



EU GEOPOLITICAL RISK UPDATE KEY POLICY & REGULATORY DEVELOPMENTS

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This regular alert covers key policy and regulatory developments related to EU geopolitical risks, including in particular, economic security, Russia's war against Ukraine, health threats, and cyber threats. It does not purport to provide an exhaustive overview of developments.

This regular update expands from the previous [Jones Day COVID-19 Key EU Developments – Policy & Regulatory Update](#) (last issue [No. 99](#)) and [EU Emergency Response Update](#) (last issue [No. 115](#)).

LATEST KEY DEVELOPMENTS

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- European Commission releases Competition Policy Brief on Competition in Generative AI and Virtual Worlds
- European Commission publishes Evaluation of EU Competition Rules (Regulation 1/2003 and Regulation 773/2004)
- European Commission approves further schemes under Temporary Crisis and Transition Framework to support economy in context of Russia's invasion of Ukraine and accelerating green transition and reducing fuel dependencies

Trade / Export Controls

- Internal Market Emergency and Resilience Act (IMERA) adopted and published in Official Journal of the European Union
- European Commission publishes 42nd Annual Report on EU's Anti-Dumping, Anti-Subsidy and Safeguard Activities
- European Commission holds industry roundtable on preventing circumvention of Russia sanctions on sensitive goods
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Medicines and Medical Devices

- European Commission welcomes UN Political Declaration on fight against antimicrobial resistance
- European Parliament Plenary Debate on EU response to mpox outbreak

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- Recent EU developments in Artificial Intelligence
- European Commission publishes Data Act FAQs

COMPETITION & STATE AID

Competition

European Commission releases Competition Policy Brief on Competition in Generative AI and Virtual Worlds (see [here](#))

On 19 September 2024, the Commission announced its Competition Policy Brief on Competition in Generative AI and Virtual Worlds, which examines the impact of these technologies on competition in Europe. The Commission argues that because of their disruptive nature and the competitive risks that it asserts these technologies may entail, the Commission aims at ensuring that society as a whole enjoys their potential benefits in terms of innovation and prices.

The Policy Brief is based on over 170 stakeholder responses to the Commission's calls for contributions in January 2024 on competition in virtual worlds and generative AI (see [here](#)), the follow-up workshop in June 2024 (see [here](#)), interviews with key stakeholders and parallel market investigations, as well as collaboration with other competition authorities, including in France, Hungary, Portugal, and the UK, as well as the US Federal Trade Commission.

The Policy Brief sets out market dynamics and potential elements of a preliminary framework for assessing anticompetitive concerns and the possible tools to address these, including antitrust enforcement and merger control. According to the Commission, in particular:

For generative AI,

- Market tendencies. Vertical integration or establishing partnerships to access input resources or distribution channels are among the tendencies shaping generative AI related markets.
- Potential barriers to entry. Key components for developing and deploying generative AI systems include data, AI accelerator chips, computing infrastructure, cloud capacity and technical expertise. Depending on the economic context, the Commission may view each of these as amounting to a potential barrier to entry or expansion, or potentially leading to an anticompetitive practice.

Furthermore, risks of abuse of dominance could arise where the Commission perceives established large players as aiming at foreclosing competitors, for instance, through control over distribution channels for generative AI applications or services.

For virtual worlds:

- Market tendencies. The virtual worlds industry features diverse players with distinct strategies, who invest in a variety of intertwined technologies and services (e.g., large digital players investing in hardware technologies such as virtual reality headsets). High-speed networks, cloud computing, chips, intellectual property, AI and data are vital enabling elements. Access to these can play a crucial role for robust competition in the virtual worlds sector.
- Potential barriers to entry. Some stakeholders raised concerns that strong scale effects can increase entry barriers in virtual worlds markets. Very high costs are necessary for investment and innovation in the sector, and large digital players may enjoy greater financial means if deciding to invest heavily in underlying infrastructure, technology, content and talent. By contrast, European

start-ups and SMEs often lack access to funding, which can create difficulties in scaling up and matching the offer of established tech companies.

Commission response. Given the significant scope of the impacts of these technologies and the risks they might entail, DG Competition is actively monitoring the generative AI and virtual worlds sectors in seeking to safeguard competition. For instance, DG Competition is analyzing investments and partnerships between large digital players and generative AI developers, as well as agreements for pre-installing generative AI models on devices in view of ensuring that they do not raise the Commission's competitive concerns.

