

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

January - June 2020



AmCham EU speaks for

American companies **committed to Europe** on trade, investment and competitiveness issues. It aims to ensure a **growth-orientated business** and **investment climate** in Europe. AmCham EU facilitates the **resolution of transatlantic issues** that impact business and plays a role in creating **better understanding** of EU and US positions on business matters. Aggregate US investment in Europe totalled more than **€2 trillion in 2018**, directly supports more than **4.8 million jobs** in Europe, and **generates billions of euros** annually in income, trade and research and development.

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Message to the Croatian Presidency of the Council of the European Union



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The Croatian Presidency of the Council of the European Union (EU) comes at a key moment for the future of Europe. It coincides with the beginning of a new legislative term, the continued negotiations on the future EU-UK relationship and ongoing trade tensions between the EU and the US. At such a crucial time, the Croatian Presidency will assume an important role in framing the next European agenda and steering the EU in the right direction for 2020 and beyond.

In an uncertain international environment, the case for strong transatlantic cooperation has maybe never been as compelling. The EU and the US are the drivers of global growth. Our economic partnership is vibrant: it represents the largest and wealthiest market in the world. Aggregate US investment in Europe totalled more than €2 trillion in 2018 and directly supports more than 4.8 million jobs in Europe.

We look forward to working closely with Croatia during their Presidency to ensure we reach our common objectives of a stronger and more competitive EU. This is why I am delighted to present these recommendations to the Croatian government on behalf of the American Chamber of Commerce to the EU (AmCham EU) and our member companies. We hope they will provide concrete input and direction to the Presidency's work programme. We believe that many of the issues raised by AmCham EU in this report are vital to creating sustainable economic growth.

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

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American companies invested in Europe

American companies have deep and longstanding ties in Europe. Along with creating jobs, developing infrastructure and driving innovation, American companies also invest in people and communities through social and educational programmes, research and development or environmental and health initiatives.

Find out more about these investments and their social impact on the 'Invested in Europe: Our Stories' platform. It brings together initiatives led by US companies tackling student poverty in France, building youth facilities in Bulgaria, creating low-emission mobility options in Belgium or developing new infrastructure for the Internet of Things in Germany.

Committed to Europe: Agenda for Action 2019-2024

The last few years have tested European unity and the post-war world order. From the Brexit vote to the rise of populism, the EU had to demonstrate its ability to take the lead and deliver for European citizens. As the effects of digitalisation and globalisation continue to transform our economies, societies around the world are pressured to become more resilient. Tackling global challenges such as rising inequalities, climate change and migration requires collective leadership and bold policy action.

As American companies committed to Europe, the competitiveness of the region in the global economy is of utmost importance to us. With sustained focus, Europe can remain one of the most attractive regions in the world to do business, but also one of the best places to live, study, work and raise a family.

Our *Agenda for Action* outlines the four priority areas we believe should drive the political agenda:



Empowering people

- Education
- Skills
- Inclusion



Leading global cooperation

- Transatlantic partnership
- Trade and investment
- Sustainability



Boosting the Single Market

- Smart regulation
- Better harmonisation and implementation
- Capital, digital, energy and transport



Investing in the future

- Human capital
- Research and innovation
- Infrastructure and best-in-class public procurement

Learn more: www.amchameu.eu/Agenda4Action

Policy recommendations by Council configuration

Agriculture and Fisheries

ISSUE

RECOMMENDATIONS

Common Agricultural Policy (CAP) reform

With growing global demand for food, it will be imperative for the EU to establish a balanced and competitive agricultural policy and respect the urgency to protect our planet and ensure a future for European farmers. The CAP should enable farmers to achieve more sustainable and efficient farming practices while providing sufficient safeguards. This includes the promotion of a system based on 'prevention first and always', bringing old practices of farming in line with digital technologies of the new millennium. AmCham EU wants fair and non-discriminatory treatment of local versus imported raw materials to supply the European market. Moreover, further support in R&D initiatives in agriculture including digital and precision farming is critical to support farmers and to help improve food safety and public health.

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

The Regulation on VMP seeks to put in place an up-to-date, proportionate body of legislation tailored to the specificities of the veterinary sector. The core objective is to increase the availability of VMP and improve the functioning of the internal market, reduce administrative burden and stimulate innovation. An additional aim is to strengthen the EU's action to fight Antimicrobial Resistance (AMR). The implementation of this Regulation should reflect a sound benefit-risk assessment, not hazard-based approaches. It should not hamper international trade by imposing EU technical measures on third-countries that are not compatible with World Trade Organization (WTO) rules. This relates to the setting up of a list of critically important antimicrobials (CIAs) and prohibiting the import of animals and animal products treated with these CIAs in third countries. Furthermore, investment in research is paramount to ensure that innovative treatments, new technologies and care options become available.

