

CHINA COMMERCIAL INTELLIGENCE BRIEF

Issue 4 | June 2026

THE COMPLIANCE TRIFECTA: TRADE SECRETS, FORCED LABOUR TARIFFS, AND RARE EARTH ENFORCEMENT

*How Three Converging Regulatory Shifts Are Redrawing the Risk Map for Business
Operating With or Within China*

COMMERCIAL RISK INTELLIGENCE — PROFESSIONAL USE ONLY

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SECTION 0 — BOTTOM LINE UP FRONT

Three concurrent regulatory developments — China's new SAMR trade secret provisions (in force 1 June 2026), USTR's proposed Section 301 forced-labour tariff overlay (12.5% on 45 economies including China), and MIIT's draft rare earth enforcement framework — do not operate independently. Together they constitute a structural tightening of the operating environment for any business with meaningful China exposure. The interaction effects are commercially significant and, in our assessment, underweighted by most counterparty and supply-chain risk frameworks currently in use.

EXECUTIVE SUMMARY

KEY ASSESSMENT

China's regulatory environment has entered a simultaneous tightening phase across three distinct compliance domains. Businesses operating with or within China face increased legal exposure from trade secret enforcement, material cost pressure from proposed US tariff action, and structural supply-chain risk from rare earth production controls — concurrently and in combination.

Key Findings

- SAMR's new trade secret provisions (Order No. 126, effective 1 June 2026) represent the most significant overhaul of China's administrative IP enforcement regime in 30 years. Extraterritorial reach, expanded digital-asset coverage, and fines up to RMB 5 million create new due diligence obligations for foreign counterparties sharing proprietary information with Chinese entities.
- USTR's Section 301 forced-labour determination (2 June 2026) proposes a 12.5% tariff overlay on Chinese goods, with public comment closing 6 July 2026 and hearings beginning 7 July. This is not yet in effect and remains subject to product exemptions and final implementation — but timing closely tracks the expiry of the current Section 122 surcharge, suggesting tariff continuity is the policy intent.
- MIIT's draft rare earth penalty framework targets the full mine-to-market chain: quota breaches, unauthorised separation, and failure to log product flows to the national traceability system. Combined with export licensing controls on samarium, gadolinium, and lutetium (enforcement delayed to November 2026), the direction is toward system-based supply chain control — not merely export-gate restrictions.

ANALYST HOOK

The most under-appreciated risk in this issue is not any single regulation — it is the interaction. A foreign business sharing proprietary process data with a Chinese partner may simultaneously face: a Chinese trade secret claim under the new SAMR provisions; exposure to UFLPA-linked US customs detentions if that partner sits in a supply chain touching Xinjiang inputs; and supply-chain disruption risk if that partner sources rare earth materials subject to MIIT quota controls. No single compliance

programme currently maps all three. Paid subscribers receive the sector-by-sector risk matrix and practical checklist needed to close that gap.

WHAT PAID SUBSCRIBERS RECEIVE IN THIS ISSUE

- Full sector-by-sector risk analysis across manufacturing, technology, life sciences, and commodities
- Risk matrix: cross-impact scoring for the SAMR / USTR / MIIT trifecta
- Red-flag indicator table with exposure vectors and recommended actions
- Analyst Alert: UFLPA-USTR interaction risk for apparel, solar, and EV supply chains
- Practical recommendations: contract language updates, confidentiality audit checklist, supply chain documentation requirements
- Watch brief: rare earth traceability system — what upstream data trails mean for downstream due diligence
- Transaction checklist: eight questions to ask before entering or renewing a China joint venture or supply agreement in H2 2026
- Source and methodology notes

FULL BRIEF – COMPLIMENTARY PUBLIC RELEASE

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SECTION 1 — SAMR TRADE SECRET PROVISIONS: WHAT HAS ACTUALLY CHANGED

China's trade secret framework has operated on a 12-article structure dating from 1995 — pre-internet, pre-digital economy, pre-AI. SAMR Order No. 126 replaces that framework with 31 articles. The practical changes are not cosmetic.

