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The Outlook for the Post-IEEPA Tariff Regime

Section 301 tariffs are likely to provide stability for the time being

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- The Section 301 tariffs related to forced labor, which was announced on July 23, have been positioned as the core of the Trump administration's tariff measures replacing the invalidated IEEPA tariffs. As such, the future of these tariffs will be a key determinant of the stability of the post-IEEPA tariff regime.
- Although the Section 301 forced-labor tariffs are generally viewed as having a higher degree of legal durability than the IEEPA tariffs and certain other trade measures, their ultimate validity cannot be taken for granted. Numerous lawsuits have already been filed, and there remains a possibility that the tariffs could eventually be struck down, depending on future court rulings.
- That said, given the relatively low likelihood that the courts will grant injunctive relief while litigation is ongoing, the current tariff framework is likely to achieve a degree of stability under Section 301 in the near term. While companies should continue to monitor other tariff measures as well, they need to proceed with adjustments to the new tariff environment, while keeping in mind the possibility of future tariff refunds or policy revisions.

1. Announcement of Section 301 Tariffs Related to "Forced Labor"

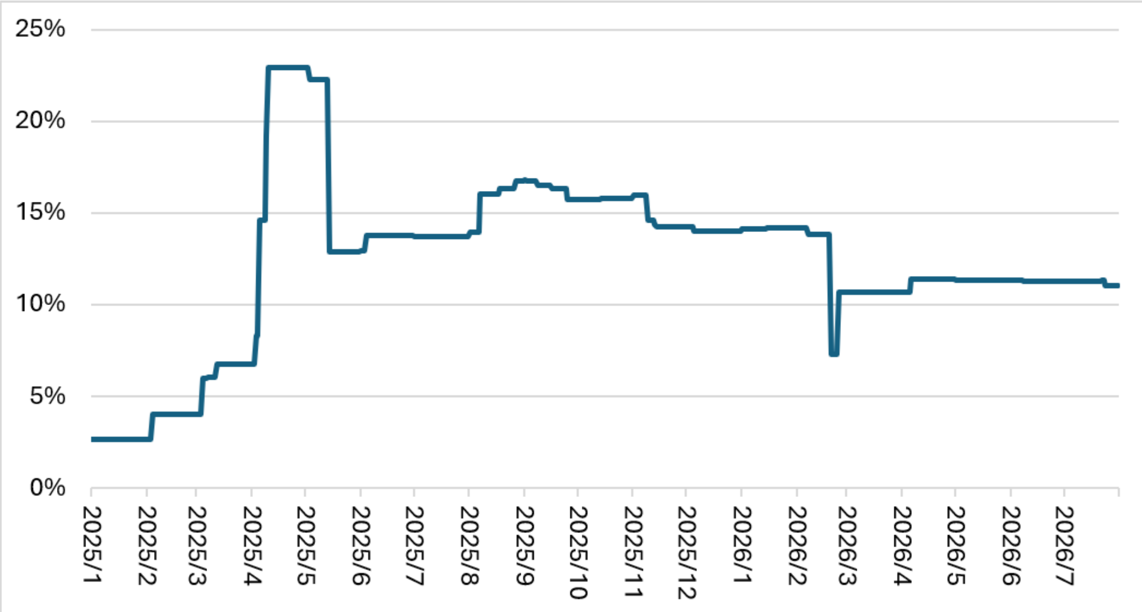
On July 23, the U.S. government announced its final determination to impose tariffs on imports from 60 countries and territories under Section 301 of the Trade Act of 1974. The measure is based on the finding that these jurisdictions either do not prohibit the importation of goods produced with forced labor or have failed to implement effective measures to prevent such imports.

The Trump administration had introduced tariff measures under the International Emergency Economic Powers Act (IEEPA) beginning in April 2025. However, after the U.S. Supreme Court ruled those measures unlawful in February of this year, the administration turned to tariffs imposed under Section 122 of the Trade Act of 1974. The newly announced additional tariffs of 10 to 12.5 percent under Section 301 are widely viewed as a response to the expiration of the Section 122 tariffs on July 24.