DG Competition is also currently undertaking preliminary investigations into markets seen as crucial for the development of generative AI and virtual worlds, such as the markets for cloud or for different types of specialized chips.

European Commission publishes Evaluation of EU Competition Rules (Regulation 1/2003 and Regulation 773/2004) (see [here](#))

On 5 September 2024, the Commission published a Staff Working Document Evaluation ("Evaluation") of [Regulation 1/2003](#) and [Regulation 773/2004](#) on implementing EU competition rules (together the "Regulations"), which entered into force 20 years ago on 1 May 2004.

The Commission views the Evaluation as particularly timely in light of digitization of the economy and the Commission's priority of completing the EU's digital transformation by 2030 (see [EU 2030 Digital Compass Communication](#)).

Launched in March 2022, the Evaluation reflects some 60 stakeholder contributions, 250 expert interviews with external lawyers and in-house counsels, and data from the Commission, NCAs (national competition authorities) and non-EU jurisdictions.

Backdrop. The Regulations established a procedural framework aimed at ensuring the effective implementation of the EU competition rules set out in [Articles 101](#) (prohibits agreements between companies that restrict competition) and [Article 102](#) (prohibits abusive conduct by companies that have a dominant position on a particular market) of the Treaty on the Functioning of the EU (TFEU).

The Regulations have played a crucial role in enforcing EU antitrust rules. According to the Commission, between 1 May 2004 and end-2022, the Commission imposed over €42 billion in fines under Regulation 1/2003, of which the EU courts have upheld approximately €37 billion.

The Commission set out its views on the Evaluation's main findings, such as:

- The Regulations have generally attained their objective of the effective and uniform application of EU competition rules.
- Regulation 1/2003 brought positive changes:
 - By abolishing the old system of requiring companies to notify agreements to the Commission in order to benefit from an exemption under Article 101(3) TFEU,* this enabled cost savings for the Commission and for businesses.
 - By implementing a decentralized system of parallel enforcement of EU competition rules by the Commission and NCAs, this led to more effective enforcement. NCAs and the Commission have

together adopted over 1,650 decisions (with NCAs adopting over 85% of these).

- Impact of digitalization and globalization. The economy's digitalization has raised concerns over the effectiveness of the Commission's investigative tools (over 60 years old) and the increasing tension between the need for swift intervention and the average duration of antitrust proceedings. In particular:
 - Investigations now take place in a digitalized environment that greatly differs from the paper-based environment when Regulation 1/2003 was enacted. With the ever-growing importance of digital evidence for antitrust investigations, the current legal framework may not fully enable the Commission to gather effectively the information necessary for its enforcement of competition rules.

For example, the Commission's inspection powers consist of entering business premises, taking copies of relevant evidence stored in such premises, and asking explanations from the company's relevant staff members. However, few business records are now stored at the inspected premises (as these are hosted in data centers or in cloud services) and company staff may not be present at the inspected premises (e.g., due to remote working).
 - Investigations have become increasingly complex due to the large volume of digital data collected and highlight the need for faster investigations. For instance, the system of granting access to a non-confidential version of the Commission's file in order to ensure parties' rights of defense was developed when investigations were of much smaller scale. With the proliferation of data and larger files, the preparation of a non-confidential version of the file creates a substantial burden on parties, information providers, and the Commission itself.

Going forward. The Evaluation's purpose was to gather evidence on the functioning of the Regulations, and it does not make proposals for reform. In the coming months, the Commission will consider the need for a legislative proposal, including taking into account stakeholder feedback during the Evaluation on potential areas for reform.

** Article 101(3) TFEU acknowledges that some restrictive agreements may generate objective economic benefits that outweigh the negative effects of the restriction of competition, and exempts those agreements from these prohibitions. Article 101(3) can be applied in individual cases or to categories of agreements and concerted practices through block exemption regulations.*

State Aid

European Commission approves further schemes under Temporary Crisis and Transition Framework to support economy in context of

The Commission approved additional measures under the State aid Temporary Crisis and Transition Framework (TCTF) to support the economy in the context of Russia's invasion of Ukraine and in sectors key to accelerating the green transition and reducing fuel dependencies (as most lately amended on 2 May 2024 and 20 November 2023).