1.1 Expanded Scope: Digital Assets Explicitly Protected

The 1995 rules were drafted in an era when misappropriation typically meant a departing employee with paper blueprints. The new provisions explicitly extend protection to data, algorithms, source code, computer programs, and other commercially valuable digital information. For businesses co-developing with Chinese partners in AI, fintech, or precision manufacturing, this creates a dual-use legal dynamic: the same framework that theoretically protects your proprietary data also equips your Chinese counterpart — or a regulator — to assert rights over jointly developed outputs.

1.2 Enforcement Mechanism: Administrative Channel as Primary Route

The provisions establish a robust administrative enforcement route alongside civil litigation and criminal prosecution. Critically, damages are not available through the administrative channel — but injunctions and fines up to RMB 5 million are. Local market supervision departments at city level (or above) now have authority to: enter business premises to investigate; compel depositions; access and copy documents and data; seal or seize assets; and subpoena bank account information. The investigating authority is legally obligated to maintain confidentiality over trade secrets learned during investigation — but this obligation binds the regulator, not other parties.

1.3 Extraterritorial Reach: Article 29

Article 29 of the new provisions explicitly establishes extraterritorial effect. The practical scope of this provision remains to be tested in enforcement, but the direction is consistent with broader trends in Chinese regulatory drafting (cf. the Data Security Law, the Personal Information Protection Law, the Anti-Foreign Sanctions Law). For non-Chinese entities sharing technical or commercial information with Chinese counterparts — whether in joint venture, licensing, or supply chain contexts — the existence of an explicit extraterritorial claim warrants legal review of existing information-sharing arrangements.

1.4 Defensive and Offensive Implications

Western commentary has predominantly framed the new provisions as IP-protective for foreign businesses operating in China. This framing is partially correct but incomplete. The same enforcement tools available to a foreign rights holder are equally available to a Chinese counterpart — or to the Chinese state — in a dispute over jointly developed or shared information. The expansion of protectable subject matter and the lowering of barriers to assert rights cuts both ways.

- ▶ Businesses with joint development arrangements, technology licensing agreements, or shared data environments with Chinese counterparts should conduct a targeted review of what information has been shared, under what contractual terms, and whether that information could now be claimed as protectable trade secret by the Chinese party.
- ▶ Employee onboarding and offboarding procedures, IT access controls, and NDAs executed before 1 June 2026 may not adequately address the new framework's scope — particularly regarding digital assets and remote-work disclosures.
- ▶ The administrative channel's lower evidentiary threshold (relative to civil litigation) means enforcement actions may move faster than counterparties expect. Crisis response planning should account for the possibility of rapid asset-seizure or data-access orders.

SECTION 2 — USTR SECTION 301 FORCED-LABOUR ACTION: STATUS, MECHANICS, AND CHINA EXPOSURE

On 2 June 2026, USTR issued its determination that all 60 investigated economies had failed to adequately prohibit imports of goods produced with forced labour. The proposed tariff overlay — 10% for economies with existing commitments, 12.5% for all others — is not yet in effect and remains subject to product exemptions and final implementation.

2.1 Procedural Status and Timeline

Written public comments close 6 July 2026. Public hearings begin 7 July. Requests to appear at hearings are due by 22 June 2026. The operative question for supply chain managers is not whether this action ultimately passes in its proposed form — it is whether to treat 12.5% as the planning baseline now, given that the Section 122 global surcharge it is designed to replace expires in July 2026.

2.2 Legal Context: Section 122, IEEPA, and Section 301

The February 2026 US Supreme Court ruling invalidated President Trump's global tariff actions under IEEPA. The Section 122 import surcharge (10%) was issued as an immediate replacement and is set to expire in July 2026. The forced-labour Section 301 action, and a parallel Section 301 action on excess industrial capacity, are widely understood as the administration's mechanism for re-establishing a tariff floor without relying on IEEPA. The timing alignment between the July 2026 hearing and the Section 122 expiry is not coincidental.

