



October 30, 2025

Via Regulatory Portal

Mr. Edward Marcus
Chair of the Trade Policy Staff Committee
Office of the U.S. Trade Representative
700 16th Street NW
Washington, D.C. 20006

Re: Notice of Request for Comments on Significant Foreign Trade Barriers for the 2026 National Trade Estimate Report

Dear Mr. Marcus,

The Semiconductor Industry Association (SIA) welcomes the opportunity to respond to the Office of the U.S. Trade Representative's (USTR) *Notice of Request for Comments on Significant Foreign Trade Barriers for the 2026 National Trade Estimate Report*, 90 Fed. Reg. 44448 (September 15, 2025) (the "Notice").

SIA has been the voice of the U.S. semiconductor industry for nearly half a century. Our member companies represented more than 99 percent of the U.S. semiconductor industry by revenue as well as major non-U.S. chip firms and are engaged in the full range of research, design, manufacture, and back-end assembly, test, and packaging of semiconductors. Semiconductors are historically a top U.S. export sector, running a healthy trade surplus for nearly three decades.¹ SIA's members design and produce all major advanced and mature-node semiconductor types, including logic, memory, analog, microprocessors, and optoelectronics. The semiconductor was invented in America more than 65 years ago, and the U.S. semiconductor industry remains the global leader in semiconductor technology and innovation, driving America's economic strength, national security, and global competitiveness in a range of downstream industries. More information about SIA and the semiconductor industry is available at www.semiconductors.org.

SIA appreciates the opportunity to share our views and stands ready to work constructively with USTR to address foreign trade barriers to U.S. exports of semiconductor and related products in order to reinforce America's economic strength, national security, innovation base, and semiconductor technology leadership, and achieve our shared goals of making America safer, stronger, and more prosperous. If you have any additional questions or would like to discuss these comments further, please contact SIA via cesko@semiconductors.org.

¹ U.S. International Trade Commission, "DataWeb," accessed March 3, 2025, HTS codes: 8541 (excluding photovoltaic cells and modules) and 8542.

I. U.S. SEMICONDUCTOR INDUSTRY

The semiconductor industry is critical to U.S. economic security, national security, and industrial competitiveness across a range of critical downstream sectors including artificial intelligence (AI) and high-performance computing, automotive, aerospace and defense, data centers, 5G/6G communications, medical technology, and advanced manufacturing. Few industries, if any, have a supply chain and development ecosystem as complex, geographically widespread, and interdependent as the semiconductor industry.

Roughly 70% of the U.S. semiconductor industry's revenue comes from sales to overseas customers, which has driven a U.S. trade surplus in semiconductors for nearly 30 years. To justify and support long-term, capital-intensive investments in U.S. semiconductor production, chipmakers need confidence that their products will have access to global markets and a global customer base. We urge the Trump Administration to work closely with SIA and our member companies to address foreign trade barriers that prevent U.S. company exports and sales in overseas markets.

II. FOREIGN TRADE BARRIERS

U.S. semiconductor companies have concerns with several foreign government policies and practices that restrict their access to global markets and overseas customers. As outlined in Section III below, such actions include technical barriers to trade, customs barriers, domestic content mandates, discriminatory standards and government procurement preferences, weak intellectual property enforcement, and import bans. The semiconductor supply chain relies on open and secure data flows across international borders, as virtually every step in the value chain involves the electronic transmission of data. Ensuring data can seamlessly cross borders remains critical for U.S. semiconductor design and manufacturing.

SIA has summarized below foreign trade barriers faced by U.S. exporters of semiconductors and related products for the following countries: China, European Union, India, and Vietnam. We appreciate USTR's efforts to address these trade barriers.

III. COUNTRY-SPECIFIC FOREIGN TRADE BARRIERS

CHINA

SIA has provided detailed comments on China's trade barriers in prior submissions to USTR, most recently in response to USTR's call for comments on China's compliance with the WTO.² We have provided abbreviated responses below according to various categories of trade barriers and provide additional references to prior comments.

o Domestic Content Mandates

² Semiconductor Industry Association, "Written Comments of the Semiconductor Industry Association on the Notice of Request for Public Comments on USTR's 2025 China WTO Compliance Report (90 Fed. Reg. 40136)," September 24, 2025. <https://www.semiconductors.org/wp-content/uploads/2025/10/SIA-Comments-Re-USTR-2025-China-WTO-Compliance-FINAL-09.24.pdf>.

