AmCham EU

SPEAKING FOR AMERICAN BUSINESS IN EUROPE

Recommendations to the Swedish Presidency of the Council of the European Union

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Foreword

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The Swedish Presidency of the Council of the EU takes place at a difficult time for the EU and the world. The volatility of the external environment is a serious concern for American companies in Europe, with the war in Ukraine, the energy and food crises, staggering inflation levels and the disruption of global supply chains. However, nothing should derail us from our unwavering support for the people of Ukraine. The American Chamber of Commerce to the EU (AmCham EU) continues to condemn the war, which violates international law and poses a clear threat to the fundamental values of human dignity, rule of law and democracy.

The Swedish Presidency takes on a critical task in supporting the development of an outward-looking industrial strategy in Europe, one that relies on the twin digital and green transitions. As Europe moves to reduce its dependence on Russian natural gas, European unity is critical. The EU needs to act jointly to provide concrete incentives that produce more local and low-carbon energy, while Member States should strive for common responses, harmonised measures and effective enforcement.

In light of these challenges, the transatlantic relationship is more important than ever. The EU and the US are drivers of global growth: together, they make up the largest and wealthiest market in the world. Aggregate US investment in Europe totalled more than €3.4 trillion in 2021 and directly supports more than 4.9 million jobs in Europe. In particular, the Trade and Technology Council provides a unique opportunity for transatlantic leadership as a practical forum to tackle emerging issues and shape the global economy's direction around their shared values. Now is not the time for new trade tensions. The ongoing discussions around the US Inflation Reduction Act are important, and we hope that the EU and the US can identify a constructive way forward. The difficult geopolitical and economic environment calls for transatlantic cooperation, not division.

In this context, on behalf of AmCham EU and its member companies, I am pleased to present our recommendations to the Swedish Presidency. Many of the issues raised in this report are vital to shaping a strong and competitive EU, and we hope that these recommendations provide concrete input and direction to the Presidency's work programme over the coming six months.

AmCham EU stands ready to support Sweden in this crucial role and wishes the Presidency every success.

Investing in Europe's future:
the twin transition

2023 policy priorities

Building a more digital and sustainable society will define Europe's continued competitiveness and leadership on the global stage. Celebrating its 30th anniversary this year, the Single Market remains the EU's most powerful tool to enable this transformation and the key driver of foreign direct investment into Europe.

The war in Ukraine sheds a different light on existing priorities. It brings a renewed sense of urgency on issues such as the energy transition, the diversification of supply chains or the reduction of strategic dependencies. It also demonstrates that the EU needs to work closer than ever with like-minded partners, such as the US, to defend and project their shared values globally.

Green transition

What our planet looks like tomorrow will depend on how we balance economic recovery and environmental protection today. With harmonisation across environmental and climate policies, clearly defined targets and a path for achieving them, AmCham EU companies are partners in defining and implementing climate policies. The following seven key action areas within the Green Deal and beyond are essential to the green transition:

- **Fit for 55:** The climate and energy policy framework developed for emissions reduction should be all-encompassing and promote harmonised legislation to balance sustainability, competitiveness and innovation.
- **Chemicals:** Cutting-edge innovation to find alternatives to harmful substances can protect human health and safeguard the natural environment.
- **Circular economy:** Maintaining the value of products, materials and resources for as long as possible, while supporting recycling infrastructure and technologies, can create a more sustainable economy. It is crucial that consumers are also empowered in the green transition and are able to fully participate in the circular economy.
- **Energy:** reducing energy demand, establishing impact-assessed short- to long-term measures and transitioning to low-carbon technology will be key components to decarbonise the economy and ensure the workability of energy markets.
- **Finance:** Integrated European capital markets to attract and activate new pools of investment can drive sustainable innovation.
- **Food systems:** Short and long-term measures, agreed upon through private-public collaboration, must be implemented to ensure sustainable food security and affordability.
- **Mobility and transport:** A balanced approach to low-emission mobility and heightened use of digital technologies can contribute to a more competitive and clean transport sector.

Digital transformation

The digitisation of industries and public services will be vital as we build a more resilient and sustainable economy. Investments in the digital sector can enhance the broader business community's ability to contribute to future growth. Additionally, investments should ensure that all Europeans benefit from an increase in digital services and innovations. Eight areas crucial to this digital transformation are:

- **Artificial Intelligence (AI):** By creating an ecosystem of trust and excellency, the EU can become a vibrant hub for researching, developing and innovating trustworthy AI technologies.
- **Connectivity:** The rollout of 5G, coupled with fibre and enhanced Wi-Fi capacity, can give consumers access to more information faster than ever before and can make business more efficient.
- **Cybersecurity:** The security of products must be enhanced in the early stages of their design to achieve cyber resilience. Cybersecurity should be strengthened through open dialogues with key stakeholders, including industry.
- **Digital capacities:** Europe should accelerate investment, innovation and entrepreneurship to foster the uptake and scale-up of new technologies such as cloud, artificial intelligence and blockchain, which have tremendous economic and social potential.
- **Digital skills:** Significant investments in education, life-long learning, upskilling and reskilling are essential to ensure the workforce is ready for the jobs of tomorrow.
- **Intellectual property rights:** Efficient, well-designed and balanced intellectual property rights (IPR) enforcement can promote investment, research, innovation, growth and companies' global business activities. It can also allow Europe to increase its global competitiveness in innovative sectors.
- **International data flows:** Data protectionism must be avoided, and international data flows must be ensured through the Transatlantic Data Privacy Framework or the EU data strategy to foster competitiveness and the digital transformation.
- **Semiconductors:** Europe can boost its semiconductor production capacity by investing in research, development and innovation, increasing its supply chain resilience through public funding, expanding its talent pipeline and establishing a crisis response mechanism to monitor the semiconductor ecosystem.

Agriculture

Common Agricultural Policy (CAP)

EU agricultural policy can create a regulatory environment that encourages innovation in developing sustainable food systems. For this, it must remain aligned with the objectives and targets of all EU Green Deal initiatives, respect the urgency of protecting our planet and enable farmers to achieve more sustainable, efficient and safe farming practices.

Recommendations:

- Ensure fair and non-discriminatory treatment of local versus imported raw materials to supply the European market. This includes removing non-tariff barriers to trade and recognising different agronomic needs around the world.
- Support research and development (R&D) initiatives in agriculture, including digital and precision farming, to support farmers and help improve food safety and public health.
- Invest additional funding to incentivise farmers to adopt more sustainable agricultural practices that meet the strengthened environmental and climate ambitions of the CAP reform.
- Ensure a well-functioning international agri-food supply chain that supports the economic recovery.

Deforestation-free products Regulation

The different agricultural commodities included in the scope of the deforestation-free products Regulation proposal face unique challenges linked to their specific attributes, local environments and applications. In recent years, company voluntary actions and medium-term commitments have greatly improved current controls and information on what is happening on farm. Businesses continue to work towards deforestation-free supply chains.

Recommendations:

- Use traceability approaches depending on the nature of the commodity. The EU and producing countries must coordinate to help establish traceability systems for indirect suppliers including consistent and updated registration of farmers and their ownership of land.
- Place due diligence obligations on the manufacturer or importer of products to avoid redundancy and unnecessary burden on economic operators further down the supply chain.

= issue area related to the green transition   = issue area related to the digital transformation

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Deforestation-free products (cont.)

- Promote workable border controls by creating audits to prevent suspensions and logistical bottlenecks that arise from checks or suspension per shipment.
- Develop guidelines for minimum standards and quality control of third-party verification schemes.
- Maintain the current scope of the proposal. Increasing the scope to include, for example, palm oil-derived products such as soaps and cosmetics would greatly increase the proposal's complexity, the impact on border processes and the volume of goods moved through the border.

Farm to Fork Strategy (F2F)

If successfully implemented, the F2F could protect the environment, promote sustainable production and consumption, produce healthier food, facilitate sustainable trade and encourage increased research and innovation, all while preserving Single Market principles.

Recommendations:

- Carry out a comprehensive cumulative impact assessment on all Green Deal initiatives affecting farming.
- Ensure further biomethane and electricity deployment in the agriculture sector to promote the implementation of green fuels.
- Use the F2F to drive sustainable change in the supply chain, which reflects the need for a framework that encourages innovation and broader alternatives.
- Base F2F-related initiatives on scientific evidence.
- Support the development of sustainable veterinary medicines through the F2F to incentivise a reduction in environmental impact.
- Consider vaccines as sustainable pharmaceuticals and as a tool to combat antimicrobial resistance (AMR).
- Incentivise the digitalisation of agriculture through the F2F and support farmers in making the transition.

Food security and affordability

The Russian war in Ukraine has exacerbated food insecurity in the most vulnerable segments of society, and crippling inflation has rendered food unaffordable for many households across Europe. To address the ongoing global food security crisis, both short and long-term measures need to be applied. Governments, civil society organisations and the private sector have to strengthen their collaboration to ensure that the best possible solutions are identified and implemented.

Food security and affordability (cont.)

