



DEVELOPING CYBERSECURITY POLICIES WHILE PURSUING A TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP

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On February 7, 2013, the European Commission published an EU cybersecurity strategy and a draft EU Network and Information Security Directive intended to ensure a high common level of network and information systems security. On February 12, President Obama instructed several executive departments of the United States Government to take certain steps intended to enhance the cybersecurity of critical infrastructure in the US.

One month later, the Commission requested the Member States' permission to begin negotiating a Transatlantic Trade and Investment Partnership (TTIP) with the US Government, and President Obama notified Congress of his administration's intention to begin TTIP negotiations with the EU.

Depending on their content, governmental cybersecurity policies taking shape on each side of the Atlantic could impact broader trade issues that will be central to the TTIP negotiations. Accordingly, the Transatlantic Business Council (TBC) requests that the Commission and the Obama Administration devote concerted attention to ensuring that the separate efforts in Brussels and Washington develop new cybersecurity policies which remain compatible with the joint, EU-US effort to forge a TTIP. In particular, we respectfully ask that the officials who are developing cybersecurity policies in Brussels and Washington coordinate meaningfully with those who will lead the TTIP negotiations.

In order to avoid unnecessary impediments to securing the TTIP, the TBC suggests that EU and US officials who develop new cybersecurity policies use as guidance the twelve cybersecurity policy principles that the TBC incorporated into its May 10, 2013 comments to the Office of the US Trade Representative on the proposed TTIP¹:

- Develop cybersecurity policies in a transparent manner and with relevant stakeholder input.
- Enable risk management and innovation.
- Develop and implement cybersecurity policies in partnership with the private sector.
- Encourage the development and use of globally recognized, industry-led, voluntary consensus security standards, best practices, assurance programs, and conformity assessment schemes.
- Ensure the use of globally standardised tests and certification.
- Ensure that cybersecurity requirements are technology-neutral.
- Ensure that cybersecurity requirements allow for procurement of technologies regardless of the country of origin or the nationality of the technology vendor.

¹ Please see the original document for the full text of each principle: DIGITALEUROPE and Japan Electronics and Information Technology Industries Association, *Recommended Government Approaches to Cybersecurity*, June 2012 (<http://pr.euractiv.com/pr/global-information-and-communications-technology-ict-industry-statement-92469>).

- Ensure that any cybersecurity requirements avoid forced transfer or review of intellectual property (IP), such as source code.
- Limit any prescriptive requirements to areas of the economy that are highly sensitive, such as government intelligence and military networks.
- Strengthen institutions, and develop contingency plans and cybersecurity strategies.
- Focus on criminals and their threats.
- Focus on education and awareness.

Considering the high and rising threat of harm to private and public assets in the EU and the US from cyber-attacks, the TBC believes that enhancing cybersecurity should be the primary purpose of at least some provisions in any TTIP. For instance, we believe that enhancing the defence against, and deterrence of, industrial cyber-espionage should be one goal of the TTIP. Moreover, we believe that the TTIP can help make cybersecurity policies on both sides of the Atlantic more effective by harmonizing the definitions that are attached to certain key terms, such as “critical infrastructure.”

Harmonisation (or reasonable harmonization) of cybersecurity policy concepts is not only essential to fully harness the transatlantic trade potential but would also allow the EU and the US to regain global political leadership and shape the global policy framework for cybersecurity and the digital economy.

The TBC greatly appreciates your commitment to securing a strong TTIP. Please do not hesitate to suggest ways in which we can help you to reach that goal.

The Transatlantic Business Council (TBC) is the largest transatlantic business association, wholly funded by 70 global companies based in North America and Europe. Our mission is to promote a barrier-free transatlantic market that contributes to economic growth, innovation and security; to foster discussion and the exchange of ideas among business and government leaders; and to serve as a platform for engaging others in the global economy. The TBC is the main business interlocutor to both the U.S. Government and European Commission on international trade and investment issues. We stand out as the only transatlantic business organization uniquely placed to provide one voice for EU and U.S. companies in the Transatlantic Trade and Investment Partnership (TTIP).