



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration

Washington, D.C. 20230

October 19, 2023

The Honorable Ron Wyden
Chairman
Committee on Finance
U.S. Senate
Washington, DC 20510

Dear Chairman Wyden:

Thank you for your letter regarding the intersection between the International Trade Administration's (ITA) export promotion efforts and human rights concerns related to surveillance technology. As authorized and required by federal law, ITA's Global Markets team ("Global Markets") advocates for U.S. businesses, especially small and medium-sized enterprises, in international markets to foster U.S. economic prosperity. Global Markets assists U.S. businesses in entering and expanding in international markets, addressing barriers to accessing foreign markets, winning foreign government procurements, and attracting inward investment into the United States.

ITA shares your commitment to promoting American businesses and workers. As Secretary Raimondo has made clear, we want to promote trade and investment in areas that do not threaten our core economic and national security interests or human rights values.¹ I am proud that ITA has taken steps to ensure that its policies align with these principles.

First, ITA revised its Global Markets Client Eligibility Policy to include a detailed Human Rights Addendum (Addendum). Under this new policy, ITA staff will determine whether providing export assistance would raise significant human rights concerns.² They will make this determination, as appropriate, in consultation with other federal agencies. If so, ITA will decline export promotion, advocacy, and commercial diplomacy assistance. The Addendum also establishes a process for making this determination.

Second, ITA briefed ITA regional staff on the Addendum and the service eligibility determination process. This communication included example scenarios where declining assistance would be appropriate. One of those examples was the export of facial recognition software to a foreign government that had used similar technology to suppress dissidents and opponents of the government. ITA will continue to train staff on the Addendum, including

¹ <https://www.commerce.gov/news/speeches/2022/11/remarks-us-secretary-commerce-gina-raimondo-us-competitiveness-and-china>

² Specifically, ITA staff will determine whether providing export assistance would raise significant concerns of potential for use or misuse of the product or service to commit a gross violation of human rights or violation of civil and political human rights by a foreign government or foreign government state-owned enterprise or contracted security force in the potential target market.

encouraging staff to make informed decisions—drawing on resources across the Federal government as appropriate.

Third, since FY 2021, ITA has utilized the State Department’s Foreign Service Institute content for a “Rule of Law, Corporate Governance, and Human Rights” training module. This training is mandatory for all ITA’s Foreign Commercial Service Officers and has been made available to all ITA staff. This training module details the impact of human rights and corporate social responsibility on U.S. economic and social interests. It emphasizes that human rights and corporate social responsibility encompass more than a U.S company abiding by international human rights. Staff are trained to communicate their knowledge about human rights issues in respective countries and their potential impact on a client’s business success. The training also highlights the value of external engagement on larger community issues outside direct business interests as a key element of corporate social responsibility for companies. Staff are empowered to work with colleagues at posts to provide information upon request to companies about socio-economic challenges in the market (such as youth education, health issues, or natural disaster relief) to help inform the design of corporate social responsibility programs. ITA will incorporate the Human Rights addendum to the Client Eligibility Policy for FY 2024 ITA training.

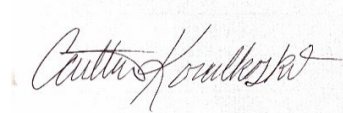
Finally, ITA has included a new section on human rights in its public-facing Client Eligibility Policy webpage. The page now reflects ITA’s latest guidelines, including the Human Rights Addendum. That webpage can be viewed at www.trade.gov/determine-cs-eligibility.

These steps have been informed by our engagement with your office, and we appreciate your leadership in ensuring that our trade policies reflect U.S. core democratic values. We are grateful for the opportunity to continue to engage with your staff to examine issues relating to the intersection of export promotion and human rights. We agree with you that it is in the interest of the United States to avoid promoting the export of these technologies to foreign governments or foreign government-contracted entities with the potential for misuse to commit human rights violations.

In closing, ITA looks forward to working with the Senate Finance Committee and your staff to build upon the progress made in 2022 to protect our national security and foreign policy interests, defend the rule of law, and maintain the standard for human rights across the globe.

Should you or your staff have any questions, please contact me at 202-600-0726 or Caitlin.Kovalkoski@trade.gov.

Sincerely,

A handwritten signature in cursive script, reading "Caitlin Kovalkoski", is displayed within a light gray rectangular box.

Caitlin Kovalkoski
Director
Office of Legislative and Intergovernmental Affairs
International Trade Administration
U.S. Department of Commerce