



# The EU's Response to the Fragmented Emergence of Artificial Intelligence

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## INTRODUCTION

On March 13, 2024, The European Union (EU) celebrated bringing the Artificial Intelligence Act (AIA) policymaking process to a close: the Parliament had approved it and the AIA was on track to become the first comprehensive, horizontal Artificial Intelligence (AI) regulation globally. The winding road started in April 2021, with the Commission's AIA proposal, followed by public consultation, thousands of amendments from the Parliament, Council and Commission, significant corporate lobbying pressure and civil society scrutiny before and during the inter-institutional negotiations, to finally settle on the current text. During this time, the AI sector attracted evermore attention as Open AI released ChatGPT-3 to the public, and generative AI, natural language processing and machine learning became common terminology. The EU succeeded

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eventually in its objective of creating the first AI regulation of its kind and occupying the pole position to influence emerging global norms.

This was seen as a way to set benchmarks in an issue area that is widely perceived as geopolitically and economically crucial for the coming decades as it will influence the pathway of the “fourth industrial revolution”. According to the World Economic Forum (WEF), Industry 4.0 “represents a fundamental change in the way we live, work and relate to one another” indicated by the fact that technological “advances are merging the physical, digital and biological worlds in ways that create both huge promise and potential peril” (WEF, n.d.). AI is widely understood as transversally applicable to Industry 4.0 and is expected to grant economic and competitive advantages in given sectors or even disrupt the balance of power among states and between state and private actors (Horowitz, 2018; EC, Table 1; Vincent, 2017; Webster et al., 2017).

Due to the political importance of AI, the EU’s response to these emergent technologies is a reflection of broader external policies. The main aim of this chapter is to map the positions of different EU actors with respect to the regulation of AI. Using this volume’s analytical framework, it will explore whether they adopted nationalist, Europeanist or Atlanticist positions in relation to the regulation of AI, as expressed through the AIA negotiations and related statements and the framing of the EU’s flagship digital policy package by institutional leaders.

In addition, the EU is not an industry leader in AI development, barring exceptions in given sectors such as industrial robot production, and the research, production and marketing of AI applications are global endeavours conducted by multinational companies that control the necessary digital and physical assets: data, computing capacity and algorithms. In other words, the EU and its Member States have little direct power to shape AI’s future trajectory and how it in turn transforms wider society and impacts national and regional interests. The EU’s only practicable option at present is to leverage its normative power and internal market, or the Brussels Effect (Bradford, 2012) giving a large international dimension to the politics of AI: it is not just a question of what should be permitted in European AI development, but how to influence global norms so as to advance EU/Member State interests in a globalised yet fragmented market; moreover, how to do so while almost entirely dependent on US and Chinese technology.

Many of the other chapters of this volume discuss how EU actors have reacted to the fragmentation of the liberal international order, but this

chapter is in a certain sense an outlier as there are no global regulations and norms for AI, and consequently, there is no scope for rejection of or resistance to global fragmentation. The issue of AI is not detached from broader geopolitical trends and emerges in a context of increasing rivalry between great powers that also contributes to a wider fragmentation of the digital sphere. As a result, multilateral efforts by the United Nations have failed to gain traction, and UN General Secretary Guterres recently concluded that “in the face of the serious, even existential threats posed by runaway climate chaos, and the runaway development of AI without guardrails, we seem powerless to act” (WEF, 2024). Consequently, the EU is constrained to bilateral agreements with like-minded countries and any cooperation occurs within limited clubs such as the OECD.

Before turning to the analysis, it is probably helpful to define the term AI to make clear how it is understood in this text. The exact definition of AI systems is, in fact, a highly politicised issue and was hotly disputed in the policy process that led to the AIA. This paper will use the definition eventually agreed upon for the AIA:

An AI system is a machine-based system designed to operate with varying levels of autonomy and that may exhibit adaptiveness after deployment and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments. (Artificial Intelligence Act, 2024)

As mentioned above, AI models require three main elements to function: training and input data; algorithms that direct how data is interpreted and what outputs the model generates; and computational power for the model to conduct the required calculations and processes. Each of these is to varying extents reliant upon physical infrastructure and assets themselves subject of growing geopolitical rivalries. Moreover, the software algorithm and data layers are also the sites of ongoing normative contestation between states among themselves and between states and companies.

This chapter is structured as follows. The second section will discuss the broader international order in the area of AI (or the lack of it). Given that the issue cannot be seen independently from regulations for digital technologies, it will also cover broader issues such as the wider digital economy or the splintering of internet networks. Section three

will examine the EU's response to AI's emergence among growing international competition and connect it to the broader concept of digital sovereignty. In the fourth section of the chapter, the responses of different EU actors will be analysed. The concluding section summarises the findings and puts them in a broader context.

