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September 17, 2026

Ambassador Jamieson Greer
The Office of the U.S. Trade Representative
600 17th St. NW
Washington DC, 20508

Re: Request for Comments Concerning the 2026 Report on China's Compliance with its WTO Commitments (Docket USTR-2026-0496)[1]

Dear Ambassador Greer:

The Consumer Technology Association appreciates the opportunity to submit written comments regarding China's compliance with its World Trade Organization (WTO) commitments. This letter and its annex constitute CTA's written comment for the 2026 China WTO Compliance Report, in accordance with the requirements on the U.S. Trade Representative (USTR) under Section 421 of the U.S.-China Relations Act of 2000.[2]

As North America's largest technology trade association, CTA is the tech sector. Our over 1200 member companies are the world's leading innovators – from startups to global brands – supporting more than 18 million American jobs. CTA owns and produces CES – the most powerful tech event in the world.

China continues to fall short of the commitments it made when it joined the WTO. The U.S. should respond aggressively to those practices. But years of broad unilateral tariffs have shown that tariffs alone are not enough. A stronger strategy would combine targeted enforcement against specific Chinese abuses with offensive WTO cases and coordinated action with allies.

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[1] Office of the United States Trade Representative, "Request for Comments and Notice of Public Hearing Concerning China's Compliance With WTO Commitments," August 18, 2026. https://www.federalregister.gov/documents/2026/08/18/2026-16841/request-for-comments-and-notice-of-public-hearing-concerning-chinas-compliance-with-wto-commitments
[2] Pub. L. 106-286, https://www.govinfo.gov/link/plaw/106/public/286.

A. A Pro-Innovation U.S. Trade Policy

CTA maintains that a pro-innovation trade policy confronts China's market-distorting practices in coordination with America's allies, using credible, rules-based enforcement. The current approach leans too heavily on broad tariffs while leaving more targeted tools underused. Pairing evidence-based enforcement with renewed multilateral engagement would apply real pressure on China's unfair practices, while still protecting the openness and predictability that American innovation depends on.

B. The Current Environment for U.S.-China Trade

The consumer technology industry has historically used production locations in China for manufacturing many products for the U.S. market.[3] But for more than a decade, and especially since USTR's imposition of tariffs under Section 301 of the Trade Act of 1974 in 2018 and 2019, consumer technology firms have begun to find sourcing opportunities in other markets. The deteriorating business and legal environment in China, the difficulties surrounding the COVID-19 pandemic, and increasing geopolitical risk [45] underscore these points.

However, the current U.S. tariff regime undermines this shift away from China rather than reinforcing it. The April 2, 2025 "Liberation Day" tariffs, imposed under the International Emergency Economic Powers Act (IEEPA),[6] applied not only to imports from China but also to the allied countries where many companies had relocated manufacturing to reduce their reliance on China. While the Supreme Court struck down these tariffs in February 2026, the Administration responded by imposing new temporary tariffs under Section 122 of the Trade Act of 1974.[7] USTR also opened two new Section 301 investigations around the same time.

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[3] Rhodium Group, "China and the Future of Global Supply Chains," February 4, 2025. https://rhg.com/research/china-and-the-future-of-global-supply-chains/

[5] Press Release, "Landmark Study Shows Bringing All Tech Manufacturing Back to U.S. Not Feasible," CTA (Oct. 4, 2023), https://www.cta.tech/Resources/Newsroom/Media-Releases/2023/October/Landmark-Study-Shows-Bringing-All-Tech-Manufacturing.

[6] The White House, "Regulating Imports with a Reciprocal Tariff to Rectify Trade Practices that Contribute to Large and Persistent Annual United States Goods Trade Deficits," April 2, 2025. https://www.whitehouse.gov/presidential-actions/2025/04/regulating-imports-with-a-reciprocal-tariff-to-rectify-trade-practices-that-contribute-to-large-and-persistent-annual-united-states-goods-trade-deficits/

[7] The White House, "Imposing a Temporary Import Surcharge to Address Fundamental International Payments Problems," February 20, 2026. https://www.whitehouse.gov/presidential-actions/2026/02/imposing-a-temporary-import-surcharge-to-address-fundamental-international-payments-problems/

Tariffs from the forced-labor investigation, which covers 60 countries, are now in effect.[8] A second investigation into "structural excess capacity" across 16 economies, including China, is still pending.[9]

When tariff rates on alternative sourcing countries like Vietnam rise to levels similar to those on China, firms have less reason to relocate.[10] AmCham China's 2026 Business Climate Survey found that 71% of member companies have no intention of relocating manufacturing or sourcing out of China, up from the prior year.[11] The economic case for the tariffs also remains weak. The US-China Business Council's 2026 Member Survey[12] found that tariffs continue to raise costs, boost inflation, and depress sales, exports, and profits, and that the narrower bilateral trade deficit has not reinvigorated U.S. manufacturing.

