been swept aside to facilitate a predetermined policy outcome based on political convenience."[51]

The UN General Assembly Adopts U.S.-Led Resolution on Safe, Secure, and Trustworthy Artificial Intelligence

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The UN General Assembly has adopted without a vote a U.S.-led resolution "to promote safe, secure and trustworthy artificial intelligence systems to accelerate progress towards the full realization of the 2030 Agenda for Sustainable Development."[1] Co-sponsored by over 120 member states,[2] the resolution—the Assembly's first on artificial intelligence (AI)—calls for "inclusive and equitable access to the benefits of digital transformation and . . . artificial intelligence," emphasizes the respect for human rights in the use of AI, and encourages the promotion of safe, secure, and trustworthy AI, including through domestic regulation.[3] The resolution establishes goals and principles but does not create rules, establish a process for drafting a binding international instrument, or propose any form of international AI governance.[4] Though there are many multilateral initiatives setting out principles concerning AI's

[51] *Id.*

[1] *See* GA Res. 78/265, para. 2 (2024) [hereinafter AI Resolution]; U.S. Dep't of State Press Release, United Nations General Assembly Adopts by Consensus U.S.-Led Resolution on Seizing the Opportunities of Safe, Secure and Trustworthy Artificial Intelligence Systems for Sustainable Development (Mar. 21, 2024), *at* https://www.state.gov/united-nations-general-assembly-adopts-by-consensus-u-s-led-resolution-on-seizing-the-opportunities-of-safe-secure-and-trustworthy-artificial-intelligence-systems-for-sustainable-development [https://perma.cc/R4S3-M4BV]. The phrase "safe, secure and trustworthy" used in the resolution's title and text stems from a recent U.S. executive order. *See* text at note 6 *infra.* The resolution applies to the non-military domain. *See* AI Resolution, *supra* note 1, pmbl. para. 6. For a discussion of U.S. diplomacy concerning AI in the military domain, see text at notes 45–46 *infra.* In July 2024, the General Assembly adopted without a vote a follow-up resolution sponsored by China and supported by the United States that focused on enhancing international cooperation on artificial intelligence capacity building in developing countries. *See* GA Res. 78/311 (2024).

[2] *See* U.S. Mission to the UN Press Release, Remarks by Ambassador Thomas-Greenfield at the UN Security Council Stakeout Following the Adoption of a UNGA Resolution on Artificial Intelligence (Mar. 21, 2024), *at* https://usun.usmission.gov/remarks-by-ambassador-thomas-greenfield-at-the-un-security-council-stakeout-following-the-adoption-of-a-unga-resolution-on-artificial-intelligence [https://perma.cc/KJZ4-S5K3] [hereinafter Thomas-Greenfield Remarks]. UN High Commissioner for Human Rights Volker Türk anticipates significant benefits from AI, stating recently: "Unprecedented advances in digital technology, including generative Artificial Intelligence, offer us previously unimaginable opportunities to move forward on the enjoyment of human rights and contribute to rescuing the 2030 Agenda." Office of the High Commissioner for Human Rights, Human Rights: A Path for Solutions (2024), *at* https://www.ohchr.org/sites/default/files/documents/aboutus/hc-visionstatement-2024.pdf [https://perma.cc/UE54-4YGJ].

[3] *See* AI Resolution, *supra* note 1, paras. 4–6.

[4] The need for, and the form of, international governance of AI is a matter of significant debate, and the topic is being considered by the UN Secretary-General's AI Advisory Body, which issued an interim report on "Governing AI for Humanity" in December 2023. *See* United Nations, Interim Report: Governing AI for Humanity (Dec. 2023), https://www.un.org/sites/un2.un.org/files/ai_advisory_body_interim_report.pdf [https://perma.cc/Q8NC-YVSS]. There have been many proposals. *See* Emma Klein & Stewart Patrick, *Envisioning a Global Regime Complex to Govern Artificial Intelligence*, CARNEGIE (Mar. 21, 2024), *at* https://carnegieendowment.org/research/2024/03/envisioning-a-global-regime-complex-to-govern-artificial-intelligence?lang=en [https://perma.cc/Q4HC-SXWF].