Among the most recently approved State aid schemes under the TCTF (up to 27 September 2024):

Russia's invasion of Ukraine and accelerating green transition and reducing fuel dependencies (see [here](#))

- €1 billion Portuguese State aid scheme to support investments in strategic sectors necessary to foster the transition to a net-zero economy.
- €2.7 billion Austrian State aid scheme to support decarbonization of industrial production processes.
- €1.2 billion Polish State aid scheme to support investments in strategic sectors to foster the transition to a net-zero economy.
- €682 million Belgian scheme to support renewable offshore wind energy to foster the transition towards a net-zero economy.

TRADE / EXPORT CONTROLS

Internal Market Emergency and Resilience Act (IMERA) adopted and published in Official Journal of the European Union (see [here](#) and [here](#))

On 26 Sept 2024, the Council of the European Union adopted the Internal Market Emergency and Resilience Act (IMERA), followed by its signature by the Presidents of the European Parliament and the Council and its publication in the Official Journal of the European Union.*

IMERA aims at ensuring the free movement of persons, goods and services, as well as greater transparency and coordination, in times of crisis. These goals are notably to safeguard the stability of supply chains for critical goods and services. IMERA builds on lessons learned during recent emergencies such as COVID-19, Russia's war against Ukraine, and the energy supply crisis.

Complementing other EU legislative measures for crisis management, IMERA sets out a crisis management framework to identify threats to the internal market and to preserve its smooth functioning, in particular by:

- Establishing an Internal Market Emergency and Resilience Board, a crisis governance mechanism chaired by the Commission and composed of Member State representatives to monitor the internal market, identify different levels of risk, and coordinate appropriate responses. This crisis governance is composed of the following stages:
 - Contingency mode enables the Commission to undertake measures to prepare for possible crises (e.g., cooperation and exchange of information with Member States; consultation with economic operators on their initiatives to mitigate/respond to potential internal market crises; and training and stress tests for Member States);
 - Vigilance mode can be activated to address the threat of a crisis with the potential to escalate into an internal market emergency that disrupts the free movement of goods and services or disrupts supply chains. Vigilance mode measures include, e.g., Member State monitoring of supply chains of strategically important goods and services, as well as establishing and maintaining a confidential inventory in these areas; and
 - Emergency mode is to be activated in the event of a crisis of significant impact on the internal market that severely disrupts free movement or the functioning of critical supply chains. Emergency mode measures include, e.g., a blacklist of prohibited restrictions such that Member States cannot impose measures such as banning the transit of crisis-relevant goods.

Additionally, and only when the emergency mode has already been activated, the Commission may also make use of last-resort measures under extraordinary circumstances, e.g., the Commission may issue requests to economic operators established in the EU to accept priority-rated orders to produce or supply crisis-relevant products. Economic operators remain free to refuse such requests.

- The Commission will also create a stakeholder platform to facilitate sector-specific dialogue and partnerships by gathering key stakeholders from industry, researchers and civil society (e.g., to indicate voluntary actions needed to successfully respond to an internal market emergency and to provide scientific advice, opinions or reports on crisis-related issues).

Additionally, IMERA is also accompanied by a package of measures (so-called “IMERA omnibus”)** concerning current legislation in areas related to the internal market (e.g. General Product Safety Regulation), which require amendments setting out emergency response procedures.

Next steps. IMERA will enter into force on the 20th day following its publication on 8 November 2024 in the Official Journal of the European Union. Member States have until 29 May 2026 to implement the new rules.

* *Regulation 2024/2747 of 9 October 2024 establishing a framework of measures related to an internal market emergency and to the resilience of the internal market and amending Council Regulation (EC) No 2679/98 (Internal Market Emergency and Resilience Act)*

** *[Regulation \(EU\) 2024/2748](#) and [Directive \(EU\) 2024/2749](#), both of 9 October 2024, which amend harmonized EU product legislation to ensure that strategic goods can be rapidly brought to the market to address shortages in case of a market crisis.*

European Commission publishes 42nd Annual Report on EU’s Anti-Dumping, Anti-Subsidy and Safeguard Activities (see [here](#))

On 24 September 2024, the European Commission published the 42nd Annual Report on the EU’s Anti-Dumping, Anti-Subsidy and Safeguard activities and the Use of Trade Defence Instruments by Third Countries targeting the EU in 2023.

