WHITE & CASE

US & Multilateral Trade and Policy Developments

Japan External Trade Organization

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Contents

Trade Policy Developments

US Federal Communications Commission Prohibits New Foreign Made Power Inverters and Mobile Robots

On July 28, 2026, the US Federal Communications Commission (FCC) added foreign made connected power inverters and advanced robotic devices (certain mobile robots) to the FCC Covered List,[1] prohibiting new device models from qualifying for FCC equipment authorizations.[2] Devices covered by these listings will be effectively prohibited from importation, marketing, or sale in the United States, unless the manufacturer obtains a waiver. These particular listings are forward-looking and do not prohibit existing device models previously authorized by the FCC. That said, the FCC has been expanding and refining the authorities under the Covered List while it has been deploying these new product-level listing actions, and new potential restrictions affecting components, replacement parts, software updates, and previously licensed device models may emerge.

The FCC Covered List

Most radio-frequency emitting devices must be approved by the FCC before they can be imported, marketed, and sold in the United States. To address security concerns with certain telecommunications suppliers, Congress established the Covered List through Section 2 of the Secure Networks Act of 2019,[3] requiring the FCC's Public Safety and Homeland Security Bureau to maintain a list of communications equipment and services[4] that pose an unacceptable risk to the national security of the United States or the security and safety of United States persons. In effect, a listing excludes the covered products from the US market.

Communications equipment and services on the Covered List are prohibited from receiving FCC radiofrequency authorizations, and specific entities on the Covered List are also prohibited from accessing Universal Service funding for listed equipment or services. Other providers of telecommunications services must also report to the FCC any purchase, rental, or lease of any covered communications equipment or service. Since the law's introduction, the FCC has expanded the application of the Covered List designations through other regulatory actions. Listed entities are now also prohibited from operating as test labs and from participating in the new US Cyber Trust Mark labeling program, while listed equipment and services are prohibited from use in submarine cables.

The FCC does not make the listing decisions itself. Instead, the FCC acts based on national security determinations made by any "Executive Branch interagency body with appropriate national security expertise," the Department of Commerce under the Information and Communications Technology and Services (ICTS) Rule, an act of Congress, or "an appropriate national security agency."[5]

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[1] The full FCC Covered List and related materials, the "List of Equipment and Services Covered By Section 2 of The Secure Networks Act," is accessible here: https://www.fcc.gov/supplychain/coveredlist.

[2] FCC's Public Safety and Homeland Security Bureau Announces Addition of Foreign Produced Power Inverters and Advanced Robotic Devices to FCC Covered List, July 28, 2026, accessible here: https://docs.fcc.gov/public/attachments/DA-26-786A1.pdf.

[3] Section 2 of the Secure Networks Act at 47 U.S.C. §§ 1601-1609, accessible here: https://www.govinfo.gov/app/details/USCODE-2024-title47/USCODE-2024-title47-chap15; and in the FCC regulations at 47 C.F.R. § 1.50000-1.50006, accessible here: https://www.ecfr.gov/current/title-47/chapter-I/subchapter-A/part-1/subpart-DD.

[4] "Communications equipment or service" means any equipment or service used in fixed and mobile networks that provides advanced communication service, provided the equipment or service includes or uses electronic components. "Advanced communications service" means high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology with connection speeds of at least 200 kbps in either direction.

[5] The Department of Homeland Security, the Department of Defense, the Office of the Director of National Intelligence, the National Security Agency, and the Federal Bureau of Investigation.

The national security determinations for power inverters and advanced robotic devices

For the advanced robotic devices and power inverters Covered List actions, the FCC acted in response to national security determinations from "an Executive Branch interagency body with appropriate national security expertise."[6] The body relayed the two determinations to the FCC on July 27, 2026, finding that:

- **Power inverters** produced in a foreign country (regardless of the nationality of the producer) pose the following unacceptable risks to the United States: (i) "facilitating a supply chain vulnerability that could disrupt U.S. economic security, including sectors critical to national security"; and (ii) "creat[ing] a cybersecurity risk that threatens the security of critical infrastructure and the safety of U.S. persons."
- **Advanced robotic devices** produced in foreign countries (regardless of the nationality of the producer) presented the following unacceptable risks: (i) "posing a supply chain vulnerability that could disrupt U.S. economic and national security"; and (ii) "creating a cybersecurity risk that threatens the security of critical infrastructure and thus the safety and security of U.S. persons."

Products covered by the two listings

The FCC Covered List actions apply to:

- Foreign-produced power inverters, except power inverters which have been granted a Conditional Approval by the Department of Defense or Department of Homeland Security.
- Foreign-produced advanced robotic devices, except advanced robotic devices which have been granted a Conditional Approval by the Department of Defense.

The FCC's listings adopt the definitions of "foreign-produced," "power inverters," and "advanced robotic devices" from the national security determinations.

Because the listings are based on product and place of production, entities that produce covered devices in foreign countries are not "identified on the Covered List" and will not be subject to any entity-specific restrictions.

Definition of covered "power inverters"

> *For the purpose of [the power inverters] determination, the term "power inverter" shall mean a device that is:*
>
> *(a) A bi-directional power device or system that converts direct current electricity to alternating current electricity, or converts alternating current electricity to direct current electricity, to include microinverters, string inverters, central inverters, and hybrid (battery-based) inverters; and*
>
> *(b) Contains components that enable remote communication, control, sensing, data collection, or monitoring through Wi-Fi, cellular, Bluetooth, or other similar connections.*

Definition of covered "advanced robotic devices"

> *For the purpose of [the advanced robotics devices] determination, the term "advanced robotic devices" means:*
>
> *(a) A mechanical mobile device, including autonomous mobile robots, humanoid robots, and quadrupeds, that –*
>
> *i. Is capable of locomotion, obstacle avoidance, navigation, or movement on the ground;*

[6] "National Security Determination on the Threat Posed by Foreign-Produced Power Inverters," July 27, 2026, accessible here: https://www.fcc.gov/sites/default/files/power-inverter-fcc-determination.pdf; and "National Security Determination on the Threat Posed by Foreign-Produced Advanced Robotic Devices," July 27, 2026, accessible here: https://www.fcc.gov/sites/default/files/robots-nsd.pdf.

ii. *Operates at a distance from a human operator or supervisor based on commands or in response to sensor data or any combination thereof; and*

iii. *The combined weight of the device and, if applicable, ground station or docking station is over 4.4 lbs; and*

iv. *Contains a component falling within each of the below subparagraphs:*

   i. *a sensor capable of perceiving its environment;*

   ii. *a component that is capable of providing network connectivity (wired or wireless, including Bluetooth/WiFi, cellular, or satellite) with connection speeds of at least 200 kbps in either direction; and*

   iii. *software running either locally or remotely, including firmware and AI or machine-learning model weights, that controls the robot's autonomous navigation or movement perception, data collection, or remote command-and-control; and*

(b) *Does not include:*

i. *A "connected vehicle," as that term is defined in 15 CFR § 791.301, but including a connected vehicle of any gross weight;*

ii. *A vehicle operated only on a rail line;*

iii. *An "uncrewed aircraft" or "uncrewed aircraft system," as defined in 47 CFR § 788.5;*

iv. *An unmanned underwater vehicle that is able to operate without a human occupant;*

v. *Items that are classified as devices under section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. §360c), including surgical instruments, medical and surgical robotic systems, external limb prostheses and their components, and ambulatory and mobility assistive devices (such as canes, crutches, walkers, and wheelchairs), whether or not powered, and whether the item was cleared under section 510(k), approved under section 515, classified under section 513(f)(2), or exempt from premarket notification; and*

vi. *A fixed, stationary, non-mobile robot, including articulating, parallel/delta, Cartesian/gantry, or Selective Compliance Assembly, or Articulated, Robot Arm (SCARA) robots intended for industrial or medical use.*

Scope of the listings based on "foreign-produced" status

A central concept governing the scope of the two listings is the term "foreign-produced," which means the listings apply to covered products produced outside the United States by any company, including US companies. Conversely, products produced in the United States – even by foreign companies – are not restricted.

To define "foreign-produced," the two national security determinations rely on the Buy American statute (48 C.F.R. § 25.101(a)), under which a "foreign-produced" product is one "that does not qualify as a 'domestic end product.'" The Buy American statute restricts government purchases of supplies that are not US end-products, subject to various exceptions. To meet the definition of "domestic end product" referenced in the FCC Covered List actions, a product must:

- Be manufactured in the United States; and

- Except for an end product that consists wholly or predominantly of iron or steel or a combination of both, the cost of domestic components must exceed 65% of the cost of all the components in the product for items delivered in calendar years 2024 through 2028 and then exceed 75% of the cost of all the components for items delivered starting in calendar year 2029; or
- For an end product that consists wholly or predominantly of iron or steel or a combination of both, the cost of foreign iron and steel must constitute less than 5% of the cost of all the components used in the end product.

Applicants seeking new equipment authorizations will need to certify that the device is not "foreign-produced."

The restrictions are waived for basic software and firmware updates

The FCC is allowing foreign-produced advanced robotic devices and power inverters to continue receiving basic software and firmware updates. In a separate waiver issued on July 28, 2026, the FCC lifted prohibitions on certain Class I and Class II Permissive Changes by waiving the applicability of 47 C.F.R. §§ 2.932(b) and 2.1043(b).[7] These provisions, adopted in December 2025, would ordinarily exclude Covered List equipment from the certification procedures used for permissive changes to authorized equipment, which would include routine updates for models of advanced robotic devices and power inverters authorized before July 28, 2026.

As a result of the waiver, advanced robotic devices and power inverters authorized for use in the United States may continue to receive software and firmware updates necessary to ensure the continued functionality of the devices, such as those that patch vulnerabilities and facilitate compatibility with different operating systems, at least until January 1, 2029.

Opportunity for conditional exceptions and accompanying domestic content requirements

The FCC has established a process under which producers of power inverters and advanced robotic devices subject to the Covered List actions may apply for Conditional Approvals exempting them from the restrictions imposed by the listings.[8] Under this process, which operates in the same manner for both categories of products, the Department of Defense or the Department of Homeland Security will "assess national security risks, supply chain resilience, and the applicant's commitment to establishing trusted manufacturing capacity in the United States" to determine whether the power inverter producer poses "unacceptable risks."

Any entity involved in producing a covered device can apply for Conditional Approval. The application includes information on:

- **Corporate structure:** Jurisdiction of incorporation and principal place of business, ownership structure, beneficial ownership, board members and their nationalities, and any arrangements that allow foreign persons or governments to influence operations.
- **Manufacturing supply chain:** A bill of materials, country of origin for all components and the design, entities responsible for the intellectual property and software, justification for why the product is not already manufactured in the United States, locations of manufacturing and testing, country of origin for software and firmware, assessment of supply chain concentration, identification of points of failure in the supply chain.
- **A manufacturing onshoring plan:** A detailed, timebound plan to establish or expand manufacturing in the United States of the product for which the manufacturer is seeking Conditional Approval, including points of

[7] "Office of Engineering and Technology Announces Waiver of Prohibitions on Certain Class I And Class II Permissive Changes to Covered Foreign-Produced Advanced Robotic Devices and Covered Foreign-Produced Power Inverters," July 28, 2026, accessible here: https://docs.fcc.gov/public/attachments/DA-26-789A1.pdf.

[8] "Guidance on Submissions for Conditional Approval for Foreign-Produced Power Inverters Subject to the FCC's Covered List," July 27, 2026, accessible here: https://www.fcc.gov/sites/default/files/annex-a-guidance-conditional-approval-inverters.pdf; and "Guidance on Submissions for Conditional Approval for Foreign-Produced Advanced Robotic Devices Subject to the FCC's Covered List," July 27, 2026, accessible here: https://www.fcc.gov/sites/default/files/robots-ca.pdf.

contact who will provide quarterly updates on the status of the onshoring plan, descriptions of existing US manufacturing operations, committed and planned capital expenditures over the next 1-5 years, and – if applying for an extension of a Conditional Approval or a Conditional Approval for another device – an inventory of progress made so far on the onshoring plan.

The government may request additional information during review, and filing an application does not guarantee approval.

Implied targeting of China-linked entities

The listings are global in scope, but they are widely understood to be targeting China-linked companies. The FCC will likely use the Conditional Exception system to review corporate structures for exposure to Chinese government influence, eventually negotiating exceptions to exclude many non-Chinese companies from the prohibitions. Similar processes have unfolded over the past few months for the unmanned aircraft systems and internet routers listings.

The government of China responded to the new listings in a July 30 spokesperson statement, asserting that the actions target Chinese companies despite the FCC's claims that the actions are non-discriminatory, and suggesting that the Chinese government is considering retaliatory measures.[9]

Potential extension of prohibitions to previously authorized devices

The FCC has historically not revoked equipment authorizations issued prior to a Covered List designation. However, on October 28, 2025, the FCC issued a final rule establishing a new procedure under which the FCC may limit previously granted authorizations for covered equipment, specifically by prohibiting the continued importation and marketing of such equipment, while still not prohibiting the continued use of devices already sold and in service.[10]

To impose limitations on existing authorizations under this new framework, the FCC would issue a separate public notice specifying the applicable limits and identifying the affected products. The FCC has not triggered this retroactive procedure for the power inverter or advanced robotic device listings. In its announcement, the FCC specifically clarifies that "being added to the Covered List today does not prohibit the import, sale, or use of any existing device models the FCC previously authorized" and that "the Covered List does not restrict the continued use by consumers of previously-purchased devices."

The FCC could revisit this position. Recent actions indicate an increased willingness to impose retroactive importation and marketing prohibitions on already authorized covered equipment. On June 26, 2026, the FCC barred the importation and marketing prohibition of certain covered equipment that had been added to the Covered List in 2024 or earlier, despite having existing authorizations.[11] On July 30 and 31, 2026, the FCC also published two requests for public comments on proposal to prohibit the continued importation and marketing of certain previously authorized foreign-produced unmanned aircraft systems and critical components that were added to the Covered List in December 2025.[12]

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[9] "A spokesperson for the Ministry of Commerce answered reporters' questions about the Federal Communications Commission including foreign power inverters and advanced robotic equipment on the 'Coverage List,'" MOFCOM, July 30, 2026, accessible here (in Chinese): https://www.mofcom.gov.cn/xwfb/xwfyrth/art/2026/art_7924bbaa15e9448e952f9e4aa3969940.html.

[10] "Protecting Against National Security Threats to the Communications Supply Chain Through the Equipment Authorization Program," 90 FR 53227 (November 25, 2025), accessible here: https://www.federalregister.gov/documents/2025/11/25/2025-21001/protecting-against-national-security-threats-to-the-communications-supply-chain-through-the.

[11] "Public Safety and Homeland Security Bureau and Office of Engineering and Technology Prohibit the Importation and Marketing of Previously Authorized Covered Communications Equipment Added to the Covered List in 2024 or Earlier, June 26, 2026," accessible here: https://docs.fcc.gov/public/attachments/DA-26-635A1.pdf.

[12] "Seeking Comment on Prohibiting the Importation and Marketing of Certain Covered UAS and UAS Critical Components and Equipment Listed in Section 1709 of FY2025 NDAA," 91 FR 48108 (July 30, 2026), accessible here: https://www.federalregister.gov/documents/2026/07/30/2026-15418/seeking-comment-on-prohibiting-the-importation-and-marketing-of-certain-covered-uas-and-uas-critical; "Prohibiting the Importation and Marketing of Certain Foreign-Produced Military-Grade Uncrewed Aircraft Systems (UAS) and UAS Critical Components for Non-U.S. Government, Including Those with Swarming Capabilities," 91 FR 48870 (August 3, 2026), accessible here:

Recent and proposed revisions and expansions of the Covered List process

The FCC Covered List framework has continued to evolve over the past year, with the agency establishing new authorities, new rules that implicate Covered List determinations, and new administrative procedures. Earlier in July 2026, the FCC adopted several significant new final rules and proposed rules to modify the Covered List:

1. Expanding Covered List designations to capture devices that incorporate a Covered List entity's "logic-bearing hardware components";
2. Requiring e-commerce platforms to display FCC IDs when marketing and selling devices; and
3. Proposing a new rule for public comment with significant changes to the equipment authorization and Covered List processes, including separating the Covered List into entries based on producers/providers and entries based on production locations, expanding supply chain disclosures, modifying rules for software and hardware updates, and expanding oversight of the Supplier's Declaration of Conformity process, among other changes.[13]

The growing trend of FCC Covered List actions targeting entire sectors

Initial Covered List actions focused on specific companies and their identified products. The first designations in March 2021 covered video surveillance and/or telecommunications equipment produced by Huawei, ZTE, Hytera, and Hikvision. Most recently, on July 23, 2024, the FCC added "cybersecurity and anti-virus software produced or provided by Kaspersky Lab, Inc. or any of its successors and assignees, including equipment with integrated Kaspersky Lab, Inc. (or any of its successors and assignees) cybersecurity or anti-virus software." As late as October 2025, the FCC emphasized that Covered List equipment and services "are closely tied to the foreign adversaries, like China[.]"[14]

Since late 2025, the FCC's approach has shifted toward broader, sector-based listings. On December 22, 2025, the FCC added (i) all "uncrewed aircraft systems (UAS) and UAS critical components produced in a foreign country" and (ii) products from the Chinese UAS manufacturers DJI and Autel Robotics to the Covered List.[15] The UAS listing marked the first time the FCC designated an entire sector based on place of production rather than only naming specific companies. The FCC followed with a March 23, 2026 listing covering consumer-grade internet routers produced in foreign countries.[16] Consistent with the router and UAS actions, the recent advanced robotic device and power inverter listings include temporary waivers that are partially conditioned on meeting domestic production requirements.

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https://www.federalregister.gov/documents/2026/08/03/2026-15659/seeking-comment-on-prohibiting-the-importation-and-marketing-of-certain-foreign-produced.

[13] "FCC Adopts Rules to Strengthen Rules Governing Dangerous Gear," July 22, 2026, accessible here: https://docs.fcc.gov/public/attachments/DOC-423291A1.pdf; and "Third Report and Order and Third Further Notice of Proposed Rulemaking," July 23, 2026, accessible here: https://docs.fcc.gov/public/attachments/FCC-26-50A1.pdf.

[14] "Reminder: Communications Equipment and Services on the Covered List Pose an Unacceptable Risk to National Security," FCC, October 14, 2025, accessible here: https://docs.fcc.gov/public/attachments/DA-25-927A1.pdf.

[15] Public Notice: "Public Safety and Homeland Security Bureau Announces Addition of Uncrewed Aircraft Systems (UAS) and UAS Critical Components Produced Abroad, and Equipment and Services Listed in Section 1709 of the FY2025 NDAA, to FCC Covered List," FCC, December 22, 2025, accessible here: https://docs.fcc.gov/public/attachments/DA-25-1086A1.pdf; and "FCC Updates Covered List to Add Certain UAS and UAS Components," FCC, December 22, 2025, accessible here: https://www.fcc.gov/document/fcc-updates-covered-list-add-certain-uas-and-uas-components-0.