Risk assessment, management and communication in the agro-food sector

A balance between risk assessment, management and communication is of paramount importance for the integrity of the food chain and to promote innovation and sustainable growth in the agro-food sector. Risk management decisions should be communicated in a clear, timely and transparent way to foster and encourage consumer acceptance of technological developments and rigorous scientific and risk-based decision-making should be at the front and centre of all discussions.

Sustainable nutrition

The triple burden of malnutrition – overnutrition, undernutrition and insufficient consumption of essential nutrients – is also recognised to be a problem in Western countries. Many consumers are not able to make informed choices for a varied and balanced diet which is partly due to a lack of essential knowledge that should be part of education curricula and campaigns across Europe.

Agriculture and Fisheries (cont.)

ISSUE

Sustainable nutrition

(cont.)

RECOMMENDATIONS

Achieving a healthy and sustainable diet pattern is a complex challenge, but it is important to contribute to the health and wellbeing of European citizens. AmCham EU promotes efforts to provide EU citizens with easily accessible, economically affordable, nutritionally adequate, safe and healthy food choices. The Croatian Presidency should promote innovation in the food space, support the use of sustainable food technologies as well as guarantee an easier access to a variety of food products across the EU. This would be key to enabling better health and economic outcomes for all Europeans and it would be in line with the Sustainable Development Goals (SDGs) and the UN Decade of Action on Nutrition 2016-2025 to which the EU is committed.

Competitiveness

ISSUE

EU competition law for the digital age

The Croatian Presidency should build on the expertise of the private sector to find solutions to the challenges posed by digitisation. As the Directorate-General for Competition (DG COMP) moves to update EU competition law and policy for the digital age, AmCham EU encourages stability and predictability in the field of competition. The latter forms the bedrock of investment in the Single Market and ensures an open and free-market system for all. In particular, Member States should ensure that unreasonable inversions of burden of proof or other definitions do not weaken the market. Such actions would in fact widen the discretion of competition authorities and could call into question the reliability of decades of case law built on the current rules.

It is also critical to ensure that competition instruments are not misused to achieve goals that are not within the competences of the Union or the Commission (eg, state aid cases aimed at influencing the tax policies of Member States).

Industrial competitiveness

Europe faces increased global competition for investment. To tackle the downward trend of investment in manufacturing, the Croatian Presidency should support increased EU action on industrial policy. AmCham EU wants to create the right environment to conduct business and ensure a solid infrastructure, to foster skills, talent, innovation and labour flexibility while strengthening the Single Market. This includes encouraging free and rules-based trade and the effective implementation of the Better Regulation agenda. Moreover, the Digital Single Market should ensure that online services, goods and data can move freely to allow industry and people to reap the full benefits. Finally, the EU should encourage the adoption of globally harmonised standards and regulations by enhancing international cooperation and fostering its leadership role.

Competitiveness (cont.)

ISSUE

RECOMMENDATIONS

Single Market

The Single Market is the basis of the economic success of Europe and a key determinant of US investment in Europe. Completing the Single Market would increase productivity, investment, trade and job creation, helping to ensure Europe maintains its position as a global economic leader.

Despite increased pressure, the will of EU policy-makers to complete the Single Market is clear – as demonstrated by the Commission’s Single Market Strategy. Now is the time for greater action at Member State level to ensure the integrity of the internal market in the long term and to promote investment and innovation in Europe.

Electronic Data Interchange (EDI) standards

In order to streamline the free movement of goods, the EU needs to further centralise procedures through, for instance, a single European Customs Agency where economic operators can file their customs declarations. In the same spirit, the Croatian Presidency should propose the establishment of a single electronic platform and of an EU-wide one-stop-shop accounting for VAT on importations in order to lift the administrative burden for companies and consumers.

Streamlining customs procedures across the EU

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 requires the submission of different customs declarations in each Member State, using local languages and complying with varied rules. Therefore, the Croatian Presidency should further push to harmonise national rules related to the movement of goods in the EU and customs. It is key to ensuring a truly frictionless Single Market across the EU.

Enforcement of intellectual property rights (IPR) offline and online

Europe has one of the strongest frameworks for the protection of IPR, which is key to incentivising investment in innovation and creativity. Maintaining and modernising this framework is important as piracy and counterfeiting continue to grow. A proper and homogeneous application of existing legislation to enforce IPR and in particular the IPR Enforcement Directive (IPRED), in addition to seeking increased cooperation among stakeholders (eg, through codes of conduct), is a step in the right direction. Finally, the role of IPR in offline and online environments needs to be better understood. The risk is to not account for possible sectoral differences and thereby, to encourage a one-size-fits-all approach.