Recommendations:

- Aim short-term measures at increasing agricultural production in Europe.
- Mark the entire food production chain as essential considering the recently published EU measures around energy savings. The agricultural and food supply chains must continue to operate.
- Stimulate free trade for agricultural products to avoid export restrictions for agricultural raw materials. Regulators must ensure that regulatory frameworks do not create additional uncertainties in global food production and trade flows.
- Invest additional funding to incentivise farmers to adopt more sustainable agricultural practices that meet the strengthened environmental and climate ambitions of the CAP reform.
- Ensure a well-functioning international agri-food supply chain that supports the economic recovery.

Implementation of the legal framework for veterinary medicinal products (VMP)

The VMP framework regulates the authorisation and use of veterinary medicines.

Recommendations:

- Prevent hampering international trade by avoiding the imposition on third countries EU technical measures that are not compatible with World Trade Organization (WTO) rules.
- Base the implementation of the VMP Regulation on a sound benefit-risk assessment, not hazard-based approaches.
- Ensure that the use of a list of critically important antimicrobials does not hamper transatlantic trade.
- Invest in research and bring to market innovative treatments, technologies and care options.

Risk assessment, perception, management and communication in the agri-food sector

A balance between risk assessment, perception, management and communication is of paramount importance for the integrity of the food chain and to promote innovation and sustainable growth in the agri-food sector.

Recommendations:

- Communicate risk management decisions in a clear, timely and transparent manner to encourage consumer acceptance of technological developments.
- Prioritise rigorous scientific and risk-based decision-making in all discussions.

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Sustainable nutrition

The triple burden of malnutrition – overnutrition, undernutrition and insufficient consumption of essential nutrients – is a problem in Western countries. Many consumers lack the essential knowledge to make informed choices for a varied and balanced diet.

Recommendations:

- Make essential information about nutrition part of education curricula and campaigns across Europe.
- Provide EU citizens with easily accessible, affordable, nutritionally adequate and safe food choices. A coordinated effort throughout the food chain is necessary to achieve a healthier and more sustainable food environment.
- Promote innovation in the food space, support the use of sustainable food technologies and guarantee easier access to a variety of food products across the EU.

Trade and sustainable food systems

Global food systems account for nearly one-third of global greenhouse gas emissions and result in severe biodiversity losses; they must be redesigned. Reciprocity in food trade agreements, also known as mirror clauses, have become increasingly prevalent in the debate on EU food safety and environmental standards over the last year. Transitioning towards more sustainable food systems should be done in a holistic, fair and coordinated way, and in cooperation with all actors at all levels of the food and feed supply chain.

Recommendations:

- Consider the global dimension of trade and sustainable development – including collaboration with the EU's trading partners – when dealing with the F2F and EU food and agriculture policy (eg CAP).
- Account for production conditions in third countries when creating regulatory barriers. They should be science and risk-based, linked explicitly to sustainability objectives.
- Make mirror clauses science-based and compliant with WTO rules. The EU institutions should consider collaborating with WTO bodies before including certain mirror clauses in all trade agreements to ensure lawful and science-based decision-making.
- Consider third-country perspectives for any agreements, especially from those that have similar food productions methods and standards as those in the EU.

Competitiveness
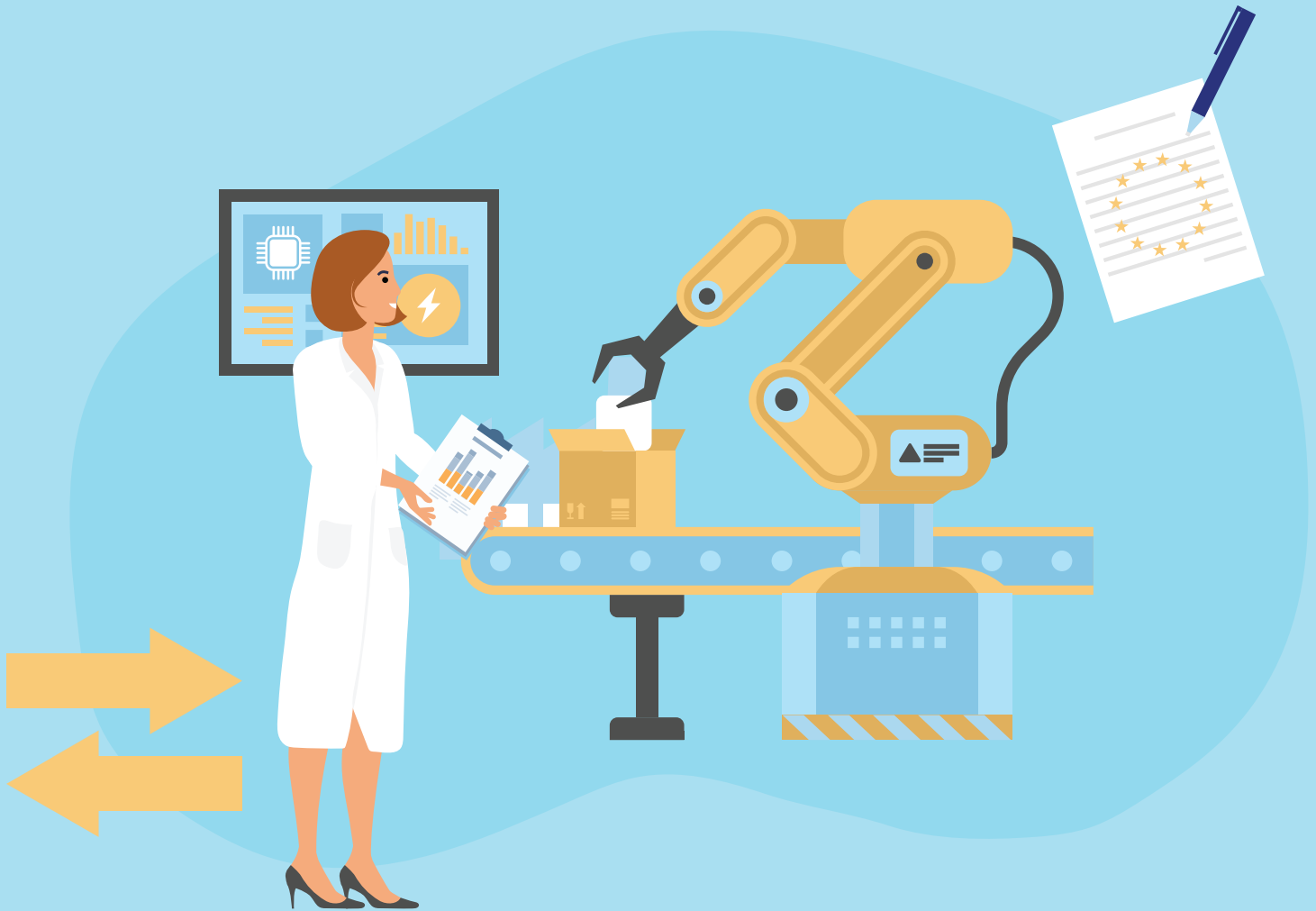
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Customs procedures

Although the EU operates in a Customs Union and constitutes a Single Market, the free movement of goods continues to face considerable obstacles. Currently, importing into the EU results in different customs obligations in each Member State, as they use different local languages and comply with varied rules.

Recommendations:

- Harmonise national rules related to the movement of goods and customs in the EU and enhance cooperation among customs authorities. This should safeguard the competitiveness of the internal market as well as EU-level research and development efforts.
- Expedite the mandatory introduction of the Single Window to ensure a truly frictionless Single Market.
- Increase funding for border authorities in line with the Customs Action Plan to prevent counterfeit from entering the market.
- Make the trade-facilitating measures initiated at the border during the COVID-19 crisis permanent, while avoiding new restrictions that obstruct trade and invite retaliation from trading partners.
- Prioritise the facilitation of e-commerce to ensure ongoing competitiveness, as it has risen considerably in recent years but continues to face regulatory scrutiny.
- Ensure a robust dialogue with industry stakeholders on the reform of the Customs Union.

Electronic data interchange (EDI) standards

EDI standards can provide certainty for relevant authorities and simplify the operation process for all operators over liability by aligning value added tax (VAT) with customs legislation and by establishing an Import One Stop Shop model that includes an end-to-end green lane status.

Recommendations:

- Centralise procedures through a single European Customs Agency where economic operators can file their customs declarations in order to streamline free movement of goods.
- Implement the VAT e-commerce package in a harmonised and effective manner.

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EU competition law for the digital age

EU competition law forms the bedrock of investment in the Single Market, ensuring an open and free market system for all.

Recommendations:

- Avoid unreasonable inversions of the burden of proof, which could weaken the market and call into question the reliability of existing case law.
- Guard against 'mission creep', which could see competition instruments misused to achieve goals that are beyond the scope of EU competences.

Foreign subsidies

The EU and the US have an opportunity to combat distortions of competition in the EU caused by foreign subsidies.