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advance, the resolution uniquely links sustainable development with AI in a comprehensive manner and with broad support. "This resolution was a massive step towards . . . building and deploying AI systems that save lives, end poverty, protect our planet, and create a safer, more equitable world," Ambassador Linda Thomas-Greenfield, the U.S. Permanent Representative to the United Nations, said immediately following the General Assembly's decision.[5] The resolution follows through on President Joseph R. Biden, Jr.'s direction in his recent Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence that the United States should "lead efforts to establish a strong international framework for managing the risks and harnessing the benefits of AI."[6]

As Ambassador Thomas-Greenfield noted in her speech to the General Assembly,[7] the resolution builds upon a dizzying array of international initiatives, developed across organizations and groups, that establish high-level, non-binding frameworks for the regulation of AI. Some of these date back three to five years and more, such as the Organisation for Economic Co-operation and Development's Principles on Artificial Intelligence,[8] the G20 Principles for Responsible Stewardship of Trustworthy AI,[9] and the UN Educational, Scientific and Cultural Organization's Recommendation on the Ethics of Artificial Intelligence.[10] But many have been issued only within the past year, as the rapid pace of AI's development, particularly in generative AI, has propelled governments to establish common baselines for cooperation and control. In October 2023, G7 leaders welcomed the International Guiding Principles for Organizations Developing Advanced AI Systems and a voluntary Code of Conduct for AI developers.[11] Also in October, Chinese President Xi Jinping introduced the Global AI Governance Initiative at the third Belt and Road Forum for International Cooperation.[12] The following month, at the AI Safety Summit hosted by the United Kingdom, twenty-eight states and the European Union endorsed the Bletchley

[5] Thomas-Greenfield Remarks, *supra* note 2.

[6] *See* Exec. Order 14,110, Sec. 11(ii), 88 Fed. Reg. 75,191 (Oct. 30, 2023) [hereinafter Executive Order]; *see also* White House Press Release, President Biden Issues Executive Order on Safe, Secure, and Trustworthy Artificial Intelligence (Oct. 30, 2023), *at* https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/30/fact-sheet-president-biden-issues-executive-order-on-safe-secure-and-trustworthy-artificial-intelligence [https://perma.cc/AR8L-W5SZ].

[7] *See* United Nations, UN Web TV, General Assembly: 63rd Plenary Meeting, 78th Session, at 2:05:45 (Mar. 21, 2024), *at* https://webtv.un.org/en/asset/k1d/k1dio1rvsf.

[8] *See* OECD, Recommendation of the Council on Artificial Intelligence, C/MIN(2019)3/FINAL (May 24, 2019), *at* https://one.oecd.org/document/C/MIN(2019)3/FINAL/en/pdf [https://perma.cc/J6N7-HHQZ]. The OECD Principles were updated in May 2024. *See* OECD, Revised Recommendation of the Council on Artificial Intelligence, C/MIN(2024)16/FINAL (May 3, 2024), *at* https://one.oecd.org/document/C/MIN(2024)16/FINAL/en/pdf [https://perma.cc/H7KT-YLVS].

[9] *See* G20 Ministerial Statement on Trade and Digital Economy, Annex (2019), *at* https://www.mofa.go.jp/files/000486596.pdf [https://perma.cc/5DMN-6KK5].

[10] *See* UNESCO, Recommendation on the Ethics of Artificial Intelligence (Nov. 23, 2021), *at* https://unesdoc.unesco.org/ark:/48223/pf0000381137/PDF/381137eng.pdf.multi [https://perma.cc/UYB5-EBWB].

[11] *See* G7, Hiroshima Process International Code of Conduct for Organizations Developing Advanced AI Systems (2023), *at* https://www.mofa.go.jp/files/100573473.pdf [https://perma.cc/TF2F-PYLP]; White House Press Release, G7 Leaders' Statement on the Hiroshima AI Process (Oct. 30, 2023), *at* https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/30/g7-leaders-statement-on-the-hiroshima-ai-process [https://perma.cc/76RH-CNMP].

[12] *See* Embassy of the People's Republic of China in the United States of America Press Release, Foreign Ministry Spokesperson's Remarks on the Global AI Governance Initiative (Oct. 18, 2023), *at* http://us.china-embassy.gov.cn/eng/fyrth/202310/t20231018_11162874.htm [https://perma.cc/6CJM-JEW2].