Hague Convention on the recognition and enforcement of foreign judgments

AmCham EU opposes the inclusion of IP in the scope of the Hague Convention on the recognition and enforcement of foreign judgments in civil and commercial matters. As long as processes and principles in the various fields of IPR diverge globally, it would be detrimental for European industry to introduce a mutual recognition of enforcement judgments in the area of IP.

Competitiveness (cont.)

ISSUE

Review of the pharmaceutical intellectual property (IP) incentives framework

RECOMMENDATIONS

In the current review of the incentive framework for pharmaceutical innovation, the EU must maintain its robust intellectual property rights (IPR) and incentive framework that has been proven to deliver hundreds of novel therapeutics for EU citizens. IPR are fundamental to a knowledge-based economy that aims to build and strengthen its global leadership in high-tech sectors. Reopening legislation on orphan, paediatric medicines or other key incentives for the pharmaceutical sector would lower the level of certainty that is required to support the long-term R&D investments crucial for the development of new and innovative medicines. In parallel, we call on the Croatian Presidency to advance discussions on new incentives to address areas of particular unmet need, such as antimicrobials. New economic models and incentives are required to stimulate R&D in the fields and thus slow down antimicrobial resistance (AMR).

Unitary patent (UP)

A fully functioning UP system would signal that intellectual property is a driver of innovation, competitiveness and growth for Europe in the global economy. Member States should ratify the agreement of the UP Court (UPC) as soon as possible to move forward with the implementation of the UPC and UP system.

Economic and Financial Affairs

ISSUE

Banking Union

RECOMMENDATIONS

AmCham EU is a long-standing supporter of European rules aimed at strengthening financial stability via improvements to prudential requirements, as well as to recovery and resolution mechanisms. The overarching priorities in the field of prudential regulation should be to complete the Banking Union, to ensure a globally consistent implementation of international banking standards (eg, Basel framework) and to avoid fragmentation and localised ring-fencing requirements.

Capital Markets Union (CMU)

AmCham EU supports efforts to complete the Single Market for financial services, including the CMU agenda. The CMU needs to remain a priority, with renewed focus on the creation of open, innovative and sustainable financial markets. As Brexit continues, it risks creating additional market fragmentation, which will increase obstacles to cross-border investments and efficient capital allocation.

International tax cooperation

The Organisation for Economic Co-operation and Development (OECD) is the best forum for a coordinated and coherent approach to the taxation of multinational companies and the consistent adoption of the OECD's Base Erosion and Profit Shifting (BEPS) recommendations across the EU. Going beyond the recommendations would negatively impact the EU's attractiveness for investment from EU and third-country companies. A unilateral EU approach to the direct

Economic and Financial Affairs (cont.)

ISSUE

RECOMMENDATIONS

International tax cooperation *(cont.)*

taxation of multinational companies could create double taxation problems and reaffirm concerns about protectionism. This is especially true if potential actions are not coordinated with the ongoing multilateral tax discussion at the OECD level.

For example, the taxation of the digital economy needs to strike the right balance between taxing value where it is created and fostering growth. A serious, structured conversation about how new business models should be taxed should take place in a multilateral context in order to ensure widespread agreement.

Market openness

Open, well-functioning and appropriately regulated transatlantic capital markets have been a crucial driver of long-term economic growth and competitiveness in Europe and the US. The recent uncertainty of Brexit may mean 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. As the Croatian Presidency further considers the future supervisory and regulatory framework for third-country market access, increased transparency and predictability around the equivalence process would be paramount. This should also include greater certainty over the determination and withdrawal of equivalence. In addition, mutual deference to one another's regulatory and supervisory regime should become the preferred approach, supplemented by adequate cooperation and exchange of information agreements that can foster trust.

Sustainable finance

To achieve the EU's 2030 targets agreed in Paris, including a 40% cut in greenhouse gas emissions, Europeans have to fill an investment gap estimated at €180 billion per year. In order to close this gap, it will be critical to leverage the experience of the private sector to support the transition to a sustainable economy. In doing so, the EU needs a coherent, holistic and long-term framework to promote sustainable growth.

The best way to engage the private sector in this field is to empower investors. This can be done by ensuring they 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. By contrast, constructing inflexible and complex regulatory frameworks around sustainable finance which limit investors' choice and remove their investment tools will limit the reorientation of investment towards more sustainable solutions.

Education, Youth, Culture and Sport

ISSUE

RECOMMENDATIONS

Reskilling and upskilling

The Croatian Presidency should endeavour to set up schemes encouraging companies to invest in reskilling and upskilling, while raising awareness about the existing training schemes offered by business. Training opportunities are best seized through effective public-private partnerships. In addition, legislators should 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.

