

Technology's Role in Driving U.S. Competitiveness:

ITI's Action Plan for 2022

February 2022



An Open Letter to President Biden and the 117th Congress

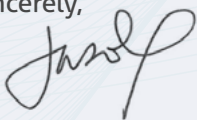
The global technology industry is committed to driving America's economic competitiveness. As the premier advocate for technology, representing the world's most innovative companies, the Information Technology Industry Council (ITI) puts forward several policy priorities where the United States can make significant progress in 2022 for the benefit of businesses, workers, and consumers across virtually every sector of the U.S. economy. Accomplishing these objectives will ensure that the United States remains a global leader in innovation and technology. It will also ensure that technology continues to play a critical role in achieving the policy agenda of the Biden-Harris Administration and the 117th Congress.

Included as part of Technology's Role in Driving U.S. Competitiveness: ITI's Action Plan for 2022, I would like to highlight five actions that the Administration and U.S. Congress, with the support of the tech industry, should take as soon as possible to promote U.S. competitiveness and benefit the U.S. economy now and in the future:

- 1. Enable the free flow of data between the U.S. and EU:** We encourage the Administration to quickly reach an agreement with the European Commission that preserves the flow of data between the United States and Europe.
- 2. Invest in domestic technology research and development and manufacturing:** Semiconductors power much of today's digital economy and are a critical component in making the goods and delivering the services Americans rely on daily. U.S. Congress should fully fund the CHIPS For America Act and enact the United States Innovation and Competition Act/America COMPETES Act of 2022 to incentivize research and development and manufacturing of semiconductors and other advanced technology in the United States.
- 3. Implement digital trade agreements that ensure American companies can operate freely in markets outside the U.S.:** The Administration should negotiate, and U.S. Congress should support, enforceable digital trade rules with countries in the Indo-Pacific region to drive inclusive growth and innovation, to protect a free and open internet, and enable market opportunities for U.S. businesses around the globe.
- 4. Solidify U.S. leadership in technical standards development:** Existing export control rules have caused U.S. companies to cede ground, influence, and leadership to foreign competitors in international technology standards development. The U.S. Department of Commerce should publish a pending export control rule to enable companies to participate fully in this routine activity.
- 5. Leverage technology in infrastructure rollout:** Essential information and communications equipment will be necessary for the U.S. economy and the American people to realize the full benefits of the recently passed Infrastructure Investment and Jobs Act. The Administration should remove burdens that will prohibit U.S. companies from acquiring necessary commercial technologies from the global market in a timely and cost-effective manner.

Founded in 1916, ITI is an international trade association with a team of professionals on four continents. We promote public policies and industry standards that advance competition and innovation worldwide. Please consider me and ITI's member companies a resource to you as you review these priorities and determine how to implement them. Thank you for your attention to these critical issues.

Sincerely,



Jason Oxman
ITI President and CEO

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To ensure the United States remains a global leader in innovation and technology, the Information Technology Industry Council (ITI) highlights 14 time-sensitive policy areas where the global technology industry urges the Biden-Harris Administration and the 117th Congress to take action in 2022 in order to promote U.S. competitiveness.



1. Cross-Border Data Flows

Rapidly conclude an enhanced transatlantic data transfer agreement with the European Commission to address the *Schrems II* ruling.

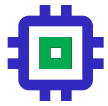
The free flow of data is fundamental to the continuing U.S. economic recovery from the pandemic and national competitiveness. Such an agreement is essential to ensure continuity of commercial activities involving data flows and should respect European citizens' fundamental rights as well as the legitimate security and public safety interests of governments around the world. More broadly, U.S. policymakers also should develop and reinforce mechanisms to facilitate cross-border transfer of data and ensure the privacy of citizens, including by advancing activity at the OECD on trusted government access to private sector data.



2. Federal Privacy Law

Congress and the Administration should enact a comprehensive federal privacy regime to protect U.S. consumer rights, avoid fragmented regulatory approaches, and exhibit U.S. policy leadership globally.

