

Massive New Section 301 Investigations Present Opportunity for Comment

March 12, 2026 – Dorsey Law & Policy Notebook

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In the wake of the Supreme Court's February 20 decision striking down the authority of the United States Trade Representative to impose tariffs under IEEPA, USTR has been exploring other tariff authorities, including an immediate use of Section 122. It is now

turning to its more traditional, investigative authorities, though to an unprecedented degree.

On March 11, 2026 and then again on March 12, the USTR initiated a suite of Section 301 investigations into the trade practices of sixty economies. The investigations constitute a necessary procedural step for the USTR prior to determining whether new schedules of 301 tariffs can be applied in those jurisdictions.

The March 11 announcement relates to sixteen major economies.

- **Asia:** China, Singapore, Indonesia, Malaysia, Cambodia, Thailand, Korea, Vietnam, Taiwan, Japan, India, Bangladesh.
- **Europe:** European Union, Switzerland, Norway.
- **North America:** Mexico.

The investigations of these jurisdictions are broad and relate to "*structural excess capacity and production in manufacturing sectors*." The March 11 press release further explains: "*The investigations will determine whether those acts, policies, and practices are unreasonable or discriminatory and burden or restrict U.S. commerce.*"

The investigations announced on March 12 cover those sixteen, plus 44 additional jurisdictions and appear to have a narrower scope. They are to "*determine whether acts, policies, and practices of each of these economies related to the failure to impose and effectively enforce a ban on the importation of goods produced with forced labor are unreasonable or discriminatory and burden or restrict U.S. commerce.*"

While the prospect of renewed or even potentially increased tariffs is an unwelcome

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development for many companies, the ability to comment in the investigations should be recognized as an opportunity. For instance, companies can demonstrate how specific imports are essential to U.S. competitiveness or that no viable domestic alternative exists. Providing data-backed arguments now can prevent specific products needed for a company's supply chain from being swept into the initial tariff schedules.

The USTR also tends to use these comments as leverage in bilateral negotiations. As such, companies should consider whether it could be beneficial to highlight the specific challenges or "structural" imbalances they may face in a particular jurisdiction. This gives the USTR the background it may need to address these issues through diplomatic or regulatory channels. Commenting as industry groups or coalitions of companies can be particularly effective.

Finally, we note that companies may worry about risks of retaliation in foreign jurisdictions as a result of issues they raise in their comments. They are often right to do so. However, the USTR comment process does allow for particularly sensitive portions of comment letters to be submitted confidentially, and this option, while not perfect, can be utilized effectively.

Here are the key dates for the comment process:

Comment Docket Opens: March 17, 2026

Submission Deadline: April 15, 2026

Public Hearings Begin: April 28, 2026 (for the investigations regarding forced labor) and May 5, 2026 (for the investigations relating to excess production)