## DIGITAL CONSOLIDATION AND FRAGMENTATION

Due to the complexity of computation that AI requires, as well as its resulting resource intensity, a prior proliferation of digital technologies was necessary for its subsequent and ongoing emergence. This global digitalisation was enabled in part by the virtuous cycle of liberalism and connectivity, itself accelerated by US unipolarity, that each of the three constituent parts of AI benefited from and which further drove the opening of markets and global spread of connectivity characteristic of the LIO. The US thus fostered a minimally regulated global digital market and the passing of the 1996 Communications Decency Act, absolving digital platforms from liability for content posted therein by users, promoted a free speech and free-market model that spurred the rapid growth of today's digital giants.

The dominant neoliberal doctrine of the time also predicted that this liberalising US model of digitalisation would accelerate global democratisation (Ott & Rossner, 2000) and politically homogenise the world through connectivity. Such lofty goals appeared feasible at a time of minimal, if any, resistance or obstruction to the rapid dissemination of digital technology. Private sector-based standard setting and self-regulation remained largely unquestioned, including in the EU.

That said, two caveats are in order. First, on the reality of the liberal nature of US-led digitalisation, where government interventionism has increased in Western and emerging powers alike over time, the digital economy's initial emergence also depended on US government-funded infrastructure and research, as is well known (Mazzucato, 2018) and was understood by even prominent Liberal analysts as a means through which the state could exercise power, directly (Nye & Owens, 1996) or indirectly (Boyle, 1997), somewhat weakening the notion that technolibertarianism drove digitalisation.

A second caveat is on democratisation: anxieties about the risks that information technologies entail for democratic societies and individual well-being have long accompanied their development in academia and in

fiction. This was all the more the case for AI, with Alan Turing's (1950) "Computing Machinery and Intelligence" essay predicting machines would eventually dominate humanity from the very start of the pursuit to create artificial intelligence.

Thus, alongside the liberalisation and democratisation narrative, digital technologies were understood as providing strategic resources well before China began to erect the first meaningful state-based digital border that more recently set the stage for today's age of Digital Sovereignty. The digital sphere is today characterised by bounded and competing internet networks and markets shaped by government intervention alongside private initiative. The dominance of US companies, fast being caught up to by their Chinese counterparts, and the heavy subsidisation of these by the US and Chinese governments respectively (Mazzucato, 2018; Roberts et al, 2021) has today effectively developed into a form of neo-mercantilism (Farrand & Carrapico, 2022; Larsen, 2022; Mueller & Farhat, 2022) especially as the weaponisation of interdependencies becomes commonplace (Farrell & Newman, 2019).

In this light, the EU has gone from relatively uncritically taking the US model of limited government oversight in the 1990s and early 2000s to now employing its traditional market-creating mechanisms familiar to other sectors (Dosenrode, 2016) alongside a more recent market-directing turn. These efforts have in the first place created barriers to transatlantic cooperation on emerging technologies such as AI and will continue to do so barring concessions made by the US in the explicit interest of convergence or as a result of the ongoing techlash (Bradford, 2023).

Following Perarnaud and Rossi's (2023) approach in their European Parliamentary Research Service report that states "both internally and externally, the EU has repeatedly committed to promote the development of a single, open, neutral, free, secure and un-fragmented network, while adopting a more strategic approach to the making process of internet standards and protocols" (p. 1) we can take the US internet as the early digital sphere's status quo, and divergences, including those generated by EU policies, can be understood as fragmentary within the West, even while seeking global convergence. These are characterised as "geo-dirigiste" by Seidl and Schmitz (2023, p. 1), who assess a turn from concentrating on market creation and cohesion towards emphasising market direction, whereby policies that encourage the emergence of markets are now accompanied by regulations that guide said

markets towards given long-term goals and geopolitical benefits (p. 3). In the 2010s, the EU began to regulate the digital sphere in terms of privacy protections, content liabilities, enforcement of taxation and anti-trust legislation of large, mostly US-based, digital platform companies, a process that started in the wake of the Edward Snowden revelations and the Schrems saga on US-EU data transfer, with the latter still ongoing ten years later.<sup>1</sup>

The European Digital Compass published in March 2021 kicked off a decade of digital policies and objectives that are promised by policy-makers to cement the strategic or sovereign turn, as does the framing of the same by EU leaders in their speeches and statements. In contrast, the 2016 Global Strategy did not feature the terms “digital” or “artificial intelligence”, with only “cyber” featured in relation to cybersecurity gaining some attention. The overarching objective now goes further than mere internal cohesion and capacitation with the new stated aim being strategic digital autonomy, or digital sovereignty.