C. The Costs of Unilateral Action and Retaliation

USTR has long argued that tariffs would induce China to reform harmful practices such as intellectual property theft and forced technology transfer. Yet USTR's own necessity reviews acknowledge that these practices remain largely unchanged.[13] Worse, unilateral tariffs have triggered harmful retaliation from China in ways that extend well beyond tariffs. Beijing has responded with export restrictions on critical minerals,[14] designations of U.S. firms on its

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[8] The White House, "Actions by the United States in the Investigations Under Section 301 of the Trade Act of 1974 of the Acts, Policies, and Practices of 60 Economies Related to the Failure of Each Economy To Impose and Effectively Enforce a Prohibition on the Importation of Goods Produced With Forced Labor," July 23, 2026. https://www.whitehouse.gov/presidential-actions/2026/07/actions-by-the-united-states-in-the-investigations-under-section-301-of-the-trade-act-of-1974-of-the-acts-policies-and-practices-of-60-economies-related-to-the-failure-of-each-economy-to-impose-and/

[9] Office of the United States Trade Representative, "USTR Initiates Section 301 Investigations Relating to Structural Excess Capacity and Production in Manufacturing Sectors," March 11, 2026. https://ustr.gov/about/policy-offices/press-office/press-releases/2026/march/ustr-initiates-section-301-investigations-relating-structural-excess-capacity-and-production

[10] AmCham China, "2026 China Business Climate Survey Report," Jan. 2026. https://www.amchamchina.org/wp-content/uploads/2026/01/BCS2026.pdf

[11] US-China Business Council, "Member Survey 2026," June 10, 2026. https://www.uschina.org/wp-content/uploads/2026/06/bh3f4wft-Member-Survey-2026-EN.pdf

[12] US-China Business Council, "Member Survey 2026," June 10, 2026. https://www.uschina.org/articles/member-survey-2026/

[13] Four-Year Review of Actions Taken in the Section 301 Investigation: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation, Office of the U.S. Trade Representative (May 14, 2024) ("USTR Report"), at 10-15

[14] China Expands Key Critical Mineral Export Controls After U.S. Imposes Tariffs, Reuters (February 2025), www.reuters.com/world/china/china-expands-critical-mineral-export-controls-after-us-imposes-tariffs-2025-02-04/

Unreliable Entity List,[15] and antitrust investigations targeting U.S. technology companies.[16, 17] These non-tariff retaliatory measures, combined with China's tariffs on U.S. goods, have compounded the harm to American workers, farmers, and manufacturers. By contrast, if the United States had pursued resolution of these important concerns in conjunction with allied trading partners within the framework of the WTO dispute settlement system instead of imposing unilateral tariffs, many of these retaliatory actions would likely not have occurred.

Moreover, the tariffs themselves continue to burden U.S. businesses and the broader economy. The Tax Foundation estimates that U.S. tariff policy has changed more than 50 times since January 2025, with new tariffs now applying to 54% of U.S. goods imports and raising the average applied tariff rate to 11.7%, up from 1.5% in 2022.[18] The Yale Budget Lab estimates that current tariff policy will raise consumer prices by about 0.7%, costing the average household approximately $1100 annually, while lowering long-run GDP.[19] By raising the cost of imported capital goods and inputs, tariffs continue to dampen investment, reduce productivity, and slow potential growth. Unilateral actions also increase trade policy uncertainty, which continues to delay business investment decisions in the near term, amplifying these negative effects. Despite these costs, the tariffs have done little to change the underlying Chinese practices they were meant to address, as detailed throughout this filing.