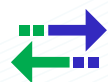
As leading global economies and various U.S. states continue to advance comprehensive privacy regimes, the risk of fragmentation is growing and U.S. leadership on privacy, as an exemplar of the type of fundamental democratic values discussed at the recent Democracy Summit, is potentially undermined in the absence of a U.S. federal privacy law. Such a regime should codify strong privacy protections that enhance transparency, increase consumer control over personal data, promote security, and ensure continued innovation by providing a uniform approach to data protection regardless of where a consumer resides. In 2018, ITI released the Framework to Advance Interoperable Rules (FAIR) on Privacy principles. This data protection framework embraces consumers' and policymakers' desire for greater privacy protections by advancing individuals' data control rights and clearly defining the responsibilities of companies using personal data while also recognizing the importance of data to the innovations that transform people's lives and advance the public interest.



3. Support Technology Research and Development, and Manufacturing of Key Technology Areas, Including Semiconductors

Incentivize R&D and manufacturing of advanced semiconductors in the United States by fully funding and implementing the CHIPS Act and enacting the United States Innovation and Competition Act (USICA)/America COMPETES Act of 2022.

Revitalizing high-tech manufacturing of semiconductors in the United States and increasing focus on R&D and commercialization in key technology areas will drive innovation across industry sectors for decades to come with the further development of AI, quantum information science, medical technologies, and 5G – all of which depend on increased public sector investment and partnership with global allies. Currently, the global balance of advanced semiconductor capacity is heavily weighted outside the United States; funding and implementing the CHIPS Act will not only increase overall chip capacity, but will rebalance that capacity in favor of more domestic production, thereby reducing risks to future supply chain shortages. Investing in strategic research and development priorities in a range of technology sectors would help ensure American leadership in advanced manufacturing, secure these vital supply chains, grow well-paying jobs, and enhance our technological long-term national security and economic competitiveness. Additionally, ITI urges the use of targeted government funding to complement private sector investment and speed 5G deployment and adoption. Providing the appropriations necessary to implement the Public Wireless Supply Chain Innovation Fund is vital to provide incentives for open, interoperable radio access networks (Open RAN) and support the global development of secure and trusted telecommunications networks.



4. Digital Trade

Pursue mechanisms for expanding the acceptance of strong, inclusive digital trade commitments.

The United States is a leader in the development and deployment of digital technologies that support a large and growing segment of American exports, jobs, and economic growth. Where the United States engages with international partners in bilateral, plurilateral, or multilateral policy contexts, policymakers should prioritize market openness by broadening the acceptance of state-of-the-art digital trade commitments, principles and text-based approaches that facilitate the movement of data across borders, prohibit data localization, expand market access for digitally-enabled goods and services, and foster compatible, non-discriminatory approaches to data governance and the regulation of new technologies in different jurisdictions. As an initial matter, Congress should pass the USICA and include key provisions that promote U.S. digital trade and provide for a consistent and transparent tariff exclusions process. To drive engagement around forward-looking digital commitments, the Administration should prioritize the development of digital trade rules with trusted partners in the Indo-Pacific, building on those included in recent agreements, that center on driving inclusive growth and innovation through digital trade.

At the same time, the Administration should hold trading partners accountable for the proliferation of discriminatory technology policies, including forced localization and import substitution policies, which are often implemented with the intent of excluding innovative U.S. companies from the market.

5. U.S.-China Technology Policy

Amend U.S. technology trade policy to press China on discrete policy changes, and increase U.S.-China bilateral engagement across all levels.

Recent overreliance and expanded use of export controls, tariffs, and policies misdirected at routine technical standards development have hurt U.S. workers, consumers, and companies. The Administration should amend policies that have not achieved their goals and even impeded U.S. innovation and leadership. Chinese policy remains incredibly consequential to the U.S. and global economy, and the U.S. must not only continue to engage with allies but also lead by defining concrete and achievable policy changes and encouraging coordinated pressure on China. Priority tech policy areas should include: data localization, state-sponsored subsidies for domestic companies, and forced partnerships with Chinese companies such as those required to obtain a license to provide cloud services in China. This should be coupled with consistent U.S.-China bilateral engagement to resolve concerns where possible and prevent undue escalation of tensions.

6. U.S.-EU Trade and Technology Policy Cooperation

Drive alignment of open, non-discriminatory policy approaches and make meaningful progress with the European Commission on advancing the goals of the U.S.-EU Trade and Technology Council.

