US & Multilateral Trade and Policy Developments

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Trade Policy Developments

USTR issues request for comments on the EU's Carbon Border Adjustment Mechanism

On October 7, 2026, the Office of the United States Trade Representative (USTR) issued a request for comments (RFC) on the effects of the European Union's Carbon Border Adjustment Mechanism (CBAM), including proposed expansions of its product coverage, on US trade and businesses.[1] USTR intends to use the input to "help inform continued USTR and U.S. government engagement with the EU on CBAM."

The RFC does not initiate an investigation under Section 301 of the Trade Act of 1974 and does not itself provide a legal basis for the imposition of tariffs or other trade measures. However, USTR does imply that responsive trade measures may be under consideration.

About the EU's CBAM

The CBAM is an environmental policy instrument designed to support the EU's climate ambitions of a net 55% reduction in greenhouse gas emissions by 2030 and climate neutrality by 2050. It complements the EU Emissions Trading System (ETS) by ensuring that imported goods and equivalent goods produced within the EU face an equivalent carbon price by requiring importers to purchase certificates based on the embedded emissions in the imported products, adjusted for any emissions fees that were already paid in their countries of origin. The mechanism currently applies to cement, iron and steel, aluminum, fertilizers, hydrogen, and electricity, together with certain precursors and downstream products.[2]

From January 1, 2026, importers must submit an annual CBAM declaration reporting embedded emissions based on actual verified emissions or, where applicable, default values. They must also purchase and surrender CBAM certificates corresponding to the relevant embedded emissions.

Submitting comments

Interested stakeholders are invited to submit comments by November 9, 2026, via regulations.gov.[3] The RFC includes additional instructions on how to prepare and file comments.

The RFC highlights that USTR is specifically interested in receiving comments addressing the following topics:

- CBAM's current economic impact on US producers and trade with the EU.
- The potential effects of current EU proposals affecting CBAM, including the proposals for expansion of CBAM to more downstream products.
- Whether CBAM may disadvantage, advantage, or have other impacts on the competitiveness of US companies compared to EU and third-country companies.
- Whether USTR should take any enforcement actions in response to injuries caused by CBAM.

US concerns with CBAM

The Trump administration has previously sought to secure a CBAM carve-out, or comparable accommodation, for US industry, especially for US steel and aluminum producers. USTR's 2026 National Trade Estimate Report identified several specific concerns with how the EU has implemented CBAM: "onerous reporting requirements and disclosure

[1] "Effect of the European Union's Carbon Border Adjustment Mechanism and the Proposals to Expand Coverage on U.S. Trade," 91 FR 64450 (October 8, 2026), accessible here: https://www.federalregister.gov/documents/2026/10/08/2026-20615/request-for-comments-on-the-effect-of-the-european-unions-carbon-border-adjustment-mechanism-and-the.

[2] The complete list is contained in Annex I to Regulation (EU) 2023/956 as amended by Regulation (EU) 2025/2083. Regulation (EU) 2023/956 of the European Parliament and of the Council of May 10, 2023 establishing a carbon border adjustment mechanism, accessible here: https://op.europa.eu/en/publication-detail/-/publication/a61c0d38-bf6a-11f0-a612-01aa75ed71a1.

[3] Regulations.gov docket "Effect of the European Union's Carbon Border Adjustment Mechanism and the Proposals to Expand Coverage on U.S. Trade," accessible here: https://www.regulations.gov/document/USTR_FRDOC_0001-0955.

of sensitive and confidential business information," abrupt implementation, CBAM not giving importers "credits for regulatory and other non-price mechanisms for reducing carbon emissions," "punitive markups" in the default emissions values, bottlenecks in the third-party verification process, planned extensions of CBAM to more downstream products, and the proposed fund to "reimburse a portion of the carbon costs borne by EU producers under the EU ETS."[4]

In the August 2025 US-EU framework for an agreement on reciprocal trade, the EU agreed "to work to provide additional flexibilities in the CBAM implementation" but did not make any specific concessions.[5] Negotiations are continuing on a more robust follow-up to the framework agreement, but the parties appear to be making little progress.

USTR's strategy for the RFC

USTR has not issued any statements to explain its decision to issue this RFC. It may be attempting to signal to the EU that blocking CBAM is a Trump administration priority, while not escalating the dispute in a manner that would undermine the wider ongoing trade negotiations (as initiating a Section 301 investigation likely would). Another possibility is that USTR is using the RFC as part of preliminary factfinding for a future Section 301 investigation.

The timing of USTR's announcement also follows shortly after the establishment of a panel in Russia's WTO dispute settlement proceeding over CBAM.[6] 26 countries have joined the dispute as Third Parties, including members of the European Free Trade Association (Norway, Switzerland, and Iceland), the United Kingdom, and the United States.

United States continues developing new import restrictions on technology products

Over the past month, the United States has continued to expand security-driven restrictions on technology imports across multiple fronts: (i) the Department of Energy (DOE) has begun implementing a new executive order restricting foreign-produced bulk-power system equipment, (ii) the Federal Communications Commission (FCC) has finalized and proposed further changes to its Covered List regulations, and (iii) Congress has advanced legislation to codify and expand existing import restrictions on China- and Russia-linked connected vehicles.

Department of Energy begins work on the bulk-power system components restrictions

The DOE has commenced work to implement President Trump's executive order on bulk-power systems[7] by (i) issuing a request for information (RFI)[8] and (ii) hosting a public informational webinar.[9] The implementation work is led by the DOE's Office of Cybersecurity, Energy Security, and Emergency Response (CESER), the office in charge of DOE efforts to strengthen the security and disaster resilience of the US power grid.

The executive order authorizes the DOE to prohibit or impose mitigation measures on transactions involving certain electric power equipment used in US bulk-power systems (such as transformers, inverters, battery energy storage systems, generators, industrial control systems, and other equipment used in bulk-power substations, control rooms, and generating stations) when that equipment is determined to (i) have been "designed, developed, manufactured, or

[4] See pages 207-208 of USTR's "2026 National Trade Estimate Report on Foreign Trade Barriers," March 31, 2026, accessible here: https://ustr.gov/about/policy-offices/press-office/press-releases/2026/march/ustr-releases-2026-national-trade-estimate-report.

[5] "Joint Statement on a United States-European Union framework on an agreement on reciprocal, fair and balanced trade," August 21, 2025, accessible here (EU copy): https://policy.trade.ec.europa.eu/news/joint-statement-united-states-european-union-framework-agreement-reciprocal-fair-and-balanced-trade-2025-08-21_en; and here (US copy): https://www.whitehouse.gov/briefings-statements/2025/08/joint-statement-on-a-united-states-european-union-framework-on-an-agreement-on-reciprocal-fair-and-balanced-trade/.

[6] WTO, "European Union and its Member States – Carbon Border Adjustment Mechanism," WT/DS639/4, September 24, 2026, accessible here: https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/WT/DS/639-4.pdf&Open=True.

[7] Executive Order 14421 of August 26, 2026: "Declaring a National Emergency to Secure the United States Bulk-Power System," 91 FR 55995 (August 31, 2026), accessible here: https://www.federalregister.gov/documents/2026/08/31/2026-17843/declaring-a-national-emergency-to-secure-the-united-states-bulk-power-system.

[8] "Securing the United States Bulk-Power System," 91 FR 57322 (September 9, 2026), accessible here: https://www.federalregister.gov/documents/2026/09/09/2026-18370/securing-the-united-states-bulk-power-system.

[9] "CESER Holds Industry Engagement Webinar Covering Recent Bulk-Power System Executive Order," DOE, September 10, 2026, accessible here: https://www.energy.gov/ceser/articles/ceser-holds-industry-engagement-webinar-covering-recent-bulk-power-system-executive.

supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of" a Covered Foreign Entity (as defined in the executive order to include China and other countries subject to US arms embargoes), and (ii) pose undue or unacceptable risks to the United States or US persons. To carry out those authorities, the DOE must first publish implementing regulations, which are due December 24, 2026, and develop specific prohibition determinations.

In the RFI, CESER is requesting that power utility owners and operators, equipment and service providers, and other public and institutional stakeholders provide initial input that would help it develop a practical approach to implementing the executive order. The RFI asks for specific feedback on the scope of covered equipment and transactions, specific security risks, software management practices, risk mitigation strategies, licensing options, domestic manufacturing proposals, government procurement practices, and potential economic impacts of the rulemaking. Input was due by October 9, 2026. The RFI is not the proposed regulation, and information gathered at this stage is only intended to inform the planning process.

During the webinar, CESER staff presented an overview of the executive order and the plan behind the RFI, and detailed how stakeholders can effectively respond to the RFI. CESER leadership highlighted that they want to address genuine national security risks without creating operational challenges for the power grid.

Federal Communications Commission continues developing Covered List regulations

The FCC is continuing to develop the Covered List, with the agency establishing new authorities, new rules that implicate Covered List determinations, and new administrative procedures. Communications equipment and services on the Covered List are prohibited from receiving FCC radiofrequency authorizations, effectively excluding them from the US market.[10] Congress originally established the Covered List to restrict telecommunications-related equipment and services from specific China-linked companies, such as Huawei and ZTE. Since late 2025, the Trump administration has begun using the list to restrict broad classes of products globally.[11] The FCC has had to revise portions of the regulations several times to accommodate the new approach and is continuing to develop new proposals.

On September 11, 2026, the FCC published a final rule implementing a series of regulatory changes for the Covered List.[12] The revisions, which entered into effect on October 13, 2026, include:

- **Logic-bearing hardware components:** Expands Covered List designations to capture devices that incorporate "logic-bearing hardware components" produced by an entity on the Covered List, so that the FCC may prohibit devices from third parties that incorporate components that would otherwise be prohibited.
- **Marketing rules:** Clarifies and expands the FCC's equipment marketing rules by (i) applying the marketing rules and enforcement procedures to devices distributed via online marketplaces, and (ii) requiring e-commerce platforms to display FCC identification numbers at the point of sale. Compliance is required by March 1, 2027, for marketplaces with physical access to or title to the device, and by June 1, 2027, for marketplaces relying on third-party seller certifications.
- **Modifications of previously authorized equipment:** Clarifies that the Covered List-based prohibition on permissive changes and modifications applies to equipment that is prohibited from authorization and to equipment that would become prohibited as a result of the modification.

[10] Although there are no specific entry filing or enforcement procedures for the import prohibition aspect of the FCC Covered List, importers must maintain a Supplier's Declaration of Conformity or manufacturer-supplied certification to demonstrate the equipment has the proper FCC authorizations, and to produce the documentation upon request by the FCC or the US Customs and Border Protection (CBP). For more information, *see* FCC, "Equipment Authorization – Importation," accessible here: https://www.fcc.gov/oet/ea/importation.

[11] For more information, *see* FCC, "List of Equipment and Services Covered by Section 2 of The Secure Networks Act," accessible here: https://www.fcc.gov/supplychain/coveredlist.

[12] "Protecting Against National Security Threats to the Communications Supply Chain Through the Equipment Authorization Program," 91 FR 57798 (September 11, 2026), accessible here: https://www.federalregister.gov/documents/2026/09/11/2026-18535/protecting-against-national-security-threats-to-the-communications-supply-chain-through-the.

- **Requiring full re-certification for Covered List entities after any equipment change:** Requires Covered List entities, but not product classes, seeking an equipment modification that would otherwise qualify as a permissive change to use the full recertification application process instead of the permissive change process.
- **Definition of critical infrastructure:** Responding to a partial remand from the US Court of Appeals for the DC Circuit, amends the Covered List's definition of "Critical Infrastructure" to encompass systems and assets used in the provision of services or functions in the 16 critical infrastructure sectors identified by the Department of Homeland Security (DHS) when used to provide any of the 55 National Critical Functions (NCFs) published by DHS's National Risk Management Center, but without the previous "connected to" language that the court found "unjustifiably broad."

The FCC voted to adopt the changes in July 2026.[13] In the same vote, the FCC proposed a new rule for public comment that would make further 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.[14]

Additionally, on October 29, 2026, the FCC voted on a final proposal for new security rules on carriers that provide international telecommunications services, affecting a broad array of requirements.[15] Among the various changes, the rules would prohibit international Section 214 authorization holders from using or adding certain equipment and services provided by entities on the Covered List. The commissioners will consider additional proposed rules to expand the security rules for international services, including an expansion of the Covered List prohibition.

While the FCC is continuing to revise its rules to enable this broadened use of the Covered List, members of Congress are beginning to consider how to respond. On September 16, 2026, Representatives Frank Pallone (D-NJ) and Brett Guthrie (R-KY) introduced the Communications and Technology Transparency Act of 2026 to narrow the Covered List's targeting and improve its transparency.[16] The bill would change the process by which technologies are designated, limit the prohibitions to only applying to certain adversary countries (including China), and expand Congressional oversight.

Congress considers codifying the ICTS Connected Vehicle Rule

Congress is considering several bills that would prohibit the importation or sale in the United States of vehicles manufactured by China-linked companies, or vehicles that include certain components manufactured by China-linked companies. Most notable among the proposals is the Connected Vehicle Security Act of 2026, which has strong bipartisan support in both the House and the Senate and which the Senate Committee on Commerce, Science, and

[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] "Protecting Against National Security Threats to the Communications Supply Chain Through the Equipment Authorization Program," 91 FR 51139 (August 7, 2026), accessible here: https://www.federalregister.gov/documents/2026/08/07/2026-16197/protecting-against-national-security-threats-to-the-communications-supply-chain-through-the.

[15] See FCC, "October 2026 Open Commission Meeting," accessible here: https://www.fcc.gov/October2026; and the "Report and Order and Further Notice of Proposed Rulemaking," accessible here: https://docs.fcc.gov/public/attachments/DOC-425723A1.pdf.

[16] H.R.10453 - Communications and Technology Transparency Act of 2026, 119th Congress (2025-2026), accessible here: https://www.congress.gov/bill/119th-congress/house-bill/10453; and "Pallone & Guthrie Introduce Legislation to Improve the Process for Adding Tech and Telecom Equipment to the FCC's Covered List," House Committee on Energy and Commerce, September 23, 2026, accessible here: https://republicans-energycommerce.house.gov/posts/pallone-and-guthrie-introduce-legislation-to-improve-the-process-for-adding-tech-and-telecom-equipment-to-the-fcc-s-covered-list.

Transportation favorably reported to the full Senate by voice vote on July 22, 2026.[17] The Senate may vote to pass the bill between the November mid-term elections and the end of the term, while action in the House is still pending.

The bill would largely codify the existing ICTS Connected Vehicle Rule. Adopted under International Emergency Economic Powers Act (IEEPA) authorities during the Biden administration, the rule prohibits the import and sale of certain connected vehicles and related hardware and software with a China or Russia nexus, beginning with model year 2027.[18] Legislative implementation would make it more difficult for the president to rescind the prohibitions, and support for the bill has grown in recent months after President Trump suggested he may scale back the prohibition to allow Chinese manufacturers to open factories in the United States.[19]

Though principally intended to solidify the current regulatory prohibition, legislative action also provides Congress with an opportunity to modify elements of the ICTS Connected Vehicle Rule. Most significantly, the current version of the Connected Vehicle Security Act would broaden the definition of what entities are considered to be controlled by foreign adversaries (and therefore prohibited), defining all vehicle manufacturers for which entities associated with China or other covered countries own more than 15% equity interest (or other indicators of control) as prohibited foreign entities of concern. By contrast, the current ICTS Connected Vehicle Rule considers an entity to be controlled by a covered foreign adversary where there is "ownership of a majority or a dominant minority of the total outstanding voting interest" by entities associated with China or Russia.

The Connected Vehicle Security Act would also direct the executive branch to extend the prohibition to connected vehicles weighing more than 10,000 pounds (4,536 kilograms) by December 31, 2032. The current ICTS Connected Vehicle Rule applies only to vehicles weighing less than 10,000 pounds. The Biden administration had begun developing a separate restriction applicable to heavier vehicles, but that initiative appears to have stalled under the Trump administration.

