



October 17, 2022

Barton Meroney  
Executive Director, Office of Manufacturing Industries  
International Trade Administration  
U.S. Department of Commerce  
1401 Constitution Avenue NW  
Washington, DC 20230

**RE: Request for Comments on Artificial Intelligence Export Competitiveness  
[Docket ID: ITA-2022-0007]**

Dear Mr. Meroney:

The Alliance for Automotive Innovation (“Auto Innovators”) is pleased to submit comments to the International Trade Administration (“ITA”) in response to its request for comments on Artificial Intelligence Export Competitiveness. Auto Innovators appreciates that ITA and the U.S. Department of Commerce continue to make U.S. innovation and global competitiveness in critical and emerging technologies like artificial intelligence a top policy priority.

Auto Innovators is the singular, authoritative, and respected voice of the automotive industry. Auto Innovators represents the manufacturers that produce nearly 98 percent of cars and light trucks sold in the U.S., original equipment suppliers, technology companies, and other value-chain partners within the automotive ecosystem. Representing approximately 5.5 percent of the country’s GDP and responsible for roughly 10 million jobs, the automotive industry is the nation’s largest manufacturing sector.

In its request for comments, ITA broadly defines artificial intelligence to include both goods and services that enable artificial intelligence systems, as well as artificial intelligence-driven products, such as autonomous vehicles (“AVs”). The automotive industry leverages the power of artificial intelligence to integrate driver support features, advanced safety technologies, and automated driving systems into consumer vehicles. These and other technological advances have the potential to protect vulnerable road users, reduce serious injuries and deaths, improve roadway safety, and provide environmental benefits. It is critical for ITA to distinguish between artificial intelligence and applications that make use of artificial intelligence, neural networking, and machine learning. An overly broad approach to artificial intelligence could have negative consequences for these beneficial commercial applications. Any export controls that apply to artificial intelligence should exclude AVs and other automotive use cases, except to the extent necessary to address a specific national security concern.

As the current leader in the development of AV technology, the U.S. is at the forefront of innovation that will help to transform personal mobility. In addition to roadway safety benefits,

AVs hold promise to increase access to mobility for older adults and people with disabilities, reduce traffic congestion, address freight movement challenges, and improve transportation equity. To bolster the technology leadership of the U.S. generally and in the future mobility space specifically, it is critical that companies in the U.S. retain access to global markets to justify the significant investments required to commercialize AVs. Retaining access to highly competitive global talent pools is also important.

The U.S. has a strong foundation to support its ongoing leadership in AV innovation. According to KPMG in its most recent *Autonomous Vehicles Readiness Index*, the U.S. is home to 420 AV company headquarters and nearly 6,000 AV-related patent applications.<sup>1</sup> AV companies are testing vehicles in Arizona, California, Florida, Michigan, Nevada, Pennsylvania, Texas, and other states, bringing technological leadership, jobs, investment, tax revenue, and economic growth to these communities. Nevertheless, while the U.S. remains well-positioned to continue to advance in this important area of mobility transformation and technological advancement, there are some challenges impacting the ability of the U.S. to solidify its leadership in artificial intelligence as it relates to AVs. These include:

- **AV Regulation and Standards Development:** Around the world, other countries – including China, France, and Germany – are implementing regulatory frameworks to support the development and deployment of AVs. However, the U.S. currently lacks a comprehensive federal framework for AV deployment. As these technologies continue to mature, AV developers and manufacturers need a reliable and viable pathway to commercial deployment in the U.S. If other nations lead in this space, they can also guide the development of international standards, control supply chains, and define international markets. In addition to raising questions related to economic competitiveness or potentially even national security, U.S. leadership in AV-related standards development and regulatory frameworks can help determine whether the future of AV technology, as enabled by artificial intelligence, is shaped globally in a manner that emphasizes safety, security, and trustworthiness.
- **Export Control Exceptions for Civil Automotive Applications:** Since artificial intelligence and AVs can improve motor vehicle safety and reduce traffic fatalities, ITA should work with its partners across government, particularly the Bureau of Industry and Security (“BIS”), to consider the potential impact that artificial intelligence-related export controls may have on the competitiveness of the U.S. automotive industry, including its supply and value chains. Any controls should reflect and accommodate the civil commercial nature of the AV use case and align with multilateral treaty parties, such as the Wassenaar Arrangement, and other relevant trading partners. The U.S. should evaluate and narrowly define any such controls to address specific national security concerns in accordance with the Export Control Reform Act of 2018. Further, artificial intelligence-related export controls should exclude civil applications to avoid impeding