D. WTO Dispute Settlement: A Proven but Abandoned Tool

CTA's past comments[20] to USTR have consistently noted that unilateral, tariff-only strategies are not enough to pressure China's compliance. Offensive WTO litigation has worked before. In 2012, the U.S., the European Union, and Japan together successfully challenged China's export restraints on rare earths and other critical minerals. China lost, did not appeal, and modified the measures at issue.[21]

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[15] China Slaps Restrictions on 18 U.S. Firms Over Trump Tariffs, Reuters (April 2025), www.reuters.com/world/china-adds-us-companies-lists-export-control-unreliable-entities-2025-04-09/

[16] Associated Press, "China Launches an Antitrust Probe into Google," February 2025. https://apnews.com/article/google-china-antitrust-investigation-tariffs-ab02b906733666cb0d348d2b416b7fa5

[17] CNN, "China Says Nvidia Violated Anti-Monopoly Laws, Significantly Escalating Trade Tensions with US," September 15, 2025. https://www.cnn.com/2025/09/15/business/china-nvidia-investigation-intl

[18] Erica York and Alex Durante, "Tracking the Impact of the Trump Tariffs & Trade War," Tax Foundation, last updated September 10, 2026. https://taxfoundation.org/research/federal-tax/trump-tariffs-trade-war/

[19] The Budget Lab at Yale, "The State of U.S. Tariffs," last updated August 24, 2026. https://budgetlab.yale.edu/research/state-us-tariffs

[20] Consumer Technology Association, "CTA Comments to USTR on China's WTO Commitments," September 2025. https://www.cta.tech/media/wqocig3d/cta-comments-to-ustr-on-chinas-wto-commitments.pdf?v=639147258028570000

[21] China — Rare Earths, https://www.wto.org/english/tratop_E/dispu_E/cases_E/ds431_E.htm.

The U.S. has not repeated that model since. The one offensive case USTR brought against China during the first Trump Administration, on intellectual property protection, was suspended in 2020 and lapsed in 2021.[22] Since then, USTR has only been on the defensive against China at the WTO concerning offensive cases that China has taken against U.S. measures, including the Section 301 tariffs,[23] the tariffs imposed on imports of steel and aluminum under Section 232 of the Trade Expansion Act of 1962,[24] and more recently, the IEEPA-fentanyl tariffs[25] and reciprocal tariffs[26] imposed by the U.S. in 2025.

This comes with a real cost. The agency risks losing institutional capacity to pursue offensive cases just when that capacity is most needed, and the U.S. is missing chances to build coalitions with allies who share similar concerns about China's practices. Furthermore, by relying solely on unilateral tariff measures, the U.S. undermines the WTO as a viable forum for resolving trade disputes.

E. If the U.S. Does Not Enforce the Rules, China Will Shape Them

CTA acknowledges that there are legitimate concerns about Appellate Body overreach on WTO jurisprudence. However, the U.S.'s effective suspension of the dispute settlement system at the WTO weakens its ability to address China's abusive trade practices. Further, without a fully functioning dispute settlement system, the U.S. loses the opportunity to collaborate with its allies and present a united front on China's compliance with its WTO commitments. Although such collaborative action may be more challenging and time-consuming than unilateral action by USTR, the agency should consider how other tools can be more effective at combating China's problematic trade practices.

USTR is overlooking the reality that offensive cases at the WTO, if pursued successfully, increase the likelihood that China will engage in meaningful negotiations, either with the U.S. alone but preferably with the U.S. and its allies and partners together. China purports to be a strong supporter of the rule of law and the multilateral trading system. Offensive cases at the WTO will increase pressure on China to supplement its rhetoric with changes in policy if China loses those cases. Significantly, if WTO Members do not hold China accountable for its WTO commitments, Beijing will assume that the global community does not champion rules-based international trade. In that scenario, as is already occurring, Beijing will seek to reshape the international trade landscape in its image with pervasive non-market economy practices.

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[22] China — Intellectual Property Rights II, https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds542_e.htm.
[23] US — Tariff Measures (China), https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds543_e.htm.
[24] US — Steel and Aluminium Products (China), https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds544_e.htm.
[25] *China – Fentanyl Tariffs,* www.wto.org/english/tratop_e/dispu_e/cases_e/ds633_e.htm
[26] *China - Reciprocal Tariffs,* www.wto.org/english/news_e/news25_e/dsrfc_08apr25_e.htm

This is not a hypothetical risk. When U.S. trade policy pushes away our allies, Beijing gains leverage and has more room to shape the global trading system on its own terms. In the past year, both Canada[27] and Brazil[28] have struck their own deals with Beijing, both explicitly in response to U.S. tariffs. This illustrates how quickly allies and partners turn toward China when American trade policy becomes unpredictable.