Executive Vice-President and Commissioner for Trade Valdis Dombrovskis, in presenting the Report, stated:

“Despite geopolitical tensions and broader challenges, the EU remains one of the world’s most open markets. This openness, however, is not to be taken for granted. We will not hesitate to take action when rules-based trade is being undermined. The significant increase in our trade defence activity during this mandate is a testament to that.”

The Report notably indicated the following:

- In 2023, the EU initiated over twice as many new cases as in 2022, with 12 initiations compared to 5 in 2022. This notable increase in activity highlights the Commission’s determination to pursue rising instances of unfair trade.
- Ensuring the effectiveness of trade defence measures also continues to be a high priority for the Commission. This includes monitoring the

impact of anti-dumping and countervailing duties on import flows and taking action where measures are circumvented or duties evaded.

In recent years, the Commission has faced increasingly complex circumvention practices, such as assembly processes that require some level of industrial activity that may change the nature of the product, but add very limited value to the final goods. These are then imported into the EU, evading payment of the previously imposed duty.

- The Report also looks back at the past five years (i.e., from 2019, the first year of full implementation of modernized trade defence legislation, until 2023) as a time of challenges and change. The Commission, in particular, ensured that the COVID-19 pandemic's disruptions did not diminish its resolve to pursue trade defence when needed. This included, for example, the introduction of remote verifications in trade defence investigations in 2020.

By end-2023, trade defence measures had risen to 186 measures, (from 133 measures in 2018), representing an increase of 40%. According to the Report, these additional measures mean that trade defence is now responsible for protecting some 493,000 manufacturing jobs in Europe, such as for products essential for the sustainable energy value chain, (e.g., solar glass), the green transition (e.g., wind towers), as well as the digital transition (e.g., optical fibres).

A Commission Staff Working Document (SWD) accompanies the Report and provides further information and statistics (see [here](#)).

European Commission holds industry roundtable on preventing circumvention of Russia sanctions on sensitive goods (see [here](#))

On 10 September 2024, Executive Vice-President and European Commissioner for Trade Valdis Dombrovskis and European Commissioner for Financial Services Mairead McGuinness held a roundtable with senior executives from key EU companies trading in Common High Priority (CHP) items.

CHP items are set out in a list of prohibited dual-use goods and advanced technology items used in Russian military systems found on the battlefield in Ukraine or critical to the development, production or use of those systems. (see [here](#) for latest list from 22 February 2024). The CHP list, prepared by the Commission together with authorities in the US, UK and Japan, is key to efforts to combat circumvention.

The roundtable participants included those in critical sectors such as semiconductors, aerospace, telecommunications, banking, and logistics services (e.g., Airbus, Commerzbank, DHL, Ericsson, Intel, and Siemens).

The roundtable discussed how EU industry, alongside governments and EU institutions, can together combat the circumvention of EU sanctions on sensitive goods. Industry participants also exchanged views on compliance risks, best practices against circumvention, safeguarding EU know-how from misuse abroad, and tackling smuggler networks and illicit actors.

Council of the European Union prolongs sanctions against Russia (see [here](#))

The EU relies on restrictive measures (sanctions) as one of its tools to advance its Common Foreign and Security Policy (CFSP) objectives, such as safeguarding EU's values, fundamental interests, and security; preserving peace; and supporting democracy and the rule of law.

Sanctions include measures such as travel bans (prohibition on entering or transiting through EU territories); asset freezes; prohibition on EU citizens and companies from making funds and economic resources available to the listed individuals and entities; ban on imports and exports (e.g., no exports to Iran of equipment that might be used for internal repression or for monitoring telecommunications); and sectoral restrictions.

Among the most recent developments to the EU sanctions regimes:

Russia:

- On 12 September 2024, the Council prolonged by six months (until 15 March 2025) individual sanctions targeting those responsible for undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. Such restrictions are subject to renewal every six months.

In the context of the sanctions' review, the Council also decided not to renew the listings of two individuals and removed five deceased persons from the list.

The sanctions apply to over 2200 individuals and entities, many of which are targeted in response to Russia's war against Ukraine. Such restrictive measures concern asset freezes, travel restrictions for natural persons, the freezing of assets, and a ban on making funds or other economic resources available to the listed individuals and entities.

