AmCham GERMANY

Position Paper

Seizing the Momentum - Shaping International AI Regulation Together

On the Role of Transatlantic Partnership in Global Collaboration on the Regulation of Artificial Intelligence – Recommendations to the German Government in Light of Current International Regulatory Initiatives and Complex Interests

A position paper by the Digital Policy Committee of the American Chamber of Commerce in Germany e.V.

January 2024

Preamble

The American Chamber of Commerce in Germany (AmCham Germany) is the voice of transatlantic business – an association of large, medium-sized, and small companies and individuals based in Germany, Europe, and the United States who are active in the transatlantic economic area and foster transatlantic relationships. AmCham Germany promotes global trade relations that are built on the strong foundation of the German-American partnership. This partnership is based on long-standing social, cultural, and economic interdependencies and the common interests of our two countries. In addition, AmCham Germany advocates for transparent dialogue and is committed to transatlantic values. Central to this are freedom and human rights, democracy and the rule of law, free trade, and competition. Companies active on the transatlantic level employ around 1.5 million workers in both economic areas.

Executive Summary

Artificial intelligence has been playing a role in economic processes and technical developments for some time now. It has moved more into the political focus due to the importance and accelerated growth of generative artificial intelligence and large language models in the last two years. Various governments worldwide are working on regulations.

In this context, the American Chamber of Commerce Germany (AmCham Germany) has formulated the following position paper.

1. Since AI is a globally used instrument and is integrated into economies worldwide, regulation must also be internationally coordinated and respected.
2. Regulation must consider safety requirements and innovative potential equally and thus be both value- and risk-based.
3. Regulation must be centralized at the national level. Given its significant importance, we deem coordination within the Chancellery to be necessary.
4. Regulation must also be coordinated internationally and requires the cooperation of governments, business, science, and civil society. AmCham Germany suggests striving for a supranational authority to prevent the fragmentation of standards.
5. Globally applicable and interoperable AI requires the coordination of essential key terms and technical standards.

Global competition for AI safety governance

The breakthrough of artificial intelligence (AI) in almost all areas of society is a groundbreaking moment, comparable to the introduction of the Internet. Applications of AI can already be found everywhere today, for example in the development of new medicines, in algorithmic trading of securities, in the automation of agriculture, and in public administration; always connected to significant increases in the efficiency and quality of human work. With the language models of generative AI, natural language is becoming the dominant human-machine interface. In the coming years, AI will fundamentally change how we work, learn, and communicate. The complex effects of the diverse applications of AI are only vaguely recognizable in their breadth and mutual reinforcements. Economies with demographic imbalances such as Germany can use them to secure economic growth and significantly increase labor productivity in many areas. One example: according to the German Economic Institute (IW), there was already a shortage of more than 630,000 skilled workers in Germany in 2022; there were around 68,000 vacancies in the IT sector alone in 2022. AI systems that generate new content synthetically (generative AI) will generally simplify access to technology. In addition, AI-supported software development can alleviate the problem of skilled workers in the IT sector in Germany.

AI coordination in federal politics must become a top priority

The rapid technological development of AI challenges the strategic capabilities and operational skills of politics, business, and society. In national politics, AI must converge at the top of the political executive, as the potential and challenges of AI affect technology, industry, competition, geopolitics, and other policy areas. Instead of fragmented departmental responsibilities, which also complicate coordination within the EU (AI Regulation), at the G7 level and in the Trade and Technology Council (TTC), Germany needs effective central coordination by the Federal Chancellery.

Governance as a determining factor of the global competitive factor of AI

The development of commercial and non-commercial AI applications is becoming a strategic competitive factor within and between economies worldwide. This results in an intense international struggle for the scope, conceptual approaches, and value framework for the regulation of AI, especially safety regulation. This creates the essential basis of trust for social acceptance and the widespread use of AI.

Uniform, internationally accepted technology standards for AI-generated content and transparency requirements are of paramount importance now and in the future. AI-generated content is increasingly being used in creative areas such as journalism, art, and entertainment. De facto unregulated access to (generative) AI tools increase the risk of AI-generated disinformation. Technical standards that regulate whether and how AI has been used can create the necessary trust for AI ecosystems. This provides users with reliable information on the origin of digital content and enables them to make an informed decision as to whether they trust the content. AmCham Germany therefore welcomes the integration of content provenance into the Code of Conduct for

AI of the G7 Hiroshima Process. The technical specification developed by the Coalition for Content Provenance and Authenticity (C2PA) can support the implementation.