F. Conclusion

As the United States and China currently negotiate the terms of their bilateral trade relationship, CTA urges USTR to use this moment to secure a long-term deal built on predictability and stability, not another temporary truce that leaves companies planning around a tariff architecture that could soon shift again. American innovation depends on that kind of stability: companies make multi-year investment, sourcing, and R&D decisions, and they cannot do so with confidence when the rules governing their supply chains have changed course multiple times in under two years. Tariffs alone have not delivered meaningful reforms. They have instead triggered costly retaliation, distorted supply chains, undermined U.S. competitiveness, and pushed some of America's closest allies and trading partners toward deeper ties with Beijing.

The test of U.S. trade policy should be whether it changes China's behavior. By that standard, broad tariffs have fallen short: China still restricts critical mineral exports, discriminates against U.S. technology companies, pressures companies to transfer technology, and uses opaque regulatory and sanctions tools against American businesses.

The United States has a proven track record of winning offensive WTO cases against China, particularly when brought alongside allies, and securing meaningful changes to Chinese policies. USTR should pair the current bilateral talks with a renewed commitment to multilateral enforcement, reengaging in offensive WTO litigation and working with allies and partners to hold China accountable to its WTO obligations, rather than treating unilateralism as a permanent substitute. A coordinated approach carries more weight with Beijing than the U.S. acting alone. This will strengthen the U.S.’s hand in these very negotiations, protect American workers and businesses, and help ensure that whatever the countries agree to now actually holds up over time.

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[27] Global Affairs Canada, "Backgrounder - Preliminary Joint Arrangement on Addressing Bilateral Economic and Trade Issues between Canada and the People's Republic of China," January 16, 2026. https://www.international.gc.ca/news-nouvelles/2026/2026-01-16-china-chine.aspx?lang=eng

[28] Lisandra Paraguassu and Lucinda Elliott, "Brazil Signals New Openness to Mercosur-China Talks as Beijing Seeks Deeper Ties," Reuters, February 6, 2026. https://www.reuters.com/world/china/brazil-signals-new-openness-mercosur-china-talks-beijing-seeks-deeper-ties-2026-02-06/

Thank you again for the opportunity to submit these comments. CTA is happy to serve as a resource for USTR as it examines China's compliance with its WTO commitments.

Sincerely,

Ed Brzytwa Vice President of International Trade Consumer Technology Association	Michael Petricone Senior Vice President of Government Affairs Consumer Technology Association

Annex

CTA comments on specific issues pertaining to China's compliance with its WTO commitments

A. Use of Unreliable Entity List

China's government agencies have continued to expand enforcement of the "Unreliable Entity List" (UEL), which prohibits companies and individuals in China from engaging in export, import, and related transactions with listed entities and imposes punitive measures for violations at any level of the supply chain.[29] Since early 2025, MOFCOM has added a steady stream of new listings:

- **January 2025:** Ten U.S. defense contractors and subsidiaries, over arms sales to Taiwan[30]
- **February 2025:** Two U.S. companies, over Xinjiang-related sourcing decisions[31]
- **March–April 2025:** Multiple additional batches of U.S. defense and drone companies, again citing military-technology cooperation with Taiwan[32] [33]
- **October 2025:** 14 more entities, including a technology-consulting firm and its affiliates[34]

As with prior listings, the criteria and process for these designations remain opaque, and companies still lack clear guidance on the scope of their compliance responsibility. Notably, China later narrowed the list as part of the November 2025 U.S.-China trade arrangement,

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[29] China adjusts unreliable entity list measures on certain U.S. firms: ministry, PRC State Council, Aug. 12, 2025, https://english.www.gov.cn/news/202508/12/content_WS689aad53c6d0868f4e8f4c67.html.

