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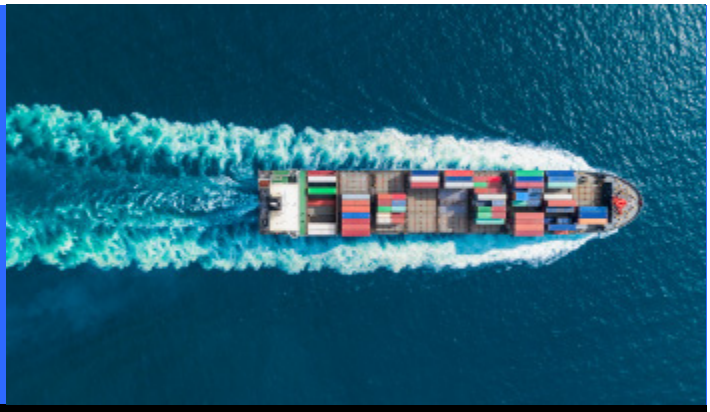

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USTR Proposes New Section 301 Forced Labor Tariffs Covering Most Major U.S. Trading Partners

The Office of the U.S. Trade Representative has proposed forced labor-related tariffs that are about more than forced labor: they are an early test of whether the Trump Administration can use traditional trade authorities to rebuild broad tariff coverage after the Supreme Court invalidated the President's novel IEEPA tariffs. The proposal, issued under Section 301 of the Trade Act of 1974, would impose new 10% or 12.5% duties on products of 60 economies that USTR found either lack, or do not effectively enforce, a ban on imports of goods with forced labor. If finalized, the tariffs may offer a more process-heavy—but potentially more legally durable—alternative to emergency tariff authorities, provided USTR develops a reasoned record, responds to significant comments, and connects the remedy to its statutory findings.

Pursuant to Section 301 of the Trade Act of 1974 (Section 301), the Office of the U.S. Trade Representative (USTR) may investigate whether a foreign government's trade practices are unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce. On June 2, 2026, after receiving more than 450 written comments, hearing testimony from nearly 60 witnesses, and conducting consultations with 46 economies, USTR issued its report and proposed action in 60 investigations into foreign economies' forced-labor import regimes.

The report stated that 54 economies have not imposed a legal prohibition on imports of goods made with forced labor and that the remaining six economies have imposed such prohibitions but have not effectively enforced them. On June 3, 2026, USTR issued a Federal Register notice

proposing ad valorem duties of 10% or 12.5% on products of those economies, subject to a lengthy Annex A of exclusions and several categorical carve-outs. Comments are due July 6, 2026, and the Section 301 Committee will hold hearings beginning July 7, 2026, after which USTR may modify, finalize, or decline to adopt the proposed action. Just as the President's global 10% tariff under Section 122 is set to expire (absent Congressional action) in late July, this expansive use of Section 301 has apparently been developed to be a flexible enough tool to achieve the administration's tariff goals, but on a firmer statutory ground to survive likely legal challenges.

I. Background

On March 12, 2026, less than three weeks after the Supreme Court struck down the President's International Emergency Economic Powers Act (IEEPA) tariffs in *Learning Resources, Inc. v. Trump*, USTR initiated 60 parallel investigations (against 59 countries and the European Union) for forced labor enforcement failures. The initiation notice solicited information on whether foreign economies' failure to prohibit and effectively police imports of goods produced wholly or in part with forced labor constitutes an unreasonable or discriminatory act, policy, or practice that burdens or restricts U.S. commerce.

The proposal should be understood as country- and economy-based, not shipment-specific. That is, the tariffs would apply based on the country of origin and product scope, regardless of whether the importer can prove that a particular shipment is free of forced labor. Conversely, products excluded from the proposed tariffs could still be detained or excluded under the Uyghur Forced Labor Prevention Act (UFLPA), a withhold release order, or other forced labor enforcement tools if U.S. Customs and Border Protection (CBP) identifies supply chain risk.

Three features of the proposal are notable:

1. **Scope:** The action would reach products of 60 economies (which account for approximately 99.4% of U.S. imports, as estimated by USTR), including most major U.S. trading partners, rather than targeting a single country and sector as in the case of past Section 301 actions. However, major sectors—including energy, certain agricultural products, minerals and metals, pharmaceuticals, and certain electronics—would be exempt.