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Declaration in which the participants agreed on the need to identify AI risk and build risk-based policies, including safety testing.[13] And in December, the Global Partnership on Artificial Intelligence, a collection of states and the European Union that seeks to facilitate international collaboration in the development of AI, issued its 2023 Ministerial Declaration, which underscored the importance of "AI projects aimed at addressing societal problems and global challenges, maximising the benefits and mitigating associated risks."[14]

The resolution's negotiation and adoption also come amid a surge in domestic and regional AI regulation. Last year, the Cyberspace Administration of China issued Measures for the Administration of Generative Artificial Intelligence Services based on "the principle of giving equal importance to development and security."[15] The law prohibits generative AI from "generat[ing] content . . . such as inciting subversion of state power, overthrowing the socialist system, endangering national security and interests, damaging the national image, inciting the secession of the country, [and] undermining national unity and social stability."[16] In May 2024, the European Council gave final approval to the Artificial Intelligence Act, a regulation that establishes requirements and obligations based on AI risk and bans certain AI systems and uses, such as social scoring and predictive policing.[17] Also in May, the Council of Europe adopted the Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law, the first binding international agreement regulating AI.[18] The Convention aims "to ensure that activities within the lifecycle of artificial intelligence systems are fully consistent with human rights, democracy and the rule of law" and requires parties to take measures accordingly.[19] Consultations are ongoing at the African Union on the development of a Continental AI Strategy.[20]

In the United States, President Biden issued the first comprehensive executive order on AI in October 2023.[21] The order emphasizes the development of new standards, guidelines,

[13] *See* The Bletchley Declaration by Countries Attending the AI Safety Summit, 1–2 (Nov. 2023), *at* https://www.gov.uk/government/publications/ai-safety-summit-2023-the-bletchley-declaration/the-bletchley-declaration-by-countries-attending-the-ai-safety-summit-1-2-november-2023 [https://perma.cc/FF22-2WKA].

[14] *See* Global Partnership on Artificial Intelligence (GPAI), GPAI Ministerial Declaration 2023 (Dec. 13, 2023), *at* https://gpai.ai/2023-GPAI-Ministerial-Declaration.pdf [https://perma.cc/Y578-CMHK].

[15] *See* 生成式人工智能服务管理暂行办法, Art. 3 (July 10, 2023), *at* https://www.cac.gov.cn/2023-07/13/c_1690898327029107.htm [https://perma.cc/7U2F-XNZX] [translation by Google Translate].

[16] *Id.* Art. 4(1); *see also* Chang Che, *China Says Chatbots Must Toe the Party Line*, N.Y. Times (Apr. 24, 2023), *at* https://www.nytimes.com/2023/04/24/world/asia/china-chatbots-ai.html.

[17] *See* Council of the EU Press Release, Artificial Intelligence (AI) Act: Council Gives Final Green Light to the First Worldwide Rules on AI (May 21, 2024), *at* https://www.consilium.europa.eu/en/press/press-releases/2024/05/21/artificial-intelligence-ai-act-council-gives-final-green-light-to-the-first-worldwide-rules-on-ai.

[18] *See* Council of Europe Press Release, Council of Europe Adopts First International Treaty on Artificial Intelligence (May 17, 2024), *at* https://www.coe.int/en/web/portal/-/council-of-europe-adopts-first-international-treaty-on-artificial-intelligence [https://perma.cc/6XFX-7QA4].

[19] Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law, Art. 1(1), CETS No. 225.

[20] *See* African Union Press Release, Multistakeholder Consultative Sessions on the Development of a Continental Strategy on Artificial Intelligence (AI) (Apr. 2024), *at* https://au.int/en/newsevents/20240419/multistakeholder-consultative-sessions-development-continental-strategy [https://perma.cc/7TL2-KG82].

[21] *See* Executive Order, *supra* note 6. In July 2023, the heads of seven major U.S. AI companies made voluntary commitments regarding safety, security, and trust. *See* White House Press Release, Remarks by President Biden on Artificial Intelligence (July 21, 2023), *at* https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/07/21/remarks-by-president-biden-on-artificial-intelligence [https://perma.cc/VPG2-SJTJ]. Previously, the White House published *Blueprint for an AI Bill of Rights*, a white paper. *See* White House, Blueprint for an AI Bill of

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programs, and other measures pertaining to: AI safety and security; critical infrastructure; consumers, patients, passengers, and students; privacy; equity and civil rights; and innovation and competition.[22] It mandates that: developers of powerful AI systems share safety test results with the U.S. government;[23] federal agencies set standards and create tests to ensure AI systems are safe, secure, and trustworthy;[24] and agencies use their authorities to establish standards and best practices to protect against AI-enabled threats such as fraud and deceptive content.[25] Further, it seeks to advance American leadership abroad by working with other nations to ensure the safe, secure, and trustworthy deployment of AI globally.[26]

