



October 17, 2023

Dear Secretary Blinken, Secretary Raimondo and Ambassador Tai:

We represent a wide spectrum of American companies, from financial services to the communications sector, that operate in Europe. We are concerned that a draft measure under consideration by the European Commission, called the European Cybersecurity Certification Scheme for Cloud Services (EUCS), would prohibit non-EU headquartered cloud service providers from competing for certain public sector cloud contracts in Europe, which would effectively shut American companies out of a multi-billion dollar market segment. This proposed approach is entirely inconsistent with the May 2023 G7 Leaders' Statement on Economic Resilience and Economic Security, which underscored the importance of supporting an innovative and competitive digital ecosystem of trustworthy vendors. The upcoming U.S.-EU summit will be an important opportunity to address this issue, which could undermine shared transatlantic security objectives, including cooperation on critical and emerging technologies like artificial intelligence, and advancing trusted digital infrastructure globally.

In a recent speech, Secretary Blinken underscored the importance of promoting trusted digital infrastructure – including cloud – as a key line of effort in U.S. tech diplomacy. Policies like the EUCS, which treats U.S. companies and U.S. laws as posing similar threats as Chinese companies and Chinese laws do, run directly counter to these important efforts by signaling to the rest of the world that U.S. companies are not trustworthy.

The latest version of the EUCS includes provisions that mandate “immunity from non-EU law,” meaning that only companies with their global headquarters in an EU Member State, with no entity from outside the EU having “effective control”, would be eligible for the highest level of certification.

EUCS certification is expected to become mandatory and likely to apply not only to government procurement, but also to private sector industries deemed “essential,” such as banking and financial services, energy, healthcare, and transport. If adopted in its current form, the EUCS would serve as a major new trade restriction, as provisions that discriminate on the basis of a supplier's nationality violate the EU's trade obligations under the World Trade Organization (WTO) Government Procurement Agreement (GPA) and the General Agreement on Trade in Services (GATS).

The concerns apply equally to France's cloud cybersecurity certification scheme, SecNumCloud, which is already in effect. The French scheme, which serves as a template for the EUCS, already

disqualifies American companies based on ownership thresholds that determine whether a company is “immune to non-EU laws.” In a concerning new development, the French Parliament has advanced an amendment that would require all private sector entities storing health data to use European cloud providers. And other foreign governments are taking unfortunate inspiration from Europe’s example. In Brazil, lawmakers have proposed a draft measure that would likewise require IT companies to have a percentage of Brazilian ownership and control in order to provide services.

The transparent push by EU cybersecurity regulators to promote domestic commercial interests by favoring EU cloud providers at the expense of US providers is counterproductive to the shared goal of advancing cybersecurity and transatlantic security cooperation at a critical moment of growing geopolitical tensions and conflict. It would prove disruptive and potentially risky for many US and European companies. It should not be allowed to set a precedent. We urge you to work with EU partners to ensure that nationality provisions are eliminated from the final version of the EUCS, and that U.S. companies and other NATO and allied nations are permitted to continue to provide the most secure, innovative cloud services to European customers.

Thank you.

Sincerely,  
ACT | The App Association  
Coalition of Services Industries (CSI)  
National Foreign Trade Council (NFTC)  
AdvaMed  
Software and Information Industry Association (SIIA)  
Telecom Industry Association (TIA)  
U.S. Chamber of Commerce