These are, unsurprisingly, contested terms that break with past notions of both the digital sphere and of the EU, both of which were previously thought of as emblematically post-national and thereby contrasting with the idea of sovereignty. The changes in political economy that digital or data economies of scale demand, namely the tendency towards ever larger and multifunctional platforms with client bases that dwarf most national populations, along with the transnationally networked nature of digital communities, create pressure on nation-states to compete to control or at least have access to larger polities and thus enable their respective digital markets’ competitiveness (Lehdonvirta, 2022; Spolaore, 2009). For these reasons, states aiming for digital sovereignty almost invariably seek to pool resources with others even as they pursue greater autonomy. In other words, digital sovereignty, especially as exemplified by the EU’s aim for digital “open” sovereignty, refers to shared control and regulation, pooled resources and networked spaces with varying degrees of enclosure. The pursuit of digital “open” sovereignty is a manifestation of exactly this.

<sup>1</sup> Max Schrems, concerned by the Snowden revelations of 2014 on US Intelligence Agency access to Europeans’ personal data, brought a series of cases to the European Court of Justice that led to the passing of the GDPR in 2016, the invalidation of the US-EU data transfer agreement known as the Safe Harbor Mechanism in 2020. See Case C-362/14 Maximilian Schrems v Data Protection Commissioner, CJEU.

The need to pool resources or sovereignty is exemplified by the EU Commission's bilateral digital cooperation agreements with Japan, Brazil, Singapore and South Korea, the Transatlantic Technology Council (TTC) with the US and the TTC with India. That is to say, it is not economically viable for the EU, or its Member States, to reshore entirely in this sector, and a degree of cooperation, even between direct rivals such as China and the US, remains the norm. While global fragmentation may be prevalent, there are also dynamics of convergence among clubs of countries and continued cooperation amidst growing tensions. This is most aptly demonstrated by the evolution that the EU Chips Act has undergone from aiming to "bolster Europe's competitiveness and resilience in semiconductor technologies and applications, and help achieve both the digital and green transition" (EC, n.d.a) to being coordinated with the US equivalent act through the TTC set up by the Biden and von der Leyen administrations.

In this context, several legislative acts have been approved in a second digital regulation wave following the 2018 implementation of the GDPR. The Digital Markets Act (DMA) and Digital Services Act (DSA), the Data Act (EDA), and the Data Governance Act (DGA) were passed in 2022 and can all be classified as "market directing" responses to US rights-infringing monopolistic digital platforms, as can the AIA described below.

## THE EUROPEAN UNION REGULATES ARTIFICIAL INTELLIGENCE

When formulating digital policy, EU actors navigate a complex landscape shaped by digital neo-mercantilism and evolving geopolitical dynamics. The AIA did not only have to address the immediate concerns surrounding AI ethics and regulation but also the broader implications for global power dynamics and sovereignty. The AIA debate process is therefore revealing as to EU reactions to AI's fragmented emergence as is the analysis of the market directing turn in wider digital policy outlined in the previous section.

Though now less discussed as AI applications proliferate, as do their accompanying risks, Lethal Autonomous Weapons emerged as the arena for the first meaningful debates among states on AI ethics and regulation (Amoroso, 2020; Asaro, 2012; Barbé & Badell, 2020; Roff, 2014), debates that have since moved to the wider array of AI applications with

LAWS contestation in the EU remaining very much unresolved (Badell & Schmitt, 2022).<sup>2</sup>

Preceding the AIA proposal, the April 2018 “Artificial Intelligence for Europe” Communication from the Commission (EC, 2018) opened with the phrase “Artificial intelligence (AI) is already part of our lives—it is not science fiction”, illustrating the urgency of catching up to competitors and setting a forecasting tone from the off while alluding to political and existential threats of familiar fictional takes on AI. This set the rationale for both market creation and market direction. Thus, market creation serves the pursuit of EU asset and operational autonomy while market directing regulations are employed to safeguard EU norms and values with the aim of achieving decisional autonomy.

Indeed, the 2018 Communication represented the EU’s entry into the race to define the norms that will shape AI development and followed US and Chinese publications of their national AI strategies in 2016 and 2017, respectively. The US National Science and Technology Council’s Strategic Plan (2016) stated its aim to “enable the United States to remain a world leader in AI” (2016, p. 3), while China’s AI Development plan states that “by 2030, China’s AI theories, technologies, and applications should achieve world-leading levels” (Webster et al., 2017, p. 6). The EU arrived late to the race but swiftly took the lead in developing legislation. This urgency reflected an effort to leverage the Brussels Effect and attempt to shape the emerging AI sector despite having fallen behind in AI development. Thus, the normative vision of EU market directing digital policies aims to safeguard the internal market and shape global AI development indirectly.