China has significantly expanded its use of implicit and explicit measures to replace foreign chips and require domestic chip content, with additional guidance and measures imposed within the past year. The Chinese government has started to require various sectors to meet domestic chip content quotas, thereby artificially boosting Chinese chip demand. For more information, please see SIA's comments to USTR's 2025 Report on China's WTO Compliance.³

- *Discriminatory Automotive Chip Standards*

China's standards frequently and unnecessarily deviate from international standards in a manner seemingly noncompliant with Article 2.4 of the WTO *Agreement on Technical Barriers to Trade* (TBT). These inconsistencies subsequently cut out opportunities for foreign products designed around international standards, which conflicts with China's obligations under TBT Article 2.1 and Article 2.2. We are concerned that these practices, long a challenge for foreign companies in the electronics industry, will recur in the automotive industry. For more information, please see SIA's comments to USTR's 2025 Report on China's WTO Compliance.⁴

- *Discriminatory Import Substitution*

Chinese import substitution programs to support local alternatives have been around for decades alongside directives, guidelines, subsidies, and official policy pronouncements to promote usage of local semiconductors. China has long featured "indigenous innovation" policies officially adopted as of 2006; *Made in China 2025* and "dual circulation" policies are just the latest manifestations. We are concerned that these import substitution plans are only increasing, despite China's repeated assurances of compliance with its WTO commitments. Chinese scholars predict an acceleration of domestic substitution under the 15th FYP, which will cover the period from 2026 to 2030 and likely to be released in March 2026.⁵ For more information, please see SIA's comments to USTR's 2025 Report on China's WTO Compliance.⁶

- *Discriminatory Procurement Guidance*

Foreign firms have long faced barriers to China's procurement market through explicit measures that prohibit foreign companies from bidding or provide domestic producers with outsized advantages in bidding. On September 28, the State Council issued a *Notice of Implementation of Domestic Product Standards and Related Policies in Government Procurement*, effective January 1, 2026. The notice provides a 20% price advantage for all domestic products in procurement bids. The rule has significant implications for semiconductors and downstream electronics sold in China, particularly as Beijing issues domestic chip requirements for key downstream industries, such as automobiles and AI infrastructure. To be considered a domestic product, the raw materials or components must be modified in China, and a certain proportion of

³ Ibid.

⁴ Ibid.

⁵ Li Xianjun, "Industrial Innovation and Development of Chinese Integrated Circuits in the '15th FYP' Period: External Situation, Development Trends, and Policy Options," *Reform*, Issue 3:2025, April 25, 2025. http://gjs.cssn.cn/kydt/kydt_kycg/202504/t20250425_5870875.shtml.

⁶ Semiconductor Industry Association, "Written Comments of the Semiconductor Industry Association on the Notice of Request for Public Comments on USTR's 2025 China WTO Compliance Report (90 Fed. Reg. 40136)," September 24, 2025. <https://www.semiconductors.org/wp-content/uploads/2025/10/SIA-Comments-Re-USTR-2025-China-WTO-Compliance-FINAL-09.24.pdf>.

the product's cost must meet origin thresholds. China's Ministry of Finance will issue subsequent rules specifying this cost calculation, which may differ by industry and product. This guidance is only the latest in a series of procurement barriers. For more information, please see SIA's comments to USTR's 2025 Report on China's WTO Compliance.⁷

- *Subsidies*

China has a labyrinthian complex of state support and subsidies across central, provincial, and local levels, and directed towards building and strengthening its domestic semiconductor industry – to including semiconductor design, semiconductor manufacturing, and semiconductor manufacturing equipment. For more information, please see SIA's comments to USTR's 2025 Report on China's WTO Compliance and SIA's submission to USTR on its Section 301 investigation into Chinese legacy chips.⁸

- *Encryption/"Secure and Controllable"*

Semiconductors are increasingly dependent on encryption as an essential functionality for protecting privacy and safeguarding sensitive commercial information. In recent years, China has employed cybersecurity-based assessments to discourage business with foreign companies and purchase of their products. For more information, please see SIA's comments to USTR's 2025 Report on China's WTO Compliance.⁹

- *Antidumping Processes*

China in recent years has employed a variety of tools to respond to U.S. policy actions it perceives as discriminatory to Chinese interests, including anti-dumping investigations. China's launch of a recent antidumping case into certain U.S. analog chips, including certain commodity interface integrated circuits and gate driver chips, is striking in light of the Chinese government's continued support to expand domestic legacy chip production. For more information, please see SIA's comments to USTR's 2025 Report on China's WTO Compliance and SIA's submission to USTR on its Section 301 investigation into Chinese legacy chips.¹⁰

- *Competition*

Competition enforcement in China has been inconsistent and discrimination against foreign firms has not been resolved with the 2022 revision to the Anti-Monopoly Law.¹¹ Chinese competition authorities should treat U.S. entities no less favorably than domestic firms in like circumstances,

⁷ Ibid.