The resolution builds upon these global and domestic initiatives and follows extensive consultations among member states, as well as with stakeholders from civil society and the private sector.[27] It goes beyond its predecessors in the extensive support it received and in meaningfully and comprehensively connecting sustainable development with AI and AI safety. Its twin premises are that "safe, secure and trustworthy artificial intelligence systems . . . [will] accelerate progress towards the full realization of the 2030 Agenda for Sustainable Development" and conversely that "improper or malicious design, development, deployment and use of artificial intelligence systems . . . pose risks that could hinder progress towards the achievement" of the 2030 Agenda and its Sustainable Development Goals.[28] The resolution therefore details the actions that are required to provide developing countries with access to digital technologies and AI (to "bridge the artificial intelligence and other digital divides between and within countries") and the ways in which all countries should promote secure AI.[29]

It first highlights the imperative of cooperation with developing countries to ensure equitable access to the benefits of AI technologies and to address existing digital divides.[30] The resolution recognizes the unique challenges faced by developing nations in keeping pace with rapid technological advancements and emphasizes the urgency of closing these divides.[31] Specifically, it calls upon member states and other stakeholders to take action to expand participation in digital transformation and enhance digital infrastructure connectivity in developing countries, including through increased capacity building, partnerships, funding, and technology transfer.[32] The resolution emphasizes that "human rights and fundamental freedoms must be respected, protected and promoted throughout the life cycle of artificial intelligence systems."[33] It encourages the promotion of safe, secure, and trustworthy AI and

Rights (Oct. 2022), *at* https://www.whitehouse.gov/wp-content/uploads/2022/10/Blueprint-for-an-AI-Bill-of-Rights.pdf [https://perma.cc/NFN4-CHVR].

[22] *See* Executive Order, *supra* note 6.

[23] *See id.*, Sec. 4.2.

[24] *See id.*, Sec. 4.1.

[25] *See id.*, Sec. 8.

[26] *See id.*, Sec. 11.

[27] Thomas-Greenfield Remarks, *supra* note 2.

[28] AI Resolution, *supra* note 1, para. 2, pmbl. para. 7.

[29] *Id.*, para. 1.

[30] *See id.*, para. 4.

[31] *See id.*, pmbl. para. 8.

[32] *See id.*, para. 4.

[33] *Id.*, para. 5.

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provides a comprehensive list of measures to achieve this goal.[34] These include the need for the development and implementation of domestic regulatory and governance approaches that support responsible AI innovation and investment, as well as means to prevent and mitigate AI vulnerabilities and risks prior to AI's deployment and use.[35] It also notes the importance of fostering public understanding of the core functions, capabilities, limitations, and appropriate uses of AI systems, as well as promoting transparency, predictability, reliability, and understandability throughout their lifecycle.[36] It stresses the need to protect individuals from discrimination, bias, misuse, or other harms associated with AI systems.[37] It calls for measures to mitigate negative consequences for workforces, especially in developing countries, by fostering programs aimed at digital training, capacity building, supporting innovation, and enhancing access to the benefits of AI systems.[38] The resolution recognizes as well the importance of responsible and effective data governance and encourages greater international cooperation, collaboration, and assistance.[39]

"Today," Ambassador Thomas-Greenfield said upon the resolution's adoption, "all 193 members of the United Nations General Assembly have spoken in one voice, and together, chosen to govern artificial intelligence rather than let it govern us."[40] Vice President Kamala Harris, who has led the administration's AI policy development, heralded the resolution's adoption as "a historic step toward establishing clear international norms."[41] Explaining the administration's approach to AI, she said that "AI must be in the public interest—it must be adopted and advanced in a way that protects everyone from potential harm and ensures everyone is able to enjoy its benefits. And we must also address the full spectrum of risk, from catastrophic risks to all of humanity to the harms felt by individuals and communities, such as bias."[42] Emphasizing the importance of AI and global development, she continued: "Too often, in past technological revolutions, the benefits have not been shared equitably, and the harms have been felt by a disproportionate few. This resolution establishes a path forward on AI where every country can both seize the promise and manage the risks of AI."[43] She also pointed out that "the resolution makes clear that protecting human rights and fundamental freedoms must be central to the development and use of AI systems."[44]