The Council's overview of EU sanctions against Russia over Ukraine (since 2014) is also available [here](#).^{*} To recall, EU restrictive measures taken against Russia, as first introduced in 2014 in response to Russia's actions destabilizing the situation in Ukraine, have significantly expanded following Russia's military aggression against Ukraine, starting on 23 February 2022 in adopting the so-called first package of sanctions. The Council adopted the 14th package of sanctions on 24 June 2024 (see also [EU Targets Foreign Subsidiaries in New Sanctions Packages of 5 August 2024](#) and [Jones Day EU Emergency Response Update No. 115 of 24 June 2024](#)).^{**}

** Note: On 8 October 2024, the EU adopted a new sanctions regime in response to hybrid threats from Russia (e.g., sabotage of economic activities or critical infrastructure; and use of coordinated disinformation). This will be presented in a forthcoming Update.*

*** An in-depth analysis of the 14th package of sanctions against Russia is available from the authors of the EU Geopolitical Risk Update (see contact details below for Nadiya Nychay (Brussels) and Rick van 't Hullenaar (Amsterdam)).*

MEDICINES AND MEDICAL DEVICES

European Commission welcomes UN

On 26 September 2024, the Commission welcomed the Political Declaration reached at the United Nations General Assembly ("UNGA") High-level Meeting on Antimicrobial Resistance to ramp up action against antimicrobial

Political Declaration on fight against antimicrobial resistance (see [here](#))

resistance (“AMR”), as subsequently adopted by UNGA on 7 October 2024 (see [here](#)).

The Political Declaration recognizes that AMR is one of the greatest global health threats and development challenges, which calls for immediate action to safeguard the ability to treat human, animal, and plant diseases, as well as to enhance food safety, food security and nutrition, foster economic development, and advance the 2030 Agenda for Sustainable Development Goals (see [here](#)).

In the Political Declaration, UN member countries, including the EU and its Member States, committed to concrete actions to address AMR across all sectors, through a One Health approach that recognizes the intrinsic link between human, animal and environmental health. The commitments include, e.g., the following:

- Reduce the number of global deaths from bacterial AMR by 10% by 2030 against the 2019 baseline of 4.95 million deaths, and undertake to tackle the multifaceted and cross-cutting nature of antimicrobial resistance;
- Ensure that by 2030, all countries have developed or updated and are implementing multisectoral national action plans on AMR with national targets informed by analysis of existing capacities and priorities;
- Reduce the use of antibiotics in agri-food by 2030, taking into account national contexts, e.g., by investing in animal and plant health to prevent and control infections, thereby reducing the need for and inappropriate use of antimicrobials, including by investing in alternatives to antimicrobials;
- Establish an independent panel for evidence-based action against AMR. The panel, which the EU will help to fund, will gather and consolidate data on AMR and provide guidance to policymakers worldwide;
- Use existing frameworks to exchange experiences and best practices, and to assess progress in implementing national action plans.

According to European Commissioner for Health and Food Safety, Stella Kyriakides, the Political Declaration: “... *is a strong signal of the global commitment to address antimicrobial resistance – a significant and evolving health threat to every person, community and country. The Declaration puts a much-needed spotlight on AMR. We now need to turn these commitments into real actions and intensify our global collaboration in tackling AMR. We are at a turning point that could define the health and well-being of future generations. Team Europe, through our European Health Union, is ready to play its part in this global effort.*”*

* See also the European Commission’s previous call for urgent action on antimicrobial resistance of 17 November 2023 ([Jones Day EU Emergency Response Update No. 110 of 23 November 2023](#)).

European Parliament Plenary Debate on EU response to mpox outbreak (see [here](#))

On 18 September 2024, the European Parliament and the European Commission discussed the EU’s response to the mpox outbreak in Africa and the need for continued action.

On 14 August 2024, the World Health Organization (“WHO”) declared the mpox outbreak in the Democratic Republic of the Congo and nearby regions a

"public health emergency of international concern". The European Centre for Disease Prevention and Control ("ECDC") issued a risk assessment on 16 August 2024, indicating the low overall risk to Europe's general population.

During the Plenary debate, the Commission indicated that there is currently no need to consider a declaration of a Public Health Emergency in the EU.

