



THE US-CHINA BUSINESS COUNCIL

美 中 贸 易 全 国 委 员 会

American Business Community's Priorities for Fair US-China Commercial Relations

The US-China Business Council

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About USCBC

USCBC is a nonpartisan, nonprofit organization of more than 270 American companies that do business in China. For more than 50 years, we have been expanding opportunities for American businesses in China, which enables our members to compete globally. As the leading US business voice on US-China commercial issues, we are headquartered in Washington, DC, and have offices in Beijing and Shanghai.

Established in 1973, USCBC was created to offer America's leading corporations the research, analysis, and relationships needed to succeed in China, now the world's second largest economy. We use our convening power to foster trust and share information between CEOs, policy experts, and senior officials in the United States and China, including heads of state, Cabinet-level officials, members of Congress, and subnational leaders. Through this work, we help American businesses succeed, contribute to the US economy, and foster America's leadership abroad.

USCBC's team of experts is proud of our expansive network, our decades of experience navigating the complex US-China policy and business environment, and our dedication to advocating for American business priorities in China so that US companies can succeed around the world.



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Introduction and executive summary

The US-China Business Council (USCBC) supports the Trump administration's efforts to craft a trade policy agenda that promotes investment, enhances America's technological advantages, and safeguards economic and national security for the benefit of American businesses, workers, farmers, and the overall economy. To help deliver on those objectives, USCBC is pleased to provide the administration a set of priorities and recommendations for managing commercial relations with China.

Our member companies, which include America's most iconic brands, consider their business activities in China to be crucial for their overall success and global competitiveness. Their ability to participate in the China market generates direct benefits to the American economy through increased exports, jobs, and profits that are reinvested in research and development, which in turn bolsters America's competitiveness worldwide.

In recent years, policy decisions from both governments have made it more challenging for American companies to conduct business in China. In China, policymakers have strengthened industrial policies to benefit Chinese companies and unfairly discriminate against American companies, workers, and farmers. In the United States, overly broad and poorly crafted export controls and other regulations have weakened American competitiveness globally and, in some cases, undermined US national security.

The transition in administration and Congress is an important opportunity to reevaluate and advance strategic priorities for the US-China commercial relationship. As the Trump administration crafts its China strategy, USCBC will support its efforts to hold China accountable for fulfilling its "phase one" commitments and pressure China to make long overdue changes to its economic, investment, and trade policies that disadvantage American firms, workers, and farmers. Bringing about change on these structural policy issues will require focused and deliberate negotiations with Chinese policymakers.

We also urge the administration to assess the policies imposed during the final days of the previous administration and make appropriate modifications that will support, rather than harm, US innovation, competitiveness, and national security. Doing so will help make America safer, stronger, and more prosperous.

Below is a summary of our key recommendations:

- **Promote fair treatment of US companies, products, and services through comprehensive commercial negotiations with China:** USCBC urges the administration to reengage Chinese policymakers to address industry's top challenges, expand opportunities for US firms in China, and promote fair treatment for American companies in China. Reaching and fully implementing an agreement will benefit both countries and support a more fair and durable bilateral commercial relationship.
- **Balance near-term deliverables with structural policy changes:** American companies continue to face trade and market access barriers in China despite China committing to removing many barriers under the US-China phase one agreement. In negotiations with Chinese policymakers, the Trump administration should hold China



accountable to its phase one commitments and seek to unlock commercial opportunities for US companies. A commitment to near-term deliverables would serve as a confidence-building measure and a base for negotiations on structural policy issues, including policies related to domestic substitution, government and state-owned enterprise procurement, intellectual property protection, and more.