[30] Xinhua, "China Adds 10 US Companies to Unreliable Entities List," State Council Information Office of the People's Republic of China, January 3, 2025. http://english.scio.gov.cn/pressroom/2025-01/03/content_117643267.html

[31] Xinhua, "Commerce Ministry: China's Unreliable Entity List Only Targets Very Small Number of Rule-Breaking Firms," State Council Information Office of the People's Republic of China, February 14, 2025. http://english.scio.gov.cn/pressroom/2025-02/14/content_117712633.html

[32] Ministry of Commerce of the People's Republic of China, "Announcement of the Unreliable Entity List Working Mechanism on Including 10 U.S. Enterprises Including TCOM, Limited Partnership on the Unreliable Entity List" March 4, 2025. https://www.mofcom.gov.cn/zwgk/zcfb/art/2025/art_beb25dc3bf9447f9ba7a34b25cca8f64.html

[33] Ministry of Commerce of the People's Republic of China, "China Adds Six US Firms to Its Unreliable Entity List, Effective from April 10," Embassy of the People's Republic of China in the United States of America, April 9, 2025. https://us.china-embassy.gov.cn/eng/zmgx/zxxx/202504/t20250409_11590915.htm

[34] Xinhua, "China Adds 14 Foreign Entities to Unreliable Entity List," State Council Information Office of the People's Republic of China, October 10, 2025. http://english.scio.gov.cn/pressroom/2025-10/10/content_118116137.html

removing its March 2025 listings entirely and suspending the April 2025 listings for one year,[35] though the suspension is conditional and could lapse or be reinstated if bilateral relations deteriorate or MOFCOM otherwise determines the underlying conditions no longer justify relief.

China has not reported any new UEL additions so far in 2026. Instead, China has shifted toward adjacent tools with similar effect:

- **June 2026:** MOFCOM added 10 U.S. entities to its separate Export Control List for dual-use items[36]
- **June 2026:** China's Ministry of Finance barred 46 U.S. companies from China's government procurement market[37]

B. Anti-Foreign Sanctions Measures

China has also expanded its Anti-Foreign Sanctions Law (AFSL) countermeasure list, a parallel mechanism to the UEL that similarly bars Chinese entities and individuals from engaging with designated foreign organizations. In April 2026, China issued two decrees that expanded the enforcement infrastructure behind this list:

- **Decree No. 834**, covering industrial and supply chain security[38]
- **Decree No. 835**, addressing "improper extraterritorial jurisdiction"[39]

Together, these decrees give Chinese regulators broader authority to compel data disclosures from companies operating in China and to penalize compliance with foreign laws or sanctions regimes that Beijing deems improper, exposing firms to conflicting obligations where their home-country due diligence or export control requirements run up against China's own rules.

In August 2026, MOFCOM used this framework to place the Responsible Business Alliance (RBA) on the AFSL countermeasure list, along with five other U.S. supply-chain due diligence

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[35] Ministry of Commerce News Office of the People's Republic of China, "Ministry of Commerce Spokesperson Answers Reporter Questions on Adjusting Unreliable Entity List Measures," November 5, 2025. https://www.mofcom.gov.cn/syxwfb/art/2025/art_adc429fe09db443cb2e5837524bc2eda.html

[36] John Tan, Bobby McMillin, Sonia Tabriz, Ronald D. Lee, Claire E. Reade, and Chuqiao Yu, "China Imposes Export Control and Government Procurement Restrictions on Designated U.S. Companies," Arnold & Porter, July 2, 2026. https://www.arnoldporter.com/en/perspectives/advisories/2026/07/china-imposes-export-control-and-government-procurement-restrictions-on-designated-us-companies

[37] *Ibid.*

[38] Frank Pan, "China Introduces New State Council Decrees on Supply Chain Security and Countering Unjustifiable Extraterritorial Measures," Global Sanctions and Export Controls Blog, Baker McKenzie, May 1, 2026. https://sanctionsnews.bakermckenzie.com/china-introduces-new-state-council-decrees-on-supply-chain-security-and-countering-unjustifiable-extraterritorial-measures/

[39] *Ibid.*

organizations.[40] The RBA operates the audit infrastructure that many multinational companies rely on to certify forced-labor-free sourcing, including for critical minerals through its Responsible Minerals Initiative.[41] As a result, the listing disrupts routine supply-chain compliance work for companies well beyond those formally named, including companies that rely on RBA audits to meet their own U.S. or EU due diligence obligations.