In fact, the EU market directing turn reflects anxiety about being digitally colonised by precisely the US and China via their digital giants, as expressed by the Special Rapporteur to the Committee on Artificial Intelligence Axel Voss in his report to the EU Parliament (EP, 2021). With power increasingly resting in the control of digital information—whether the capacity to produce technology or to store, process and generate economic and strategic value from data—the EU’s lack of digital asset and operational autonomy render it digitally dependent, while the weakness of its regulatory enforcement and little impact of its fines (noyb.com,

<sup>2</sup> Military applications of AI are not regulated by the AIA and are referenced here only for the role the LAWS debate had on the AI ethics discussion that preceded the AIA proposal.

2023) on technological behemoths undermine its decisional autonomy as even seemingly large fines (European Commission, 2017) of billions of euros have minimal impact. Reflecting this unease, European policymakers' rhetorical emphasis on autonomy and sovereignty is to some degree backed by the Digital Compass and accompanying policy set detailed in the previous section.

The AIA is an undoubtedly normative regulation that includes market creating and directing aspects. It is framed by EU policymakers as responding to the threats to rights that AI is perceived to entail as well as promoting its development in the EU in the interests of competitiveness. It is a horizontal regulation that designates the degree of oversight that applications and companies are subject to according to a four-point risk scale from minimal, to limited, to high and finally unacceptable risk, the latter entailing a comprehensive ban from being marketed in the EU. Minimal-risk applications have no regulatory requirements, while the categories of limited and high risk carry corresponding compliance loads. Limited risk applications carry transparency obligations while high-risk applications—or those relevant to critical infrastructure, education, product safety, employment, essential services, law enforcement, migration and justice—come with obligations that include risk assessment, dataset quality obligations, activity logging for traceability, transparency, human oversight and high standards of robustness, security and accuracy.

This risk-based approach is intended to “future-proof” the AIA, with the idea being that as new and unpredicted technologies emerge risk assessment will remain applicable. The Commission proposed the AIA in April 2021 and it has since undergone public consultation, parliamentary deliberation through a dual-Committee process, a vote of approval from parliament and the December 2023 Political Agreement between the EU Commission, Parliament and Council of Member States. The AIA proposal could be seen, as described by Luciano Floridi (2021), a former member of the High-Level Expert Group on AI (HLEGAI), as “a good starting point to ensure that the development of AI in the EU is ethically sound, legally acceptable, socially equitable, and environmentally sustainable, with a vision of AI that seeks to support the economy, society, and the environment” (p. 216), characterising this as an ambitious goal but one which the EU is ideally placed to deliver on.

The AIA proposal and the wider global proliferation of national AI strategies, ethics guidelines and voluntary standards and regulations generally gravitate around the norm-setting power of the OECD

(Schmitt, 2022), G20 and G7, with the latter instituting the Hiroshima process in 2023 to coordinate a common approach to AI based on human rights and trustworthiness. In the same year, the OECD definition of AI was largely adopted in the AIA by request of the majority of Member States due to its greater precision and exclusion of pre-existing forms of software (Bertuzzi, 2023a). The OECD definition is also more closely aligned with that of the United States' National Institute of Standards and Technology (2023), thus aptly demonstrating the Atlanticist versus Europeanist tensions the AIA formulation is subject to: on the one hand the AIA is emblematically Europeanist and fragmentary, on the other hand it adopts key ideas from the US and OECD to drive future convergence.

Indeed, loose cooperation between the EU and OECD appears to have had a taming influence on EU divergence from US standards, also because the OECD principles on AI, as Schmitt (2022) points out, have been adopted by the G20 and therefore by Russia and China, thus bridging geopolitical divides. In addition, Schmitt observes that the OECD hosts the Global Partnership on AI (GPAI), which includes several Global South members and can be seen as aiming for convergence. Despite the heterogeneity of actors present in such initiatives, these share a preference for a narrow and technical definition of AI that is likelier to be permissive to innovators so as to promote the fast development of AI in their respective territories. Additionally, in November 2023, the first AI Safety Summit saw 28 States, including the USA and China, the UK, leading EU States and the European Union sign the Bletchley Declaration (Gov.uk, 2023) on addressing frontier AI risk. In this context of emerging and overlapping international initiatives, the EU aims for its seminal Act to set a global benchmark for companies and states, making the AIA's deliberation a revealing space where EU actor positions on digital and global strategies emerged.

Another driver of convergence between EU and US digital policies is the large gap in capacity between the two, which incentivises cooperation from the EU despite its misgivings about US light touch regulation. An example is provided by TTC's coordination of US and EU Chips Acts. This changes the latter from a potentially protectionist measure to one that aims for a mere increase in operational and asset autonomy, i.e. autonomy *as responsibility to*, together with the United States, secure Western and "like-minded" country supply chains, as well as autonomy *as hedging* in case relations cool. Thus, US sanctions and export restrictions on advanced chips to China, for the explicit purpose of slowing the latter's

AI development (Unites States Bureau of Industry and Security, 2022), have been joined by EU Member States such as the Netherlands and allies such as Japan (Sevastopulo & Fleming, 2023), thereby creating an embryonic Western chips bloc that includes a wider group of economically developed democracies.

