

Building Blocks for an Artificial Intelligence Policy Framework

Policy Recommendations on an Artificial Intelligence Policy Framework for the Fourth Ministerial Meeting of the EU-US Trade and Technology Council (TTC)

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Background

The EU-US Trade and Technology Council (TTC) has been able to set important accents in the transatlantic discourse. From the perspective of German business, the Council should now step up its efforts to deliver more tangible results. In light of uncertainties regarding the continuation of the TTC negotiations following the 2024 U.S. presidential elections, German industry urges both the European Commission as well as the U.S. Administration to step up their efforts during the upcoming fourth ministerial meeting, taking place on 30-31 May 2023 in the Swedish town of Luleå, and should agree on policies that outlast the current U.S. Administration. As German industry we very much appreciate the existence of the TTC to strengthen transatlantic relations – especially in light of Russia’s unprovoked invasion of Ukraine. Nonetheless, the TTC must become more than a mere talking-shop. Concrete outcomes in various policy areas are urgently required and unilateral measures that hinder transatlantic trade must be brought to a halt.

The regulation of artificial intelligence is increasingly being discussed in both the United States and the EU. Since the issue of generative AI has taken on a central role in public discourse, its regulation has also come into sharp focus. However, beyond ChatGPT, there is a wide range of application fields of AI in industry. These relate, for example, to the fields of quality control, maintenance, process optimization and logistics. The application of AI systems in industrial settings, as well as practice-based research, contributes significantly to the competitiveness of European and U.S. companies. A common legal framework improves exportability in the shared economic area – at the same time, it promotes the digital sovereignty of democratically governed states.

During the third ministerial meeting, the U.S. Administration and the European Commission agreed on establishing a joint AI Policy Framework. In this paper, the Transatlantic Business Initiative (TBI) outlines seven recommendations in three areas that should be taken into consideration when developing the details of the AI Policy Framework:

- **Terminology:** align with existing international definitions
- **Bureaucracy and capacity for action:** allow innovation-oriented AI application
- **Promoting a human-centric AI, respecting human rights:** promote trustworthy AI in multilateral forums

Recommendations

Terminology

A consistent definition of AI is critical for legally secure application in industry.

1. With the current negotiations of the European AI Act well under way and China's recent tightening of AI-related laws, internationally active companies are confronted with often diverging legal requirements across jurisdictions. This significantly increases regulatory uncertainty and often necessitates companies to develop separate product configurations as well as business solutions for each country. To avoid any further regulatory fragmentation, the Transatlantic Business Initiative urges the U.S. Administration and the European Commission to base their AI Policy Framework on an already existing definition rather than developing a new one. Since the European Parliament mostly likely will opt for the OECD's AI definition as a basis for the EU AI Act, the TBI would appreciate if the U.S. Administration and the European Commission were to agree on this definition for the AI Policy Framework as well.
2. Should the U.S. Administration and the European Commission perceive it necessary to establish sub-categories of AI applications, TBI urges policymakers on both sides of the Atlantic to copy such categories as well as respective definitions from already existing legislation. For example, any definition of high-risk AI applications should mirror the respective definition from the EU AI Act – provided that it is balanced in regards of industry suitability. The category of “high risk AI systems” should be limited to AI systems that are associated with actually high risks.

Bureaucracy and capacity for action

AI is one of the key industrial technologies. Based on this, the EU and the United States should strive to make its use non-bureaucratic and innovation friendly. This also encourages transatlantic investment and foreign trade relations.

3. Industrial AI systems that are already regulated by existing law should be excluded from the scope of high-risk AI applications in order to avoid duplication of regulation and legal uncertainties associated with it. Avoiding overlapping regulations would augment the ability of companies in Europe and the USA to develop AI-based innovative business models and thereby remain competitive at a global scale.
4. The requirements for “high-risk AI systems” should be adapted in such a way that they are proportionate to the risks addressed and can be implemented in practice by companies realistically and with a justifiable effort. There should be cooperation mechanisms in place to make sure relevant information is passed on to comply with requirements. Regarding enforcement, there must be reliable guidance by regulators based on clear deadlines.

5. The possibility of regulatory sandboxes should be further promoted by the EU and the United States. In regulatory sandboxes, AI applications can be tested in protected legal environments to develop innovations and regulations with high practical applicability. In addition, joint transatlantic experimental spaces for AI applications should be discussed and cooperation in this area should be strengthened.

Promoting a human-centric AI, respecting human rights

The EU and the United States share an important common ground, namely an unwavering commitment to respect human rights, including democratic values. By pioneering global action and creating broad-based legal certainty for the use of AI in business for the first time, they are also strengthening transatlantic democratic values.

6. The reasoning for the international standardization of AI that respects human rights and civil liberties while taking advantage of the technological revolution for the prosperity of its society should also be harmonized in the G7 and G20 multilateral forums. Therefore, the TBI would welcome the United States and EU collaborating on a multilateral stage to promote a human-centric AI based on respect for (fundamental) human rights, including democratic values.
7. To conduct risk mitigation when using high-risk industrial AI applications, international standardization bodies, driven by industry, should develop in their Technical Committees common standards for the use of AI in business. Trustworthy AI products should be distinguished by a common certification process (e.g. via a trustworthiness label) and should apply in both the United States and Europe.

About the TBI

The Transatlantic Business Initiative (TBI) was established in 2021 to support closer transatlantic economic relations. It serves as a link between German business and the governments of Germany, the United States and Canada as well as the EU's institutions. The initiative is supported by four business associations: the Federation of German Industries (BDI), the Association of German Chambers of Industry and Commerce (DIHK), the Federation of German Wholesale, Foreign Trade and Services (BGA) and the Association of German Banks (BdB). Members of the TBI work in four steering committees, focusing in particular on trade and investment policy, energy and climate policy, data and the digital economy as well as business and finance, and seek to engage with policymakers, regulators and supervisors, business and trade representatives as well as other stakeholders to strengthen transatlantic ties and facilitate coordination on matters of shared interest.

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