Skills of the general population

EU institutions should increase horizontal coordination to encourage national curricula to focus on adopting more digital tools as well as broader Science, Technology, Engineering and Mathematics (STEM) and non-cognitive skills, such as critical thinking, adaptability and creativity. Investment in training and apprenticeships for young students should foster adequate incentives to provide workforce exposure to education and lifelong learning, for instance through the European Fund for Strategic Investment (EFSI).

Employment, Social Policy, Health and Consumer Affairs

ISSUE

RECOMMENDATIONS

Gender balance

Progress on equality between men and women should be fostered by using evidence to underline the need for gender-friendly policies and demonstrating that female leadership in the public and private sector leads to concrete economic benefits. The Croatian Presidency should push for incentives to increase female representation in leadership positions across the public and private sectors, creating a race to the top around diversity and inclusion worldwide. It should also take initiatives to encourage young women to pursue careers in critical sectors, such as STEM, ICT and cybersecurity. Finally, institutional governance around gender equality should mirror the horizontal nature of this topic, considering its impact on all industry sectors and society as a whole.

Workforce size expansion

Gender, age, origin, social background, sexual orientation or health condition should never become barriers to success and well-being. The participation of all individuals in the workforce will lead to considerable social and economic gains. Beyond simply facilitating entry into the workforce, we need to create opportunities for success, for example by overcoming biases throughout the hiring process and supporting both school-to-work and work-to-work transitions.

Employment, Social Policy, Health and Consumer Affairs (cont.)

ISSUE

RECOMMENDATIONS

Digitisation of health

EU policies need to keep pace with technological advancements to enable the development and wide-scale deployment of digital health solutions. In particular, artificial intelligence (AI) policies should take into account the specificities and opportunities in the healthcare sector, which is why AmCham EU recommends the development of a Healthcare AI Strategy for Europe.

The Croatian Presidency should support the Commission's actions to build a digital service infrastructure (eg, ePrescriptions, patient summaries). It should also enable secure access and data sharing across borders (ie, through electronic health record (EHR) standards) to ensure adequate standards for data privacy and custodianship. Additionally, the Croatian Presidency should promote the wide-scale deployment of digital health solutions that empower patients (eg, remote monitoring).

Fighting Antimicrobial Resistance (AMR)

AmCham EU urges the Croatian Presidency to continue focusing on the growing cross-border public health threat posed by AMR. The EU can and should serve as a leader in the fight against AMR. The Croatian Presidency should work together with Member States and the European Commission to promote antibiotic stewardship and preserve the effectiveness of existing treatments.

In addition, Member States should work with the European Commission to expand and better coordinate surveillance tools. The broader and more effective use of vaccines and new technologies can be a vital tool to reduce AMR. AmCham EU stresses the need to stimulate R&D in new antibiotics, vaccines and rapid diagnostics through new economic models and incentives to manage the issue of AMR sustainably for the long term.

Health Technology Assessment (HTA)

AmCham EU endorses the ongoing efforts to increase Member State cooperation on joint clinical assessments with the aim to reduce duplication of clinical assessments across Member States and unnecessary delays to access. Any new regulation should improve the current system and patient access.

AmCham EU encourages a balanced approach that reflects the specificities of each healthcare sector and prevents any duplication of assessments and access delays. AmCham EU supports retaining Member State autonomy to perform country-specific socio-economic appraisals and to make decisions regarding pricing and reimbursements (P&R) as well as to limit the scope of the regulation to joint clinical assessments for pharmaceutical products.

Improving access to health

In order to build safe, accessible and more integrated health systems, AmCham EU recommends a holistic approach to healthcare policy accounting for a mix of services and products needed for treatment as part of an integrated life sciences strategy. As part of this strategy, European policy-makers need to safeguard innovation by implementing dynamic policies that balance concerns in the short-term (eg, cost-containment) with the longer-term (eg, R&D investment and innovation in healthcare). To boost biopharmaceutical R&D, arbitrary cost-containment should be avoided while intellectual property should be strengthened

Employment, Social Policy, Health and Consumer Affairs (cont.)

ISSUE

RECOMMENDATIONS

Improving access to health *(cont.)*

and innovative public-private partnership should be supported, including in healthcare delivery.

Additionally, the Croatian Presidency should promote measures to support patient choice and self-management, including community or home care (outpatient care) for therapy areas and diseases where this is possible. This can help lower costs for healthcare systems, freeing up hospital resources and improving patient outcomes.

Life sciences

The integrated use of pharmaceuticals, medical devices, diagnostic technologies and digital health solutions is offering unique opportunities to boost innovation in the life sciences sector and improve health outcomes throughout Europe. At the same time, their integration is also posing novel challenges which must be tackled in order to improve healthcare delivery for EU citizens.

