

Opportunity to Comment on Foreign Trade Practices with New Tariffs Looming Under Section 301

by Dave Townsend, T. Augustine Lo, Lawrence Ward, Justin T. Huff, and Paula Ortiz Cardona

The Office of the United States Trade Representative (“USTR”) has launched two wide-ranging investigations into 59 countries and the European Union (“EU”) that likely will result in new tariffs on U.S. imports from the covered countries under Section 301 of the Trade Act of 1974 (“Section 301”). Interested parties have a short window, until April 15, 2026, to comment on these investigations and request an opportunity to appear at public hearings in Washington, DC. The tariffs issued after the conclusion of these investigations are intended to replace the recently invalidated tariffs under the International Emergency Economic Powers Act (“IEEPA”) with respect to those countries.

Summary of Investigations

USTR initiated two separate sets of investigations.

First, USTR is investigating structural “excess capacity and production” in China, the EU, Singapore, Switzerland, Norway, Indonesia, Malaysia, Cambodia, Thailand, Korea, Vietnam, Taiwan, Bangladesh, Mexico, Japan, and India. In launching these investigations, USTR’s public notice states that overproduction and large or persistent trade surpluses with these locations results from policies and practices that are “untethered from the incentives of domestic and global demand.” As part of its investigative process, USTR is required to request consultations with the foreign governments at issue, and it will generally also solicit public comments and conduct public hearings. Comments for this investigation can be submitted to USTR, with the comment period closing on April 15, 2026. USTR will convene public hearings on the investigations on May 5, with requests to appear at the hearing due to USTR on April 15, 2026. View [USTR’s unpublished Federal Register notice](#) for the investigations and the [docket for the investigations](#).

Second, USTR is investigating the alleged “failure to impose and effectively enforce a prohibition on the importation of goods produced with forced labor.” USTR points to long-

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established prohibitions under U.S. law relating to forced labor, and international obligations of trading partners to prohibit the use of forced labor to produce goods. USTR's public notice states that "despite this longstanding consensus, the use of forced labor across the world continues to persist...." USTR cites the U.N. Universal Declaration of Human Rights and two international conventions as evidence of this general obligation and consensus. This investigation covers 59 countries and the EU. Comments can be submitted to USTR, with the comment period closing on April 15, 2026. USTR will convene public hearings on the investigations on April 28, with requests to appear at the hearing due to USTR on April 15, 2026. View [USTR's unpublished Federal Register notice](#) for the investigations and the [docket for the investigations](#).

USTR launched the investigations on the heels of implementing a new global import "surcharge" of 10% on nearly all U.S. imports under Section 122 of the Trade Act of 1974 ("Section 122"), which went into effect on February 24, 2026. President Trump has indicated that he intends to increase this global Section 122 tariff to 15%, but this increase has not been implemented.

The Section 122 tariff appears to be a placeholder for more tariffs to be imposed under a variety of trade laws, including Section 301. Until the Supreme Court held that IEEPA was not a basis for tariffs on February 20, 2026 (see our summary of the decision of the [Supreme Court in Learning Resources](#)), the U.S. Government had a global "reciprocal tariff" that affected nearly all imports from around the world since April 2025. President Trump revoked the IEEPA tariffs in the wake of that court decision, but then promptly issued his Section 122 tariff action. This Section 122 tariff action is limited to 150 days, unless extended by Congress and is currently set to expire on July 24, 2026.

The new Section 301 investigations are intended to apply either before or shortly after the Section 122 tariffs expire. The Section 301 investigations may result in the same or similar tariff rates as those that previously applied under IEEPA, i.e., under the global reciprocal tariffs, and the fentanyl-related tariffs. However, the scope and size of the Section 301 tariffs remain to be seen.

Many of the countries targeted by new Section 301 investigations either had reached or were in the process of negotiating trade deals with the United States that were premised on the reduction of the IEEPA tariff rates on their products. In the wake of the U.S. Supreme Court decision, there was some uncertainty whether these countries may seek to renegotiate. The Section 301 investigations could provide a pathway to reimposing the same or similar tariff rates under those negotiated deals. Incidentally, USTR announced new Section 301 investigations a day before USTR Jamieson Greer left for trade talks with China to be held in Paris.

USTR has made clear that, despite the *Learning Resources* decision, the United States will maintain tariffs on U.S. imports from global sources. However, the legal architecture that will replace the IEEPA tariffs remains unknown. The USTR investigations into 59 countries and the EU give a first look at what the new tariff regime will look like. There likely will be a combination of Section 301 plus other tariffs, such as under Section 232 and other U.S. trade laws.

Even before new investigations, the United States already imposed broad Section 301 tariffs on Chinese-origin imports under a previous investigation into China's trade policies and practices. Those Section 301 tariffs began in 2018 during President Trump's first term, which the Biden Administration continued and sharply increased with respect to certain products. The earlier Section 301 tariffs on Chinese-origin goods remains in effect, but some of the tariffs are subject to claims that may be heard by the U.S. Supreme Court if it grants a writ of certiorari.

Implications for Companies

Interested parties have a brief window to influence USTR's Section 301 investigations through public comments. Although USTR seems determined to impose new Section 301 tariffs based on recent statements from the Trump Administration, USTR will have to consider comments submitted during the investigation.

Section 301 tariffs must be terminated after four years unless an extension is requested. However, the existing tariffs on U.S. imports of Chinese goods show that, once adopted, they may remain in effect for many more years. For this reason, interested parties should evaluate the potential business impacts of the Section 301 Investigations and any proposed tariffs, and consider submitting comments as part of USTR's public consultation process.