Recommendations:

- Ensure balanced and proportionate future legislative proposals on non-EU subsidies, acquisitions of EU assets by companies in receipt of non-EU government funding and public procurement bids from third-country entities.
- Clarify definitions for core concepts and mechanisms, such as what transactions and regimes are considered to give rise to a 'financial contribution' or 'subsidy'.
- Provide indicators of what may trigger a review through the ex-officio tool, including clear thresholds and timelines.
- Exclude financial contributions of the target from considerations.
- Align the resulting proceedings from the Commission's foreign subsidies proposal (ie notification obligation and merger notification) with the Commission and the Member States.
- Balance competition protection and limited administrative burden for businesses. Requirements for companies to make judgement calls should be excluded.
- Grant the Commission sole competence to review cases of general distortions and acquisitions. The investigation period should not exceed 18 months.
- Exclude from the scope of foreign subsidies any national security and defence activities that are party to the WTO Agreement on Government Procurement and transactions carried out through competitive and transparent procedures.

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Industrial competitiveness

Industry is a critical driver of economic growth, innovation and prosperity. The EU has made 'open strategic autonomy' the cornerstone of its approach to trade policy. The EU industrial strategy must have a strong internal and external dimension that makes the EU's domestic market more attractive to foreign investment and ensures equal opportunity for market players. This is key for companies to remain competitive globally and achieve their digital and decarbonisation goals.

Recommendations:

- Support a renewed EU industrial strategy.
- Pursue free and rules-based trade.
- Aim for the effective implementation of the Better Regulation agenda.
- Enhance international cooperation to facilitate the adoption of globally coherent rules, standards and regulations.
- Define more concretely the criteria that would apply to the terms 'open', 'strategic' and 'autonomy', and how they will translate into practical policy choices in internal and external contexts.
- Assure the EU's allies that it remains open, global and non-protectionist with a continued focus on helping companies to grow, reinvest and develop in Europe.

Intellectual Property Action Plan

IP is a key pillar that will support economic development and pave the way towards EU leadership on the global stage. A robust European IP system based on strong intellectual property rights (IPR) and appropriate enforcement drives research, manufacturing, employment and innovation, and attracts capital for pioneering and creative enterprises. In addition, IP-intensive industries create high-value, long-term jobs.

Recommendations:

- Complete the Unitary Patents System.
- Maintain a strong and competitive framework of IP incentives to stimulate R&D (eg in innovative medicines).
- Strengthen the enforcement of IPR, specifically through funding and prioritisation of law enforcement agencies.
- Adapt the EU framework to an increasingly digital ecosystem while refocusing on approaches to tackle the volumes in physical trade.
- Modernise the EU design legislation.
- Protect against reverse engineering of chips through technological protection measures in the Chips Act.

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IPR enforcement in third countries

IP violations, including piracy, counterfeiting and other infringements, are global and growing issues that harm investments and consumers.

Recommendations:

- Secure a better IP environment in third countries such as China, India, Indonesia, ASEAN, Morocco, Russia, Saudi Arabia, Turkey and the United Arab Emirates, and engage with them on technical programmes.
- Strengthen EU-US cooperation to prevent IP violations throughout the global supply chain.
- Cooperate with like-minded global partners to tackle IP infringements in third countries that might jeopardise EU competitiveness.

IPR enforcement offline and online

Europe has one of the strongest IPR protection frameworks, which is key to incentivise investment in innovation, scientific and technological research as well as creativity. Given that IP infringements of all kinds such as piracy, reverse engineering, patent infringement and counterfeiting have continued to grow in size and scope, it is important to modernise and strengthen the application of the existing framework.

Recommendations:

- Strengthen enforcement of IPR to protect consumers and IP-owning businesses.
- Continue collaboration with IP enforcement agencies in third countries to enhance information sharing on IP infringements and key players (relevant for anti-counterfeiting and piracy operations) as well as share best practices for IP protection and enforcement.
- Improve visibility of the EU Counterfeit and Piracy Watch List so that IP brand owners and consumers can better understand the list's benefits.
- Build on on existing programmes to combat counterfeiting and protect IP by increasing cross-border cooperation, giving a larger role to online intermediaries, strengthening the existing co-regulatory tools (eg follow through of KPIs in the Memorandum of Understanding for stopping the sale of counterfeited goods online) and promoting more enforcement actions by Member States.
- Build on the concepts and rules of the Digital Services Act when working on the upcoming toolkit against counterfeiting.

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Patents' compulsory licensing

Intellectual property rights (IPR), such as patents, provide a framework to recuperate R&D investments. They provie a foundation for collaboration between companies, research centres, universities and individual entrepreneurs. They also affect investment decisions across industrial ecosystems and allow companies to secure licenses of other innovators' patented technology while focussing on their own area of expertise. Therefore, initiatives to amend the legal frameworks behind the use of compulosry licensing must be done under certain key considerations.

Recommendations:

- Remain within the current parameters of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).
- Define compulsory licensing's geographic scope, duration and nature.
- Utilise compulsory lincesing as an option of last resort.
- Consider that issuing compulsory lincenses for products that have been developed to address a specific crisis may be a factor that disincentivises inventors from developing new solutions for future crises.

Pharmaceutical incentives framework review

The current legislative revisions stemming from the Pharmaceutical Strategy for Europe can be an outstanding opportunity to maintain a competitive IP-incentive framework for pharmaceuticals.

Recommendations:

- Collaborate with industry to address areas of high unmet medical need such as rare paediatric diseases and AMR.
- Maintain and further encourage the global competitiveness of the EU's life science sector by ensuring the highest standards of IP and regulatory incentives and protections.
- Implement new pull incentives to the current market failures in antimicrobial R&D and the fight against AMR.

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Single Market

The Single Market is the basis of Europe's economic success and a key driver of US investment in Europe. Policymakers need to continue to stand up for the achievements of the Single Market and prevent fragmentation.

Recommendations:

- Deliver greater action at Member State level to protect the integrity of the Single Market.
- Foster the right environment to conduct business and ensure a solid infrastructure to encourage skills, talent, innovation and labour flexibility.
- Develop the Digital Single Market where online services, goods and data can move freely to allow citizens and companies to reap the full benefits of the digital transformation.

Economic and Financial Affairs

ISSUE	RECOMMENDATIONS

Banking Union

The European Banking Union is aimed at strengthening financial stability via improvements to prudential requirements, as well as to recovery and resolution mechanisms.

Recommendations:

- Complete the Banking Union.
- Ensure a globally consistent implementation of international banking standards (eg the Basel framework).
- Avoid fragmentation and localised ring-fencing requirements.

Capital Markets Union (CMU)

The second CMU action plan outlines a comprehensive strategy to further unlock the potential of capital markets across Europe. This renewed effort is crucial to address the continued fragmented state of Europe's capital markets, which represent an obstacle to cross-border investments and efficient allocation of capital.

Recommendations:

- Encourage the establishment of formal consultative mechanisms between regulators and supervisors to support inter-jurisdictional deference.
- Continue to prioritise increased international coherence, alignment and consistency throughout the EU, coupled with cross-border regulatory and supervisory cooperation as the foundation for openness.

Digital finance

The speed and scale of adoption of new technologies and digital business models by financial institutions poses new risks for customers and the financial system overall.

Recommendations:

- Enable the financial services sector to test and develop new applications.
- Foster improvements within customer engagement, processes, service delivery, risk management, fraud detection, anti-money laundering and antiterrorism financing.
- Apply the principle of 'same activity, same risk, same regulation'. New rules should be proportionate to the risks associated with the specific activities.

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Digital Operational Resilience Act (DORA)

The speed of innovation and the use of innovative technologies in the financial services sector have not only seen an increase in the use of information and communications technology (ICT) but have also led to a greater demand for the security and resilience of firms. DORA represents a valuable step towards a harmonised and robust framework for digital resilience in financial operations. It creates a solid framework to enhance understanding, transparency and trust among ICT providers, financial entities and financial regulators.

Recommendations:

- Build on existing international practices and remain open to incorporating international best practices into the implementation of DORA.
- Ensure that DORA or any other regional framework, including EU technical certification, does not lead to conflicting or overlapping requirements for financial services and technology companies operating globally (eg with the Network and Information Systems Directive or the General Data Protection Regulation).

Market openness

The recent global developments may lead to an inevitable fragmentation of financial markets, bringing risks to financial stability and increased costs for investors and issuers. Open markets are inextricably linked to Europe's ambition of becoming more globally competitive.

Recommendations:

- Prioritise increased transparency and predictability around the equivalence process to provide greater certainty.
- Take an approach of mutual deference to partners' regulatory and supervisory regimes in tandem with adequate cooperation and exchange of information agreements that can foster trust.

Sustainable finance

To achieve the EU's 2030 targets agreed in Paris, Europeans must fill an investment gap estimated at €180 billion per year. For this, it will be critical to leverage the capabilities of the private sector. International partnerships and cooperation are key to ensure sustainable policies and finances that can combat climate change and other environmental risks.

ISSUE	RECOMMENDATIONS

Sustainable finance (cont.)