United States proposes vessel fees and import prohibitions targeting Spain

On October 14, 2026, the United States Federal Maritime Commission (FMC) issued a notice of proposed rulemaking (NPRM) that proposes (i) a per-voyage fee on all Spanish-flagged vessels of US$200,000 and (ii) restrictions on the import of certain Spanish goods into the United States.[20] The FMC is taking the action in response to Spain refusing docking privileges to US-linked cargo vessels as a result of Spain's arms embargo on Israel, following the conclusion of an FMC investigation initiated in December 2024 under 46 U.S.C. §42101(a). The FMC will now hold a 60-day public comment period on the proposed response before finalizing and implementing the two proposed measures.

In the same NPRM, the FMC is also announcing a parallel investigation under 46 U.S.C. §41108(d) (Impairing Access to Foreign Trade), which may lead to the imposition of additional retaliatory measures on top of those already proposed.

[17] S.4429 - Connected Vehicle Security Act of 2026, 119th Congress (2025-2026), accessible here: https://www.congress.gov/bill/119th-congress/senate-bill/4429; and H.R.8730 - Connected Vehicle Security Act of 2026, 119th Congress (2025-2026), accessible here: https://www.congress.gov/bill/119th-congress/house-bill/8730.

[18] *See* the BIS Connected Vehicles webpage for more information, accessible here: https://www.bis.gov/node/22645, and 15 CFR Part 791, accessible here: https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-E/part-791.

[19] *See, e.g.*, X (Twitter) post by Sen. Slotkin, September 9, 2026, accessible here: https://x.com/SenatorSlotkin/status/2097720803278143647; "Automakers to Congress: Ban Chinese connected vehicles," Alliance for Automotive Innovation, September 3, 2026, accessible here: https://www.autosinnovate.org/posts/press-release/automakers-to-congress-ban-chinese-connected-vehicles; and September 9, 2026 letter from US steel industry groups to the Senate, accessible here: https://steel-media.s3.amazonaws.com/wp-content/uploads/2026/09/09132845/090926-Steel-Coalition-Chinese-Autos-Ltr.pdf.

[20] "Investigation Into Conditions Affecting Shipping in the Foreign Trade and Denial of Entry of Vessels Into Spanish Ports and Proposed Remedies To Meet or Adjust the Unfavorable Conditions," 91 FR 65515 (October 15, 2026), accessible here: https://www.federalregister.gov/documents/2026/10/15/2026-21067/investigation-into-conditions-affecting-shipping-in-the-foreign-trade-and-denial-of-entry-of-vessels; and the FMC press release, "FMC Proposes Actions to Address Unfavorable Shipping Conditions in Spain," October 14, 2026, accessible here: https://www.fmc.gov/articles/fmc-proposes-actions-to-address-unfavorable-shipping-conditions-in-spain/.

Investigation determination

The FMC initiated the investigation in December 2024 in response to reports that Spain had denied entry into its ports to vessels carrying military cargo to Israel, including vessels that are participants in the United States Maritime Administration's (MARAD) Maritime Security Program (MSP).[21] The investigation was conducted under authorities that authorize the FMC to monitor and evaluate conditions that affect shipping in the foreign trade of the United States. The FMC is further authorized by Title 46 Chapters 421 and 423 to restrict vessel voyages and cargo entry from a subject country should the FMC find that conditions unfavorable to shipping in foreign trade exist.[22]

The FMC's investigation concluded that "Spain's actions have created unfavorable shipping conditions in the foreign trade resulting from its laws or regulations" because it has "denied docking privileges to multiple vessels and publicly stated it will deny docking privileges to certain vessels in the future." The determination cites at least three instances in which Spain denied docking privileges to US-linked vessels carrying military supplies to Israel and the Spanish government's weapons embargo on Israel (which includes denial of docking privileges for vessels and denial of airspace access for aircraft believed to be transporting supplies to the Israeli armed forces).

Proposed vessel fees and cargo import restrictions

Based on the investigation determination, the FMC is proposing to levy fees on Spanish-flagged ships entering US ports and to restrict imports into the United States of certain Spanish goods, as follows:

- **Per-voyage vessel fees:** A fee of US$200,000 on Spanish-flagged vessels (*i.e.*, vessels registered under the Spanish flag, documented or registered under the laws of Spain) "assessed each time a Spanish vessel enters any port of the United States from any foreign port or place."

  To enforce the fees, the proposed regulation states that the FMC may ask the Department of Homeland Security (DHS) to refuse port departure clearance (as required by 46 U.S.C. §60105) to vessels that fail to pay the fee, and that DHS may also deny the vessels entry to US ports or detain them.

- **Cargo import restrictions:** A prohibition on imports of all products that "are exported from Spain and intended for import into the United States" within the following chapters of the Harmonized Tariff Schedule of the United States (HTSUS):

  - HTSUS 15: Animal, vegetable or microbial fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes
  - HTSUS 17: Sugars and sugar confectionery
  - HTSUS 33: Essential oils and resinoids; perfumery, cosmetic or toilet preparations
  - HTSUS 68: Articles of stone, plaster, cement, asbestos, mica or similar materials
  - HTSUS 69: Ceramic products

  The FMC states in the NPRM that it has not yet made a final decision on the scope of the proposed import restrictions, stating that it "may choose a lesser remedy from these options," which includes options "to broadly

[21] "Investigation Into Conditions Affecting Shipping in the Foreign Trade and Denial of Entry of Vessels Into Spanish Ports," 89 FR 96973 (December 6, 2024), accessible here: https://www.federalregister.gov/documents/2024/12/06/2024-28709/investigation-into-conditions-affecting-shipping-in-the-foreign-trade-and-denial-of-entry-of-vessels; and "Investigation Into Conditions Affecting Shipping in the Foreign Trade and Denial of Entry of Vessels Into Spanish Ports; Request for Additional Comments," 90 FR 59826 (December 22, 2025), accessible here: https://www.federalregister.gov/documents/2025/12/22/2025-23606/investigation-into-conditions-affecting-shipping-in-the-foreign-trade-and-denial-of-entry-of-vessels.

[22] 46 U.S.C. §§42101-42503 (Actions To Address Foreign Practices), accessible here: https://www.govinfo.gov/app/details/USCODE-2024-title46/USCODE-2024-title46-subtitleIV-partB/summary.

limit imports, impose more targeted limitations, limit only certain of the trade categories described below, or some combination of these options."

The proposed implementing regulation states that, to enforce the import restrictions, if any vessel (regardless of country of registration) transports any covered goods destined for the United States, the FMC may request that DHS (i) deny entry for the purpose of trade to the vessel carrying covered goods to any port or place in the United States or the navigable waters of the United States, or (ii) detain that vessel. If any vessel transports and offloads covered goods in a United States port, the proposed regulations state that the FMC may request that DHS "refuse clearance required by 46 U.S.C. 60105 to that vessel until the covered goods are reloaded onto that vessel."

In 2025, the United States imported US$3.1 billion in goods of Spanish origin under these HTSUS chapters, which is 14.5% of all US goods imports from Spain. The largest imports by value under these chapters are perfumes, olive oil and vegetable fats, ceramic tiles, and sugar confections.

The FMC's proposal does not use standard customs terminology or cite US customs law in explaining how products would be determined to be within the categories of covered goods. The FMC may mean that these restrictions would apply to entries of goods of Spanish origin under standard customs rules, but this is unclear from the language of the proposed regulation. How the FMC intends to implement import restrictions targeting a single member state of the European Union Customs Union is also not addressed.

The proposal adds that the FMC may increase the vessel fees and restrict imports of additional goods if Spain continues to restrict vessel entry or takes any retaliatory measures.

Request for public comments

The FMC is providing a 60-day public comment period for the proposed restrictions, with a deadline of December 14, 2026. Comments should be filed to the Federal eRulemaking Portal at www.regulations.gov under the docket FMC-2026-0463.[23] The NPRM provides additional instructions on how to submit comments.

The NPRM states that notice-and-comment procedures are not legally required in this instance because the rule falls within the Administrative Procedure Act (APA) "foreign affairs function" exception, and that the FMC is only soliciting comments voluntarily. In theory, based on the FMC's interpretation, the FMC could finalize the rule without completing the comment process.

Parallel investigation under 46 U.S.C. §41108(d)

The NPRM also opens a distinct proceeding under 46 U.S.C. §41108(d)[24] into Spain's alleged impairment of US flag vessels' access to ocean trade between foreign ports, which is separate from the Chapter 421 findings that form the basis of the proposed retaliatory measures. Because the initial investigation only focused on the Chapter 421 violations, the FMC must take additional investigatory steps before acting on the alleged 46 U.S.C. §41108(d) violation (although the NPRM asserts that the existing investigatory record already supports a §41108(d) finding). To that end, the notice announces that the FMC is considering additional measures and offers Spain the opportunity to request a hearing on the matter.

If finalized, remedies imposed under 46 U.S.C. §§42304-42305 pursuant to the 46 U.S.C. §41108(d) investigation could stack with or extend beyond the Chapter 421 remedies proposed in this NPRM.

[23] FMC-2026-0463, "Investigation into Conditions Affecting Shipping in the Foreign Trade and Denial of Entry of Vessels into Spanish Ports and Proposed Remedies to Meet or Adjust the Unfavorable Conditions," accessible here: https://www.regulations.gov/docket/FMC-2026-0463.

[24] 46 U.S.C. §41108 (Additional penalties), accessible here: https://www.govinfo.gov/app/details/USCODE-2024-title46/USCODE-2024-title46-subtitleIV-partA-chap411-sec41108.

President Trump waives new Russia-related tariffs and sanctions

On October 16, 2026, President Trump issued an executive order waiving the Russia-related sanctions, tariff, and "secondary tariff" provisions under the *Lindsey O. Graham Sanctioning Russia and Iran Act of 2026* ("Graham Act").[25] The waiver is indefinite and applies to practically all of the sanctions and tariff measures in the law that target Russia and countries that import oil and gas from Russia.

Following several days of criticism from Congress and the media, President Trump defended the action in a Truth Social post, stating that he is "in the process of negotiating Peace in the war between Russia and Ukraine, and don't want to do anything that will drive, foolishly, Russia away from the bargaining table."[26]

About the Graham Act

President Trump signed the Graham Act into law on September 18, 2026,[27] after it was approved by Congress with a strong bipartisan majority in both chambers (262-159 in the House and 86-11 in the Senate).[28] The Act (i) codifies various sanctions on Russia and Russian persons into US law, which are generally intended to restate existing sanctions programs; (ii) imposes tariffs of up to 500% on all goods imported from Russia; and (iii) authorizes the President to impose "secondary tariffs" of up to 100% on all goods imported from certain countries that import oil and gas from Russia, or that assist Russia in evading oil sanctions.

The Act requires the various sanctions and tariff actions to be taken within 30 days of enactment, by October 18, 2026. However, the Act also gives the president flexibility to waive or terminate the sanctions and tariff measures after submitting the required notifications and explanations to Congress.

Waivers for sanctions, tariffs, and secondary tariffs

Rather than implement the tariff and sanctions actions on schedule, on the evening of October 16, 2026, President Trump issued an executive order invoking the Graham Act's Section 115(a) waiver authority to waive the application of practically every sanction, tariff, and secondary tariff measure in the Graham Act.[29]

As a result, the US government has not taken any action to implement the sanctions, tariffs, or secondary tariffs described in the law. Because the sanctions actions in the Graham Act generally only codify existing sanctions programs, waiving the law's application of those sanctions (without also waiving the executive branch's existing sanctions programs) will likely have little practical effect. The secondary tariff authorities, on the other hand, would have been a significant new development had they been implemented.

The Graham Act also requires the executive branch to submit certain reports to Congress before October 18, 2026, including a requirement that the Office of the United States Trade Representative (USTR) submit a written justification and methodology report to Congress at least 10 days before imposing the secondary tariffs. According to media reports citing anonymous Congressional staff, USTR has not provided the required documentation to Congress.

Delegations and potential new implementation timeline

[25] Executive Order of October 16, 2026: "Implementing the Lindsey O. Graham Sanctioning Russia and Iran Act of 2026," October 16, 2026, accessible here: https://www.whitehouse.gov/presidential-actions/2026/10/implementing-the-lindsey-o-graham-sanctioning-russia-and-iran-act-of-2026/.

[26] Truth Social post of October 18, 2026, accessible here: https://truthsocial.com/@realDonaldTrump/posts/117463828588421761.

[27] "Congressional Bill H.R. 5334 Signed into Law," September 18, 2026, accessible here: https://www.whitehouse.gov/briefings-statements/2026/09/congressional-bill-h-r-5334-signed-into-law/.

[28] H.R.5334 - Lindsey O. Graham Sanctioning Russia and Iran Act of 2026, 119th Congress (2025-2026), accessible here: https://www.congress.gov/bill/119th-congress/house-bill/5334/text.

[29] The Graham Act's extension of Iran-related sanctions authorities from the Iran Sanctions Act of 1996 is implemented separately from the rest of the law and is unaffected by the executive order.

Though the executive order waives implementation of the Graham Act's core actions, it also includes basic implementation guidance and delegations of authority that would be necessary to eventually implement the Act. Through the executive order, President Trump assigns responsibility for implementing the Graham Act's various sanctions and tariff actions to USTR, the Department of State, the Department of Energy, or the Department of the Treasury, as appropriate. USTR, in consultation with the Departments of State, Energy, and Treasury, is also instructed to "monitor the circumstances related to the importation and purchases by countries of crude oil and natural gas of Russian Federation origin, as well as the facilitation of Russian sanctions evasion by countries," and to report to the president on relevant developments that may require further action, "including with respect to the waivers."

There is no official confirmation of when or if the Trump administration intends to end the waivers and implement the required actions. The executive order states that the waivers are indefinite and will "remain in effect until such time as the President or the Secretary of State, in consultation with the Secretary of the Treasury and the Trade Representative, as appropriate, determine that further action is appropriate."

In comments to the media on October 17, 2026, Secretary Rubio stated that the administration's intent is to delay any action for up to 60 days (suggesting a new target date around December 17, 2026). Other than stating that the administration would use the time to "sort of analyze what imposing both sanctions and tariffs will mean to the global economy and even to the US economy," Secretary Rubio did not explain the strategy.[30] In later comments, Secretary Rubio added that one motivation for the delay was to "finalize a trade deal with India[.]" India was expected to be one of the countries targeted by the secondary tariffs. The Trump administration has claimed that India committed to stop importing Russian crude oil as part of a February 2026 joint statement announcing the forthcoming US-India trade deal.

Congressional criticism and potential responses

Reaction from Congress was sharply critical across both parties. Republicans have been unusually vocal in their criticism, with Senator Thom Tillis (R-NC) calling the waiver "beyond irresponsible," asking, "what part of enforcing a law passed 86-11 by the Senate does the President and his advisors not understand? It's unconscionable that this administration is capitulating to a Russian dictator who illegally invaded Ukraine and butchers innocent civilians every single day." Senator John Cornyn (R-TX) said that Senator Graham "would be appalled," and Senator Bill Cassidy (R-LA) wrote that "Reagan and Lindsey would be ashamed of this," citing a Wall Street Journal editorial criticizing President Trump's waiver.[31] Representative Don Bacon (R-NE) wrote that the President "is prolonging the war, not ending it." House Speaker Mike Johnson (R-LA) struck a more cautious tone, stating that he had urged the White House to "carefully consider the unintended consequences that may ensue" from the waiver, while declining to directly criticize President Trump.[32]

Some Republicans have signaled that the episode could affect President Trump's other legislative priorities: a growing number of House Republicans, including Representative Brian Fitzpatrick (R-PA), have suggested that the administration's shift on Russia policy could jeopardize support for pending defense funding legislation in the lame-duck session following the midterm elections.[33]

Congressional alarm over the Trump administration's shifting relations with Russia and the moderating of sanctions had already been growing before President Trump issued the Graham Act waivers. On October 9, 2026, President

[30] Reuters, "Rubio says Trump to take up to 60 days to weigh Russia sanctions," October 17, 2026, accessible here: https://www.reuters.com/world/us/rubio-says-trump-take-up-60-days-weigh-russia-sanctions-2026-10-18/.