- **Do not statutorily modify China’s permanent normal trade relations (PNTR) status:** Partially by virtue of the substantial tariffs placed on imports from China under Section 301, the United States has already de facto revoked China’s PNTR status. Under the status quo, the president maintains broad discretion and negotiating leverage to accomplish a range of policy objectives. Statutorily revoking PNTR would only weaken the president’s hand. It would also have severe economic consequences for US businesses, agriculture, and consumers, including higher costs, inflation, and job losses, especially under proposals that would substantially raise tariffs on non-strategic goods.
- **Reduce existing and limit new tariffs to target US national security goals and unfair Chinese practices and expand the exclusion process:** The administration should strategically focus the application of Section 301 or other tariffs to address legitimate issues with China’s unfair economic practices, protect specific US national security concerns, and mitigate the inflationary effects on US businesses, consumers, and farmers.
- **Rescope national security restrictions on business:** To be effective, export controls, sanctions, data security, and investment screening policies must be designed in a manner that is focused, clear, consistent, undertaken with likeminded countries, and coordinated between different US government agencies with clear compliance requirements and time frames, including grace periods. We urge the administration to assess the policies imposed during the final days of the previous administration and make modifications to support, rather than hinder, US innovation, competitiveness and national security. Many such rules were rushed through without public notice and comment, resulting in scores of errors and compliance issues.
- **Strengthen bilateral mechanisms for commercial deals:** To enable the United States and China to coordinate on policy challenges and ensure US companies are treated fairly, the administration should strengthen existing bilateral working groups. Such groups should be solution oriented, with meaningful industry engagement and a focus on tangible improvements in both policy and enforcement from regulatory stakeholders in China.
- **Promote people-to-people exchanges:** Increasing two-way travel between the United States and China is fundamental to boosting American investment, trade, and jobs. The administration should work with the Chinese government to ease travel restrictions and increase the number of direct flights between the two countries. Both countries should ease work requirements for expatriates, including by lowering employment restrictions in China and removing caps on H-1B visas.



Priority areas for commercial negotiations with China

The previous administration's negotiations with China led to several positive outcomes on discrete commercial issues. USCBC encourages the Trump administration to expand negotiations and aim to balance short- and long-term issues. A mix of near-term deliverables with longer-term pathways to progress on longstanding challenges is the optimal result under current conditions.

Unlocking commercial opportunities for US companies

While China has opened many sectors of its economy to foreign investment, it still maintains barriers against some of America's most competitive products and services. The below list includes examples of industry-specific market access barriers in China that industry needs the administration to raise with Chinese policymakers.

- **Agricultural biotech approvals:** China should immediately begin approving foreign agricultural biotechnology products for import. Under phase one, China committed to implementing a transparent and science-based system for reviewing and approving imported biotech products and pledged it would conclude regulatory reviews for imports of biotech food and animal feed within an average time span of 24 months. In the five years since phase one, China has approved a small number of agricultural biotech products from foreign companies relative to the number of approvals for domestic companies. Slow approvals inhibit US companies' ability to scale deployments of genetic engineering and gene-editing technologies on a global basis, hurting US farmers.
- **Civil aviation:** China should permit its domestic airlines to make significant purchase orders for newly manufactured American aircraft. New purchases would serve as a positive signal after China missed phase one purchase targets for manufactured goods—a significant proportion of which would historically have been aircraft—and help China's airlines prepare for future travel demand.
- **Air cargo:** China should implement a fair and transparent process for allocating airport slots to both foreign and domestic carriers and eliminate requirements that limit slots for cargo operators to nighttime hours. Further, China should restore bilateral rights to co-terminalize so that carriers of both countries can service two or more locations within each country with one aircraft as part of a continuous journey.
- **Electronic payment services:** China should promptly approve all pending applications from US electronic payment services (EPS) providers to receive a bank card clearing institution (BCCI) license and commit to advancing these applications in a timely manner through the licensing process. Despite China's commitment under phase one to ensure a timely licensing process for BCCI licenses, not all US EPS providers have seen meaningful progress in obtaining a license in China.