C. Export Regulations

China has continued to withhold or delay export license approvals for rare earth elements and rare earth magnets:

- Controls imposed in April 2025 on seven medium and heavy rare earth elements, including dysprosium, terbium, and yttrium, remain fully in effect.[42]
- A broader set of controls announced in October 2025, covering additional rare earth elements and new extraterritorial provisions reaching products made anywhere in the world with Chinese-origin rare earth content, was suspended for one year under the November 2025 U.S.-China trade arrangement. That suspension is set to expire in November 2026.[43]
- U.S. companies continue to report long processing delays, often 60 to 120 days or more, vague or unexplained rejections, and shifting documentation requirements that make it difficult to secure licenses for outbound shipments.[44]
- The effects have fallen unevenly by country: rare earth magnet exports to Europe rebounded and grew year-over-year following China's partial easing in November 2025, while U.S. imports of the same products declined over the same period.[45]

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[40] Xinhua, "China Announces Countermeasures Against Six US Entities," State Council Information Office of the People's Republic of China, August 6, 2026. http://english.scio.gov.cn/m/pressroom/2026-08/06/content_118635858.html

[41] Responsible Minerals Initiative, homepage. https://www.responsiblemineralsinitiative.org/

[42] Ministry of Commerce and General Administration of Customs of the People's Republic of China, "Announcement No. 18 of 2025... Announcing the Decision to Implement Export Control on Some Medium and Heavy Rare Earth Related Items," April 4, 2025. https://english.mofcom.gov.cn/Policies/AnnouncementsOrders/art/2025/art_0dd87cbee7b045bf93fabe6ab2faceee.html

[43] Ministry of Commerce of the People's Republic of China, "MOFCOM Spokesperson's Remarks on China's Recent Economic and Trade Policies and Measures," October 12, 2025. https://english.mofcom.gov.cn/News/SpokesmansRemarks/art/2025/art_c202dcc0433d476db52b1e7f7fe53926.html

[44] Arnold Magnetic Technologies, "China's Rare Earth Export Delays: 2025–2026 Magnet Supply Chain Outlook," last updated February 11, 2026. https://www.arnoldmagnetics.com/blog/chinas-rare-earth-export-delays-2025-2026-magnet-supply-chain-outlook/

[45] Gracelin Baskaran and Meredith Schwartz, "Rare Earth Export Restrictions One Year Later," Center for Strategic and International Studies, April 27, 2026. https://www.csis.org/analysis/rare-earth-export-restrictions-one-year-later

These practices lack transparency and predictability, creating significant compliance risk and disrupting global supply chains. The selective, discretionary nature of China's export licensing regime raises serious concerns about its consistency with WTO obligations.

D. Internal Policies Affecting Trade

CTA members urge China's full implementation of the WTO Technical Barriers to Trade (TBT) Agreement.[46] China's regulatory process still lacks full transparency, with China releasing new requirements without advance notice, documentation, or adequate opportunity to comment. Chinese government agencies should develop better pre-ruling processes to provide clarifications, adopt feedback, and allow for a sufficient timeframe for public comments on proposed rules and regulations.

Specifically, unique Chinese standards continue to be a significant barrier in the IT sector. For example, a requirement that computer processors pass a security test, which many Western companies are not comfortable disclosing for intellectual property protection and security reasons, means that public procurement can include only Chinese local processors, and is very likely to extend into broader sectors of the economy, including the consumer sector.[47]

As a WTO Member, China is bound by the principle of national treatment. However, Chinese authorities continue to use a variety of laws, regulations, and other policy tools to compel U.S. IT companies to license or otherwise transfer valuable U.S. technologies and know-how to Chinese entities at below-market rates, and to exclude U.S. companies from full and equal participation in the Chinese market.[48]

CTA members are especially concerned by China's discriminatory market access measures targeting hardware and software procurement. For example, China's public procurement policies in the technology sector increasingly favor national companies. The Made in China 2025 or "xinchuang" initiative is a technological indigenization campaign that promotes national tech champions, encourages domestic consumption, and likely substitutes out foreign players, including U.S. companies.[49] The policy is expected to expand to state-owned enterprises and "critical sectors" including a broad spectrum of the economy beyond government procurement - financial services, transportation, telecom, education, healthcare, aerospace, and energy.

