

***EU-US Trade and Technology Council***

***Public Consultation on Working Group 7 on Export Controls (WG 7)***

Dual-use items are critical when it comes to our capacity to innovate and develop new technologies, often in areas that are considered strategic. The EU and the US face common challenges in this area and this Working Group should provide a platform of enhanced dialogue and cooperation with the objective of enhancing bilateral trade and investment. At the same time, the broader geo-political environment should inform the discussions and help develop solutions to address legitimate national security and public order concerns as well as human rights violations<sup>1</sup> that are a result of practices and approaches to export controls followed by some governments. To this end, the EU and the US should join efforts to (1) prevent and tackle supply chain disruptions and ensure the availability of goods and technology; (2) align approaches in ways that do not cause unintentional harm to our own industry and allies, therefore safeguarding the competitiveness of EU and US business; and (3) lead the forging of alliances with other like-minded partners to tackle common challenges and level the global playing field.

To this end, and in line with the principles and proposed areas of cooperation that were included in the Statement on Export Controls – Annex II of the Pittsburgh Statement – we would like to make the following suggestions:

**1. Improving the effectiveness and transparency of export controls**

The EU and the US should work together to prevent bad use of dual-use goods, services and technology, but in a way that does not undermine legitimate trade. This work strand should start by further developing clearer definitions of terms such as “bad use”. In this regard, exchange of best practices, including on information sharing, between competent authorities on both sides of the Atlantic should serve the aim of improving transparency and coordination in the process of authorisations and limit costs for business.

Effective export controls are also predictable and agile export controls. In this regard, transatlantic dual use trade should be further enhanced and facilitated. For instance, it is important to clarify the scope of EU and US export controls and make sure that it remains targeted. The Working Group should also discuss ways to address practical concerns of EU and US businesses, including the issuance of licences and exceptions in the transatlantic sphere. From the part of European business, it is also important for the Working Group to look into questions related to the extraterritorial application of US export controls, for example when it comes to re-export requirements.

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<sup>1</sup> We take note of the “Joint Statement on the Export Controls and Human Rights Initiative”, signed on 10 December 2021 by the governments of Australia, Denmark, Norway, and the United States.

## **2. Dialogue on emerging and foundational technologies**

Discussion on emerging and foundational technologies involves developments on Artificial Intelligence (AI), cybersurveillance, aerospace, biotechnology and other sectors that are considered strategic from a non-proliferation and national security perspective. Both the US and the EU have undergone exercises to identify emerging and foundational technologies and the current legal frameworks – the EU's Regulation 2021/821 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (recast) and the US Export Control Reform Act of 2018 (ECRA) – offer possibilities for controls in this area.

This working group should also be used to increase dialogue on issues related to emerging and foundational technologies with the view to enhancing collaboration and avoid unilateral action (controls) that would hamper the competitiveness of EU and US industry. In this regard, close collaboration with business is necessary.

## **3. Safeguarding the multilateral export control regimes and promoting plurilateral solutions**

Enhancing cooperation between the EU and the US in the framework of the international export controls regimes, especially the Wassenaar Arrangement and the Australia Group, is critical to ensure a global level playing field. The challenges that we face in the context of export controls are global. Furthermore, companies operate in complex and global value chains. Multilateral rules may take time to shape and be adopted, as they often depend on consensus, but they are effective. Starting with better bilateral cooperation via this Working Group and more flexible plurilateral approaches with other like-minded partners, we call on the EU and the US to jointly lead the efforts to ultimately enhance multilateral processes.

### **Coordination with other Working Groups under the TTC**

We would also like to highlight the linkages between the discussion taking place in the context of the Working Group on Export Controls (WG 7) and the discussion under the working Group on Investment Screening (WG 8), where questions related to national security and public order are key, as well as the Working Group on Secure Supply Chains (WG 3), where an important part of the discussions is dedicated to semiconductors and critical raw materials, identifying and addressing dependency in these areas. It is important to ensure a consistent approach and deliverables in this process.