

Client Alert: USTR Moves Forward on Section 301

<p>Customs and Import Regulation</p> <p>Export Controls and Sanctions</p> <p>BJ Shannon bjshannon@bcrlaw.com (202) 293-1074 (advisory author)</p> <p>David Baron Perry Bechky Dale Eppler Daniel Fisher-Owens Ray Gold Babak Hoghooghi Clemens Kochinke Jason McClurg Michelle Roberts John Sandage Bruce Zagaris</p>	<p><i>June 4, 2026</i></p> <p>As the government continues to litigate refunding the IEEPA tariffs that were declared unlawful, and as Section 122 tariffs (also subject to litigation) near their expiration next month, the government is actively working to implement new tariffs. The government made three significant announcements this week about its plans for new Section 301 tariffs.</p> <p>First, the Office of the U.S. Trade Representative (USTR) proposed tariffs for 86 countries for their failure to enforce forced labor prohibitions. Second, USTR proposed tariffs on many goods from Brazil, related to alleged unfair trade practices. Third, USTR announced its initiation of a Section 301 investigation of Vietnam’s IP-related practices.</p> <p>Forced Labor Section 301</p> <p>On March 12, 2026, USTR initiated an investigation of most major exporters to the United States (59 countries plus all EU member states), to determine whether the countries’ failures to enforce forced labor restrictions constitute acts, policies, or practices of these countries that are unreasonable or discriminatory and burden or restrict U.S. commerce.</p> <p>On June 1, USTR released its Notice of Determinations and Request for Comments Concerning Actions in Section 301 Investigations of Acts, Policies, and Practices of Various Economies Related to the Failure to Impose and Effectively Enforce a Prohibition on the Importation of Goods Produced with Forced Labor.</p> <p>In its notice, USTR stated that it received over 450 written comments and that it engaged in consultations with the governments of the EU and 45 more countries. Based on these comments and consultations, as well as hearing testimony and the confidential advice of advisory committees, USTR determined that the acts, policies, and practices of every investigated economy fail to impose or effectively enforce a forced labor import prohibition, are unreasonable, and burden or restrict U.S. commerce, and are thus actionable under Section 301.</p> <p>USTR proposed the following tariffs:</p> <ul style="list-style-type: none"> • 10% for products of the EU, Canada, Ecuador, Indonesia, Mexico and Pakistan, because these economies each have a forced labor import prohibition but don't effectively enforce it; • 10% for products of the UK, which has a partial regime; • 10% for products of Argentina, Bangladesh, Cambodia, El Salvador, Guatemala, Malaysia, and Taiwan, which promised to act as part of their reciprocal trade agreements; and
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- 12.5% for all other investigated economies, which have no forced labor import prohibition.

USTR also proposes exceptions to the tariffs, including for:

- USMCA goods;
- CAFTA textiles and apparel;
- A tariff-rate quota for apparel from Bangladesh; and
- HTS-specific exemptions for tropical fruits and vegetables and spices; oil, gas and coal related products; numerous chemicals, minerals and ores; medicines; goods for the aerospace sector; goods subject to Section 232 tariffs; metals in chapters 80 and 81; and semiconductor-related items.

These exclusions, not surprisingly, look very similar to exclusions to the IEEPA tariff regime.

Importers have the opportunity to comment on the proposals or to participate in public hearings, with the following deadlines:

- June 22: Requests to appear at the hearing;
- July 6: Written comments;
- July 7: Hearings scheduled;
- Five days after hearings conclude: Rebuttal comments.

Unlike the President's actions under IEEPA, which were often unpredictable and immediately effective, Section 301 tariffs require a regulatory process, so the tariffs will not take effect until after the process concludes.

