ACWL — Advisory Centre on WTO Law
Centre Consultatif sur la Législation de l'OMC
Centro de Asesoría Legal en Asuntos de la OMC

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**The Legal Landscape:
Navigating AI Regulation**

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The Challenge We Face

- AI is everywhere and nowhere at once
- Generative AI has become as commonplace as the internet
- **Key Question**: How do you regulate something that doesn't fit existing regulatory boxes?
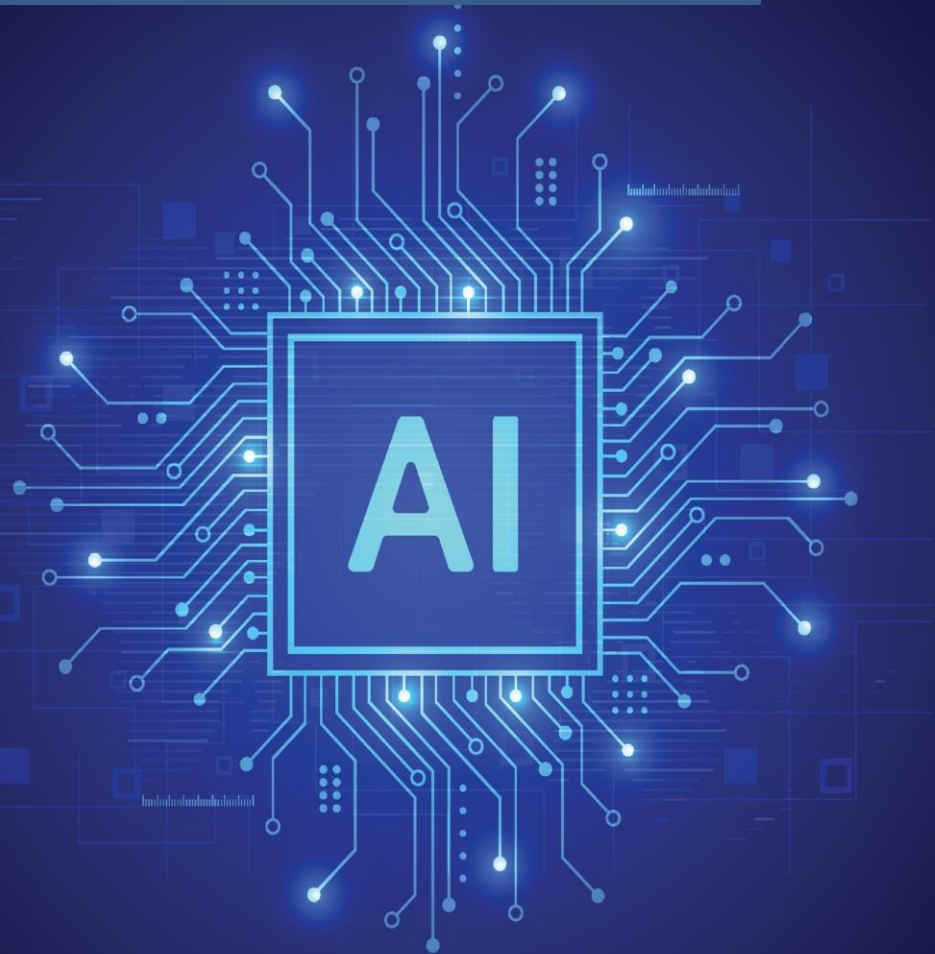
The Complexity

AI intersects with multiple domains simultaneously:

- Cybersecurity
- Safety
- Human Resources
- Intellectual Property
- Non-discrimination

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The Myth:

**…US Innovates,
China Replicates,
EU Regulates…**

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Debunking Global AI Myths

The Reality:

China's Innovation Leadership

- 70% of global AI patents granted
- DeepSeek achieved GPT-4 performance with fraction of OpenAI's resources
- First comprehensive AI rules implemented (2023)

Europe's Critical Role

- ASML (Dutch company) holds near-monopoly on chip manufacturing technology
- EU AI Act alongside innovation initiatives: €200 billion investment in AI infrastructure

United States

- Federal deregulation vs. strict state-level legislation
- Patchwork of regulatory approaches

Key Takeaway: Everyone innovates, everyone regulates – just differently

Three Categories of AI Regulation

Framework Overview

• **High-Intensity**: Dedicated AI laws, compulsory requirements, potential liabilities

• **Medium-Intensity**: Sectoral/principle-based regulation, voluntary standards

• **Low-Intensity**: Minimal rules, market-led approaches

Each reflects different cultural attitudes towards balancing innovation and risk.