[16] Public Notice: "FCC's Public Safety and Homeland Security Bureau Announces Addition of Routers Produced in Foreign Countries to FCC Covered List," FCC, March 23, 2026, accessible here: https://docs.fcc.gov/public/attachments/DA-26-278A1.pdf; and "FCC Updates Covered List to Include Foreign-Made Consumer Routers," FCC, March 23, 2026, accessible here: https://www.fcc.gov/document/fcc-updates-covered-list-include-foreign-made-consumer-routers.

US Government Issues Updated Regulatory Agenda

In recent weeks, the US government has issued updates to its regulatory agenda, summarizing new and updated rulemaking plans, including developments affecting trade and economic security policy.[17]

- The US Department of Commerce (Commerce) disclosed several notable regulatory proceedings affecting imports and exports in its latest update to the regulatory agenda and new priorities statement.[18]
- US Customs and Border Protection's (CBP) latest priorities statement highlights that it intends to work on projects to "streamline CBP processing, reduce duplicative processes, reduce burdens on the public, and automate paper forms" over the next year. That includes continued development of rules for electronic export manifests for rail cargo (the finalization of which may be imminent) and automating customs bond processing.[19]

In June 2026, CBP also issued two related interim final rules and requests for comment on the suspension of customs *de minimis* entry: one to indefinitely suspend use of *de minimis* for all entries other than postal entries[20] and one to create a new informal entry process for postal entries.[21] These were not included in the regulatory agenda.

The US government's Unified Agenda of Regulatory and Deregulatory Actions is a government-wide listing of all rulemaking actions that agencies may be planning over the next 12 months. Rulemaking proceedings are classified as "active" if the agency is actively developing and issuing the rules, "completed" if the planned rule has been completed or withdrawn since the last update, or "long-term" if the item is on the agenda but with no plan for action within the next 12 months. The actions described on the agenda are not final and the scheduled publication dates are subject to change, but it can provide useful information on executive branch plans.

New inclusions processes for steel, aluminum, and copper Section 232s

The agenda update references plans to develop new Section 232 tariff inclusions systems for steel and aluminum derivative products and copper articles.

- The steel and aluminum inclusions process listing was updated to state that Commerce is developing a new interim final rule, but that the plan is a long-term action.[22]
- A new listing has been created describing a planned inclusions process for copper articles, which is also classified as a long-term action.[23] Contradicting the long-term action designation, Commerce's priorities statement highlights the copper tariffs inclusions process as a priority for the 2026 fiscal year.

[17] 2026 Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions, accessible here: https://www.reginfo.gov/public/do/eAgendaMain.

[18] Department of Commerce Statement of Regulatory and Deregulatory Priorities, accessible here: https://www.reginfo.gov/public/jsp/eAgenda/StaticContent/202510/Statement_0600_DOC.pdf.

[19] Department of Homeland Security, 2026 Statement of Regulatory Priorities, accessible here: https://www.reginfo.gov/public/jsp/eAgenda/StaticContent/202510/Statement_1600_DHS.pdf.

[20] "Indefinite Suspension of the De Minimis Exemption for Merchandise Arriving Through All Modes Other Than the International Postal Network," 91 FR 37789 (June 24, 2026), accessible here: https://www.federalregister.gov/documents/2026/06/24/2026-12670/indefinite-suspension-of-the-de-minimis-exemption-for-merchandise-arriving-through-all-modes-other.

[21] "Indefinite Suspension of the *De Minimis* Exemption for Mail Shipments and New Postal Informal Entry Process," 91 FR 37801 (June 24, 2026), accessible here: https://www.federalregister.gov/documents/2026/06/24/2026-12669/indefinite-suspension-of-the-de-minimis-exemption-for-mail-shipments-and-new-postal-informal-entry.

[22] Adoption and Procedures of the Section 232 Steel and Aluminum Tariff Inclusions Process, RIN: 0694-AK13, accessible here: https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202510&RIN=0694-AK13.

[23] Copper Tariffs Inclusions Process, RIN: 0694-AK36, accessible here: https://www.reginfo.gov/public/Forward?SearchTarget=Agenda&textfield=0694-AK36.

The original steel and aluminum inclusions process used in 2025 was conducted under an interim final rule issued on April 30, 2025.[24] That system was unofficially paused after its first round in August 2025 and President Trump's April 2, 2026 proclamation restructuring the three metals-related Section 232 tariff actions directed Commerce to retire the original inclusions process and create a new system.[25] Among the various changes made to the tariffs, President Trump rescinded the original inclusions processes. In its place, he stated that Commerce and the Office of the United States Trade Representative (USTR) may still add new steel, aluminum, and copper products to the scope of the tariffs through an alternative, internal process. The proclamation states that Commerce and USTR "may solicit information, feedback, recommendations, or other relevant materials" from interested stakeholders in making decisions to add products, but it does not prescribe a specific administrative process.

A new regulatory agenda listing for the automobile parts Section 232 inclusions process was also posted, which states that Commerce plans to issue the final regulation in July 2026. The automotive inclusions process is currently based on an interim final rule (IFR) issued in September 2025, but the status of the system is uncertain.[26] Commerce has held three applications rounds for automotive parts inclusions under the IFR, but it has not yet issued decisions on any of the applications.

Proposed changes to trade remedies regulations

In June 2025, Commerce published an advance notice of proposed rulemaking proposing several modifications to antidumping and countervailing duty regulations and requesting public comment.[27] The original proposal includes three possible revisions to the regulations, (i) codifying and potentially revising the policy of assessing entries of subject merchandise exported by unaffiliated resellers at the all-others rate determined in a less-than-fair-value investigation, rather than at the rate calculated for an examined producer of that merchandise in an administrative review; (ii) codifying and possibly revising the analysis Commerce conducts to determine whether it is appropriate to apply an average-to-transaction (A-to-T) comparison methodology in less-than-fair-value investigations; and (iii) modifying or removing a rule that provides for the conduct of an expedited administrative review following the conclusion of a countervailing duty investigation.

The new regulatory review listing states that Commerce plans to issue a full proposed rule and call for public comments in July 2026, but it provides no further detail.[28]

Export controls and artificial intelligence

Various agenda items related to updating and revising advanced semiconductor and semiconductor manufacturing equipment export controls remain on the agenda.[29] These listings note plans to issue updates in October 2026, but

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[24] "Adoption and Procedures of the Section 232 Steel and Aluminum Tariff Inclusions Process," 90 FR 18780 (May 2, 2025), accessible here: https://www.federalregister.gov/documents/2025/05/02/2025-07676/adoption-and-procedures-of-the-section-232-steel-and-aluminum-tariff-inclusions-process; and the new regulations at Supplement No. 1 to Part 705, Title 15, accessible here: https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-A/part-705/appendix-Supplement%20No.%201%20to%20Part%20705.

[25] Proclamation 11021 of April 2, 2026: "Strengthening Actions Taken To Adjust Imports of Aluminum, Steel, and Copper Into the United States," 91 FR 18201 (April 9, 2026), accessible here: https://www.federalregister.gov/documents/2026/04/09/2026-06960/strengthening-actions-taken-to-adjust-imports-of-aluminum-steel-and-copper-into-the-united-states.

[26] Adoption and Procedures of the Section 232 Automobile Parts Tariff Inclusions Process, RIN 0625-AB30, accessible here: https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202510&RIN=0625-AB30.

[27] "Determining and Applying Unaffiliated Reseller Assessment Rates; Modification or Removal of Countervailing Duty Expedited Reviews," 90 FR 23649 (June 4, 2025), accessible here: https://www.federalregister.gov/documents/2025/06/04/2025-10158/determining-and-applying-unaffiliated-reseller-assessment-rates-modification-or-removal-of.

[28] Determining and Applying Unaffiliated Reseller Assessment Rates; Modification or Removal of Countervailing Duty Expedited Reviews, RIN: 0625-AB27, accessible here: https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202510&RIN=0625-AB27.

[29] See, for example, Implementation of Additional Export Controls: Certain Advanced Computing Items and Semiconductor Manufacturing Items; Supercomputer and Semiconductor End Use; Updates to the Controls and Corrections, RIN: 0694-AI94, accessible here: https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202510&RIN=0694-AI94; Export Controls on Semiconductor Manufacturing Items; Entity List Modifications, RIN: 0694-AJ23, accessible here: https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202510&RIN=0694-AJ23; and Foreign-Produced Direct Product Rule Additions, and Refinements to Controls for Advanced Computing and Semiconductor Manufacturing Items, RIN: 0694-AJ74, accessible here: https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202510&RIN=0694-AJ74.

no other details have been issued. The related regulatory agenda listing for the Affiliates Rule, the expansion of end-user controls to affiliates of listed entities that was suspended for one year under President Trump's one-year de-escalation agreement with China, is scheduled to enter back into effect on November 9, 2026, "absent a future extension."[30]

Another significant AI-related export control under development is the Trump administration's formal revocation and replacement of the Biden administration's AI Diffusion Rule. The Trump administration informally suspended the Biden administration's worldwide export controls on advanced AI in May 2025,[31] but has not yet issued a clear legal revocation of the regulations or a replacement. The lack of clear legal guidance has led to confusion in the industry, in response to which BIS issued a few clarifications in late May and June 2026.[32]

The updated regulatory agenda listing for the formal rescission of the AI Diffusion Rule and replacement rule now states that the Bureau of Industry and Security (BIS) will issue the action in July 2026.[33] According to Commerce's new priorities statement, the new regulation will be an interim final rule that will both "formally rescind the 'Framework for Artificial Intelligence Diffusion' rule issued by the Biden Administration in January 2025 — which BIS has already stopped enforcing" and "establish a new, streamlined framework to enable the secure spread of U.S. technology around the globe consistent with U.S. national security and foreign policy objectives." However, the regulatory agenda update and priorities statement disagree on two points: (i) the priorities statement notes only that the action is among BIS's priorities for the 2026 fiscal year, rather than specifying a July 2026 target; and (ii) the regulatory agenda describes the forthcoming action as a final rule, while the priorities statement describes it as an interim final rule.

[30] One Year Suspension of Expansion of End-User Controls for Affiliates of Certain Listed Entities, RIN: 0694-AK34, accessible here: https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202510&RIN=0694-AK34.

[31] Department of Commerce Announces Rescission of Biden-Era Artificial Intelligence Diffusion Rule, Strengthens Chip-Related Export Controls, BIS, May 13, 2025, accessible here: https://www.bis.gov/press-release/department-commerce-announces-rescission-biden-era-artificial-intelligence-diffusion-rule-strengthens.

[32] Guidance Regarding Enforcement of License Requirements for Advanced Computing Items for Entities Headquartered in Country Group D:5 and Macau [May 31, 2026], BIS, accessible here: https://www.bis.gov/media/documents/bis-guidance-may-31-2026.pdf; and Frequently Asked Questions about Guidance Regarding Enforcement of License Requirements for Advanced Computing Items for Entities Headquartered in Country Group D:5 and Macau [Updated June 17, 2026], BIS, accessible here: https://www.bis.gov/media/documents/May-31-FAQ.pdf.

[33] AI Action Plan Implementation, RIN: 0694-AJ90, accessible here: https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202510&RIN=0694-AJ90.

Trade Actions

Section 301

USTR Initiates Section 301 Investigation of German Pharmaceutical Pricing Practices, Implies Similar Actions Targeting Other Countries may be Imminent

On June 18, 2026, the United States Trade Representative (USTR) initiated an investigation under Section 301 of the Trade Act of 1974[34] to determine "whether persistent underpayment for innovative pharmaceutical products by Germany is unreasonable or discriminatory and burdens or restricts U.S. commerce."[35] An affirmative determination would allow President Trump to impose tariffs and other trade restrictions on imports from Germany, or to enter into negotiations with Germany.

The action is the latest development in President Trump's long-running effort to use the threat of tariffs to pressure other countries into raising prices paid for pharmaceuticals, which he calls the "most-favored-nation" price policy. In a July 14, 2026 interview, Ambassador Jamieson Greer confirmed that USTR is threatening to impose tariffs on other countries if they do not agree to raise prices paid for pharmaceuticals, mentioning France as another country with which USTR has already engaged in discussions. USTR has also previously mentioned objections to pharmaceutical pricing practices of other major economies, including Japan, as well as other EU Member States, Australia, Canada, India, and South Korea.

President Trump's MFN pharmaceutical pricing policy and tariff risks

The initiation notice for the Germany investigation links the Section 301 investigation to President Trump's MFN pricing policy, which was established in the May 12, 2025 Executive Order (EO) on "Delivering Most-Favored-Nation Prescription Drug Pricing to American Patients."[36] The EO describes a combination of measures the United States would use to (i) pressure foreign governments to increase the prices paid for pharmaceutical products in their own markets, and (ii) pressure pharmaceutical suppliers to reduce prices in the United States. The policy is based on a controversial premise that the United States bears a disproportionate share of global pharmaceutical research and development costs, and that the EO's programs would reallocate some of the cost of financing new pharmaceutical innovation to other countries. Following the EO, USTR held a call for input on the MFN pricing policy.[37] The call for input received 58 submissions, including from major pharmaceutical companies and industry associations, but USTR took no other immediate action.

The 2026 National Trade Estimate Report (NTE) provided more information on the countries USTR may be considering for potential trade action, adding new allegations in several country sections that government healthcare

[34] 19 U.S.C. §§ 2411–2420, accessible here: https://www.govinfo.gov/app/details/USCODE-2024-title19/USCODE-2024-title19-chap12-subchapIII; and 15 C.F.R. Part 2006, accessible here: https://www.ecfr.gov/current/title-15/subtitle-C/chapter-XX/part-2006.

[35] "Initiation of Section 301 Investigation; Hearing; and Request for Public Comments: Germany's Persistent Underpayment for Innovative Pharmaceutical Products," 91 FR 38072 (June 24, 2026), accessible here: https://www.federalregister.gov/documents/2026/06/24/2026-12671/initiation-of-section-301-investigation-hearing-and-request-for-public-comments-germanys-persistent; and USTR's press release, "USTR Announces Initiation of Section 301 Investigation of Germany's Persistent Underpayment for Innovative Pharmaceutical Products," June 18, 2026, accessible here: https://ustr.gov/about/policy-offices/press-office/press-releases/2026/june/ustr-announces-initiation-section-301-investigation-germanys-persistent-underpayment-innovative.

[36] Executive Order 14297 of May 12, 2025: "Delivering Most-Favored-Nation Prescription Drug Pricing to American Patients," 90 FR 20749, accessible here: https://www.federalregister.gov/documents/2025/05/15/2025-08876/delivering-most-favored-nation-prescription-drug-pricing-to-american-patients; and Fact Sheet: "President Donald J. Trump Bolsters National Security and Strengthens U.S. Supply Chains by Imposing Tariffs on Patented Pharmaceutical Products," White House, April 2, 2026, accessible here: https://www.whitehouse.gov/fact-sheets/2026/04/fact-sheet-president-donald-j-trump-bolsters-national-security-and-strengthens-u-s-supply-chains-by-imposing-tariffs-on-patented-pharmaceutical-products/.

[37] "Request for Comments Regarding Foreign Nations Freeloading on American-Financed Innovation," 90 FR 23105 (May 30, 2025), accessible here: https://www.federalregister.gov/documents/2025/05/30/2025-09757/request-for-comments-regarding-foreign-nations-freeloading-on-american-financed-innovation. The public comment docket is accessible here: https://comments.ustr.gov/s/docket?docketNumber=USTR-2025-0011.

services in certain economies underpay for pharmaceuticals.[38] In the NTE, USTR claims that these pricing practices undervalue American innovation. USTR included related language in the sections on Australia, Canada, various EU member states (including Germany, as well as Austria, Belgium, Czech Republic, France, Greece, Hungary, Ireland, Italy, Poland, Romania, Slovakia, Spain, and Sweden), India, Japan, South Korea, and the United Kingdom. While earlier NTEs also raised concerns about pharmaceutical acquisition practices, they focused primarily on fair and transparent purchasing processes and timely reimbursement rather than on the absolute price levels paid for medicines.

Overview of the Germany investigation

The initiation notice states that "Germany implements unfair pricing policies and practices with regard to innovative pharmaceutical products," which leads to "reduced investment for R&D that supports the development of innovative pharmaceuticals." Rather than claiming that the alleged unreasonable acts, policies, and practices burden or restrict US commerce by directly harming US pharmaceutical companies, USTR contends that US commerce is burdened or restricted because Germany's underpayments are "forcing American patients to underwrite a disproportionate amount of global pharmaceutical R&D[.]"

USTR references two specific policy actions of the German government:

- "Germany conditions the confidentiality of manufacturers' pharmaceutical pricing on certain criteria, including acceptance of a 9 percent price discount and payment of additional administrative costs."
- "In 2026, Germany's Ministry of Health introduced draft legislation designed to reduce pharmaceutical spending," which would impose an additional mandatory rebate for patented medicines starting in 2027, proposed at a fixed rate of 3.5% for the first half of 2027 and then converting to a variable rate based on the difference between actual and target expenditures of the health insurance funds for all medicines, divided by sales of innovative medicines. The press release quotes Ambassador Greer stating that he is "particularly concerned with news that Germany is fast-tracking legislation that would further reduce its spending on innovative pharmaceuticals," suggesting the legislative proposal may have motivated USTR to make Germany the first target of the threatened Section 301 investigations.

In the accompanying press release, USTR highlights general concerns with "supplemental discounts in exchange for confidentiality of negotiated prices; and mandatory variable rate rebates" as "tools for payment disparities for innovative pharmaceuticals." The German parliament approved some of the proposed pricing changes as part of a larger package of healthcare law reforms on July 10, 2026, but replaced the variable rate proposal (which had attracted opposition from pharmaceutical companies, as well as USTR) with an increase to the current fixed rebate system.

Timeline and public engagement for the Germany investigation

The Section 301 initiation notice provides a timeline for the initial steps of the investigations:

- **June 18, 2026:** Initiation of investigation.
- **June 25, 2026:** Public docket opens for submission of written comments and requests to appear at the hearings.
- **August 10, 2026 (11:59 p.m. EDT):** Deadline for written comments and requests to appear at the hearings.
- **September 22, 2026:** Public hearings held in Washington, DC.

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[38] "2026 National Trade Estimate Report on Foreign Trade Barriers of the President of the United States on the Trade Agreements Program," USTR, March 31, 2026, accessible here: https://ustr.gov/sites/default/files/files/Press/Releases/2026/National%20Trade%20Estimate%20Report%202026.pdf.