## THE EU RESPONSE TO THE FRAGMENTED EMERGENCE OF ARTIFICIAL INTELLIGENCE

To assess EU responses to the emergence of AI in line with this volume's framework, i.e. categorising responses as nationalist, Atlanticist or Europeanist, it would be useful to define how each of these positions is expressed in the area of AI and digital technology.

The status quo position is Atlanticist: actors accept that EU operational and asset autonomy in AI is not an immediately feasible goal and prioritise US partnership. This position is accompanied by accepting the dichotomy that regulation stifles innovation and thus seeks a light-touch approach to promote innovation in a Western digital sphere. This is also to accept a considerable degree of risk to EU citizens' rights and democracy in the EU, setting aside anxieties about the power of US digital platform companies and their monopolistic hold over AI development in favour of shoring up the West versus the rest.

Given the US-led *laissez-faire* approach represents the status quo, Europeanism is in this remit fragmentary. Europeanism in the digital sphere has emerged in the wake of the Snowden and Wikileaks revelations of the 2010s and the monopolisation of the digital sphere by US companies. It can be summarised as regulating platform monopolies to safeguard Europeans' individual rights and autonomy as well as European market competitiveness. Such regulations thus defend given rights, such as privacy, as well as seek to enforce anti-trust and tax law so as to allow EU companies to compete with US giants in a sector almost entirely shaped and dominated by the latter. The ultimate goal is, as in other areas, a fully integrated EU digital market that can compete globally and thereby guarantee the continued protection of liberal democratic rights and values, or so-called European digital sovereignty.

Finally, nationalist positions in AI are marked by prioritising national interests over EU interests, with large overlaps and a minimal potential to clash with Atlanticist priorities. Given the EU's enforcement of anti-trust law and tax law to regulate US digital giants for the sake of European

competitiveness, fiscal policies such as those employed in the Netherlands and Ireland that privilege US digital companies headquartered in each state could be characterised as fiscally nationalist, or Atlanticist. Certainly, fiscal nationalism undermines Europeanist goals for the integrity of the single market. Likewise, the non-enforcement of data protection laws by the Irish Data Protection Supervisor serves both national and Atlanticist interests by providing the incentives that attracts the US tech sector to headquarter in Ireland. Finally, the development of AI-assisted biometric identification technologies in the name of internal security departs from the EU's attempt to ban such applications. Each of these examples overlaps considerably with Atlanticist positions—the former two privilege US companies and encourage their continued market dominance, in the process undermining EU competitiveness and privacy regulations, and the latter opens Member State markets to rights-infringing security-AI technologies developed in the US. Similarly, the regulation-innovation binary is also employed by EU actors speaking for national interests. Barring any potential clashes over AI security or defence cooperation with China, a nationalist approach to AI development requires middle powers to the bandwagon, with the US being almost invariably the more, if not exclusively, favoured world power for EU Member States.

Starting the analysis with the EU institutions, the parliamentary draft of the AIA, passed by dual-committee and then by a plenary vote in May and June 2023, respectively (EP, 2023, May 11), is more Europeanist than the original Commission draft (Chee et al., 2023). It calls for an outright ban of live biometric identification (EDRi, 2023) with only narrow exceptions, despite right-wing, nationalist and Eurosceptic MEPs' calls for greater permissions for security and market-creating purposes, and it introduces bans to AI hiring and firing that were not present in the original. On foundation models and generative AI, the Parliament sought strong copyright protections and high-risk categorisation.

The original Commission draft may have been less strict, and therefore appear more Atlanticist than the parliamentary one, in part due to having come two years prior to significant technological developments, particularly the release of the foundation and generative AI model ChatGPT in late 2022, that would then influence the parliamentary draft. ChatGPT was so hyped that it was immediately touted as a potential threat to Google Search; its developer, OpenAI, received the largest funding round of 2023 (Metinko, 2023) at an estimated \$10B from Microsoft (Warren, 2023), which is using the chatbot to resurrect its own poorly reputed

search engine. A chatbot race became evident (Johnson, 2023), with Google, Meta, Baidu and Alibaba wading in with their own fast-tracked releases. With the largest technology companies scrambling to dominate this space, and with the shortcomings of and disinformation risks posed by Large Language Models (LLMs) like ChatGPT fast becoming evident, the Italian Data Protection Authority (DPA) issued a temporary ban, which alerted Member and third States alike that new issues of privacy, democracy and intellectual property were emerging in this area as well. Environmental concerns were also raised and corresponding requirements were included in the parliamentary AIA.

