CLIENT ALERTS & INSIGHTS

New 301 Tariffs Coming - Immediate Action Items for Supply Chains

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Featured Industries: Transportation & Logistics, International Trade & Supply Chain Management

Key Takeaways

- The USTR has launched new Section 301 investigations targeting excess foreign manufacturing capacity and forced labor in global supply chains, signaling the next phase of tariff actions following the U.S. Supreme Court's decision overturning IEEPA tariffs. Public comments on these investigations are due by April 15, 2026.
- These investigations could lead to new tariffs on a wide range of imported goods, increasing landed costs and compliance risks for U.S. businesses. These financial and operational impacts could be significant, especially for companies procuring goods made in the countries under investigation or that use inputs sourced from those countries.
- Supply chain stakeholders can offer real-world perspective or voice concerns by submitting comments to the USTR by the April 15 deadline. Staying engaged in the public process, monitoring regulatory developments, and ensuring compliance across the supply chain map will be critical for managing costs and compliance in 2026.

The White House is progressing on its two-step plan to impose tariffs following the U.S. Supreme Court's decision overturning IEEPA tariffs. First, new Section 122 surcharges were announced effective February 24. Our client alert on that first step for alternative tariffs is available HERE. Second, the U.S. Trade Representative has now initiated two Section 301 investigations focused on unfair trade practices arising from excess foreign manufacturing capacity and forced labor. This second step was widely anticipated and discussed in our client alert on the range of alternative duty programs available to the President as discussed HERE. Our immediate assessment of supply chain impacts from the finding that IEEPA tariffs were unlawful is available HERE.

This client alert explains the action items in response to these new Section 301 investigations and potential tariff programs that may result.

March 11 - Section 301 Investigation on Excess Capacity and Production in Manufacturing

On March 11, 2026, the USTR initiated a Section 301 investigation into structural excess capacity and production in manufacturing in China, the EU, Singapore, Switzerland, Norway, Indonesia, Malaysia, Cambodia, Thailand, Korea, Vietnam, Taiwan, Bangladesh, Mexico, Japan and India. The investigation characterizes structural excess capacity as underutilized U.S. industrial production capacity that is sustained through non-U.S. governmental interventions or policies that incentivize foreign companies to maintain (or grow) their unused capacity inefficiently. The USTR views overproduction in some countries as yielding local underconsumption and a trade surplus to the U.S. that displaces U.S. manufacturing production. The investigation seeks to determine whether these countries have developed production capacity that exceeds domestic and global demand, leading to large surpluses and unused as well as underutilized manufacturing capacity in the U.S. **The USTR is accepting public comments from stakeholders by April 15, 2026. Comments may be filed through the USTR Comments Portal under docket USTR-2026-0067.**

March 12 - Section 301 Investigation on Forced Labor

On March 12, 2026, the USTR opened Section 301 investigations into alleged forced labor activities in production within sixty countries including China, Canada, Australia, New Zealand, the U.K. and other countries across Asia, South Africa and South America. This investigation states that those countries have failed to manage forced labor risk in their supply chains which has led to artificially lower labor costs and the sale of lower-priced goods that harm the U.S. economy. The investigation references the U.S. regulatory prohibition against the import of goods produced with forced labor and its historic reliance on customs withhold release orders (known as “WROs”) that prohibit the entry of certain goods into U.S. commerce. The USTR notice made no reference to the Biden-era Uyghur Forced Labor Prevention Act (“UFLPA”) which presumed that goods produced in the Xinjiang Region of China were produced with forced labor and automatically prohibited their entry to the U.S. until forced labor was affirmatively disproven. The investigation signals a new and novel approach to forced labor risk because the notice asserts the existence of these issues but does not expressly prohibit import as required by current law and regulation. Instead, the USTR appears willing to impose tariffs instead. **The USTR is accepting public comments from stakeholders by April 15, 2026. Comments may be filed through the USTR Comments Portal under docket USTR-2026-0134.**

Immediate Strategic Responses for Supply Chains and 2026 Outlook

We know from experience that the top two challenges for supply chains in 2025 were: (1) the rising landed cost of goods, followed by (2) maintaining awareness of regulatory compliance changes. These developments will continue that trendline through 2026, although awareness is somewhat alleviated by an orderly public process.

The White House was perfectly clear that it intended to continue favoring tariffs as a means of effectuating industrial and international policy following the U.S. Supreme Court decision on IEEPA tariffs on February 20. Only four days after the decision, the President implemented the new universal 10% surcharge under Section 122. This could rise to 15% in the near term. Use of Section 122 is, however, time-bound since it may not continue beyond 150 days without Congressional approval. The USTR has stated that it intends to proceed with these Section 301 investigations on an expedited basis in the interest of full implementation of new tariff programs at, or close to, the

end of the 150-day statutory period offered by Section 122. The new Section 122 actions are now subject to litigation.

One key difference between the IEEPA tariffs and use of Section 301 is the formal process involved in implementation. Supply chain stakeholders may now offer comment on industry perspectives, potential impacts and awareness of activities within foreign nations, as well as the opportunity to participate in hearings on these two new investigations. This helps alleviate awareness concerns faced by supply chains in 2026 to a degree since established timelines and public processes exist. The challenge of higher landed costs of imported goods, and finished goods made from those inputs, may very well remain if the White House succeeds in finding alternative legal basis for its tariff programs.

Benesch attorneys are available to counsel through strategic options for managing duty impact and IEEPA tariff refunds, as well as customs compliance, enforcement defense and disputes with vendors or customers. Our client alerts on tariffs and related supply chain issues are available for you to receive by signing up HERE.

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