- **Seven calendar days after the last day of the public hearing:** Due date for submission of post-hearing rebuttal comments.
- **Dates to be determined:** Issuance of the investigation determinations and proposals for remedial action, which typically includes additional opportunities for public feedback.

As part of the investigations, USTR is soliciting public comments and will hold public hearings. The dockets for receiving comments and requests to appear at the hearing will be open from June 25, 2026 to August 10, 2026 via the USTR Comments Portal.[39] The public input period is significantly longer than the public input periods provided for other recent Section 301 investigations, at 53 days between the announcement and the deadline for submitting comments compared to 35 days for the industrial excess capacity investigations and 34 days for the forced labor imports investigations.

The existing pharmaceutical Section 232 tariff action and conflicts with the Section 301 investigation

While USTR begins initiating Section 301 investigations into pharmaceutical pricing practices, the Department of Commerce Bureau of Industry and Security (BIS) has already incorporated MFN pricing agreements into the April 2, 2026 Section 232 action on patented pharmaceutical products and ingredients.[40] The default tariff rate is 100%, but the proclamation provides opportunities for significant tariff exceptions and reductions to pressure companies and foreign governments into participating in the Trump administration's supply chain onshoring, MFN pricing policy, and Agreements on Reciprocal Trade (ARTs). The United Kingdom is the only country that has entered into an MFN pricing agreement under the terms of the Section 232 tariff, receiving a country-wide 10% tariff that will eventually be reduced to 0% after meeting certain conditions.

USTR's Section 301 initiation notice for the Germany investigation does not address the overlap with the Section 232 action. Prior to this investigation, the Trump administration had sought to separate its Section 232 actions (which have been used to target sector-specific issues) from its actions based on Section 301, Section 122, and the International Emergency Economic Powers Act (IEEPA) (which have been used to create the global "reciprocal" tariff). It is unclear whether USTR intends to threaten to impose additional Section 301 tariffs on top of the Section 232 pharmaceutical tariffs or what implication the new investigation may have for ongoing MFN pricing negotiations that are taking place within the Section 232 framework.

Another open question is how the Section 301 investigation would interact with the preliminary US-EU ART. The Trump administration and the EU entered into a Framework Agreement for an ART in 2025, which both sides have already begun to implement.[41] Another Section 301 tariff, on top of the Section 301 tariffs already threatened in the forced labor imports and industrial excess capacity investigations, may breach the Framework Agreement's general 15% tariff cap or the tariff exclusion for generic pharmaceuticals and their ingredients and chemical precursors. The Section 301 initiation notice does not reference the Framework Agreement. USTR has also not explained whether any tariff imposed on German exports would be imposed at the EU level, or if USTR would attempt to impose a tariff specifically on imports from Germany. Thus far, the Trump administration has not attempted to impose tariffs on individual EU Member States.

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[39] "Request for Comments on the Section 301 Investigation Regarding Germany's Persistent Underpayment for Innovative Pharmaceutical Products," Docket ID: USTR-2026-0463, accessible here: https://comments.ustr.gov/s/docket?docketNumber=USTR-2026-0463.

[40] Proclamation 11020 of April 2, 2026: "Adjusting Imports of Pharmaceuticals and Pharmaceutical Ingredients Into the United States," 91 FR 18183 (April 9, 2026), accessible here: https://www.federalregister.gov/documents/2026/04/09/2026-06956/adjusting-imports-of-pharmaceuticals-and-pharmaceutical-ingredients-into-the-united-states.

[41] "Joint Statement on a United States-European Union framework on an agreement on reciprocal, fair and balanced trade," August 21, 2025, accessible here: https://policy.trade.ec.europa.eu/news/joint-statement-united-states-european-union-framework-agreement-reciprocal-fair-and-balanced-trade-2025-08-21_en.

Recent comments to the media by Trump administration officials suggest that the administration may not view itself as bound by the Framework Agreement,[42] with one anonymous official claiming that trade agreements with the EU do not apply to EU Member States. Trump administration officials have also suggested that they believe tariffs can be imposed on an individual EU Member State, and have alternatively suggested the possibility of EU-wide tariffs that are structured to target products that are politically important for the Member State concerned.

Replacing IEEPA tariffs with Section 122 and 301 tariffs

The Germany investigation comes as the Trump administration has sought to create new legal justifications for reimposing tariffs that it had previously imposed under the IEEPA. The Trump administration was required to rescind the previous IEEPA tariffs on February 24, 2026, after the Supreme Court ruled that IEEPA does not grant the president authority to impose tariffs. In response to the Supreme Court loss, President Trump announced that he would immediately reconstruct the tariffs using alternative legal authorities: [43]

- **Section 122 tariff:** President Trump imposed a temporary 10% global tariff on imports from all countries under Section 122 of the Trade Act of 1974 as a short-term measure from February 24 to July 24, 2026.[44] Section 122 tariffs can be implemented quickly but are limited to a maximum duration of 150 days and a maximum rate of 15%.
- **Section 301 investigations:** President Trump directed USTR to initiate new Section 301 investigations targeting US trade partners, which would provide a legal basis for longer-term tariffs. Unlike Section 122, Section 301 tariffs are not subject to the same practical time or rate limitations.

At the same time that President Trump announced his intent to use Section 122 and Section 301 to reconstruct the IEEPA tariffs, USTR issued a statement describing how it intended to proceed with the Section 301 investigations.[45] According to the statement, these investigations will proceed on an “accelerated timeframe,” covering most major trade partners and addressing a broad array of issues, including “industrial excess capacity, forced labor, pharmaceutical pricing practices, discrimination against US technology companies and digital goods and services, digital services taxes, ocean pollution, and practices related to the trade in seafood, rice, and other products.” Based on this plan, USTR promptly initiated investigations of forced labor import policies and overcapacity industrial excess capacity in March 2026. The investigation targeting German pharmaceutical pricing practices is the first additional investigation initiated since March that was explicitly referenced in the original IEEPA replacement strategy.

Trump Administration Reimposes Elevated Tariffs on Brazil Using Section 301

On July 15, 2026, the Office of the United States Trade Representative (USTR) directed the imposition of a 25% tariff on certain imports from Brazil in the Section 301 investigation of Brazil’s “acts, policies, and practices related to digital trade and electronic payment services; unfair, preferential tariffs; anti-corruption enforcement; intellectual property protection; ethanol market access; and illegal deforestation.”[46] The tariff applies to about one-quarter by value of US goods imports from Brazil and enters into effect on July 22, 2026.

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[42] See, for example, Politico, “It’s complicated: The Trump-pharma relationship split by the Atlantic,” July 6, 2026, accessible here: https://www.politico.eu/article/europe-us-donald-trump-pharma-relationship/.

[43] Truth Social post of February 20, 2026 by President Trump, accessible here: https://truthsocial.com/@realDonaldTrump/posts/116104407604484915.

[44] Presidential Proclamation 11012 of February 20, 2026: “Imposing a Temporary Import Surcharge to Address Fundamental International Payments Problems,” 91 FR 9339, accessible here: https://www.federalregister.gov/documents/2026/02/25/2026-03824/imposing-a-temporary-import-surcharge-to-address-fundamental-international-payments-problems; and CSMS # 67844987 - Imposing Temporary Section 122 Duties, February 23, 2026, accessible here: https://content.govdelivery.com/accounts/USDHSCBP/bulletins/40b3b7b.

[45] “Ambassador Greer Issues Statement on Supreme Court IEEPA Decision,” USTR, February 20, 2026, accessible here: https://ustr.gov/about/policy-offices/press-office/press-releases/2026/february/ambassador-greer-issues-statement-supreme-court-ieepa-decision.

[46] “Notice of Action: Brazil’s Acts, Policies, and Practices Related to Digital Trade and Electronic Payment Services; Unfair, Preferential Tariffs; Anti-Corruption Enforcement; Intellectual Property Protection; Ethanol Market Access; and Illegal Deforestation,” 91 FR 45516 (July 20, 2026), accessible here: https://www.federalregister.gov/documents/2026/07/20/2026-14542/notice-of-action-brazils-acts-policies-and-practices-related-to-

Brazil is also subject to the ongoing forced labor imports Section 301 investigation, in which USTR has proposed imposing a 12.5% tariff on imports from Brazil. The products covered by the two Section 301 actions largely overlap, and the two tariffs will likely be additive, yielding a total tariff rate of 37.5% for most affected products. Prior to the withdrawal of the International Emergency Economic Powers Act (IEEPA) tariffs in February 2026, Brazil was subject to a cumulative 50% additional tariff on a similar range of products. Sector-specific tariffs imposed under Section 232 of the Trade Expansion Act of 1962 are unaffected, and remain in effect for steel, copper, aluminum, certain wood products, passenger vehicles, trucks and buses, and certain pharmaceuticals.

Entry into effect

The 25% tariff enters into effect for goods of Brazil entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern time on July 22, 2026.

The tariff includes a brief exception for goods in transit, excepting goods that were loaded onto a vessel and in transit to the United States before July 22 and that enter before July 29.

For its first few days in effect (July 22-23), the Section 301 tariff will be additive with the 10% global Section 122 tariff. After USTR replaces the Section 122 tariff with the forced labor imports Section 301 tariff (which is expected on July 24, but has not yet been formally announced), the two Section 301 tariffs are also expected to apply cumulatively.

Product scope and tariff exceptions

The 25% tariff applies generally to all imports from Brazil. However, USTR has established several significant categories of exceptions, discussed below.

Articles already subject to Section 232 tariffs: Any products already subject to the Trump administration's sector tariffs imposed under Section 232 are exempt from the Section 301 tariff, consistent with the unstacking rules applied under the IEEPA tariffs and the Section 122 tariff. This includes articles of aluminum, of steel, or of copper, or derivative aluminum or steel articles; passenger vehicles (sedans, sport utility vehicles, crossover utility vehicles, minivans, and cargo vans) and light trucks; parts of passenger vehicles and light trucks; medium- and heavy-duty vehicles; parts of medium- and heavy-duty vehicles; wood products (certain softwood timber and lumber and certain furniture and cabinets); and certain semiconductor articles. When the Section 232 tariffs on patented pharmaceuticals and associated pharmaceutical ingredients begin to enter into effect on July 30, 2026, those products will also be excepted from the Section 301 tariff.

Specific products identified in Annex II of the notice: The list of specific products USTR has excepted from the tariff in Annex II closely resembles the product-specific exceptions lists used in the Section 122 tariff order and the now-terminated IEEPA tariff on Brazil, although with some notable modifications and additions.

- **General exceptions:** Products classified within 864 HTSUS subheadings are completely excepted from the tariff. The list includes beef, fish, various tropical agricultural and forestry products, certain wood and pulp products, minerals, oil and gas products, various chemicals, pharmaceuticals, precious metals, computers and electronics, and various other products.
- **General exceptions with scope limitations:** The exceptions list includes 11 food-related HTSUS subheadings, under which only specific food products are excepted. For example, the exception for HTSUS 2008.99.21 ("Berries, other than cranberries, blueberries and strawberries, otherwise prepared or preserved, nesoi") applies only to acai berries.

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digital-trade-and-electronic-payment; and the related presidential determination of July 15, 2026, "Memorandum For The United States Trade Representative," 91 FR 45619 (July 20, 2026), accessible here: https://www.federalregister.gov/documents/2026/07/20/2026-14654/action-by-the-united-states-in-the-investigation-under-section-301-of-the-trade-act-of-1974-of; and USTR's press release announcing the tariff decision, "USTR Section 301 Action on Brazil's Unreasonable Acts, Policies, and Practices," July 15, 2026, accessible here: https://ustr.gov/about/policy-offices/press-office/press-releases/2026/july/ustr-section-301-action-brazils-unreasonable-acts-policies-and-practices.

- **Pharmaceutical exceptions:** Products classified within an additional 705 HTSUS subheadings related to chemicals are excepted from the tariff, but only if the product is intended for use in pharmaceutical applications.
- **Aircraft exceptions:** Aircraft and aircraft parts (including unmanned aircraft) classified within 546 HTSUS subheadings. To qualify, the product must be imported for use in civil aircraft under the criteria of General Note 6 of the HTSUS to qualify.

Informational materials, donations, and accompanied baggage: Consistent with the IEEPA and Section 122 tariffs, the Section 301 tariff includes exceptions for donations and informational materials (such as "publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks and news wire feeds").

Changes in the final exception list

The final version of the Annex II exceptions list made several significant changes relative to the original exception list USTR proposed in the June 2026 proposed action. The final version:

- Removes high-purity dissolving pulp from the exceptions list.
- For 364 chemical product exceptions, USTR narrows the tariff exception so that it only applies to products intended for use in pharmaceuticals.
- Adds 88 new exceptions for: aluminum hydroxide; antiques, collectibles, and art; ash containing precious metals or precious metal compounds; certain animal hides, furskins, and leather; certain seafood products; certain additional pharmaceuticals and pharmaceutical ingredients; certain wood products; iron and steel waste and scrap; organic honey; pig iron; unflavored instant coffee; and used clothing.

USTR explains the basis for these changes in the Federal Register notice. Most of the newly granted exceptions appear to have been made based on appeals by US industry groups and fall within the exclusion categories of (i) "raw materials that if subject to these tariffs could lead to the unavailability of domestic supply"; (ii) "products that could cause economy wide disruptions if subject to these tariffs"; (iii) "products that cannot be grown or produced in sufficient quantities or at reasonable prices in the United States or obtained from other sources"; and (iv) products for which tariffs would not be "practical or effective in obtaining the elimination of Brazil's acts, policies, and practices." USTR rejected nearly all new exception appeals related to manufactured products, despite previously granting exceptions for products related to the aerospace industry, consumer electronics, and pharmaceuticals.

High-purity dissolving pulp is subject to ongoing antidumping and countervailing duty investigations, in which the petitioner appealed to USTR to add the products to the scope of the Section 301 tariff.

For the narrowing of the chemical exclusions to only apply to pharmaceutical inputs, USTR states that "an exemption for all applications is broader than necessary to cover goods that have limited availability outside Brazil."

Practical coverage of the tariffs

Given the broad exceptions granted by USTR, the Section 301 tariff appears to cover products accounting for approximately 20%-30% of the goods the United States imports from Brazil by value, using 2024 data for comparison.

The leading export products covered by the Section 301 tariffs are primarily agricultural commodities and forestry products, such as cane sugar, beef tallow, tobacco, certain wood pulps, stone, and lumber products. A few manufactured products are also covered by the tariff, the largest being firearms and ammunition, power transformers, agricultural tractors, and footwear. US imports of most of these products from Brazil fell significantly in the second half of 2025, when the cumulative 50% IEEPA tariff was in effect.

Section 232 tariffs cover products accounting for an additional 17% of the value of goods imported from Brazil in 2024, which leaves approximately half of the value of products the United States imports from Brazil unaffected by any of the Trump administration's current tariffs. Among the exceptions are many of Brazil's leading export products, including oil, coffee, pig iron, certain wood pulps, aircraft, orange juice, and beef. US-Brazil trade in most of these excepted products remained consistent in the second half of 2025, despite worsening performance in other sectors.

Brazil begins planning retaliation options

Brazil's government has moved quickly to advance a coordinated retaliatory response centered on the measures available under the Economic Reciprocity Law (Law No. 15,122). The law, enacted in April 2025, authorizes the government to adopt countermeasures, in coordination with the private sector, in response to unilateral trade actions, policies, or practices by foreign countries or economic blocs that harm Brazil's international competitiveness.

In the early hours of July 16, President Luiz Inácio Lula da Silva announced via social media that "Brazil will immediately begin the procedures to activate the instruments provided for in the Reciprocity Law, unanimously approved by the National Congress, and will resume the issue within the framework of the WTO dispute settlement mechanism."[47]

Brazilian authorities are now expected to revisit a range of countermeasures examined last year under that framework. These include restrictions on dividend and royalty remittances by US audiovisual companies operating in Brazil, as well as the potential suspension of patent protections for pharmaceutical products and agricultural seeds.

The Section 301 investigation and background

USTR initiated the investigation into Brazil's "acts, policies, and practices related to digital trade and electronic payment services; unfair, preferential tariffs; anti-corruption enforcement; intellectual property protection; ethanol market access; and illegal deforestation" on July 15, 2025.[48] During the public comments phase of the factfinding investigation in August and September 2025, USTR received 296 comments and rebuttals and held a public hearing on September 3, 2025, at which 39 stakeholder groups testified. Following the issuance of the investigation determination and proposed tariff action in June 2026, USTR held a second public comment round, which involved over 360 written submissions and two days of hearings with 77 witnesses.

USTR's action was one of several measures undertaken by the Trump administration targeting Brazil in response to the prosecution and conviction of former Brazilian President Jair Bolsonaro for his involvement in Brazil's 2022–2023 coup plot.[49] In addition to initiating the Section 301 investigation, which covers certain law enforcement actions taken to counter the coup attempt as well as various unrelated market access concerns, President Trump imposed an additional 40% tariff on most imports from Brazil under the IEEPA and imposed sanctions on a Justice of the Brazilian Federal Supreme Court under the Global Magnitsky Human Rights Accountability Act.[50] The 40% IEEPA tariff was rescinded on February 24, 2026, alongside all other IEEPA tariffs following the Supreme Court's ruling that

[47] X post of President Luiz Inácio Lula da Silva, July 16, 2026, accessible here: https://x.com/LulaOficial/status/2077598341316161544.

[48] Information related to the investigation, including the public comments and hearings, is available on the Section 301 investigations page of the USTR website, accessible here: https://ustr.gov/trade-topics/enforcement/section-301-investigations/section-301-brazils-acts-policies-and-practices-related-digital-trade-and-electronic-payment.

[49] Executive Order 14323 of July 30, 2025: "Addressing Threats to the United States by the Government of Brazil," 90 FR 37739 (August 5, 2025), accessible here: https://www.federalregister.gov/documents/2025/08/05/2025-14896/addressing-threats-to-the-united-states-by-the-government-of-brazil.

[50] "Sanctioning Brazilian Supreme Court Justice Alexandre de Moraes for Serious Human Rights Abuse," Department of State, July 30, 2025, accessible here: https://www.state.gov/releases/office-of-the-spokesperson/2025/07/sanctioning-brazilian-supreme-court-justice-alexandre-de-moraes-for-serious-human-rights-abuse/.

IEEPA does not authorize the president to impose tariffs,[51] while the Trump administration voluntarily rescinded the sanctions on December 12, 2025.[52]

Since the rescission of the IEEPA tariffs on February 24, 2026, US imports from Brazil have been subject to either additional tariffs under the 10% global Section 122 tariff or any applicable Section 232 tariffs.