2. **Structure:** USTR proposes a two-tier tariff, subject to a long list of exclusions in Annex A and several categorical carve-outs, along with a reduced-rate textile import mechanism.

3. **Record:** USTR appears to be seeking to support the action with a view toward defending against potential judicial challenges, relying on public comments, hearings, consultations, case studies, and responses to significant comments. (This approach is likely taken, at least in part, in response to litigation involving Section 301 action taken against Chinese imports in the first Trump Administration; as noted below, litigation over prior Section 301 tariffs targeting goods from China is currently subject to a request for review pending at the U.S. Supreme Court and involves whether the USTR had properly accounted for comments filed in response to modifications to the original Section 301 relief.)

II. Proposed Action and Legal Framework

A. Scope and Structure of the Proposed Tariffs

The Federal Register notice proposes ad valorem duties on all products of the investigated economies, *except* products excluded by Annex A or by categorical carve-outs. The proposed rates are:

- **10% additional duties** for 14 economies (Argentina, Bangladesh, Cambodia, Canada, Ecuador, El Salvador, the European Union, Guatemala, Indonesia, Malaysia, Mexico, Pakistan, Taiwan, United Kingdom) that it was stated have imposed a forced labor import prohibition, undertaken commitments regarding forced labor import prohibitions in Agreements on Reciprocal Trade, or which USTR otherwise stated had a partial regime preventing the importation of certain forced labor goods.
- **12.5% additional duties** for all other 46 investigated economies that it was stated had failed to impose and effectively enforce a forced labor import prohibition. The list includes significant U.S. trading partners, such as Brazil, China, Japan, and South Korea.

Unless a product is excluded (as discussed below), the new duties would be imposed *in addition to* other applicable duties, taxes, fees, and charges, including most-favored-nation duties, China Section 301 duties (previously imposed), antidumping and countervailing duties, and other tariff measures.

Although the notice begins from a broad premise—all products of the 60 investigated economies—**Annex A** excludes, that is, removes from tariff coverage, a wide range of products that USTR appears to view as strategically sensitive, difficult to replace, or unlikely to advance the action's objectives if tariffed. The excluded categories include, among others:

- energy products, fuels, natural gas, coal, coke, petroleum products, and electrical energy;
- critical minerals, ores, concentrates, unwrought metals, scrap, rare earth and specialty metals, gold, silver, platinum group metals, and certain magnets and coins;
- many food and agricultural products, including certain meats, tropical fruits and vegetables, coffee, tea, cocoa, spices, and specialty crops;
- pharmaceuticals, active pharmaceutical ingredients, medicaments, vaccines, immunological products, chemicals, fertilizers, and certain radioactive materials;
- computers, servers, semiconductors, integrated circuits, telecommunications equipment, smartphones, display modules, batteries, and semiconductor manufacturing equipment;
- civil aviation articles and parts; and
- natural rubber, woodpulp, certain hardwood products, polymers, ferroalloys, stainless steel scrap, and other industrial inputs.

The notice also categorically excludes informational materials, donations, and accompanied baggage. Further, products already subject to tariffs under Section 232 of the Trade Expansion Act of 1962, United States-Mexico-Canada Agreement (USMCA)-compliant goods of Canada or

Mexico, and certain textiles and apparel articles entering duty-free as goods of Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, or Nicaragua under the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) are also exempted from the proposed forced labor tariffs.

A proposed textile mechanism is one of the more novel—and least developed—features of the notice. USTR proposes a "textile mechanism that would allow for a certain volume of apparel and textile imports from certain economies to enter the United States at a reduced Section 301 tariff rate." Although the notice is light on details as proposed, one category of reduced-duty imports would be tied to a trading partner's purchases of U.S.-produced textile inputs, and a separate category would be tied to that partner's imports of U.S. cotton and cotton products. In practical terms, the mechanism appears designed to encourage supply chains in which U.S. cotton, yarn, fabric, or other textile inputs are used abroad for downstream apparel and textile production, while leaving key operational details to be developed through the comment process.

USTR is inviting comments on the scope of the proposed tariff list, whether products should be added to or removed from Annex A, the proper duty rate, whether different rates should apply depending on an economy's legal or negotiated commitments, and how the textile mechanism should be designed. USTR specifically asks commenters to address whether a product is a necessary raw material, whether a tariff would create domestic unavailability, serious supply dislocations, or economy-wide disruptions, and whether tariffing the product would be practicable or effective in eliminating the challenged practices. Comments must be submitted through USTR's electronic portal by July 6, 2026.