Recommendations:

- Ensure investors have options that are in line with their environmental, social and governance (ESG) objectives and risk appetite, as well as the tools they need to pursue these goals.
- Develop the selection of technical criteria included in EU Taxonomy Guidelines and Annexes as market proved (through preparatory studies) and follow up-to-date technical evaluations or reviews using transparent, multi-stakeholder feedback mechanisms.
- Avoid constructing inflexible and complex regulatory frameworks around sustainable finance, which limit investors' choices and remove their investment tools.
- Ensure a proportionate approach to balance the demand for ESG data in the context of the Corporate Sustainability Reporting Directive.
- Minimise the bias towards short-termism in fiscal, prudential and supervisory policies.
- Clarify the reporting requirements for third-country companies under the Corporate Sustainability Reporting Directive.
- Ensure alignment of the European Sustainability Reporting Standards with international standards to maximise interoperability and avoid fragmentation.

Taxation of the digital economy

The Organisation for Economic Co-operation and Development (OECD) Inclusive Framework reached consensus from over 130 countries to reform the global corporate tax framework and stabilise the international tax system. Nonetheless, proceeding with a separate EU-wide digital levy risks inflaming trade tensions and destabilising the OECD agreement.

Recommendations:

- Finalise technical details for Pillars 1 and 2 to ensure that they are easy to administer and provide certainty to tax authorities and taxpayers alike. The final policies should avoid double taxation and promote cross-border trade, investment and economic growth.
- Adopt a simplified compliance mechanism to lower the administrative burden of implementing the global agreement.

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Taxation of the digital economy (cont.)

- Allow sufficient time to ensure a complete and consistent implementation of global rules. Legislation must be in line with the international agreement and jurisdictions should not seek to go beyond the global arrangement.
- Withdraw digital services taxes in countries that have already enacted them. Jurisdictions should not seek to circumvent the global agreement by adopting new digital taxes in the future.
- Design future policy developments to promote cross-border trade, investment and economic growth.
- Follow the Ottawa principles regarding the taxation of e-commerce.

Education, Youth, Culture and Sport

ISSUE	RECOMMENDATIONS

Digital Education Action Plan

As demonstrated by the COVID-19 pandemic, digital technologies are crucial to provide opportunities for education and learning.

Recommendations:

- Allocate resources to digital infrastructure to ensure that everyone can reap the benefits of digital learning.
- Ensure EU-wide systems of micro credentials to encourage the free circulation of talent.
- Train teachers and provide them with the necessary tools to make use of digital technologies and enable remote learning where necessary.

Reskilling and upskilling

Europe faces a major skills shortage in the workforce as the digital and green transformations take hold. There is a high need for training opportunities encouraged by public-private partnerships.

Recommendations:

- Foster company investment schemes in reskilling and upskilling.
- Raise awareness about the existing training schemes offered by business, which can help institutions keep pace with the demands of industry.
- Make use of the Multiannual Financial Framework (MFF) to provide ambitious funding for educational institutions and private operators to collaborate and help the active workforce adapt their skillsets to new demands.
- Incentivise lifelong learning in training and apprenticeship programmes using EU investment funds, such as the European Fund for Strategic Investment.
- Increase horizontal coordination to focus national curricula on adopting more digital tools as well as broader science, technology, engineering and mathematics (STEM) and non-cognitive skills, such as adaptability and creativity.

Employment, Social Policy, Health and Consumer Affairs

ISSUE	RECOMMENDATIONS

Antimicrobial resistance

AMR is responsible for 33,000 deaths per year in the EU. If left unchecked, it could overtake cancer as the leading cause of death in the bloc by 2050. Tackling this threat should be a top priority.

Recommendations:

- Increase broad stakeholder collaboration for prevention and early detection.
- Increase best practice sharing across Member States, including behavioural studies in healthcare facilities of surgical site infections and aftercare, including wound care.
- Create new pull incentives to increase innovation in AMR R&D.
- Promote antibiotic stewardship to preserve the effectiveness of existing treatments and secure the next generation of antibiotics.
- Leverage broader and more effective use of vaccines by Member States to reduce reliance on antibiotics.
- Develop new economic models and a robust package of incentives to expand R&D.

Beating Cancer Plan

Cancer is among the leading causes of premature death in the EU. The social and economic cost of non-communicable diseases is significant.

Recommendations:

- Encourage preventive actions in the fight against cancer and all noncommunicable diseases with a focus on eliminating or reducing the harm caused by modifiable risk factors, early detection, diagnosis and increased access to vaccinations and treatment programmes.
- Stimulate product innovations to find new ways to tackle cancer, particularly the use of personalised cell therapies – such as advanced therapy medicinal products (ATMPs) – and one-time treatments with potential long-term benefits that can change lives and create efficiencies for healthcare systems.

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Digitisation of health 🌐	European approaches to data must foster a life sciences ecosystem that can capitalise on innovative health technologies. The European Health Data Space provides an opportunity to leverage the European digitalisation of healthcare. **Recommendations:** • Support actions to build a digital service infrastructure that ensures adequate data privacy standards. Interoperability and standards must be addressed by the Commission in the wider digital health infrastructure to facilitate data sharing across EU Member States and beyond. • Promote the adoption of digital health solutions that have the potential to empower patients (eg remote monitoring, ePrescriptions). • Mobilise health data collection to address evidence gaps and provide greater access to innovative treatments. • Limit hindrances on international data flows with third countries and other barriers to cross-border digital services that could limit drug discovery and development. • Develop a broadly focused healthcare artificial intelligence strategy for Europe to capitalise on advancements in personalised treatments, acceleration of product approvals and more.
Health Emergency and Preparedness Response Authority (HERA)	HERA is necessary to ensure coordinated responses by the EU and tackle cross-border health threats. **Recommendations:** • Support HERA with a sufficient financial basis to undertake targeted tasks that add value and not duplicate or depend on other research programmes or health-related initiatives. • Prioritise collaboration with relevant authorities (eg the European Centre for Disease Control [ECDC]) and industry stakeholders to identify the next generation of medical countermeasures and pitfalls in current preparedness strategies, including those issues related to supply and demand (eg personal protective equipment).
Health technology assessment (HTA)	The development of the HTA Regulation's implementing acts can provide an opportunity to define clear, clinical assessment criteria that adequately capture the specificities of each of the therapies under evaluation.

ISSUE	RECOMMENDATIONS

Health technology assessment (HTA) (cont.)

Recommendations:

- Grant Member States autonomy to make decisions regarding pricing and reimbursements as well as to limit the scope of the regulation to joint clinical assessments for pharmaceutical products.
- Develop specific methodological guidelines for ATMPs.
- Ensure coordination and dialogue between the coordination group and Member States to define a solid joint clinical assessment framework and limit possible duplications at the national level.
- Maintain a constructive, open dialogue with manufacturers throughout the development of the implementing acts.

Integrated approach to life sciences

A holistic approach to life sciences, which brings together patient organisations, healthcare professionals, industry and policymakers, will provide patients with the maximum benefits.

Recommendations:

- Increase synergies in the European life science R&D in terms of funding (EU4Health, Horizon Europe, Innovative Medicines Initiative, Recovery and Resilience Facility) and across agencies (European Medicines Agency, ECDC, Health and Digital Executive Agency, etc).
- Tailor approaches to value assessment across different technologies.
- Adapt to new healthcare business models.

Gender balance

Equality between men and women is essential to ensure Europe's future of work and economic recovery. However, more gender-friendly policies and female leadership are needed in the public and private sector.

Recommendations:

- Incentivise female representation in leadership positions across the public and private sectors, creating a race to the top around diversity and inclusion worldwide.
- Encourage young women to pursue careers in critical sectors such as STEM, ICT and cybersecurity.
- Mirror the horizontal nature of gender equality in institutional governance, considering its impact on all industry sectors and across society.

ISSUE	RECOMMENDATIONS

Gender balance
(cont.)

- Work to overcome biases throughout the hiring process and support both school-to-work and work-to-work transitions. This must entail creating opportunities for success.

Modernisation of EU consumer law

Awareness of consumer rights must be higher among traders and consumers to avoid insufficient compliance and high fines. The ongoing transposition of the Omnibus Directive and the regulatory fitness and performance programme in the Member States and forthcoming guidance from the Commission should set the tone for the harmonisation of consumer rights for all goods and services.

Recommendations:

- Modernise rules on consumer protection to strike the right balance between consumers and traders.
- Apply and enforce rules online and offline (eg product safety).
- Harmonise and synchronise consumer rules throughout the EU.
- Cooperate between consumer protection and enforcement authorities.

Proposal for a Regulation on empowering consumers for the green transition

This proposal aims to amend the Unfair Commercial Practices Directive and the Consumers Rights Directive to empower consumers through better protection and information.

Recommendations:

- Allow companies to provide information to consumers digitally.
- Revise 'generic' environmental claims by prohibiting vague and non-specific claims and using claims defined under international standards.
- Avoid mandating third-party monitoring systems for future environmental performance claims.
- Ensure software update provisions do not discourage customers from updating their software.
- Avoid bans in Annex I but rather subject these to a 'case-by-case' assessment to determine whether a certain conduct is misleading (eg omitting that a software update can negatively impact a product, limited functionality designs, etc).
- Clarify that the restriction proposed to be added as point 23i of Annex 1 about limited product functionality when using non-original consumables only applies to intentional effect, not unforeseen consequences.

