



December 3, 2022

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United States Trade Representative Katherine Tai
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European Commission Executive Vice President Valdis Dombrovskis
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Dear Honorable Co-Chairs of the EU-US Trade and Technology Council:

We write to you, on behalf of the Center for AI and Digital Policy (CAIDP), regarding the upcoming meeting of the US-EU Trade and Technology Council (TTC) in Washington, DC, and the need to advance democratic values and universal human rights in the transatlantic alliance. We supported your efforts on AI policy expressed in the TTC Inaugural Joint Statement. We urge you now to move forward with your joint commitments.

The CAIDP is an independent non-profit organization that advises national governments and international organizations on AI policy. Our aim is to ensure that artificial intelligence and digital policies promote a better society, more fair, more just, and more accountable – a world where technology promotes broad social inclusion based on fundamental rights, democratic institutions, and the rule of law. We work with more than 300 AI policy experts in almost 60 countries. We published the landmark report *Artificial Intelligence and Democratic Values* that assessed AI policies and practices of around the world.¹ Following our careful review, we set out several recommendations for countries to advance democratic values:

- 1) Establish national policies for AI that implement democratic values;
- 2) Ensure public participation in AI policymaking and create robust mechanisms for independent oversight of AI systems;
- 3) Guarantee fairness, accountability, and transparency in all AI systems
- 4) Commit to these principles in the development, procurement, and implementation of AI systems for public services; and
- 5) Halt the use of facial recognition for mass surveillance.
- 6) Curtail the deployment of lethal autonomous weapons

¹ CAIDP, *Artificial Intelligence and Democratic Values 2021 (2022) (AI and Democratic Values)*
<https://www.caidp.org/app/download/8376927963/AIDV-Index-2021.pdf>

- 7) Implement the UNESCO Recommendation on AI Ethics
- 8) Establish a comprehensive, legally binding convention for AI

We concluded the report *Artificial Intelligence and Democratic Values*, “in the age of AI, the ability of the European Union, the United States, and allies to work in common purpose remains central.” We also identified the AI Bill of Rights as possibly the most significant AI policy initiative in the United States.²

The US-EU Artificial Intelligence and Democratic Values

Both the US and the EU have recognized the importance of democratic values in the age of AI. President Biden has stated that the progress of automated systems “must not come at the price of civil rights or democratic values” and called for “root out inequity, embed fairness in decision-making processes, and affirmatively advance civil rights, equal opportunity, and racial justice in America.”³ Secretary Blinken has explained, “[m]ore than anything else, our task is to put forth and carry out a compelling vision for how to use technology in a way that serves our people, protects our interests and upholds our democratic values.”⁴

EU President von der Leyen has made clear the need to protect democratic values in the digital world. She said “we want to set a blueprint for regional and global standards aligned with our values: Human rights, and pluralism, inclusion and the protection of privacy. A transatlantic dialogue on the responsibility of online platforms; together, we could set the blueprint for other democracies facing the same challenges.”⁵ And the G7 leaders called out bias in AI systems in 2021 and said they would “take bold action to build more transparency in our technologies.”⁶

The U.S.-EU Trade and Technology Council Inaugural Joint Statement

At the first meeting of the Trade and Technology Council, the U.S. and EU agreed to several key points on transatlantic cooperation for AI policy.⁷ According to the Inaugural Joint Statement, the TTC will “deepen transatlantic trade and economic relations, basing policies on

² Marc Rotenberg and Merve Hickok, *Artificial Intelligence and Democratic Values: Next Steps for the United States*, Council on Foreign Relations (Aug. 22, 2022), <https://www.cfr.org/blog/artificial-intelligence-and-democratic-values-next-steps-united-states>.

³ See the White House Office of Science and Technology Policy, *Blueprint for an AI Bill of Rights* (Oct. 20, 2022), <https://www.whitehouse.gov/ostp/ai-bill-of-rights/>.

