



Center for AI and Digital Policy
To the
Government of Canada Regarding Participation
In the
Council of Europe AI Treaty Negotiation
January 10, 2024

1. Do you think the draft AI treaty is compatible with Canadian interests and values? If yes, which ones (for example, protection of your privacy, protection from discrimination and protection of democracy)?

In its leading roles with GPAI, OECD, and G7, Canada has positioned itself at the forefront of the ethical AI debate. The COE AI Treaty is an opportunity to coordinate at the international level to efficiently address the global challenges of AI from a rights and principles approach. This treaty aligns with GPAI's values of fairness, transparency, accountability, robustness, and human-centered values. The newly introduced Canadian Voluntary Code of Conduct on the Responsible Development and Management of Advanced genAI System echoes similar principles. The AI principles outlined in both the AI treaty and AIDA share compatible interests and values. The Treaty's emphasis on privacy protection is in alignment with the Canadian principles for responsible, trustworthy, and privacy-protective generative AI technologies, which emphasizes the need to protect individuals' personal information specifically in the context of generative AI. The ratification of the Treaty will be an opportunity for Canada to continue its leadership in the AI policy landscape and strengthen its values via international alignment.

2. In terms of the development and use of AI, what should the Government of Canada consider in negotiating this treaty?

As a founding member of GPAI, Canada should demonstrate its leadership and commitment to shaping ethical AI by pushing forth bold and effective policies prioritizing human rights protection. The COE AI Treaty is an opportunity to have a human-centric international institutionalized mechanism that can address current and future



challenges, aligning with Canada’s current policy positions as part of the G7, GPAI, and Bletchley Park agreement. Canada should prioritize effectively implementing the principles listed in the treaty, adopting a broad scope that encompass both the public and private sectors. AI used in both sectors will be public-facing and can have broad implications on fundamental rights and democratic values. Innovation without the necessary guardrails will increase the public’s growing distrust of AI. A survey done by Pew Research found that 70 percent of respondents who have heard of AI have “little to no trust in companies to make responsible decisions in how they use it in their products.” <https://www.emergingtechbrew.com/stories/2023/10/20/americans-ai-data-privacy-pew>

3. Do you have any concerns about or perspectives on AI’s implications and risks for individuals, organizations and Canadian society as a whole?

The harms to Canadians and Canadian businesses have been well established. The AIDA notes that discriminatory AI erodes trust, such as biased resume screenings and inaccurate facial recognition systems. Lack of appropriate human oversight and accountability will also increase the potential risks against Canadians. Marginalized communities face the most risk from unmitigated AI systems. There are also now growing concerns over IP with the rise of GenerativeAI systems such as ChatGPT and Midjourney. Canada must center the promotion of human rights and democratic values during the draft AI treaty negotiations.

4. The treaty proposes measures that correspond to the level of risk (for example, it proposes stronger measures where there is a higher risk). Do you have any comments on the treaty’s approach to regulating AI based on the level of risk (that is, the significance of the impact) of AI?

While the “risk-based” model is appropriate for the EU AI Act, the COE treaty should focus on advancing the mandate of fundamental rights, democratic values, and rule of law. We endorse the COE’s rights-based approach which considers both risks and adverse impacts. The current draft also mentions that higher standards can be adopted by Canada. This allows for the Canadian government to adapt the stated principles to their own context and interpretation of rights and principles. The risk management framework mentioned in the treaty must refer to the rights enshrined in the



treaty, and not just the risk-based approach mentioned. This will connect the framework to the rest of the Convention's protection of fundamental Canadian rights and principles. Canada's Algorithmic Impact Assessment Tool would be valuable to draw from as an example of integrating considerations of rights and autonomy into assessment methods. By placing relevant rights-based mechanisms, this Treaty will remain adaptable to the dynamic nature of rapidly developing technologies. New risks and harms are emerging in tandem with the advancement of AI capabilities. We reiterate the need for the Treaty to cover both the public and private sectors so that all risks and harms can be accounted for.

5. Please feel free to share any other concerns or considerations you think the Government of Canada should consider when negotiating this treaty.

The COE AI Treaty will serve as the legally binding framework for a more standardized and continuous collaboration with like-minded countries. This will help reduce risks and address adverse impacts on human rights, democratic values, and rule of law globally. Canada should push for the strongest, most effective, human-centric provisions possible, aligning the Treaty's risk management framework with the G7 Hiroshima Guiding Principles and Code of Conduct. International cooperation will also be strengthened by allowing the Conference of Parties to adopt common recommendations and resolutions. The work of the Conference of Parties can be further informed by the creation of a committee of experts to identify potential risks and impacts and prepare reports for both contracting and non-contracting parties. Ensuring meaningful public participation for civil society organizations should play an even larger role in upholding democratic values in the policymaking process.