Environment

ISSUE	RECOMMENDATIONS

Batteries Regulation

The Regulation sets several sustainability requirements to batteries placed on the EU market and seeks to improve the environmental footprint – especially carbon dioxide emissions – of the EU's battery value chain by tackling each stage of batteries' lifecycle. The new provisions should acknowledge that the battery value chain is extremely diverse and rules must enable best-in-class batteries for all applications.

Recommendations:

- Grant producers and users adequate grace periods for the implementation of new requirements, especially technical ones, to adapt without hindering innovative capacity. The current twelve-month proposal for implementation is insufficient.
- Ensure that recycling remains 'open loop' and that recycled content requirements avoid production bottlenecks. Targets for recycling materials should be technically, economically and environmentally achievable.
- Guarantee that information-sharing in battery passports does not raise IP concerns.
- Ensure consistency with other pieces of legislation, such as chemical management and supply chain due diligence.
- Clarify the term 'transfer of responsibility' under extended producer responsibility as well as end-of-waste status for electric vehicle batteries.
- Ensure that provisions around removability and replaceability are proportionate and that operators are professionally qualified.

Carbon border adjustment mechanism (CBAM)

CBAM has the potential to become an effective tool to combat carbon leakage and drive global efforts towards net zero, but it could also disrupt highly integrated supply chains and lead to trade conflicts. The primary objective of CBAM should be to address climate change and avoid carbon leakage.

Recommendations:

- Ensure a market-based emissions trading system (ETS) when designing the mechanism, as it allows the market to determine the most efficient and effective price level to drive emissions reduction.
- Incentivise companies to reduce the emission intensity of their products, provide a level playing field for domestic industry and encourage governments globally to increase their climate ambitions.

ISSUE	RECOMMENDATIONS

Carbon border adjustment mechanism (CBAM) (cont.)

- Assess the impact of measures against the potential impact on supply chains and manufacturing production, including for small and medium-sized enterprises (SMEs).
- Provide CBAM exemptions to avoid double taxation of imports for countries that have their own carbon pricing mechanisms.
- Minimise the impact on the flow of legitimate trade by moving its administrative processes away from the border where possible.
- Ensure CBAM and ETS work in tandem and provide a clear timeline for the phase out of free allowances in a WTO-compatible way and ensure fair treatment for both EU exporters and third-country producers.

Chemicals Strategy for Sustainability

The Chemicals Strategy for Sustainability seeks to reform the existing EU chemicals policy framework to achieve sustainability and competitiveness.

Recommendations:

- Follow a general risk-based approach for the EU chemicals management system. Purely hazard-based regulatory instruments would fail to consider key socioeconomic factors and would hinder innovation.
- Base new measures on scientific and clear definitions. Risk management should be based on socio-economic factors and availability of alternatives.
- Propose new hazard classes first at a Globally Harmonised System level to promote international consistency and prevent barriers to trade.
- Justify the proposed perfluoroalkyl chemicals (PFAS) restrictions with appropriate EU-based evidence. PFAS are highly complex and should not be regulated as one group, but rather distinctively and based on physicochemical properties and exposure considerations.
- Regulate fluorinated gases under Regulation (EU) No 517/2014, not under the PFAS restriction, to avoid overlapping requirements and regulatory uncertainty.
- Define what constitutes 'essential' in terms of emissions reduction targets, technological developments or pandemic response. This definition should be enshrined into the existing Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) assessment framework.

ISSUE	RECOMMENDATIONS

Circular Economy Action Plan (CEAP)

CEAP aims to create products with lower environmental impact and greenhouse emissions while maintaining economic benefits through cutting-edge technologies, processes and business models.

Recommendations:

- Make a supportive regulatory ecosystem for industry the driving force behind the circular economy transition.
- Promote an EU-wide approach to circular economy legislation, limiting national initiatives that could impede Single Market rules.
- Review the current regulatory framework for waste to facilitate the transition to a circular economy and see waste as a resource.
- Create a framework for product sustainability that is consistent with existing legislation and creates the right conditions for innovation to flourish. An appropriate transition period is also required for companies to implement these new measures.
- Evaluate the total impact of new fiscal initiatives while accounting for schemes such as the 'extended producer responsibility'.

Ecodesign for Sustainable Products Regulation (ESPR)

This Regulation, which repeals the Ecodesign Directive and proposes additional legislative measures, aims to make products in the EU market more sustainable.

Recommendations:

- Support a full harmonisation of ESPR across Member States that drives competitiveness and is based on a product-specific approach.
- Establish provisions on the transition timeline.
- Develop 'substance of concern' definition more precisely and tie it to the evolution of recycling.
- Broaden the definition of 'environmental footprint'.
- Ensure that the provisions on the digital product passport are flexible, workable and only contain the most impactful information for each product group.
- Clarify the intersection between ESPR and REACH.
- Ensure future delegated acts prohibiting the destruction of unsold consumer products include some exemptions for circumstances when a product presents a safety or health concern, is expired, damaged or a counterfeit.

ISSUE	RECOMMENDATIONS

Fit for 55 package

As part of the European Green Deal, the EU is revising its climate, energy and transport-related legislation under the Fit for 55 package. To meet these objectives, the EU must balance sustainability, competitiveness, reliability and innovation.

Recommendations:

- Support existing technologies and cutting-edge innovation by taking a technology-neutral approach and working to reduce emissions.
- Create a common regulatory framework that fosters an EU-wide market for greener products and services.
- Anticipate the potential displacement effects of the climate transition on the workforce.
- Pay greater attention to Member States enforcement of EU legislation.
- Ensure enforceability at the national level to strengthen the Fit for 55 proposals' credibility and attractiveness for private investors.
- Encourage 'nature-based solutions' through initiatives like watershed restoration and good water stewardship.
- Ensure policy coherence across all elements of the Fit for 55 package and other legislation related to emissions reduction.
- Support mandated objectives through targeted incentivisation to ensure the necessary market conditions.
- Synchronise the decision-making process, as all the legislative files are interlinked.
- Ensure that payment cards are mandated as a minimum standard of payment at all public charging points for electric vehicles, not only at the fast chargers with output above 50kW.

Packaging and Packaging Waste Directive (PPWD)

As part of the CEAP, the Commission will review the PPWD to, among others, reinforce the mandatory requirements for packaging allowed in the EU market. The review extends beyond essential requirements and includes measures to reduce (over-) packaging and packaging waste. Though it will have an overall positive outcome, the complexity of the measures requires a thorough and evidence-based impact assessment.

Recommendations:

- Account for the disparity of capacities, infrastructure and local needs within Member States and their regions.

Packaging and Packaging Waste Directive (PPWD) (cont.)

- Account for the multiplicity and diversity of sectors that will be affected by the Regulation (eg online commerce and packaging as food contact materials) and their different needs (eg resistance to transportation and food safety concerns).
- Ensure enforceability at the national level to legitimise the Regulation and to attract private investment.
- Consider packaging as a resource for the circular economy, as done with the other extended producer responsibility schemes.
- Avoid limiting substances without having carried out prior impact assessments in regard to the PPWD's 'substances of concern' clause as defined by the Strategy for Sustainability Towards a Toxic Free Environment.
- Consider the needs of SMEs and contemplate exemptions for them without overburdening the rest of the market players.
- Link recycled content targets for the obliged industry to the conditions that enable access to the necessary materials.
- Avoid downcycling and prevent the demand of operators for the necessary materials from breaking the loop of those who invest on collection and recycling infrastructure.
- Establish minimum requirements for deposit return systems, as it is the case with the rest of the Extended Producer Responsibility schemes.

Restriction of Hazardous Substances (RoHS)

RoHS has been a highly effective market access law valued by industry for the clear regulatory signals it sends.

Recommendations:

- Reflect on the strengths of the regulation and look to build on successes by pursuing existing opportunities.
- Provide clearer exemption timelines that are more aligned with product design realities.

Foreign Affairs and General Affairs

ISSUE	RECOMMENDATIONS

EU bilateral trade relations

Constructive dialogue between the EU and its major trading partners, including the US, is key to enhance mutual understanding, economic growth and prosperity in the Single Market.

Recommendations:

- Support the early conclusion of free trade agreements (FTAs) with Australia, Mercosur and Mexico, and push for progress on the negotiations with India and Indonesia.
- Build an EU trade policy based on openness and interdependence in order to avoid trade disputes.
- Advocate for strong enforcement of all European FTAs.
- Foster Member States' support for ambitious IP and digital trade provisions.
- Promote the free flow of data across borders and prevent unjustified data localisation requirements.

EU trade strategy

Recent developments have shown the essential functions and benefits of an open and free trading system, while also highlighting the downsides of go-it-alone trade policies.

Recommendations:

- Avoid inward-looking trade policies that are detrimental to the interests of all businesses in Europe.
- Maintain and emphasise the EU's open and rules-based economic identity, with both internal and external policies.
- Focus on cooperation with trading partners and corporations that have strong commitments to Europe, no matter where they are headquartered.
- Place digital trade at the heart of the new strategy to promote open digital markets, innovation and prosperity.
- Build effective tools to face the geopolitical and economic reality and to respond to economic coercion by third countries while ensuring an open trade system and just environment for all.