⁸ Semiconductor Industry Association, "Written Comments of the Semiconductor Industry Association on the Notice of Request for Public Comments on USTR's 2025 China WTO Compliance Report (90 Fed. Reg. 40136)," September 24, 2025. <https://www.semiconductors.org/wp-content/uploads/2025/10/SIA-Comments-Re-USTR-2025-China-WTO-Compliance-FINAL-09.24.pdf>; Semiconductor Industry Association, "SIA Comments on USTR Section 301 Investigation on Chinese Legacy Chips," February 5, 2025. <https://www.semiconductors.org/wp-content/uploads/2025/02/USTR-2024-0024-00109674-CAT-5016-Public-Document.pdf>.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Wentong Zheng, "The Chinese Antitrust Paradox," *University of Chicago Business Law Review*, Volume 2.2, 2023, 391-427. <https://businesslawreview.uchicago.edu/print-archive/chinese-antitrust-paradox>.

including in investigations, enforcement actions, and merger reviews. Remedies related to conduct or assets outside of China’s jurisdiction should be limited to instances where there is a clear and appropriate nexus to harm—or threatened harm—within China. Furthermore, China should apply principles of local nexus and international comity when reviewing cross-border mergers and acquisitions, to avoid extraterritorial overreach and ensure alignment with global norms. These commitments are essential to fostering a predictable and non-discriminatory regulatory environment for U.S. companies operating in China.

○ *Other Barriers*

China’s government has enacted sweeping export controls with wide-ranging impacts on the semiconductor industry and other downstream industries. While promulgated under the banner of national security and nonproliferation, these measures create severe supply chain concerns with their breadth and apparent arbitrary nature. The underlying compliance requirements also poses a potential trade barrier not only because of the potential administrative burden but also because the nature of reporting may reveal sensitive and potentially proprietary information.

On October 9, MOFCOM issued seven announcements expanding the scope of controls as well as legal and administrative jurisdiction (see Table 1). Specifically, announcement 61 establishes a de minimis and foreign direct product rule to extend Chinese jurisdiction. Announcement 62 also creates a number of dual-use licensing and subsequent reporting requirements for the export of raw materials and intermediate components containing at least 0.1% of such raw materials. These raw materials and intermediate components, such as magnets and sputtering targets, are critical to semiconductor manufacturing due to their presence in manufacturing equipment and machine tools. Compliance notices are required to be completed by subsequent recipients when transferring or exporting items out of China.

Table 1: Overview of October 9 Announcements

No.	Primary Target	Effective	Chip Significance
10	U.S. and Canadian company additions to China's Unreliable Entity List	Immediate (October 9, 2025)	Lists TechInsights (including European and Asian subsidiaries)
55	Superhard materials (diamond products/equipment)	November 8, 2025	Semiconductor wafer processing, deposition technology
56	Rare earth processing equipment + input materials	November 8, 2025	Global rare earth refining capacity
57	Five medium-heavy rare earth elements (Ho, Er, Tm, Eu, Yb)	November 8, 2025	Potential effect on downstream products (e.g., defense, medical devices)
58	High-energy lithium batteries + artificial graphite anodes	November 8, 2025	Graphite
61	Extraterritorial controls, 0.1% de minimis threshold	December 1, 2025 (partial immediate)	Global supply chain compliance requirements
62	Technology transfer restrictions on rare earths	Immediate (October 9, 2025)	Upstream rare earth processing and industry development outside China

EUROPEAN UNION

Technical Barriers to Trade

On October 10, 2024, the EU Council adopted the Cyber Resilience Act (EU CRA), a comprehensive EU market access regulation that introduces mandatory cybersecurity requirements for all hardware and software products with digital elements, including semiconductors. The EU CRA requires manufacturers to embed security through the product lifecycle through secure design and development, risk assessments, security updates, and vulnerability and incident reporting. The EU CRA will be fully implemented by December 11, 2027, mandating that all products meet strict security-by-design requirements to obtain CE (European Conformity) marking. Semiconductors with security functionality will face the most stringent requirements and will require approval by the European Commission's Directorate-General for Communications Networks, Content and Technology (DG Connect). While the scope and underlying technical standards have yet to be clarified, this regulation may restrict U.S. semiconductor companies' ability to market and sell their products in the EU and may add additional compliance burdens. The EU Commission should consider harmonizing CRA technical standards with U.S. standards and accepting existing cybersecurity certifications.