It appears that the prior accelerated emergence of digital platform power and how it shaped markets, political discourse and the distribution of power in the last decade primed EU MPs for the new-found prominence of foundation and generative AI models. The co-rapporteurs that led the parliamentary negotiations process, Dragoş Tudorache and Brando Benifei, were quick to propose these should be classified as high risk in light of their potential use for manipulating information as well as due to function creep (Bertuzzi, 2023b). The former of these two MEPs being from the centre-right Renew party was significant as the centre-right appears to have followed his lead and approved the high-risk classification of generative AI in alliance with the centre-left. Thus, the parliament voted through a draft with wide consensus that positions it as strongly Europeanist, as per tradition.

Analysing EU leaders' speeches and statements on AI and the accompanying package of policies, regulations and cooperation agreements (see Table 8.1), the goal of lowering dependencies on third-country technologies, particularly large US platforms, is a prevalent theme. This is, at the rhetorical level and in the aims of these policies, quite a clear Europeanism, and each of Competition Commissioner Margrethe Vestager, Internal Market Commissioner Thierry Breton, EVP/VP Josep Borrell and Commission President Ursula von der Leyen frame the Commission approach as a Europeanist campaign to defend EU values, project them internationally and thereby protect them at home by ensuring European competitiveness and individual rights in the future (Table 1). This is corroborated also by Roberts et al's (2021) analysis that found data governance and platform power were the prevalent concerns addressed on EU institution websites, followed by the need to invest in digital infrastructure.

**Table 8.1** Speeches and Statements Analysed in this Chapter

<i>Speech or Statement</i>	<i>Year</i>
All speeches and statements from the office of the President of the Commission Ursula von der Leyen	2019–2024
All speeches and statements from the office of the Executive Vice-President Margreth Vestager	2019–2024
All speeches and statements from the office of the European Commissioner for Internal Market Thierry Breton	2019–2024
All speeches and statements from the office of the High Representative of the European Union for Foreign Affairs and Security Policy Josep Borrell	2019–2024

*Source* Own elaboration from speeches and statements available on the EU Commission website (E.C., n.d.b). It contains all speeches and statements analysed by EU Commission President Ursula von der Leyen, Executive Vice-President Margreth Vestager, European Commissioner for Internal Market Thierry Breton and High Representative of the European Union for Foreign Affairs and Security Policy Josep Borrell found with the keywords “Artificial Intelligence” and “AI”

Over time, the Europeanist framing these leaders employ is tempered by increasing Atlanticism as the Biden administration repairs ties with the EU and the US-EU Trade and Technology Council is set up. The cooperation aims and mechanisms found therein, namely in AI regulation, foreign direct investment coordination and chips reshoring, along with some new-found initiatives from the US judicial branch and at the agency level to legally challenge platform monopolies, point to renewed convergence, which EU actors celebrate as EU-led. Thus, examples previously employed to differentiate the EU, such as its efforts to reign in platform power, are now provided as indicators of EU international leadership. An instance is provided by EVP Vestager’s February 2022 speech in which she summarised the EU’s legal cases against US technology companies and stated:

Now, digital markets are on everyone’s agenda. In the United States, the FTC’s investigation into Facebook is seeking a divestiture of Instagram and WhatsApp. The Department of Justice is looking at practices similar to the ones covered by our Android complaint.

And it’s not just in America. There is also action happening in the UK, Australia, Japan, South Korea and India ... It means there is international consensus that action needs to be taken to protect consumers and businesses in these markets. (EC, 2022)

Table 8.2 illustrates the at times contradictory and certainly diverse positions among EU actors vis-à-vis the emergence of Artificial Intelligence. This reflects the contrast between the emancipatory long-term goals of EU policymakers and the reality of ongoing dependence on the US and Chinese tech sectors, most keenly felt at the Member State level. The Member States' approaches to AI are diverse, and contradictory in themselves, and can be roughly categorised according to their responses to the more controversial aspects of AI that have attracted greater contestation: LAWS, biometric surveillance, foundation and generative AI models, the latter of which caused a momentary collapse in the latter phases of the EU interinstitutional negotiations (or trilogues) as France, Germany and Italy threatened to block the AIA altogether for over stringency (Bertuzzi, 2023c).