Trump Administration Imposes Forced Labor Section 301 Tariffs to Restore Reciprocal Tariff Policy

On July 24, 2026, the Office of the United States Trade Representative (USTR) issued the final tariff action in the Section 301 investigations of "Acts, Policies, and Practices of Various Economies Related to the Failure to Impose and Effectively Enforce a Prohibition on the Importation of Goods Produced with Forced Labor."[53] The final action imposes 10% to 12.5% tariffs on all 60 economies covered by the investigations, subject to a range of product- and origin-specific exceptions of considerable economic significance. The tariffs entered into effect at 12:01 a.m. eastern time on July 24, 2026, with a brief exception for cargo that is already in transit to the United States.[54]

As expected, the Section 301 tariffs largely reconstruct the International Emergency Economic Powers Act (IEEPA) global tariffs, including specific IEEPA tariff level and product exclusion commitments established in the various Agreements on Reciprocal Trade (ARTs). The 60 economies covered by the tariffs represent the United States' largest sources of goods imports, accounting for over 99% of total US goods import value. However, the product exceptions incorporated into the final action are substantial, and a significant majority of US goods imports will be unaffected by the tariffs.

Entry into effect

The Section 301 tariffs apply to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern time on July 24, 2026.

The effective date was timed to coincide precisely with the expiration of the global 10% Section 122 tariff, which expired automatically at 12:01 a.m. eastern time on July 24, 2026.[55]

- **Goods-in-transit exception:** A brief in-transit exception was available for imports that (i) were loaded onto a vessel at the port of loading and in transit on the final mode of transit prior to entry into the United States before 12:01 a.m. eastern time on July 24, 2026; and (ii) are entered for consumption, or withdrawn from warehouse for consumption, before 12:01 a.m. eastern time on July 28, 2026.

- **Foreign Trade Zones (FTZs):** Subject goods admitted into US FTZs on or after July 24, 2026 must be admitted under "privileged foreign status" (19 C.F.R. 146.41).

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[51] CSMS # 67834313 - Ending Collection of International Emergency Economic Powers Act Duties, February 22, 2026, accessible here: https://content.govdelivery.com/accounts/USDHSCBP/bulletins/40b11c9.

[52] Global Magnitsky Designations Removals, Office of Foreign Assets Control, December 12, 2025, accessible here: https://ofac.treasury.gov/recent-actions/20251212.

[53] "Notice of Actions in Section 301 Investigations of Acts, Policies, and Practices of Various Economies Related to the Failure of Each Economy To Impose and Effectively Enforce a Prohibition on the Importation of Goods Produced With Forced Labor," 91 FR 47318 (July 28, 2026), accessible here: https://www.federalregister.gov/documents/2026/07/28/2026-15181/notice-of-actions-in-section-301-investigations-of-acts-policies-and-practices-of-various-economies; and the accompanying presidential determination, Memorandum of July 23, 2026: "Actions by the United States in the Investigations Under Section 301 of the Trade Act of 1974 of the Acts, Policies, and Practices of 60 Economies Related to the Failure of Each Economy To Impose and Effectively Enforce a Prohibition on the Importation of Goods Produced With Forced Labor," 91 FR 47717 (July 28, 2026), accessible here: https://www.federalregister.gov/documents/2026/07/28/2026-15274/actions-by-the-united-states-in-the-investigations-under-section-301-of-the-trade-act-of-1974-of-the.

[54] CSMS # 69326983 - GUIDANCE: Section 301 Forced Labor Import Duties, CBP, July 23, 2026, accessible here: https://content.govdelivery.com/bulletins/gd/USDHSCBP-421d887.

[55] CSMS # 67844987 - Imposing Temporary Section 122 Duties, February 23, 2026, accessible here: https://content.govdelivery.com/accounts/USDHSCBP/bulletins/40b3b7b.

- **Chapter 98 provisions:** The Section 301 tariffs do not apply to goods properly claimed under Chapter 98 of the Harmonized Tariff Schedule of the United States (HTSUS), with two exceptions: (i) for subheadings 9802.00.40, 9802.00.50 and 9802.00.60, the Section 301 tariffs apply to the value of repairs, alterations, or processing performed; and (ii) for subheading 9802.00.80, the tariffs apply to the value of the article assembled abroad, less the cost or value of the products of the United States.

- **Duty drawback:** Section 301 tariffs are eligible for duty drawback.

Tariff rates

The final action largely adopts the tariff rates that USTR proposed in June 2026, with targeted modifications: (i) rate reductions for economies that adopted forced labor import prohibitions in recent weeks; and (ii) adjustments to bring rates into conformity with the tariff ceilings committed to under the ARTs.

- **10% tariff**: Argentina, Bangladesh, Cambodia, Canada, Ecuador, El Salvador, Guatemala, Honduras, India, Indonesia, Jordan, Malaysia, Mexico, Pakistan, Sri Lanka, Trinidad and Tobago, and the United Kingdom. Honduras, India, Jordan, Sri Lanka, and Trinidad and Tobago had been subject to the 12.5% rate in the June proposed action.

- **10% tariff, or Column 1 duty rate if higher than 10%:** European Union and Taiwan.

- **12.5% tariff, or Column 1 duty rate if higher than 12.5%:** Japan, South Korea, and Switzerland.

- **12.5% tariff**: Algeria, Angola, Australia, The Bahamas, Bahrain, Brazil, Chile, China, Colombia, Costa Rica, Dominican Republic, Egypt, Guyana, Hong Kong, Iraq, Israel, Kazakhstan, Kuwait, Libya, Morocco, New Zealand, Nicaragua, Nigeria, Norway, Oman, Peru, Philippines, Qatar, Russia, Saudi Arabia, Singapore, South Africa, Thailand, Türkiye, United Arab Emirates, Uruguay, Venezuela, and Vietnam.

As a general rule, the Section 301 forced labor tariffs stack with any other applicable tariffs, including antidumping and countervailing duties and other Section 301 measures (such as the China and Brazil-specific Section 301 tariffs), and MFN/Column 1 duties. Two exceptions apply: (i) products already subject to Section 232 tariffs are excluded from the Section 301 tariffs; and (ii) for the European Union, Japan, South Korea, Switzerland, and Taiwan, MFN/Column 1 tariffs do not stack additively with the Section 301 tariffs. These five trading partners secured IEEPA-level tariff caps in their respective ARTs.

Tariff exceptions

The Section 301 tariffs incorporate several categories of product-specific and trade agreement-based exceptions, similar to those applied under the prior IEEPA and Section 122 tariffs.

- **Section 232 products**: Goods already subject to Section 232 sectoral tariffs are excepted from the Section 301 tariffs. The exception covers: (i) articles of aluminum, of steel or of copper or derivative aluminum or steel articles; (ii) passenger vehicles (sedans, sport utility vehicles, crossover utility vehicles, minivans and cargo vans) and light trucks, and parts of passenger vehicles and light trucks; (iii) medium- and heavy-duty trucks, parts of medium- and heavy-duty trucks, and buses; (iv) timber, lumber, and wood products; and (v) certain semiconductors. An additional exception for products subject to the patented pharmaceutical Section 232 tariff will enter into effect on July 31, 2026 alongside the Section 232 tariff's partial entry into effect.

- **Donations**: Articles that are donations by persons subject to the jurisdiction of the United States, such as food, clothing and medicine, intended to be used to relieve human suffering.

- **Informational materials**: Including publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.[56]

- **General product exceptions list, including for civil aircraft and pharmaceuticals**: Annex II of the *Federal Register* notice (FRN) lists 2,120 HTSUS subheadings that are excepted from the tariffs, including a general product list, a civil aircraft and parts list, and a pharmaceutical products and inputs list. Using 2024 trade data for comparison, these exceptions cover approximately 44% of US imports by value.

  The general products exceptions apply to all products classified within the listed subheading (with the exception of 16 food-related subheadings, marked "Ex," which are limited to the specific product listed in the HTSUS modification). The civil aircraft and pharmaceutical lists apply only if the product classified within the listed HTSUS subheadings is intended for use in civil aircraft applications or pharmaceutical applications, respectively.

  The exceptions list covers a wide range of goods, including various food products (such as beef, coffee, tomatoes, and various crops only grown in tropical climates), oil and gas products, various minerals, various chemicals (such as chemicals used in fertilizers, pesticides, and pharmaceutical manufacturing), rubber, tropical forestry products, precious metals, iron, computers and other electronic devices, semiconductors, semiconductor manufacturing equipment, art, and antiques.

- **Country-specific product exceptions**: USTR has granted additional country-specific tariff exceptions to Argentina, Bangladesh, Cambodia, Ecuador, El Salvador, the European Union, Guatemala, Indonesia, Jordan, Malaysia, Switzerland, Taiwan, and the United Kingdom.

  Other than the United Kingdom, the country-specific lists correspond to the product exceptions granted to each economy under its respective ART, excluding the products that are already covered by the global Section 301 exceptions lists. The 2025 US-UK ART framework agreement did not include a product-specific exceptions list. Instead, the new UK exceptions list includes 47 HTSUS subheadings related to medical equipment that the Trump administration committed to exempt from any future Section 301 or Section 232 tariffs under the April 2026 pharmaceutical pricing agreement, as well as whisky, which President Trump promised King Charles III would be excepted from any future tariffs during an April 2025 meeting.

  USTR did not integrate any country-specific IEEPA tariff exceptions from the preliminary trade deals with Japan and South Korea into the Section 301 tariff. The Trump administration agreed to provide tariff exceptions for civil aircraft and generic pharmaceuticals to both South Korea and Japan, which now appear to be folded into the global tariff exceptions for those products. Both trade deals also included references to IEEPA tariff exceptions for certain natural resources unavailable in the United States, which were never implemented. The general Section 301 exceptions list, which already includes many exceptions for natural resources, may also cover all the products that would have been included in these exceptions.

- **United States-Mexico-Canada Agreement (USMCA)**: While Canada and Mexico are subject to the 10% tariff tier, products entered free of duty under the USMCA are excepted from the additional duties otherwise imposed on Canadian and Mexican goods. Automotive parts of Canada and Mexico qualifying for preferential treatment under USMCA and that are excepted from the Section 232 tariffs also remain exempt from the Section 301 tariffs. The same exceptions were included in the global Section 122 tariff and the IEEPA tariffs.

- **Dominican Republic-Central America United States Free Trade Agreement (CAFTA-DR) textile exception**: Articles of textiles or apparel that are the product of Costa Rica, the Dominican Republic, El Salvador,

[56] According to CBP's IEEPA Frequently Asked Questions webpage, goods under the following subheadings may qualify for the informational materials exception: Chapter 49; goods provided for in headings 3704, 3705, 3706, 5807, 8310, and 9701 through 9705, inclusive; goods provided for in subheadings 6307.90.30, 6307.90.85, 8523.80.10, 8523.29, 8523.41, 8523.49, 9405.61, and 9405.69.

Guatemala, Honduras, and Nicaragua that meet CAFTA-DR's origin requirements (as defined in subdivision (d)(v) of general note 29 of the HTSUS) are excepted from the tariffs.

The country-specific product exception lists for El Salvador and Guatemala include additional lists of textile and apparel products that are excepted from the tariffs if they meet CAFTA-DR rules of origin.

- **Textile exemption mechanism**: USTR is developing an additional exception mechanism for imports of textiles and apparel, which will be a tariff-rate quota (TRQ) with a volume based on the amount of US cotton and textile inputs imported by the qualifying economies. The FRN identifies Bangladesh, Cambodia, Indonesia, and Malaysia as qualifying participants, but it does not address whether other economies may be eligible. USTR has indicated that the TRQ mechanism is still under development and will be announced in a future FRN. In the interim, textiles and apparel imports will be subject to the Section 301 tariffs.

Changes to the exceptions lists in the final action

In the final action, USTR expanded the Annex II exceptions list to incorporate additional products, but it did not remove any of the original proposed exceptions. The proposed Annex II list published in June was identical to the exceptions list applied under the Section 122 tariffs, which itself was based on the earlier IEEPA tariff exceptions list.

- **Product additions:** The final Section 301 exceptions list adds 465 new HTSUS subheadings covering: animal products; plant seeds; vegetable products; sugar and sugar containing products; unflavored instant coffee; fertilizer inputs and pesticide inputs; animal hides and leather; wood products; vanadium oxides and hydroxides; pig iron; ferrous metal inputs and waste; aluminum scrap; aluminum hydroxide; ash containing precious metals or precious metal compounds; battery waste and scrap; semiconductor manufacturing equipment; pharmaceuticals and pharmaceutical ingredients; worked shell; worn clothing; and antiques, collectibles, and art.[57] Of these 465 new exceptions, 337 are for chemicals and ingredients used in pharmaceutical manufacturing.

- **Removed scope limitations:** USTR lifted scope limitations from six subheadings that appeared in the originally proposed list with restricted application. Five subheadings related to optical instruments, which USTR had proposed excepting only if they are intended for use in the civil aircraft industry, are now excepted regardless of use case, while the exception for HTSUS 1404.90.90 (a subheading for miscellaneous plant products), which originally only applied to date palm and myrtle branches used for religious purposes, now applies to all products classified in the subheading.

- **New scope limitations:** USTR has limited the exceptions for 700 chemical products to only apply if those chemical products are intended for use in pharmaceutical applications.

Though significant for certain specific business sectors, the changes are small relative to the overall size of the exceptions list. Using 2024 goods import data for comparison, the originally proposed exceptions list would have applied to approximately $1.40 trillion in goods imports by value while the final exceptions list applies to approximately $1.44 trillion in US goods imports by value ($40 billion of which is within the HTSUS subheadings subject to the new pharmaceutical scope restriction).

Countries reclassified to the 10% tariff tier

The final Section 301 action reclassifies Jordan, Honduras, India, Sri Lanka, and Trinidad and Tobago from the 12.5% tariff tier to the 10% tariff tier. USTR attributes the reclassification to each country's efforts to adopt forced labor import prohibitions:

- **Jordan:** On July 21, 2026, Jordan concluded an ART with the United States, in which Jordan committed to two forced labor-related obligations: (i) to "prohibit the importation of goods mined, produced, or manufactured wholly

[57] The FRN states that 471 HTSUS subheadings were added to the exceptions list, which appears to be a counting error. There are only 465 new subheadings on the exceptions list provided in the FRN's annexes.

or in part by forced or compulsory labor" within five years of the agreement's entry into force; and (ii) to "recognize US government determinations on entities under Section 307 of the Tariff Act of 1930 and shall presumptively prohibit importation of goods from those companies."[58]

- **Honduras:** On July 16, 2026, the Honduran government adopted Executive Decree No. PCM-014-2026, prohibiting the importation of goods produced wholly or partially with forced labor at any stage of the production process or supply chain, including inputs, raw materials and components.[59] The decree was approved by the Council of Secretaries of State and published in the Official Gazette (*La Gaceta*) No. 37,196 on July 17, 2026, which is also the date on which it entered into force. The measure is based on Honduras's international obligations under International Labor Organization (ILO) Conventions No. 29 and No. 105 on forced and compulsory labor, as well as the labor provisions of CAFTA-DR and the EU-Central America Association Agreement.

  The decree establishes a two-tier prohibition framework. First, it sets out a general ban on all goods linked to forced labor, irrespective of their country or region of origin. Second, it requires the Ministry of Labor to maintain an official List of Goods Subject to the Import Prohibition, relying on reports from the ILO, the UN Special Rapporteur on contemporary forms of slavery, UN human rights treaty bodies, determinations of foreign and international competent authorities and other recognized international organizations. The list must be published within 30 days of the decree's entry into force, and the prohibition applicable to listed goods takes effect 30 days after that publication.

  Implementation responsibilities are allocated among three authorities. The Presidential Office for Foreign Trade coordinates interinstitutional efforts, the Ministry of Labor maintains and updates the List, and the Honduran Customs Administration enforces the prohibition at the border. Goods determined to fall within the scope of the prohibition must be re-exported to their country of origin or destroyed, with all associated costs borne by the importer.

- **India:** On July 13, 2026, India's Directorate General of Foreign Trade (DGFT) issued Notification No. 23/2026-27 introducing new paragraph 2.20B into the Foreign Trade Policy (FTP) 2023.[60] The amendment establishes a comprehensive prohibition on "the import of goods produced or manufactured, in whole or in part, through the use of forced labor" and authorizes the Central Government to designate, by notification from time to time, specific goods subject to this import ban. The provisions take effect 30 days after publication in the Official Gazette, placing the operative date on or about August 12, 2026.

  In practice, the prohibition will apply to particular goods only once the Central Government issues designation notifications following DGFT inquiries, the procedures for which have not yet been prescribed in the Handbook of Procedures. Consequently, the framework will be legally in force from mid-August but not yet operationally enforceable against specific goods until those implementing instruments are issued and applied.

- **Sri Lanka:** On July 10, 2026, President Anura Kumara Dissanayake, acting in his capacity as Minister of Finance, Planning and Economic Development, enacted the Imports and Exports (Control) Regulations on Prohibition of Importation of Goods No. 07 of 2026 pursuant to powers vested under the Imports and Exports

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[58] Agreement Between the United States of America and the Hashemite Kingdom of Jordan on Reciprocal Trade, White House, July 21, 2026, accessible here: https://www.whitehouse.gov/briefings-statements/2026/07/agreement-between-the-united-states-of-america-and-the-hashemite-kingdom-of-jordan-on-reciprocal-trade/.

[59] Executive Decree No. PCM-014-2026, "Executive Decree for the Prohibition of Importation of Goods Produced under Conditions of Forced or Compulsory Labor," No. 37,196 (July 17, 2026), accessible here (in Spanish): https://www.dumaslex.com/wp-content/uploads/2026/07/Decreto-Ejecutivo-para-la-Prohibicion-de-Importacion-de-Mercancias-Producidas-en-Condiciones-de-Trabajo-Forzoso.pdf.

[60] DGFT Notification No. 23/2026-27, July 13, 2026, is accessible here: https://content.dgft.gov.in/Website/dgftprod/15ac9a16-6edb-432a-8f98-3bf2d0bf8bda/Notification%2023%20eng.pdf (download link).

(Control) Act, No. 1 of 1969 as amended.[61] The regulations prohibit the importation of any goods that are mined, produced, or manufactured wholly or partly using forced labor.

Under the regulations, importers of goods originating from any entity or country notified by the Minister must furnish documentary evidence, declarations, or certifications as prescribed by the Director General of Customs, who serves as the responsible regulatory authority and may issue Departmental Orders to administer enforcement. The Minister is further empowered to designate, from time to time, specific goods, entities, or countries to which the regulations apply, having regard to determinations of the ILO.

- **Trinidad and Tobago**: On June 11, 2026, the Parliament of Trinidad and Tobago introduced House of Representatives Bill No. 12 of 2026, the Finance Bill, 2026, published in the Legal Supplement Part C to the Trinidad and Tobago Gazette, Vol. 65, No. 103.[62] Among its 31 clauses, Clause 24 proposes to amend section 45(1) of the Customs Act, Chapter 78:01, to prohibit the importation of all goods produced from forced labor into Trinidad and Tobago.