2.3 China-Specific Exposure: UFLPA Interaction

China faces compounded exposure. The proposed 12.5% Section 301 overlay sits on top of existing Xinjiang-linked supply chain restrictions under the Uyghur Forced Labor Prevention Act (UFLPA). The UFLPA creates a rebuttable presumption that goods manufactured wholly or partly in Xinjiang — or by entities on CBP's UFLPA Entity List — are produced with forced labour and are therefore barred from US import. The Section 301 action adds a tariff layer to goods from any Chinese entity that survives UFLPA screening but is sourced from a jurisdiction found deficient in forced labour enforcement.

- ▶ Apparel, electronics, solar panels, and EV battery supply chains carry the highest compound exposure: UFLPA-related customs detention risk plus the proposed Section 301 tariff overlay.
- ▶ The textile mechanism proposed by USTR — which would allow reduced-rate imports tied to volumes of US textile exports to a trading partner — introduces a further variable that could create cost asymmetries between sourcing from China versus other 12.5%-category economies.
- ▶ Businesses that have already conducted UFLPA due diligence should revisit that work in light of the broader Section 301 action: UFLPA compliance does not confer Section 301 tariff exemption.

SECTION 3 — MIIT RARE EARTH ENFORCEMENT: FROM EXPORT GATE TO MINE-TO-MARKET CONTROL

China's strategic management of rare earths has historically operated through two primary instruments: production quotas and export controls. The MIIT draft enforcement framework — published April 2026, comment period closed 28 May 2026 — represents a third layer: codified, graduated, internally-facing administrative penalties applied at every stage of the production chain.

3.1 The Four-Tier Penalty Architecture

The draft establishes a graduated penalty system tied to specific breach thresholds:

- Quota breach under 10%: fines up to five times illegal gains
- Quota breach 10–30%: fines up to ten times illegal gains plus equipment confiscation
- Quota breach over 30%: business licence revocation
- Failure to upload product flow data to national traceability system: fines and potential forced shutdown

This precision — explicit percentage thresholds, specific fine multipliers — signals a shift from broad industrial policy to codified, enforceable controls. The architecture is designed for systematic application, not selective example-making.

3.2 National Traceability System: The Strategic Data Layer

The requirement that enterprises accurately log every ton of material mined, processed, and sold to a government-run national traceability platform is commercially significant beyond its compliance function. The platform creates a government-held dataset of the complete upstream rare earth supply chain — who produces what, at what volume, for whom, through which processing steps. This data infrastructure enables Beijing to enforce quota compliance, identify grey-market leakage, and — critically — identify downstream foreign buyers and their sourcing profiles.

- ▶ For non-Chinese manufacturers dependent on Chinese rare earth inputs, the traceability requirement means their supply chain structure is increasingly visible to the Chinese state, including input volumes and end-use patterns.
- ▶ Businesses that have been sourcing from informal or grey-market channels — which have historically provided a cost-competitive alternative to quota-compliant sources — face elimination of that option as the traceability system tightens.

3.3 Export Licensing Layer: Samarium, Gadolinium, Lutetium

Separate from the domestic enforcement framework, China's rare earth export-control framework, including existing MOFCOM/GAC licensing controls on samarium, gadolinium and lutetium-related items, continues to create downstream documentation and end-use risk. Extraterritorial enforcement provisions — which could subject non-Chinese manufacturers to regulatory consequences for using controlled materials in restricted applications or export destinations — have been delayed until November 2026 following

diplomatic consultations. This delay provides a compliance preparation window, not an exemption.

- ▶ Aerospace, clean energy, and medical imaging supply chains carry specific exposure to samarium, gadolinium, and lutetium controls given their use in permanent magnets, turbines, and MRI contrast agents.
- ▶ The November 2026 extraterritorial enforcement date should be treated as a hard deadline for downstream use-case documentation and end-use certificate capability.