[31] The Hill, "GOP lawmakers bash Trump's decision to waive Russia sanctions: 'Beyond irresponsible'," October 17, 2026, accessible here: https://thehill.com/homenews/administration/6155725-trump-waives-russia-sanctions/; The Hill, "GOP senator: Reagan, Graham would be 'ashamed' of Trump waiving Russia sanctions," October 19, 2026, accessible here: https://thehill.com/homenews/senate/6158966-trump-waives-russia-sanctions/.

[32] The Hill, "Johnson says he warned White House of 'unintended consequences' from Russia sanctions waiver," October 19, 2026, accessible here: https://thehill.com/homenews/house/6157672-johnson-warns-trump-russia-sanctions/.

[33] The Hill, "Republicans warn that Pentagon funds will hinge on Trump getting tougher with Russia," October 18, 2026, accessible here: https://thehill.com/homenews/house/6155127-gop-pentagon-funding-trump-russia/.

Trump directed the Treasury Department to lift sanctions on Russian diesel trade until April 7, 2027, which invited similar criticism.[34] Democrats on the House Committee on Foreign Affairs, with support from at least one Republican, responded by introducing the *Prohibit Corrupt Russia Oil Deals Act*.[35] The bill would rescind the diesel sanctions waiver and strengthen several other aspects of the Russia sanctions program. Rep. Gregory Meeks (D-NY), the ranking Democrat on the committee, has also called on the Senate to approve the *Ukraine Support Act*, which passed the House with a bipartisan majority in June 2026.[36]

Support for a legislative response may increase now that President Trump has waived nearly the entire Graham Act, though Congress is currently in recess ahead of the midterm elections.

Importer challenges President Trump's Section 338 tariffs on Canada

On October 20, 2026, Gellert Global Group (Gellert), a family-run food business, filed a lawsuit at the US Court of International Trade (CIT) challenging the Trump administration's use of Section 338 of the Tariff Act of 1930 to impose tariffs on US imports from Canada.[37] Gellert is represented in the case by attorneys from the Liberty Justice Center, a non-profit public-interest litigation firm that has participated in the legal challenges to the tariffs the Trump administration has imposed using the International Emergency Economic Powers Act (IEEPA), Section 122 of the Trade Act of 1974, and Section 301 of the Trade Act of 1974.[38]

The lawsuit is seeking relief from the tariffs for Gellert, as well as a proposed class of all US importers affected by the tariffs. Should the courts grant the class certification and ultimately rule in the plaintiff's favor, all importers of record that have paid, or will be required to pay, the Section 338 tariffs would be entitled to relief. Gellert's case does not directly challenge the three import exclusions that President Trump issued in modifications to the Section 338 tariffs on September 8, 2026, as the plaintiff does not import any products affected by the exclusions.

President Trump's Section 338 tariffs and import exclusions targeting Canada

The Trump administration invoked Section 338's tariff authorities for the first time on July 20, 2026, with President Trump issuing three proclamations that imposed 50% tariffs (the maximum level allowed by Section 338) on approximately US$20 billion in imports from Canada:

- **The Dairy Proclamation (Proclamation 11047):**[39] 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. The action is based on a finding that Canada is discriminating against the United States by granting European Union dairy exporters more favorable access to Canadian cheese import quotas than is afforded to US exporters under the United States – Mexico – Canada Agreement (USMCA).

[34] "Issuance of Russia-related General License," Office of Foreign Assets Control, October 9, 2026, accessible here: https://ofac.treasury.gov/recent-actions/20261009_33.

[35] "Meeks Introduces Legislation to Block Trump's Russia Diesel Deal," House Foreign Affairs Committee Democrats, October 16, 2026, accessible here: https://democrats-foreignaffairs.house.gov/press-releases?ID=04150870-5DB7-463A-A2FF-5B5B65704A03.

[36] H.R.2913 - Ukraine Support Act, 119th Congress (2025-2026), accessible here: https://www.congress.gov/bill/119th-congress/house-bill/2913.

[37] *Gellert Global Group Corp. v. Donald J. Trump*, 1:26-cv-04636, (Ct. Intl. Trade), accessible here: https://www.courtlistener.com/docket/74988937/gellert-global-group-corp-v-donald-j-trump/.

[38] An information page about the new lawsuit is available on the Liberty Justice Center website, accessible here: https://libertyjusticecenter.org/cases/gellert-global-group-corp-v-trump/.

[39] Proclamation 11047 of July 20, 2026: "Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Dairy," 91 FR 46653 (July 23, 2026), accessible here: https://www.federalregister.gov/documents/2026/07/23/2026-14992/imposing-additional-duties-to-offset-canadian-discrimination-against-the-commerce-of-the-united.

- **The Motor Vehicles Proclamation (Proclamation 11048):**[40] 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. The action is based on a finding that Canada is discriminating against the United States through a 25% surtax Canada imposed on US motor vehicles in response to the US Section 232 tariffs on Canadian motor vehicles.

- **The Alcohol Proclamation (Proclamation 11046):**[41] 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, wood and paper products, and hockey equipment. The action is based on a finding that Canada is discriminating against the United States by permitting Canadian provincial and territorial governments to boycott US alcoholic beverages, in response to tariffs previously imposed by the United States on Canada.

The tariffs entered into effect on August 22, 2026, following a brief delay from the original implementation date of August 19, 2026 (30 days after the proclamations were issued).[42]

After Canada implemented retaliatory measures on September 8, 2026, the Trump administration issued five proclamations modifying the Section 338 tariff actions, removing certain products from the scope of the tariffs, adding other products to the scope, providing that the motor vehicles and alcoholic beverages Section 338 tariffs would apply in addition to any applicable Section 232 tariffs, and converting the Section 338 tariffs on a limited number of covered products into import exclusions.

- **The motor vehicles tariff scope modification (Proclamation 11065):**[43] Removes two HTSUS subheadings for whiskies and liqueurs in containers over 4 liters, and adds 34 HTSUS subheadings related to cheese products, leather and furs, and boats.

- **The alcohol tariff scope modification (Proclamation 11064):**[44] Removes eight HTSUS subheadings (including salt, cement, and toilet paper) and adds 76 HTSUS subheadings related to dairy, paper, steel, aluminum, golf carts, ATVs, boats, wood furniture, mattresses, and lamps.

- **The motor vehicles import exclusion (Proclamation 11063):**[45] Prohibits imports of motorcycles classified within

[40] Proclamation 11048 of July 20, 2026: "Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Motor Vehicles," 91 FR 46663 (July 23, 2026), accessible here: https://www.federalregister.gov/documents/2026/07/23/2026-14997/imposing-additional-duties-to-offset-canadian-discrimination-against-the-commerce-of-the-united.

[41] Proclamation 11046 of July 20, 2026: "Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Alcoholic Beverages," 91 FR 46639 (July 23, 2026), accessible here: https://www.federalregister.gov/documents/2026/07/23/2026-14991/imposing-additional-duties-to-offset-canadian-discrimination-against-the-commerce-of-the-united.

[42] Proclamation 11056 of August 18, 2026: "Temporary Suspension of Additional Duties To Offset Canadian Discrimination Against the Commerce of the United States With Respect to Alcoholic Beverages, Dairy, and Motor Vehicles," 91 FR 54789, accessible here: https://www.federalregister.gov/documents/2026/08/24/2026-17294/temporary-suspension-of-additional-duties-to-offset-canadian-discrimination-against-the-commerce-of.

[43] Proclamation 11065 of September 8, 2026: "Modifying the Scope of Products of Canada Subject to the Additional Duties Imposed To Offset Canadian Discrimination Against the Commerce of the United States With Respect to Motor Vehicles," 91 FR 58339 (September 14, 2026), accessible here: https://www.federalregister.gov/documents/2026/09/14/2026-18839/modifying-the-scope-of-products-of-canada-subject-to-the-additional-duties-imposed-to-offset.

[44] Proclamation 11064 of September 8, 2026: "Modifying the Scope of Products of Canada Subject to the Additional Duties Imposed To Offset Canadian Discrimination Against the Commerce of the United States With Respect to Alcoholic Beverages," 91 FR 58331 (September 14, 2026), accessible here: https://www.federalregister.gov/documents/2026/09/14/2026-18838/modifying-the-scope-of-products-of-canada-subject-to-the-additional-duties-imposed-to-offset.

[45] Proclamation 11063 of September 8, 2026: "Excluding Certain Canadian Products From Importation Into the United States in Response to Continued Discrimination Against the Commerce of the United States With Respect to Motor Vehicles," 91 FR 58325 (September 14, 2026), accessible here: https://www.federalregister.gov/documents/2026/09/14/2026-18837/excluding-certain-canadian-products-from-importation-into-the-united-states-in-response-to-continued.

HTSUS 8711.50.00 from Canada.

- **The alcoholic beverages import exclusion (Proclamation 11061):**[46] Prohibits imports of alcoholic beverages classified within 53 HTSUS subheadings, with exceptions for certain products that are bottled in the United States after production in Canada.
- **The dairy import exclusion (Proclamation 11062):**[47] Prohibits imports of certain whey protein, molasses, and non-alcoholic beer products classified within 14 HTSUS subheadings.

The tariff changes entered into effect on September 15, 2026 (7 days after the proclamations were issued) and the import exclusions entered into effect on September 29, 2026 (21 days after the proclamations were issued).

The legal challenge

The plaintiff is challenging the entire set of Section 338 tariff proclamations targeting Canada, including the original three and the two scope modifications. However, the plaintiff does not appear to be challenging the three import exclusions. The complaint's factual recitation addresses all eight proclamations, but its operative definition of the "Section 338 Action" – and therefore its counts, class definition, and requested relief – is limited to the three original tariff proclamations as modified by the two scope-modification proclamations. The three import exclusion proclamations (Proclamation 11061 (alcoholic beverages), Proclamation 11062 (dairy), and Proclamation 11063 (motor vehicles)) are described in the factual background but are not brought within the challenged conduct, the proposed class, or the prayer for relief.

The general challenges are described in the complaint's first three counts:

- **Count I:** "Section 338 has been impliedly repealed or, at a minimum, is controlled by Section 301 of the Trade Act of 1974."

  The plaintiff argues that Section 301 of the Trade Act of 1974 "covers the whole subject" of Section 338, addressing the same kind of foreign discrimination through a detailed framework of safeguards (investigation, consultation, public comment, deadlines, proportional remedies, and periodic review) that Section 338 lacks. Because Congress built the comprehensive replacement scheme and each Canadian practice targeted by the Section 338 proclamations falls within the scope of Section 301, the plaintiff argues Section 338 has been repealed by implication, or at minimum is controlled by Section 301 whenever the president targets conduct that Section 301 governs, making the set of Section 338 tariffs in question unlawful regardless of whether Section 338 itself survives.

- **Count II:** "The Section 338 Action exceeds the authority granted by Section 338 of the Tariff Act of 1930."

  The plaintiff argues Section 338 authorizes action only against measures that single out US commerce for worse treatment than the commerce of the world at large, and that none of the cited Canadian measures meets that standard. According to the plaintiff, Canada's motor vehicle surtax and the provincial alcohol boycotts were responses to tariffs the United States itself imposed, and Canada's dairy quota administration treats US cheese better than most other countries' cheese, even though Canada grants the EU a different preference under a different free trade agreement. The plaintiff further argues that, even if discrimination were shown, Section 338 permits only duties that "offset" the identified burden. The plaintiff argues that each of the proclamations imposed

[46] Proclamation 11061 of September 8, 2026: "Excluding Certain Canadian Products From Importation Into the United States in Response to Continued Discrimination Against the Commerce of the United States With Respect to Alcoholic Beverages," 91 FR 58311 (September 14, 2026), accessible here: https://www.federalregister.gov/documents/2026/09/14/2026-18835/excluding-certain-canadian-products-from-importation-into-the-united-states-in-response-to-continued.

[47] Proclamation 11062 of September 8, 2026: "Excluding Certain Canadian Products From Importation Into the United States in Response to Continued Discrimination Against the Commerce of the United States With Respect to Dairy," 91 FR 58319 (September 14, 2026), accessible here: https://www.federalregister.gov/documents/2026/09/14/2026-18836/excluding-certain-canadian-products-from-importation-into-the-united-states-in-response-to-continued.

the statutory maximum of 50% without tying the tariff rate or value of goods covered to any measured discriminatory burden.

- **Count III:** "If Section 338 authorizes the challenged tariffs, it violates the nondelegation doctrine."

  The plaintiff argues that the nondelegation doctrine requires Congress to supply an "intelligible principle" that meaningfully constrains the president's exercise of delegated authority. If Section 338 is construed, as the Trump administration contends, to let the president select any products of a foreign country and tariff them at up to 50% without calculating any offsetting burden, then the statute has no limiting principles, and it becomes an unrestricted delegation of Congress's constitutional power to lay tariffs, which the plaintiff argues would be unconstitutional.

The narrower "30-Day" challenge: The lawsuit also advances a narrower challenge to the lawfulness of the September 8 scope modifications to the motor vehicles and alcohol tariffs, which extended Section 338 tariffs to additional products on only seven days' notice. The plaintiff's Count IV argues that "the collection of Section 338 Tariffs on articles first enumerated in Proclamations 11064 and 11065 violated Section 338's 30-day waiting period."

Requested relief for the plaintiffs and for the class of all importers

The plaintiff is asking the CIT to enjoin the collection of the tariffs and to order the government to refund all tariffs collected with interest. The class allegations seek to certify a class of the plaintiff and all other "importers of record that have paid, or will be required to pay, duties imposed under the Section 338 Action on merchandise entered for consumption, or withdrawn from warehouse for consumption, in the United States on or after August 22, 2026." If the CIT grants the class certification, the requested remedies would apply to all importers of record that have paid, or will be required to pay, the Section 338 tariffs.

For the narrower challenge based on the "30-Day" complaint, the plaintiff is asking the CIT to declare that tariffs collected before October 8, 2026 violated the law and should be refunded with interest. For this subset of the complaint, the plaintiff is seeking to define a "30-Day Subclass," consisting of "Class members that paid duties imposed under the Section 338 Action on articles first enumerated in Proclamation 11064 or 11065 and entered for consumption, or withdrawn from warehouse for consumption, on or after September 15, 2026, and before October 8, 2026."

The plaintiff does not propose a remedy for importers that have been subject to the three import exclusion proclamations. However, a ruling for the plaintiff could have implications for the validity of the exclusions as well.

The latest in the ongoing litigation over the Trump administration's tariff policy

The Canada Section 338 action is the fourth major Trump administration tariff program to be challenged in court, and the outcome of the case will influence how the Trump administration's tariff strategy evolves over the second half of President Trump's term of office.

In February 2026, the Supreme Court ruled in *Learning Resources, Inc. v. Trump*, 607 U.S. 229 (2026), that IEEPA does not grant the president the authority to impose tariffs, invalidating the IEEPA-based tariff orders that the Trump administration had used as the basis of its global reciprocal tariff policy in 2025. After the *Learning Resources* ruling, the Trump administration presented a new plan to use Section 122 and Section 301 to reconstruct the reciprocal tariff policy.[48]

[48] See Truth Social post of February 20, 2026 by President Trump, accessible here: https://truthsocial.com/@realDonaldTrump/posts/116104407604484915; and USTR, "Ambassador Greer Issues Statement on Supreme Court IEEPA Decision," 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.