  The prohibition would operate by ministerial designation: goods fall within its scope only once expressly identified by the Minister with responsibility for trade, who retains ongoing authority to expand or update that list. The bill does not itself designate any specific goods, countries, or entities, and does not reference ILO conventions or other international sources. The bill has not yet received Royal Assent and is not currently in force.

Other countries that have adopted or are planning to adopt forced labor import prohibitions

Despite USTR's decision to reclassify five countries to the 10% tariff tier in recognition of their efforts to adopt forced labor import prohibitions, at least 12 other trading partners that have adopted, or are in the process of adopting, equivalent prohibitions or comparable supply chain due diligence standards remain subject to the 12.5% rate. USTR's determinations do not address these countries' policy regimes in any detail or explain why their measures are insufficient to qualify for the 10% tariff tier.

- **Australia**: On July 16, 2026, the Australian government announced significant reforms to strengthen Australia's modern slavery framework and support companies in better identifying and addressing modern slavery risks in global supply chains.[63] Under the proposed reforms, companies with annual consolidated revenue exceeding A$100 million would be subject to a new criminal offense where they fail to prevent modern slavery in their supply chains, with a defense available where the company can demonstrate it took reasonable steps to prevent such conduct. The government also intends to introduce civil penalties and enhanced enforcement powers for non-compliance with existing reporting obligations, supported by practical guidance and education initiatives to assist companies in identifying, managing, and remediating modern slavery risks.

  The reforms build on the Modern Slavery Act 2018 (Cth), which has imposed mandatory supply chain reporting obligations on large entities since 2019. They follow an independent statutory review conducted in 2023, which concluded that the Act had not yet driven meaningful change for people experiencing modern slavery, and a public consultation process that closed in March 2026.

- **Brazil**: In its July 6, 2026 submission to USTR, the Brazilian government argued that Brazil's existing legal framework already deters trade in goods made with forced labor, even without a specific statutory import ban. It stated that USTR's emphasis on the absence of a standalone ban overlooks a broader set of measures that, in

[61] *Imports and Exports (Control) Regulations on Prohibition of Importation of Goods No. 07 of 2026*, Gazette of the Democratic Socialist Republic of Sri Lanka Extraordinary, No. 2496/38 (10 July 2026), accessible here: https://documents.gov.lk/view/egz/2026/7/2496-38_E.pdf.

[62] Finance Act, 2026 (No. 12 of 2026) (Trin. & Tobago), amending the Customs Act, Chap. 78:01, s. 45(1)(w), accessible here: https://printery.gov.tt/e-gazette/2026/Bills/HOR/H.O.R._Bill_No._12_of_2026.pdf.

[63] Attorney-General the Hon Michelle Rowland MP, "Albanese Government combatting modern slavery," Media Release, July 16, 2026, accessible here: https://ministers.ag.gov.au/media-centre/albanese-government-combatting-modern-slavery-16-07-2026.

its view, ensure that forced labor does not enter Brazilian supply chains.[64] Consistent with this position, Brazil did not commit during the USTR investigation to adopt the import ban requested by the United States, nor did it mention a bill that had been dormant since 2015 but was substantially revised and reintroduced in March 2026 by an opposition deputy and has recently gained traction in Congress.[65]

The revised bill would prohibit "the importation and subsequent placing on the domestic market of products whose production process has been found to involve child labor or forced or compulsory labor." While the original text covered only cocoa and cocoa-derived products, the current version applies to any product or raw material entering the Brazilian market. Two features of the bill are particularly significant. First, customs authorities would not be allowed to block imports based solely on risk indicators, corporate affiliations, non-governmental organization (NGO) reports or media investigations. The prohibition would apply only when the unlawful practice has been established in a final, non-appealable Brazilian court decision, in a final decision of an international court recognized by Brazil, or in a foreign judgment formally recognized by Brazilian courts. The explanatory memorandum states that this design is intended to ensure legal certainty and avoid sanctions based on unverified allegations. Second, the bill introduces a labor due diligence framework. Importers that can show they have adopted preventive measures and monitoring procedures tailored to their size and risk profile may be exempt from penalties if they demonstrate that they took reasonable steps to prevent the use of child or forced labor in their supply chains.

Products imported in violation of the law would be seized and confiscated by customs, with the proceeds directed to funds dedicated to combating child labor and labor analogous to slavery. The federal government would also be required to publish, every six months, a list of companies and international entities that have been conclusively found to use such practices in their production processes. According to recent reports, the bill was approved by the Chamber of Deputies' Economic Development Committee on June 11, 2026[66] and is now moving with greater urgency through the remaining committees following the US Section 301 tariff actions. No formal timetable has been set for further committee review or plenary consideration, but if the current political momentum continues the bill could advance in Congress in the coming months.

- **Chile**: On July 15, 2026, the Chilean government acknowledged that its legal framework does not yet provide for a statutory prohibition on the importation of goods manufactured with forced labor.[67] However, on June 26, 2026, Chile's Ministerial Advisory Commission for the Implementation of ILO Protocol No. 29 adopted a Declaration of Commitment under which the government undertook to develop and implement the 2026-2030 Action Plan for the National Policy on the Elimination of Forced Labor (PANTRAFOR). One of the plan's strategic pillars includes evaluating legal standards and institutional mechanisms for prohibiting the importation of goods produced with forced labor, drawing on internationally recognized models. Based on that assessment, and taking into account available institutional capacities and resources, the government intends to design, develop, and implement an appropriate import prohibition within Chile's national legal framework. The Commission expects to present recommendations on an import prohibition system within the first semester of 2027.

  Chile has also proposed reactivating the Labor Affairs Council established under Chapter 18 of the Chile-United States Free Trade Agreement to provide a forum for bilateral technical-level dialogue on this issue. In a press release issued on July 27, 2026, Chile's Minister of Foreign Affairs, Francisco Pérez Mackenna, announced that Deputy United States Trade Representative Ambassador Jeffrey Goettman is expected to visit Chile in August

[64] Submission by the Government of Brazil (Docket No. USTR-2026-0265-00131937), July 6, 2026.

[65] Substitute Bill No. 2,799/2015 is accessible here (in Portuguese): https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=3096420&filename=Tramitacao-94-PL-2799-2015.

[66] Chamber of Deputies News Agency, "Committee approves bill banning imports of products made with forced or child labor," June 11, 2026, accessible here (in Portuguese): https://www.camara.leg.br/noticias/1280904-comissao-aprova-projeto-que-proibe-importacao-de-produto-feito-com-trabalho-forcado-ou-infantil/.

[67] Supplemental Submission by the Government of the Republic of Chile (Docket No. USTR-2026-0265-00133371), July 15, 2026.

2026 to continue negotiations on expanding the list of Chilean products eligible for exemption from the additional 12.5% tariff.[68]

- **Dominican Republic**: On July 23, 2026, President Luis Abinader issued Decree No. 502-26,[69] the administrative procedure for preventing, identifying, and restricting the importation of merchandise, products, and goods produced, wholly or in part, through forced labor. The Decree, which implements the commitments undertaken by the Dominican Republic in its submission to the USTR dated July 6, 2026,[70] provides that "[the] importation into the national territory of merchandise, products, and goods produced, manufactured, mined, processed, or otherwise made, wholly or in part, through forced labor is prohibited, including goods for which there is reasonable evidence that forced labor was used at any stage of their supply chain."

  The Decree authorizes the General Directorate of Customs (DGA) to issue reasoned decisions prohibiting the importation of goods determined to have been produced, wholly or in part, through forced labor. These measures apply to goods that have already departed their port of origin, are located at Dominican ports, or are subject to any customs regime or operation prior to importation or final entry into the national territory. The DGA may order re-export of such goods to their country of origin or another authorized destination, their destruction, or other measures permitted by law, and must maintain an administrative registry of all merchandise whose importation has been prohibited. The Decree also promotes enhanced international cooperation, information exchange and adoption of best practices with foreign authorities and international organizations to identify goods potentially produced through forced labor.

  Decree No. 502-26 provides for strengthened inter-agency coordination among the DGA, the Ministry of Labor, the Public Prosecutor's Office, the Ministry of Industry, Trade and MSMEs, the Ministry of Foreign Affairs, and other competent authorities to improve prevention, detection, and enforcement against forced-labor goods in international trade.

- **Norway**: The Transparency Act, effective as of July 1, 2022, requires large companies to carry out human rights due diligence and includes provisions that would prevent import of products made by forced labor.[71] The law is enforced by the Norwegian Consumer Authority, which can penalize companies for non-compliance. The Public Procurement Act further prohibits government contractors from sourcing goods made with forced labor.

  Furthermore, as a member of the European Economic Area (EEA), Norway is scheduled to implement the EU Forced Labour Regulation (FLR) by December 2027. In the investigation report, USTR states that it placed the EU in the 10% tariff tier because of the planned FLR implementation, but the report does not explain why EEA countries do not receive the same treatment.

- **Peru**: On July 1, 2026, former President José Balcázar submitted a bill to Peru's National Congress to prohibit the importation of products manufactured, wholly or in part, with forced labor, and to assign joint responsibility for investigating such imports to the Ministry of Foreign Trade and Tourism (MINCETUR) and the Ministry of Labor and Employment Promotion. During the course of an investigation, Peruvian authorities would consult with the competent authorities of the exporting country to identify companies and goods subject to forced labor sanctions; implementing regulations may establish additional investigative mechanisms. Goods determined to be subject to

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[68] "Foreign Ministry meets with trade associations to coordinate Chile's strategy in response to new US tariffs," Office of the Undersecretary for International Economic Relations (SUBREI), Chile, July 27, 2026, accessible here (in Spanish): https://www.subrei.gob.cl/sala-de-prensa/noticias/detalle-noticias/2026/07/27/cancillería-se-reúne-con-gremios-para-coordinar-estrategia-de-chile-ante-nuevo-arancel-de-estados-unidos.

[69] Decree No. 502-26 is accessible here (in Spanish): https://presidencia.gob.do/decretos/502-26.

[70] Submission by the Government of the Dominican Republic (Docket No. USTR-2026-0265-00131734), July 6, 2026.

[71] "Act relating to enterprises' transparency and work on fundamental human rights and decent working conditions (Transparency Act)," LOV-2021-06-18-99, Ministry of Children and Families, Norway, June 18, 2021, accessible here: https://lovdata.no/dokument/NLE/lov/2021-06-18-99.

the import prohibition would be seized by the National Superintendency of Customs and Tax Administration (SUNAT).

In its submission to USTR dated July 6, 2026, the government advised that the proposed legislation is intended both to address USTR's concerns and to reinforce Peru's international commitments to combat and eradicate forced labor.[72] In a press release issued on July 24, 2026, MINCETUR characterized enactment of the legislation by the National Congress as "a concrete step forward in addressing the USTR's main concern."[73] The government has also formally requested that the National Congress expedite consideration and passage of the bill.

- **Philippines**: On July 23, 2026, the Departments of Trade and Industry (DTI), Labor and Employment (DOLE), and Finance (DOF) signed a Joint Administrative Order (JAO) establishing an inter-agency mechanism to investigate and prohibit the importation of goods produced wholly or partly through forced labor.[74] The order creates an Inter-Agency Committee chaired by the DTI, with DOLE as vice-chair, and the DOF, Bureau of Customs, Board of Investments, and Philippine Economic Zone Authority as members. The committee is tasked with receiving, evaluating, and investigating complaints and information involving imported goods suspected of having been produced through forced labor, and recommending appropriate action to the relevant authorities based on its findings. Under the JAO, the Bureau of Customs will act on the committee's recommendations and implement measures to prohibit the importation of goods determined to have been produced through forced labor.

- **Switzerland**: In April 2026, the Swiss Federal Council issued a consultation draft of the Federal Act on Sustainable Business Conduct to restructure corporate sustainability reporting, including enhanced risk assessments for human rights and forced labor risks. The proposal builds on existing mandatory responsible business conduct obligations, as well as public procurement regulations that require compliance with international labor standards and forced labor prohibitions.

- **Thailand**: On July 27, 2026, Thai Commerce Minister Suphajee Suthumpun announced a package of measures in response to the United States' Section 301 forced labor action. Thailand will expedite legislation prohibiting the import of goods produced with forced labor, building on a framework approved by the Cabinet in June 2026. According to the Thai press, Minister Suphajee noted that although Thailand has domestic laws addressing forced labor, there is currently no legal regime that bars the importation of goods produced through forced labor. The proposed legislation, developed as part of a broader human rights due diligence (HRDD) framework led by the Ministry of Justice with the Ministry of Labor, is intended to allow businesses to verify that imported goods comply with labor standards across the supply chain, whether in Thailand or abroad. The draft law is expected to be submitted to Parliament in early 2027.

  These measures build upon the Cabinet's decision of June 23, 2026, which established a Committee on Standards for Imported Goods at Risk of Forced Labor or Services. The committee is tasked with developing screening standards, verification and certification criteria, and risk-based measures for imports considered vulnerable to forced labor concerns, including the establishment of watch lists, blacklists, and risk lists for Cabinet approval. Its work must be consistent with Thailand's international obligations, particularly the World Trade Organization (WTO) agreements and the most-favored-nation principle, ensuring that any import measures are applied on a non-discriminatory basis across trading partners

[72] Submission by Peru's Ministry of Foreign Trade and Tourism (MINCETUR) (Docket No. USTR-2026-0265-00132469), July 6, 2026.

[73] Peru Ministry of Foreign Trade and Tourism, "Press Release – Mincetur," July 24, 2026, accessible here (in Spanish): https://www.gob.pe/institucion/mincetur/noticias/1422622-comunicado-mincetur.

[74] Philippine Department of Labor, "DOLE, DTI, DOF unite to guard supply chains and labor rights," July 24, 2026, accessible here: https://dole.gov.ph/news/dole-dti-dof-unite-to-guard-supply-chains-and-labor-rights/. As of July 28, 2026, the full text of the JAO has not been published in the Philippine Official Gazette or on the DTI, DOLE, or DOF websites.

The Cabinet resolution also sets out the legal pathway for implementation. Once the Cabinet approves the committee's recommendations, the Department of Foreign Trade may issue notifications under Section 5 of the Export and Import of Goods Act B.E. 2522 (1979) to regulate, condition, restrict, or prohibit the importation of specified goods.

In parallel, Thailand will continue negotiations with the United States aimed at concluding ART discussions, while preserving sensitive national interests, including agriculture and public health. The government will also maintain support for Thai investment in the United States and move forward with plans to increase imports of selected US products under the existing bilateral framework, while ensuring appropriate safeguards for domestic producers.

- **Uruguay**: On June 18, 2026, the Competitiveness and Cost of Living Reduction Bill was introduced in the Uruguayan Parliament. The omnibus measure would establish an explicit prohibition on the importation of goods produced, wholly or in part, through forced labor or child labor. Article 96 confers on the president the authority to establish the mechanisms and procedures necessary for the implementation and enforcement of that prohibition. According to the bill's explanatory memorandum, the provision is designed to prevent what the memorandum characterizes as "social dumping," by progressively aligning Uruguay's domestic legal framework with international regulatory trends observed in other advanced economies. The provision also aims to strengthen Uruguay's international credibility and standing in the areas of sustainability and fair trade by ensuring that competition in the domestic market takes place on equitable terms.[75]

  In its submission to USTR dated July 2, 2026, the Uruguayan government argued that the legislative process currently underway constitutes a concrete, public, and formal commitment by the State to establish such a prohibition under domestic law, consistent with the objectives of the USTR investigation.[76]

- **Vietnam**: On July 22, 2026, the Vietnamese Government promulgated Decree No. 292/2026/ND-CP[77] on the detailed implementation of several articles of the Law on Foreign Trade Management, which prohibits the importation of goods mined, produced, or manufactured wholly or in part by forced labor from any enterprise, country, or territory, in accordance with international treaties to which Vietnam is a party. The forced labor prohibition is incorporated as a new category within the Decree's consolidated list of goods prohibited from import, rather than as a standalone instrument, with the specific list of covered goods, entities, and countries to be determined by ministerial implementing measures. The Decree enters into force on September 5, 2026, replacing Decree No. 69/2018/ND-CP.

Replacing IEEPA tariffs with Section 301 tariffs

Through this Section 301 action, the Trump administration has effectively reconstituted its IEEPA reciprocal tariff policy. The new Section 301 tariffs match the lower bounds of the IEEPA tariff rates for economies that account for over 99% of US goods imports, incorporate the IEEPA tariff's product-specific exceptions lists, and revive the ARTs. The new Section 301 tariffs directly incorporate the country-specific IEEPA tariff exclusions and tariff caps that the Trump administration committed to in the ART negotiations.

USTR's allocation of economies to the 10% and 12.5% tariff tiers also appears to be driven more by ART enforcement considerations than by each economy's forced labor import prohibitions. For example, Norway and Australia have forced labor policies comparable to those of the European Union and United Kingdom, yet were placed in the 12.5% tier instead of the 10% tier, consistent with the fact that neither has signed a preliminary ART.

[75] "Competitiveness and Cost of Living Reduction Bill" (text and explanatory memorandum), Ministry of Economy and Finance, June 18, 2026, accessible here (in Spanish): https://www.gub.uy/ministerio-economia-finanzas/comunicacion/noticias/proyecto-ley-competitividad-reduccion-del-costo-vida-ingresa-senado.

[76] Submission by the Embassy of Uruguay (Docket No. USTR-2026-0265-00131061), July 2, 2026.

[77] Government Decree No. 292/2026/ND-CP: Detailing certain provisions and measures for organizing and guiding the implementation of the Law on Foreign Trade Management, July 22, 2026, accessible here (in Vietnamese): https://datafiles.chinhphu.vn/cpp/files/vbpq/2026/7/292_2026_nd-cp_22072026-signed.signed.pdf.

Similarly, Malaysia, Cambodia, and Indonesia were assigned the 10% tier based on their ART commitments to adopt forced labor import prohibitions. By contrast, the Philippines, Vietnam, and Thailand, each of which adopted or initiated forced labor import prohibitions in the weeks preceding USTR's determinations, but which have not concluded ARTs, were assigned to the 12.5% tier.

Despite those efforts to replace the IEEPA tariffs, the 10% to 12.5% tariff rates assigned in this Section 301 action remain slightly lower than the 15%-20% IEEPA reciprocal tariff rates that were typical for trade partners with which the United States has bilateral goods trade deficits. USTR likely intends to use other pending Section 301 actions to bridge that remaining differential and to sustain pressure on economies to finalize and implement their ARTs.