The Administration should drive ambitious bilateral engagement within and beyond the transatlantic Trade and Technology Council that, among other things, advances discussion of digital trade and digital policy matters of interest to either party with a view to preserving an open transatlantic digital economy and enabling transparent, compatible, non-discriminatory, and innovation- and trade-facilitative approaches to digital policy at the global level. Areas of engagement should include policy approaches to AI, data governance and data-sharing, cybersecurity, cloud computing, platform governance, 5G, competition, digital taxation, digital trade commitments, export controls, unfair trade practices, services market access, and environment and sustainability. As part of its work on technology standards, the Council should also foster increased support for industry-led, open, voluntary, consensus-based global technical standards, including discussions with industry experts on how to align regulations and/or conformity assessment approaches with relevant standards. As the EU advances policies under the Digital Services Act, EU AI Act, NIS 2 Directive, EU Cyber Act, EU Cyber Resilience Act, Digital Markets Act, and other proposals, U.S. officials should prioritize transatlantic coordination on these important topics to drive a cohesive framework that avoids fragmentation, discrimination against U.S. companies, or conflicting requirements.



7. Cybersecurity – Executive Order 14028 and FISMA Reform

The Administration and Congress should jointly ensure a consistent and coordinated approach to enacting Federal Information Security Management Act (FISMA) reform legislation in concert with implementing the May 2021 Cybersecurity Executive Order (EO 14028), including directives aimed at improving software supply chain security and securing federal networks.

The Biden Administration's May 2021 *Executive Order on Improving the Nation's Cybersecurity* (EO 14028) contains a lengthy list of directives aimed at securing federal networks, including many requirements for federal contractors, as well as several provisions with broader commercial impact such as those focused on improving software supply chain security and protecting critical software, and consumer labelling pilots for IoT Security and Secure Software Development. We encourage the Biden Administration to take an outcomes-focused approach to implementing EO 14028, including to pending updates to Federal Acquisition Regulation (FAR) Cases 2021-017 (Cyber Threat and Incident Reporting and Information Sharing) and 2021-019 (Limitations on Subcontracting Revisions), that leverages industry input and commercial best practices, ensures inter-agency cooperation, and encourages reciprocity with related federal security measures to streamline requirements between the various cybersecurity compliance regimes. FISMA reform legislation currently under consideration in Congress also addresses supply chain security, federal network security requirements, and incident reporting for federal agencies and contractors. We urge Congress to use FISMA reform to emphasize a risk-based technology-neutral outcomes focus to federal cybersecurity, streamline the existing regimes, and ensure that incident reporting and vulnerability disclosure requirements are handled consistent with other legislation and international standards.



8. Artificial Intelligence

The Administration should continue to support a harmonized federal approach to Artificial Intelligence via the National AI Initiative, which will help speed the pace of trustworthy AI technology development in the United States.

In doing so, it should continue to robustly support NIST's efforts to develop an AI Risk Management Framework, while also advancing engagement with international partners to align global AI-related norms, guidelines, and regulation wherever possible. We recommend that governments take a thoughtful, measured approach to AI regulation, which considers the level of risk associated with specific AI applications and use cases and is informed by international standards. As such, we urge the Administration to continue engaging in multilateral fora, such as the Global Partnership on Artificial Intelligence (GPAI) and the OECD, as well as bilaterally, to encourage risk-based approaches and reliance, wherever possible, on international standards and best practices. We also encourage the Administration to work with industry to appropriately address concerns about AI bias and discriminatory outcomes, as well as other negative outcomes, while also remaining cognizant of the opportunities that AI may enable.



9. Information and Communications Technology Supply Chain Security

The Administration should focus the scope of Executive Order 13873, Securing the Information and Communications Technology and Services Supply Chain, by ensuring that covered transactions are prioritized and targeted according to discrete national security risks.

In its current form, the EO and associated rulemakings will have potentially devastating effects on U.S. competitiveness and innovation, casting a cloud of uncertainty over almost all ICTS transactions with foreign entities, with limited benefit to ICTS security. We agree that supply chain security is imperative to facilitating trust, but the EO in its current state does not achieve those objectives, in large part because it focuses on risks posed by foreign adversaries to the exclusion of other risk-based considerations related to the ICTS supply chain. Therefore, revising the EO and its rulemaking scope to ensure it is targeted at identifying and managing the greatest risks to ICTS would allow U.S. companies to conduct global business with certainty, thus improving competitiveness and allowing for continued innovation across borders.