SECTION 4 — RISK MATRIX: CROSS-IMPACT SCORING

RISK DOMAIN	LEVEL	ANALYST NOTE
IP / Trade Secret Exposure	HIGH	SAMR Order No. 126 in force. Digital asset scope, extraterritorial reach, and fast administrative channel elevate risk for JV and licensing counterparties.
US Tariff / Trade Policy	ELEVATED	Section 301 proposed 12.5% overlay not yet in effect. Comment period open to 6 July. Section 122 expiry creates implementation pressure in July 2026.
Rare Earth Supply Chain	HIGH	Mine-to-market traceability enforcement tightening. Export licensing on key compounds. Grey-market sourcing options narrowing. November 2026 extraterritorial enforcement imminent.
UFLPA / Forced Labour Compliance	ELEVATED	UFLPA Entity List enforcement ongoing. Section 301 action adds tariff layer independent of UFLPA screening. Compound exposure for Xinjiang-linked supply chains.
Counterparty IP Claims (Offensive)	MODERATE	New SAMR provisions equally available to Chinese counterparties. Shared data and jointly developed outputs carry increased claim risk in dispute scenarios.
Regulatory Interaction Risk	HIGH	No current compliance framework maps all three trifecta elements simultaneously. Gap risk is material for businesses with multi-domain China exposure.

SECTION 5 — RED-FLAG INDICATOR TABLE

INDICATOR	EXPOSURE VECTOR	RECOMMENDED ACTION
Chinese JV partner requests broad access to proprietary technical data or source code without defined information-security protocols	SAMR trade secret / offensive IP claim	Conduct information-sharing audit; define and contractually delineate protectable information before sharing; engage IP counsel on new SAMR framework.
Supply chain node in apparel, solar, or EV batteries with any Xinjiang-region sourcing, even indirect	UFLPA detention + Section 301 tariff overlay	Map full supply chain to raw material level; obtain UFLPA-compliant documentation; model landed cost at 12.5% additional tariff.
Rare earth inputs sourced through intermediary traders without traceability documentation	MIIT quota enforcement / grey-market sourcing	Require mine-of-origin certificates and traceability system reference numbers from suppliers; begin transitioning to quota-compliant sources.
Joint development agreement lacks clear IP ownership clause covering AI-generated or algorithmically produced outputs	SAMR expanded scope — digital asset claim	Review and update JDA terms; explicitly address ownership of digital-asset outputs under new SAMR framework.
No documented end-use certificate process for samarium, gadolinium, or lutetium inputs	MIIT export licensing extraterritorial enforcement (November 2026)	Establish end-use documentation capability before November 2026; identify which product lines carry exposure.
Supply chain cost model has not been re-run at 12.5% additional tariff assumption	Section 301 margin erosion / pricing risk	Re-run landed-cost models at 10% and 12.5%; identify high-exposure HTS lines; evaluate sourcing alternatives or duty drawback eligibility.

ANALYST ALERT — UFLPA-USTR INTERACTION: THE COMPOUND EXPOSURE PROBLEM

ANALYST ALERT — ACTION REQUIRED

The analytical community has treated UFLPA compliance and Section 301 tariff exposure as separate workstreams. This is a material oversight.

A business that has invested in UFLPA compliance — supply chain mapping, supplier audits, DPP documentation — has done necessary but insufficient work. UFLPA compliance establishes that goods are not produced with forced labour in Xinjiang; it does not establish tariff immunity under the proposed Section 301 action, which applies to all goods from economies found deficient in forced labour enforcement — regardless of Xinjiang linkage.

Conversely, a business that sources from a Chinese supplier outside UFLPA's rebuttable presumption zone still faces the 12.5% proposed tariff overlay under Section 301.

The practical implication: both compliance programmes must run in parallel. Neither substitutes for the other.

SECTION 6 — PRACTICAL RECOMMENDATIONS

Immediate Actions (Within 30 Days)

- Conduct information-sharing audit: identify all proprietary technical, commercial, or digital information shared with Chinese counterparties and assess whether current contractual protections are adequate under the new SAMR framework.
- Re-run supply chain cost model at 12.5% Section 301 tariff assumption across all HTS codes with Chinese-origin goods; identify top-ten exposure lines by revenue impact.
- Verify that all rare earth supplier contracts include traceability system reference requirements; flag any intermediary-sourced inputs lacking mine-of-origin documentation.