To support the European institutions, AmCham EU has set out several novel policy solutions to these challenges in its 2019 report titled 'Life Sciences for Europe: an integrated strategy for healthcare innovation (2019-2024)' (amchameu.eu/lifesciences4eu). The EU needs an integrated life sciences strategy and the Croatian Presidency should support the realisation of these recommendations through the appropriate legislative acts.

Non-communicable diseases

Non-communicable diseases – such as cancer, cardiovascular or respiratory diseases – represent the leading cause of premature death in the EU and contribute to considerable social and economic costs. In light of the European Commission President's commitment to reducing cancer across the EU (Political Guidelines for the next European Commission 2019-2024, July 2019), the Croatian Presidency should play a leading role in encouraging preventive actions in the fight against cancer and other non-communicable diseases by working on prevention policies and stimulating product innovation.

Modernisation of EU consumer law

AmCham EU wants to promote the importance of enforcement and cooperation between consumer protection authorities. The Commission's proposal to modernise existing rules and enhance consumer protection should aim to strike the right balance between consumers and traders while maintaining the existing level of harmonisation. Legislation should not stigmatise specific distribution methods corresponding to consumer demand and creating job opportunities. There should be an increased level of awareness of consumer rights for traders, consumers and consumer associations to avoid insufficient compliance and high fines that can jeopardise business operations in a disproportionate manner if non-compliance is due to a lack of knowledge.

Environment

ISSUE

EU strategy for long-term greenhouse gas (GHG) emissions reduction

RECOMMENDATIONS

AmCham EU recognises the need for action to achieve a low-carbon economy and mitigate climate change. This is why AmCham EU members are already researching, investing in and developing a wide range of low-carbon technologies in Europe.

However, to reach these objectives, the three facets of sustainability – environmental, economic and social – must be equally addressed to ensure the EU remains globally competitive. To drive innovation and investment, the Croatian Presidency should endorse a technology-neutral approach, supporting both cutting-edge innovations and technologies already on the market that incrementally reduce emissions, while incentivising green consumption by sharing consistent information about product environmental sustainability. Future policy strategy should also anticipate the impacts of the transition on the workforce by supporting employee lifelong learning and re-education in partnership with industry.

Emissions Trading Scheme (ETS) reform proposal

As questions are currently raised on how carbon emissions should be priced in the EU, it is imperative to ensure that emission abatement is achieved in the most cost-efficient manner and investors provided with a trustworthy, stable and predictable system. Additionally, with energy prices significantly weighing on the competitiveness of the EU industry, the Croatian Presidency should promote an enhanced compensation of ETS indirect costs based on quantitative and qualitative impact assessments.

Registration, Evaluation, Authorisation and Restriction of Chemicals Regulation (REACH)

A highly efficient REACH that protects human health and the environment should not come at the cost of innovation and competitiveness. Policy-makers should promote greater clarity in the different REACH processes for industry, limit possible overlaps with sectoral policies and facilitate the equal treatment of cases by assessing Member State authorities. REACH would further benefit from streamlining the authorisation process and giving the Risk Management Option Analysis (RMOA) a more formal standing.

Resource efficiency and the EU circular economy action plan

European initiatives should create an EU circular economy that strengthens the Single Market, limits national deviations and does not compromise the safety of products. The circular economy in the EU can only be a success through the consistent implementation of relevant legislation across Member States, the creation of an effective Single Market for secondary raw materials and sectoral approaches. Without these, there is a risk of creating individual, national circular economies.

Restriction of Hazardous Substances (RoHS)

While RoHS has been successful in reaching many of its policy objectives, some parts of the law would benefit from a review to increase predictability and effectiveness. Any future review of the Directive should recognise the responsibilities of RoHS as a global reference for electronic waste management and remedy existing exemption process uncertainties. For RoHS to build upon previous successes, the limitation of political considerations in the processes and clearer dates and predictable timelines are needed.

Foreign Affairs and General Affairs

ISSUE

RECOMMENDATIONS

Brexit and EU-UK trade and investment relationship

Member States need to work towards ensuring that a timely Withdrawal Agreement is ratified with no further delay, to protect citizens and businesses both in the EU and the UK. An orderly UK exit will prevent a damaging cliff-edge scenario, which would bring enormous disruption and economic costs.

Member States should push for an ambitious and forward-looking future relationship that builds on the deep and comprehensive ties between the EU and the UK. It should also limit disruption and uncertainty, resemble the effects of the Customs Union and preserve the integrity of the Single Market. Ensuring citizens' rights and unhindered cross-border data flows are key elements of the future relationship. Discussion on the future relationship should begin as soon as a Withdrawal Agreement has been finalised.

Enforcement of IPR in third countries

Piracy and counterfeiting are global and growing issues which harm investments and jeopardise consumer safety. The EU should focus on securing a better IP environment in third countries. This should be done through engagement with third-country governments and other stakeholders on technical programmes and in EU FTAs. In order to prevent IP violations throughout the global supply chain, the EU and the US need to maintain and strengthen their cooperation.

