdf](https://www.itic.org/documents/europe/2022.01.14ITIresponseetoBISTTCWG7consultation.pdf)
3. [https://www.itic.org/documents/trade/2022.05ITITTCMay2022priorities.pdf](https://www.itic.org/documents/trade/2022.05ITITTCMay2022priorities.pdf)
learn more about opportunities for industry to engage with the newly established Trade and Technology Dialogue.

**ITI members’ experience with supply chains**

Most of ITI’s members service the global market leveraging complex supply chains in which technology is developed, made, and assembled in multiple countries, and service customers across all levels of government and the full range of global industry sectors, such as financial services, healthcare, and energy. We thus acutely understand the importance of securing global ICT supply chains as not only a global business imperative for companies and customers alike, but as critical to our collective security. As a result, our industry has devoted significant resources, including expertise, initiative, and investment in cybersecurity and supply chain risk management efforts. With this in mind, we have compiled select ITI submissions and policy papers relevant to discussions in the Secure Supply Chains Working Group (Annex I).

While ITI represents the breadth of the technology sector and counts several leading global semiconductor manufacturers amongst our membership, our response is informed by an end-user perspective on the importance of semiconductors and the broader ICT ecosystem to our industry. Semiconductors represent the foundational building blocks of – and serve as a fundamental enabler of – ICT products and services across our industry, products and services which in turn are integral to driving economic and innovative activity across most industries and sectors.

The global technology industry strongly supports EU and U.S. efforts – including through the U.S. CHIPS Act and the EU Chips Act – to bolster supply chain resilience and strengthen ecosystems for semiconductors and the broader ICT industry. We believe governments and industry must work together to achieve the trusted, secure, and reliable global supply chains that leverages technology and best practices from the private sector to support continued innovation, economic growth, and competitiveness. The effectiveness of these and other efforts in large part depends on collaborating with like-minded partners and allies to ensure that rulemaking and programming does not contribute to the bifurcation of supply chains, which would only serve to undermine resiliency.

**Comments on the May 2022 Joint Statement**

The May 2022 Joint Statement yielded a more concrete work program to identify and address vulnerabilities in supply chains that are critical to the green and digital transformations. As mentioned above, ITI shares the TTC’s welcoming of “recent announcements of major investments to expand innovative semiconductor manufacturing in both the United States and European Union.” ITI also appreciated the language in the statement on “fostering security, diversity, interoperability, and resilience across the information and communications technology services supply chain,” reflecting the importance of the broader ICT supply chain ecosystem as an important complement to the focus on semiconductors. Finally, ITI applauds the emphasis on future investments in research and development (R&D) and the ICT workforce.

We look forward to engaging with the TTC on these workstreams, including the newly established standalone workstream on semiconductors, leading up to and beyond the next Ministerial Meeting in late 2022. Industry is particularly keen to learn more about the Joint Statement’s previewing of a forthcoming workshop with already engaged stakeholders to discuss transparency regarding demand for semiconductors.
We note the TTC’s commitment to setting up a two-months pilot early warning system for semiconductor supply chain disruptions, with the possibility of rendering a framework permanent. Cooperation between governments and industry is fundamental to strengthening resilience of the supply chain. It is therefore critically important that any monitoring or early warning system is balanced, practical, and proportionate, to better facilitate industry participation and to reduce burden on companies. As the TTC pursues development of a common early warning and monitoring mechanism of the value system, ITI strongly encourages industry involvement in the identification of potential indicators and discussions intended to address supply chain disruptions.

**Supporting more secure supply chains**

In addition to sharing our observations on the May 2022 Joint Statement, we have developed several points intended to guide BIS and broader U.S. government engagement with the Secure Supply Chains Working Group.

The U.S. and EU should look to identify in greater detail joint principles and goals for the purposes of transatlantic cooperation on supply chains. Absent clear agreement on the goals of the Secure Supply Chain Working Group, the resulting policies are likely to be less effective and could lead to the costly and unnecessary duplication of efforts. It is critical to explicitly incorporate that greater resiliency does not mean a supply chain that is entirely located in the United States and/or the European Union. Collaboration on the broader ICT ecosystem should identify strategic areas for resilience investments using factors such as sole source dependencies or geographic concentration, as outlined in the Department’s one-year review of critical ICT supply chains. The ongoing pandemic has further demonstrated that resiliency requires the deployment of multiple, ongoing initiatives to provide for coverage in times of uncertainty, and to do so without the introduction of new requirements that limit global competitiveness and trade openness. Employed appropriately, a geographically diverse and multilateral supply chain security policy that incentivizes adoption of commercial best practices will foster supply chain resilience and security and help the U.S. and EU maintain technological leadership.