ISSUE	RECOMMENDATIONS

EU-UK trade and investment relationship

Considering the EU and UK's close political and economic ties, it is vital to maintain a good relationship and a comprehensive economic partnership.

Recommendations:

- Implement the EU-UK Trade and Cooperation Agreement thoroughly alongside the Northern Irish Protocol to provide business with certainty.
- Maintain close communications between the EU and UK to manage the interface between their respective regulatory environments and minimise disruption.
- Broaden the scope of the relationship over time, including topics currently excluded from the deal.

EU-US relations

Transatlantic cooperation based on shared values and the rule-based trading order brings substantial economic benefits, promotes global standards and enables technological leadership.

Recommendations:

- Strengthen EU-US cooperation in strategic areas and address existing barriers to trade.
- Deepen regulatory cooperation and alignment across the Atlantic and ensure that the transatlantic values of open, rule-based trade, non-discrimination, due process and high standards for privacy and security, are protected.
- Engage constructively in the Trade and Technology Council (TTC) to ensure the initiative remains ambitious in its objectives and delivers tangible results.
- Promote research, development and innovation cooperation across the Atlantic by ensuring business input and collaboration in the TTC.
- Seek ambitious reforms at the international level and make use of transatlantic leadership to resolve long-running disputes at the WTO.
- Put SMEs at the heart of EU-US initiatives, as they stand to gain most from greater transatlantic cooperation.
- Foster Member States' endorsement of EU-US trade discussions to expand the transatlantic trade and investment relationship.

ISSUE	RECOMMENDATIONS

Export control of dual-use goods

A heavy-handed review of the dual-use goods export regime could stifle innovation and industry response to new cyber threats. This review should be aligned with multilateral regimes – such as the Wassenaar Agreement – and ensure that companies are not disproportionately burdened and put at an unfair disadvantage. This will support international cooperation in this area and preserve the EU's competitiveness.

Recommendations:

- Align export control regimes between Member States and the US via regulatory exchanges and joint actions, notably in the context of the TTC and the provisional political agreement on the revised EU Dual Use List regulation.
- Align guidelines between the Commission and the US Advisory Opinion on Cloud Computing and Deemed Exports to address the miscommunication regarding intangible technology transfers.

Procurement programmes and access to EU-funded R&D

The exclusion of third-country entities from major EU and Member States' publicly funded R&D and procurement as well as sustained programmes could exclude vital economic contributors from the EU. This could cause market distortions and ultimately weaken the transatlantic and the EU-UK relationship.

Recommendations:

- Promote the participation of EU-based American companies in EU and Member State-funded R&D, procurement and sustainment programmes based on their added value, locally developed IP and overall contribution to the EU's technological and industrial base (eg employees, infrastructure, know-how).
- Monitor a fair implementation of the European Defence Fund (EDF) Regulation, European Space Programme Regulation and Horizon Europe Regulation, which should all account for the global nature of the defence and space industries and preserve open markets and fair competition.
- Ensure a more flexible approach to common defence procurement, which would increase the inherent interoperability and interchangeability associated with products and capabilities that exist outside of the EU.

ISSUE

Standard Contractual Clauses (SCCs) and Transatlantic Data Privacy Framework

RECOMMENDATIONS

The European Court of Justice decision on SCCs and the Privacy Shield has left thousands of data-dependent businesses in a legal limbo. Businesses and economies rely on the free flow of data to provide valued services to EU-based consumers While SCCs have been the most accessible and stable means to transfer data outside of the EU for many businesses, thousands of small and large companies have relied on Privacy Shield to transfer personal data across the Atlantic. Further to the agreement in principle between the EU Commission and the US government dating back 25 March 2022, the adoption on 7 October 2022 of the Executive Order by President Biden and the upcoming draft adequacy decision of the EU Commission are due to pave the way to a completely revised transatlantic system that will now satisfy the requirements of the Court of Justice of the European Union and enable the transfer of personal data in a safe and valid manner both for citizens and for companies.

Recommendations:

- Continue engaging with the EU Commission while it is preparing its draft adequacy decision supporting the new EU-US Data Privacy Framework.
- Engage with the European Data Protection Board when it will review the EU Commission's draft adequacy decision to advise about it.
- Engage with the Member States' policymakers in the framework of the comitology procedure while acknowledging the adoption of the adequacy decision to achieve legal certainty in transatlantic data flows and ensure technological advancements in the EU.
- Engage with and encourage regulators to set up clear and realistic guidance to enable valid use and reliance on SCCs for global data transfers, including in relation to transfer impact assessments and the related supplementary measures.
- Encourage businesses to prioritise citizen protection and integrity of privacy rules to ensure trust in the digital economy.

Strategic Compass

The Strategic Compass lays out the EU's long-term strategic concept for security and defence. If properly implemented, it could ensure closer cooperation with like-minded allies, and it could strengthen the EU's role as a security provider as well as the European Defence Technological and Industrial Base.

ISSUE	RECOMMENDATIONS
Strategic Compass (cont.)	**Recommendations:** • Strengthen the European Defence Fund (EDF) by increasing its budget and focusing on a multiannual approach. • Encourage the participation of like-minded third-country entities in EDF projects, not only as subcontractors to EDF consortium members, but also as consortium members. • Strengthen the European Defence Fund (EDF) by increasing its budget and focusing on a multiannual approach. • Encourage the participation of like-minded third-country entities in EDF projects, not only as subcontractors to EDF consortium members, but also as consortium members.
Transatlantic Defence Industrial and Technological Cooperation (TADIC)	A strong and prosperous TADIC is instrumental to foster the transatlantic relationship, encourage sustainable growth and achieve collective security. **Recommendations:** • Encourage capability development programmes that include both EU and US stakeholders to enhance cost-effective innovation, standardisation, interoperability and technological leadership on both sides. • Establish open defence markets reciprocally to guarantee similar regulatory conditions on both sides of the Atlantic.
World Trade Organisation	The WTO is the cornerstone of the multilateral trading system and reforms are required to ensure the organisation is fit for the twenty-first century. **Recommendations:** • Support transatlantic cooperation on WTO reforms and the broader multilateral agenda. • Ensure that the WTO maintains its role as a negotiation body and an arbitration mechanism for the global economy. • Engage with like-minded governments within the WTO in fields like e-commerce, R&D and protection of IPR. • Ensure that all major WTO players are involved in the modernisation efforts.

ISSUE

World Trade Organisation (cont.)

RECOMMENDATIONS

- Push for the successful conclusion of multilateral and plurilateral negotiations in the WTO to provide tangible outcomes for business and enhance the WTO's credibility.
- Increase investment in the successful conclusion of the Joint Statement Initiative on E-commerce to drive strong, plurilateral standards on digital trade.
- Support the WTO reform programme agreed upon at MC12 in 2022 with an aim towards having a fully and well-functioning dispute settlement system in place by 2024.

Justice and Home Affairs

ISSUE

Corporate Sustainability and Due Diligence (CSRD)

RECOMMENDATIONS

The proliferation of due diligence policies, legal frameworks and regulations risks diverting resources towards compliance instead of addressing the negative impacts on human rights and the environment. The recent EU proposal for a CSRD Directive aims at stipulating human rights and environmental due diligence requirements for EU companies and third-country companies active in the EU.

Recommendations:

- Provide strong guidance to Member States and ensure close cooperation across the proposed network of supervisory authorities for the implementation and enforcement of the Directive.
- Ensure harmonisation of due diligence reporting requirements with the CCSRD and other relevant EU laws (batteries, minerals, ecodesign, etc).
- Clarify definitions such as 'established business relationships' and provide sectoral guidelines for companies to implement due diligence – notably environmental – and to set up a 'climate plan'.
- Recognise proven industry schemes and allow flexibility to help companies comply with the requirements.
- Encourage multi-stakeholder collaborative partnerships.
- Decouple the due diligence duty from liability.
- Adopt a risk-based approach that is better aligned with international standards (eg United Nations [UN] Guiding Principles on Business and Human Rights, Organisation for Economic Co-operation and Development [OECD], Guidelines for Multinational Enterprises and the International Labour Organisation [ILO] Tripartite Declaration).
- Address the growing trend of internal market fragmentation and apply a harmonising approach.
- Ensure that civil liability is linked to a greater negligence, misconduct or omission than failure to comply with articles 7 and 8.
- Introduce a recognition tool similar to the one in the Responsible (Conflict) Minerals Regulation to recognise industry schemes like the Responsible Business Alliance.
- Encourage collaborative partnerships such as the European Partnership for Responsible Minerals (EPRM) to accompany the Directive and help deliver its objectives.

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RECOMMENDATIONS

EU-US cross-border access to electronic evidence

The Commission has proposed and adopted a negotiation mandate for an EU-US agreement on electronic data, which is a step in the right direction to increase legal certainty.