B. USTR's Record and Potential Legal Challenges

The USTR report provides the administrative record for the proposed action. At a high level, the report does four things. First, it describes forced labor as prevalent, profitable, and embedded in global supply chains. Second, it concludes that failing to prohibit imports of forced labor goods is an unreasonable practice under Section 301. Third, it contends that such practices burden or restrict U.S. commerce by exposing U.S. producers to unfair competition in both U.S. and third-country markets. Fourth, it makes economy-specific findings for each of the 60 investigated economies.

The report includes case studies addressing sectors such as solar products and polysilicon, cotton, textiles and apparel, tobacco, rice, and beef. Those examples are designed to connect forced labor practices abroad with lost U.S. exports, price suppression, displacement of U.S. products in third-country markets, and downstream competition against U.S. producers.

Section 301 requires USTR to find both an unreasonable or discriminatory act, policy, or practice and a burden or restriction on U.S. commerce. The report does not attempt a granular, country-by-country injury analysis for every investigated economy. Instead, USTR appears to build the record in two steps: first, by making economy-specific findings that each investigated economy has failed to prohibit or effectively enforce a forced-labor import ban; and second, by relying on sectoral case studies, public comments, consultations, and broader evidence regarding forced labor's effects on global competition to show a burden on U.S. commerce. That approach could

become central to any future litigation: challengers will likely argue that the action is too sweeping and insufficiently tailored, while the Government will likely contend that Section 301 permits broad remedial action when the record shows that the challenged acts, policies, or practices burden U.S. commerce.

The Supreme Court's IEEPA tariff decision turned in large part on the absence of an express congressional grant of tariff-imposing authority. Section 301 provides much more solid ground. Congress expressly authorized duties in Section 301 (and even identified forced labor as an example of "unreasonable" practices in the statute), but it conditioned the implementation of such duties on conducting an investigation, consulting with affected foreign countries, inviting public participation, and providing reasoned decision-making. As we discussed in an earlier alert, traditional trade authorities remain available even if emergency tariff authority is constrained. The tradeoff is slower implementation, but a stronger legal foundation.

The recent history of litigation over the China Section 301 List 3 and List 4A tariffs may be cited by the Government as support for its proposed action. That litigation involved challenges by thousands of importers to USTR's later rounds of China Section 301 tariffs, which expanded the original tariff action targeting China's acts, policies, and practices related to technology transfer and intellectual property. As modified, the duties covered hundreds of billions of dollars in additional Chinese-origin goods imported into the United States. The challengers argued, among other things, that USTR exceeded its statutory authority and failed to comply with Administrative Procedure Act requirements in adopting the later tariff lists. In response to the challenge, the Court of International Trade (CIT) required USTR to provide a fuller explanation of its decision making and to address significant public comments to satisfy the APA requirements. After remand, the CIT sustained the tariffs as falling within USTR's statutory authority, and the Federal Circuit affirmed. Plaintiffs in that case have now asked the Supreme Court to weigh in, and that request is pending.

However, the earlier Section 301 action may certainly be distinguished from the current proposed action, particularly since (1) the prior Section 301 action was limited to one specific country (China), (2) the challenged action targeted practices as to which there were clear factual bases for action (technology transfer and intellectual property), and (3), perhaps most significantly, the challenged action did not involve the original Section 301 measures, but rather the scope of USTR's authority to "modify" the original relief.

In any event, it seems likely that litigation will follow if the proposed forced labor tariffs are finalized. The breadth of the proposed action—60 economies and most product categories—makes it unlike the historical, more targeted Section 301 actions of the past. The proposal also arrives against an active tariff-litigation backdrop, including the CIT's recent rejection—now on appeal—of the Trump Administration's Section 122 global tariffs, and the pendency of the request for a U.S. Supreme Court review of the Section 301 action noted above. But the Trump Administration will have the benefit that Section 301 plainly provides Congressional authority to impose increased tariffs as a remedy (unlike IEEPA) without express time deadlines (unlike Section 122).