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High-Intensity Regulation

European Union - AI Act (August 2024)

Risk Pyramid Approach:

- ➢ Unacceptable Risk: Social scoring, real-time facial recognition - BANNED
- ➢ High Risk: AI recruitment, loan algorithms - Strict requirements (conformity assessment, technical documentation, user notification requirements)
- ➢ All AI Systems: Transparency obligations

• Penalties: €35 million OR 7% of global turnover (whichever is higher)

• Has inspired frameworks in **Canada, South Korea, Latin America (Brazil, Peru and Colombia**).

China - Content & Supervision Focus

• Government review required before algorithm deployment

• 350+ approved generative AI algorithms registered

• All AI-generated content must be labeled

• Real-name user registration required

• Content removal within hours capability

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Medium-Intensity Regulation

Singapore
- Model AI Governance Framework (voluntary, principle-based)
- Regulatory sandboxes with private sector cooperation
- Sector-specific rules with verification tools

United Kingdom
- Five core principles: Safety, Transparency, Fairness, Accountability, Redress
- Applied by sectoral regulators within their domains

Japan
- Soft-law guidelines approach
- Cross-ministry coordination
- Hiroshima Principles for international cooperation

African Union
- Continental AI Strategy with ethical guidelines
- National strategies over regulations
- Technology advancement prioritized

Mongolia's approach

Specific Regulatory Initiatives

- Ministry of Digital Development: Established January 2025
- National AI Strategy: Drafted 2025, targeting transition from "AI consumer" to "AI developer" by 2030
- UNDP Partnership: Comprehensive AI Landscape Assessment using international frameworks
- WEF Collaboration: AI-driven Strategic Intelligence platform for Mongolia's Vision 2050

Concrete Implementation Examples

- Healthcare: Ulaanbaatar Declaration (2021) - first ethical AI guidelines in medical sector
- Government: E-Mongolia platform with AI-powered service recommendations for 1,200+ services

Implementation Targets

- National Council on AI: Establishment by 2026
- Capacity building: Train 300 master's/doctoral students + 1,000 AI ambassadors by 2027
- Infrastructure: GPU cluster-based AI Center + National Data Repository by 2026

THE RISE OF AI

The Mongolian startup defying Big Tech with its own LLM

Egune is one of several linguistically and culturally aware AI models built by smaller nations to reduce reliance on American and Chinese tech giants.

- Egune AI is developing large language models that specialize in the Mongolian language, culture, and nomadic traditions.

- Mainstream LLMs often underperform in low-resource languages, risking deeper inequality.

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Low-Intensity Regulation

United States - Federal vs. State Divide

Federal Level:
- Moving toward deregulation under Trump administration
- Revoked Biden's AI safety rules
- "Remove barriers" directive to agencies

State Level:
- Colorado AI Act
- California's 18 AI laws
- Creates patchwork stricter than federal approach

Challenge: Divergent court rulings due to lack of federal guidance

1. Fragmentation

• Companies must navigate multiple frameworks simultaneously:

EU conformity assessments

Chinese content reviews

US state-by-state requirements

• **Impact**: Staggering compliance burden, especially for smaller companies

2. Timing Lag

• Regulation perpetually behind innovation

• EU AI Act (conceived 2021) must govern systems drafters couldn't imagine

• **Solution**: Technology-neutral, principle-based approaches

3. Digital Divide

• Powerful economies invest billions in AI infrastructure

• Developing nations risk being left behind

• **Opportunity**: AI can overcome barriers (e.g., Malawi's "Ulangizi" agricultural chatbot)

4. IP and data protection

International Convergence Efforts

Bridge-Building Initiatives

- **Hiroshima Principles** - G7 international AI governance
- **UN Global Digital Compact** - Multilateral framework
- **Council of Europe AI Framework Convention** - Regional approach
- **OECD AI Principles** - Economic cooperation standards
- **ISO/IEC 42001:2023** - AI Governance for companies
- **Multiple ITU Standards –** e.g. architectural framework for the integration of machine learning into 5G and future networks (ITU Y.3172), a framework to evaluate intelligence levels across different parts of the network (ITU Y.3173), and a framework for data handling in support of machine learning (ITU Y.3174).