[34] *See id.*, para. 6.
[35] *See id.*, para. 6(a)–(b).
[36] *See id.*, para. 6(d), (k).
[37] *See id.*, para. 6(h).
[38] *See id.*, para. 6(q).
[39] *See id.*, para. 7.
[40] Thomas-Greenfield Remarks, *supra* note 2.
[41] White House Press Release, Statement from Vice President Harris on the UN General Assembly Resolution on Artificial Intelligence (Mar. 21, 2024), *at* https://www.whitehouse.gov/briefing-room/statements-releases/2024/03/21/statement-from-vice-president-harris-on-the-un-general-assembly-resolution-on-artificial-intelligence [https://perma.cc/2Q5Z-P4BF] [hereinafter Harris Statement]; *see also* White House Press Release, Statement from National Security Advisor Jake Sullivan on the United Nations General Assembly Resolution on Artificial Intelligence for Sustainable Development (Mar. 21, 2024), *at* https://www.whitehouse.gov/briefing-room/statements-releases/2024/03/21/statement-from-national-security-advisor-jake-sullivan-on-the-united-nations-general-assembly-resolution-on-artificial-intelligence-for-sustainable-development [https://perma.cc/S5JN-UEFA].
[42] Harris Statement, *supra* note 41.
[43] *Id.*
[44] *Id.*

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The U.S. efforts in the General Assembly came at the same time that the United States is seeking support for the Political Declaration on Responsible Military Use of Artificial Intelligence and Autonomy, a non-binding text that sets out principles for the use of AI.[45] That instrument, which the United States drafted and proposed on its own, now has the backing of fifty-four countries.[46]

Settlement of Disputes

The United States Comments on Matters Pending at the International Court of Justice and the International Criminal Court Pertaining to the Israeli-Palestinian Conflict

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The United States has commented on several pending matters at the International Court of Justice (ICJ) and the International Criminal Court (ICC) relating to the Israeli-Palestinian conflict. Participating in advisory proceedings at the ICJ, the United States has urged the court not to issue an opinion that would interfere with the political resolution of the dispute between Israel and the Palestinians through the negotiating framework endorsed by the Security Council and the General Assembly.[1] In a statement regarding a contentious case at the ICJ, the United States categorically repudiated South Africa's claims that Israel violated the Genocide Convention.[2] And responding to the news that the ICC prosecutor had applied to the court for arrest warrants for Israeli Prime Minister Benjamin Netanyahu and Defense Minister Yoav Gallant,[3] the United States "fundamentally reject[ed] the

[45] *See* Jacob Katz Cogan, Contemporary Practice of the United States, 117 AJIL 702, 728 (2023).

[46] *See* U.S. Dep't of State Bureau of Arms Control, Deterrence, and Stability, Political Declaration on Responsible Military Use of Artificial Intelligence and Autonomy, *at* https://www.state.gov/political-declaration-on-responsible-military-use-of-artificial-intelligence-and-autonomy [https://perma.cc/2P5L-6LQM]; *see also* Sydney J. Freedberg Jr., *US Joins Austria, Bahrain, Canada, & Portugal to Co-lead Global Push for Safer Military AI*, Breaking Defense (Mar. 28, 2024), *at* https://breakingdefense.com/2024/03/us-joins-austria-bahrain-canada-portugal-to-co-lead-global-push-for-safer-military-ai.

[1] *See* United States, Written Statement, Request by the United Nations General Assembly for an Advisory Opinion on "Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem" (July 25, 2023), *at* https://icj-cij.org/sites/default/files/case-related/186/186-20230725-wri-20-00-en.pdf [https://perma.cc/V5TX-VNYM] [hereinafter U.S. Written Statement]; United States, Written Comments, Request by the United Nations General Assembly for an Advisory Opinion on "Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem" (Oct. 25, 2023), *at* https://icj-cij.org/sites/default/files/case-related/186/186-20231025-wri-05-00-en.pdf [https://perma.cc/5LND-SABZ] [hereinafter U.S. Written Comments]; International Court of Justice, Verbatim Record, Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem, CR 2024/7 (Feb. 21, 2024), *at* https://icj-cij.org/sites/default/files/case-related/186/186-20240221-ora-01-0-bi.pdf [https://perma.cc/SW87-QLR2] [hereinafter U.S. Oral Statement].

[2] *See* U.S. Dep't of State Press Release, This Week's International Court of Justice Hearings (Jan. 10, 2024), *at* https://www.state.gov/this-weeks-international-court-of-justice-hearings [https://perma.cc/7ACR-PXBT].

[3] *See* International Criminal Court Press Release, Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for Arrest Warrants in the Situation in the State of Palestine (May 20, 2024), *at* https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state [https://perma.cc/JYP7-EBVH]. The prosecutor also applied for arrest warrants for Yahya Sinwar, Head of Hamas, Mohammed Diab Ibrahim Al-Masri, commander-in-chief of Hamas's military wing, and Ismail Haniyeh, head of Hamas's political bureau.

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