Medium-Term Actions (30–90 Days)

- Update NDA and JDA templates to explicitly address digital asset ownership, algorithm outputs, and data-sharing protocols under the new SAMR framework; engage IP counsel for review.
- Establish end-use certificate documentation capability for samarium, gadolinium, and lutetium inputs ahead of November 2026 extraterritorial enforcement date.
- Map UFLPA compliance programme against Section 301 exposure — identify gaps where UFLPA-clean goods still carry Section 301 tariff risk and assess whether sourcing diversification is warranted.

Strategic Actions (90+ Days)

- Integrate SAMR, UFLPA, and MIIT/rare earth compliance tracks into a unified China regulatory risk framework; assign ownership and review cadence.
- Evaluate China JV and licensing structures for IP exposure scenarios under the new SAMR administrative channel, including scenario-planning for rapid asset-seizure or data-access orders.
- Assess rare earth sourcing strategy in light of progressive quota tightening; identify qualified quota-compliant Chinese suppliers or non-Chinese alternative sources for strategic inputs.

WATCH BRIEF — RARE EARTH TRACEABILITY SYSTEM

MIIT's national traceability system — which will require monthly uploads of all rare earth product flows from mine through smelting/separation to end-sale — is the most structurally significant element of the rare earth enforcement framework from a downstream due diligence perspective.

The system creates a government-held audit trail for every ton of quota-compliant rare earth material. For due diligence purposes, this means the following will eventually be documentable: whether a specific rare earth input came from a quota-compliant operation; whether the processing chain was authorised; and, over time, downstream buyer identity and end-use.

For compliance practitioners, the emergence of this dataset creates a new due diligence reference point — and a new exposure surface. Buyers who have historically relied on contractual representations from Chinese suppliers about the legality of their sourcing will need to transition to traceability-system-referenced documentation as the platform matures.

- ▶ Watch for: MIIT pilot announcements on public or industry access to traceability data; CBP and BIS cross-referencing of MIIT data against UFLPA Entity List and export licence applications; and industry consortium formation around traceability data standards.

TRANSACTION CHECKLIST — EIGHT QUESTIONS FOR H2 2026 CHINA JVS AND SUPPLY AGREEMENTS

Before entering or renewing a China joint venture, technology licensing, or supply chain agreement in H2 2026, consider the following:

1. Has legal counsel reviewed the agreement's information-sharing provisions against SAMR Order No. 126? Are digital assets, algorithms, and source code explicitly addressed?
2. Does the agreement's IP ownership clause cover jointly developed digital outputs and AI-generated content?
3. Has the counterparty's position on any UFLPA Entity List been verified, and is there a supply chain mapping at raw material level?

- 4. Has the cost model been re-run at 12.5% additional Section 301 tariff? Is the commercial rationale still viable at that cost base?
- 5. If rare earth inputs are involved, does the supplier provide traceability system reference documentation, and is the source operation quota-compliant?
- 6. If samarium, gadolinium, or lutetium are used, is there an end-use certificate process in place ahead of November 2026?
- 7. Does the crisis response plan address the possibility of a rapid SAMR administrative investigation including asset seizure or data access orders?
- 8. Is there a unified compliance framework tracking SAMR, UFLPA, and MIIT obligations, with a named owner and regular review cadence?

SOURCE AND METHODOLOGY

This brief draws on open-source regulatory and legal sources including: SAMR Order No. 126 (24 February 2026, effective 1 June 2026); USTR Federal Register Notice initiating Section 301 investigations (March 2026); USTR determination report (2 June 2026); MIIT draft rare earth penalty framework (April 2026); China's updated 2026 Import-Export Licensing Catalogue; and secondary analysis from US and international trade law practices. Analyst commentary reflects the author's independent assessment and does not constitute legal or financial advice. Paid subscribers should consult qualified counsel before acting on any analysis contained herein.

All regulatory references have been verified against primary source documents. Where draft provisions are cited, the draft status is explicitly noted. This issue was finalised on 9 June 2026.

NEXT ISSUE PREVIEW

China's State Council Order No. 834 — The Supply Chain Security Provisions and What They Mean for Foreign Investors

Promulgated 31 March 2026 — China's first dedicated supply-chain security framework integrates export controls, countermeasures, data security obligations, and investment screening under a unified national security mandate. Issue 5 provides the practitioner's guide.

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