Recommendations:

- Safeguard data subjects' fundamental rights with transparent and balanced rules, while allowing effective policy for cross-border access to data in criminal investigations.
- Work towards a balanced and harmonised framework, a pre-condition for concluding any international agreement.

Forced Labour Regulation

Forced labour is a complex global issue that requires collaboration from businesses, governments and other civil society actors to ensure system-wide change. Any action taken by governments must be aimed at addressing the actual concern – forced labour.

Recommendations:

- Adopt a risk-based approach that is founded on the UN Guiding Principles on Business and Human Rights, core ILO Conventions and the OECD Guidelines for Multi-National Enterprises and Responsible Business Conduct.
- Ensure EU legislation is consistent with the CSRD, corporate sustainability reporting regulation and other sectoral EU laws (eg batteries and minerals regulations).
- Apply a holistic approach that does not create a 'black/red list effect', which encourages companies to 'de-risk' and disengage (often irresponsibly) from high-risk areas.
- Develop a transparent process for identifying products that are made with forced labour. The process should include a non-delegable duty for EU Member States to investigate accusations or suspicions of forced labour and it should provide accused companies an opportunity to respond and present evidence of compliance prior to enforcement. Due process will be an important pillar of an effective and fair instrument.

ISSUE	RECOMMENDATIONS

General Data Protection Regulation (GDPR)

The GDPR has introduced important benefits for American companies in Europe: increased legal certainty, harmonisation and flexibility. However, there remains work to be done around privacy and data protection.

Recommendations:

- Promote a uniform and balanced application of the GDPR across Europe.
- Ensure any additional regulation on privacy is fully consistent with the GDPR (see: ePrivacy).
- Ensure transfers of personal data can happen across the Atlantic and globally, as they are essential for the competitiveness of many sectors (see: SCCs and Transatlantic Data Privacy Framework).
- Ensure that Data Protection Authorities interpret the GDPR in a harmonised way and that cooperation and enforcement are taking place in accordance with the mechanisms described in the GDPR.

New Consumer Agenda

The European New Consumer Agenda has a strong focus on online enforcement, which risks creating gaps in the offline world and increasing risks for consumers. Enforcement gaps in the EU can lead to consumer harm and mistrust, as well as commercial detriment for the EU industry.

Recommendations:

- Streamline the information available to consumers regarding the sustainability performance and safety of products in online and offline channels.
- Ensure that consumers stay protected and aware of their rights in the New Consumer Agenda.
- Ensure harmonisation and strong enforcement of the existing legal framework of European consumer rules.
- Highlight the importance of general product safety and sustainability in future legislation and of good coordination and information exchange between authorities and private actors. The quality of notifications also can be improved.
- Provide for accessible and transparent information on rights in any new consumer legislation.
- Focus on enforcement against bad actors: without enforcement commitments action by private actors, the New Consumer Agenda is far less powerful – bad actors can be removed from the online world, but they will keep coming back.
- Maintain a risk-based approach when dealing with product safety legislation.

Product Liability Directive (PLD) and AI Liability Directive (AILD)

🌐

The existing framework provides effective protections for consumers, and it is already applicable to tangible products with embedded software. Any indiscriminate inclusion of software under the PLD poses material risks to innovation and digitalisation.

Recommendations:

- Maintain technologic neutrality in product liability rules. It should not depend on the nature or components of a product.
- Exclude strict liability from non-material harms (eg data loss, psychological damage). It is only appropriate in cases of personal injury and damage to property that have direct and severe consequences for consumers or other concerned parties like innocent bystanders. Non-material damages can already be addressed through standard liability regimes including national liability rules. The inclusion of non-material damages under PLD or any horizontal AI liability frameworks would hold developers liable for consequences that are unforeseeable.

Representative actions for the protection of consumers' collective interests

The adoption of the proposal on representative actions is meant to protect consumers' collective interests. For that, Member States should ensure coherent enforcement and harmonisation by maintaining forum shopping prevention as a key pillar of any collective redress mechanism. Overall, the proposal should promote a narrower definition of a domestic action when evaluating national vs cross-border cases.

Recommendations:

- Create stronger safeguards, including through swift and adequate regulation of third-party litigation funding, to harmonise the practice in the EU and grant transparency and high protection to all parties.
- Establish strong criteria for the types of entities that can represent consumers in the EU, such as public bodies and consumer organisations, and require consumers' consent before actions are launched on their behalf.

ISSUE

Third-party litigation funding (TPLF)

The practice of TPLF lacks sufficient protection for claimants and risks Single Market fragmentation, especially given its novel nature.

Recommendations:

- Introduce a robust and harmonised regulatory regime for TPLF based on transparency and with clear guarantees for claimants and defendants.

Transport, Telecommunications and Energy

ISSUE	RECOMMENDATIONS

Decarbonised Gas and Hydrogen Package

The reform of the gas market will need to be revised and expedited in light of the Russian invasion of Ukraine. Reducing the EU's dependence on Russian natural gas is now one of the EU's main objectives. The regulatory framework needs to enable the ever-faster deployment of renewable and low-carbon alternatives to natural gas.

Recommendations:

- Harmonise the definition of low-carbon hydrogen, gases and fuels throughout the EU.
- Treat low-carbon hydrogen, gases and fuels in a non-discriminatory way compared to renewable fuels and support them equally in a technology-neutral way, in view of their respective climate benefits.
- Clarify the prohibition of long-term supply contracts for 'unabated fossil gas' based on gas usage to ensure the security of supply for EU regions. The use of carbon capture and storage technology should also be promoted.

Efficient and green mobility

The transport sector is facing enormous challenges to further reduce emissions in all modes of transport. Deployment of cooperative, connected and automated mobility (CCAM) and Intelligent Transport Systems in Europe has the potential to increase road efficiency and improve the safety and environmental performance of vehicles.

Recommendations:

- Clearly define 'sustainable' mobility in terms of quantitative emissions reduction targets.
- Adapt to the requirements for various types of transport while accounting for the complexity of technical data use in the mobility sector and ensuring harmonisation across Europe.
- Incentivise the aviation sector to continue to increase the uptake of sustainable fuels and reduce emissions.
- Encourage investment in CCAM systems to ensure interoperability, user safety, trust and liability.
- Adapt road infrastructure ahead of the deployment of autonomous vehicles.
- Foster flexible and technology-neutral rules for data processing.

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Energy Performance of Buildings Directive (EPBD) and Energy Efficiency Directive

The renovation of buildings will play a critical role in helping the EU reach its climate goals. The building sector has the potential to accelerate energy efficiency across the EU.

Recommendations:

- Harmonise targets to reach overarching climate goals.
- Promote comprehensive and integrated renovation interventions for smart buildings and the use of smart ICT technologies, including building automation where data sharing provisions work in practice.
- Ensure that data centres are considered industrial facilities for the purpose of the EPBD so that a requirement for zero-emission buildings does not include data centres.
- Encourage increased financing for required energy renovations in Member States and cultivate financial incentives to increase energy efficiency that can drive economic recovery.
- Provide the needed levels of indoor air quality in response to changing indoor and outdoor conditions, while also managing energy consumption and operating costs.
- Align net-zero building certifications with international standards.
- Increase levels of ambition in the EPBD revision for electric vehicles charging infrastructure in private buildings.
- Ensure coherence with ecodesign measures by considering that other sustainability criteria do not impact the EBPD requirements.

EU energy crisis

Reducing the EU's dependence on Russian natural gas, managing volatile energy prices well as security of supply are now two of the EU's main objectives. The regulatory framework needs to enable the ever-faster deployment of renewable and low-carbon alternatives to natural gas. The EU will seek to diversify gas supplies, speed up the rollout of renewable gases and replace gas in heating and power generation.

Recommendations:

- Provide concrete incentives to produce more local and low-carbon energy. Affordability and reliability of energy supply is vital for a competitive industry in Europe.

ISSUE	RECOMMENDATIONS

EU energy crisis
(cont.)

- Address short-term challenges arising this winter (ie securing gas supplies to maintain industrial activity and consumers' welfare).
- Consider longer term approaches to secure a functioning energy internal market.
- Link any energy policy initiatives with a coherent industrial policy.

Infrastructure investment

Future infrastructure investments must focus on creating growth and jobs in Europe and supporting the EU economic recovery. International cooperation and third-country participants in the MFF 2021-2027 add value by enabling the EU to act as a world leader in global talent and research.

Recommendations:

- Use European funding to promote technological neutrality and co-modality as well as to avoid market distortion.
- Support funding at the EU level with ambitious commitments from Member States.
- Use the completed Trans-European Transport Network to connect European regions, alleviate congestion, improve interoperability and facilitate the use of different transport modes, as well as help to achieve the EU's climate objectives.
- Leverage the Trans-European Networks for Energy to encourage the development of cross-border energy infrastructure, ensure the functioning of the internal energy market and security of supply, promote energy efficiency and meet the EU's energy and climate objectives.

Sustainable aviation

The aviation sector is committed to the Green Deal and the decarbonisation of flight. Industry and regulators must cooperate on different levels, as there won't be one single method to decarbonise the aviation sector.