The next pending Section 301 action is the investigation into "Acts, Policies, and Practices of Certain Economies Relating to Structural Excess Capacity and Production in Manufacturing Sectors," which covers 16 economies with which the United States has large bilateral goods trade deficits[78] USTR has not yet announced its determinations or proposed tariffs for the set of 16 investigations, but it appears likely that USTR intends to use the action to restore the higher reciprocal tariff rates for these trade partners.

Other Section 301 investigations are likely still pending initiation. After the Supreme Court ruled the IEEPA tariffs were unlawful, USTR's press statement describing the Trump administration's plan to replace the IEEPA tariffs with Section 301 tariffs also mentioned potential investigations into "pharmaceutical pricing practices, discrimination against US technology companies and digital goods and services, digital services taxes, ocean pollution, and practices related to the trade in seafood, rice, and other products."[79]

Legal challenges to the Section 301 tariffs begin

USTR's accelerated process for imposing the Section 301 tariffs, the lack of clear determination criteria, a vague investigation report, and various actions and statements linking the outcomes of the Section 301 investigation to the unlawful IEEPA tariffs have raised significant questions regarding the legality of the new measures. Immediately after the tariffs took effect on July 24, 2026, two groups of importers that had previously challenged the IEEPA and Section 122 tariffs filed new lawsuits at the Court of International Trade (CIT) challenging the Section 301 tariffs.

- *Burlap and Barrel, Inc. v. Greer*,[80] filed by Burlap and Barrel, Inc. (a New York-based spice importer) and Collective Horology LLC (a California-based watch retailer) with support from the Liberty Justice Center (a public-interest litigation non-profit) argues that (i) an untargeted, worldwide tariff designed to replace the unlawful IEEPA tariffs exceeds the authority granted by Section 301; (ii) that the action is arbitrary and capricious because USTR has not provided a reasoned, record-based explanation for the determinations and that USTR's statements indicate the results were predetermined; and (iii) that – if the tariffs were allowed to stand – Section 301 represents an unconstitutional delegation of Congress's Article I tariff power.

  Unlike most previous challenges to the Trump administration's tariffs, this case is a class action seeking to obtain relief on behalf of all importers of record that have paid, or will be required to pay, tariffs imposed under the Section 301 action.

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[78] "Initiation of Section 301 Investigations: Acts, Policies, and Practices of Certain Economies Relating to Structural Excess Capacity and Production in Manufacturing Sectors," 91 FR 12886 (March 17, 2026), accessible here: https://www.federalregister.gov/documents/2026/03/17/2026-05214/initiation-of-section-301-investigations-acts-policies-and-practices-of-certain-economies-relating (corrected version). The 16 economies are Bangladesh, Cambodia, China, India, Indonesia, Japan, Korea, Malaysia, Mexico, Norway, Singapore, Switzerland, Taiwan, Thailand, Vietnam, and the European Union. Singapore is included notwithstanding that the United States does not maintain a bilateral goods trade deficit with Singapore; the original initiation notice incorrectly stated otherwise, and a corrected version was subsequently issued in which USTR removed the erroneous reference to a trade deficit with Singapore.

[79] "Ambassador Greer Issues Statement on Supreme Court IEEPA Decision," USTR, February 20, 2026, accessible here: https://ustr.gov/about/policy-offices/press-office/press-releases/2026/february/ambassador-greer-issues-statement-supreme-court-ieepa-decision.

[80] *Burlap and Barrel, Inc. v. Greer, in his official capacity as United States Trade Representative*, 1:26-cv-03345, (Ct. Intl. Trade). Material from the docket is accessible here: https://www.courtlistener.com/docket/73667352/burlap-and-barrel-inc-v-greer-in-his-official-capacity-as-united-states/.

- *Learning Resources, Inc. v. The United States of America*,[81] filed by Learning Resources, Inc. (an Illinois-based educational product importer) and HMTX Industries LLC (a Connecticut-based flooring importer) argues (i) that the tariffs were imposed without statutory authority, as the tariffs exceed what is allowable under Section 301 and did not follow Section 301's statutory criteria for determinations; (ii) that the action is arbitrary and capricious, and unsupported by evidence, because USTR did not develop responsive actions particular to each target economy, did not consider relevant evidence or public comments, and the action was designed to replicate the IEEPA tariffs; and (iii) that – if the tariffs were allowed to stand – the tariffs represent an unconstitutional delegation of Congress's Article I tariff power.

The Democratic party-controlled state governments led by the state of Washington, which have previously challenged the IEEPA and Section 122 tariffs, have also signaled their intent to challenge the Section 301 tariffs in court, but have not yet filed their lawsuit.

At the WTO, Brazil's Ministry of Foreign Affairs announced on July 27, 2026 that it submitted a request for consultations with the United States regarding the forced labor Section 301 action and the Brazil-specific Section 301 action.[82] Brazil considers the Section 301 tariffs to be "unjustified and incompatible with US obligations under the General Agreement on Tariffs and Trade 1994 (GATT 1994) and the WTO Understanding on Dispute Settlement Standards and Procedures."

Section 232

Trump Administration Initiates Section 232 Investigation of Anthracite Coal Imports

On June 29, 2026, the US Department of Commerce's Bureau of Industry and Security (BIS) initiated an investigation into the US national security implications of importing anthracite coal, with a particular focus on metallurgical coal used in steel production.[83] The *Federal Register* notice indicates that BIS is specifically considering the imposition of tariffs as a potential outcome of the investigation.

BIS is conducting the investigation under Section 232 of the Trade Expansion Act of 1962,[84] which authorizes the president to restrict imports of products that are found to threaten to impair US national security. Unlike other US trade remedy regimes (including safeguards, Section 301, antidumping duties and countervailing duties), Section 232 does not require evidence of a market access violation or economic injury as a condition for imposing measures.

Types of coal covered by the investigation

The investigation targets anthracite coal, with a focus on the most energy-dense, high-rank forms that BIS defines as, "characterized by its high carbon content (86-97 percent), low volatile matter, and superior heating value" and classifies under HTSUS 2701.11.0000 (anthracite coal, not agglomerated) and HTSUS 2701.12.0010 (metallurgical bituminous coal, not agglomerated). Other forms of bituminous and sub-bituminous coal and briquettes, as well as lignite, coke and coal gas, do not appear to fall within the stated scope of the investigation.

The notice highlights the use of the covered coal products in steelmaking, describing them as "critical materials for domestic steel production and industrial processes[.]" BIS further explains that "steelmakers use anthracite coal for

[81] *Learning Resources, Inc. v. The United States of America*, 1:26-cv-03347, (Ct. Intl. Trade). Material from the docket is accessible here: https://www.courtlistener.com/docket/73668290/learning-resources-inc-v-the-united-states-of-america/.

[82] "Request for consultations with the United States at the World Trade Organization," July 27, 2026, Brazil Ministry of Foreign Affairs, accessible here: https://www.gov.br/mre/pt-br/canais_atendimento/imprensa/notas-a-imprensa/pedido-de-consultas-aos-estados-unidos-na-organizacao-mundial-do-comercio (in Portuguese).

[83] "Notice of Request for Public Comments on Section 232 National Security Investigation of Anthracite Coal," 91 FR 41619 (July 7, 2026), accessible here: https://www.federalregister.gov/documents/2026/07/07/2026-13663/notice-of-request-for-public-comments-on-section-232-national-security-investigation-of-anthracite.

[84] 19 U.S.C. §1862 and 15 C.F.R. part 705.

electric arc furnace (EAF) steelmaking due to its purity and role as a foaming agent and charge ingredient, supporting mission-critical operations across industrial, defense and infrastructure sectors."

Coal, including the forms covered by this investigation, is exempt from the 10% global tariff imposed under Section 122 of the Trade Act of 1974. Coal was also excluded from the global "reciprocal" tariffs previously imposed under the International Emergency Economic Powers Act (IEEPA), and the Office of the United States Trade Representative (USTR) has proposed to exclude coal from the 10% or 12.5% forced labor Section 301 tariff applicable to the 60 largest US trade partners.

In 2025, US imports included:

- $37.3 million of anthracite coal, of which $23.9 million originated in Peru, with most of the remaining volume supplied by the United Kingdom and China.
- $85.7 million of metallurgical bituminous coal, sourced almost entirely from Canada.

The United States exports significantly more anthracite and metallurgical coal than it imports. In 2025, US exports included:

- $136.7 million of anthracite coal to 36 countries. Canada, Japan, Norway, Brazil, and France were the 5 largest export destinations, accounting for 87% of the total export value.
- $6.61 billion of metallurgical coal to 35 countries. India, Brazil, the Netherlands, Japan, and Turkey were the 5 largest export destinations, accounting for 58% of the total export value.

Taken together, the United States ran a $6.62 billion trade surplus in anthracite and metallurgical coal in 2025. Over 70% of US metallurgical coal produced in the United States is exported. The United States is also a net exporter of coke, which metallurgical coal is converted into for use in steel production.

Approximate timeline for the Section 232 investigation

Key dates for the investigation and public comment process include:

- **June 29, 2026**: Investigation initiated.
- **July 21, 2026**: Deadline to submit written comments (14 days after publication of the *Federal Register* notice).
- **March 26, 2027**: Approximate deadline for BIS to transmit its report to the president (270 days after initiation).
- **June 24, 2027**: Latest date by which the president is expected to announce any responsive action.

Under Section 232, BIS has 270 days from initiation to complete the investigation and provide its findings and policy recommendations to the president. If BIS concludes that the covered imports threaten to impair national security, the president then has 90 days from receipt of the report to decide whether to concur and whether to exercise statutory authority to adjust imports. Any such action must be implemented no later than 15 days after the presidential determination. Alternatively, the president may direct the US government to pursue agreements with other countries to address the national security concerns, which would extend the implementation period by 180 days.

Recent practice under the Trump administration has introduced uncertainty into these timelines. For example, on April 2, 2026, President Trump issued a proclamation imposing tariffs under the Section 232 investigation into imports of pharmaceuticals and pharmaceutical ingredients 366 days after the investigation's initiation, slightly beyond the 360-day time limit. Since then, the statutory deadlines in the Section 232 investigations on commercial aircraft and engines, polysilicon, and unmanned aircraft systems have all elapsed without public action or comment from the Trump administration, underscoring the potential for delays in the anthracite coal investigation.

Opportunity for public comments

Interested stakeholders may submit comments through the public docket at Regulations.gov.[85] Comments are due by July 21, 2026, and the notice provides detailed instructions on submission. Participation in the comment process can influence the outcome of the investigation and encourage regulators to further clarify proposed actions. The BIS notice does not indicate that public hearings will be held, and such hearings are discretionary in Section 232 investigations.

BIS is particularly interested in comments that address the regulatory criteria for assessing the impact of imports on national security. Relevant comments could address, among other issues:

- Current and projected demand for anthracite coal;
- Ability of domestic production to meet that demand;
- Role and reliability of foreign supply chains;
- Concentration of US imports from a limited number of source countries and related vulnerabilities;
- Effects of foreign practices on the competitiveness of US anthracite producers;
- Economic impact of artificially suppressed prices;
- Risk of export restrictions by foreign suppliers;
- Feasibility of expanding domestic production and capacity;
- Impact of existing trade policies on domestic output and the relationship between anthracite use and US manufacturing employment;
- Potential for foreign control or leverage over the anthracite coal supply chain;
- Future role of anthracite coal in the production of items essential to national security; and
- Other factors relevant to the statutory and regulatory analysis.

The Trump administration's efforts to support the US coal industry

Reviving the US coal mining industry has long been a Trump administration priority, both in domestic industrial planning policy and in trade policy. One of President Trump's first actions on January 20, 2025 was to issue executive orders "declaring a national energy emergency" and directing the government to deregulate the coal industry. Most recently, in June 2026, the Department of Energy announced hundreds of millions of dollars in subsidies to coal-fired power plants and coal export terminals, which they stated would keep 42 coal mines in operation.[86]

In 2025, following directions from President Trump, the Department of Energy designated metallurgical coal as a critical material and the US Geological Survey designated metallurgical coal as a critical mineral.[87] The designations unlocked additional subsidy programs for the coal industry and established the economic security arguments that

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[85] The docket will be posted to the federal rulemaking portal at Regulations.gov under Docket ID BIS-2026-0298. Commenters should reference XRIN 0694-XC165 in their submissions.

[86] "The Energy Department is Unleashing Beautiful, Clean Coal," US Department of Energy, June 4, 2026, accessible here: https://www.energy.gov/articles/fact-sheet-energy-department-unleashing-beautiful-clean-coal.

[87] "Critical Material List; Addition of Metallurgical Coal Used for Steelmaking," 90 FR 22711 (May 29, 2025), accessible here: https://www.federalregister.gov/documents/2025/05/29/2025-09607/critical-material-list-addition-of-metallurgical-coal-used-for-steelmaking; and "Final 2025 List of Critical Minerals," 90 FR 50494 (November 7, 2025), accessible here: https://www.federalregister.gov/documents/2025/11/07/2025-19813/final-2025-list-of-critical-minerals.

feature in the Section 232 investigation notice. In an assessment explaining the basis for listing metallurgical coal as a critical material, the Department of Energy links import protection for the coal industry to import protection of the steel industry, stating that “reestablishing security of steel supply for the United States requires increasing both steel capacity and the production of metallurgical coal, a key component of steel making” and concluding “the current U.S. steel market and its reliance on metallurgical coal (including anthracite) reveals a production scenario on track for significant import reliance.”[88]

Despite those policy interests, until the Section 232 investigation, the Trump administration had refrained from imposing tariffs on energy inputs such as coal, likely due to concerns about consumer prices. Meanwhile, the coal industry has continued to advocate for tariffs. Public efforts by the coal industry to change the Trump administration’s tariff policy included calling for 100% Section 232 tariffs on anthracite coal in July 2025[89] and filing comments in the Section 301 investigation of forced labor import policies alleging that Peruvian anthracite coal is made with forced labor. Despite the allegations, USTR proposed to exclude coal from the Section 301 tariffs in its June 5, 2026 proposed action. Shortly before BIS announced the Section 232 investigation, the Pennsylvania Anthracite Council wrote to members of Congress calling for tariffs and objecting to imports from Peru.

President Trump’s two-track tariff strategy

At the beginning of the Trump administration in 2025, the US government adopted a two-track tariff strategy: (i) the use of broad authorities to impose “reciprocal” tariffs on most products from most trading partners, apparently with the objective of securing improved market access conditions and rebalancing trade flows; and (ii) the use of Section 232 tariffs on imports in sectors the administration views as strategically important to US national and economic security. Unlike many other US tariffs, the “reciprocal” tariffs and Section 232 tariffs are not applied cumulatively. Instead, when President Trump issues a Section 232 tariff order, the covered products are generally exempted from the “reciprocal” tariffs.

The “reciprocal” tariff track initially relied on IEEPA, but in February 2026 the Supreme Court held that IEEPA does not provide authority for the president to impose tariffs. The administration is now seeking to reconfigure the “reciprocal” tariff track using Section 301 and Section 122 of the Trade Act of 1974.[90] USTR’s latest proposed Section 301 tariff measure, nominally in response to certain economies’ failures to adopt and enforce import bans on goods produced with forced labor, preserves this two-track framework by proposing to exempt products already subject to Section 232 tariffs.[91]

President Trump’s Section 232 tariff actions

Currently, there are seven major tariff actions under Section 232, covering most imports of (i) steel and steel derivatives; (ii) aluminum and aluminum derivatives; (iii) passenger vehicles, light trucks, and parts; (iv) copper and copper derivative products; (v) timber, lumber, and wood products; (vi) trucks, buses, and truck parts; and (vii) prescription pharmaceuticals and ingredients (which begins to enter into effect on July 31, 2026).

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[88] “The Intrinsic Role of Coal in Achieving Steel Dominance,” Department of Energy, May 2025, accessible here: https://www.energy.gov/sites/default/files/2025-05/doe-intrinsic-role-of-coal-in-achieving-steel-dominance.pdf.

[89] Appalachian Region Independent Power Producers Association (ARIPPA) letter to the Secretary of Commerce, July 8, 2025, accessible here: https://arippa.org/wp-content/uploads/2025/07/ARIPPA-Coal-Tariff-Support-Letter-Lutnick.pdf.

[90] For explanations of this strategy, see Truth Social post of February 20, 2026 by President Trump, accessible here: https://truthsocial.com/@realDonaldTrump/posts/116104407604484915; and “Ambassador Greer Issues Statement on Supreme Court IEEPA Decision,” USTR, February 20, 2026, accessible here: https://ustr.gov/about/policy-offices/press-office/press-releases/2026/february/ambassador-greer-issues-statement-supreme-court-ieepa-decision.

[91] “Notice of Determinations and Request for Comments Concerning Actions in Section 301 Investigations of Acts, Policies, and Practices of Various Economies Related to the Failure To Impose and Effectively Enforce a Prohibition on the Importation of Goods Produced With Forced Labor,” 91 FR 34272 (June 5, 2026), accessible here: https://www.federalregister.gov/documents/2026/06/05/2026-11296/notice-of-determinations-and-request-for-comments-concerning-actions-in-section-301-investigations.

President Trump has issued two other Section 232 proclamations, covering (i) processed critical minerals and their derivative products and (ii) semiconductors, semiconductor manufacturing equipment, and their derivative products, neither of which involved the immediate imposition of broad-based tariffs.

In addition to the new anthracite coal investigation, there are five other Section 232 investigations still underway: (i) polysilicon, (ii) unmanned aircraft systems, (iii) wind turbines, (iv) medical products, and (v) robotics and industrial machinery. Results of the Section 232 investigation of commercial aircraft, jet engines, and parts were issued in early July, but without imposition of tariffs.

President Trump Declines to Impose Tariffs in Aircraft and Jet Engines Section 232 Action

On July 9, 2026, President Trump issued a proclamation on the Section 232 investigation of commercial aircraft, jet engines, and parts thereof, declining to impose any tariffs on the aircraft industry.[92] Instead, the Trump administration is instructing the United States Trade Representative (USTR) and the Department of Commerce (Commerce) to pursue negotiations with other countries to address "the impact of foreign imports on the health of the U.S. commercial aerospace industry." The decision aligns with the administration's apparent shift over the past year to preserve tariff exemptions for most of the aerospace supply chain in its tariffs and trade deals.

The investigation and presidential proclamation are based on Section 232 of the Trade Expansion Act of 1962, a law that empowers the president to restrict imports of products that are found to threaten to impair national security.[93]

The Department of Commerce determination

According to the proclamation, the Secretary of Commerce found that "commercial aircraft, jet engines, and their associated parts are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States."

Even so, the Secretary recommended to the president that "no immediate tariffs be imposed under Section 232 to address the threatened impairment to the national security posed by imports of commercial aircraft, jet engines, and their associated parts." Rather than imposing tariffs, the Secretary recommended "that the President direct further discussions and negotiations with foreign jurisdictions to address the threatened impairment to the national security posed by imports of commercial aircraft, jet engines, and their associated parts."