In other words, the Section 301 tariff action can be regarded as the Trump administration's answer to the question of what a "post-IEEPA tariff regime" would look like, a question that had remained uncertain since February. While the Section 301 investigation concerning excess production capacity and tariff investigations under Section 232 of the Trade Expansion Act remain ongoing, the tariff increases that were invalidated with the collapse of the IEEPA framework have, for the most part, been "restored" through this latest measure.

The key question, then, is whether these Section 301 tariffs will bring greater stability to the post-IEEPA tariff regime. Recent developments, including the continuation of the Section 301 investigation into excess production capacity and the announcement of an additional 50 percent tariff on certain Canadian products under Section 338 of the Smoot-Hawley Tariff Act, have prompted some commentators to argue that the second Trump administration's "tariff war" has entered a new phase[1].

Figure 1: U.S. Average Effective Tariff Rate*



*Weighted average tariff rate based on import values

Source: The Budget Lab at Yale

Among trade policy experts, many view the legal foundation of the Section 301 tariffs as stronger than that of the IEEPA- and Section 122-based measures. At the same time, however, a number of analysts, including researchers at the Peterson Institute for International Economics (PIIE), have highlighted the significant litigation risks surrounding the new tariffs[2]. Understanding the basis for claims that these tariffs provide greater stability, as well as identifying any remaining sources of legal or policy uncertainty, is critical for assessing the future U.S. business environment. Against this backdrop, this paper examines the stability of the U.S. tariff regime following the implementation of the Section 301 tariffs related to forced labor.

2. From IEEPA to Section 301

Before assessing the outlook for the current tariff regime, it is useful to revisit how the newly imposed Section 301 tariffs related to forced labor fit into the broader tariff strategy of the second Trump administration since last year. On April 2, 2025, designated by the administration as "Liberation Day," the Trump administration announced a worldwide tariff program based on the International Emergency

[1] https://www.wsj.com/politics/policy/trumps-trade-wars-are-backdespite-the-supreme-court-7a889f9a?eafs_enabled=false

[2] https://www.piie.com/blogs/realtime-economics/2026/trumps-new-tariffs-over-forced-labor-are-unlikely-survive-court

Economic Powers Act (IEEPA). The administration declared a national emergency on the grounds that the United States faced a situation "reflected in the annual U.S. goods trade deficit, which has increased by more than 40 percent over the past five years and reached $1.2 trillion in 2024." [3]

With the exception of tariffs imposed under Section 232 of the Trade Expansion Act, virtually all of the newly introduced tariff measures were based on IEEPA. Tariffs under IEEPA could be imposed immediately at the President's discretion. While the administration was required to report such actions to Congress, prior congressional approval was not required. Although emergency measures were formally limited to one year, they could be extended by presidential authority. Furthermore, there was no statutory ceiling on tariff rates. In fact, tariffs on imports from China were raised by as much as 145 percent during 2025. Although tariff rates and product coverage changed substantially through negotiations with China and other trading partners, IEEPA-based tariffs served as the cornerstone of the second Trump administration's trade policy.

Figure: Major U.S. Tariff Measures and Their Statutory Authorities

Statutory Authority	Trigger Condition	Scope of Authority	Status
International Emergency Economic Powers Act (IEEPA)	National security or economic threat	No statutory limit on tariff rates (valid for one year and extendable by executive authority). Ruled unconstitutional by the Supreme Court.	●
Section 122 of the Trade Act of 1974	Balance-of-payments crisis	Up to 15% tariff rate (150-day duration; extension requires congressional approval). Ruled unconstitutional by the Court of International Trade (CIT).	●
Section 301 of the Trade Act of 1974 (China tariffs)	Unfair trade practices	Generally proportional to the injury caused to the United States by foreign practices (no explicit statutory limits on tariff rates or product coverage; valid for four years and extendable by executive authority).	●
(Forced Labor)	Unfair trade practices		●
(Excess Production Capacity)	Unfair trade practices		●
Section 232 of the Trade Expansion Act of 1962	National security grounds	No statutory limit on tariff rates	●
Section 338 of the Tariff Act of 1930	Discriminatory treatment against the United States	Up to 50% tariff rate	●