INDIA

Import Duties

India currently imposes import duties on a range of components used in the manufacture of ICT products. These duties contribute to trade-related costs of production being meaningfully higher in India for U.S. semiconductor companies. In addition, India has no accurate tariff code for testing boards, often leading to the Central Board of Indirect Taxes and Customs ("Customs") overvaluing the good resulting in higher duty payments.

In particular, importing evaluation and development boards into India is difficult for U.S. semiconductor companies. Since India has no specific tariff code for evaluation and development boards, importers must use the broader HS Code 8473.30.99, resulting in overvaluation and higher tax payments to Customs as well as operational inefficiencies. The Government of India should create a new tariff code specifically for evaluation and development boards similar to US HTS Code 8473.30.1180 to ensure they are not misclassified and thus overvalued.

In addition, the process through which tariff levels are set and changed in India is opaque and unpredictable. Tariff changes are promulgated each year by the Ministry of Finance as part of the annual budget process and these changes are made with no formal opportunity for stakeholder notice and comment. This uncertainty in the tariff-setting process inhibits business planning and long-term investment, while the lack of a consultative process for tariff-related decision making contributes to policy incoherence. We urge USTR to continue engaging with India to address these tariff code issues.

Technical Barriers to Trade

When assessing whether import licenses are required, India distinguishes between goods that are new and those that are secondhand, remanufactured, refurbished, or reconditioned. On August 3,

2023, the Indian Government announced the immediate restriction of imports of certain ICT products, including laptops and servers classified under the Harmonized System (HS) heading 8471.¹² Secondhand servers (HS Code 847.14.900) are used by the semiconductor industry to create a test environment for ongoing product development cycle and require the import of secondhand testing equipment from other company facilities. The servers are categorized as ‘restrictive’ by the Directorate General of Foreign Trade,¹³ resulting in cumbersome documentation requirements (such as a Charter Engineer Certificate¹⁴ and Bureau of Indian Standards Certification¹⁵) and lengthy delays (an average of four months to clear applications). We urge USTR to work with the Government of India to exempt secondhand servers from these requirements that are more suitable for commercial servers.

Government Procurement

India lacks an overarching government procurement policy and, as a result, its government procurement practices and procedures vary among different ministries within the central government. India provides procurement preferences to Indian micro-, small, and medium-sized enterprises and to SOEs. In July 2025, the India-UK Free Trade Agreement was signed, wherein UK suppliers will be treated as a class 2 supplier under the “Make in India” policy¹⁶ if their product of services has at least 20% UK content. A similar agreement would support U.S. companies seeking government contracts, especially in the IT Hardware segment such as semiconductors.

Intellectual Property (IP) Protection

Despite recent efforts by the Government of India, IP protections and inadequate enforcement of IP rights remain a critical barrier. India has yet to take meaningful steps to address longstanding IP issues, including regulatory hurdles for the commercialization of IP and inadequate enforcement of IP rights, faced by innovation-driven industries, including the semiconductor industry. Trade secret protection is a growing concern; the Indian government should take action to eliminate the gap in its trade secrets regime such as through the adoption of trade secret legislation.

Other Barriers

A lack of transparency continues to affect new and proposed laws and regulations impacting the semiconductor industry, as well as a lack of uniform notice and comment procedures. This in turn, inhibits the ability of domestic and foreign stakeholders to provide input on new proposals or to adjust to new requirements.

¹² Directorate General of Foreign Trade Notification No. 23/2023

¹³ Notification No. 13 /2024-2025 – *Amendment in Para 2.31 of the Foreign Trade Policy, 2023 ITC HS 2022 Schedule I Import Policy - reg*

¹⁴ As required by Circular No. 4 /2008-Customs.

¹⁵ As required by Notification No.13/2024-25.

¹⁶ Make in India Initiative https://www.pmindia.gov.in/en/major_initiatives/make-in-india/

VIETNAM

Import Bans

Vietnam continues to maintain import prohibitions on certain used IT products despite decision 18/2016/QĐ-TTg. This decision eases import prohibitions on some used IT products if they meet various technical regulations and standards. The products covered under the decision include used IT goods that are: (1) imported in conjunction with the relocation of means of production of a single organization; (2) for the control, operation, and inspection of activities in one or all parts of a system or production line; (3) imported for software production, business outsourcing, or data processing for foreign partners; or (4) reimported after overseas repairs under warranty. The decision also covers refurbished goods and components no longer in production that are imported to replace or repair those being used domestically.

Vietnam should expand the scope of the decision to allow the imports of servers and used IT equipment for testing and internal product R&D without an import license. In addition, U.S. semiconductor companies have indicated that the import license application is arduous, lengthy and time-consuming, which can delay projects and result in higher costs due to spending on new capital equipment. We urge USTR to engage with the Government of Vietnam to address these issues.

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