- **Medical device approvals:** China should establish a level playing field for imported and domestically produced medical products by eliminating country of origin rules for medical device approvals. China should also clarify and implement procedures for pre-approval testing conducted in third-party labs.
- **Private fund accounting and transfer agency services:** Chinese regulators have stopped issuing business licenses to foreign financial institutions to carry out private fund accounting and transfer agency services, whereas domestic firms continue to receive licenses. Chinese regulators' unwillingness to issue licenses inhibits the ability of US asset management firms to work with Chinese fund managers to fulfill back-office investor services. Enabling US firms to conduct private fund accounting and global transfer agency services would help bring international best practices in investment accounting and private and public equity valuation-related work to Chinese fund managers and unlock more business opportunities for US asset managers.

Promoting a level playing field for competition between US and Chinese companies

US companies are losing market share in China at an unprecedented rate. According to [USCBC's 2024 Member Survey](#), 34 percent of respondents have lost market share in China in the past year—a record high in our survey's history. While companies attribute the increased competition to a mix of factors, China's domestic substitution and industrial policies are dramatically transforming the competitive environment. USCBC in January 2025 submitted a position paper to Chinese policymakers advocating for the nullification of non-transparent policy measures that adversely affect foreign businesses' access to the public procurement market.

The US government should encourage China to enact the following policy reforms to level the playing field:

Domestic substitution initiatives

China employs an array of industrial policies to promote technological self-sufficiency and replace US technologies in its supply chains. These policies often combine financial tools, including direct subsidies and grants, R&D incentives, and tax credits, with initiatives that develop “secure and controllable” standards for information and communication technology (ICT) products. Secure and controllable accreditations are not generally granted to American companies. On the demand side, China leverages its vast public procurement market to generate purchases of ICT products from accredited suppliers, which includes China's so-called little giants—a group of 10,000 domestic technology companies supported by Chinese industrial policies. China also wields a formidable cybersecurity review tool, which has been used to preclude American ICT companies from selling to Chinese customers.

Recommendations: China should discontinue policies and measures associated with its domestic substitution initiatives. This includes public procurement policies that afford preferential treatment to domestic companies. To the extent that China requires standards for certain critical information products, it should base these standards on international standards wherever possible and grant accreditation to US companies. US companies should also be



granted equal and fair consideration during subsidy awards processes. At a minimum, China should furnish public lists of subsidies and subsidy recipients, which would increase transparency and ensure a level playing field for companies.

Public procurement

Achieving fair and equal access to China’s vast public procurement market is a perennial and growing challenge for US companies in China, ranking number six in the list of top 10 challenges in USCBC’s 2024 Member Survey—the highest in our survey’s history. The challenge stems from China’s uneven and ambiguous treatment of products from foreign companies and preferential treatment of domestic products to the exclusion of needed imported products. Under Chinese law, products that are made in China are eligible for preferential treatment in government procurement. However, China has not specified the criteria for determining what qualifies as made in China. As a result, some products made by American companies in China have been excluded from government procurement. This problem is compounded by China’s use of secret policy documents directing entities using government funds to purchase Chinese brands.

Recommendations: Chinese policymakers should provide a complete definition of “domestic product” for the purposes of government procurement. The definition of “domestic content” should be clear and thresholds achievable for US companies to satisfy. Thresholds should also account for the totality of intangible investment, such as localized R&D. Procurement standards should also be transparent and applied in a way that allows for participation from US companies to maintain a level playing field. In addition, we recommend that Chinese authorities release a detailed timeline for standard setting for different industries, ensure transparency, and allow full participation of all stakeholders, including US companies, in the process. We further recommend that Chinese policymakers consider lifting import restrictions. Finally, we urge the administration to call on Chinese policymakers to publicly nullify the use of secret policy documents that discriminate against products of foreign-invested enterprises in China in public procurement, such as Document 79 and Document 551.

(Read USCBC’s [full recommendations](#) on public procurement.)

Intellectual property

Trade secrets

Under phase one, China committed to reduce forced technology transfer by limiting regulatory processes that collect information required for a license or approval, and for agencies to take steps to protect any confidential business information obtained during the licensing process.