● Invalidated / ● Suspended or Not Yet Implemented / ● In Effect

Source: USTR, Congress Research Service (CRS)

[3] https://www.whitehouse.gov/presidential-actions/2025/04/regulating-imports-with-a-reciprocal-tariff-to-rectify-trade-practices-that-contribute-to-large-and-persistent-annual-united-states-goods-trade-deficits/

The situation changed dramatically in February 2026, when the U.S. Supreme Court ruled that tariffs imposed under IEEPA were unconstitutional. Following the invalidation of the IEEPA tariffs, the Trump administration immediately implemented tariff measures under Section 122 of the Trade Act of 1974. At the same time, recognizing that Section 122 tariffs would expire on July 24, 150 days after implementation, unless approved by Congress, the administration launched Section 301 investigations concerning forced labor and excess production capacity.

With respect to the forced labor investigation, the Office of the U.S. Trade Representative (USTR) released a preliminary tariff proposal on June 2 and accepted public comments through July 6. A public hearing was held on July 7. Concluding that unfair labor practices posed a threat to U.S. companies, the administration imposed tariffs on 60 countries and territories, including Japan, on July 23. The investigation into excess production capacity has likewise proceeded through the public comment and hearing stages, and an announcement of corresponding policy measures is now awaited.

According to the USTR, the 60 countries and territories subject to the forced-labor tariff measures account for 99.4 percent of total U.S. imports. In this sense, the measure effectively succeeds the global tariff framework introduced in April 2025 and can be regarded as a central pillar of the second Trump administration's tariff policy.

3. Factors Supporting the Stability of the Section 301 Tariff Regime

"Section 301 tariffs" refer to trade remedies imposed under Title III (Sections 301-310) of the Trade Act of 1974, entitled *"Relief from Unfair Trade Practices."* Under these provisions, Congress has granted the Office of the United States Trade Representative (USTR) broad authority and responsibility to enforce U.S. rights under trade agreements and to investigate and respond to certain foreign trade practices through measures deemed necessary, including the imposition of tariffs[4].

Compared with tariffs imposed under IEEPA or Section 122, the Section 301 tariffs related to forced labor are generally viewed as possessing greater legal stability for three principal reasons.

The first is the structural legitimacy embedded in the process leading to the imposition of tariffs. Unlike IEEPA-based tariffs, which can be imposed or withdrawn solely at the President's discretion, Section 301 establishes a legal framework under which the appropriateness of trade remedies is assessed through formal USTR investigations into unfair trade practices, evidence gathering, public comment procedures, and public hearings. Because the final measures are determined after incorporating the views of businesses, industry groups, and members of Congress through these procedures, the risk of significant backlash following implementation is relatively lower. Another important distinction from IEEPA is that Section 301 explicitly grants authority to impose tariffs within the statutory text itself.

[4] https://www.congress.gov/crs_external_products/IF/PDF/IF11346/IF11346.31.pdf

Second, the current Section 301 tariffs are positioned as complementary measures to existing forced-labor regulations, including the Uyghur Forced Labor Prevention Act (UFLPA) and the Countering America's Adversaries Through Sanctions Act (CAATSA). Existing forced-labor restrictions have generally focused on specific regions or regimes. By contrast, the purpose of the new Section 301 tariffs is to encourage countries with insufficient safeguards to strengthen their legal frameworks and enforcement mechanisms in order to prevent circumvention through third-country transshipment. In this respect, the pre-existing regulatory framework prohibiting imports of goods produced with forced labor provides an additional basis of legitimacy for the tariff measures.