The Section 122 action imposed a global 10% tariff, which entered into effect on February 24, 2026 (the same day that collection of the IEEPA tariffs halted) and then automatically terminated on July 24, 2026.[49] As the Section 122 tariff ended, the Trump administration implemented tariffs ranging from 10% to 12.5% on imports from the United States' 60 largest trading partners using Section 301.[50]

Both the Section 122 tariff and the Section 301 tariffs have been challenged in court, and the litigation is ongoing:

- The CIT ruled that the Section 122 tariff was unlawful on May 7, 2026, responding to complaints filed by 24 US states and private importers.[51] The consolidated cases are now on appeal to the Court of Appeals for the Federal Circuit (CAFC), which is currently receiving briefs from the parties.[52] Though the tariff has expired, the outcome of the appeal will still influence whether importers are owed refunds and whether the Trump administration may attempt to use Section 122 again in the future.
- Immediately after the Section 301 tariffs took effect on July 24, 2026, three groups of importers filed new lawsuits at the CIT challenging the Section 301 tariffs.[53] The CIT held oral arguments on September 30, then ordered further briefings in October.

The Trump administration's Section 338-based actions against Canada mark the first time the law has been employed to impose trade restrictions. The government may intend for the action to test the practical usability of Section 338, and whether it could provide another fallback option should the Section 301 tariffs fail in court. Pointing towards this potential expanded use of Section 338, on September 4, 2026, the United States International Trade Commission (ITC) announced that it is developing a monitoring and advisory mechanism under Section 338, which it would use to "determine the facts and to provide recommendations" to the president for using Section 338.[54]

US Customs issues proposed rules to change informal entry filing process

On October 8, 2026, US Customs and Border Protection (CBP) issued a notice of proposed rulemaking (NPRM) to (i) revise import filing requirements for informal entry (imports valued at $2,500 or less); (ii) establish a new electronic entry type for informal entries in the mail environment; and (iii) make further related changes to informal entry procedures (including new data elements for carriers of informal entry mail shipments and new bonding requirements

[49] 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.

[50] "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.

[51] *Burlap and Barrel, Inc. v. Trump*, 1:26-cv-01606, (Ct. Intl. Trade) (for the private plaintiffs); and *The State of Oregon v. Trump*, 1:26-cv-01472, (Ct. Intl. Trade) (for the state plaintiffs).

[52] *State of Oregon v. Trump*, 26-1804, (Fed. Cir.)

[53] *Burlap and Barrel, Inc. v. Greer, in his official capacity as United States Trade Representative*, 1:26-cv-03345, (Ct. Intl. Trade); *Learning Resources, Inc. v. The United States of America*, 1:26-cv-03347, (Ct. Intl. Trade); and *The State of Oregon v. Donald J. Trump*, 1:26-cv-03467, (Ct. Intl. Trade). The Court of International Trade has aligned proceedings under all three cases in *In Re Section 301 Forced Labor Cases*, 1:26-cv-03555, (Ct. Intl. Trade).

[54] "USITC Requests Public Comments on Section 338 Responsibilities," ITC, September 4, 2026, accessible here: https://www.usitc.gov/press_room/news_release/2026/er0904_69195.htm; and "Request for Comments Regarding Implementation of 19 U.S.C. 1338(g)," 91 FR 57387 (September 9, 2026), accessible here: https://www.federalregister.gov/documents/2026/09/09/2026-18385/request-for-comments-regarding-implementation-of-19-usc-1338g.

for informal entries).[55] CBP is inviting public input on the new proposed regulations, with a deadline of December 7, 2026.

Background and policy interests

The NPRM's proposals are part of a broader effort by CBP to reorganize and tighten entry rules and digitalize entry filing processes for low-value shipments after the termination of *de minimis* entry in 2025. CBP states that it is adopting the changes "to address issues in the informal entry environment concerning CBP's efforts to protect the revenue and to identify violations of U.S. customs and trade laws, health and safety requirements, intellectual property rights, and consumer protection rules, as well as to detect and prevent illicit drugs such as fentanyl (including synthetic drug precursors and related chemicals and related manufacturing equipment) from entering the country."

The proposed changes are based on authorities in 19 U.S.C. 1498(a)(1)(A), which authorizes the government to prescribe regulations governing "informal entries" of shipments valued at not more than $2,500. Because the government has suspended (and, effective July 1, 2027, will terminate) the *de minimis* exemption (19 U.S.C. 1321(a)(2)(C)), shipments valued at not more than $800 that previously qualified for duty-free *de minimis* treatment are now also entering under the informal entry system. CBP notes that the transfer of the large volumes of formerly *de minimis* entries into the informal entry channel has created new challenges that it needs to address.

The proposals partly build on previous attempts to develop electronic filing systems that allow CBP to receive advance entry information, including for postal shipments. Though the NPRM states that the previous "Entry Type 86 test proved insufficient to adequately address the issues for which it was designed," the test demonstrated a need to require electronic filing and the need to receive the data prior to or upon arrival, as well as showing which data elements should be mandatory.

The NPRM follows the June 24, 2026 interim final rules (IFRs) that formally suspended *de minimis* entry, directed importers to move to other entry types, and introduced a test for a new informal entry process for postal shipments – the Entry Type 13 test.[56]

Changes to informal Entry Type 11 requirements

The NPRM is focused heavily on modifications to Entry Type 11, which is the general informal entry channel. To address the government's concerns about the lack of available pre-shipment data for cargo entering through Entry Type 11, and to improve CBP's ability to identify and intercept violative merchandise, CBP is proposing to revise the Entry Type 11 filing process in several ways:

- Require informal Entry Type 11 shipments to be filed electronically (eliminating the paper filing version), upon or prior to the date of importation (replacing the current 15-day post-arrival deadline).

[55] "Low-Value Shipments," 91 FR 64532 (October 8, 2026), accessible here: https://www.federalregister.gov/documents/2026/10/08/2026-20650/low-value-shipments.

[56] "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; "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; and "Test of the New Electronic Informal Entry Process for Mail," 91 FR 38007 (June 24, 2026), accessible here: https://www.federalregister.gov/documents/2026/06/24/2026-12668/test-of-the-new-electronic-informal-entry-process-for-mail. CBP later delayed the mandatory compliance date for certain elements of the new entry rules to January 20, 2027 and issued modifications to the June 24 IFRs in "Modification of the Test of the New Electronic Informal Entry Process for Mail," 91 FR 66707 (October 22, 2026), accessible here: https://www.federalregister.gov/documents/2026/10/22/2026-21570/modification-of-the-test-of-the-new-electronic-informal-entry-process-for-mail; and "Indefinite Suspension of the De Minimis Exemption for Mail Shipments and New Postal Informal Entry Process; Delayed Compliance Extension," 91 FR 66638 (October 22, 2026), accessible here: https://www.federalregister.gov/documents/2026/10/22/2026-21600/indefinite-suspension-of-the-de-minimis-exemption-for-mail-shipments-and-new-postal-informal-entry.

- Require a consignee of an informal entry shipment who is not the owner or purchaser of the goods (such as a foreign postal operator, the United States Postal Service, a freight forwarder, or a carrier) to appoint a licensed customs broker to act as the importer of record, subject to some exceptions.
- Require Entry Type 11 filings to identify the Final Deliver-To Party when that party is distinct from the ultimate consignee named on the entry summary.
- Expand CBP's discretion to require use of formal entry instead of informal entry for shipments that are otherwise eligible for informal entry, extending the existing discretion from a case-by-case, shipment-specific basis to a blanket basis by importer of record, category or type of merchandise, or manufacturer or seller.
- Lift the requirement that goods classified under HTSUS Chapter 99 Subchapters III and IV must use formal entry, which would allow goods subject to Section 232 tariffs to use informal entry.

New informal mail Entry Type 13 requirements

CBP is proposing to overhaul the entry process for low-value shipments sent through the international mail network. Historically, informal mail entries have been processed on paper, with CBP receiving comparatively little advance data about the shipments. CBP states that the process leaves postal shipments subject to weaker and slower enforcement than non-postal informal entries. To close this gap, CBP is proposing to replace the current postal process with the new, fully electronic Entry Type 13. Entry Type 13 would largely mirror the Entry Type 11 process (as revised in the NPRM) for non-postal informal entries, but with some mail-specific requirements. The NPRM proposes to:

- Establish a new, fully electronic Entry Type 13 (Informal Mail Entry) for mail shipments valued at $2,500 or less that would be eligible for Entry Type 11 if shipped by means other than mail. Entry Type 13 would replace the current paper-based informal mail entry process. Entry Type 13 would largely mirror the updated Entry Type 11 data and filing requirements proposed in the NPRM, including the requirement to file upon or before importation.
- Require that Entry Type 13 filings include the identity and address of the shipper/sender (the party causing the goods to be shipped).
- Require the carrier filing the inward manifest to report a tracking number (such as the Universal Postal Union S-10 tracking number) for each mail shipment, to be matched against the tracking number reported on the corresponding Entry Type 13 filing, so CBP can confirm timely entry.
- Deem mail articles valued at $2,500 or less voluntarily abandoned if no entry is filed within 15 days of the date of importation. The United States Postal Service (USPS) would process such abandoned shipments in accordance with its requirements and procedures, which may include destruction or return to sender.

New informal entry bond requirements

For both Entry Type 11 and Entry Type 13 shipments, the NPRM proposes significant new customs bonding requirements:

- Require all Entry Type 11 and Entry Type 13 filers to obtain a basic importation and entry bond (either a single transaction bond or a continuous bond), without which the shipment will not be released from CBP custody.
- Establish a new minimum amount for liquidated damages on a bond default for Entry Type 11 and Entry Type 13 shipments: the greater of the value of the merchandise or $1,000 for most bond conditions; or the greater of three times the value of the merchandise or $1,000 if the merchandise is restricted, prohibited, or an alcoholic beverage.

CBP explains that it relies on the data that filers submit to make admissibility and entry determinations, but that the data has been unreliable for informal entries, and that requiring a bond would give CBP recourse if an importer defaults on its obligations (*e.g.*, failing to pay duties, taxes, and fees, or failing to redeliver merchandise found inadmissible).

CBP proposed the $1,000 minimum because low-value shipments can generate liquidated damages claims that are too small to meaningfully deter noncompliance or justify CBP's cost of collection.

Call for public input

The proposed changes will be significant for small shipments and parties involved in their movement, and compliance costs will increase. CBP's own initial regulatory flexibility screening analysis concludes that it cannot certify the regulation will avoid a significant economic impact on a substantial number of small businesses. CBP flags several significant costs: (i) approximately 59,000 importers of record that currently import bondless Entry Type 11 shipments would likely need to obtain single transaction bonds, and for these importers the new bond cost could represent as much as 73% of the duties, taxes, and fees on their entries; (ii) non-postal filers may need to restructure how and when they collect shipment data to meet the new pre-arrival filing deadline; and (iii) the small number of brokers currently filing the monthly postal duty worksheet, most of whom are small US businesses, would face materially higher data-collection and filing costs under Entry Type 13.

Importers, brokers, carriers, and other stakeholders with concerns about these impacts on the cost of importing, or with an interest in any of the proposed changes more broadly, are invited to submit written comments on the NPRM. Comments are due by December 7, 2026, and may be submitted through the Federal eRulemaking Portal at Regulations.gov under docket number USCBP-2026-0298.[57] The NPRM provides further instructions on how to submit comments.

President Trump shifts product coverage of the Canada Section 338 tariffs

On October 23, 2026, President Trump issued a proclamation modifying the product coverage of the 50% "motor vehicles" Section 338 tariff action on imports from Canada.[58] The changes will apply to goods that are entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. Eastern Time on October 30, 2026.

Trump administration officials and members of Congress have stated that the changes are intended to reduce the burden of the tariffs on Maine, where Republicans are at risk of losing Congressional seats in the November 3 midterm elections. President Trump and other administration officials have also begun signaling in recent days that a deal with Canada is close, with some anonymous sources in the US and Canadian governments telling journalists that a partial agreement may be announced before the midterms.[59]

The motor vehicles Section 338 proclamation and related tariffs

The motor vehicles Section 338 tariff action was the largest of three Section 338-based tariff orders that President Trump issued on July 20, 2026, in an unprompted escalation of his trade war against Canada. The three proclamations each imposed 50% tariffs on a narrow set of US imports from Canada, amounting to approximately US$20 billion of import value in total:

- The "motor vehicles" proclamation (Proclamation 11048) imposed a 50% additional tariff on 439 HTSUS subheadings covering a wide variety of agricultural and manufactured products.[60]

[57] "Low-Value Shipments," USCBP-2026-0298, accessible here: https://www.regulations.gov/docket/USCBP-2026-0298.

[58] Proclamation of October 23, 2026: "Further Modifying the Scope of Products of Canada Subject to the Additional Duties Imposed to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Motor Vehicles," White House, accessible here: https://www.whitehouse.gov/presidential-actions/2026/10/further-modifying-the-scope-of-products-of-canada-subject-to-the-additional-duties-imposed-to-offset-canadian-discrimination-against-the-commerce-of-the-united-states-with-respect-to-motor-vehicles/. See the links at the bottom of the page for Annexes I and II.

[59] Reuters, "US, Canada working on deal to ease steel, auto tariffs, sources say," October 26, 2026, accessible here: https://www.reuters.com/world/us-canada-working-deal-ease-steel-auto-tariffs-sources-say-2026-10-26/.

[60] Proclamation 11048 of July 20, 2026: "Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Motor Vehicles," 91 FR 46663 (July 23, 2026), accessible here: https://www.federalregister.gov/documents/2026/07/23/2026-14997/imposing-additional-duties-to-offset-canadian-discrimination-against-the-commerce-of-the-united.

- The “dairy” proclamation (Proclamation 11047) imposed a 50% additional tariff on 52 HTSUS subheadings covering various dairy products and certain other agricultural products.[61]
- The “alcohol” proclamation (Proclamation 11046) imposed a 50% additional tariff on 63 HTSUS subheadings covering a variety of alcohol products, wood and paper products, and hockey equipment.[62]

After Canada implemented retaliatory measures on September 8, 2026, the Trump administration issued five proclamations modifying the original Section 338 tariff actions:

- The motor vehicles tariff scope modification proclamation (Proclamation 11065) removed two HTSUS subheadings for whiskies and liqueurs in containers over 4 liters, and added 34 HTSUS subheadings related to cheese products, leather and furs, and boats.[63]
- The motor vehicles import exclusion proclamation (Proclamation 11063) prohibited imports of motorcycles classified within HTSUS 8711.50.00 from Canada.[64]
- The alcohol tariff scope modification proclamation (Proclamation 11064) removed eight HTSUS subheadings (including salt, cement, and toilet paper) and added 76 HTSUS subheadings related to dairy, paper, steel, aluminum, golf carts, ATVs, boats, wood furniture, mattresses, and lamps.[65]
- The alcohol import exclusion proclamation (Proclamation 11061) prohibited imports of alcoholic beverages classified within 53 HTSUS subheadings, with exceptions for certain products that are bottled in the United States after production in Canada.[66]
- The dairy import exclusion proclamation (Proclamation 11062) prohibited imports of certain whey protein, molasses, and non-alcoholic beer products classified within 14 HTSUS subheadings.[67]

New changes to the scope of the motor vehicles Section 338 tariff

[61] Proclamation 11047 of July 20, 2026: “Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Dairy,” 91 FR 46653 (July 23, 2026), accessible here: https://www.federalregister.gov/documents/2026/07/23/2026-14992/imposing-additional-duties-to-offset-canadian-discrimination-against-the-commerce-of-the-united.

[62] Proclamation 11046 of July 20, 2026: “Imposing Additional Duties to Offset Canadian Discrimination Against the Commerce of the United States with Respect to Alcoholic Beverages,” 91 FR 46639 (July 23, 2026), accessible here: https://www.federalregister.gov/documents/2026/07/23/2026-14991/imposing-additional-duties-to-offset-canadian-discrimination-against-the-commerce-of-the-united.

[63] Proclamation 11065 of September 8, 2026: “Modifying the Scope of Products of Canada Subject to the Additional Duties Imposed To Offset Canadian Discrimination Against the Commerce of the United States With Respect to Motor Vehicles,” 91 FR 58339 (September 14, 2026), accessible here: https://www.federalregister.gov/documents/2026/09/14/2026-18839/modifying-the-scope-of-products-of-canada-subject-to-the-additional-duties-imposed-to-offset.

