



December 1, 2022

The Honorable Anthony J. Blinken  
Secretary of State  
U.S. Department of State  
2201 C Street NW  
Washington, DC 20520

The Honorable Katherine Tai  
United States Trade Representative  
Office of the U.S. Trade  
Representative  
600 17<sup>th</sup> St. NW  
Washington, DC 20508

The Honorable Gina M. Raimondo  
Secretary of Commerce  
U.S. Department of Commerce  
1401 Constitution Ave. NW  
Washington, DC 20230

Dear Secretary Blinken, Secretary Raimondo, and Ambassador Tai:

The National Foreign Trade Council (NFTC) applauds the U.S. and European Union (EU) for launching the Trade and Technology Council (TTC) to enhance Trans-Atlantic cooperation on a range of trade and technology issues that are crucial for both our economies, and for generating greater prosperity globally. As you prepare for the next TTC meeting on December 5, we ask for your strong leadership to ensure that the transatlantic trade relationship does not become one-sided on issues of trade discrimination. Of immediate concern are a number of European regulations that discriminate against U.S. companies. We urge you to use the TTC to ensure fair treatment for U.S. firms operating in Europe, and to use the venue to prevent new barriers in both markets.

We were pleased that you and your European co-chairs jointly committed last May to work together to reduce unnecessary barriers to bilateral trade and investment,<sup>1</sup> create new opportunities, and seek amicable solutions to differences on trade issues to ensure that transatlantic trade reflects and promotes shared interests and values.<sup>2</sup> In addition, the Joint Statement of the May 2022 TTC set out an extensive set of annexes with specific priorities, including for the digital economy and green transition, with a goal of ensuring shared global leadership in these areas.

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<sup>1</sup> [U.S.-EU Joint Statement of the Trade and Technology Council](#) (16 May 2022) (“Joint Statement”).

<sup>2</sup> Joint Statement, para. 14.

We are aware that numerous EU officials, including TTC co-chair Executive Vice President and Trade Commissioner Valdis Dombrovskis, have raised concerns with respect to requirements associated with incentives in the Inflation Reduction Act to support clean energy technologies, including the tax credit for North American-made electric vehicles. In response to these concerns, a new “U.S.-EU Task Force on the Inflation Reduction Act” was established last month to promote a deeper understanding of the law and address opportunities and concerns for EU producers. Echoing the language used in the TTC Joint Statement, Vice President Dombrovskis has expressed an interest in resolving these issues before they become disputes.

The potential accommodations being considered for the EU through this new Task Force stand in stark contrast to efforts to protect U.S. companies from EU discrimination. In fact, EU regulations that target exclusively American companies and workers, such as the Digital Markets Act, Digital Services Act, EU Cybersecurity Certification Scheme for Cloud Services (EUCS), Data Act, and EU Standardization Strategy, among others, have gone largely unchallenged. Several EU policies adopted or under consideration would restrict U.S. companies’ ability to participate in the European market – in some cases by questioning whether U.S. companies are “trustworthy.” As CSIS found in a recent report, Europe’s regulatory approach “risks tilting the playing field in favor of Chinese competitors.”<sup>3</sup> This is concerning, given the Joint Statement’s explicit acknowledgment that the United States and EU must recognize one another as trustworthy and reliable trade, technology, investment, and security partners.<sup>4</sup> The EU Commission’s digital regulatory agenda undermines that partnership by creating preferences for European companies and discriminating against foreign firms, even from allied nations.

We encourage you in your respective leadership roles in the TTC to take a similar approach to seek a commitment from the EU to treat American companies and workers fairly in its laws and regulations, including by designating European companies under the scope of the DMA, and desisting from using the gatekeeper designation or similar discriminatory criteria in other regulations. For example, it is urgent to seek the removal of “sovereignty” provisions that would prevent non-European companies from eligibility for high security certifications in the EUCS.

These measures reflect a targeted approach to digital protectionism and import substitution that undermines rather than advances a competitive, secure ecosystem. Taken together, the EU’s agenda will damage U.S. economic competitiveness and run counter to several stated TTC goals, including elements of the Joint Statement on the importance of security, diversity, interoperability, and resilience for Information and Communications Technology and Services, the Annex on Promoting SME Access to and Use of Digital Tools,<sup>5</sup> and the Global Trade Challenges Working Group’s aim of reducing unnecessary barriers to trade and investment.<sup>6</sup>

We urge you to seek fair and non-discriminatory treatment for American companies in the European Union. We hope that these discussions can be advanced in the spirit of dialogue and cooperation the TTC was designed to foster, so that trade concerns like the ones above do not evolve into formal disputes. Our two sides have much more to gain by working together to achieve

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<sup>3</sup> [https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/221122\\_EU\\_DigitalRegulations.pdf?iuEI9KteAI\\_SKhjPCEWN8LIvqqORV02X](https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/221122_EU_DigitalRegulations.pdf?iuEI9KteAI_SKhjPCEWN8LIvqqORV02X)

<sup>4</sup> Joint Statement, para. 14.

<sup>5</sup> Joint Statement at 41.

<sup>6</sup> Joint Statement at 43.

the TTC's objective of promoting our shared values, taking on rising challenges in third countries, and creating new opportunities for both US and EU companies and workers.

We would be happy to discuss these concerns in greater detail with your staff or respond to any questions you may have.

Sincerely,

A handwritten signature in black ink that reads "Tiffany Smith". The signature is written in a cursive, flowing style.

Vice President, Global Trade Policy