Recommendation: China’s Ministry of Justice should finalize the August 2020 draft Guiding Opinions on Strengthening the Protection of Trade Secrets and Confidential Business Information in the Process of Administrative Licensing, and the Chinese government should continue to support clear judicial decisions, including awards of damages when the rules are violated. Additionally, companies should be allowed to vet third-party experts that participate in licensing reviews to ensure there are no conflicts of interest.

Patent term extensions (PTEs) for pharmaceutical patents

In January 2024, the Patent Law Implementation Regulations and new Patent Examination Guidelines came into effect, which formally introduced a process to grant PTEs for eligible



pharmaceutical patents. However, the legislation employs an excessively narrow and irrelevant definition of “new drugs” that is derived from the drug registration system. This has made it harder for high-value pharmaceutical patents that have already been introduced in other markets but are being launched in China for the first time to qualify for PTEs. This limits the economic reward companies can receive for their innovation in the China market.

Recommendation: To enforce the Chinese government’s commitments on enhancing pharmaceutical patent protection and ensuring regulatory consistency, the qualification requirements for PTE must be revised. This includes, but is not limited to, revising or further clarifying departmental regulations, such as the Patent Law Implementation Regulations (2023) and the Patent Examination Guidelines. We encourage China to develop new criteria for “new drug” under the PTE framework, consulting with industry to expand the applicable scope.

Counterfeits

Piracy and counterfeiting on China’s e-commerce platforms remain top concerns. Under phase one, China committed to revising the E-commerce Law, which holds platforms responsible for developing “an effective notice and takedown system” for counterfeit products. Additionally, China committed to allow rights holders 20 working days to file a judicial or administrative complaint after receipt of a counter notification. However, the E-commerce Law revisions have not been enacted and remain in draft form.

Recommendation: China should update its E-Commerce Law to include emerging social media used to make sales of products online as e-commerce platforms. These platforms, including Pinduoduo, WeChat, Douyin, and others, should be held accountable to the obligations of traditional e-commerce platforms under Chinese law. Further, we urge stronger coordination among China’s enforcement agencies to protect copyrights, and laws should impose financial penalties that are sufficient to provide a deterrent against piracy and counterfeiting.

Supplemental data to support patentability

Under phase one, China agreed to allow the use of supplemental data to satisfy patentability requirements, including sufficiency of disclosure and inventive step during judicial and patent review proceedings. However, recent cases show that China’s IP authorities continue to refuse supplemental data in a manner that is consistent with its phase one commitments and that both the China National Intellectual Property Administration (CNIPA) and the Beijing IP court impose uniquely strict standards that are out of step with other major countries. For example, the United States, the European Union, Japan, and other countries routinely accept supplemental data to meet patentability requirements as long as the technical effect supported by the supplemental data is credible and plausible. CNIPA and the Beijing IP court, on the other hand, still require that the technical effect supported by the supplemental data be obtainable from the original patent disclosure.

China justifies this approach under the “disclosure-for-exclusivity” principle. However, this principle should not apply to pharmaceutical compound/composition patents with respect to supplement data because a pharmaceutical compound/composition patent does not claim the supplemental data or the related technical effect and therefore does not seek exclusivity for either the data or the related effect.

Recommendation: China should fulfill its phase one commitments regarding patentability and reconsider the current standard used by CNIPA and the Beijing IP court for admitting supplemental data.

Standard essential patents (SEPs)

Despite China having pledged to increase judicial transparency, the publication of judicial decisions of all kinds has decreased over the last three years. Relatedly, Chinese courts have been more assertive about setting worldwide royalty rates for SEPs. Although China is not the only jurisdiction to do so, the relative opacity of jurisprudence around rate-setting decisions creates uncertainty. Moreover, China's establishment of binding worldwide royalty rates without the consent of the patent owner adds further unpredictability.