Purpose

- Create common ground between regulatory approaches
- Protect consumers and
- Facilitate international trade and cooperation
- Ensure AI benefits reach all nations

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Conclusion

- **Everyone regulates AI** - the question is how
- **Diversity of approaches** offers valuable experimentation
- **Common challenges** require coordinated responses

The Choice Ahead

Approaches chosen today will shape:

- AI industry development
- Global trade patterns
- Economic development opportunities

Regulatory toolkit
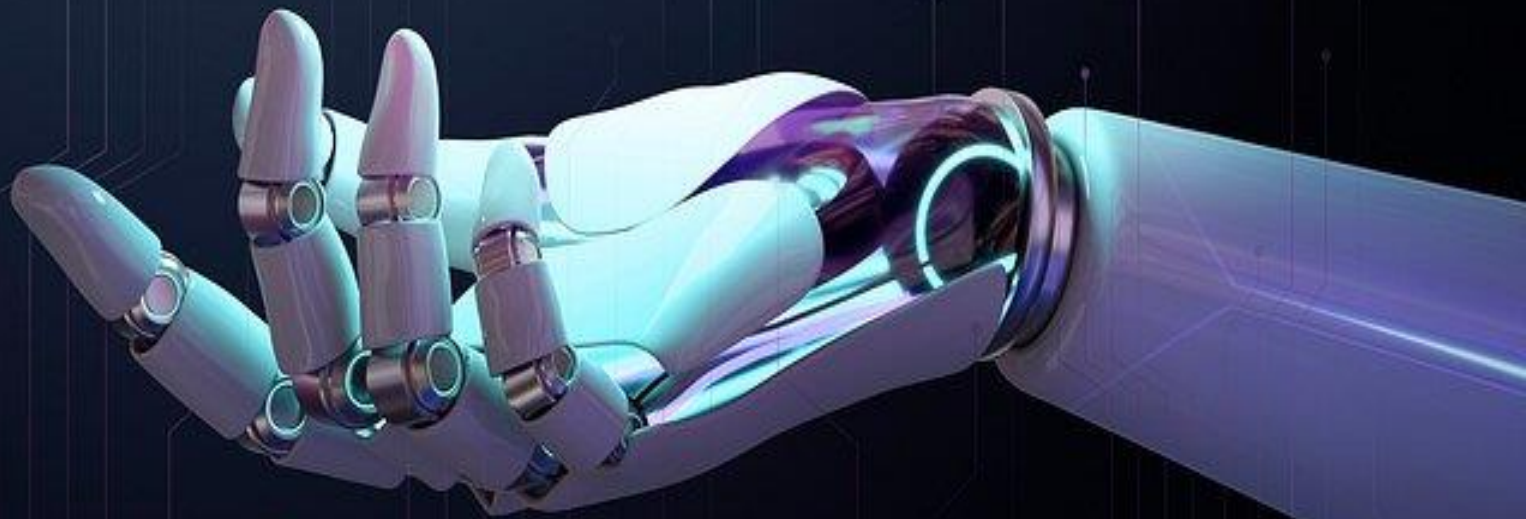
1. Flexible Frameworks
- Technology-neutral approaches
- Principle-based rather than prescriptive rules
- Regular review and adaptation mechanisms

2. Public-Private Partnerships
- Regulatory sandboxes for innovation testing
- Industry input in standard development
- Shared responsibility models

3. International Coordination
- Participate in multilateral initiatives
- Bilateral cooperation agreements
- Information sharing on best practices

4. Capacity Building
- Invest in regulatory expertise
- Train officials on AI technologies
- Develop technical assessment capabilities

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