III. Implications for Business and Supply Chains

Although the tariffs are not yet final, the proposal has immediate practical implications. U.S. importers and other interested parties may wish to use the comment period to assess potential exposure, preserve advocacy options, and prepare for possible implementation. In particular, companies should consider the following steps:

- **Consider mapping tariff exposure by Harmonized Tariff Schedule classification, country of origin, and exclusion status.** Companies may wish to identify potentially covered imports by Harmonized Tariff Schedule of the United States (HTSUS) classification and country of origin, and assess those products against Annex A and the categorical exclusions. The key question is not whether a company sources from a high-risk forced labor region, but whether its imports are products of a covered economy and whether the specific HTSUS provision is excluded.

- **Consider using the comment period as the near-term exclusion opportunity.** The notice does not establish a post-final, importer-specific exclusion process. It does, however, invite comments on whether particular products should be added to or removed from the tariff scope and whether existing Annex A exclusions are appropriate. Companies seeking relief may wish to consider targeted comments supported by data: domestic supply constraints, lack of U.S. substitutes, risk of production shutdowns, price effects, contractual constraints, strategic supply considerations, and evidence that duties on the product would not advance the forced labor objective.

- **Evaluate the absence of an importer-specific compliance safe harbor in the current proposal.** Under the proposal as drafted, an importer would not obtain a lower tariff rate simply because it has a strong forced labor compliance program or can prove that a particular shipment is not made with forced labor. The tariff is tied to USTR's findings about an economy's legal and enforcement regime, and to product scope. A strong compliance record may be useful advocacy evidence in the comment process—for example, to support a product-specific exclusion, a reduced or phased-in tariff rate, a narrower tariff-line approach, or even the creation of an importer certification or exclusion process in the final action. But unless USTR adds such a mechanism, compliance evidence would not itself remove a covered product from the proposed duty.

- **Other U.S. forced labor-related laws remain in force.** The proposed tariff does not replace UFLPA or CBP forced labor enforcement. Instead, it adds a separate layer of country-based tariff risk. Companies in solar, apparel, textiles, agriculture, electronics, base metals, automotive, and other high-risk sectors may wish to continue stress-testing supplier mapping, bill-of-materials traceability, purchase order controls, contractual audit rights, and escalation procedures. CBP's UFLPA enforcement statistics remain a useful benchmark for enforcement focus by sector and origin. Supply chain due diligence may not affect the tariff, but it remains critical to avoid detentions, exclusions, penalties, and reputational risk—and it can support comments explaining why particular products or supply chains should not be swept into the final action.

- **Assess supply chains with the breadth of the proposal in mind.** Because the proposal covers 60 economies, shifting production from one foreign country to another may not eliminate exposure. The more meaningful opportunities may involve products that qualify for Annex A, USMCA-compliant goods of Canada or Mexico, CAFTA-DR treatment for certain textiles and apparel, or the proposed textile mechanism. Companies considering origin planning may wish to review country-of-origin

rules carefully and avoid any structure that could be characterized as evasion or unlawful transshipment.

- **Consider reviewing commercial contracts now.** Importers, distributors, manufacturers, and retailers may wish to review contracts for duty allocation, price-adjustment rights, tariff-change clauses, force majeure language, customs responsibility, Incoterms, and recordkeeping obligations. Because comments are due quickly and final tariffs could follow soon after the hearings, companies may have limited time to renegotiate commercial terms after the final action is announced.

IV. Conclusion and Looking Ahead

The proposed forced-labor tariffs are not final, and the rate tiers, product scope, exclusions, and textile mechanism could change after the comment period and upcoming hearings. Interested companies may wish to consider submitting public comments to advocate for product-specific exclusions, adjustments to duty rates, clarification of the proposed textile mechanism, administrability concerns, or compliance-sensitive approaches for companies that can document robust forced-labor due diligence.

Looking ahead, businesses should also watch for final action in this proceeding and any resulting litigation, as well as other ongoing Section 301 matters, such as the parallel investigations USTR initiated in March 2026 into structural excess capacity and production in manufacturing sectors across 16 economies as well as the pending request for the Supreme Court to review the prior China Section 301 actions. Section 301 may become the Trump Administration's preferred vehicle for broad tariff measures going forward, as this statute—while more process-heavy than emergency tariffs—is potentially more durable in court. Unless expressly exempted, new tariff measures may stack—making classification, origin, exclusion analysis, and supply-chain documentation central to tariff planning for the remainder of 2026 and beyond.

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