The countries that can set standards with speed and assertiveness directly influence central factors of international location competition. As with hardly any previous technology regulation, AI governance - both as legally binding legislation and as so-called soft law (i.e. non-binding regulations and standards) - is itself becoming a competitive factor. Depending on the regulatory orientation in the competing countries, there are risks of a race to the top (striving for particularly demanding laws) as well as a race to the bottom (lowering standards and regulations). Systemic differences between states will become even more apparent. While all states emphasize the importance of national security, resilience, and sovereignty, there is still no overarching agreement on how these demands can be integrated into respective governance regimes in an internationally compatible manner.

The tense global political situation with intensified systemic competition is also influencing the international struggle for leadership in shaping AI governance. The strategic options of de-coupling, de-risking, and even the scenario of a cold war in the field of technology and a split in the global technology stack affect all those involved. These options also correlate with the fundamental challenges of AI deployment, such as the defense against disinformation, the diverse changes in the world of work, and the dual-use potential for civilian and military use of AI applications.

AI requires open technical systems and markets to provide a real opportunity for cooperation between different political systems. Initiatives such as the plans to establish and cooperate between AI security institutes in the UK and the U.S. following the international AI security summit at the end of October 2023 can be realized.

To date, there is no international treaty that establishes uniform international standards. However, the current momentum of regulatory efforts is strong: According to the OECD AI Policy Observatory, more than 60 countries have AI legislative initiatives in place. In May 2019, the OECD published its basic principles on AI. The U.S. and the EU are developing a voluntary AI code of conduct in the TTC. A code of conduct for AI was also developed as part of the G7 Hiroshima Process. The European Union is currently on the verge of finalizing its AI regulation; this is due to be completed by early 2024 and would then be the world's first comprehensive AI legislation. With the AI Executive Order on Safe and Trustworthy Artificial Intelligence at the end of October 2023, the Biden-Harris administration sent a clear signal about the outstanding importance of AI regulation. In addition to the EU and the U.S., Brazil, the UK, Israel, Japan, Canada, and other countries have so far provided national impetus.

The transatlantic partners must drive forward the coordinated design of international AI guard rails. These guard rails are based on shared democratic values and a rules-based multilateral global economic order and effectively protect these foundations.

Possible structures for global AI governance

The German government claims to be an international leader in shaping AI regulation and has set itself the goal of establishing a European AI ecosystem to jointly promote AI development and applications and ensure smooth interface communication - in line with shared democratic values. The German government's digital strategy emphasizes its participation in international bodies and its active involvement in shaping international norms and standards for digital technologies.

AmCham Germany supports international cooperation in the Trade and Technology Council and the G7 Hiroshima Process. These are important steps towards establishing democratic, globally applicable basic standards and thus creating an internationally coordinated understanding of fundamental AI safety aspects.

The international challenges of AI regulation require a perspective that extends beyond the transatlantic partnership and at the same time ensures the validity of values and rules. The G7(+) Hiroshima process offers a suitable platform for this, through which a code of conduct for AI has already been successfully developed. This process of harmonizing basic AI regulation for the central safety aspects is also open to emerging countries and the Global South.

Given the large number of ongoing regulatory activities, the aim must be to establish common standards and rules. This dynamic is also evident in the comparison between the EU and the U.S. With the Executive Order on Secure and Trustworthy Artificial Intelligence of October 30, 2023, the U.S. is taking a sectoral approach with a focus on security. This requires each government agency to examine where AI is relevant in its areas of responsibility and may need to be regulated.

With its AI regulation, the EU is also aiming for regulation that focuses on safety aspects. In view of the large number of ongoing regulatory activities, the aim should be to establish common standards and rules. Brazil, China, the UK, Japan, South Africa, and other countries are developing their regulatory approaches. The UK, for example, is positioning itself between the EU and the U.S..

The different AI regulatory approaches of international players illustrate the need for an internationally coordinated understanding of AI regulation. Non-coordinated basic assumptions, in particular divergent definitions, will make AI development, research, and application more difficult due to increased costs and restrict important interoperability. Internationally divergent legal frameworks will create barriers to trade and investment.

AmCham Germany is committed to promoting a globally coordinated understanding of AI standards as part of the G7 Hiroshima process - based on shared democratic values. A key question in this context is how to organize efficient international cooperation and coordination. AmCham Germany relies on dialogue and cooperation between governments, companies, and other relevant stakeholders to create a framework for binding standards.

The creation of a corresponding governance institution is of great importance to ensure effective international coordination and harmonization of agreed rules and standards. From AmCham Germany's point of view, other high-tech sectors offer guidance on how governments, industry, science, and civil society can jointly develop and anchor safety standards at an international level.