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[46] *Agreement on Technical Barriers to Trade*, WTO, https://www.wto.org/english/docs_e/legal_e/tbt_e.htm.
[47] Regulations on Network Data Security Management, PRC State Council, September 30, 2024. https://english.www.gov.cn/policies/latestreleases/202409/30/content_WS66fab6c8c6d0868f4e8eb720.html
[48] James A. Lewis, "Rethinking Technology Transfer Policy toward China," Center for Strategic and International Studies, November 17, 2023. https://www.csis.org/analysis/rethinking-technology-transfer-policy-toward-china
[49] US-China Business Council, "Understanding China's Xinchuang Initiative," October 9, 2024. https://www.uschina.org/articles/understanding-chinas-xinchuang-initiative/

Chinese authorities are expected to release more “qualified suppliers” lists, continuing to effectively bar U.S. company participation. China requires that state-owned entities (SOEs), Critical Information Infrastructure Operators (CIIOs), and public sector entities procure Chinese-made IT infrastructure, basic software, applications, and information security products.[50] Over time, private Chinese firms could also extend preferential public sector treatment of local Chinese technology companies through regulatory restrictions, perceived security concerns, or trickle-down branding and reputation impacts.

The “xinchuang” initiative and subsequent procurement directives create market access barriers to U.S. technology companies that are inconsistent with China’s WTO obligations. To that end, CTA members encourage the U.S. government to raise national treatment concerns with Chinese authorities.

E. Services

Since 2017, China has been developing and implementing a comprehensive cyber and data regulatory framework, which has placed onerous but vague compliance requirements on U.S. technology companies. Moreover, the Chinese laws, regulations, policies and proposals making up this framework have introduced measures which erect substantial market access barriers counter to China’s WTO commitments.

- China’s 2017 Cybersecurity Law (CSL) is broadly written and imposes a complex and burdensome cybersecurity review on companies.[51] It also serves as China’s legal justification behind certain regulations, such as the Multi-Level Protection Scheme 2.0, which restricts usage of foreign technology products.
- The Data Security Law (DSL) introduces stringent data localization requirements for CIIOs, as well as compliance requirements for overseas transfer of important data. The broad and vague definition of what constitutes CIIOs, as well as important data, means that U.S. technology companies continue to face high costs to comply with the law.[52]

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[50] National People's Congress, The Government Procurement Law of the People's Republic of China, December 6, 2007. http://www.npc.gov.cn/zgrdw/englishnpc/Law/2007-12/06/content_1382108.htm

[51] DigiChina, Stanford University, "Translation: Cybersecurity Law of the People's Republic of China (Effective June 1, 2017)," June 29, 2018. https://digichina.stanford.edu/work/translation-cybersecurity-law-of-the-peoples-republic-of-china-effective-june-1-2017/

[52] National People's Congress, Data Security Law of the People's Republic of China, June 10, 2021. http://www.npc.gov.cn/englishnpc/c2759/c23934/202112/t20211209_385109.html

- The Personal Information Protection Law[53] and the Outbound Data Transfer Security Assessment Measures[54] build on the CSL and the DSL in imposing onerous measures on the cross-border transfer of data, while also containing — in many instances — opaque or incomplete guidance.
- The Cyberspace Administration of China's (CAC's) Measures on Data Exit Security Assessment, effective since September 2022, sets forth requirements for cross-border transfers of important data and personal information by CIIOs and companies meeting certain thresholds, including mandatory self-evaluations and security assessments. This framework, combined with certification and standard contract rules, creates heavy compliance burdens and risks disclosure of trade secrets and IP for foreign companies.[55]

Together, these measures take a broad view of national and data security, impose shifting compliance goalposts and high costs on U.S. technology companies, and — through data localization mandates and restrictions on cross-border transfer — impede the free flow of trade, including for e-commerce. CTA recommends that USTR press China to bring these measures in line with international norms, and to pursue this through the WTO and the multilateral system rather than relying solely on unilateral tariffs or bilateral negotiations.

[53] National People's Congress, Personal Information Protection Law of the People's Republic of China, December 29, 2021. http://en.npc.gov.cn.cdurl.cn/2021-12/29/c_694559.htm

[54] DigiChina, Stanford University, "Translation: Outbound Data Transfer Security Assessment Measures – Effective Sept. 1, 2022," July 8, 2022. https://digichina.stanford.edu/work/translation-outbound-data-transfer-security-assessment-measures-effective-sept-1-2022/

[55] Cyberspace Administration of China, Measures for the Security Assessment of Data Outbound Transfer, July 7, 2022. https://www.cac.gov.cn/2022-07/07/c_1658811536396503.htm