EU bilateral trade relations

Constructive dialogue with major trading partners, including the US, is key to enhancing mutual understanding, economic growth and prosperity in the Single Market. The Croatian Presidency should support the early conclusion of free trade agreements (FTAs) and promote a de-escalation in the current transatlantic trade disputes, which could threaten jobs and growth on both sides of the Atlantic. Additionally, the Croatian Presidency should advocate for a strong enforcement of all European FTAs.

Member States should support robust digital trade provisions, which promote the free flow of data across borders and prohibit unjustified data localisation requirements.

EU-US relations

The transatlantic economic relationship is the largest and most integrated of its kind in the world. It has guaranteed the prosperity and security of successive generations of Europeans and Americans. Fostering a closer transatlantic cooperation would allow the EU and the US to bring substantial economic benefits, set global standards and retain their technological leadership.

The Croatian Presidency should support efforts to deepen regulatory cooperation across the Atlantic and to remove barriers to trade and investment, including tariffs. Small and medium-sized enterprises (SMEs) should be put at the heart of EU-US initiatives as they stand to gain most from greater transatlantic cooperation. Member States should endorse EU-US trade negotiations as it would normalise and expand the transatlantic trade and investment relationship.

Foreign Affairs and General Affairs (cont.)

ISSUE

RECOMMENDATIONS

EU-US Privacy Shield Agreement

The Privacy Shield agreement is an indispensable mechanism to ensure robust privacy protection and continued data flows between the EU and the US. Despite different regulatory approaches to privacy policy, they successfully negotiated in 2015 a mechanism which could both meet commercial needs and protect personal data. Today more than 5,000 companies of all sizes from both sides of the Atlantic are certified under this mechanism, demonstrating their commitment to strong privacy safeguards. The Privacy Shield agreement has now undergone three successful annual reviews. The Croatian Presidency should support the implementation of the Privacy Shield and the need for strong and credible enforcement of privacy rules to protect citizens and ensure trust in the digital economy.

Role of the World Trade Organization (WTO)

The current gridlock at the WTO is cause for significant concern. The multilateral trading system, underpinned by the WTO, has helped to open up international markets, raise standards globally and continues to act as a crucial guarantee for governments, companies and societies in global markets. The EU needs to strengthen the principles of a rules-based multilateral trading system with the WTO at its core. It should also be a vocal supporter of the WTO to encourage the robust application of global trade rules and to work constructively in the pursuit of sensible reforms to strengthen the existing framework.

Third-country participation in EU funded programmes

The exclusion of third-country entities with considerable European footprints from major EU funding schemes could lead to the exclusion of vital economic contributors from major procurement programmes. This could cause market distortions and ultimately weaken the transatlantic relationship. Participation of third-country entities in EU funded programmes should be based on the overall contribution to the EU's technological and industrial base. These entities contribute significantly to the EU, carrying out EU-funded activities, often involving European employees, infrastructure and know-how.

Common Security and Defence Policy (CSDP) and the European Defence Action Plan (EDAP)

Strong and prosperous Transatlantic Defence Technological and Industrial Cooperation (TADIC) is instrumental for maintaining the transatlantic relationship, sustainable growth and protecting global security. This can be further encouraged through programmes that include both EU and US stakeholders to enhance cost-effective innovation, interoperability and technological leadership on both sides. These programmes should be based on reciprocity. By establishing open defence markets, they will guarantee similar regulatory conditions on both sides of the Atlantic.

Export control of dual-use goods

A heavy-handed review of the dual-use goods export regime could stifle innovation and how industry responds to new cyber threats. AmCham EU supports the approach that has been adopted in the Council as this will maintain alignment with multilateral regimes, such as the Wassenaar Arrangement, and ensure that companies are not disproportionately burdened. This will support international cooperation in this area and overall preserve the competitiveness of the EU.

Justice and Home Affairs

ISSUE

Consumer product safety and market surveillance

RECOMMENDATIONS

AmCham EU supports the objectives of the Commission's proposal to improve compliance and enforcement of harmonised standards of consumer legislation. However, this should not introduce new disproportionate burdens for companies that make significant efforts to ensure their products are compliant with relevant legislation. AmCham EU wants to ensure that legislation makes a clear distinction between formal non-compliance and non-compliance that presents a safety risk to consumers. Only the manufacturer should be liable for non-compliance. Additionally, market surveillance authorities should provide notice before exercising their powers to remedy non-compliance.