⁴ See the U.S. Department of State, *Secretary Antony J. Blinken at the National Security Commission on Artificial Intelligence’s (NSCAI) Global Emerging Technology Summit* (July 13, 2021), <https://www.state.gov/secretary-antony-j-blinken-at-the-national-security-commission-on-artificial-intelligences-nsc-ai-global-emerging-technology-summit/>.

⁵ See the European Commission, *Speech by President von der Leyen at the World Leader for Peace and Security Award* (Dec. 12, 2020), https://ec.europa.eu/commission/presscorner/detail/en/speech_20_2402.

⁶ The White House, *Carbis Bay G7 Summit Communique* (June 13, 2021) (“new forms of decision-making have surfaced examples where algorithms have entrenched or amplified historic biases, or even created new forms of bias or unfairness.”), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/13/carbis-bay-g7-summit-communique/>

⁷ The EU-US Trade and Technology Council, *EU-US Trade and Technology Council Inaugural Joint Statement* (Sept. 29, 2021) https://ec.europa.eu/commission/presscorner/detail/e%20n/statement_21_4951.

shared democratic values.”⁸ The TTC stated further that it is “committed to working together to foster responsible stewardship of trustworthy AI that reflects our shared values and commitment to protecting the rights and dignity of all our citizens.”⁹ The U.S. and EU said they would “develop and implement trustworthy AI and their commitment to a human-centered approach that reinforces shared democratic values and respects universal human rights.”¹⁰ An extensive annex detailed areas of activity and cooperation for Artificial Intelligence.¹¹

Next Steps for the TTC’s Joint Statement

We wrote to you in September, 2021 to express support for the TTC and the goals set out in the Inaugural Joint Statement.¹² We were encouraged by “the goal of the Trade and Technology Council to strengthen the transatlantic alliance on digital policy, and to promote trustworthy AI.” As you explained, democratic governments should also work together to ensure that democratic values are preserved as technology moves forward.¹³

The challenge now concerns the next steps for the EU and the US on AI policy. We are aware of the anticipated outcomes of the upcoming meeting in Washington, DC and the likely release of “Roadmap on AI” to harmonize techniques to assess risk. While we agree that is a critical concern, the proposed Roadmap on AI does not by itself advance democratic values or protect universal human rights.¹⁴

The TTC key’s role, made clear by EU and US leaders, is to in safeguard shared democratic values. Following from this mandate, we urge the TTC to take the following concrete actions:

- 1) Implement the *Blueprint for an AI Bill of Rights*
- 2) Implement the OECD Recommendation on Artificial Intelligence
- 3) Suspend the use of facial surveillance technologies
- 4) Improve public participation in the formation of national AI policy on the U.S. side

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ CAIDP, EU-US Trade and Technology Council, <https://www.caidp.org/resources/trade-and-technology-council/>

¹² See CAIDP, *CAIDP Statement to EU-US Trade and Technology Council* (Sept. 20, 2021),

<https://www.caidp.org/app/download/8344303663/CAIDP-Statement-TTC-20092021.pdf>; see also CAIDP, *EU-US Trade Council Advances AI Policy*, CAIDP Update 2.36 (Sept. 30, 2021),

<https://www.caidp.org/app/download/8346485163/CAIDP-Update-2.36.pdf>.

¹³ CAIDP, *CAIDP Statement to EU-US Trade and Technology Council* (Sept. 20, 2021),

<https://www.caidp.org/app/download/8344303663/CAIDP-Statement-TTC-20092021.pdf>.

¹⁴ Marc Rotenberg and Merve Hickok, *Can the U.S. and Europe Agree on Rules for AI? As EU and U.S. leaders meet in Washington at a joint Trade and Technology Council, there is great need for a proposed “transatlantic accord on artificial intelligence.” But the two sides have differing agendas, and agreement is uncertain.*

Techonomy, Nov 30, 2022, <https://techonomy.com/can-the-u-s-and-europe-agree-on-rules-for-ai/>

First, as stated above, we believe that “AI Bill of Rights is possibly the most significant AI policy initiative in the United States.”¹⁵ We have worked for over a year in support of the AI Bill of Rights.¹⁶ Following the release of the *Blueprint for an AI Bill of Rights*, implementation of the *Blueprint* is the necessary next step.

