



Billing Code: 3510-DR-P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Strategy to Address Trade-Related Forced Localization Barriers Impacting the U.S. ICT Hardware Manufacturing Industry

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice and request for comments.

SUMMARY: The International Trade Administration is seeking information to support the development of a comprehensive strategy to address trade-related forced localization policies, practices, and measures impacting the U.S. information and communications technology (ICT) hardware manufacturing industry. Comments will be used to support the development of a holistic strategic plan for counteracting and deterring the expansion of barriers to trade and trade-related measures put in place by U.S. trading partners that are specifically designed to localize the production and technology development of ICT hardware, and unfairly harm U.S. ICT hardware manufacturers and exports.

DATES: Written comments must be submitted on or before **[INSERT DATE 30 DAYS AFTER PUBLICATION]**. Comments must be in English.

ADDRESSES: You may submit responses to the questions below by one of the following methods. Comments should be submitted under docket ITA-2008-0001:

(a) **Electronic Submission:** Submit all electronic comments via the Federal e-Rulemaking Portal at <http://www.regulations.gov>. The materials in the docket will not be edited to remove identifying or contact information, and the Department cautions against including any information in an electronic submission that the submitter does not want publicly disclosed. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF formats only. Comments containing references, studies, research, and other empirical data that are not widely published should include copies of the referenced materials. Please do not submit additional materials. If you want to submit a comment with business confidential information that you do not wish to be made public, submit the comment as a written/paper submission in the manner detailed below.

(b) **Written/Paper Submission:** Send all written/paper submissions to: Cary Ingram, U.S. Department of Commerce, International Trade Administration, Office of Health and Information Technologies, 1401 Constitution Ave. NW, Washington, DC 20230;

Submissions of “Business Confidential Information”: Any submissions containing “business confidential information” must be delivered in a sealed envelope marked “confidential treatment requested” to the address listed above. Please provide an index listing the document(s) or information that the submitter would like the Department to withhold. The index should include information such as numbers used to identify the relevant document(s) or information, document title and description, and relevant page numbers and/or section numbers within a document. Provide a statement explaining the submitter's grounds for objecting to disclosure of the information to the public. The

Department also requests that submitters of business confidential information include a non-confidential version (either redacted or summarized) of those confidential submissions, which will be available for public viewing and posted on <https://www.regulations.gov>. In the event that the submitter cannot provide a non-confidential version of its submission, the Department requests that the submitter post a notice in the docket stating that it has provided the Department with business confidential information. Should a submitter fail to docket either a non-confidential version of its submission or to post a notice that business confidential information has been provided, the Department will note the receipt of the submission on the docket with the submitter's organization or name (to the degree permitted by law) and the date of submission.

For alternatives to online or mail submissions, please contact Mr. Cary Ingram at (202) 482-2872 or cary.ingram@trade.gov. The public is strongly encouraged to file submissions electronically.

FOR FURTHER INFORMATION CONTACT: Questions regarding the submission of comments should be directed to Mr. Cary Ingram at (202) 482-2872, or cary.ingram@trade.gov.

SUPPLEMENTARY INFORMATION:

Background: Over the past five years, there has been a rapid expansion of laws, regulations, trade policies, directives, and practices by various U.S. trading partners to further multilayered campaigns to force the domestic localization of production and technology development of information and communications technology (ICT) hardware. Various forms of domestic production requirements, local content requirement (LCR) mandates, coerced technology

transfer rules, and other barriers to trade have been put in place to supplant U.S. technology products in international ICT markets. These are measures that arbitrarily discriminate against foreign products, intellectual property (IP), or hardware suppliers, and are distinctively designed to force the production and development of ICT hardware to be localized within a country's territorial boundaries, while also cultivating and incubating select domestic industries, technologies, or intellectual property at the expense of imported goods, or foreign-owned or developed IP.

The ICT hardware sector has become a leading target for discriminatory measures in markets throughout the world at an accelerated level of proliferation. Examples of trade-related barriers and measures impacting the industry include:

- Local content requirements (LCRs) for ICT products sold in the domestic market;
- Subsidies or other government preferences made contingent upon the use of local ICT products, indigenous technology, or domestically owned IP;
- Mandates for service providers to purchase domestically-manufactured ICT hardware or ICT products with specific levels of domestic content;
- Measures to force the transfer of technology or IP to local entities;
- Unjustified requirements to conduct conformity assessment and certification procedures in-country.

The competitiveness of the U.S. ICT manufacturing sector is increasingly coming under threat by the continued expansion of forced localization policies and practices in geographic and technological scope. These forced localization measures and barriers not only threaten U.S.

production of ICT hardware currently in the market, but also threaten the United States' competitive position in new and emerging technology sectors across the entire ICT-enabled industrial base as these policies expand to broader technology segments. Recognizing the need to address current forced localization measures impacting the U.S. ICT hardware manufacturing sector on a strategic basis, and to deter additional localization barriers, the U.S. Department of Commerce's International Trade Administration is reviewing the landscape of policy options and potential remedies that can be utilized to develop a strategic response to the expanding forced localization trend causing harm to the U.S. ICT manufacturing base. The Department is seeking to develop a comprehensive, holistic set of actionable tools, tactics, and strategies to counteract the spread of policies, practices, and barriers-to-trade specifically designed to discriminate against U.S. ICT products and exports, while instigating the domestic localization of ICT hardware production and technology development¹. Respondents may address any, all, or none of the following questions, and may address additional topics that may help the Department in developing a comprehensive strategy to address trade-related forced localization barriers affecting the U.S. ICT manufacturing industry. While the Department welcomes all input considered relevant to the development of a comprehensive strategy, the Department specifically seeks the following types of information:

1. *Laws, regulations, policies, trade practices, non-tariff barriers, and other trade-related measures put in place by U.S. trading partners that appear to be specifically structured to force the localization of production and technology development of ICT*

¹ Data localization policies or restrictions on cross-border data flows will not be covered in this edition of the strategy review or this current request for comments.

hardware, and unfairly harm U.S. ICT hardware manufacturers and exports.

2. *The estimated burden and harm caused by the identified trade-related localization laws, regulations, policies, trade practices, non-tariff barriers, and other trade-related localization measures in terms of lost revenue, market share, exports, employment, income, or other measures to quantify the damage and harm to the U.S. ICT hardware manufacturing industry and related export opportunities.*

The information obtained from written submissions will be used to inform the strategic planning to address and deter the expanding use of trade-related localization measures, practices and other barriers harming the U.S. ICT manufacturing industry. The scope of products included in this strategic review are ICT goods that fall under NAICS codes 3341, 3342, 3343, 3344, 3345, 3346, and 3359; or the following HS codes: 8443, 8471, 8473, 8486, 8504, 8517, 8518, 8519, 8520, 8521, 8522, 8523, 8525, 8528, 8529, 8533, 8534, 8541, 8542, 854420, 854470, 900110, 9030, 903141, 850440, 850450, 850490.

The U.S. Department of Commerce invites comments from stakeholders from the private sector, academia, think-tanks, civil society, and other interested parties concerned with the continued growth and competitiveness of the U.S. ICT manufacturing industry in the global economy. Entities making submissions may be contacted for further information or explanation, and, in some cases, meetings with individual submitters may be requested. The Department may also hold additional forums for comment such as roundtables or workshops to attain expanded input for strategy development.

Ian Steff,

Deputy Assistant Secretary for Manufacturing.

[FR Doc. 2018-07584 Filed: 4/11/2018 8:45 am; Publication Date: 4/12/2018]