[64] Proclamation 11063 of September 8, 2026: “Excluding Certain Canadian Products From Importation Into the United States in Response to Continued Discrimination Against the Commerce of the United States With Respect to Motor Vehicles,” 91 FR 58325 (September 14, 2026), accessible here: https://www.federalregister.gov/documents/2026/09/14/2026-18837/excluding-certain-canadian-products-from-importation-into-the-united-states-in-response-to-continued.

[65] Proclamation 11064 of September 8, 2026: “Modifying the Scope of Products of Canada Subject to the Additional Duties Imposed To Offset Canadian Discrimination Against the Commerce of the United States With Respect to Alcoholic Beverages,” 91 FR 58331 (September 14, 2026), accessible here: https://www.federalregister.gov/documents/2026/09/14/2026-18838/modifying-the-scope-of-products-of-canada-subject-to-the-additional-duties-imposed-to-offset.

[66] Proclamation 11061 of September 8, 2026: “Excluding Certain Canadian Products From Importation Into the United States in Response to Continued Discrimination Against the Commerce of the United States With Respect to Alcoholic Beverages,” 91 FR 58311 (September 14, 2026), accessible here: https://www.federalregister.gov/documents/2026/09/14/2026-18835/excluding-certain-canadian-products-from-importation-into-the-united-states-in-response-to-continued.

[67] Proclamation 11062 of September 8, 2026: “Excluding Certain Canadian Products From Importation Into the United States in Response to Continued Discrimination Against the Commerce of the United States With Respect to Dairy,” 91 FR 58319 (September 14, 2026), accessible here: https://www.federalregister.gov/documents/2026/09/14/2026-18836/excluding-certain-canadian-products-from-importation-into-the-united-states-in-response-to-continued.

The October 23, 2026 proclamation further amends the motor vehicles Section 338 proclamation with the following modifications to its product coverage:

- **Removes from the scope of the 50% tariff the products listed in Annex I, Part A:** The list includes 22 HTSUS subheadings related to seaweed, packaging materials, plywood sheets, certain types of paper and pulp, refrigeration equipment, bottling and packaging equipment, and machines used for cleaning and sorting eggs and fruit.

  The United States imported $2.53 billion worth of goods from Canada under these HTSUS classifications in 2024 and $2.57 billion in 2025.

- **Adds to the scope of the 50% tariff the products listed in Annex I, Part B:** The list includes 100 HTSUS subheadings related to cocoa powder, soaps, paint, certain laboratory and medical equipment and chemicals, chemical waste and sewage, boat parts, certain wood products (including MDF, fiberboard, boxes, popsicle sticks, coffins, wood flooring, and several kinds of paper), carpeting, vinyl flooring, window air conditioners, freezers, hand tools, canoes, and archery equipment.

  The United States imported $2.53 billion worth of goods from Canada under these HTSUS classifications in 2024 and $2.62 billion in 2025.

Electoral concerns and the unpopularity of the Canada tariffs

The proclamation does not explain why President Trump made the changes. According to a press release by Republican Senator Susan Collins of Maine, she asked the Trump administration to make the changes to lessen the harm the tariffs were causing to Maine.[68] The products removed from the tariffs, such as packing paper, refrigeration equipment, and packing machinery are used by the state's farmers. Senator Collins is at risk of losing her seat in the upcoming elections because of the damage the tariffs have done to Maine's economy.

The additions to the tariff's scope were likely made to balance out the removals, keeping the overall Section 338 tariff action cumulatively targeting approximately US$20 billion of imports. The Trump administration has not explained why it selected the products that it did for inclusion.

America First Seafood Strategy elevates origin labeling and trade enforcement

On October 23, 2026, the United States government released the "America First Seafood Strategy" (the "Strategy"), setting out five policy areas for supporting the US seafood industry: (i) labeling, marketing, and market access; (ii) seafood infrastructure and processing; (iii) fair trade and import compliance and enforcement; (iv) regulatory reform; and (v) seafood and public health.[69]

Most of the substantive areas of the Strategy relate to domestic deregulation and fisheries subsidies, while two sections will be of particular interest to those involved in international trade: (i) a new voluntary "U.S. Caught Seafood" origin label, along with a renewed enforcement push on country-of-origin labeling and seafood mislabeling; and (ii) the Strategy's "Fair Trade and Import Compliance and Enforcement" pillar, which calls for tougher import enforcement (including through the Seafood Import Monitoring Program (SIMP), the Marine Mammal Protection Act (MMPA), and prohibitions on imports made by forced labor) and efforts to expand US seafood access to foreign markets.

Executive order on Restoring American Seafood Competitiveness

[68] "After Discussions with Cabinet Officials, Senator Collins Announces Certain Tariff Exemptions for Agricultural Producers in Maine," Office of Senator Collins, October 23, 2026, accessible here: https://www.collins.senate.gov/newsroom/after-discussions-with-cabinet-officials-senator-collins-announces-certain-tariff-exemptions-for-agricultural-producers-in-maine.

[69] "America First Seafood Strategy," US Department of Commerce (NOAA), US Department of Agriculture, and US Department of Health and Human Services, accessible here: https://www.usda.gov/sites/default/files/documents/america-first-seafood-strategy.pdf.

The Strategy implements elements of President Trump's April 2025 Executive Order (EO) 14276, "Restoring American Seafood Competitiveness," which directed the Departments of Commerce and Agriculture to prepare a plan to promote US seafood production, sales, marketing, and exports.[70] The EO includes instructions to various executive branch agencies to develop policy actions to promote US fishing and expand restrictions on imports, including a request that the Office of the United States Trade Representative (USTR) consider initiating a new Section 301 investigation targeting seafood imports.

Although the Strategy advances many of the EO's trade-related objectives, it does not mention the proposed Section 301 investigation. USTR referenced a plan to initiate an investigation of the seafood industry as part of its effort to rebuild President Trump's reciprocal tariff policy in February 2026, but it has not yet taken any action.[71]

Separately, the EO directs USTR and Commerce to develop a "Seafood Trade Strategy" focused on improving access to foreign markets and addressing unfair foreign trade barriers, including illegal, unreported, and unregulated (IUU) fishing and non-tariff barriers. This directive builds on the seafood trade strategy ordered during President Trump's first term.[72] USTR and Commerce have not yet issued the "Seafood Trade Strategy," and USTR's statement announcing the "America First Seafood Strategy" does not reference it.[73]

Voluntary US origin label and import enforcement

The Strategy's first pillar directs the Food and Drug Administration (FDA), the National Oceanic and Atmospheric Administration (NOAA), and the US Department of Agriculture (USDA) to pursue several labeling-related actions:

- **Voluntary US origin labeling proposal:** The FDA will establish a voluntary "U.S. Caught Seafood" label for seafood caught by US commercial fishermen on US-flagged vessels operating under US fisheries management, which the agencies state is intended to be "complementary to the existing country of origin labeling requirements for fish and shellfish" by helping consumers differentiate between US products and imports. Alongside the Strategy, the FDA issued draft guidance on voluntary US-origin statements in seafood labeling for public comment.[74]
- **Domestic market promotion:** The Strategy calls for federal policy to "enforce truthful labeling and country-of-origin requirements" as part of broader efforts to expand commercial-market opportunities for US seafood.
- **Enforcement of labeling standards for imports:** The Strategy directs the FDA, CBP, USDA, and NOAA to "establish a joint interagency task force to target, inspect, and identify other actions to address foreign seafood imports … entering the country through mislabeling, species substitution, or country-of-origin fraud." The task force is instructed to continue enforcing country-of-origin requirements, target intentional mislabeling and species substitution, and prioritize inspection and enforcement resources for high-risk foreign supply chains.

Import compliance and foreign market access

[70] Executive Order 14276 of April 17, 2025: "Restoring American Seafood Competitiveness," 90 FR 16993 (April 22, 2025), accessible here: https://www.federalregister.gov/documents/2025/04/22/2025-07062/restoring-american-seafood-competitiveness.

[71] "Ambassador Greer Issues Statement on Supreme Court IEEPA Decision," 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.

[72] Executive Order 13921 of May 7, 2020: "Promoting American Seafood Competitiveness and Economic Growth," 85 FR 28471 (May 12, 2020), accessible here: https://www.federalregister.gov/documents/2020/05/12/2020-10315/promoting-american-seafood-competitiveness-and-economic-growth.

[73] "America First Seafood Strategy Charts Course to Restoring U.S. Seafood Dominance," USTR, October 28, 2026, accessible here: https://ustr.gov/about/policy-offices/press-office/press-releases/2026/october/america-first-seafood-strategy-charts-course-restoring-us-seafood-dominance.

[74] "Draft Guidance for Industry: U.S.-Origin Statements on Seafood," FDA, October 2026, accessible here: https://www.fda.gov/regulatory-information/search-fda-guidance-documents/draft-guidance-industry-us-origin-statements-seafood.

The Strategy's third pillar, "Fair Trade and Import Compliance and Enforcement," pursues two parallel tracks: (i) tightening compliance and enforcement for seafood imports and (ii) leveraging trade negotiations to expand market access for US seafood exporters.

(i) Import compliance and enforcement levers

On the enforcement side, the Strategy directs relevant agencies to "find improvements to ensure better enforcement of, and compliance with, relevant import programs," including SIMP and MMPA comparability measures. It also encourages the use of artificial intelligence (AI) tools to improve identification of noncompliant imports. This emphasis builds on existing regulatory frameworks:

- **SIMP:** SIMP was implemented by NOAA Fisheries in 2018. The program's goal is to impose stricter monitoring of seafood imports, particularly from species groups deemed at risk and susceptible to IUU fishing practices. NOAA Fisheries has been conducting a multi-year comprehensive review of SIMP after withdrawing a 2022 proposal that would have expanded the program's species coverage.[75] The Trump administration's April 2025 executive order instructed the Department of Commerce to "consider revising or rescinding recent expansions" of SIMP and to better target high-risk shipments. NOAA's press release on the Strategy states that it "will continue to implement and improve the Seafood Import Monitoring Program and related authorities, using advanced tools to target high-risk imports" but does not provide any details on its reform plans.[76]

- **MMPA:** NOAA Fisheries issued MMPA comparability findings on August 29, 2025, granting full findings to fisheries from 89 countries, partial findings to 34 countries, and denying findings entirely to 12 countries.[77] Based on these findings, on January 1, 2026, covered fish and fish products from fisheries without a comparability finding became prohibited from importation absent a Certificate of Admissibility. The Strategy's reference to the MMPA measures indicates these restrictions are viewed as a core import-compliance tool going forward. That said, the Strategy says nothing specific about the Trump administration's approach to implementing the MMPA, other than a reference to ongoing US concerns regarding the effects of gillnet fishing on the critically endangered vaquita porpoise population in the Upper Gulf of California.

- **Other import compliance measures:** The Strategy raises general concerns regarding US producers having to compete with "unfair competition from forced labor, IUU fishing, and massive foreign government subsidy programs." However, other than the references to SIMP and MMPA, the Strategy does not mention any specific enforcement plans.

(ii) Foreign market access and trade negotiations

On the market-access side, the Strategy seeks to address both trade barriers to US exports and foreign market-distorting policies that put US exports at a competitive disadvantage. The Strategy states that USTR, "in collaboration with other U.S. departments and agencies, will continue to level the playing field for U.S. fishermen by pursuing trade policies that expand market access for U.S. seafood products, address unfair and non-

[75] Withdrawal: "Magnuson-Stevens Fishery Conservation and Management Act; Seafood Import Monitoring Program," 88 FR 78714 (November 16, 2023), accessible here: https://www.federalregister.gov/documents/2023/11/16/2023-25309/magnuson-stevens-fishery-conservation-and-management-act-seafood-import-monitoring-program.

[76] "Trump Administration releases America First Seafood Strategy," NOAA, October 23, 2026, accessible here: https://www.noaa.gov/news-release/trump-administration-releases-america-first-seafood-strategy.

[77] "Implementation of Fish and Fish Product Import Provisions of the Marine Mammal Protection Act—Notification of Comparability Findings and Implementation of Import Restrictions; Certification of Admissibility for Certain Fish Products," 90 FR 42395 (September 2, 2025), accessible here: https://www.federalregister.gov/documents/2025/09/02/2025-16776/implementation-of-fish-and-fish-product-import-provisions-of-the-marine-mammal-protection.

reciprocal policies and practices, strengthen disciplines on harmful fisheries subsidies, and secure commitments from trading partners to combat IUU fishing[.]"

The Strategy also identifies several specific ongoing market-access efforts:

- Continued pressure on Japan to reduce tariffs (up to 10%) and import quotas affecting the roughly $760 million in US seafood exports to Japan in 2025;
- The August 2025 US-EU Joint Statement, under which USTR "secured preferential market access for U.S. seafood exports to the European Union," while flagging the EU's CATCH documentation and reporting scheme as a persistent non-tariff barrier; and
- Continued engagement with India on fisheries subsidies and with Vietnam on IUU fishing practices.

The trade section is particularly focused on Mexico, stating that USTR is "closely monitoring Mexico's implementation of its [USMCA] fisheries-related environmental obligations," including Mexico's commitments on illegal fishing in the Upper Gulf of California and violations of the US Exclusive Economic Zone by Mexican fishermen.

The Strategy highlights the Trump administration's existing program of bilateral Agreements on Reciprocal Trade (ARTs) as the vehicle for securing new fisheries management commitments. The Strategy cites the US-Taiwan ART, under which Taiwan "committed to ensure that its fisheries subsidies do not contribute to overcapacity and overfishing and to address violations of internationally recognized labor rights on board commercial fishing vessels," and states that USTR "secured similar commitments with, among others, Argentina, Bangladesh, Ecuador, and Indonesia to combat IUU fishing, deter trade in IUU fishing-derived products, and address harmful fisheries subsidies." The ARTs that the Strategy references (as well as all the other ARTs) generally include commitments to adopting and implementing existing international conventions on fisheries management, including the WTO *Agreement on Fisheries Subsidies* and the Food and Agriculture Organization *Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing*.[78]

[78] *See, e.g.*, *United States of America – Argentine Republic Agreement on Reciprocal Trade and Investment*, Annex III, Articles 1.16–1.17; *Agreement Between the United States of America and the People's Republic of Bangladesh on Reciprocal Trade*, Annex III, Articles 1.23–1.24; and *Agreement between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States on Reciprocal Trade between the United States of America and Taiwan*, Article 3.11(7)–(10).

Trade Actions

Section 301

USTR announces continuation of the China Section 301 tariffs

On October 7, 2026, the Office of the United States Trade Representative (USTR) announced the continuation of the Section 301 tariff action first imposed in 2018 on imports from China.[79] The announcement forms part of the second statutory four-year review for the tariff action, which USTR initiated earlier this year by issuing a call for input from domestic industries benefiting from the tariffs. USTR received 162 requests from domestic producers and trade associations requesting that USTR maintain the Section 301 measures, citing the need for continued protection against the persistence of China's unfair policies and practices.

USTR is now proceeding with the second phase of the statutory four-year review, in which it will assess the effectiveness of the action in achieving its objectives and the effects of the action on the US economy. Based on the first four-year review's lengthy timeline during the Biden administration, the assessment could take years to complete. This stage of the review provides the Trump administration with an opportunity to consider whether adjustments to the tariff measures would better advance US policy objectives. In the first review, for example, the Biden administration increased tariffs on a range of green energy, mineral, and healthcare products that it viewed as strategically important.

The continuation notice comes at a moment when the broader US-China relationship is governed by a fragile truce. The two countries have extended a trade de-escalation arrangement; however, underlying frictions over technology, trade practices, and market access have not been resolved.

2018 China Section 301 tariff action

Since 2018, the United States has maintained tariffs on a large share of goods imported from China under the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The tariffs were introduced in successive tranches under two actions taken under Section 301 of the Trade Act of 1974.[80] The first tranche (List 1), effective July 6, 2018, imposed an additional 25% *ad valorem* duty on Chinese-origin goods, primarily industrial machinery, electrical components, and intermediate goods, covering an estimated annual trade value of approximately $34 billion. The second tranche (List 2), effective August 23, 2018, extended the additional 25% duty to further products, including industrial parts, semiconductors, and electronic items, with an estimated annual trade value of approximately $16 billion.