Implementation of the *AI Bill of Rights* will help counter bias and protect fundamental rights in the design and deployment of AI-based systems. Given the TTC’s joint commitments to democratic values and universal human rights, implementation of the *Blueprint* should be a top priority. Following the original recommendations of Dr. Alondro Nelson, Deputy Assistant to the President and Deputy Director of OSTP, we urge the US to commit to:

1. New laws and regulations should be adopted to enforce the AI Bill of Rights;
2. The federal government should not acquire or purchase software or technology products that are not compliant with the AI Bill of Rights;
3. Safe and effective automated systems should be designed, used, and deployed by complying the AI Bill of Rights; and
4. Implementation of the AI Bill of Rights should be tracked with comprehensive and continuous supervision and transparent accountability.¹⁷

Second, the U.S and EU should carry forward the implementation of the OECD AI Principles, the first global framework for AI policy. The OECD AI Principles state explicitly that “AI systems should be designed in a way that respects the rule of law, human rights, democratic values and diversity, and they should include appropriate safeguards.”¹⁸ Further, the TTC’s Joint Statement affirms the commitments to “a human-centred approach that reinforces shared democratic values and respects universal human rights, which [the EU and the US] have already demonstrated by endorsing the OECD Recommendation on A.”¹⁹ Implementation of the OECD AI principles requires concrete action on both sides to carry forward this commitment.

Third, we reiterate our call for a moratorium on AI that does not protect human rights. Last year UN Human Rights Commissioner Michelle Bachelet urged a moratorium on the sale and use of AI that pose a risk to human rights until adequate safeguards are put in place. She also called

¹⁵ Marc Rotenberg and Merve Hickok, *Artificial Intelligence and Democratic Values: Next Steps for the United States*, Council on Foreign Relations (Aug. 22, 2022), <https://www.cfr.org/blog/artificial-intelligence-and-democratic-values-next-steps-united-states>.

¹⁶ See, e.g., Lorraine Kisselburgh and Marc Rotenberg, *Next Steps on the AI Bill of Rights*, *The Washington Spectator* (Nov 2, 2021); Marc Rotenberg and Merve Hickok, *Artificial Intelligence and Democratic Values: Next Steps for the United States*, Council on Foreign Relations (August 22, 2022); See generally, CAIDP, *Support the OSTP AI Bill of Rights*, <https://www.caidp.org/statements/ostp/>.

¹⁷ Eric Lander and Alondra Nelson, *Americans Need a Bill of Rights for an AI-Powered World: The White House Office of Science and Technology Policy is developing principles to guard against powerful technologies—with input from the public*, *Wired* (Oct. 8, 2021), <https://www.wired.com/story/opinion-bill-of-rights-artificial-intelligence/>; CAIDP, *Support the OSTP AI Bill of Rights*, <https://www.caidp.org/statements/ostp/>

¹⁸ OECD, *Recommendation of the Council on Artificial Intelligence* (May 22, 2019), <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0449>.

¹⁹ See generally the EU-US Trade and Technology Council, *EU-US Trade and Technology Council Inaugural Joint Statement* (Sept. 29, 2021), https://ec.europa.eu/commission/presscorner/detail/e%20n/statement_21_4951.

for a ban on AI applications that do not comply with international human rights law.²⁰ In addition, the U.S. Department of State published a guidance, which is “intended to provide practical and accessible human rights guidance to U.S. businesses seeking to prevent their products or services with surveillance capabilities from being misused by government end-users to commit human rights abuses.”²¹ That guidance should be explicitly noted in the context of the Trade and Technology Council, particularly Working Group 6. As the Pittsburgh statement explained:

The Misuse of Technology to Threaten Security and Human Rights working group is tasked to combat arbitrary or unlawful surveillance, including on social media platforms; explore building an effective mechanism to respond to Internet shutdowns, in conjunction with the G7 and others likeminded countries; work to protect human rights defenders online; and increase transatlantic cooperation to address foreign information manipulation, including disinformation, and interference with democratic processes, while upholding freedom of expression and privacy rights. The working group is tasked to address social scoring systems and to collaborate on projects furthering the development of trustworthy AI.²²

We fully support the recommendations of the UN Human Rights Commissioner and the guidance of the U.S. Department of State. We urge the TTC to issue a statement to suspend the use of facial surveillance and to commit to align the development of AI systems with democratic values and international human rights law.

Last, public access to AI policy documents and opportunities for meaningful public participation in AI policymaking are fundamental requirements for governments that seek to protect democratic values.²³ We acknowledge the opportunity for public participation created, on the EU side, by the Futurium platform and the Trade and Technology Dialogue.²⁴ But there are no parallel efforts on the US side. CAIDP has also expressed concerns regarding the National AI

²⁰ CAIDP, *UN Urges Moratorium on AI that Violates Human Rights*, CAIDP Update 2.34 (Sept. 15, 2021), <https://www.caidp.org/app/download/8343909663/CAIDP-Update-2.34.pdf?t=1633566742>.

²¹ The U.S. Department of State, *U.S. Department of State Guidance on Implementing the “UN Guiding Principles” for Transactions Linked to Foreign Government End-Users for Products or Services with Surveillance Capabilities* (Sep. 30, 2020), <https://www.state.gov/key-topics-bureau-of-democracy-human-rights-and-labor/due-diligence-guidance/>.

²² EU-US Trade and Technology Council, *Inaugural Statement*, Section 3 (Future Scope of Work), <https://ec.europa.eu/commission/presscorner/api/files/attachment/870149/210929%20Pittsburgh%20Statement.pdf>; See also CAIDP, *EU-US Trade and Technology Council*, <https://www.caidp.org/resources/trade-and-technology-council/>

²³ *AI and Democratic Values*, Methodology at 498 (“Q5. Has the country established a process for meaningful public participation in the development of a national AI Policy? Q6. Are materials about the country’s AI policies and practices readily available to the public?”)

²⁴ European Commission, Futurium, *EU-US Trade and Technology Council*, <https://futurium.ec.europa.eu/en/EU-US-TTC>



Advisory Committee (NAIAC), which appears to be in violation of the Federal Advisory Committee Act.²⁵

We urge the leading democratic nations to ensure that the public continues to have a meaningful opportunity to take part in the shaping of national AI policies. The rapid deployment of AI is having a profound impact on our societies, and there is widespread concern about the AI future, particularly in the United States.²⁶

Thank you for your consideration of our views.

Sincerely,

A handwritten signature in blue ink that reads "Marc Rotenberg".

Marc Rotenberg
CAIDP President

A handwritten signature in blue ink that reads "Merve Hickok".

Merve Hickok
CAIDP Chair

A handwritten signature in blue ink that reads "Zhuozheng Cai".

Zhuozheng Cai
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²⁵ CAIDP *Statement to the National AI Advisory Committee* (Oct. 28, 2022), <https://www.caidp.org/app/download/8420970963/CAIDP-NAIAC-FACA-10282022.pdf>; see generally, CAIDP, *National AI Advisory Committee*, <https://www.caidp.org/resources/naiac/>

²⁶ Lee Raine, Cary Funk, Monica Anderson, and Ale Tyson, *How Americans think about artificial intelligence*, Pew Research Center, March 17, 2022, (“Americans lead to concern over excitement when it comes to increased use of AI in daily life.”), <https://www.pewresearch.org/internet/2022/03/17/how-americans-think-about-artificial-intelligence/>