Recommendations:

- Incentivise the development of next-generation technologies as key enablers of fuel efficiency to reduce emissions in the mid- to long-term.
- Develop regulatory and financial incentives for the research, development and deployment of SAF.
- Implement the Single European Sky via a full integration of EU air traffic management networks.

ISSUE	RECOMMENDATIONS

Sustainable aviation
(cont.)

- Ensure a coherent mission reporting framework as proposed by Count Emissions EU and in line with existing industry methodologies and the European Union Aviation Safety Agency's environmental label.
- Open the ETS Innovation Fund for reinvestment into the aviation sector, specifically in next-generation aircraft and propulsion technologies.

Artificial intelligence (AI) Act

The AI Act is the first attempt at a comprehensive legislative framework for the development and use of AI. The proposal has room for clarification and improvement.

Recommendations:

- Develop a more precise definition of AI, as the current one is excessively broad and could encompass techniques and software that do not perform functions normally associated with AI.
- Tighten up the list of high-risk AI systems, which may include systems that are not inherently high-risk.
- Maintain the principle of self-assessment and declaration of conformity for high-risk AI systems, as subjecting high-risk AI systems to prior third-party assessment would delay product launches and hinder AI uptake.
- Reconsider the proposal's horizontal product safety framework.
- Redefine some of the overly prescriptive and unrealistic requirements for high-risk AI systems. All the demands should be flexible and attainable.
- Allow providers and users of AI systems to contractually allocate their responsibilities.
- Safeguard innovation by ensuring that requirements are manageable and realistic.
- Commit to achieving concrete EU-US advancements in the AI sphere in the context of the TTC.

Cybersecurity of Internet of Things

Given the rising complexity of value chains, the diversity of business models and fast-developing cyber threats, companies need to retain the ability to develop and continually update the security features for their unique risk situation.

Recommendations:

- Create strong public-private partnerships to maintain a voluntary and market-driven approach to tackle IoT security.

ISSUE	RECOMMENDATIONS

Cybersecurity of Internet of Things (cont.)

- Base any requirements on secure networks and information regarding the application's risk profile.
- Ensure consistency between IoT security solutions and existing international practices and standards.
- Raise awareness of IoT security amongst vendors, service providers, industry, employees and consumers.
- Build and improve cybersecurity skills.

Electronic identification scheme (eID) Regulation

The EU needs a common framework and technological architecture for a European Digital Identity Wallet so that citizens and businesses can prove their identities, harness the benefits of boosted efficiencies, lower costs and ensure a more favourable digital customer experience.

Recommendations:

- Leverage the existing international standards and ensure clarity and predictability on the interplay with other related draft regulations.
- Develop safe, user-friendly and convenient digital solutions, without resorting to a mandatory acceptance approach.
- Ensure a high degree of data protection.
- Withdraw proposals for automatic recognition by web-browsers of (and interoperability with) Qualified Website Authentication Certificates.

European Cybersecurity Competence Centre and Network

The European Cybersecurity Competence Centre and Network initiative has the potential, if implemented appropriately, to reduce fragmentation and create synergies across the EU in research and investment on cybersecurity.

Recommendations:

- Keep the European Cybersecurity Competence Centre and Network open to all companies.
- Base participation on relevance and excellence, rather than establishment.

European data strategy

The European data strategy has transformative potential, but data must be high-quality, credible, timely and available in machine-readable formats, while cloud infrastructures must be trustworthy, secure and energy efficient.

Recommendations:

- Collaborate to ensure access to a wide range of technology and partner options.
- Invest to deliver the strategy and achieve the EU's aims in competitive storage, processing and profitable use of data.
- Assess new regulatory initiatives against existing regulations (including personal data protection or liability for defective products) to avoid conflicting obligations.
- Ensure that rules concerning data access and use are fair, clear and comply with European values and competitiveness.
- Involve and encourage industry to bring the skills and data literacy needed.
- Prevent the Data Act from disrupting functioning data sharing and processing models, make collaboration more difficult or impose mandatory data sharing or portability obligations. It should remove conflict of laws and enable the free flow of data while acknowledging IPR and protecting trade secrets.
- Solve issues around foreign authorities' access to data through multilateral governmental discussions (eg TTC) rather than by imposing regulatory requirements on a specific sector.
- Institute a pan-European supervisory authority or a one-stop-mechanism and clarify how data sharing responsibilities will be allocated between data protection authorities and sectoral regulators.
- Ensure the upcoming Cloud Rulebook and Marketplace Services Requirements catalogue considers broad feedback from the relevant stakeholders and reflects the market reality and diversity of applicable initiatives.

Europe's digital decade - 2030 targets

The EU aims to transform the 2020s into Europe's 'digital decade' and achieve its digital ambitions for 2030.

Recommendations:

- Accelerate and facilitate investment, innovation in broadband networks and entrepreneurship. This can create financial incentives and foster uptake of new technologies with high economic and social potential for the digital transformation.

ISSUE	RECOMMENDATIONS
Europe's digital decade - 2030 targets (cont.)	• Enhance digital skills and inclusion to build and preserve trust between society and technology. They must be central tenets of any public and private digital transformation strategies. • Ensure a common approach toward the digital decade, including measures such as the pooling of resources across the Member States and the alignment of all actors. • Ensure a transparent and inclusive policymaking processes in which American companies are seen as trusted digital enablers and business partners in Europe. These processes must be based on technical and market-driven decisions, shifting away from the political interests which have prevailed in recent times. • Ensure that content, services and applications are not unlawfully blocked or degraded as outlined in the Declaration on Rights and Principles. Legislators should respect, protect and reinforce the fundamental principles of net neutrality and the open internet, as well as resist measure for payments of network use.
Privacy and Electronic Communications (ePrivacy) Regulation	The Regulation seeks to build trust in services for consumers and businesses. Since the proposal was presented, the importance of metadata and electronic communications has been reinforced, especially for new technologies like IoT. **Recommendations:** • Ensure clarity on the scope and guarantee alignment with the GDPR – including on the legal basis for data processing – whilst adopting a risk-based approach. • Encourage additional permitted data processing for software updates, security, compatible processing and statistics. • Include additional lawful bases in privacy settings to allow the use of storage capabilities on-device for limited processing activities and further exemptions to privacy-enhancing technologies.
Semiconductors	The EU has created the EU Chips Act to develop and accelerate Europe's semiconductor supply chain. The proposal rightly focuses on research, development and innovation across all segments of the semiconductor supply chain.

**Semiconductors
(cont.)**

Recommendations:

- Ensure greater participation of industry in nearly all categories, including standardisation requests, export controls and priority orders.
- Ensure a swift adoption of the Chips Act.
- Increase cooperation on the areas highlighted by Pillar I of the EU Chips Act (including R&D, skills and training), stimulating an open-source silicon environment to increase the engagement of academia and star-ups with the industry.
- Alignment of the EU Chips Act with other certification (ie Cyber Resilience Act), as well as certification in the US.
- Prioritise the implementation of protections for businesses' valuable intellectual property.
- Increase the structured participation and regular interaction between the European Semiconductor Board and the private sector.
- Strengthen the transatlantic relationship to avoid a continued global semiconductor market imbalance.

Security of network and information systems Directive review

The revised Directive aims to establish a more secure cyber environment by defining legal obligations of entities susceptible to cyber risks.

Recommendations:

- Implement a risk-based approach to limit the scope and seek alignment with the existing and draft legislation.
- Revise the reporting requirements to allow companies to provide regulators with more detailed and valuable information.
- Maintain a voluntary certification mechanism and ensure these certifications are inclusive, transparent, non-discriminatory, technology-neutral and consistent with relevant international standards.
- Involve industry in the computer security incident response teams and the Network and Cooperation Group, as well as further incentivise voluntary private-public information sharing.

ISSUE	RECOMMENDATIONS

Shaping Europe's digital future

The comprehensive strategy can unlock the potential of data and digital technologies.

Recommendations:

- Deliver the investment in skills, infrastructure and emerging technologies needed to deliver on this strategy.
- Advance innovation in the supply chain. Public authorities and industry should foster a diverse and inclusive workforce by advancing STEM education for students at all levels and from all backgrounds.
- Build citizens' trust in innovative digital technologies.
- Prioritise data integrity and security to fulfil the realisation of the digital economy.
- Increase cooperation, attract and develop partnerships with non-EU players in areas where EU lags behind (ie manufacturing).

5G

The deployment of 5G will be one of the most critical building blocks of our future digital economy and society.

Recommendations:

- Adopt and implement Member States' 5G roadmaps and 2030 digital decade targets swiftly.
- Release both licensed and unlicensed spectrum in a timely and coordinated fashion.
- Finalise the implementation of the Electronic Communications Code in Member States quickly and consistently.
- Ensure the freedom to develop new business models, as 5G will be crucial for business digitisation.
- Consult and coordinate among stakeholders to ensure Europe and consumers reap the full potential of 5G.
- Continue to ensure a shared European approach to trustworthy, resilient, diverse and competitive supply chains for ICT, especially as the rollout of 5G accelerates.

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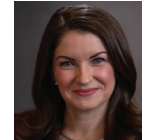
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