Finally, Section 301 benefits from a long-established record as a legal basis for U.S. trade actions. Section 301 served as the statutory foundation for the China tariffs imposed during the first Trump administration and has already been used to support extensive and long-lasting tariff measures. Notably, those tariffs were maintained under the Democratic Biden administration, making them a trade policy tool that has received a degree of bipartisan acceptance. Although the China tariffs faced lawsuits from thousands of companies and were the subject of prolonged litigation, particularly regarding Lists 3 and 4A/4B, the overall framework has remained intact to this day[5].

Figure: Overview of Section 301 of the Trade Act

Topic	Description
Legal Authority	Sections 301-310 (Title III) of the Trade Act of 1974
Implementing Agency	Office of the United States Trade Representative (USTR)
Scope of Investigation	Violations of trade agreements, or foreign government measures, policies, or practices that restrict or burden U.S. commerce (covering not only goods but also services and investment).
Initiation of Investigation	Petitions filed by private companies, industry associations, or other parties (with USTR required to determine within 45 days whether to initiate an investigation), or self-initiated investigations by USTR.
Consultation Requirement	USTR must request consultations with the foreign government at the outset of an investigation.
Principal Remedies	① Tariffs ② Import restrictions ③ Suspension of trade agreement concessions ④ Agreements providing for corrective action or compensation
Scale of Remedies	Generally commensurate with the injury caused to the United States by the foreign measure (with no explicit statutory limits on tariff rates or product coverage).
Investigation Period	Typically, in cases not involving trade agreements, a determination must be made within 12 months of initiation.
Review Mechanism	Measures generally expire after four years but may be extended through a review process upon request.

Source: Congress Research Service (CRS)

[5] https://www.kelleydrye.com/viewpoints/blogs/trade-and-manufacturing-monitor/federal-circuit-affirms-lawfulness-of-section-301-lists-3-and-4a-tariffs-on-china

By contrast, neither IEEPA nor Section 122 had ever been used as the legal basis for broad tariff measures prior to the second Trump administration. As a result, substantial questions regarding their legal validity were raised from the outset. At a minimum, therefore, Section 301 can be said to have already received a meaningful degree of judicial acceptance as a statutory basis for tariff actions.

5. Key Legal Issues in the Litigation

On the other hand, many observers argue that the Section 301 tariffs related to forced labor remain legally vulnerable.

The principal issue, as already highlighted in numerous lawsuits, is the gap between the stated purpose of Section 301 and the actual design of the tariff measures. In a complaint filed by 25 states on August 3[6], the plaintiffs argue that there is no “rational fit” between the problem of forced labor in global supply chains and the broad tariff measures adopted by the USTR as a remedy. Specifically, the complaint challenges the fact that different tariff rates of 10 percent and 12.5 percent, as well as various product- and country-specific exemptions, are applied according to criteria that appear unrelated to the prevalence of forced labor. For example, although the USTR report cites Brazilian beef as an example of goods linked to forced labor concerns, the complaint notes that a substantial share of frozen beef imported from Brazil is exempt from the tariffs. Likewise, certain minerals, coffee, and other products for which forced-labor risks have been identified are also exempted. Critics therefore contend that the tariff measures are not meaningfully connected to their purported objective of addressing forced labor.

The speed with which the investigation was conducted has also emerged as a major point of contention. During the first Trump administration, the Section 301 investigation that led to the China List tariffs lasted more than eight months. In contrast, the current investigation covered an expanded scope of 60 countries and territories but was completed in only approximately two and a half months. Furthermore, the investigation generated more than 1,600 public comments and testimony from over 100 witnesses. Among those submissions were arguments that tariffs are an inappropriate instrument for addressing forced labor concerns and that priority should instead be given to coordinated international efforts among governments. However, critics argue that the USTR report provides little substantive response to these concerns and merely concludes that tariffs constitute an effective remedy[7].

