

# Plan B After IEEPA: Section 301 as the New Tariff Framework for Overcapacity and Forced Labor

## WRITTEN BY

Ryan Last | Daniel N. Anziska

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The administration has now made clear what comes after the courts curtailed the use of emergency economic powers for broad tariff programs: Section 301 of the Trade Act of 1974 (Section 301). The new investigations are designed to recreate (through traditional trade law) the same kind of wide-ranging, flexible tariff architecture that had previously rested on emergency authorities such as the International Emergency Economic Powers Act (IEEPA).

In announcing the global “structural overcapacity” investigation, USTR expressly framed the effort as part of a “shift back to traditional trade authorities” and away from emergency economic powers. Following the recent Supreme Court [decision](#) limiting the executive branch’s reliance on those emergency authorities for tariff actions, the administration has increasingly leaned on legacy trade statutes, including Section 122 of the Trade Act (Section 122), which was recently used to impose a temporary global import surcharge. Because Section 122 is time-limited, these new Section 301 investigations are best understood as an effort to build a more durable, litigation-resistant legal foundation for long-term trade measures. As commentators have already observed, the policy goal is not subtle: to replicate the old IEEPA-based structure under Section 301.

Against that backdrop, USTR has now launched two unprecedented Section 301 initiatives that reach deep into global supply chains: one focused on “structural excess capacity” across key manufacturing sectors, and another aimed at trading partners that allegedly fail to ban imports made with forced labor.

## New Section 301 Investigations

### *Structural Overcapacity: 16 Economies, Core Industrial Sectors*

On March 11, USTR [announced](#) a sweeping Section 301 [investigation](#) into whether the policies of 16 major trading partners create “structural excess capacity” that burdens or restricts U.S. commerce. The investigation covers a broad set of economies — including close allies and key manufacturing hubs in Europe and Asia — and focuses on government-supported overcapacity in:

- Steel and other metals.
- Automobiles and parts.
- Batteries and critical minerals-based technologies.
- Semiconductors and advanced electronics.
- Industrial machinery, robotics, and advanced manufacturing equipment.

- Chemicals, plastics, and construction materials.
- Solar modules and other renewable energy components.

The theory is that sustained, policy-driven overbuilding — backed by subsidies, state-linked financing, and preferential regulation — depresses global prices, undercuts U.S. producers, and deters private investment, thereby “burdening or restricting” U.S. commerce within the meaning of Section 301.

If USTR finds such practices “unreasonable or discriminatory,” it can recommend measures including additional duties, product-specific tariff hikes, quantitative import restrictions, or other trade restrictions tailored to the sectors and partners at issue.

### ***Forced Labor: Sixty Partners’ Import Regimes Under Scrutiny***

On March 12, USTR separately initiated 60 Section 301 investigations into whether certain trading partners have failed to adopt and effectively enforce prohibitions on the importation of goods made with forced labor. Here, USTR is leveraging a statutory provision that identifies a “persistent pattern of conduct that permits any form of forced or compulsory labor” as an “unreasonable” practice under Section 301.

The investigations span a wide spectrum of economies — from major markets such as China to close U.S. allies and key emerging markets in Asia, Latin America, Africa, and the Middle East. Although the formal targets are foreign governments and their regimes for blocking forced-labor imports, the practical impact will fall on:

- Multinational companies sourcing from or manufacturing in those jurisdictions; and
- U.S. importers and downstream purchasers whose supply chains run through affected sectors and countries.

As with the overcapacity investigation, USTR is positioning itself to impose tariff surcharges, product-specific restrictions, or outright bans on goods associated with jurisdictions that are deemed to fall short.

### **Why This Matters: A De Facto New Tariff Architecture**

These parallel investigations are not isolated enforcement actions. Taken together, they constitute an attempt to construct a new, durable tariff framework under Section 301 that can:

- Reach a wide range of products and sectors;
- Flexibly dial tariffs up or down by country, sector, and product; and
- Persist beyond the temporal and doctrinal constraints that now apply to emergency economic powers and time-limited tools like Section 122.

In effect, Section 301 is being repurposed from a tool traditionally deployed against discrete foreign measures (e.g., a particular tariff or technology-transfer requirement) into a platform for:

- Addressing systemic industrial policies (overcapacity); and
- Regulating foreign approaches to human rights-linked trade issues (forced labor).