Additionally, the Member States each have varying degrees of dependence on US and Chinese technology and investment and balance the interests of the EU with national economic and security concerns. On the latter point of security, Member States may appear to align with either China or the US more than they do with the EU in developing rights-infringing technologies, yet that likely reflects national interests more than

**Table 8.2** EU Actor Positions Vis-à-Vis AI Strategy

	Nationalists	Atlanticists		Europeanists
		If US Atlanticist	If US Isolationist	
<b>Acceptance</b>	<p>Hungary in implementing massbiometric surveillance in spite of AIA.</p> <p>Ireland and The Netherlands' fiscal nationalism.</p> <p>France using biometric surveillance at 2024 Olympics.</p>	<p>Business groups favouring US-style laissez-faire approach.</p> <p>EU Commission in constituting the TTC with the United States.</p> <p>France proposing G7/OECD coordination as pushback on AIA</p>	<p>EU Commission in pursuing bilateral digital agreements.</p> <p>EU Member States in signing digital partnerships with China.</p>	<p>Commission Digital Sovereignty Strategy and accompanying policy set (autonomy from).</p> <p>EU Parliament – demonstrated by Draft AIA stringency.</p> <p>LAWS-ban States<sup>53</sup></p> <p>Biometric Identification-opposed States<sup>54</sup></p>
	Irish Data Protection Supervisor (DPS)	Irish Data Protection Supervisor (DPS)		

*Source* Own elaboration based on the analytical framework presented in the Introduction of this volume

Atlanticism or indeed globalism. For example, Hungary's embrace of mass biometric surveillance is completely at odds with the AIA, reflecting the government's nationalism more than revealing alignment with the US or China. This is an acceptance of fragmentation that even welcomes and seeks to accelerate it. Hungary's lone position as clearly nationalist in this regard contrasts with the common recognition of the necessity of pooled sovereignty in the digital age.

France's position is instead emblematic among EU actors in its apparent contradictions and clear hedging: France does not harbour illusions of going it alone for the fourth industrial revolution, it aims to pool sovereignty, but the question remains as to with whom, with overtures made in all directions: to China, the US and to EU institutions. Thus, its position on LAWS may jar with the EU and with most EU Member States while sharing many similarities with the US and China, but since President Macron's 2017 speech on European Sovereignty (Elysee, 2017) and to this day (Barré, 2023) it employs Europeanist language and framing, justifying its stance with concerns about European security, not merely France's. Salih I. Bora's assessment (2023, p. 1282) that Macron invokes European Sovereignty "as a discursive practice that uses security threats to legitimise an agenda grounded in France's economic interests" appears to fit here. An example of such is provided by France's insistence that it would employ biometric mass surveillance during the 2024 Olympics (Amnesty International, 2023), despite being banned by AIA bar exceptional circumstances, thus undermining the nascent regulation while showcasing its biometric capacities at a global event. If not nationalist, this certainly demonstrates a prioritisation of French security and economic interests over the implementation of EU regulation.

To complicate matters further, France, which has attempted to water down the AIA throughout its negotiation (Espinoza & Aboud, 2023), was quick to react to the AIA Parliamentary draft publication of June 2023, with Prime Minister Macron, Finance Minister Bruno Le Maire and Digital Minister Jean-Noel Barrot in a joint interview declaring the AIA likely to stifle innovation in Europe. In the same interview, the French officials called for greater cooperation with the US and other like-minded partners through the G7 and OECD (Kharpal, 2023).

As the leading force in AI in Europe, France's alignment and compliance with the AIA is essential for its effectiveness. Divergences have the potential to complicate the Act's enforcement and by consequence presents risks to the broader EU integration process. Macron's proposal

that a global regulation be developed multilaterally through the G7 and OECD and for the United States to be a key partner in its formulation (and this, confusingly, mere weeks after stating France, and indeed Europe, would not follow the US into a war with China over Taiwan (Caulcutt et al., 2023)), positioned France as a defender of multilateral globalism in the face of the EU's push for regional digital sovereignty. Given France's national interest as the EU leader in AI, this may have been a mere hard bargaining position for the AIA trilogue negotiations. Thus, in a rapidly changing sector and, indeed, world order, the leading EU state in AI is hedging in every direction, as the EU in effect does the same.

If Member State attitudes to politically contentious implementations of AI are indicative of their degree of alignment with the EU institutions as expressed by the AIA, then it should be noted that only nine European Union countries have either rejected or have no intention to adopt Facial Recognition Technology (FRT) for forensic purposes, while the AIA has banned its used, with law enforcement exceptions. These countries are Belgium Bulgaria, Denmark, Ireland, Luxembourg, Malta, Poland, Portugal, and Slovakia (Ragazzi et al., 2021), none of which are technology leaders and are therefore unlikely to shape international norms in this respect. The extent of such experimentation in the rest of the EU, albeit mostly at the municipal or regional level (Idem.), and the security carve-outs provided in the AIA cast doubt on the AIA's effectiveness in this crucial area for the preservation of individual rights. Thus, this issue highlights how local and national level security interests are in tension with EU efforts to safeguard individual rights.