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<sup>1</sup> KPMG, *2020 Autonomous Vehicles Readiness Index: Assessing the Preparedness of 30 Countries and Jurisdictions in the Race for Autonomous Vehicles*, July 2020. [2020 Autonomous Vehicles Readiness Index \(assets.kpmg\)](#)

the R&D activities of the U.S. automotive industry or placing the U.S. automotive industry at a globally competitive disadvantage. There is precedent in the Export Administration Regulations (“EAR”), primarily through qualifying notes in the Export Control Classification Numbers (“ECCNs”).<sup>2</sup> We support an expansive interpretation of any exclusions to apply to software, hardware, and firmware, as well as include technologies related to mobility, robotics, and infrastructure that support and enhance civil automobile applications. Furthermore, intracompany license exceptions or grandfathering provisions should be considered that allow companies to continue to utilize resources from talent-rich countries, with appropriate safeguards.

- **Facial Recognition and Facial Detection Technologies:** Artificial intelligence not only powers AVs but can also enable driver support features and advanced safety technologies that leverage facial recognition- and facial detection-related capabilities. Facial recognition analyzes human facial features for the unique personal identification of an individual, while facial detection simply identifies the presence of a human face. Auto Innovators fully understands the privacy and human rights concerns associated with facial recognition and facial detection when used for surveillance purposes. However, it is essential that any controls, including export controls, placed on such technologies be crafted in such a way that restrict surveillance uses without unintentionally impeding the U.S.-based development, commercialization, sale, and export of innovative new technologies that will help make vehicles safer and smarter.

An important consideration for any potential controls is to distinguish between purely or predominantly consumer or commercial applications of facial recognition and facial detection technologies and applications purely or predominantly for use by law enforcement or security services. The U.S. should advocate for such distinctions in its bilateral and multilateral discussions with other countries and in other fora as appropriate. The U.S. should also ensure that any artificial intelligence-related export controls are multilateral so that companies currently engaged in the development of these technologies in the U.S. do not choose to invest in markets without such controls, elect to collaborate with technology partners outside of the U.S. (depriving U.S. companies of R&D opportunities), or experience challenges in exporting U.S.-made vehicles with artificial intelligence-enabled technologies to other markets.

- **Intellectual Property Rights:** As part of its mission to strengthen the competitiveness of U.S. industry as it pertains to artificial intelligence, it is critical for ITA, the U.S. Patent & Trademark Office, and other federal agencies to assess how current intellectual property policy incentivizes investment in these technologies. In addition to questions on patentability, patent quality, and disclosure requirements, another area for consideration is artificial intelligence-related standard essential patents, or SEPs. Automotive companies, as manufacturers, rely on strong technical standards to deliver breakthrough technologies and to meet their environmental and safety goals. The ability to license

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<sup>2</sup> See, e.g., 15 CFR Appendix Supplement 1 to Part 774 ECCNs 1A002, 3A001.a.2, 3A001.h, 4A001.a.1, 6A002.f, and 6A008

patents declared essential to technical standards on fair, reasonable, and non-discriminatory (“F/RAND”) terms is critical to enabling automotive companies to deploy new technologies that are transforming personal mobility and helping to create a cleaner, safer, and smarter transportation future. F/RAND terms prevent anticompetitive behavior by balancing the market power that essential patent holders have with the needs of automotive companies to license and implement common standardized technologies such as internet connectivity, increasing computing capacity, or broadband cellular networks. It is imperative that any artificial-related SEPs abide by F/RAND licensing terms as well.

Auto Innovators welcomes the opportunity to submit these comments in response to ITA’s request for comments and to provide the perspective of the automotive industry on the important issue of U.S. innovation and competitiveness with regards to artificial intelligence. We look forward to continued engagement with ITA as it seeks a stronger understanding of the global artificial intelligence marketplace and enhance the U.S. technological leadership in this space.

Sincerely,

A handwritten signature in cursive script that reads "Tara Hairston". The signature is positioned above the typed name and title. The background of the page features a large, faint, stylized sunburst or fan-like graphic composed of numerous thin, radiating lines.

Tara Hairston  
Senior Director, Technology, Innovation, & Mobility Policy