Various national and international governance levels were utilized, and their regulatory processes were interlinked. Similarly, overarching AI safety standards could be established and the regulatory interoperability of different governance frameworks could be ensured.

The International Civil Aviation Organization (ICAO) provides an interesting example of the proposed approach. Founded in 1947, the UN organization develops rules for the safety, regularity, and efficiency of international air traffic and is constantly refining them. As a result of the joint efforts of 193 countries, air traffic regulations and procedures are being harmonized worldwide and a global air traffic network is being created.

Another approach for an effective international high-tech governance institution is the 3rd Generation Partnership Project 3GPP. It focuses on technical standards and brings together seven standardization organizations from China, Europe, India, Japan, South Korea, and the U.S. It has established the necessary technical standards for the global use of mobile communications technologies such as LTE and 5G.

These examples demonstrate the importance and potential of internationally coordinated technical standardization and recognition mechanisms. This would apply in a similar way to technical standards in the field of AI and ensure their interoperability. The standardization roadmap for AI drawn up by the German Institute for Standardization (DIN) on behalf of the Federal Ministry for Economic Affairs and Energy comprehensively reflects this. The aim could therefore be to coordinate and interlink global initiatives with existing standardization bodies.

On the content of global AI governance

Successful cooperation in the field of international AI regulation requires the coordination of common definitions of key terms such as explainability, safety, and trustworthiness of AI. Therefore, the TTC initiative to define 65 key terms is of utmost importance, as is the OECD's work to date to establish a generally accepted basic understanding of AI.

To date, 38 OECD member states have adopted the organization's AI recommendation. These are now supported by all G20 countries in the form of the G20 AI Principles and implemented in the Global Partnership on AI (GPAI). GPAI is a multi-stakeholder initiative of 29 countries and focuses on AI research.

AI regulation shows that EU legislators and regulators not only want to regulate AI technology according to different risk classifications but also want to introduce additional special rules for different AI technologies. Regulation of this kind runs the risk of undermining the risk-based approach to AI regulation. Therefore, global coordination of different definition regimes, which is based on the essential layers of all technologies used (the so-called AI technology stack) and links these with work done in the area of technical standardization, is of great importance.

Focus on safety aspects

In any approach to AI regulation, the safety of AI systems should be a top priority. This includes threats posed by AI systems, such as malfunctions, unpredictable or unwanted system decisions, and threats posed by external attacks on AI systems - through data manipulation, takeover of control functions, and other aggressions. The safety of AI systems is essential to promote society's trust in this technology.

Any form of AI regulation must keep the composition of the AI tech stack in mind and design regulations accordingly. It includes all the technologies used to develop an application, including programming languages, frameworks, databases, front-end and back-end tools, and APIs. A comprehensive understanding of the tech stack enables regulators, developers, and users to understand how AI systems work and assign responsibilities. This is crucial to ensure data protection and data security and to clarify responsibility in the event of malfunctions or undesirable outcomes.

Commitment to a value- and risk-based approach

AmCham advocates a value- and risk-based approach to AI regulation to ensure fair competition and the anchoring of fundamental democratic values for AI applications internationally. Less risky applications should not be unduly restricted in this context. International AI regulation should be designed in such a way that it considers and promotes the current and, in the future, even greater diversity in risk profiles that are as coordinated as possible. Globally coordinated regulation of AI should pay particular attention to the use of AI in sensitive and security-relevant areas as well as democratic participation processes - combined with evaluation and feedback loops between all stakeholders. This is particularly necessary in these areas due to the fast pace and complexity of AI and ensures the necessary flexibility to be able to react appropriately to future developments.

Any regulation of AI must be proportionate so as not to inhibit or break off innovation processes. Over-regulation would not only restrict the development of highly innovative AI applications in its area of application but would also lead to distortions in this global competitive factor. Against this backdrop, AmCham Germany considers the regulation of general-purpose AI implemented at the EU level to be critical. Internationally coordinated risk profiles could be an important addition to various AI regulatory approaches.

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About the American Chamber of Commerce in Germany e.V. (AmCham Germany)
The American Chamber of Commerce in Germany (AmCham Germany) is the voice of transatlantic business. It promotes global trade relations that are built on the strong foundation of the German-American partnership. We actively support and promote the interests of our members through our networks in the business community, the world of politics, and American chambers of commerce throughout the world. AmCham Germany facilitates intercultural understanding, collaboration, and new investments through the principles of a transparent dialogue, free trade, and a competitive and open economic climate.

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