Beyond the rhetoric of EU Commissioners and Parliamentarians and the stated aims of their policies, a word should be provided on the practicability of the former and the effectiveness or enforceability of the latter. Bluntly stated, if these policies prove ineffective EU digital sovereignty and autonomy remain as distant a prospect as ever (Bradford, 2023; Munn, 2023; Rességuier & Rodrigues, 2020; Veale & Borgesius, 2021). In that case, the EU's digital and offline realities will be shaped by other actors, whether the US, China, or other emerging powers. This means that at least practical aims must be considered in this analysis. The type of autonomy that each digital policy or regulation aims for is revealing in demonstrating that where rhetoric skews towards Europeanism and advocating for emancipatory autonomy, the actual policies and regulations are constrained by the realities of EU digital dependencies. If the AIA and

accompanying regulations turn out to be paper tigers, and if the US does not begin to regulate its digital sector, the risks to EU rights and norms grow enormously. The enforceability and practicability of the regulations that purport to safeguard an EU approach to technology and to shaping future society is thus crucial, especially considering that regulation is the EU's principal lever of power in the global technology race.

## CONCLUDING REMARKS

As the Liberal International Order fragmented over the last two decades, digital resources became more concentrated among a handful of US-based companies, followed by their Chinese counterparts. Furthermore, as the global economy, public administration, security and warfare have digitalised, such resources came to be increasingly perceived by EU actors as strategic assets that create and accrue power and must therefore be regulated. The influence of social media algorithms on public opinion in the run-up to Brexit and the election of Donald Trump as US president, the disruption of international trade and particularly digital technology supply chains during the COVID-19 pandemic, and the use of disinformation by Russia prior to and during its invasion of Ukraine have all highlighted the growing importance of digital technologies while revealing the vulnerabilities that they provoke to democracy and that exist in their supply chains. The arrival in this context of viable and fast-developing Artificial Intelligence technologies, as transversal enablers of existing digital tools and as innovations in their own right, has provoked a relatively quick and thus far mostly Europeanist response from EU institutional actors, a more national interest and security oriented, but not quite nationalist, response from leading Member States, an explicitly nationalist one from Hungary as an outlier and widespread hedging from both Member States and EU institutions that hope, but have reason to doubt, that the US will be a close partner in a Liberal bounded order.

The election of President Biden and the TTC set up shortly thereafter by the White House and EU Commission heralded a turn towards greater transatlantic cooperation after the unprecedented transatlantic divide during the Trump administration. Closer US-EU collaboration across technology policy, together with EU-OECD coordination on AI regulation, accompanied by lobbying in each of these forums (Corporate Europe, 2022, 2023), has led to the narrowing of the definition of AI in the AIA; the TTC has also begun to coordinate the US and EU's Chips

export bans as well as reshoring policies, especially regarding high-end chips used for AI applications. Reflecting this, the heads of institutions whose speeches and statements were analysed for this chapter exhibited an increasing Atlanticism in the points they raised in relation to AI over the course of the Commission term of office, though never abandoning Europeanist principals. In turn, and offering a signal that this convergence between the EU and US is not unidirectional, the US has begun to enforce tax and anti-trust laws on its technology giants (Supreme Court of the United States, 2023; USDJ, 2020, 2023) as well as content liabilities, the main bones of contention between the two Western powers in the first place.

Large platform companies are the actors best placed to profit and further increase their power through the proliferation of AI technologies due to the growing digital capacity and resource gap between them and states, including the US. As the pejorative nature of algorithmic impacts on political discourse and polarisation, inequality, and power distribution materialise, even the traditionally laissez-faire US is seeking greater control and protections for citizens and businesses. This recent regulatory proactivity may of course stall given how polarised US politics are at present and given the concerted efforts by the Republican party and the well-resourced tech sector lobby to limit regulatory interventions and judicial proceedings. However, at present there is a nascent and fragile tendency towards convergence between the US and EU that policymakers from the latter celebrate as evidence of growing EU leadership.

With the experience provided by the rapid rise of technology companies since Google's 2004 IPO and the impact that they have had on international relations, politics, and society at large, and further spurred by AI's accelerating capacities, regulators on both sides of the Atlantic are finding more to agree on than at any point since the European Union began to develop its own regulatory model for digital technologies in the 2010s. At the same time, the EU's pursuit of Digital Sovereignty, once an exclusively Chinese approach that attracted severe criticism in the West, is demonstrative in itself of the fluidity of digital politics. AI's emergence has added further urgency and volatility to the digital policy space that may usher in more cooperation with the United States and the OECD group but may equally see divisions between the Western powers come back to the fore. For the foreseeable future hedging can be expected by most EU actors as dynamics of pooled sovereignty sit in tension with those of diverging normative visions.

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