However, to prevent the mpox virus from spreading to Europe, the Parliament is expected to urge a coordinated EU response to contain the outbreak in Africa. Currently, the EU has one antiviral treatment and one vaccine authorized for mpox. The Commission, through the Health Emergency Preparedness and Response Authority ("HERA"), is managing vaccine procurement and donations to affected African countries.*

* See also *HERA Joint Procurement Framework Contract of up to 2 million doses of mpox vaccine, signed on 17 November 2022* ([Jones Day COVID-19 Key EU Developments No. 92 of 1 December 2022](#)).

CYBERSECURITY, PRIVACY & DATA PROTECTION

Recent EU developments in Artificial Intelligence (see [here](#), [here](#), and [here](#))

Throughout September 2024, there were a series of EU developments in the field of Artificial Intelligence (AI), such as:

- **First signatories of EU AI Pact**

On 25 September 2024, the European Commission welcomed the first signatories (over 130 companies)* of the EU AI Pact and its voluntary pledges in the context of the AI Act (*Regulation (EU) 2024/1689 laying down harmonised rules on artificial intelligence*). To recall, the AI Act is the world's first comprehensive EU regulation aimed at governing artificial intelligence (see also [Jones Day EU Geopolitical Risk Update No. 116 of 25 August 2024](#)).

To help stakeholders prepare for implementation of the AI Act, the Commission developed the AI Pact (see [here](#)). Although some AI Act provisions are already applicable, certain requirements (e.g., those applicable to high-risk AI systems) will only apply at a later stage.

The AI Pact supports the industry's voluntary commitments to start applying AI Act requirements ahead of their actual date of application and seeks to enhance engagement between the Commission's AI Office (see [here](#)) and all relevant stakeholders, including industry, civil society and academia.

Companies signing the AI Pact must commit to at least three core actions:

- Implement an AI governance strategy to foster the uptake of AI in the organization and work towards future compliance with the AI Act;
- Map high-risk AI systems by identifying AI systems likely to be categorized as high-risk under the AI Act;
- Promote AI literacy and awareness among staff, ensuring ethical and responsible AI development.

More than half of the signatories also committed to additional pledges, including ensuring human oversight, mitigating risks, and transparently labelling certain types of AI-generated content (e.g., deepfakes).

Companies may join the AI Pact at any moment until the AI Act becomes entirely applicable.

* *Signatories come from diverse sectors and include companies such as Airbus, Booking.com, Hewlett Packard, and Tata Consulting.*

- **Commission hosts first official meeting of AI Board**

On 10 September 2024, the Commission hosted the first official meeting of the AI Board, following the entry into force of the above-referred AI Act on 1 August 2024.

This first meeting marked an important step in the EU's commitment to shape a robust framework for AI governance. The AI Board, established to enhance AI's development in the EU and implement the AI Act, is comprised of high-level representatives from the Commission and all EU Member States (see [here](#)).

The AI Board meeting discussed topics such as:

- Establishment of the AI Board's organization and adoption of its rules of procedure;
- An update and strategic discussion on EU AI policy, including the GenAI4EU initiative (see [here](#)) and international AI activities;
- A progress update and discussion on the Commission's first deliverables related to the AI Act's implementation; and
- An exchange of best practices for national approaches to AI governance and AI Act implementation.

This meeting followed a preparatory session hosted by the Commission on 19 June 2024 (see [here](#)), which laid the essential groundwork for the AI Act's implementation.

- **Commission signs Council of Europe Framework Convention on AI**

On 5 September 2024, the Commission signed the Council of Europe Framework Convention on AI on behalf of the EU (see [here](#)).

The Convention is the first legally binding international agreement on AI and fully aligns with the EU AI Act. It sets out a common approach on AI to ensure that AI systems are compatible with human rights, democracy and the rule of law, while enabling innovation and trust.

The Convention includes various key concepts stemming from the EU AI Act, including:

- A risk-based approach;
- Transparency along the value chain of AI systems and AI-generated content;
- Detailed documentation obligations for AI systems identified as high-risk; and
- Risk management obligations with the possibility to prohibit AI systems viewed as a clear threat to fundamental rights.

Negotiating parties to the Convention included, e.g., the EU, other Council of Europe Member States, Canada, the US, Mexico, the Holy See, Australia, Japan, Israel, Argentina and Peru.

International representatives from 68 stakeholder groups also provided input to ensure a comprehensive and inclusive approach.

The signature of the Convention is part of the EU's broader efforts in AI at the international level, which include discussions with the G7, OECD, G20, and the United Nations.