The factual basis and analysis underlying the determination are not publicly known. As with other Section 232 investigations undertaken by the Trump administration since January 2025, Commerce has not provided a public copy of the investigation report.

Instruction to negotiate agreements

Based on the Secretary's recommendation, President Trump is instructing the USTR and Commerce to "jointly pursue or continue pursuing negotiations of agreements to address the threatened impairment of the national security with respect to imports of commercial aircraft, jet engines, and their associated parts." The proclamation does not specify what countries should be engaged for these negotiations or what specific policy commitments the United States is seeking, other than that such agreements should address "the threatened impairment of the national security with respect to imports of commercial aircraft, jet engines, and their associated parts."

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[92] Presidential proclamation of July 9, 2026 "Adjusting Imports of Commercial Aircraft, Jet Engines, and Aircraft and Engine Parts into the United States," accessible here: https://www.whitehouse.gov/presidential-actions/2026/07/adjusting-imports-of-commercial-aircraft-jet-engines-and-aircraft-and-engine-parts-into-the-united-states/; and "President Donald J. Trump Adjusts Imports of Commercial Aircraft, Jet Engines, and Aircraft and Engine Parts into the United States," White House, July 9, 2026, accessible here: https://www.whitehouse.gov/fact-sheets/2026/07/fact-sheet-president-donald-j-trump-adjusts-imports-of-commercial-aircraft-jet-engines-and-aircraft-and-engine-parts-into-the-united-states/.

[93] 19 U.S.C. §1862, accessible here: https://www.govinfo.gov/app/details/USCODE-2024-title19/USCODE-2024-title19-chap7-subchapII-partIV-sec1862; and 15 C.F.R. part 705, accessible here: https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-A/part-705. More information on BIS' Section 232 activities can be found on the BIS website, accessible here: https://www.bis.gov/about-bis/bis-leadership-and-offices/SIES/section-232-investigations.

USTR and Commerce are instructed to report to President Trump on the status of the negotiations in 180 days, which would be on or about January 5, 2027. Depending on the status or outcome of the negotiations, President Trump "may consider alternative remedies in the future." The proclamation does not explain what alternative remedies the Trump administration may be considering. In theory, these alternative remedies could eventually include imposition of tariffs, but the proclamation does not suggest that tariffs are currently under consideration.

The 180-day timeline for negotiations is set by the statute, which provides that, if the president determines that the appropriate remedy should be "the negotiation of an agreement which limits or restricts the importation into, or the exportation to, the United States of the article that threatens to impair national security"; and either (i) no such agreement is entered into within 180 days or (ii) such an agreement has been entered into, but it is not being carried out or is ineffective; then the president "shall take such other actions as the President deems necessary to adjust the imports of such article so that such imports will not threaten to impair the national security."

Initiation of the investigation and delays

Commerce's Bureau of Industry and Security (BIS) originally initiated the Section 232 investigation into the effects on US national security of commercial aircraft and jet engines and parts for commercial aircraft and jet engines, on May 9, 2025.[94] At the time, the Trump administration provided limited information regarding the rationale for the investigation or its potential outcomes. The notice stated only that BIS sought to "determine the effects on the national security of imports of commercial aircraft and jet engines, and parts for commercial aircraft and jet engines."

The results of the investigation were delayed by several months, without explanation from the administration. Under Section 232, BIS has 270 days from initiation to complete its investigation and provide findings and policy recommendations to the president. If BIS concludes that the covered imports threaten to impair national security, the president then has 90 days from receipt of the report to decide whether to concur and whether to exercise statutory authority to adjust imports. Based on the statute, the latest date on which the proclamation should have been issued was on or about April 26, 2026. Two other Section 232 investigations, covering polysilicon and unmanned aircraft, are also overdue.

Shift towards maintaining free trade in the aerospace sector and apparent extension of the tariff truce in the US-EU-UK Large Civil Aircraft dispute

Since initiating the Section 232 investigation in May 2025 and including the aerospace industry within the scope of the "reciprocal" tariffs imposed under the International Emergency Economic Powers Act (IEEPA), the Trump administration has gradually backed away from imposing tariffs on the sector. In many of the Agreement on Reciprocal Trade (ART) negotiations, the Trump administration granted IEEPA tariff exceptions for aircraft and aircraft parts. In the ARTs with the United Kingdom (UK), European Union (EU), South Korea, and Japan, the administration also committed to excepting civil aircraft and parts from the steel, aluminum, and copper Section 232 tariffs. Most recently, when the Trump administration replaced the IEEPA tariffs with the global 10% Section 122 tariffs, it included a global exception for aircraft and parts.

Unlike some of the other Trump administration tariff actions that could be argued benefit specific domestic industries, the US aerospace industry has opposed tariffs. In comments submitted to the investigation docket in June 2025, the Aerospace Industries Association (AIA) highlighted the importance of reciprocity, rigorous regulatory standards, and the importance of supply chain integration with US allies. Following the announcement of the proclamation, AIA issued a statement praising the outcome.[95]

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[94] "Notice of Request for Public Comments on Section 232 National Security Investigation of Imports of Commercial Aircraft and Jet Engines and Parts for Commercial Aircraft and Jet Engines," 90 FR 20273 (May 13, 2026), accessible here: https://www.federalregister.gov/documents/2025/05/13/2025-08500/notice-of-request-for-public-comments-on-section-232-national-security-investigation-of-imports-of.

[95] "AIA Responds to Findings of Section 232 Investigation of Commercial Aircraft," AIA, July 10, 2026, accessible here: https://www.aia-aerospace.org/news/aia-responds-to-findings-of-section-232-investigation-of-commercial-aircraft/.

Instructing USTR and Commerce to "pursue negotiation of agreements or continue any current negotiations" rather than imposing tariffs may also be part of an arrangement to extend the five-year suspension of retaliatory tariffs in the Large Civil Aircraft / Boeing-Airbus dispute between the United States and the EU and UK. The three parties agreed to suspend tariffs for five years in 2021, which had set the arrangement to expire on July 6, 2026 between the United States and the UK and on July 11, 2026 between the United States and the EU. The EU adopted an extension of the tariff suspension on July 6, 2026,[96] in response to which the UK issued a statement acknowledging the continuation of the arrangement.[97] The United States has not yet issued a statement on the extension, but it has also not revived the Section 301 authority that USTR had used to impose tariffs in 2019.[98]

President Trump Announces New Tariff Reduction Option for the Aluminum Section 232 Tariff

On July 20, 2026, President Trump issued a proclamation directing the Department of Commerce to create a program to offer reductions in the Section 232 tariffs on primary aluminum in exchange for commitments to invest in primary aluminum production in the United States.[99] Under the latest revisions to the Section 232 tariff, primary aluminum products are generally subject to a 50% tariff, meaning the onshoring agreements would reduce the tariff to 25%.

Actions directed in the proclamation

President Trump's proclamation directs the Department of Commerce (Commerce) to "establish a program to incentivize new investment in US production facilities to produce primary aluminum" and outlines how the system should be structured. Commerce will need to issue additional guidance to implement the system before it can be used.

The proclamation instructs Commerce on the information to be requested in applications, the criteria and process for reviewing those applications, the monitoring and enforcement of the resulting agreements, and the tariff relief that may be granted, as follows:

- **Onshoring agreement applications:** Commerce will "solicit and accept onshoring plans from companies," which should include (i) a commitment to "build, refurbish, or expand a facility in the United States that will produce primary aluminum"; (ii) a "commitment that construction will start by January 20, 2029" (President Trump's last day in office); and (iii) "any other relevant information and analysis, including requirements set by the Secretary [of Commerce]."
- **Commerce review:** Commerce will review and approve the applications, considering any appropriate factors, including "the anticipated start date of construction, whether the proposed plan's project timeline is commercially reasonable, whether the proposed plan's project milestones are commercially reasonable, the anticipated annual production of primary aluminum from the onshoring project, whether the proposed plan's anticipated costs and primary-aluminum production projections are reasonable, and how the benefits of the reduced tariff rate will be allocated between the applicants of the onshoring plan."

[96] Commission Implementing Regulation (EU) 2026/1549 of 6 July 2026 suspending commercial policy measures concerning certain products from the United States of America imposed by Implementing Regulation (EU) 2020/1646 following the adjudication of a trade dispute under the Dispute Settlement Understanding of the World Trade Organization, accessible here: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202601549.

[97] Notice on the cooperative framework for Large Civil Aircraft, July 7, 2026, accessible here: https://www.gov.uk/guidance/notice-on-the-cooperative-framework-for-large-civil-aircraft.

[98] "Suspension of Action: Enforcement of U.S. WTO Rights in the Large Civil Aircraft Dispute," 86 FR 36313 (July 9, 2021), accessible here: https://www.federalregister.gov/documents/2021/07/09/2021-14550/suspension-of-action-enforcement-of-us-wto-rights-in-the-large-civil-aircraft-dispute.

[99] Presidential Proclamation of July 20, 2026: "Further Strengthening Actions Taken to Adjust Imports of Aluminum into the United States," accessible here: https://www.whitehouse.gov/presidential-actions/2026/07/further-strengthening-actions-taken-to-adjust-imports-of-aluminum-into-the-united-states/.

- **Tariff reduction:** If an onshoring plan is approved, Commerce will "allow the company to annually import primary aluminum of a quantity that corresponds to the U.S. production facility's reasonably anticipated annual output of primary aluminum when the onshoring project is completed, at half the section 232 rate of duty otherwise in effect." For facility refurbishments, the tariff reduction "shall only be granted to the extent those adjustments correspond with the value of the company's investment."

- **Monitoring and enforcement:** The onshoring agreements will be subject to ongoing monitoring and enforcement, including requirements that companies file regular updates on the status of the investments. If Commerce finds that companies have not met the investment commitments, it may revoke the tariff benefits. In cases where the company is determined to have "engaged in fraud or deliberately misled the United States Government with respect to onshoring commitments," other fines or penalties may apply.

Recent example from the Section 232 tariff on prescription pharmaceuticals and ingredients

A similar company-specific mechanism by which companies can apply for Section 232 tariff relief in exchange for investment commitments was recently implemented for the Section 232 tariff on prescription pharmaceuticals and ingredients.[100] Issued in May 2026, the system offers to reduce the pharmaceutical Section 232 tariff from 100% to 20% in exchange for pharmaceutical companies entering into "Company-Specific Onshoring Agreements" with Commerce.

Parallel system for North American automotive and truck steel and aluminum tariff reductions under the trucks and buses Section 232 tariff

A smaller, more targeted, system for reducing certain aluminum and steel Section 232 tariffs in exchange for investment commitments is already in place under the Section 232 tariffs on medium- and heavy-duty vehicles, medium- and heavy-duty vehicle parts, and buses.[101] Under this system, implemented in April 2026, steel and aluminum producers that are operating production facilities in Canada or Mexico and also investing in new US manufacturing capacity may apply to Commerce for tariff reductions. If approved, those producers can obtain a reduced Section 232 tariff reduction from 50% to 25% on qualifying imports of certain Mexican and Canadian steel and aluminum products used in US automotive and truck manufacturing. The Trump administration appears to intend to leave this system in place in parallel with the new system.

Section 338

President Trump Imposes New Tariffs on Canada in First Use of Section 338

On July 20, 2026, President Trump issued three proclamations imposing 50% tariffs on certain imports from Canada under Section 338 of the Tariff Act of 1930, marking the first time any US president has invoked this authority. The tariffs will enter into effect for goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern time on August 19, 2026. Taken together, the three proclamations cover approximately US$20 billion worth of Canadian imports, which is approximately 5% of total US goods imports from Canada by value.[102]

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[100] "Procedures To Apply for Company-Specific Onshoring Agreements To Obtain Tariff Adjustments for Pharmaceuticals and Pharmaceutical Ingredients Under Proclamation 11020," 91 FR 26989 (May 13, 2026), accessible here: https://www.federalregister.gov/documents/2026/05/13/2026-09489/procedures-to-apply-for-company-specific-onshoring-agreements-to-obtain-tariff-adjustments-for.

[101] "Procedures for Submissions by Certain Steel and Aluminum Producers Committing to New U.S. Steel or Aluminum Production To Obtain Tariff Adjustments Under Proclamation 10984," 91 FR 21790 (April 23, 2026), accessible here: https://www.federalregister.gov/documents/2026/04/23/2026-07987/procedures-for-submissions-by-certain-steel-and-aluminum-producers-committing-to-new-us-steel-or.

[102] All data compiled using the US International Trade Commission's DataWeb (https://dataweb.usitc.gov/) from US Census Bureau data, imports for consumption, accessed July 20, 2026.

Each proclamation is based on separate findings that Canada discriminates against US commerce in favor of other trading partners: (i) by granting EU dairy exporters more favorable access to Canadian cheese import quotas than is afforded to US exporters; (ii) by imposing retaliatory tariffs exclusively on US motor vehicles while leaving imports from all other countries unaffected; and (iii) by permitting Canadian provinces and territories to boycott US alcoholic beverages without applying equivalent restrictions to any other country. Section 338 empowers the President to impose additional duties of up to 50% to offset such discrimination; the provision has no implementing regulations and there is no record of any previous president using it to impose a tariff, making its use legally novel.

The three proclamations

While structurally identical and implemented through the same set of amendments to the Harmonized Tariff Schedule of the United States (HTSUS), the three proclamations cover different sets of products:

- **Dairy proclamation:** The proclamation "Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Dairy" imposes a 50% additional tariff on 52 Harmonized Tariff Schedule of the United States (HTSUS) subheadings covering various dairy products and certain other agricultural products.[103] In 2024, the United States imported $97.2 million worth of goods under these classifications from Canada.
- **Motor vehicles proclamation:** The proclamation "Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Motor Vehicles" imposes a 50% additional tariff on 439 HTSUS subheadings covering a wide variety of agricultural and manufactured products.[104] In 2024, the United States imported $19.3 billion worth of goods under these classifications from Canada.
- **Alcoholic beverages proclamation:** The proclamation "Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Alcoholic Beverages" imposes a 50% additional tariff on 63 HTSUS subheadings covering a variety of alcohol products, certain wood and paper products, and hockey equipment.[105] In 2024, the United States imported $1 billion worth of goods under these classifications from Canada.

The relatively small share of US imports from Canada covered by the tariffs, at only 5% by value, suggests that USTR adopted a tailored approach. However, the proclamations do not explain the exact criteria by which products were selected or why the aggregate was calibrated to approximately $20 billion of trade.

Exceptions and tariff stacking

Products already covered by Section 232 tariffs are exempt from the Section 338 tariffs, as are certain civil aircraft and parts of civil aircraft (excluding unmanned aircraft).[106] There are 28 HTSUS subheadings on the motor vehicles tariff list that would qualify for the civil aircraft exception if they are intended for use in civil aircraft. No products on any of the three tariff lists appear to be covered by Section 232 actions. Including the two exceptions despite their limited practical use may be intended to signal that any future Section 338 tariffs issued by the Trump administration

[103] Proclamation of July 20, 2026: "Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Dairy," accessible here: https://www.federalregister.gov/d/2026-14992.

[104] Proclamation of July 20, 2025: "Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Motor Vehicles," accessible here: https://www.federalregister.gov/d/2026-14997.

[105] Proclamation of July 20, 2026: "Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Alcoholic Beverages," accessible here: https://www.federalregister.gov/d/2026-14991.

[106] The technical details for the Section 232 and civil aircraft exceptions are included only in the HTSUS provisions in Annex II of the alcoholic beverages proclamation. Rather than including duplicate language in the motor vehicle and dairy proclamations, the motor vehicle and dairy proclamations' Annex II HTSUS provisions are instead amendments to the HTSUS provisions in the alcoholic beverages proclamation's Annex II. As a result, all three tariffs will be within a single set of subdivisions in US Note 51, Subchapter III, Chapter 99 of the HTSUS.

would also exclude products covered by Section 232 tariffs and civil aircraft, similar to the current Section 122 tariff and recent Section 301 tariffs.

The proclamations also indicate that the Section 338 tariffs will not apply to energy products, potash, fish, and critical minerals. These products are simply not included on the tariff lists, rather than there being a technical exception.

The tariffs are in addition to any other duties, taxes, fees, exactions, and charges applicable to such products. They would therefore stack with any applicable tariffs imposed under Sections 301 and 122, as well as any other generally applicable tariffs and fees. Qualifying for preferential treatment under the United States-Mexico-Canada Agreement (USMCA) does not exempt goods from the 50% tariff.

Section 338 of the Tariff Act of 1930

Section 338 of the Tariff Act of 1930[107] (19 U.S.C. §1338) empowers the President to establish new tariffs on imports produced by (or imported on vessels of) a country that discriminates against or unequally imposes on US commerce relative to other commerce, in order to offset the resulting burden or disadvantage to US trade. Although it is conceptually similar to the World Trade Organization's Most-Favored-Nation (MFN) principle, Section 338 predates the General Agreement on Tariffs and Trade (GATT), uses broader language, and does not include an exception for preferential trade agreements.

Any tariff imposed under Section 338 should "offset such burden or disadvantage" (as the President determines) and cannot exceed 50% ad valorem (or its equivalent). The President may also impose the tariff on industries of third countries that benefited from the identified discrimination. Tariffs imposed under a Section 338 proclamation must not take effect earlier than 30 days after the date of such proclamation. This mandatory 30-day waiting period creates a practical question as to whether the administration could pause the tariffs if Canada were to enter negotiations before the August 19, 2026 effective date. Although Section 338 expressly authorizes the President "to suspend, revoke, supplement, or amend" a proclamation when the public interest so requires, it remains unclear whether a supplemental proclamation would itself need to comply with the same 30-day lead time.

No US president has ever previously imposed a tariff under Section 338. Originally enacted as part of the Smoot-Hawley Tariff Act of 1930, the provision has been largely unused for nearly a century, though reports from the US Tariff Commission (now the International Trade Commission (ITC)) in the 1930s and early 1940s reference activities related to monitoring discriminatory foreign trade practices under Section 338 authorities. It appears that the US government has only ever used the threat of Section 338 tariffs to obtain leverage in market access negotiations, and that it fell out of use by the 1950s. There are no implementing regulations in the Code of Federal Regulations (CFR) describing how actions based on Section 338 should be carried out and, due to its lack of use, there are no judicial precedents to help guide interpretation of the law.