In keeping with Pittsburgh commitments to consult and coordinate on the use of domestic measures to ensure that trade policy supports market-based economies and the rule of law, we encourage both parties to pursue engagement to mitigate collateral consequences for the U.S. or EU economies arising from discrete domestic measures aimed at improving supply chain resiliency. Such engagement should also extend to complementary domestic actions — like the European Commission’s Proposed Regulation on Foreign Subsidies — that could benefit from tailoring to avoid undermining legitimate commercial activity that supports the U.S. and EU economies.

As the TTC seeks to deepen U.S.-EU cooperation, it should also seek to serve as a springboard for driving greater engagement with like-minded partners such as Japan, Korea, Taiwan, and others in the Asia Pacific and Americas. Such efforts could include acting as a convenor for formal supply chain reviews with allies, building upon existing efforts to ensure that market access barriers do not present impediments to the efficient functioning and resiliency of global supply chains, enhancing regulatory compatibility, and increasing digital trade partnerships. After all, companies with diversified supply chains are better able to adjust to supply chain shocks to keep production and shipments online. One element could include providing capacity building to help governments more effectively identify and mitigate supply chain disruptions within their domestic frameworks.
The TTC should explore ways to encourage development and application of digital tools that support flexibility, visibility, nimbleness, and resiliency within supply chains. For example, digital blueprints, or “digital twins,” of critical products and factories can facilitate faster response to supply chain disruptions, bringing the production of critical products or materials back online quickly. Since designing, adjusting, testing, and certifying can all take place in the digital layout, companies can re-direct inputs and taking advantage of excess capacity, wherever it may be, and do so quickly and efficiently. This approach can allow production increases ramping up more quickly to meet spikes in demand and incorporate more effective and efficient manufacturing processes.

Finally, while we appreciate the Trans-Atlantic Data Privacy Framework (TADPF) is outside the immediate scope of the TTC, the agreement in principle announced by Presidents Biden and von der Leyen) is a major step forward for the transatlantic relationship and one that is essential to restoring business certainty, stabilizing commercial data flows across the Atlantic, and safeguarding citizens’ fundamental rights to privacy. A **sustainable solution for international data flows forms the foundation from which TTC priorities and outcomes can be fully realized, particularly as it relates to making for stronger supply chains that rely on data flows.** We urge negotiators to finalize the legal text of the agreement to enable transatlantic data transfers and uphold European citizens’ fundamental rights and the legitimate security and public safety interests of the EU and U.S. governments.

**Supporting a more secure semiconductor supply chain**
While all the points above apply to the Working Group’s dedicated track on semiconductors, we have identified the following points specific to that workstream.

**TTC cooperation should seek to address all elements of the semiconductor ecosystem, including research, design, packaging, prototyping, and manufacturing** – each of which makes irreplaceable contributions to the overall capacity of the supply chain. Because semiconductors represent the fundamental building blocks – and serve as a fundamental enabler – of ICT products and services across our economy and that will drive the digital and green transitions, it is critical that all aspects of the semiconductor supply chain receive attention.

As the parties continue to develop and implement funding, incentives, and other programming to support the semiconductor ecosystem, **the TTC should commit to making schemes accessible to all technology companies that meet the agreed-upon standards and guidelines, without prioritizing domestic companies over non-domestic ones.** The development of semiconductors has benefitted from a fundamentally global and open ecosystem. Policies intended to promote U.S.-EU cooperation should remain aligned with the TTC’s commitments to multilateralism and open markets, and should not be based on the false premise that excluding or otherwise treating foreign entities differently will strengthen the competitiveness of U.S. and EU companies. Such an approach will also increase the likelihood that U.S. and EU companies can benefit from similar programming adopted in other markets.

**The TTC should assert that policymakers should not interfere in the market allocation of supply, even in the short term.** Picking winners or losers by prioritizing certain industries over others would undermine ongoing market efforts to build resilience into supply chains and make it more difficult for companies to adapt to meet market needs. Instead, emphasis should be placed on policies to incentivize increased chip production at all nodes to ensure that all industries have ample access to
semiconductors. If the U.S. is considering the development of TTC guardrails for allocation in the event of an extreme shortage, it should look to the Cybersecurity and Infrastructure Security Agency’s (CISA) Guidance on Essential Critical Infrastructure Workers as a model.