Next steps. Following the signature of the Convention, the Commission will prepare a proposal for a Council decision to conclude the Convention. The European Parliament will also approve the text.

The EU will implement the Convention through the AI Act and other relevant EU legislation if needed.

European Commission publishes Data Act FAQs (see [here](#))

On 6 September 2024, the Commission published Frequently Asked Questions (FAQs) on the Data Act ([Regulation \(EU\) 2023/2584 of 13 December 2023](#)). The Data Act entered into force on 11 January 2024, and most of its provisions will become applicable on 12 September 2025.

To recall, the Data Act lays down rules on fair access to and use of personal and non-personal data across all economic sectors generated by connected products and digital related services (see also [Jones Day EU Geopolitical Risk Update No. 111 of 29 Dec 2023](#)).

The FAQs seek to assist companies in implementing the Data Act and were developed based on extensive stakeholder feedback. In particular, the FAQs provide guidance on the following topics:

- Interaction of the Data Act with other EU laws. The FAQs note, for example, that the GDPR is fully applicable to all personal data processing activities under the Data Act. The GDPR rules on the protection of personal data will prevail in the event of a conflict between the GDPR and the Data Act.
- Access to and use of data in the Internet-of-Things context. This section addresses issues such as:
 - What data is covered by the data access rights provided in the Data Act. Mandatory data-sharing obligations generally apply to “raw but usable” data that are readily available to a data holder as a result of the manufacturer’s technical design. In this respect, e.g., “product data” is data obtained, generated, or collected by a connected product and which relates to its performance, use or environment;
 - What happens if a connected product that is placed on the EU market generates data when it is used abroad? The FAQs indicate that for connected products placed on the market in the EU and then used outside the EU, the data generated by that connected product both inside/outside the EU should be made available to the user in accordance with the Data Act.
- Reasonable compensation. The Data Act provides that data holders subject to sharing data may request “reasonable compensation” from the data recipient. The FAQs clarify that there is no upper or lower limit to compensation, but that the Data Act imposes certain transparency requirements in order to ensure that compensation is calculated based on certain objective criteria (e.g. costs incurred, or volume of data made available);

- Unfairness in business-to-business data-sharing contracts. The FAQs give guidance on assessing whether contractual terms are in line with Data Act requirements and good commercial practice in data access and use;
- Switching between data processing services. The Data Act introduces requirements to enable switching between providers of cloud services and of other data processing services, by requiring providers to take all reasonable measures to facilitate the process of achieving functional equivalence in the use of the new service. The FAQs clarify, amongst other things, services that are exempted from switching requirements, the concepts of “exportable data” and “digital assets,” and the status of standard contractual clauses for cloud computing contracts that the Commission is developing and their expected scope;
- Unlawful access to and transfer of non-personal data held in the EU by third country authorities. The FAQs describe, in particular, how unlawful governmental access to data should be prevented through measures that service providers should implement (e.g., use of data encryption, frequent submission to audits, and verified adherence to relevant security reassurance certification schemes);
- Interoperability. The Data Act introduces interoperability requirements for participants in data spaces that offer data or data services, data processing service providers, and vendors of applications using smart contracts. The FAQs recall that the Data Act expresses a clear preference for interoperability standards to be developed by EU standardization bodies, instead of imposing common interoperability specifications;
- Enforcement. The FAQs address a range of enforcement topics, such as the type of public sector body that EU Member States must put in place to enforce the Data Act (e.g., a newly created body or an existing one). Member States are also responsible for setting penalties. To ensure high consistency across the EU, the European Data Innovation Board (EDIB)* will be used as a platform to evaluate, coordinate, and adopt recommendations on setting penalties for infringements of the Data Act.

Looking ahead. The FAQs also anticipate, among other things, the EU Commission’s upcoming guidance on the above-referred concept of “reasonable compensation”, and model contractual terms for data sharing and standard contractual clauses for cloud computing contracts.

The FAQs are intended to be a “living document” to be updated as necessary.

* *The European Commission leads the EDIB (established by [Regulation \(EU\) 2022/868](#) of 30 May 2022 on European data governance and amending Regulation (EU) 2018/1724 (Data Governance Act)). The EDIB is an expert group that supports implementation of the EU data governance framework by facilitating cooperation between competent authorities, promoting best practices and common approaches in enforcement.*

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