

# Input to EU-US Trade and Technology Council for Working Group 7 - Export Controls

The current shifts in the geopolitical environment, together with the massive advances in many technological domains, seem to accelerate technology races that may easily get out of control. The illicit diffusion and misuse of sensitive technologies provide enough reasons for concern as they risk to undermine national, regional, and international security as well as human rights. While there are multilateral regimes and mechanisms in place to contain and minimize harmful applications, numerous challenges are unprecedented both in their intensity and in their scope. These challenges, well identified by the EU-US Trade and Technology Council, urgently call for innovative, concerted, and sustained efforts by governments, industry associations, civil society organizations, and research institutions.

To contribute to the laudable objectives regarding Export Controls the TTC has set, a multi-disciplinary network of independent experts from research institutes, think tanks, and policy advisory bodies, has joined forces and drafted the following priorities for action. A further elaboration of the actions recommended below will be performed by the members of this international network in the weeks and months to come, as WG 7 of the TTC will proceed in its work.

## ➤ Update and advance risk assessment methodologies to keep pace with the challenge of technology mission creep

There is a need to continuously adjust and refine risk assessment methodologies aiming to monitor emerging and converging technology trends, detect novel transfer channels and suspicious end users, as well as anticipate instances of accidental and intentional harmful end usage. This requires that all parties involved, including exporters and authorities, direct their attention not merely to emerging technologies, but also to readily available technologies that may be misused. Robust science technology & innovation (STI) assessment models should be advanced to take account of an array of technical and non-technical parameters for assessing the potential of both beneficial and malicious applications. The goal is to deliver better “situational awareness” given the fast-moving character of current technological developments. In this process, the

notions of “international”, “national”, and “human” security, among others, need to be carefully defined and operationalized, in order not to securitize unnecessarily or prematurely R&D activities in strategic technology domains.

➤ **Move upstream in the monitoring of R&D processes, and engage a broader set of stakeholders**

As processes of technological innovation and diffusion, including those leading to intended or non-intended malicious use, are not linear, they often encompass stages of R&D less mature than high Technology Readiness Levels. Potential malicious uses can emerge at very early stages of research programs, rapidly giving rise to critical applications of concern. Export controls, particularly those focusing on Intangible Technology Transfers, will also need to monitor R&D processes at earlier stages in a more systematic and comprehensive way. Strengthening the outreach to and active engagement of stakeholders (including scientific project leaders and researchers) who work at such stages will be key for raising their awareness and commitment regarding some of the most problematic risks of technology transfers. Such engagement can set the stage for developing a tailored approach for proliferation risk assessments in the respective research communities and provide an “early-warning” system for export controls practitioners.

➤ **Develop guidance for human rights risk assessment on the basis of human rights due diligence at international level**

Among multi-faceted risks associated with the transfer of sensitive technologies, one of the key issues to be addressed before the TTC pertains to human rights risks involving the transfer of surveillance technologies, as articulated in the Inaugural Joint Statement of September 2021. While it would be no doubt challenging to establish and implement a common approach to human rights risk assessment, it is essential for the TTC to analyze how international standards and practices on human rights due diligence can be applied to the context of export controls. While human rights due diligence may be relatively new in the field of export controls, it has been developed extensively in other contexts of business and human rights. In particular, the UN’s Guiding Principles on Business and Human Rights have been implemented and operationalized in many sectors, and the interpretation of due diligence in the field of export controls should get orientation from practices built elsewhere. While the debate has been focused on surveillance technologies, an operationalized human rights risk assessment framework should be applied to other dual-use technological domains.

## ➤ Engage with multilateral regimes with the aim of providing good practices and achieving upward convergence

As the Inaugural Joint Statement of September 2021 confirmed, a multilateral approach is most effective for achieving the aims of export controls. At the same time, mini- and plurilateral formats may showcase ways for more timely and effective prevention of misuse. The TTC should serve as a venue through which the EU and US formulate a set of common guidelines and practices to collaboratively inform discussions within existing multilateral export control regimes (primarily the Wassenaar Arrangement). That should serve as positive precedence for drawing the regimes' attention to the importance of coherent and responsible Research and Innovation governance. As noted above, actively engaging with multilateral export control regimes will be crucial for the TTC in order to incorporate international standards and practices regarding human rights due diligence, besides international, regional and human security, in common frameworks for risk assessment on export controls.

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