Recommendation: China should assume higher transparency standards and make judicial decisions publicly available, consistent with international best practices. China should also commit to avoiding global rate setting for any patented technologies in the absence of consent of the parties involved in private licensing negotiations.

Easing undue burdens on cross-border business

China's export controls

China has imposed export licensing requirements on critical minerals, such as gallium, germanium, graphite, and antimony. It has also recently updated its Dual-Use Export Controls Regulations and created a revised catalog of dual-use products subject to licensing requirements. In late 2024, a special presumption of denial was created for critical mineral exports to the United States. China has also imposed end user-based export controls through the Control List, Unreliable Entity List, and lists pursuant to the Anti-Foreign Sanctions Law.

Recommendation: China should only impose export licensing requirements on goods, technologies, and services that are covered in multilateral agreements and that are widely understood to have military uses. Additionally, the Ministry of Commerce (MOFCOM) should provide clarity on China's export control rules as soon as possible, including on upstream compliance obligations for end user-based control lists, the quantitative *de minimis* for the foreign direct product rule, and the requirement for governments to certify end user/end use of covered products. Most importantly, MOFCOM should ensure it has the resources necessary to process export license applications within 45 days. MOFCOM should similarly furnish qualifying criteria for special cases that exceed the 45-day processing period.

Cross-border data transfer

Under Chinese law, companies that seek to conduct outbound transfers of data classified as either "important," "personal information," or "sensitive personal information" must either undergo a security assessment or receive a standard contract or personal information protection certification from the Cyberspace Administration of China (CAC), depending on the specific type of data in question. Free-trade zones (FTZs) can also formulate their own lists of data that either require a data security assessment, standard contract, or personal information protection certification before conducting data transfers. Enabling FTZs to develop their own data lists has



led to the creation of different standards across jurisdictions, which increases compliance burdens for companies. Industry regulators also maintain their own sets of data transfer policies with discrete definitions, standards, and thresholds, which may be inconsistent with those of CAC or the FTZs. Despite adjustments, numerical thresholds on the volume of data that can be transferred remain unrealistically low.

Recommendations: China should further open FTZ pilot zones to accelerate the liberalization of data policies and coordinate policies across different FTZs. China should also further adopt data transfer mechanisms consistent with international rulemaking bodies and digital trade pacts. Chinese regulators should adopt a consistent definition and classification of “important data” and “sensitive personal data.” Additional support from Chinese regulators is needed to approve and provide clarity on unique cases.

(Read USCBC’s [full recommendations](#) on cross-border data transfer.)



Recommendations for US policies toward China

When addressing specific US national security goals or challenges stemming from China's unfair economic practices, USCBC urges the administration to work with the private sector to ensure that any remedial actions support US global competitiveness and do not impose needlessly burdensome costs on US producers and consumers.

Limit the scope of tariffs to address specific US national security and China market challenges and support US global competitiveness

Specifically, any tariffs maintained or assessed in response to challenges posed by China should be targeted and effective at modifying China's behavior. US tariff exclusions should also be expanded.

China's PNTR status

There have been increasing calls to revoke China's PNTR status in response to issues in the US-China bilateral relationship. Such an action would lead to increased US tariffs and Chinese retaliation, resulting in severe economic consequences. A 2023 [report](#) from *Oxford Economics* highlights just how damaging revoking PNTR could be to US businesses and consumers. The estimated costs over the five-year period outlined in the report include:

- A peak loss of more than 800,000 American jobs in the first year, with 300,000 jobs still unrecovered after five years.
- An average cost per US household of \$11,100.
- A cumulative loss of nearly \$2 trillion in US GDP, which would be felt in every US state.
- A reduction of US agricultural exports to China of more than 30 percent.

Recommendation: Preserve PNTR for China. While there is no question China has failed to live up to some of its WTO obligations, revoking PNTR would not address the underlying issues with China's unfair trade practices. In addition, taking away China's PNTR status would not remove China from the WTO and would not impact its status within the WTO. As a result, US companies would be put at a massive disadvantage compared to their foreign counterparts.