10. International Standards

Publish pending final rules to enable companies to participate fully in routine international standards development activity.

Pursuant to Commerce Department regulations, companies have been inadvertently restricted from participating fully in the development of international standards where a company on the Commerce Department's Entity List is present. This undermines U.S. technology leadership by causing U.S. companies cede ground, influence, and leadership to competitor companies and countries. This necessitates an immediate regulatory fix to exempt routine standards development activity from overly restrictive export controls.



11. Tax

As more than 130 governments participating in the OECD/G20 Inclusive Framework have agreed on a two-pillar approach to reform the international tax system, the Biden-Harris Administration should prioritize administrability, certainty, and double taxation relief as negotiators look to finalize design elements of Pillar One and administrative guidance and the implementation framework for Pillar Two.

Of key importance is the standstill and removal of all digital services taxes and similar relevant measures that contribute to the fragmentation and destabilization of the global tax system. **The U.S. Congress also should enact legislation that will extend the current year expensing of research and development costs.** In January, a provision from the 2017 Tax Cuts and Jobs Act that allows R&D expenses to be amortized over five years went into effect. Extending the ability to deduct research and development (R&D) costs in the year they occur supports investment in R&D and high-wage R&D jobs in the U.S. policymakers should support a delay of the amortization of R&D expenses.



12. Broadband Deployment

Following the enactment of the Infrastructure Investment and Jobs Act, public funding should be targeted to address unserved and then underserved communities, based on more accurate broadband maps, utilizing technology neutral buildout requirements that focus on achieving speeds capable of providing robust connectivity, which will allow states and local communities to determine which solutions best meet their specific needs.

Rolling out fixed wireless and mobile solutions, such as 5G, is essential to helping to close the digital divide, and policymakers should continue to advance policies that reduce barriers to 5G small cell deployment. **This includes finding solutions to the current commercial ICY BUY America restrictions which, as currently defined, will prevent grantees from acquiring needed communications equipment and risk delaying the benefits of these broadband projects, including job creation for American workers.** In addition, as NTIA and other agencies develop programming rules, they should include industry stakeholders in the discussion process to better facilitate timely and effective funding flows. Further, as States will simultaneously be developing broadband and digital inclusion plans alongside cybersecurity plans designed to obtain funding for security and resiliency awards, federal agencies should consult with each other and with industry stakeholders to ensure funding for new broadband networks complements security funding needed to protect new networks from attack.



13. Workforce of the Future

Policymakers should support technical training programs, workforce development programs, and greater funding for STEM and computer science education.

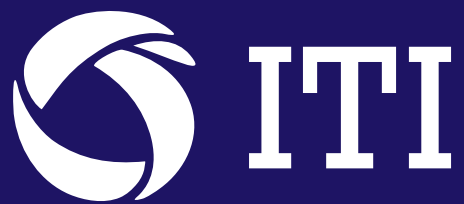
Specifically, advancing policies centered around financial investments for Minority Serving Institutions (MSIs), Historically Black Colleges and Universities (HBCUs), K-12 education, and work-based learning programs is essential to building a diverse and ready workforce. Congress should enact the STEM and workforce provisions included as part of USICA to better equip students and workers for the jobs that will drive American competitiveness in key technology fields. Moreover, policymakers should support further modernization of the Workforce Innovation and Opportunity Act (WIOA) to invest in workforce development and training/upskilling programs to better expand alternative career pathways to “future proof” jobs in the technology sector. Congress should also increase the number H-1B and employment-based visas to ensure that US employers can attract and retain highly skilled job creators.



14. Sustainability

The Administration should continue the work started by EO 14030 on Climate-Related Financial Risk and EO 14057 on Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability and finalize rulemakings promoting these policies.

The FAR Council has begun looking at how procurement can be used to reduce greenhouse gas emissions, and ITI has asked the FAR Council to initiate a rulemaking to allow the EPA to identify the best voluntary consensus standards and ecolabels for federal procurement. These rules, once implemented, will allow for a public-private partnership to address the ambitious sustainability and climate goals set by the Administration.



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