



March 21, 2023

The Honorable Antony Blinken  
Secretary of State  
Washington, DC 20520

The Honorable Gina Raimondo  
Secretary of Commerce  
Washington, DC 20230

The Honorable Katherine Tai  
U.S. Trade Representative  
Washington, DC 20508

The Honorable Margrethe Vestager  
Executive Vice-President and EU  
Competition Commissioner  
European Commission  
B-1049 Brussels, Belgium

The Honorable Valdis Dombrovskis  
Executive Vice-President and EU Trade  
Commissioner  
European Commission  
B-1049 Brussels, Belgium

Dear U.S.-EU Trade & Technology Council Co-Chairs:

Artificial intelligence (AI) is an innovative and transformational technology. Our members have long advocated for AI as a positive force, capable of addressing major societal challenges and spurring economic expansion for the benefit of consumers, enterprises, businesses, and our societies.

Representing companies with significant trade and investment links across Europe, we seek to promote rules-based and competitive trade, and alignment around emerging technologies, including through standards promoting the responsible use of AI. As the European Union moves forward in designing a regulatory framework for the use of AI, we urge European policymakers to maintain a proportionate and flexible risk-based and use case specific approach. In order to support innovation across Europe, it is critical that high-risk AI systems are defined in ways—and tailored to specific contexts—that provide clarity to industry and protect individuals.

Recent developments have raised significant concerns that Brussels may deviate from a firm commitment to a risk-based approach and firmly established principles of good regulatory practice, which risks undermining efforts to establish responsible standards for AI and market interoperability. Specifically, we are

concerned about the misclassification of general-purpose AI systems; overly far-reaching prohibitions and high-risk classification; imposition of unilateral export restrictions; and the extensive access that regulators may be granted to companies' source code. An uncoordinated and unilateral decision by the EU could set precedents that allow non-market economies to exploit such rules to their advantage and threaten the future competitiveness of the EU digital single market. Moving forward in this direction would also undermine the prospects of enhanced regulatory collaboration between the EU and its trading partners.

**First, we are particularly concerned about the proposed prohibition of entire classes of AI systems.** Banning a technology is an extreme remedy, and when prohibiting AI use cases, policies should seek to narrowly capture the specific uses of AI technology that they view as contrary to EU principles. Policymakers should focus on materiality of the potential harm when evaluating use cases for prohibition. The draft currently under discussion does not offer the necessary legal certainty for companies and proposals in the Parliament, such as the broad ban on biometric identification by private entities, would prohibit many beneficial use cases.

**Second, imposing the AI Act's high-risk requirements on all General-Purpose AI (GPAI) systems could have the unintended effect of depriving the EU of access to essential low-risk AI systems that could improve people's lives.** GPAI systems are an important part of the AI ecosystem and have democratized access to and use of AI technologies for a wide variety of organizations. GPAI systems have many low-risk, socially beneficial uses. Designating risk-and purpose-neutral AI technologies as an entirely new class of AI systems would fundamentally affect the architecture of the AI Act, undermining the goal for a carefully balanced, practical, risk-based, and effective approach. Reverting to the Act's initial approach, which focused on specific use cases of applications with the potential to cause significant, irreversible harms, would allow innovation in low-risk, general-purpose AI technologies to flourish.

**Third, we urge policymakers to avoid seeking extraterritorial application and export bans in the AI Act.** Limiting the availability of harmful AI is laudable and necessary. Yet, a unilateral approach that relies on banning entire use cases, without proper analysis and impact assessment, is unlikely to have the desired effect. Instead, it could prevent effective international coordination on shared priority areas, including machine-assisted healthcare and weather forecasting. Export controls should be

addressed in horizontal, technology-neutral legislation, following extensive international coordination and in accordance with WTO rules.

**Finally, requirements on providing access to source code and other proprietary technology or information—if ultimately deemed necessary in exceptional, high-risk use cases—should adhere to EU and international law that protects commercially-sensitive information.** Regulators’ access to companies’ privately held data sets and AI systems’ source code will expose valuable intellectual property, trade secrets, and personal information to cyberattacks and industrial espionage—including from adversarial countries. Similarly, obligations to retain datasets for a duration longer than required for their intended use need to be thoroughly weighed against data privacy concerns, standards for data minimization, and cybersecurity best practices. Businesses attempting to develop and deploy AI applications may choose to avoid the EU single market if valuable data are exposed to these risks. Removal of these provisions in favor of a regulatory approach that recognizes the proprietary nature of this information and focuses on assessing and testing the outcomes of AI systems, as opposed to their inputs, is critical.

As negotiations on the AI Act continue, we look forward to working closely with you to ensure Europe remains a great place to invest, innovate, and develop next generation technologies. Through enhanced coordination between businesses and governments in market democracies, we are confident we can develop coordinated, effective regulatory frameworks to maintain our competitive edge.

Sincerely,



Sean Heather  
Senior Vice President  
International Regulatory Affairs & Antitrust  
U.S. Chamber of Commerce



Marjorie Chorlins  
Senior Vice President  
Europe  
U.S. Chamber of Commerce