Section 301 and other tariffs

USCBC pragmatically considers the goal of tariffs, their effectiveness in addressing specific US national security goals or unfair Chinese economic practices, and their implications for the global competitiveness of US companies and the American economy. Further, USCBC shares the US government's concerns about instances of forced technology transfer and intellectual property violations in China. However, the Section 301 tariffs have not succeeded in changing unfair Chinese economic practices, so it is unclear how continuing such tariffs will eventually accomplish that goal. The maintenance of tariffs and imposition of new tariffs should be done strategically to ensure that US manufacturers and farmers can effectively compete on a fair and level basis in domestic and foreign markets. In addition, the tariff exclusion process created by the Biden administration was excessively narrow and was not available for production inputs



and consumer products, harming US consumers and businesses and undermining US global competitiveness.

Recommendation: The US government should: (1) eliminate existing Section 301 tariffs on goods that have no national security nexus; and (2) expand the exclusion process related to any remaining Section 301 tariffs, particularly to include US manufacturing inputs. Any rate or product changes to existing tariffs or any new tariffs should: (1) not cover goods that have no national security nexus; (2) be more targeted in their product coverage and strategic in purpose to address clearly identified national security goals or other specific unfair Chinese economic practices; (3) include a robust exclusion process that takes into account those purposes and the tariff's implications for US businesses' global competitiveness and the American economy and jobs; (4) allow companies enough lead time to adjust to any tariffs; and (5) be evaluated regularly for effectiveness in achieving their stated goals.

Narrowly apply national security restrictions and consult industry and US allies during the rulemaking process

USCBC supports the administration's efforts to protect US national security, technology, and economic competitiveness and serves as a constructive partner in helping the government apply national security restrictions in a targeted manner. However, both the United States and China have invoked broad definitions of national security in recent years. Recent rules from the previous administration, such as the AI diffusion and semiconductor due diligence rules, were drafted without sufficient input from industry stakeholders, undermining their effectiveness. USCBC urges the administration to evaluate these issues with fresh eyes and allow industry the opportunity to provide input.

Moreover, economic security measures that are adopted on a unilateral basis are less effective at tackling legitimate national security concerns, as other countries can easily backfill a controlled product. USCBC supports the administration's mobilization of US allies and partners to share information and undertake coordinated strategies related to economic security.

Export controls

AI diffusion

On January 13, the Bureau of Industry and Security (BIS) issued an interim final rule (IFR) creating an export controls framework for AI diffusion. The AI diffusion IFR comprises an unprecedented expansion of elements of the semiconductor rules and novel export controls on closed-source AI model weights. The rules divide countries into three categories with limits placed on computing power needed to run AI. Certain validated entities access more computing power by blocking China's access to the underlying infrastructure. These restrictions contradict the global strategies of American technology companies by imposing arbitrary export caps on chips and controlling AI. They could jeopardize the United States' long-term competitiveness by ceding market share to alternative suppliers of AI and AI infrastructure, the majority of which are from China. There is also no guarantee that the government can efficiently administer these complex approval programs.

Recommendation: USCBC recommends the administration nullify the AI diffusion IFR. These rules run contrary to traditional US government support for free and open trade by imposing a worldwide licensing requirement on technologies that have overwhelmingly civilian end uses. Imposing high walls on US allies also opens markets to Chinese competitors in other markets worldwide. Should the administration continue to pursue AI diffusion, it should first publish an advance notice of proposed rulemaking (ANPRM) for public comment. Engaging in a comprehensive consultation process will ensure that rules are clear and implementable, do not inadvertently disadvantage US long-term competitiveness, and protect US national security.

Semiconductors

The US government has placed export controls at the center of its China strategy. Beyond traditional exports, re-exports, and in-country transfers, the rules also apply to services that support advanced equipment. Despite the rules' good intentions, they have deprived American companies of large commercial opportunities in areas that are not related to China's defense establishment, resulting in lost market share and value destruction. Alarming, the rules have accelerated the creation of a dynamic and competitive semiconductor ecosystem in China devoid of American technologies, all while failing to deny China access to equivalent technologies from other countries.