Since their introduction, the tariffs have been significantly modified, including through additional tranches expanding product coverage and the establishment of a product exclusion process through which importers could seek relief from the additional duties for specific goods.

Section 301 four-year review

Under Section 301 of the Trade Act of 1974, an action automatically terminates after four years unless the original petitioner or another domestic industry that benefits from the action submits a written request for continuation during the final 60 days of the four-year period.[81] USTR published an announcement of the possible termination of the action on May 6, 2026, and, as the first step in the statutory process, notified representatives of domestic industries benefiting

[79] "Continuation of Actions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation," 91 FR 64212 (October 7, 2026), accessible here: https://www.federalregister.gov/documents/2026/10/07/2026-20510/continuation-of-actions-chinas-acts-policies-and-practices-related-to-technology-transfer.

[80] See the USTR website at "Section 301 – China Technology Transfer" for related investigation documents and notices, accessible here: https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-china.

[81] 19 USC §§ 2411 – 2420, accessible here: https://www.govinfo.gov/app/details/USCODE-2024-title19/USCODE-2024-title19-chap12-subchapIII; and 15 CFR Part 2006, accessible here: https://www.ecfr.gov/current/title-15/subtitle-C/chapter-XX/part-2006.

from the tariffs of the opportunity to request continuation.[82] After reviewing 162 requests for continuation, USTR stated in its October 7, 2026 continuation notice that the actions are not terminated and "will remain in effect, subject to possible further modifications, including any modification resulting from the statutory four-year review."

This is the second four-year review of the 2018 Section 301 actions, following the first review conducted by the Biden administration in 2022–2024, which led to an extension of the tariffs and further tariff increases on certain products.[83] The first review took approximately two years to complete before resulting in modifications to the tariffs. The Trump administration has not commented on its intended timeline for the second review.

Next steps for the four-year review

In the continuation announcement, USTR stated it is proceeding with the second phase review but provided few details. Details of this phase, including the opportunity for public comment, will be announced in subsequent *Federal Register* notices, which will invite interested persons to submit comments on the effectiveness of the action, other actions that could be taken, and the broader effects of the tariffs on the US economy (including on consumers). USTR has not announced a schedule for the comment process.

US-China trade relations

The continuation of the Section 301 tariffs reflects an uncertain state of the US-China trade relationship, which remains a mix of de-escalation and unresolved tensions.

Following the recent US-China Summit, the White House released a fact sheet outlining the outcomes of the summit, including the establishment of a "Board of Trade" between the countries to "recommend more favorable tariff treatment for $30 billion of non-sensitive goods" and "address[ ] market access barriers in the agriculture sector."[84] Though the action is not yet finalized, it is expected to include reductions in the Section 301 tariffs for a few dozen products.

The United States and China also agreed to a two-month extension of the trade truce between the two countries, until January 10, 2027, under which the United States agreed to suspend a series of export controls and trade restrictions, including fees on Chinese vessels and the Section 301 investigation into China's shipbuilding practices, as well as the rule that would have subjected thousands of Chinese entities to entity list restrictions, while China agreed to delay implementation of its rare earth export controls.

Amid the détente, two other proceedings related to the 2018 Section 301 action are continuing:

- The Section 301 tariffs' product exclusion list is set to expire on November 9, 2026.[85] Given the extended de-escalation agreement between the United States and China, a further extension of these exclusions is likely, although this has not yet been confirmed.

[82] "Initiation of Second Four-Year Review Process: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation," 91 FR 24636 (May 6, 2026), accessible here: https://www.federalregister.gov/documents/2026/05/06/2026-08806/initiation-of-second-four-year-review-process-chinas-acts-policies-and-practices-related-to.

[83] "Notice of Modification: China's Acts, Policies and Practices Related to Technology Transfer, Intellectual Property and Innovation," 89 FR 76581 (September 18, 2024), accessible here: https://www.federalregister.gov/documents/2024/09/18/2024-21217/notice-of-modification-chinas-acts-policies-and-practices-related-to-technology-transfer.

[84] "Fact Sheet: President Donald J. Trump Advances a Fair and Reciprocal Relationship with China While Hosting Historic State Visit," The White House, September 25, 2026, accessible here: https://www.whitehouse.gov/fact-sheets/2026/09/fact-sheet-president-donald-j-trump-advances-a-fair-and-reciprocal-relationship-with-china-while-hosting-historic-state-visit/.

[85] "Notice of Product Exclusion Extensions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation," 90 FR 55232 (December 1, 2025), accessible here: https://www.federalregister.gov/documents/2025/12/01/2025-21671/notice-of-product-exclusion-extensions-chinas-acts-policies-and-practices-related-to-technology. The exclusions list was recently modified with several conforming amendments, necessary due to revisions to the Harmonized Tariff Schedule of the United States. See "Notice of Conforming Amendments to Product Exclusions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation," 91 FR 56538 (September 2, 2026), accessible here: https://www.federalregister.gov/documents/2026/09/02/2026-17925/notice-of-conforming-amendments-to-product-exclusions-chinas-acts-policies-and-practices-related-to; and "Notice of Conforming Amendment to Product Exclusion: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation," 91 FR 64211 (October 7, 2026),

- USTR is separately conducting an ongoing Section 301 review of China's compliance with the US-China Phase One trade agreement. That review was initiated on October 28, 2025, and USTR held a public hearing on December 16, 2025, the transcript of which is available on USTR's website.[86]

Section 232

Bureau of Industry and Security defines "US content" for metals tariff preference for North American construction vehicles

On October 9, 2026, the Department of Commerce Bureau of Industry and Security (BIS) issued guidance defining "US content" for purposes of a narrow reduction to the Section 232 tariffs on steel, aluminum, and copper. The reduction applies to certain "mobile industrial equipment and machinery" classified under Harmonized Tariff Schedule of the United States (HTSUS) tariff headings 8427, 8429, 8431, 8701, and 8705 that qualify for preferential tariff treatment under the United States-Mexico-Canada Agreement (USMCA).[87] BIS's definition becomes effective on October 14, 2026, though the underlying tariff reduction has applied since June 8, 2026.

The June 2026 metals tariffs modifications

On June 1, 2026, President Trump issued Proclamation 11032 making several notable changes to the Section 232 tariffs on (i) steel and steel derivative products, (ii) aluminum and aluminum derivative products, and (iii) semi-finished copper products and copper-intensive derivative products.[88] The proclamation:

- Lowered the threshold for products to qualify for the preferential tariff rates provided to derivative products that use US-produced metals to 85% of the total weight of covered metals (from the previous 95%).
- Temporarily reduced the applicable tariff rate from 25% to 15% (or the applicable Column 1 general/special rate of duty, if higher than 15%)[89] for (i) residential heating, ventilation, and air conditioning (HVAC) systems; (ii) certain commercial kitchen appliances; (iii) agricultural equipment; and (iv) parts that will be used for manufacturing agricultural equipment.
- Temporarily reduced the applicable tariff rate from 25% to 15% (or the applicable Column 1 general/special rate of duty, if higher than 15%) for "mobile industrial equipment and machinery" originating in certain economies with an Agreement on Reciprocal Trade (ART), as well as Canada and Mexico.
- Added aluminum lithographic plates and steel racks to the scope of the 25% derivative products tariff.
- Narrowed the scope of the tariff listing for farm tractor body stampings to exclude products that are not made primarily of steel or aluminum.

accessible here: https://www.federalregister.gov/documents/2026/10/07/2026-20511/notice-of-conforming-amendment-to-product-exclusion-chinas-acts-policies-and-practices-related-to.

[86] "Initiation of Section 301 Investigation: China's Implementation of Commitments Under the Phase One Agreement; Notice of Hearing; and Request for Public Comments," 90 FR 48733 (October 28, 2025), accessible here: https://www.federalregister.gov/documents/2025/10/28/2025-19679/initiation-of-section-301-investigation-chinas-implementation-of-commitments-under-the-phase-one.

[87] "Guidance to US Customs and Border Protection Regarding the Assessment of 'US Content' for Purposes of Implementing Tariffs Pursuant to Clause (2)(D) of Proclamation 11032 of June 1, 2026," 91 FR 65162 (October 14, 2026), accessible here: https://www.federalregister.gov/documents/2026/10/14/2026-20938/guidance-to-us-customs-and-border-protection-regarding-the-assessment-of-us-content-for-purposes-of.

[88] 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.

[89] The Section 232 tariff is set so that the combined rate (Column 1 plus Section 232) equals 15%, unless the Column 1 rate is already 15% or higher, in which case no Section 232 tariff applies.

The modifications build on the larger reorganization of the metals tariffs that President Trump issued on April 2, 2026.[90]

Tariff reduction for "mobile industrial equipment and machinery"

Proclamation 11032 provides three preferential Section 232 tariff treatment categories for "mobile industrial equipment and machinery," each of which may reduce the otherwise applicable 25% metals tariff. Annex I-C of the proclamation identifies 28 HTSUS subheadings, including forklifts, bulldozers, graders, scrapers, rollers, shovel loaders, backhoes, tractors (except agricultural tractors), mobile cranes, mobile drilling derricks, and associated parts.

The available tariff treatment depends on the product's origin, and in certain cases, its US metal content:

1. **Products of specified ART partners**: For covered products of Argentina, Ecuador, El Salvador, Guatemala, Japan, South Korea, Liechtenstein, Switzerland, Taiwan, the United Kingdom, and the European Union, the applicable tariff rate is the higher of either (i) a 15% Section 232 tariff or (ii) the applicable Column 1 general/special rate of duty. Malaysia, Cambodia, Bangladesh, and Indonesia are not included in this preferential treatment. The proclamation does not prescribe a specialized origin test, instead simply stating that qualifying products must be "of" one of the listed economies.

2. **Products "composed entirely" of US steel or aluminum**: Covered products "composed entirely" from US steel or aluminum are subject to the higher of (i) a 10% Section 232 tariff or (ii) the applicable Column 1 general/special rate of duty. For this purpose, a product is deemed to be "composed entirely" from US steel or aluminum if steel melted and poured in the United States or aluminum smelted and cast in the United States accounts for at least 85% by weight of the product's total steel or aluminum content.

3. **USMCA-qualifying products of Canada and Mexico**: For covered products of Canada and Mexico that qualify for preferential tariff treatment under the USMCA, the 25% Section 232 tariffs apply only to (i) the non-US-origin content of the products and (ii) any US-origin content that exceeds 40% of the product's total value. Exempting up to 40% of the product's value from the 25% tariff calculation would cause the total effective tariff to fall to a minimum of 15% of the product's total value, making this tariff preference (at best) equivalent to the ART partner preference. The proclamation directed BIS to provide US Customs and Border Protection (CBP) with instructions defining "US content."

All three tariff reductions took effect on June 8, 2026, despite BIS not having provided CBP with the required definition for "US content" for the USMCA preference. CBP's June 5, 2026 guidance stated only that "US content refers to the value of the article attributable to parts produced in the United States" and "the non-US content of the article shall be calculated by subtracting the value of the US content in the article from the total value of the article."

BIS definition of "US content"

BIS's new notice provides the required definition of "US content," stating that it means both (i) parts that originate in the United States, and (ii) the value of any other input steel that was melted and poured in the United States, aluminum that was smelted and cast in the United States, and/or copper that was smelted and cast in the United States, as follows:

1. "The value of the product attributable to parts wholly obtained, entirely produced, or substantially transformed in the United States, and"

[90] 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. For additional implementing guidance, see CSMS # 68253075 - GUIDANCE: Section 232 Duties on Imports of Aluminum, Steel, and Copper, accessible here: https://content.govdelivery.com/accounts/USDHSCBP/bulletins/4117593.

2. “To the extent not otherwise accounted for in (1), the value of the product attributable to steel that was melted and poured in the United States, aluminum that was smelted and cast in the United States, and/or copper that was smelted and cast in the United States.”

The second part of the definition, allowing importers to count the value of US metal inputs in parts that do not themselves originate in the United States, would likely broaden the scope of what qualifies for the tariff exception, relative to what importers may have assumed under CBP’s June 5, 2026 guidance. As of the writing of this Alert, CBP has not issued revised guidance to account for the new definition.

President Trump declines to impose new tariffs on wind turbines in Section 232 action

On October 22, 2026, President Trump issued a proclamation following the Section 232 investigation of wind turbines and their parts and components, affirming the administration’s finding that imports threaten national security but declining to impose any new tariffs on the industry.[91] Instead, President Trump directed the United States Trade Representative (USTR) and the Department of Commerce (Commerce) to “pursue negotiation of agreements or continue any current negotiations of agreements to address the threatened impairment of the national security with respect to imported wind turbines and their components and subcomponents, with any foreign trading partner the Secretary and the Trade Representative deem appropriate[.]” While the proclamation does not immediately alter the treatment of wind turbine imports, it leaves the Section 232 proceeding open and preserves the president’s authority to impose tariffs or other trade measures at a later stage.

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.[92]

The Department of Commerce’s investigation determination

Commerce’s Bureau of Industry and Security (BIS) originally initiated the Section 232 investigation on August 13, 2025.[93] At the time, the Trump administration provided no information regarding the rationale for the investigation or its envisioned outcomes. BIS held a brief public comment period between August 25 and September 9, 2025, and has not issued any public information on the investigation since.[94]

The factual basis and analysis underlying the determination have not been made public. Consistent with other Section 232 investigations undertaken by the Trump administration since January 2025, Commerce has not published a public version of the investigation report.

According to President Trump’s proclamation, Commerce found “that wind turbines and their components and subcomponents are being imported into the United States under such circumstances as to threaten to impair the national security[.]” Based on the investigation, the proclamation states that the Secretary of Commerce “recommended a range of actions to adjust the imports of wind turbines and their components and subcomponents so that such imports will not threaten to impair the national security.”

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[91] Proclamation of October 22, 2026: “Adjusting Imports of Wind Turbines and Their Parts and Components into the United States,” accessible here: https://www.whitehouse.gov/presidential-actions/2026/10/adjusting-imports-of-wind-turbines-and-their-parts-and-components-into-the-united-states/.

[92] 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.

[93] “Notice of Request for Public Comments on Section 232 National Security Investigation of Imports of Wind Turbines and Their Parts and Components,” 90 FR 41380 (August 25, 2025), accessible here: https://www.federalregister.gov/documents/2025/08/25/2025-16191/notice-of-request-for-public-comments-on-section-232-national-security-investigation-of-imports-of.

[94] The public comments are published on the regulations.gov docket (Docket ID BIS-2025-0191), accessible here: https://www.regulations.gov/docket/BIS-2025-0191.

The result of the investigation was 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 August 8, 2026. Several other Section 232 orders have also been issued late in recent months, and two other Section 232 investigations covering (i) robotics and industrial machinery and (ii) personal protective equipment, medical consumables, and medical equipment, including devices are currently overdue.

***Update (October 28, 2026)**:* President Trump issued a proclamation on the Section 232 investigation of robotics and industrial machinery on October 28, 2026. See the next section for more information.

Instructions to negotiate agreements

USTR and Commerce are instructed to report to President Trump on the status of the negotiations in 180 days, which would set a deadline of April 20, 2027. Depending on the status or outcome of the negotiations, President Trump "may consider alternative remedies in the future." The proclamation does not identify the potential alternative remedies under consideration, the countries that may be engaged in negotiations, or the specific policy commitments the United States will seek.

The 180-day negotiation timeline 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."

Existing tariffs, import restrictions, and efforts to halt wind power generation projects

Although the Section 232 action did not lead to new trade barriers, the wind power industry is already facing a broad array of challenges from the Trump administration.

