

The Semiconductor Seven: SIA's Top Priorities for Modernizing Trade Agreements

Access to global markets is vital to the success of the U.S. semiconductor industry, and has enabled U.S.-based companies to secure nearly half of the \$469 billion global semiconductor market share in 2018. Semiconductors are America's 4th largest export, with 80 percent of U.S. semiconductor companies' revenues from sales overseas. While a major exporting powerhouse, our industry also relies on a complex and global supply chain for raw materials, equipment, R&D, technology, human talent, testing, and distribution. The intermediate nature of our products also requires the import and re-export of products (both in tangible and intangible forms) to meet the constantly changing needs of our customers. These factors, combined with the high-capital costs and short product-life cycles of our cutting-edge technologies, mean our industry's success and competitive edge depends on the ability to move semiconductors freely, efficiently, fairly, and quickly across borders.

SIA strongly supports modern trade agreements that enable continued access to global markets, strengthen digital trade disciplines, and promote fair, market-based competition. Below are the "Semiconductor Seven" – SIA's top priorities for future U.S. trade agreements.

1. ENSURE GLOBAL MARKET ACCESS FOR THE MOST INNOVATIVE & EFFECTIVE ENCRYPTION PRODUCTS

Prevent countries from taking actions that block or place discriminatory restrictions on commercial foreign products with encryption, or that block companies from using the strongest available security technologies in the marketplace. With semiconductor-enabled encryption now used in nearly all commonly used and globally traded ICT products, the adoption of restrictive policies (i.e. import bans, technology mandates or requirements to transfer or provide access to proprietary information) could threaten the large trade flows of semiconductors and other ICT products on the scale of hundreds of billions of dollars.

2. ELIMINATE DUTIES ON SEMICONDUCTOR-RICH PRODUCTS, ELECTRONIC TRANSMISSIONS

The U.S. and many of its trading partners have long eliminated duties on ICT products and electronic transmissions through participation in WTO agreements like the Information Technology Agreement and WTO Moratorium on customs duties on electronic transmissions. Lower consumer prices and lower costs of trade for semiconductor-enabled products have promoted innovation and growth. To maximize the benefits of these agreements, modern U.S. trade agreements should commit U.S. trading partners to joining the Information Technology Agreement (ITA) and ITA expansion, as well as include a permanent ban on customs duties on electronic transmissions.

3. STRENGTHEN SAFEGUARDS AND INCREASE PENALTIES TO PROTECT TRADE SECRETS & OTHER IP

Trade secrets – which in our industry include manufacturing know-how, chemical formulations, chip designs, and other proprietary information- are a critical and major asset of U.S. semiconductor companies. Yet despite their tremendous importance, trade secrets remain extremely vulnerable, especially in jurisdictions with weak laws and/or enforcement practices. More problematic is the misappropriation of trade secrets enabled or encouraged as result of government industrial policy. Modern U.S. trade agreements should require criminal penalties for trade secret theft, including theft by governments or theft by means of cyber intrusion, and strengthened procedures to protect trade secrets during conformity assessment procedures, such as banning forced disclosure of software source code or other sensitive IP in certification/regulatory schemes.



4. ENSURE THAT SOEs COMPETE FAIRLY & TRANSPARENTLY BASED ON MARKET CONSIDERATIONS

State-Owned Enterprise (SOE) activity guided or aided by government influence, rather than by commercial considerations, can cause harmful market and investment distortions. . In particular, the efforts by some governments to provide substantial equity infusions to develop their domestic semiconductor capabilities has the potential to seriously distort semiconductor markets. SOE disciplines should be strengthened to ensure SOEs and regulatory authorities act in a non-discriminatory and market-driven manner in terms of commercial purchases and sales, investment decisions, investment requirements, and application of regulatory authority.

5. PREVENT FORCED LOCALIZATION OF DIGITAL INFRASTRUCTURE & LOCAL CONTENT REQUIREMENTS

Governments are increasingly using “forced localization” tactics to advantage domestic companies and/or force foreign investors to use domestic technology, transfer their own technology, localize data storage and processing, or build expensive infrastructure in a region as a condition of market access. These rules raise costs, distort markets, reduce global interoperability, and increase the risk of unauthorized disclosure or theft of IP. Preventing trading partners from requiring companies to build technology infrastructure in their market or requiring companies to purchase or use local technology will help ensure data efficiency, cost efficiency, global interoperability and technology choice.

6. PROHIBIT FORCED TECHNOLOGY TRANSFER

Rules prohibiting partners from requiring companies to form joint ventures, transfer their technology, production processes, or other proprietary information such as source code (often as a condition of market access) will help prevent unhelpful distortions generated by such non-market driven behavior and the unauthorized disclosure or theft of IP.

7. SIMPLIFY AND HARMONIZE CUSTOMS AND TRADE PROCEDURES

The semiconductor value chain and supporting activities comprising the semiconductor ecosystem (i.e. raw materials, manufacturing equipment, research, design, fabrication, assembly, packaging and testing, distribution) is spread across the globe involving more than 100 countries. Simplifying and making more consistent customs procedures around the world will speed up time to market, lower costs, and lighten the regulatory burden of semiconductor companies with complex and global supply chains.

Existing global trade rules are insufficient or ineffective at combatting discriminatory and market-distorting practices in the ICT sector. Current global trade tensions underscore the importance of establishing more robust global trade disciplines that protect and strengthen the U.S. semiconductor industry and the broader global digital economy. We urge the Administration to pursue these and other strong digital trade outcomes in all U.S trade negotiations to counter growing restricts on U.S. trade and set examples for other countries developing their own digital trade rules.