While policymakers have tended to focus their attention on leading-edge semiconductor policies, there is still a need for manufacturing resiliency of mature nodes, so TTC cooperation on semiconductor supply chains should reflect the full breadth of semiconductor technologies. For example, while some semiconductor technologies have migrated to 300mm wafers to support higher-end processing performance, there are many power management integrated circuits (PMICs) and other semiconductors that are still manufactured using 200mm nodes. These older fabs support a variety of mixed signal chipsets still in use today.

In addition to supporting the increased production of final semiconductor products, it is critical to ensure that procurement of raw materials used in the production of semiconductors is adequately supported. Components such as sputtering targets and high purity chemicals are key to the supply chain and fundamental for a robust domestic industry, particularly as semiconductor features evolve and pass below 10 nm and use new wafer production technologies.

Our membership welcomes the TTC’s commitment to “meeting the workforce needs necessary to sustain our competitiveness across the semiconductor supply chain,” and encourages both parties to consider making investment and policy commitments that support the development and maintenance of an equipped and trained workforce throughout the semiconductor supply chain in both the U.S. and the EU. The semiconductor and broader ICT supply chain depend on workers with highly specialized skills that require time to develop. Meeting future demand requires improving academic, technical and information technology education, updating those educational opportunities in tandem with new industrial requirements, and increasing the talent pool for the semiconductor industry. In addition, suppliers, producers, R&D centers, and academia should be able to attract the best global talent as increasing manufacturing capacity and R&D activities will generate a great number of job openings beyond what either market can fulfill with domestic talent.

In an effort to meet the objective of increased transparency related to supply and demand, as well as exchanging information on policy measures and R&D priorities, we anticipate that both the U.S. and the EU may seek to launch additional information collection activities. While the desire to identify data-driven solutions through increased visibility is understandable, we caution policymakers that information requests such as those included in BIS's September 2021 Request for Public Comments on Risks in the Semiconductor Supply Chain (the RFC) may not be the most effective way to identify and solve the issues related to semiconductor supply chains that companies and consumers may face in the future. While industry supports the goal of identifying and mitigating bottlenecks, the RFC’s sensitive nature sent a worrying signal to global semiconductor industry stakeholders, including to other governments that may have an interest in compelling companies to share similar data, perhaps for less worthy purposes.

U.S. and EU policymakers should keep the following lessons in mind when considering the role, means, and application of requests for industry information:

- As a preliminary matter, the RFC referenced above sought sensitive and proprietary information that has direct implications for enterprises’ competitive position in the marketplace, as well as their suppliers and customers. Disclosure of such information is sensitive, and concerns regarding that sensitivity are heighted both by a lack of clarity about
how this data will be used and who will have access to it, as well as by unclear messaging from the Administration on these points. Any requests for information should be accompanied with clear guidelines and expectations for the use, storage, and application of the data.

- ICT products use a complex array of chips, with a single device using semiconductors from potentially hundreds of suppliers, who in turn make thousands of different chip products, making the level of detail sought in the RFC a significant collection burden for the same teams at our member companies who are responsible for managing the chip shortage.
- The information requested is quite dynamic, with markets and bottlenecks changing on a nearly weekly basis, so we cautioned that the resulting information may not present an accurate or meaningful picture of the overarching semiconductor supply chain.

**Conclusion**

Thank you for providing an opportunity for our member companies to contribute input to the U.S. government’s engagement with the TTC Secure Supply Chains Working Group. As our letter demonstrates, the future of U.S.-EU cooperation to facilitate more secure and resilient supply chains is of critical importance to our member companies. We appreciate BIS’s consideration of our perspectives and look forward to continuing to work with the U.S. Department of Commerce, interagency colleagues, and other stakeholders contributing to the work of the TTC.

Uploaded to [https://www.regulations.gov/commenton/BIS-2021-0046-0001](https://www.regulations.gov/commenton/BIS-2021-0046-0001) with courtesy copy to ttc_secure_supply_chains@doc.gov.
Annex I. Select ITI Contributions to U.S. Activities on Supply Chains

- November 2021: ITI Submission to the Risks in the Semiconductor Supply Chain
- July 2021: Written Testimony by ITI Senior Vice President and General Counsel John Miller before the Senate Committee on Commerce, Science and Transportation’s hearing on Implementing Supply Chain Resiliency
- April 2021: ITI Submission to the Risks in the Semiconductor Manufacturing and Advanced Packaging Supply Chain