Taken together, these criticisms support a broader argument that the investigation and subsequent tariff action were driven primarily by a predetermined objective: preserving the existing tariff regime that had previously relied on IEEPA. On February 20, the day the Supreme Court ruled the IEEPA tariffs

[6] The complaints from Kentucky and Pennsylvania were filed in the names of their respective governors. https://coag.gov/app/uploads/2026/08/Tariffs-Section-301-States-Complaint-ECF-2.pdf

[7] https://ustr.gov/about/policy-offices/press-office/press-releases/2026/july/ustr-takes-action-forced-labor-section-301-investigations

unlawful, USTR Representative Jamieson Greer stated that the administration would pursue "an alternative legal mechanism" to address the issues at the core of the President's reciprocal tariff program. He further explained that the administration would immediately implement a temporary 10 percent tariff under Section 122 and conduct a Section 301 investigation on an accelerated timetable. The complaint filed by the states cites these remarks as evidence that the Section 301 investigation was intended less to remedy forced labor practices than to ensure continuity of the administration's tariff policy.

Similar statements have also been made by President Trump and Treasury Secretary Scott Bessent. As a result, these public comments could potentially work against the administration in litigation, as plaintiffs seek to demonstrate that the investigation's stated purpose differed from its actual policy objective.

6. Taxing Authority v. Presidential Discretion in Foreign Policy

In the litigation surrounding the IEEPA tariffs, one of the central legal questions was whether the powers granted to the President under the statute include the authority to impose tariffs, and thereby levy taxes, without congressional approval. The relevant provision of IEEPA describes the President's emergency powers as follows:

the President may, under such regulations as he may prescribe, by means of instructions, licenses, or otherwise- (A) investigate, regulate, or prohibit-(i) any transactions in foreign exchange, (ii) transfers of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of any foreign country or a national thereof, (iii) the importing or exporting of currency or securities, by any person, or with respect to any property, subject to the jurisdiction of the United States; (B) investigate, block during the pendency of an investigation, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest by any person, or with respect to any property, subject to the jurisdiction of the United States (50 U.S.C. §1702(a)(1)(B))[1][8]

In its ruling, the Supreme Court held that the term "regulate" does not encompass the authority to impose tariffs and that the administration's interpretation amounted to an impermissibly expansive reading of the statute.

The situation under Section 301 is fundamentally different. Section 301 explicitly authorizes the USTR to impose tariffs as a trade remedy. Nevertheless, the Supreme Court's strict approach to presidential taxing authority in the IEEPA case may have broader implications for how courts view Section 301 litigation. Under the U.S. Constitution, the power to levy taxes, including tariffs, belongs

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[8] https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title50-section1702(b)(3)&num=0&edition=prelim

primarily to Congress. The President may exercise such authority only where Congress has clearly delegated it. The IEEPA decision can be viewed as an expression of judicial or legal conservatism, emphasizing that statutory language should be interpreted strictly and not extended beyond its text[9]. At the same time, the ruling also carried a broader warning that the significant governmental power embodied in taxation should not be delegated lightly to the executive branch. This latter consideration is not entirely irrelevant to the current Section 301 cases.

On the other hand, when viewed through the lens of trade policy and foreign affairs, there is a longstanding belief that the judiciary should avoid excessive interference with the broad discretion granted to the President in conducting external relations. Indeed, in litigation challenging the China Section 301 tariffs imposed during the first Trump administration, both the U.S. Court of International Trade (CIT) and the U.S. Court of Appeals for the Federal Circuit conducted procedural review, including requiring additional explanations from the USTR. Ultimately, however, the courts declined to invalidate the tariffs themselves, recognizing that decisions regarding countermeasures against foreign unfair trade practices involve national security and diplomatic judgments in which the executive branch enjoys substantial discretion[10].

This reflects the traditional doctrine of judicial restraint, sometimes referred to as the political question doctrine. In recent years, some commentators have argued that courts should take a more assertive role in checking executive overreach and abuses of delegated authority. At the same time, there remains strong support for preserving the judiciary's traditional reluctance to intervene in matters of foreign policy.