Brazil Section 301

USTR's investigation of Brazil has been ongoing much longer. USTR initiated the investigation on July 15, 2025, to consider six actions that were potentially actionable under Section 301: (1) digital trade and electronic payments, (2) preferential tariffs, (3) anticorruption enforcement, (4) IP protection, (5) ethanol market access, and (6) illegal deforestation. Over the past year, the government reviewed over 295 public comment submissions, engaged in consultations with Brazil, held a public hearing, and consulted with the Section 301 Committee.

On June 1, USTR issued its [Notice of Determination and Request for Comments Concerning Action Pursuant to Section 301: Brazil's Acts, Policies, and Practices Related to Digital Trade and Electronic Payment Services; Unfair, Preferential Tariffs; Anti-Corruption Enforcement; Intellectual Property Protection; Ethanol Market Access; and Illegal Deforestation.](#)

In that notice, USTR stated that all six actions it investigated are actionable under Section 301, because they are unreasonable and burden or restrict U.S. commerce. As a result, USTR proposes tariffs of 25% on what it calls

“all” products of Brazil. In fact, though, USTR proposes significant exemptions. The exemptions are HTS-specific, and the list is over 1,600 HTS items long (although some items are exempt only for civil aircraft). Exempt products are in chapters 02, 05, 07-12, 14, 15,16, 18-22, 25-34, 36, 38-40, 44, 47, 48, 56, 68, 70-76, 79-81, 83-85, 88, 90, 91, 94, 96, and 98.

These exclusions are also similar – although even broader – than those under Brazil’s IEEPA tariffs. USTR determined that these items could disrupt economies or supply chains if subject to additional tariffs (including items not available from U.S. sources), or that they are items for which additional tariffs may not help eliminate Brazil’s unfair acts.

As with the forced labor Section 301 case, there are opportunities for public participation before USTR takes further action. The deadlines are:

- June 22: Requests to appear at the hearing;
- July 1: Written comments;
- July 6: Hearings scheduled; and
- Five days after hearings conclude: Rebuttal comments.

Vietnam Section 301

USTR also announced a new Section 301 investigation into [Vietnam’s Acts, Policies, and Practices Related to Intellectual Property Protection and Enforcement](#). This initiation follows USTR’s determination in its 2026 Special 301 Report that Vietnam is a Priority Foreign Country (PFC). This designation is reserved for the most egregious IP violations, and this is the first time in 13 years that USTR has named a PFC. Even China, India, and Russia are only on the Priority Watch List.

Designation of Vietnam as a PFC required USTR to determine whether to initiate a Section 301 investigation. USTR decided to investigate five specific practices to determine whether they are unreasonable and burden U.S. commerce. They are:

1. Failure to provide persistent and effective enforcement to combat online piracy;
2. Failure to provide sufficient enforcement against widespread counterfeiting;
3. Lack of effective border enforcement;
4. Lack of enforcement actions against unlicensed software use; and
5. Lack of criminal measures against cable and satellite signal theft.

While USTR’s investigation is focused on these five actions, USTR adds that it also remains concerned about other issues with Vietnam’s IP environment, as discussed in previous Special 301 Reports.

USTR already solicited comments and held a hearing in the Special 301 process and received over 100 comments, but that process was not specific

to Vietnam. USTR will now solicit comments related to the five identified practices in Vietnam. The deadline is:

- July 2: Written comments.

Vietnam is now subject to three separate ongoing Section 301 investigations, including the forced labor investigation, this IP-related investigation, and USTR's recently initiated investigation of structural excess capacity and production in the manufacturing sectors of 60 economies (the EU and 59 individual countries). That investigation was initiated the day before the forced labor investigation, so it is likely that USTR will release tariff proposals soon.

Conclusion

The government has made clear that it intends to maintain additional tariffs on products of all countries, and these Section 301 investigations are the primary vehicle that the government is currently using to replace IEEPA and Section 301 tariffs.

Because tariffs are likely to be significant and broad, these opportunities for industry participation are important. Importers or other interested parties considering comments or hearing participation are encouraged to reach out. Please contact BJ Shannon at bjshannon@bcrlaw.com with any questions.

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