

U.S. – EU TRADE & TECHNOLOGY COUNCIL STAKEHOLDER MEETING

EU-US joint summary

27 October 2021

The EU-U.S. Joint Stakeholder Outreach event – hosted by the European Commission DG TRADE in an online format – was attended by more than 200 participants from the EU and US and featured key note speeches by EU and U.S. government representatives, followed by extensive open sessions with stakeholders' contributions. The event was therefore an important opportunity for discussing priorities in the agenda of the Working Group on Export Controls with representatives from the industry and civil society. Comments and inputs showcased great interest and support for the Working Group, especially from industry associations and academic experts.

In opening remarks, EU representatives signaled a strong sense of engagement and hopes to enhance transatlantic cooperation as well as to reinforce the export control multilateral system.

The EU provided an update on its revised export control regulation 2021/821, with an emphasis on:

- New autonomous controls at the EU level to prevent cyber-surveillance items from contributing to human rights abuses.¹
- A framework for EU member states to trigger EU-wide controls for emerging technologies.
- Increased opportunities for stakeholder engagement through technical experts groups and dialogue with stakeholders and third countries.

EU representatives highlighted that export controls are just one aspect of a multifaceted security strategy, which must also include investment screening mechanisms and frameworks to prevent cyber exfiltration of controlled data.

US Department of Commerce called stakeholders' attention to opportunities to comment on recently-published notices and rules, including those involving brain-control interface, License Exception Strategic Trade Authorization, and cybersecurity controls. BIS expressed a desire for increased engagement and information sharing with stakeholders, not only in terms of public comments on proposed regulations, but also on suspicious purchase inquiries and transactions of concern. The Department of State noted that export control regulations should maximize national security benefits while minimizing regulatory burdens by considering both the scope (range of items) and level (expansiveness of license requirements, availability of license exceptions) of controls.

Private sector stakeholders from the following organizations provided input to the discussion: Orgalim, European Semiconductor Industry Association (ESIA), U.S. Chamber of Commerce,

¹ BAFA directed participants to a brochure on its website setting forth the German interpretation of the EU's new autonomous cyber-surveillance controls:

https://www.bafa.de/SharedDocs/Kurzmeldungen/DE/Aussenwirtschaft/Ausfuhrkontrolle/20210816_eu-dual-use-vo_merkblaetter.html

Digital Europe, Intel, BusinessEurope, SIEPS, Danish Industry Association, Semiconductor Industry Association (SIA), Imperial College of London, ELMISystems, and DGAP (German Council on Foreign Relations). Issues raised included:

- Export controls should be implemented on a multilateral, rather than unilateral, basis.
- Stakeholders would like to see further alignment of export controls' policies in the US and the EU, while several participants advocated the adoption of well-balanced export control practices, that preserve security and do not hinder innovation.
- The EU should consider lessons learned from the U.S. Export Control Reform initiative and determine whether the continued regulation of "600 series" items under the EU's military, vice dual-use, export control framework places EU companies at a competitive disadvantage.
- The extraterritorial application of U.S. export controls creates regulatory burdens on European stakeholders and discourages European entities from collaborating with U.S. counterparts, creating incentives to avoid U.S. technology or, in some cases, hire U.S. persons (due to ITAR, EAR, and OFAC controls on certain activities of U.S. persons).
- The need to address the challenges associated with the fast pace of innovation and quickly evolving emerging technologies by developing a holistic approach that will protect and promote these technologies.
- The need for a common approach and understanding of the Wassenaar Arrangement Decontrol Notes.
- U.S. and EU licensing authorities should increase information sharing on license denials to ensure transactions rejected by export control authorities in one jurisdiction are not backfilled under export authorizations issued in another jurisdiction.
- The U.S. and the EU should clarify export control exemptions applicable to public domain information and fundamental research.

In concluding remarks, the U.S. and EU thanked the stakeholders for a productive and informative dialogue. The U.S. and EU expressed a need for continued engagement with stakeholders in order to address the changing landscape on the threats, emerging technologies, and the balance between multilateral export control regimes and bilateral engagements.