Basis for invoking Section 338 in the three proclamations

Following the procedures in Section 338, the three proclamations each identify a trade issue for which the Trump administration alleges Canada discriminates against the United States relative to Canada's treatment of trade from other countries, and then set a retaliation amount the Trump administration claims is equivalent to the harm caused by Canada's alleged discrimination:

- **Dairy proclamation:** The proclamation claims that the tariff-rate quotas (TRQs) for dairy negotiated by the European Union with Canada under the Canada-EU Comprehensive Economic and Trade Agreement (CETA) provide better market access to Canada than is provided by the dairy TRQs negotiated by the Trump

[107] 19 U.S.C. §1338, accessible here: https://www.govinfo.gov/app/details/USCODE-2024-title19/USCODE-2024-title19-chap4-subtitleII-partII-sec1338.

administration in the USMCA, which the Trump administration asserts is discriminatory under the terms of Section 338.

- **Motor vehicles proclamation:** The proclamation claims that the retaliatory tariffs that Canada imposed on US motor vehicles in response to the Trump administration's Section 232 tariffs on automobiles discriminate against US automotive exports, because Canada did not similarly apply its retaliatory tariffs to all other trade partners.
- **Alcoholic beverages proclamation:** The proclamation claims that provincial-level boycotts of US alcohol, launched in retaliation for the Trump administration's tariffs and threats to annex Canada in 2025, discriminate against US alcohol exports, because the Canadian provinces did not similarly apply the boycotts to alcohol from all other trade partners.

An accompanying press statement from the White House reiterates that the Section 338 tariffs are partly intended to punish Canada for retaliating against the Trump administration's tariffs, stating that "over the past year and a half, only two countries have chosen to retaliate against President Trump's tariffs rather than negotiate a deal with the United States: the People's Republic of China and Canada."[108] Despite that comparison to China, the Trump administration has not suggested that it is taking any similar tariff actions targeting China. Instead, the Trump administration has largely backed away from the tariffs and economic security measures it imposed on trade with China in 2025 under a bilateral trade war de-escalation agreement.

The three Section 338 proclamations represent a significant and legally unprecedented escalation of the Trump administration's trade actions against Canada, with broad implications for importers and exporters across the affected sectors. For trade in North America, the tariff raises questions about the durability of USMCA as the United States, Canada, and Mexico enter a new phase of negotiations about the future of the agreement. A broader question for US trade policy is whether the Trump administration is using this action as a trial for the untested law because, if it survives legal challenge, Section 338 could provide a faster way to reestablish the Trump administration's reciprocal tariff policy than Section 301 has offered.

[108] "President Donald J. Trump Imposes Additional Tariffs on Canada," White House fact sheet, July 20, 2026, accessible here: https://www.whitehouse.gov/fact-sheets/2026/07/fact-sheet-president-donald-j-trump-imposes-additional-tariffs-on-canada/.

Trade Agreements

No developments

Petitions & Investigations

President Trump Orders Suspension of Morocco Fertilizer Countervailing Duty Order

On June 29, 2026, President Trump issued a proclamation to waive tariffs on imports of phosphate fertilizer from Morocco, including duties imposed under the applicable countervailing duty (CVD) order, for an eight-month period ending on approximately February 28, 2027.[109] The full details of the action are not yet available, as Commerce and Treasury have not yet issued the necessary implementing regulations. This measure is the latest in a series of actions by the Trump administration to lower input prices for US farmers, following a June 1, 2026 proclamation that temporarily reduced Section 232 tariffs on steel, aluminum, and copper used in farm equipment.[110]

The proclamation's effect and legal basis

The proclamation relies on Section 318(a) of the Tariff Act of 1930,[111] which authorizes the president to declare an emergency "by reason of a state of war, or otherwise," and to direct the Secretary of the Treasury and the Secretary of Commerce to permit "the importation free of duty of food, clothing, and medical, surgical, and other supplies for use in emergency relief work."

Acting under this authority, President Trump's proclamation declares the requisite emergency and directs the Secretary of the Treasury and the Secretary of Commerce to take the necessary actions to permit the importation of phosphate fertilizer from Morocco free of the collection of duties and deposits of estimated duties, including duties imposed under trade remedy laws, for a period of up to eight months or until the emergency declared in the proclamation is terminated. The proclamation further authorizes Commerce and Treasury to extend, on a temporary basis, deadlines for any acts required in connection with such imports.

Covered products

The proclamation does not specify the HTS subheadings covered by the action, or provide other operational details. It simply states that the suspension applies to "phosphate fertilizers of the Kingdom of Morocco."

Phosphate fertilizers from Morocco generally face CVD rates of approximately 20%. The CVD was imposed in 2021,[112] and Commerce announced the five-year (sunset) review of the order in March 2026.[113]

The proclamation's tariff relief is likely intended to apply to the products within the scope of the CVD order, which covers products classified within the following 13 HTS subheadings: 3103.11.00.00, 3103.19.00.00, 3103.90.00.10,

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[109] Proclamation 11038 of June 29, 2026: "Declaration of Emergency and Authorization for Temporary Duty-Free Importation of Phosphate Fertilizer from Morocco," 91 FR 40855 (July 2, 2026), accessible here: https://www.federalregister.gov/documents/2026/07/02/2026-13588/declaration-of-emergency-and-authorization-for-temporary-duty-free-importation-of-phosphate; "President Donald J. Trump Declares an Emergency and Authorizes the Temporary Suspension of Certain Duties on Phosphate Fertilizer from Morocco," White House, June 29, 2026, accessible here: https://www.whitehouse.gov/fact-sheets/2026/06/fact-sheet-president-donald-j-trump-declares-an-emergency-and-authorizes-the-temporary-suspension-of-certain-duties-on-phosphate-fertilizer-from-morocco/; and "President Trump Takes Action to Lower Fertilizer Costs and Support American Farmers," US Department of Agriculture, June 29, 2026, accessible here: https://www.usda.gov/about-usda/news/press-releases/2026/06/29/president-trump-takes-action-lower-fertilizer-costs-and-support-american-farmers.

[110] Proclamation 11032 of June 1, 2026: "Further Adjusting the Tariff Regimes for Imports of Aluminum, Steel, and Copper into the United States," 91 FR 34085 (June 4, 2026), accessible here: https://www.federalregister.gov/documents/2026/06/04/2026-11314/further-adjusting-the-tariff-regimes-for-imports-of-aluminum-steel-and-copper-into-the-united-states. For additional implementing guidance, see CSMS # 68855869 - GUIDANCE: Further Adjusting the Tariff Regimes for Imports of Aluminum, Steel, and Copper into the United States, accessible here: https://content.govdelivery.com/bulletins/gd/USDHSCBP-41aa83d.

[111] 19 U.S.C. §1318(a), accessible here: https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title19-section1318&num=0&edition=prelim.

[112] "Phosphate Fertilizers from the Kingdom of Morocco: Final Affirmative Countervailing Duty Determination," 86 FR 9482 (February 16, 2021), accessible here: https://www.federalregister.gov/documents/2021/02/16/2021-03011/phosphate-fertilizers-from-the-kingdom-of-morocco-final-affirmative-countervailing-duty.

[113] "Phosphate Fertilizers from Morocco and Russia; Institution of Five-Year Reviews," 91 FR 10142 (March 2, 2026), accessible here: https://www.federalregister.gov/documents/2026/03/02/2026-04068/phosphate-fertilizers-from-morocco-and-russia-institution-of-five-year-reviews.

3105.10.00.00, 3105.20.00.00, 3105.30.00.00, 3105.40.00.10, 3105.40.00.50, 3105.51.00.00, 3105.59.00.00, 3105.60.00.00, 3105.90.00.10, and 3105.90.00.50.

Fertilizers are already exempt from President Trump's 10% global Section 122 tariff and are duty-free under the US most-favored-nation (MFN) rates, making the CVD the only relevant tariff.

Phosphate fertilizer from Russia is subject to a parallel CVD order, but the proclamation does not extend duty suspension to Russian-origin products.[114]

Recent precedent

Section 318(a) was mostly recently used in 2022, when the Biden administration invoked it to suspend antidumping and countervailing duties on crystalline silicon photovoltaic (CSPV) cells and modules from Cambodia, Malaysia, Thailand, and Vietnam in Proclamation 10414 of June 6, 2022.[115] To implement President Biden's tariff suspension, Commerce issued a proposed rule on July 1, 2022 and a final rule on September 16, 2022.[116]

The petitioners in the CSPV trade remedy cases challenged President Biden's use of Section 318 at the Court of International Trade (CIT), arguing that CSPV cells and modules did not fall within the categories of goods eligible for duty-free treatment under the statute. In August 2025, the CIT held that Section 318 did not authorize the Biden administration's action, finding that CSPV cells and modules are not "food, clothing, and medical, surgical, and other supplies for use in emergency relief work," and that "other supplies" (which the government argued encompassed CSPV cells and modules) means only supplies that are similar to "medical" or "surgical" supplies. The case is currently on appeal before the Court of Appeals for the Federal Circuit, although the Trump administration has withdrawn the government's participation in the appeal.

President Trump's proclamation suggests that the White House views fertilizer products as falling within Section 318's reference to "food," given that the duty suspension will "ensure in the interim that United States farmers have access to a sufficient and timely supply of phosphate fertilizers during the planting and growing season, to ensure a stable domestic crop supply, and to meet our food production needs."

Investigations

Commerce Issues Final Antidumping Duty Order in Antidumping Investigation of Lattice-Boom Crawler Cranes from Japan

On July 23, 2026, the Department of Commerce (Commerce) issued the antidumping duty (ADD) order on lattice boom crawler cranes (LBCCs) from Japan, following the completion of the investigation.[117] The final estimated weighted-average dumping margins are 12.36% for Kobelco Construction Machinery Co., Ltd (Kobelco); 20.00% for Sumitomo Heavy Industries Construction Cranes Co., Ltd (Sumitomo); and 16.18% for the all-others rate.

[114] "Phosphate Fertilizers from the Russian Federation: Final Affirmative Countervailing Duty Determination," 86 FR 9479 (February 16, 2021), accessible here: https://www.federalregister.gov/documents/2021/02/16/2021-03010/phosphate-fertilizers-from-the-russian-federation-final-affirmative-countervailing-duty.

[115] Proclamation 10414 of June 6, 2022: "Declaration of Emergency and Authorization for Temporary Extensions of Time and Duty-Free Importation of Solar Cells and Modules From Southeast Asia," 87 FR 35067 (June 9, 2022), accessible here: https://www.federalregister.gov/documents/2022/06/09/2022-12578/declaration-of-emergency-and-authorization-for-temporary-extensions-of-time-and-duty-free.

[116] Proposed rule: "Procedures Covering Suspension of Liquidation, Duties and Estimated Duties in Accord With Presidential Proclamation 10414," 87 FR 39426 (July 1, 2022), accessible here: https://www.federalregister.gov/documents/2022/07/01/2022-14241/procedures-covering-suspension-of-liquidation-duties-and-estimated-duties-in-accord-with; and final rule: "Procedures Covering Suspension of Liquidation, Duties and Estimated Duties in Accord With Presidential Proclamation 10414," 87 FR 56868 (September 16, 2022), accessible here: https://www.federalregister.gov/documents/2022/09/16/2022-19953/procedures-covering-suspension-of-liquidation-duties-and-estimated-duties-in-accord-with.

[117] "Lattice Boom Crawler Cranes From Japan: Antidumping Duty Order," 91 FR 46396 (July 23, 2026), accessible here: https://www.federalregister.gov/documents/2026/07/23/2026-14950/lattice-boom-crawler-cranes-from-japan-antidumping-duty-order

Commerce will instruct US Customs and Border Protection (CBP) to assess antidumping duties equal to the final weighted average dumping margins and to continue suspending liquidation. The duties will apply to unliquidated imports from Japan entered, or withdrawn from warehouse, for consumption on or after January 16, 2026 (the date of publication of the preliminary determination). However, entries that occurred after the expiration of the extended provisional measures period on July 15, 2026 and before the publication of the International Trade Commission's (ITC) final injury determination on July 20, 2026 will not be subject to the duties.

The final action follows the publication of the ITC's final determination on July 15, 2026 that the US industry is materially injured by LBCCs imported at less than fair value from Japan.[118] Commerce finalized the affirmative determination of sales at less than fair value and the final estimated weighted-average dumping margins on June 4, 2026.[119] The final weighted average dumping margins are significantly higher than the preliminary margins. In the preliminary affirmative determination, published on January 16, 2026, Commerce had set preliminary estimated weighted-average dumping margins of 2.79% for Kobelco, 0.0% for Sumitomo, and 2.79% for the all-others rate.[120]

Covered product

The merchandise covered by this order consists of lattice boom crawler cranes, and lattice boom crawler crane assemblies. Lattice boom crawler cranes combine the assemblies defined below, among other components, including a lower carriage assembly fitted with tank-link crawler tracks, an upper carriage housing the operator cab, engine, and hydraulics, and a boom made of steel pipe welded together in a distinctive lattice pattern. The scope of this order covers lattice boom crawler cranes and lattice boom crawler crane assemblies, whether assembled or unassembled, and whether or not the lattice boom crawler crane contains any additional features that provide for functions beyond the primary lifting function. All lattice boom crawler cranes are included in the scope regardless of maximum lift capacity, lattice boom length, jib configuration, or other added features.

Subject merchandise includes, but is not limited to, the following lattice boom crawler crane assemblies which can be imported in isolation or combined in different configurations at the time of import:

- Lattice boom assemblies and pieces thereof. Lattice boom assemblies are formed of interlocking sections of welded high-strength steel pipe, that form the lifting attachment of the crane. A lattice boom is formed by welding main chords together with lacing pipes typically arranged in a "W" or "V" pattern. Lattice boom assemblies consist of a boom butt (also known as a boom bottom or boom base), which attaches to the upper carriage assembly, and a boom head (also known as a boom tip or boom hat), which forms the other end of the boom structure. In between the boom butt and boom head, boom inserts of various lengths can be inserted to reach the desired boom height and load bearing capability. Lattice boom assemblies may be imported with boom butt, boom tip, and boom inserts together, but boom butt, boom tip, and boom inserts imported alone are also covered by the scope.

- Lower carriage assembly. The lower carriage assembly (also may be referred to as a carbody or lower works) is constructed with high-strength steel components and forms the base of the crawler crane. The lower carriage assembly typically includes various motors, drive mechanisms, and hydraulics. The lower carriage assembly may also include a set of counterweights to provide backward stability for the assembled crane. The lower carriage typically has a circular center that is connected to the upper carriage assembly with a bearing. The lower and

[118] "Lattice-Boom Crawler Cranes (LBCCs) From Japan; Determination," 91 FR 45282 (July 20, 2026), accessible here: https://www.federalregister.gov/documents/2026/07/20/2026-14597/lattice-boom-crawler-cranes-lbccs-from-japan-determination.

[119] "Lattice Boom Crawler Cranes From Japan: Final Affirmative Determination of Sales at Less Than Fair Value," 91 FR 33690 (June 4, 2026), accessible here: https://www.federalregister.gov/documents/2026/06/04/2026-11262/lattice-boom-crawler-cranes-from-japan-final-affirmative-determination-of-sales-at-less-than-fair.

[120] "Lattice Boom Crawler Cranes From Japan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures," 91 FR 2098 (January 16, 2026), accessible here: https://www.federalregister.gov/documents/2026/01/16/2026-00847/lattice-boom-crawler-cranes-from-japan-preliminary-affirmative-determination-of-sales-at-less-than.

upper carriage assemblies may or may not be connected by a bearing at the time of importation. Steel arms extend from the center of the lower carriage and connect to the front and rear of the crawler assemblies that are positioned on both sides of the lower carriage assembly. The lower carriage assembly may also contain a hydraulic system that allows for the extension and retraction of the crawler assemblies to create a wider base. A lower carriage assembly may be imported with or without crawler assemblies.

- Crawler assembly. Each lattice boom crawler crane contains at least two crawler assemblies, which are continuous tracks that provide mobility and distribute the crane's weight evenly across the ground. The tracks of a lattice boom crawler crane consist of steel track shoes, which are interlocking steel plates that form the tread of the tracks and make direct contact with the ground, a track chain, which is a continuous loop of interconnected steel links, and a crawler body and track rollers, which support the track shoes and track chain. Typically, drive motors mounted on the lower carriage assembly connect to crawler-mounted drive sprockets, which engage the track chain and allow the LBCC to move forward and backward.
- Upper carriage assembly. The upper carriage assembly, also known as the upper works, typically includes the operator's cab, hydraulic systems, engine, boom hoist, mast, and a turntable base with swing drive mechanism that connects to the lower carriage assembly and allows the upper carriage to pivot on the lower carriage assembly. The upper and lower carriage assemblies may or may not be connected by a bearing at the time of importation. The upper carriage assembly may also include a separate counterweight tray and counterweights, which allow the crane to maintain balance while lifting heavy loads, as well as a gantry, which helps lift the boom and counterweights during installation, although the counterweight tray, counterweights, and gantry are not required to be attached for the upper carriage assembly to be a subject assembly. The boom butt may or may not be attached to the upper carriage assembly at the time of entry.
- Hoisting assembly. The hoisting assembly, housed within the upper carriage assembly and lattice boom assembly, powers the lifting and lowering of loads and typically consists of a hoisting line of high strength steel cable, a hoist motor, hoist brakes, hoisting drums, and a hook block formed from steel sheaves, which helps distribute the load on the hoisting line and increases lifting capacity. The main hoisting line typically runs from the hoist drums, housed in the upper carriage assembly, up through the lattice boom (which may or may not house additional hoist drums) and hook block.
- Jib assemblies. Jib assemblies are optional components that can be added to the top end of the boom to provide the crane with greater reach. Similar to lattice boom assemblies, jib assemblies typically consist of interlocking sections of welded steel pipe, arranged in a “V” or “W” lattice pattern. Jib assemblies can consist of either fixed jib, which extends from the main lattice boom at a fixed angle, or a luffing jib, which can be raised or lowered by the operator through a separate set of controls.

Importation of any of these assemblies, whether assembled or unassembled, constitutes unfinished lattice boom crawler cranes for purposes of this order. Inclusion of other components not identified as comprising the finished or unfinished lattice boom crawler cranes and lattice boom crawler crane assemblies do not remove the products from the scope.

Processing of lattice boom crawler cranes and lattice boom crawler crane assemblies such as welding, joining, bolting, painting, coating, finishing, or assembly, either in the country of manufacture of the in-scope product or in a third country does not remove the product from the scope. Lattice boom crawler cranes and lattice boom crawler crane assemblies subject to this order include those that are produced in the subject country whether assembled with other components in the subject country or in a third country. Processing or completion of finished and unfinished lattice boom crawler cranes and the covered lattice boom crawler crane assemblies either in the subject country or in a third country does not remove the product from the scope.

Lattice boom crawler cranes subject to this investigation are typically classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8426.49.0010 and 8426.49.0090. Lattice boom crawler crane assemblies may also be classified under HTSUS subheadings 8426.49.0010 or 8426.49.0090, or may be classified under subheadings 8431.49.1090, 8431.49.1060, or 8425.19.0000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.