In terms of trade barriers, wind turbine components are already subject to significant tariffs under the steel, aluminum, and copper Section 232 tariff actions, and the Federal Communications Commission (FCC) added certain foreign-produced power inverters to the Covered List on July 28, 2026:

- BIS added many wind turbine parts to the scope of the steel and aluminum derivative products Section 232 tariffs on August 18, 2025.[95] Originally, the tariffs applied specifically to the steel and aluminum input value of the covered products. Under the revisions to the metals Section 232 actions issued in April and June 2026, covered metal wind turbine components are now generally subject to a 25% tariff on their entire entered value.
- On July 28, 2026, the FCC added foreign-produced power inverters (including those used in wind turbines) to the Covered List, prohibiting new device models from qualifying for FCC equipment authorizations. On August 20, 2026, the FCC revised the listing, changing the definition of covered power inverters and introducing a new exception that could exempt power inverters qualifying for the Section 45X advanced manufacturing tax credit from the prohibition.

In addition to trade barriers, the Trump administration has pursued a wide range of domestic policy measures intended to halt installation of wind power projects and reduce government support for wind turbine manufacturing. The July 2025 budget reconciliation bill that scaled back Inflation Reduction Act (IRA) green energy subsidy programs prioritized

[95] "Adoption and Procedures of the Section 232 Steel and Aluminum Tariff Inclusions Process," 90 FR 40326 (August 19, 2025), accessible here: https://www.federalregister.gov/documents/2025/08/19/2025-15819/adoption-and-procedures-of-the-section-232-steel-and-aluminum-tariff-inclusions-process.

the phase out of investment, manufacturing, and electricity production subsidies for wind turbines. President Trump has also intervened to halt the sale of offshore leases for wind power projects and paused permitting for all wind power projects on federal land. He has also attempted to withdraw leases and environmental permits for existing wind power projects, thereby disrupting their installation and operation. These direct measures, together with resulting uncertainty regarding investment in the sector, have reportedly contributed to workforce reductions and the suspension of planned projects. The interventions have prompted multiple legal challenges over the past year, several of which have resulted in adverse outcomes for the Trump administration.

President Trump declines to impose new tariffs on robotics and industrial machinery in Section 232 action

On October 28, 2026, President Trump issued a proclamation related to the Section 232 investigation of robotics and industrial machinery, affirming the Department of Commerce's finding that imports threaten national security but declining to impose any new tariffs or other trade restrictions on the industry.[96] Rather than imposing new trade restrictions, President Trump directed the United States Trade Representative (USTR) and the Department of Commerce to "pursue negotiations of agreements or continue any current negotiations of agreements to address the threatened impairment of the national security with respect to imported robotics, industrial machinery, and their components, with any foreign trading partner the Secretary and the Trade Representative deem appropriate[.]" While the proclamation does not immediately alter the treatment of robotics and industrial machinery imports, it leaves the Section 232 proceeding open and preserves the president's authority to impose tariffs or other trade measures at a later stage.

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.[97]

The Department of Commerce's investigation and determination

Commerce's Bureau of Industry and Security (BIS) initiated the Section 232 investigation on September 2, 2025.[98] At the time, the Trump administration provided little information regarding the rationale for the investigation or its envisioned outcomes. BIS held a brief public comment period between September 26, 2025, and October 17, 2025, seeking input on import dependence, domestic production capacity, foreign supply chain risks, and whether tariffs or other trade measures were needed.[99]

The initiation notice described the planned scope of the investigation as encompassing "robots and programmable, computer-controlled mechanical systems," including "[Computer Numerical Control] machining centers, turning and milling machines, grinding and deburring equipment, and industrial stamping and pressing machines," as well as "automatic tool changers, jigs and fixtures, and machine tools for cutting, welding, and handling work pieces" and "application-specific specialty metalworking equipment used to treat, form, or cut metal, such as autoclaves and industrial ovens, metal finishing and treatment equipment, [Electrical Discharge Machining] machinery, and laser and

[96] Proclamation of October 28, 2026: "Adjusting Imports of Robotics, Industrial Machinery, and Their Parts and Components into the United States," White House, accessible here: https://www.whitehouse.gov/presidential-actions/2026/10/adjusting-imports-of-robotics-industrial-machinery-and-their-parts-and-components-into-the-united-states/.

[97] 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.

[98] "Notice of Request for Public Comments on Section 232 National Security Investigation of Imports of Robotics and Industrial Machinery," 90 FR 46382 (September 26, 2025), accessible here: https://www.federalregister.gov/documents/2025/09/26/2025-18749/notice-of-request-for-public-comments-on-section-232-national-security-investigation-of-imports-of.

[99] The public comments are published on the regulations.gov docket (Docket ID BIS-2025-0257), accessible here: https://www.regulations.gov/docket/BIS-2025-0257.

water-cutting tools and machinery." Unmanned aircraft systems are outside the scope of the investigation, as they are covered by a separate Section 232 investigation.

The factual basis and analysis underlying the determination have not been made public. Consistent with other Section 232 investigations undertaken by the Trump administration since January 2025, Commerce has not published a public version of the investigation report.

According to President Trump's proclamation, Commerce found "that robotics, industrial machinery, and their components 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." Based on the investigation findings, the proclamation states that the Secretary of Commerce "recommended various actions to adjust the imports of robotics, industrial machinery, and their components so that such imports will not threaten to impair the national security." The proclamation does not detail what Commerce recommended.

The result of the investigation was 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 August 28, 2026. Another Section 232 investigation, covering personal protective equipment, medical consumables, and medical equipment, including devices, was also due on August 28, but no action has yet been announced.[100]

Negotiations and potential next steps

USTR and Commerce are instructed to report to President Trump on the status of the negotiations within 180 days, which would set a deadline of April 26, 2027 at the latest. Depending on the status or outcome of the negotiations, President Trump "may consider alternative remedies in the future, including imposing or modifying tariffs, duties, quotas, and fees; and establishing a program to incentivize new investment in United States production of robotics and industrial machinery, as well as their parts and components."

The proclamation does not name negotiating partners or specify the commitments the United States will seek. It leaves the selection of appropriate trading partners to the Secretary of Commerce and USTR.

The 180-day timeline for the 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." This framework does not prescribe an automatic tariff rate or make April 26, 2027 a guaranteed tariff start date but leaves open the possibility of future action.

Existing tariffs and import restrictions

Although the Section 232 action did not lead to new trade barriers, robotics and industrial machinery already face tariffs and trade barriers under other Trump administration trade actions. Some products that fall within the scope of this investigation are subject to tariffs under the steel, aluminum, and copper Section 232 tariff actions or the Section 301 "forced labor" tariff action. The Federal Communications Commission (FCC) also added certain foreign-produced

[100] "Notice of Request for Public Comments on Section 232 National Security Investigation of Imports of Personal Protective Equipment, Medical Consumables, and Medical Equipment, Including Devices," 90 FR 46383 (September 26, 2025), accessible here: https://www.federalregister.gov/documents/2025/09/26/2025-18729/notice-of-request-for-public-comments-on-section-232-national-security-investigation-of-imports-of.

mobile robotic devices to its Covered List on July 28, 2026, prohibiting covered devices from receiving required FCC equipment authorizations.

Trade Agreements

United States and Argentina amend Agreement on Reciprocal Trade and Investment

On October 14, 2026, the Office of the United States Trade Representative (USTR) and the government of Argentina announced an "additional protocol"[101] to the United States – Argentina Agreement on Reciprocal Trade and Investment (ARTI), which was originally signed between the two countries in February 2026.[102] The additional protocol does not make substantive changes to the market access commitments in the ARTI. Instead, it (i) removes references to the US "reciprocal" tariffs implemented under the International Emergency Economic Powers Act (IEEPA), which were overturned by the US Supreme Court just weeks after the ARTI was signed, replacing the references with a commitment to provide Argentina with "favorable consideration" under future Section 301 tariff actions; and (ii) replaces commitments to apply "zero reciprocal tariffs" to certain listed products in Schedules 2A and 2B of the ARTI with a commitment to apply only the most-favored-nation (MFN) duty rate to those same products (meaning these products will continue to be excepted from any Section 301 tariff actions).

The additional protocol is the first time the Trump administration has formally replaced references to the IEEPA tariffs with references to the new Section 301 tariff actions in any of its concluded trade deals.

Argentina's Foreign Minister, Pablo Quirno, stated on social media that the additional protocol would permit submission of the ARTI to Argentina's Congress for approval and enhance predictability for Argentine exports to the US market. He further emphasized that "the United States reaffirms its commitment to Most Favored Nation tariff treatment for Argentine products under the agreed terms and acknowledges Argentina's compliance with the commitments assumed under the agreement."[103] While the ARTI is still pending congressional approval, Argentina has nonetheless implemented certain commitments through executive regulatory measures within the Executive Branch's authority.

The Argentine government has characterized the ARTI as part of a broader next-generation trade, finance, and investment agenda. That agenda also encompasses two separate but related initiatives announced in New York in September 2026: (i) the Andes-Atlantic Corridor, intended to strengthen infrastructure linking Argentina's regional economies to Atlantic ports and global markets, and (ii) the US-Argentina *Build the Future* Framework, signed by the Argentine government and EXIM on September 23, 2026, which contemplates exploring financing of up to US$7 billion through 2027 for eligible projects in Argentina.

The additional protocol's amendments

The additional protocol strikes language referring to the IEEPA "reciprocal" tariffs in Section 1 and Schedule 2 of the ARTI, which are the sections that govern the US tariff commitments. The original text in Schedule 2 consisted of:

- The US commitment to cap the IEEPA tariffs at a rate no higher than 10% (original Schedule 2, paragraph 4), and
- The US commitment to provide certain product-specific exceptions from the IEEPA tariffs (original Schedule 2, paragraphs 2 and 3).[104]

[101] "Protocol Of Amendment to the United States of America – Argentine Republic Agreement on Reciprocal Trade and Investment," accessible here: https://ustr.gov/sites/default/files/files/Press/Releases/2026/US%20Argentina%20Protocol%20of%20Amendment%20ARTI.pdf; and the revised version of the "United States of America – Argentine Republic Agreement on Reciprocal Trade and Investment," accessible here: https://ustr.gov/sites/default/files/files/Press/Releases/2026/US%20Argentina%20Revised%20ARTI.pdf. The tariff schedules in Appendix 2 of the ARTI were not modified and are accessible here: https://ustr.gov/sites/default/files/files/Press/Releases/2026/US%20Argentina%20Schedules%20February%202026.pdf.

[102] X (Twitter) post by USTR, October 14, 2026, accessible here: https://x.com/USTradeRep/status/2110485938128163301.

[103] X (Twitter) post by Foreign Minister Pablo Quirno, October 15, 2026, accessible here: https://x.com/pabloquirno/status/2110449278531625198.

[104] A copy of the original version of the ARTI text from February 2026 is accessible here: https://ustr.gov/sites/default/files/files/Press/Releases/2026/US%20Argentina%20ARTI%20English%20Final%20February%202026.pdf.

The protocol replaces those IEEPA tariff references with commitments to:

- Apply only the MFN rate to Argentine goods listed under Schedules 2A and 2B (amended Schedule 2, paragraph 3), which would carry the original IEEPA tariff exceptions over to future tariff actions under authorities like Section 301; and
- "Favorably consider" Argentina's ARTI commitments in future tariff actions and Section 301 investigations (amended Schedule 2, paragraphs 2 and 4). The commitment to provide favorable treatment to Argentina under future tariff actions does not apply to tariff actions taken under Title VII of the Tariff Act of 1930 (antidumping and countervailing duties), Section 232 of the Trade Expansion Act of 1962 (Section 232), or Section 201 of the Trade Act of 1974 (safeguard actions), leaving Section 301 as the only major tariff authority that the new commitment binds.[105]

Argentina was one of 60 countries investigated under Section 301 for "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."[106] Argentina received the lower of the two standard tariff levels, at the 10% rate instead of 12.5%. USTR states that Argentina received the lower rate, which corresponds to its IEEPA tariff cap in the original version of the ARTI, because it has "failed to impose and effectively enforce a forced labor import prohibition" but that it has "taken on commitments under the U.S.-Argentina ART with respect to a forced labor import prohibition." Argentina also received additional product-specific exceptions from the Section 301 tariff, which match the IEEPA tariff exceptions the United States committed to providing in Schedule 2 of the ARTI. USTR states in the Section 301 action that carrying these exceptions over to the Section 301 tariff "would be appropriate to encourage each economy to fulfill its commitments regarding forced labor import prohibitions in its ART[.]"

Argentina is not a target of USTR's ongoing Section 301 investigation into structural excess manufacturing capacity; however, USTR has indicated that it could consider initiating additional Section 301 investigations in the future, granting Argentina the "favorable consideration" committed to here.

The ARTI's remaining provisions are unaffected. Both countries retain commitments to providing new or expanded tariff rate quotas (TRQs) for beef trade. Argentina retains its commitments to granting the United States preferential tariff rates, including reductions to its WTO most-favored-nation (MFN) tariffs on 241 products and the introduction of new preferential TRQs for several other products. Argentina also agreed to introduce substantive regulatory reforms that have been repeatedly highlighted by the United States in its annual National Trade Estimate (NTE) Reports and Special 301 Reports on intellectual property, as well as in discussions on US economic security policies. Argentina's commitments include removing specific non-tariff trade barriers (including those affecting digital trade), recognizing certain US food and technical standards and conformity assessments, strengthening labor and environmental protections, and enhancing intellectual property protection.

Next steps for Argentina's legislature

As of October 19, 2026, President Javier Milei's administration had not submitted the ARTI to Argentina's National Congress for approval. Since signing the agreement in February 2026, however, the government has pursued a series of legislative and regulatory measures to advance implementation of its commitments.

A significant and politically sensitive legislative development concerns Argentina's proposed accession to the Patent Cooperation Treaty (PCT), concluded in Washington on June 19, 1970, as amended. Accession has long been opposed by Argentina's domestic pharmaceutical industry, which has argued that facilitating patent applications by

[105] The new commitment to favorable treatment would also apply to Section 338 tariff actions, though the extent to which the Trump administration intends to use Section 338 against any country other than Canada remains unclear.

[106] Documents related to the Section 301 investigations of forced labor import prohibitions are accessible here: https://ustr.gov/trade-topics/enforcement/section-301-investigations/section-301-failure-impose-and-effectively-enforce-prohibition-importation-goods-produced-forced.

foreign pharmaceutical companies could strengthen patent protection in the local market, delay generic competition, and adversely affect the competitiveness of domestic manufacturers.

In August 2026, the Chamber of Deputies approved the accession bill but included a reservation excluding the application of Chapter II of the PCT. Chapter II provides for an optional and non-binding international preliminary examination of patentability. The amended bill was therefore returned to the Senate, where it received a favorable committee report on October 15, 2026. As of October 19, 2026, final Senate consideration remained pending.

The administration also adopted regulatory measures within the Executive Branch's authority to implement or support certain elements of the agreement. These measures include:

- Repealing the 2012 guidelines that restricted the examination of chemical-pharmaceutical inventions for patentability;
- Recognizing the Blue Ribbon Letter issued by the US National Highway Traffic Safety Administration (NHTSA) as evidence of compliance with safety requirements applicable to vehicles subject to the Federal Motor Vehicle Safety Standards (FMVSS); and
- Expanding recognition of foreign certifications for food products, additives, ingredients, processing aids, and packaging originating in countries covered by the applicable regime, including the United States.

The government has not yet adopted regulations to implement the ARTI commitment to prohibit imports of goods produced wholly or partly with forced or compulsory labor. This outstanding commitment is relevant to the additional 10% Section 301 duties imposed by the United States on imports from Argentina. Implementation will require both a prohibition on covered imports and an effective enforcement framework, including procedures to identify relevant goods and prevent their entry into the Argentine market.

CPTPP

Korean President orders fresh review of CPTPP membership

Korean President Lee Jae-myung has directed the government to reopen discussions on Korea's potential accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), citing both its strategic importance amid upheaval in the global trade order and deep concerns among agricultural and fisheries stakeholders. The CPTPP currently comprises 12 member states: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United Kingdom, and Vietnam. The CPTPP has emerged as an important platform through which middle powers can support open trade and deepen trade and investment relationships amid US-China trade tensions and broader protectionist pressures.