In this sense, the Section 301 litigation may prove to be an important test case. Beyond the specific issue of forced-labor tariffs, it could become a significant judicial turning point in determining how courts balance two competing constitutional principles: Congress's exclusive authority over taxation and the President's broad discretion in the conduct of foreign and trade policy.

6. Will the Post-IEEPA Tariff Regime Remain Stable?

As discussed above, expert opinion remains divided regarding the likely outcome of the litigation surrounding the Section 301 tariffs related to forced labor. Overall, most observers view these tariffs as possessing greater legal stability than the former IEEPA-based measures, given the procedural safeguards involved and the explicit statutory authorization for tariff action. Nevertheless, the fact that the new tariffs were designed in part to preserve continuity with the invalidated IEEPA regime means that the ultimate judicial outcome remains uncertain.

Nor are the possible court rulings limited to a binary choice between complete victory for the government and total invalidation of the tariffs. Courts could instead order narrower remedies, such

[9] https://www.supremecourt.gov/opinions/25pdf/24-1287_4gcj.pdf

[10] https://alstontrade.com/original-china-tariffs-litigation-on-the-ropes-federal-circuit-affirms-legality-of-lists-3-and-4a-of-section-301-tariffs-on-chinese-products/

as revisions to tariff rates or product coverage, or require supplemental explanations and modifications to the investigative record, similar to the outcome of litigation involving the China Section 301 tariffs.

For businesses operating in the United States, the duration of the litigation may be even more important than its ultimate outcome. As noted above, litigation over the China Section 301 tariffs took nearly seven years to resolve, concluding only after a decision by the U.S. Court of Appeals for the Federal Circuit (CAFC) in September 2025. By contrast, the litigation over the IEEPA tariffs reached the Supreme Court in less than a year after their implementation, while the Section 122 tariffs received a first-instance ruling from the U.S. Court of International Trade (CIT) as early as May 2026, only a few months after their introduction.

Given the far-reaching impact of tariff measures covering 60 countries and territories, it cannot be ruled out that the judiciary may again opt for expedited review. Even so, it appears unlikely that the Section 301 tariffs, once implemented, will be enjoined pending a final judicial ruling[11].

More broadly, considerable uncertainty remains surrounding U.S. tariff policy beyond the Section 301 tariffs related to forced labor. The Section 301 investigation into excess production capacity remains ongoing. In a media interview on July 27, USTR Representative Jamieson Greer said that he hoped an announcement could be made "hopefully soon." Although some observers expect a proposal to be released in August, the outlook remains unclear[12].

At the same time, several other tariff initiatives are moving forward. These include a 50 percent tariff on certain Canadian products, including dairy products, alcoholic beverages, and auto parts, under Section 338 of the Smoot-Hawley Tariff Act, which is scheduled to take effect on August 19; a 25 percent tariff on imports from Brazil under Section 301, which took effect on July 22; a proposed 100 percent retaliatory tariff under Section 301 in response to the EU's Digital Services Tax; tariff proposals linked to Russia sanctions legislation currently under consideration in Congress; and the continued expansion of product-specific tariffs under Section 232. In addition, the treatment and implementation of trade and investment agreements concluded between the United States and its trading partners, including Japan, may also have implications for future tariff measures.

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[11] No preliminary injunction was issued against the IEEPA tariffs before a final judgment was rendered. Similarly, although the U.S. Court of International Trade (CIT) granted injunctive relief to certain plaintiffs in its May 7, 2026 ruling on the Section 122 tariffs, the injunction was later stayed pending appeal by the government. https://www.bakerlaw.com/insights/court-finds-temporary-section-122-tariffs-unlawful/

[12] https://www.reuters.com/business/ustrs-greer-says-trumps-latest-tariffs-wont-have-an-economic-impact-2026-07-27/

