

# Summary Report

## EU-U.S. Trade and Technology Council (TTC)

### Working Group 7 on Export Control

#### Joint EU-U.S. Stakeholder Outreach on Dual-Use Research

*Hosted by the U.S. Department of Commerce, U.S. State Department and the European Commission DG TRADE*

21 November 2022, 19:00 PM – 21:00 PM (CEST)

The 3<sup>rd</sup> Joint EU-US Stakeholder Outreach meeting focused on the impact of export control for **dual-use research and academic communities**.

US and EU co-chairs opened the meeting, welcoming stakeholders' input and recommendations for the way forward in the Export Control Working Group in this area.

In a fast-developing geopolitical environment, EU and US researchers presented views on cross-cutting challenges faced by organisations and individuals engaged in international research and cooperation when complying with continuously evolving dual-use export control rules.

Universities want to comply with export control regulations but often lack resources to navigate complex rules, including in case of extra-territorial effect of controls on transfer of dual-use knowledge that may impact on international R&I cooperation.

Different legal approaches to controlling 'basic scientific research' in the EU and 'fundamental research' in the US was identified as key challenge by participants, especially when the transfer of know-how involves information that is generally not captured in scientific papers. Panellists made the point that the increased level of collaboration between research organisations and industry inevitably blurs the distinction between basic and applied research work.

According to EU stakeholders, a new / harmonised definition and approach to controlling 'basic scientific research' in the EU is needed to improve predictability, while EU and US should also align their licensing requirements for software or technology to be released 'in the public domain'.

It was also noted that EU and US could work for closing the information gap in transatlantic trade of technology, through making the provision of export control data (ECCN) by the US technology supplier mandatory, as this would make compliance with re-export rules more straightforward.

EU research organisations look very closely at US entity lists when putting in place internal compliance programmes, though often lacking good information on how to deal with entities and destinations of concern. They would also welcome common and clear criteria on controls over emerging technologies. This would allow to identify areas of research warranting extra attention by EU and US researchers.

With more emerging technology finding its way in transatlantic and international R&I, EU and US co-chairs pointed to the opportunity of developing further guidance under the TTC.

When asked about whether rules on 'deemed export' are also of concern, EU researchers noted that according to the EU Dual Use Regulation rules on technical assistance may also concern EU research organisations when conducting international research cooperation in dual use technologies.

During the discussion, participants commented on the opportunity to consider alignment on license exceptions when certain standards of encryption is used in the transfer / sharing of dual-use technology, for instance through using the cloud. In this respect, according to US law, the transfer does not take place until the decryption key is shared with the recipient. Under EU law instead, it is the act of 'making available' that is critical to determine when the transfer takes place, regardless of when the decryption key is made available.

Stakeholders also mentioned past examples of good practices, such as US university research on bird flu bacteria in the past where researchers acted in close coordination with government authorities – including in the field of export controls – when dealing with international R&D.

The issue of research funding from countries of concern was also raised. US co-chair commented that the actual reason for concern is not the geographical source of the funding itself, but rather the actual control over the funded research and its results.

In their final remarks, the co-chairs thanked speakers and participants for their contributions and confirmed that the TTC Export Control Working Group will look at devoting time and resources for further exchanges in future meetings of the Working Group.

The EU reiterated that stakeholders can refer to the Commission's [Futurium platform](#) for updated information about the work of the TTC as well as for exchanging comments and suggestions.