For businesses, the consequence is a structurally more volatile trade environment in which long-term planning must account for the possibility of overlapping 301-based tariffs and restrictions, even in markets that have historically been stable U.S. partners.

## **International Pushback: A Preview of the Coming Friction**

Early reaction abroad signals that these investigations will be contentious:

- Key partners are already challenging USTR's data and methodology. For example, Singapore has publicly questioned the overcapacity data USTR released, pointing out that even U.S. government statistics show a bilateral trade deficit, and arguing that the overcapacity narrative is not justified on the facts.
- Countries will seek to differentiate themselves from higher-risk peers. Economies that see themselves as responsible rule-followers are unlikely to accept being grouped with more problematic actors and will push aggressively for exclusions or narrower findings.
- Litigation and retaliation risks are real. Trading partners can be expected to consider WTO challenges and to explore their own defensive or retaliatory measures, particularly if tariffs extend into politically sensitive sectors.

In short, the political and diplomatic pushback has already begun, and the process is likely to grow messy as multiple allies and partners contest both the legal theory and the empirical basis for USTR's actions.

## **Key Procedural Milestones**

While details differ by investigation, the Section 301 processes share common features: electronic dockets, relatively compressed timelines, and opportunities for business input. For the structural overcapacity investigation covering 16 economies, the docket opened on March 17, 2026, with written comments and hearing requests due by April 15, 2026. Public hearings are currently scheduled for May 5–8, 2026, and rebuttal comments are due seven days after the final hearing date. For the 60 forced labor investigations, written comments and hearing requests are likewise due by April 15, 2026, with public hearings scheduled to begin on April 28, 2026, and continue through May 1, 2026; rebuttal comments are again due seven days after the final hearing date. USTR is expected to move quickly once the records are developed, especially as the administration seeks to transition from short-term Section 122 surcharges to longer-lived Section 301 measures.

## **Practical Takeaways for Companies**

Companies with global manufacturing, sourcing, or export footprints should treat these investigations as the opening move in a more expansive Section 301 strategy — not as isolated, one-off cases.

### ***Map Exposure to Covered Economies and Sectors***

- Identify where your supply chains intersect with:
  - The 16 economies under overcapacity review; and
  - The 60 economies subject to forced labor investigations.
- Focus on high-risk sectors: metals, autos, batteries, semiconductors, industrial machinery, chemicals, construction materials, solar and renewables, and any sectors with known forced-labor sensitivities.

### ***Integrate Trade and Environmental, Social, and Governance (ESG)/Forced Labor Compliance***

- Align trade, sanctions/export controls, and ESG/forced labor teams so that:
  - Data used for forced?labor due diligence can also support Section 301 advocacy; and
  - You can credibly demonstrate that your supply chains do not benefit from the overcapacity or forced?labor practices at issue.

### ***Consider Proactive Engagement with USTR***

- Evaluate whether to submit comments or testify to:
  - Correct factual errors (e.g., trade?balance data, product classifications);
  - Highlight unintended consequences for U.S. jobs and investment; and
  - Advocate for exclusions or tailored remedies that mitigate collateral damage.
- Industry coalitions or cross?sector submissions may carry additional weight where multiple U.S. stakeholders share the same exposure.

### ***Build Scenario Planning into Commercial Decisions***

- Model tariff and nontariff scenarios (e.g., 10-25% additional duties on key inputs; targeted import bans on particular Harmonized System tariff lines) and their impact on pricing, sourcing, and customer contracts.
- Where possible, embed flexibility into new contracts (e.g., tariff?sharing clauses, alternative?source provisions) to address potential Section 301 measures.

### ***Monitor for Overlapping Measures***

- Track not only these Section 301 proceedings, but also any consequent or parallel actions under other authorities (e.g., Section 232 national security tariffs, Section 201 safeguard measures, and enforcement under the Uyghur Forced Labor Prevention Act), as the combined effect may be greater than any single measure.

These new Section 301 investigations represent a strategic “Plan B” for rebuilding a robust, flexible tariff regime in the wake of IEEPA’s judicial constraints. They reach deeply into core industrial and supply?chain sectors and already are generating significant international pushback. Companies that quickly assess their exposure and engage thoughtfully with the process will be better positioned to manage the legal, commercial, and reputational risks that follow.

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