Figure: Major U.S. Tariff Policies

Invalidated or Expired Measures

IEEPA Tariffs (Reciprocal & Border Tariffs, etc.)
Basis: International Emergency Economic Powers Act (IEEPA)
Ruled unlawful by the Supreme Court on 2/20/2026 and invalidated entirely. Refund process underway

Section 122 Tariff
Basis: Trade Act §122 (150-day statutory cap)
Took effect 2/24, expired by statute 7/24/2026. Replaced same day by new Section 301 tariff

Measures in Effect or Scheduled to Take Effect

Section 301: Forced-Labor Non-Compliant Economies (60) [10% / 12.5%]
Scope: 60 economies not effectively enforcing a forced-labor import ban
Took effect 7/24/2026 (effectively replaces the expired Section 122 tariff)

Section 301: Brazil [25%]
Scope: Digital trade, preferential tariffs, anti-corruption, IP, ethanol, illegal deforestation
Took effect 7/22/2026

Section 338 (Smoot-Hawley Act): Canada [50%]
Scope: Dairy, alcohol, auto parts, etc. (applies even to USMCA-qualifying goods). First-ever use
Scheduled to take effect 8/19/2026

Section 232: Sector-Specific Tariffs
Steel/aluminum 50% / Copper 50% / Autos 25% / Lumber 10-25% / Semiconductors 25% / Pharma 100% (phased)
Unaffected by the IEEPA ruling; coverage continues to expand

Section 301: China List Tariffs (since Trump 1.0)
Scope: Chinese imports tied to technology transfer & IP practices (Lists 1-4A, mostly 25%)
Mostly imposed 2018-2019 under the first Trump term; separate from IEEPA/122 and the newer 301 probes, still in force

Measures Under Consideration or Proposed

Section 301: Structural Excess Capacity Investigation (16 Economies)
Scope: Steel, semiconductors, EVs, chemicals, etc. in China, EU, Japan, Korea, India, Vietnam, Mexico, Taiwan, Switzerland, and others
Initiated 3/11/2026 alongside the forced-labor probe; targeted for 7/24, but rate and effective date remain undetermined

Section 301: Proposed Retaliation vs. EU Digital Services Tax [up to 100%]
Scope: All imports from countries that impose or consider a DST
Announced by Trump in June 2026; formal 301 process not yet initiated, timing undetermined

Section 301: Vietnam's IP Protection & Enforcement
Scope: Online piracy, counterfeit goods, unlicensed software use, and related enforcement gaps
Initiated 5/29/2026 after Vietnam's Priority Foreign Country designation; comments closed 7/2, rate not yet proposed

Russia Sanctions Bill (Graham Act) [Russian goods: up to 500% / top buyers: secondary tariff up to ~100%]
Scope: Russian-origin goods, and top buyers of Russian oil & gas (China, India, Turkey, etc.)
Senate passed procedural vote 86-12 on 7/28/2026. House to act after August recess; passage unlikely before September

Source: USTR, the White House, JETRO

That said, I am somewhat skeptical of arguments that the world is entering a renewed phase of full-scale “tariff wars” marked by escalating trade tensions and severe disruption of global supply chains

[13]. Two factors support this view. First, there appears to be limited appetite among major trading partners to respond with equally aggressive retaliatory measures. Second, following the adverse rulings on the IEEPA tariffs, tariffs have become a less straightforward and less flexible policy tool for President Trump than they initially appeared. As a result, international trade frictions associated with U.S. tariff policy are likely to evolve in a more restrained manner than some commentators anticipate. Domestically, given the low probability that courts will suspend the Section 301 tariffs while litigation is ongoing, the current tariff framework is likely to achieve a degree of near-term stability under the Section 301 regime. While businesses should continue monitoring developments in other trade actions, they should also move forward with adjustments to the emerging post-IEEPA tariff regime, recognizing that future court decisions or policy revisions could still result in tariff refunds, modifications, or other changes.

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[13] https://www.wsj.com/politics/policy/trumps-trade-wars-are-backdespite-the-supreme-court-7a889f9a?eafs_enabled=false