At the 43rd Cabinet meeting on October 6, 2026, President Lee noted that "some have stressed the strategic value of the CPTPP amid upheaval in the global trade order, while concerns remain very high among the agricultural and fisheries sectors." He emphasized that any policy decision must weigh the national interest on the basis of trust and consensus among farmers and fishers, instructing officials "not to rush the process with a predetermined conclusion, but to restart dialogue from square one."[107] Senior Presidential Spokesperson Kang Yoo-jung later clarified that the instruction did not predetermine whether Korea would proceed with accession. Rather, the government will restart consultations with affected stakeholders without reaching a prior conclusion on CPTPP membership or accession terms. According to Korean press reports, President Lee then instructed the government on October 8, 2026 not to submit a CPTPP accession application in 2026, following opposition from farming and fishing groups. The government had

[107] Office of the Korean President, "Chief Spokesperson Kang Yu-jung's briefing regarding the closed-door meeting of the 43rd Cabinet Meeting," October 6, 2026, accessible here (in Korean): https://www.president.go.kr/briefings/a2nTOLXS?sSearchTxt=CPTPP.

reportedly planned to pursue accession in connection with the CPTPP ministerial meeting to be hosted by Vietnam in November 2026.

On October 8, 2026, the Ministry of Trade, Industry and Resources (MOTIR) held a roundtable to assess the potential sectoral effects of CPTPP accession and collect views from service and intellectual property stakeholders. The consultation forms part of the government's continuing engagement with industry during its review of whether to pursue membership. Participants from the retail, financial services, K-content, and intellectual property sectors identified potential commercial benefits from improved access to CPTPP markets, particularly Mexico and Vietnam. Service-sector associations expect greater opportunities for consumer-goods distribution, including cosmetics and fashion, as well as increased demand for corporate finance, trade finance, and foreign-exchange services resulting from expanded regional trade and investment.[108]

Background

Korea first announced its intention to accede to the CPTPP on December 13, 2021. The Moon Jae-in administration, however, did not submit a formal application, citing strong domestic opposition from agricultural and fisheries interests and the lack of broader social consensus. Strained relations with Japan also complicated the accession debate, as Korean stakeholders expressed concern that Japan could advance demands affecting Korea's manufacturing and agricultural sectors, including the lifting of restrictions on seafood from Fukushima.

After several years of limited progress, the Lee administration revived consideration of CPTPP accession in August 2026. According to Korean press sources, Minister of Trade, Industry and Resources Kim Jung-kwan informed President Lee during an August 4 policy briefing that the government would review membership as part of its strategy to diversify export markets, including in Southeast Asia and Mexico, and expand exports of Korean consumer goods and content. Minister Kim emphasized that the government would "fully gather opinions" from affected stakeholders, including the agricultural and fisheries sectors and the National Assembly, recognizing domestic producers' concerns.

President Lee publicly addressed the issue on September 29, 2026. In a social media post, he acknowledged strong opposition from farmers and other sectors that could be adversely affected by accession, comparing it to resistance encountered during the negotiation of free trade agreements (FTAs) under the Roh Moo-hyun administration in 2003-2008. President Lee committed to meeting directly with representatives of affected industries and described agriculture, fisheries, livestock and forestry as "strategic security industries." President Lee also proposed a mechanism under which a levy on export gains attributable to CPTPP membership could fund compensation for sectors adversely affected by accession. He noted that support funds established in connection with earlier FTAs had not met initial commitments.

Economic impact analysis

In late September 2026, the Ministry of Trade, Industry and Resources (MOTIR), together with the Ministry of Agriculture, Food and Rural Affairs and other relevant agencies, released preliminary results from its assessment of the economic effects of CPTPP accession. MOTIR stated that accession could help Korea strengthen cooperation with like-minded middle powers and improve the resilience of critical supply chains.[109]

The preliminary assessment projected that Korea's real GDP would be 0.38 percentage points higher ten years after accession than under a no-accession scenario. Manufacturing output was estimated to rise by an average of KRW 6.3 trillion to KRW 6.7 trillion annually, or approximately US$4.5 billion to US$4.8 billion, during the 15 years following the

[108] Ministry of Trade, Industry and Resources, "Meeting Held with Service Industry on Review of CPTPP Membership," October 8, 2026, accessible here (in Korean): https://www.motir.go.kr/kor/article/ATCL3f49a5a8c/172272/view?mno=&pageIndex=1&rowPageC=0&displayAuthor=&searchCategory=0&schClear=on&startDtD=&endDtD=&searchCondition=1&searchKeyword=.

[109] Ministry of Trade, Industry and Resources, "Economic Impact Analysis of CPTPP Membership Release of Preliminary Figures on Economic Growth Effects and Industry-Specific Impacts," September 28, 2026, accessible here (in Korean): https://www.motir.go.kr/kor/article/ATCL3f49a5a8c/172241/view?mno=&pageIndex=4&rowPageC=0&displayAuthor=&searchCategory=0&schClear=on&startDtD=&endDtD=&searchCondition=1&searchKeyword=.

agreement's entry into force for Korea. By contrast, output in agriculture, forestry and fisheries was projected to decline by approximately KRW 852.3 billion annually over the same period. Agriculture was expected to account for KRW 710 billion of the annual reduction, followed by fisheries at KRW 81.7 billion.

The assessment also reportedly identified potential competitive gains from improved access to Mexico, with which Korea does not have a bilateral FTA. Earlier analyses had focused on the potential adverse effects on Korean manufacturers of greater access for Japanese goods. The preliminary assessment instead suggested scope for mutual gains in materials, parts and equipment, as well as services such as finance and tourism.

Mexico has assumed increased importance in the accession debate because it provides a potential platform for Korean companies serving North and South American markets. Calls for improved market access have intensified following Mexico's decision in 2025 to raise tariffs, in some cases by up to 50%, on steel, aluminum, and automotive parts originating in countries without an FTA. Korea and Mexico have also renewed their political commitment to deepen bilateral trade, investment, and economic cooperation. In late September 2026, President Lee and Mexican President Claudia Sheinbaum agreed to undertake a Joint Benefit Study assessing the potential benefits and broader implications of a bilateral trade agreement.

Costa Rica decides not to proceed with CPTPP accession following government decision

On October 28, 2026, Costa Rican President Laura Fernández announced that Costa Rica would not proceed with accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).[110] She directed the Ministry of Foreign Trade (COMEX) not to sign the accession protocol and to archive the process. President Fernández also dismissed Foreign Trade Minister Indiana Trejos, citing concerns about transparency and the failure to provide affected domestic stakeholders, particularly agricultural producers, with the complete negotiated text. The announcement reversed Costa Rica's previous course toward accession, despite the substantial completion of accession negotiations in May 2026.

Reasons for the decision

According to press reports, President Fernández stated that COMEX had failed to provide the complete negotiated text to affected domestic sectors despite her instructions to do so. She expressed particular concern about the potential consequences for cattle ranchers, dairy producers, and small and medium-sized agricultural businesses.[111]

Agricultural organizations had opposed accession over concerns that increased import competition from CPTPP members could adversely affect domestic production and employment. In particular, the National Chamber of Milk Producers raised concerns about competition from imported dairy products, while the Coffee Institute of Costa Rica questioned the implications of rules of origin and traceability requirements.

Background of Costa Rica's CPTPP accession

Costa Rica formally applied to join the CPTPP in August 2022. In November 2024, the CPTPP Commission agreed by consensus to establish an Accession Working Group chaired by Peru.

On May 6, 2026, CPTPP members and Costa Rica issued a joint ministerial statement announcing the substantial conclusion of accession negotiations. The Accession Working Group and Costa Rica confirmed how Costa Rica would comply with existing CPTPP rules. The Working Group also confirmed that Costa Rica had provided commercially meaningful market access offers covering goods, services, investment, financial services, government procurement, state-owned enterprises, and temporary entry for business persons.

[110] The CPTPP currently comprises 12 members: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United Kingdom, and Vietnam.

[111] "Laura Fernández dismisses COMEX minister and rejects Costa Rica's entry into the Trans-Pacific Partnership," Delfino.cr, October 29, 2026, accessible here (in Spanish): https://delfino.cr/2026/10/laura-fernandez-despide-a-ministra-del-comex-y-rechaza-ingreso-de-costa-rica-al-acuerdo-transpacifico.

The remaining steps included preparing and verifying the legal instrument of accession, obtaining the necessary signatures, and completing domestic approval procedures, including submission to Costa Rica's Legislative Assembly. Before the October announcement, President Fernández had indicated that a decision on signing would be made during the period of the CPTPP meetings scheduled for November 23–27, 2026, in Vietnam.

Implications for CPTPP enlargement

Costa Rica's decision represents a setback for the CPTPP's expansion into Central America, particularly given the substantial conclusion of its accession negotiations. It also underscores the importance of meaningful domestic consultation and sustained political support throughout the accession process. The conclusion of technical negotiations alone does not finalize accession: the legal instrument and applicable domestic approval procedures must also be completed.

Costa Rica had not yet become a member, so its decision leaves the CPTPP's existing membership of 12 economies unchanged. CPTPP members are scheduled to meet in Hanoi from November 23 to 27, 2026, for the 11th CPTPP Commission meeting and the fifth Senior Officials' Meeting. Those discussions could provide an opportunity to assess the implications of Costa Rica's decision for the broader enlargement agenda, including the position of other applicant economies.

Separately, Korea deferred submission of its CPTPP accession application until at least 2027. President Lee Jae-myung directed officials to prioritize further engagement with farmers and fishermen concerned about increased market access commitments. Although this represents a postponement rather than an abandonment of Korea's accession objective, it highlights the central role of domestic stakeholder support in CPTPP enlargement.

Petitions & Investigations

Investigations

Commerce issues final results of the expedited five-year sunset reviews of methionine from France, Japan, and Spain, while ITC proceeds with full reviews

On October 5, 2026, the Department of Commerce (Commerce) published the final results of the first five-year (sunset) reviews of the antidumping duty (ADD) orders on methionine from France, Japan, and Spain, finding that revocation of the orders would be likely to lead to continuation or recurrence of dumping.[112] Commerce conducted expedited (120-day) reviews because it received no substantive responses from respondent interested parties. Commerce determined that the weighted-average dumping margins likely to prevail would be up to 43.82% for France, 76.50% for Japan, and 37.53% for Spain.

In a notice published on September 29, 2026, the US International Trade Commission (ITC) announced its decision to conduct full five-year reviews to determine whether revocation of the ADD orders would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.[113] The ITC found that the domestic interested-party group response and the respondent interested-party group response from Japan were adequate. The respondent interested-party group responses from France and Spain were inadequate, but the ITC decided to conduct full reviews of those orders for administrative efficiency in light of the full review concerning Japan.

Covered product

The products covered by the orders are methionine and dl-Hydroxy analogue of dl-methionine, also known as 2-Hydroxy 4-(Methylthio) Butanoic acid (HMTBa), regardless of purity, particle size, grade, or physical form. Methionine has the chemical formula $C_5 H_{11} NO_2 S$, liquid HMTBa has the chemical formula $C_5 H_{10} O_3 S$, and dry HMTBa has the chemical formula $(C_5 H_9 O_3 S)_2 Ca$.

Subject merchandise also includes methionine processed in a third country including, but not limited to, refining, converting from liquid to dry or dry to liquid form, or any other processing that would not otherwise remove the merchandise from the scope of these orders if performed in the country of manufacture of the in-scope methionine or dl-Hydroxy analogue of dl-methionine.

The scope also includes methionine that is commingled (*i.e.,* mixed or combined) with methionine from sources not subject to these orders. Only the subject component of such commingled products is covered by the scope of these orders.

Excluded from these orders is United States Pharmacopeia (USP) grade methionine. In order to qualify for this exclusion, USP grade methionine must meet or exceed all of the chemical, purity, performance, and labeling requirements of the United States Pharmacopeia and the National Formulary for USP grade methionine.

Methionine is currently classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 2930.40.00.00 and 2930.90.46.00. Methionine has the Chemical Abstracts Service (CAS) registry numbers 583-91-5, 4857-44-7, 59-51-8 and 922-50-9. While the HTSUS subheadings and CAS registry numbers are provided for convenience and customs purposes, the written description of the scope is dispositive.

[112] "Methionine From France, Japan, and Spain: Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders," 91 FR 63273 (October 5, 2026), accessible here: https://www.federalregister.gov/documents/2026/10/05/2026-20384/methionine-from-france-japan-and-spain-final-results-of-the-expedited-first-sunset-reviews-of-the.

[113] "Methionine From France, Japan, and Spain; Notice of Commission Determination To Conduct Full Five-Year Reviews," 91 FR 61439 (September 29, 2026), accessible here: https://www.federalregister.gov/documents/2026/09/29/2026-19914/methionine-from-france-japan-and-spain-notice-of-commission-determination-to-conduct-full-five-year.

Commerce issues final results of administrative review of ADD order on hot-rolled steel flat products from Japan

On October 14, 2026, Commerce published the final results of the 2023-2024 administrative review of the ADD order on hot-rolled steel flat products (hot-rolled steel) from Japan. Commerce found that Nippon Steel Corporation, Nippon Steel Nisshin Co., Ltd., and Nippon Steel Trading Corporation (collectively, NSC) sold subject merchandise at less than normal value, while Tokyo Steel Manufacturing Co., Ltd. (Tokyo Steel) did not, during the period of review (October 1, 2023, through September 30, 2024).[114]

The final weighted-average dumping margin for NSC is 13.96% (an increase from the preliminary margin of 13.07% published on April 10, 2026), and the margin for Tokyo Steel is 0.00%. The non-examined companies subject to the administrative review (JFE Steel Corporation, JFE Shoji Trade Corporation, and JFE Shoji Corporation; Honda Trading Corporation; Marubeni-Itochu Steel Inc.; Tetsusho Kayaba Corporation; and Toyo Corporation) will be subject to a review-specific rate equal to NSC's 13.96% margin.

Covered product

The products covered by this order are certain hot-rolled, flat-rolled steel products, with or without patterns in relief, and whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. For a full description of the product coverage, exceptions, and treatment of products further processed in third countries, see the final Issues and Decision Memorandum.

The products are currently classified in HTSUS codes 7208.10.1500, 7208.10.3000, 7208.10.6000, 7208.25.3000, 7208.25.6000, 7208.26.0030, 7208.26.0060, 7208.27.0030, 7208.27.0060, 7208.36.0030, 7208.36.0060, 7208.37.0030, 7208.37.0060, 7208.38.0015, 7208.38.0030, 7208.38.0090, 7208.39.0015, 7208.39.0030, 7208.39.0090, 7208.40.6030, 7208.40.6060, 7208.53.0000, 7208.54.0000, 7208.90.0000, 7210.70.3000, 7211.14.0030, 7211.14.0090, 7211.19.1500, 7211.19.2000, 7211.19.3000, 7211.19.4500, 7211.19.6000, 7211.19.7530, 7211.19.7560, 7211.19.7590, 7225.11.0000, 7225.19.0000, 7225.30.3050, 7225.30.7000, 7225.40.7000, 7225.99.0090, 7226.11.1000, 7226.11.9030, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.5000, 7226.91.7000, and 7226.91.8000. Covered products may also enter under HTSUS codes 7210.90.9000, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7214.99.0060, 7214.99.0075, 7214.99.0090, 7215.90.5000, 7226.99.0180, and 7228.60.6000. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

[114] "Certain Hot-Rolled Steel Flat Products From Japan: Final Results of Antidumping Duty Administrative Review; 2023-2024," 91 FR 65177 (October 14, 2026), accessible here: https://www.federalregister.gov/documents/2026/10/14/2026-20934/certain-hot-rolled-steel-flat-products-from-japan-final-results-of-antidumping-duty-administrative.

WTO Developments

No developments