Representative actions for the protection of collective interests of consumers

AmCham EU is committed to supporting the EU's efforts to facilitate access to justice and ensure a high level of protection for consumers. However, there should be stronger safeguards including a ban on third-party litigation funding and contingency fees for both legal practitioners and funders, an opt-in/register system, the introduction of a claim certification mechanism, the 'loser pays' principle and a specific requirement on who is allowed to be designated as a qualified entity. They protect consumers from exploitative and profit-driven litigation. The EU also needs strong criteria for the types of entities that can represent consumers, such as public bodies and consumer organisations, and a requirement for consumers' consent before actions are launched on their behalf.

Cross-border access to electronic evidence (e-evidence)

AmCham EU member companies act as custodians of their users' and customers' electronic data and invest heavily to protect security and confidentiality of user data. Given the increasing demand for cross-border access to data in the context of criminal investigations, transparent and balanced rules are needed to safeguard data subjects' fundamental rights while allowing for effective policing. The proposals presented by the European Commission and the adoption of a negotiation mandate for an EU-US agreement are a step in the right direction to increase legal certainty in this space. The co-legislators should work towards a balanced and harmonised framework, which is a pre-condition for concluding any international agreement.

General Data Protection Regulation (GDPR)

The GDPR has introduced important benefits for American companies in Europe: increased legal certainty, harmonisation and flexibility. There is still a long journey ahead of us in the area of privacy and data protection. First, we need to promote a uniform and balanced application of the GDPR across Europe. Second, just as consistent implementation of the GDPR is vital to the success of the Digital Single Market, we must ensure that any additional regulation on privacy is fully consistent with the GDPR (see issue: 'ePrivacy'). Third, the ability to transfer personal data across the Atlantic and globally is essential for the competitiveness of many sectors (see issue: 'Privacy Shield').

Justice and Home Affairs (cont.)

ISSUE

Preventing the dissemination of terrorist content online

RECOMMENDATIONS

The misuse of the internet for illegal activities, including for the dissemination of terrorist content, is a serious threat to our societies which needs to be tackled. In view of the upcoming trilogues, AmCham EU encourages co-legislators to work towards targeting the scope and clarifying the definitions in the Commission proposal, in line with the position adopted in April 2019 by the European Parliament. In particular, the one-hour delay needs to be reconsidered, as it does not take into account technical problems and resources restraints of the variety of companies involved in the fight against terrorism online. Furthermore, co-legislators need to clarify the role and nature of the competent authorities able to issue removal orders, as well as the consultation procedure between authorities. The scope of the proposals should target service providers that make information available to the public only, in order to avoid imposing a burden on B2B services which are not a natural vector of dissemination for terrorist content. Finally, legal clarity is required around the obligation for proactive measures.

Transport, Telecommunications and Energy

ISSUE

Deployment of connected mobility

RECOMMENDATIONS

A stable policy framework will be critical for the deployment of cooperated, connected and automated mobility (CCAM) and Intelligent Transport Systems (ITS) in Europe. These innovations have the potential to increase the efficiency of road use and improve both the safety and the environmental performance of vehicles. AmCham EU encourages the enhancement of a regulatory framework that allows the digital ecosystem to thrive allowing for market penetration of new systems reliant on mutual investment in physical and digital infrastructure. Additionally, policy-makers should be careful when developing rules in the mobility sector due to the complexity of scenarios involving technical data.

Member States should prioritise consumers' needs, privacy, security, competitiveness, interoperability, trust and liability. They should also aim to foster flexible and technology-neutral rules for data processing, such as the swift deployment of required digital communications infrastructure (V2X) to complement existing transport and rapid infrastructure.

Infrastructure investment

The next MFF needs to focus on infrastructure investments that create growth and jobs in Europe. AmCham EU recognises the value of international cooperation and third-country participants in the MFF 2021-2027, and for funds to enable the EU to act as a world leader in bringing together global talent and research. Therefore, European funding should remain focused on promoting technology neutrality, co-modality and avoiding market distortion. Funding at EU level can be further supported and complemented by ambitious commitments from Member States.

Transport, Telecommunications and Energy (cont.)

ISSUE

RECOMMENDATIONS

Making mobility sustainable and affordable

The transport sector is facing enormous challenges to further reduce emissions in all modes of transport. The EU should continue to develop a comprehensive plan for the transition to low- and zero-emission mobility and put the principle of 'co-modality' at the heart of the future EU Transport Policy. Additionally, the EU should consider all technologies that can help to further reduce emissions in Member States through financial and non-financial incentives, while promoting adequate and favourable market conditions that meet the diverse mobility and transport needs of all Europeans. AmCham EU supports the adoption of new rules that encourage freedom of mobility for all EU citizens regardless of their financial status and recognises that decarbonisation can only happen at a pace that is supported by society as a whole.