Recommendation: The administration should rework export controls so that they only apply to items and activities that are also controlled by US allies and partners. The administration should also not apply controls on products for which there is already domestic availability in China. US policy mechanisms for assessing foreign availability should be strengthened, and BIS should furnish clear processes and criteria for filing requests for such assessments. BIS requirements should be clear and specific to support compliance and apply to products and entities that present clear national security threats. Policymakers should also consider the ramifications of export controls to the extent that controls have accelerated the replacement of American suppliers in China and globally, which risks eroding US competitiveness and innovative capabilities while strengthening China.

(Read USCBC's [full recommendations](#) on semiconductor export controls.)

Military and intelligence end uses/users (MEU)

BIS has proposed amending and updating its rules on military, military support, intelligence, and foreign security end users. These rules would apply to all US-origin items regardless of technological sophistication, and to foreign items produced or sold by US persons. Under the proposed rules, it would be incumbent on US firms to identify whether their Chinese customers are one of the classes of covered end user. If implemented as written, these rules would entirely rewrite the rules of the exporting community and would entail significant changes to companies' compliance architectures.

Recommendation: BIS should limit the scope of these rules to firms it designates on the Entity List and to products that are not widely commercially available, such as products on the Commerce Control List. Controls on MEUs should also be multilateral to ensure that they do not foment backfilling from other countries.

(Read USCBC's [full recommendations](#) on the MEU rules.)



Outbound investment

The Department of the Treasury has finalized a rule that prohibits or requires notification of certain outbound investments in China in three broad sectors: semiconductors and microelectronics, quantum computing, and artificial intelligence systems. The rule not only applies to portfolio investments, such as venture capital and private equity, but also places compliance burdens on routine business activities of US corporations and their subsidiaries. Despite Treasury allowing for two rounds of public comment, there are many concepts in the final rule, such as the knowledge standard and indirect covered transactions, that require further clarification. In addition, because the rule is unilateral, it is unlikely to achieve Treasury's intended objectives and will disproportionately disadvantage US firms and harm US competitiveness. Meanwhile, Congress is legislating similar outbound investment restrictions that could conflict with Treasury's final rule.

Recommendation: First, we urge Treasury to provide additional clarity on the application of the knowledge standard, which would enable US investors to more confidently undertake the necessary record-keeping and due diligence obligations to ensure compliance. Second, we urge the administration and Congress to coordinate their respective rules and ensure there is only one set of regulations that sufficiently reflects input from industry. Treasury and Congress should exempt the operational activities of US companies and their subsidiaries. At a minimum, the exceptions for intracompany transactions, loans, and employee compensation should be robust to ensure operational continuity for manufacturers. Finally, the administration should push US allies and partners to implement similar policies to ensure US rules are not preventing American companies from operating in large markets while their foreign competitors can maintain normal operations.

(Read USCBC's [full recommendations](#) on outbound investment.)

Bulk data transfer

In December 2024, the Department of Justice (DOJ) issued final rules that prohibit or require government licensing for certain transactions that enable Chinese entities to access bulk quantities of US persons' sensitive personal data. The rules apply discrete thresholds to six categories of data, such as location data and genomic data, with prohibitions or restrictions depending on the type of data and type of transaction. Many outstanding industry questions and concerns remain unaddressed in the final rule. For example, the thresholds are low, such that they cover nearly all transfers for most companies, reducing room for a nuanced approach that focuses on the most impactful transactions.

Recommendation: DOJ should provide ample, clear exemptions for intracompany data transfers and other exempted transactions to ensure that US companies in China can seamlessly continue their operations. Additional clarification of many terms in the rules is needed through FAQs to ensure that the rules do not impact a broader set of business activities than is necessary to achieve desired national security objectives.