5G

The fifth generation of telecommunication systems, 5G, will be one of the most critical building blocks of our digital economy and society over the next decade. For a successful roll-out of ultra-fast 5G services in Europe, several factors will be required: the swift adoption and implementation of Member States' 5G roadmaps; the quick and consistent implementation of the Electronic Communications Code by Member States; and a greater consistency of the 5G spectrum as well as regular consultation and coordination among all relevant stakeholders.

Blockchain

Blockchain is an emerging technology that enables the exchange of information in a faster, more secure and transparent way. The EU should continue to boost the use of blockchain in sectors like payment, agri-food, health, trade facilitation and energy supply. The EU should develop guidelines to enhance legal certainty in areas such as the status of smart contracts, General Data Protection Regulation (GDPR) compliance and the classification of digital assets and tokens. In addition, it should promote the implementation of use cases and pilot projects in public sectors as it is the best way to test the technology and promote its use. The EU's Blockchain Observatory and Forum remains a relevant approach to encourage open collaboration and boost Europe's position on blockchain.

Confidentiality of electronic communications (ePrivacy)

AmCham EU is strongly concerned by the impact of the current ePrivacy proposal on digital innovation across all economic sectors. The latest presidency text (9351/19 COR 1) has included some flexibility. However, the rules should be fully aligned with the GDPR in order to allow for the functioning and innovation of devices, services and features that rely on processing of communication data. More flexibility needs to be introduced for the processing of communication content and metadata and for the consent standards to be harmonised. The broad scope of the Regulation needs to be carefully considered as it includes machine-to-machine communication. In the same way, legislators should consider the impact of the suggested restrictions beyond cookies and browsers. As such, the ongoing discussions on 'e-evidence' should be taken into account.

Transport, Telecommunications and Energy (cont.)

ISSUE

RECOMMENDATIONS

Cybersecurity of Internet of Things (IoT)

When addressing security in the IoT space, it is essential to maintain a voluntary and market-driven approach. The complexity of value chains, the diversity of business models and fast-developing digital environment requires strong public-private partnerships to tackle IoT security. Companies need to retain the ability to develop the security system features for their unique risk situation. In addition, any requirement to secure networks and information should be based on the risk profile of the application. In doing so, it is essential that IoT security solutions, including any future European certification scheme, are consistent with existing international practices and standards. The challenge security brings is not just technical, but also deeply human. IoT security requires raising awareness amongst the entire community – vendors, service providers, industry, employees and consumers. Building and improving cybersecurity skills is critical and is the responsibility of industry and governments alike.

Digital Single Market

Europe needs a policy and regulatory environment that fosters investment and innovation in emerging technologies. This includes ensuring protection and safety for users. Member States should carefully assess whether existing legislation is fit for purpose before introducing new regulation. Moreover, any new rules in the digital economy should be future-proof, technology-neutral and focus on the desired objectives in order to foster innovation rather than prescribing the ‘how’.

Ethics in AI

Industry has a role to play in supporting the responsible development of AI. AmCham EU welcomes the guidelines published in April 2019 by the independent High-level Expert Group (HLEG) on AI set up by the European Commission. These guidelines have been developed through a multi-stakeholder structure, are actionable, proportionate and encourage an ethical approach to the technology. The development of sectoral use cases will be essential to make the guidelines effective. In addition, the EU should encourage a consistent approach to the development of ethical principles of AI at an international level.

European Cybersecurity Competence Centre and Network

The future European Cybersecurity Competence Centre and Network should be based on excellence and openness. This initiative has the potential, if implemented appropriately, to reduce fragmentation and create synergies across the EU in research and investment as well as enhance industrial capacity building between Member States. During the upcoming trilogues, co-legislators should make sure that the European Cybersecurity Competence Centre and Network does not exclude non-European headquartered companies from partnership and funding without duly justified national security grounds. Participation should be based on relevance and excellence, rather than establishment. Otherwise, the EU risks harming its attractiveness to foreign investment and ultimately its competitiveness at a global level.

Transport, Telecommunications and Energy (cont.)

ISSUE

Unleashing the data economy and AI in Europe

RECOMMENDATIONS

AI presents a unique opportunity for Europe's economy and society. Policy-makers should boost its development by catalysing public and private investments in R&D and fostering its uptake in key sectors. Moreover, the availability of public and open data is essential to AI. Therefore, the EU should continue to support AI ecosystems and public-private partnerships to boost access to open data and data sharing, while respecting the principle of contractual freedom and protecting the privacy of individuals. Last but not least, to foster the right policy environment, existing and new regulatory initiatives should be carefully assessed and properly targeted to avoid creating possible regulatory obstacles to the development and uptake of AI.

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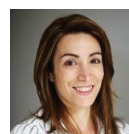
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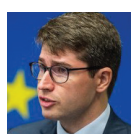


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