(Read USCBC's [full recommendations](#) on bulk data transfer rules.)

Information and Communications Technology and Services (ICTS)

The Office of Information and Communications Technology and Services (OICTS) within BIS has two authorities, which it is beginning to use. The first is to ban tech and software from



specific companies from entering the United States if they pose an undue threat to national security. The second is to restrict broad categories of “connected technology” from the United States for the same reasons. The first sector implicated in the second authority is connected vehicles, for which a final rule was issued on January 14. An ANPRM invoking the ICTS authorities on unmanned aerial systems was also issued in January 2025. OICTS’s future roadmap includes satellite access points, energy generation and storage, connectivity systems and microelectronics, and advanced network sensing technologies.

Recommendation: USCBC urges BIS to focus sector-specific restrictions on products that pose a clear threat to US national security interests. BIS should be as clear as possible regarding definitions in these rules and comprehensively consult industry to apply an appropriate scope to covered technologies. Further, BIS should clearly explain compliance obligations and ensure there is adequate administrative bandwidth to manage authorization requests.

Additional recommendations to promote constructive commercial relations and drive outcomes for US companies

Empower existing bilateral mechanisms

With areas of tension increasing across all facets of the bilateral relationship, it is crucial for the administration to have regular communication with Chinese counterparts to clarify areas of disagreement and negotiate deliverables.

Commercial diplomacy

During the last administration, the two governments established a series of bilateral exchanges on counternarcotics, financial issues, and more. The most consequential group for the business community involved the Department of Commerce and MOFCOM. They held two meetings of the bilateral Commercial Issues Working Group (CIWG) at the vice minister-undersecretary level. These meetings are a useful avenue for addressing business-specific market access concerns, and USCBC has noted marginal improvement in several policy areas.

Recommendation: The CIWG was a good start, but more must be done to rectify the many issues faced by US companies in China. USCBC strongly urges the US government to convene the CIWG and other bilateral working groups in 2025 and beyond. Commerce and other US government stakeholders should expand the scope of issues at stake in bilateral negotiations, coordinate with the interagency to navigate bilateral compromises, and strengthen mechanisms for industry consultations.

Facilitate more people-to-people exchanges

USCBC encourages the administration to work with the Chinese government to boost people-to-people exchanges. Easing restrictions on two-way travel is fundamental to increasing trade, investment, and job growth in both countries.

Recommendations

1. **Ensure H-1B visa rules allow access to the talent US companies need:** Chinese and other foreign talent make a significant contribution to American competitiveness and investment in the United States. The administration should encourage Congress to raise the cap on H-1B visas, which has remained fixed at 65,000 annually, and remove limits on H-1B visas for individuals who have earned an advanced degree in the United States.
2. **Increase the number of round-trip flights between the two countries:** While we welcome steps taken by both governments to increase the number of weekly round-trip flights allowed to operate from 70 to 100, even with the increase, the number of



available flights is less than one-third of pre-pandemic levels. We encourage Commerce and MOFCOM to coordinate with the Department of Transportation, the Civil Aviation Administration of China, and airlines to address long-standing issues with flight slot utilization and route flexibility.

3. **Increase the number of transit flights:** In 2024, China expanded its visa-free transit policy, allowing passport holders from the United States and 53 other countries to spend up to 240 hours (10 days) in China before transiting to a third country. To attract more international tourists, the Chinese government should consider increasing the number of transit flights in Beijing, Shanghai, and other cities. At the same time, major international airports in these cities should adopt self-service declaration and other electronic equipment to improve the convenience of entry. Interline baggage checks for international connecting passengers should also be allowed to attract more passengers transiting to or from other cities in Northeast Asia.
4. **Provide more ease for foreign expatriates to enter and work in China:** Processing work documentation for expatriates is cumbersome and takes months to complete. Filing requirements and wait times add to the administrative burden of employers and negatively impact the willingness of foreign talent to work in China.

