POLSINELLI

Publications

July 24, 2026 • Updates

Administration Imposes Broad Forced-Labor Section 301 Tariffs as Section 122 Surcharge Expires

Key Takeaways

- **The action is part of the Administration's effort to reconstruct a durable tariff framework after judicial setbacks to other authorities.** The temporary 10% Section 122 surcharge expired at 12:01 a.m. Eastern time on July 24, exactly when the new Section 301 duties began. Some goods remain at 10%; others move to 12.5%, receive a lower MFN-based top-up or fall within a new exclusion.
- **The current action reaches 60 economies, but the announced rate may not equal an importer's actual exposure.** The duty turns on origin, classification, MFN rate, stacking rules, free-trade-agreement treatment and general and country-specific exclusions. USTR created no exclusion-request process.
- **The final action materially changes the June proposal.** Five economies moved from the proposed 12.5% rate to 10%; five others received 10% or 12.5% total-duty floors instead of flat additional duties; USTR added 471 general product exclusions and 13 country-specific lists; and the textile mechanism became future duty-free tariff-rate quotas for four economies.
- **A clean supply chain does not eliminate the tariff.** Goods made with forced labor are already prohibited from importation. These duties instead pressure foreign governments to impose and enforce their own import bans, so USTR rejected lower rates for low-risk products and supply chains. Paying the duty — or qualifying for an exclusion — also does not protect goods from detention or exclusion under 19 U.S.C. Section 1307, the Uyghur Forced Labor Prevention Act, or a Withhold Release Order.
- **Litigation is likely, but actions under this legal provision have historically been upheld.** Cognizant of likely judicial challenge, USTR included detailed severability provisions intended to preserve the remaining actions if a court invalidates a particular country action, product tariff or exemption.

On July 23, President Trump issued a memorandum directing the U.S. Trade Representative (USTR) to impose tariffs on goods from 60 economies that USTR found had failed to impose or effectively enforce bans on imports made with forced labor. The memorandum sets the remedy; USTR's accompanying notice implements it by modifying the HTSUS, assigning Chapter 99 headings, establishing entry rules and identifying the applicable exclusions.

Related People

- Deanna Okun
- Dominic L. Bianchi
- Lydia C. Pardini

Related Capabilities

- Trade Law Remedies
- International Trade
- Customs
- International
- Export Controls, Economic Sanctions & Compliance
- Executive Orders

The tariffs took effect at **12:01 a.m. Eastern time on July 24**, only hours after their announcement. The final action largely follows USTR's June proposal but expands the product exclusions, adds country-specific exclusions, adjusts the treatment of certain economies and adopts MFN-based tariff floors for the European Union, Taiwan, Japan, South Korea and Switzerland, as explained below.

As discussed in Polsinelli's 2026 Tariff Heat Wave, the action coincided with the expiration of the temporary Section 122 surcharge. But it is not a continuation of that measure. Section 122 imposed a temporary, generally applicable surcharge subject to statutory limits; these Section 301 duties arise from 60 country-specific investigations and will remain in effect until modified or terminated.

The action also differs from traditional forced-labor enforcement. The duties do not depend on proof that particular goods were produced with forced labor. They are intended to pressure covered governments to adopt and enforce import prohibitions. Importers must therefore analyze tariff liability separately from admissibility under 19 U.S.C. § 1307, the Uyghur Forced Labor Prevention Act and applicable Withhold Release Orders.

What Importers Should Do Now

The broader planning steps in our Tariff Heat Wave report remain relevant. For this action, importers should focus on four immediate tasks:

1. **Create a product-origin-entry matrix.** Identify the country of origin, eight- or ten-digit HTSUS classification, MFN rate, preferential rate, applicable Chapter 99 heading and potential exclusion for each imported product. Country of shipment or invoicing does not replace the customs origin analysis.
2. **Validate entry claims and broker instructions.** Confirm USMCA and CAFTA-DR support, identify any qualifying in-transit shipments, review FTZ admissions and provide product-level Chapter 99 instructions to customs brokers.
3. **Model cumulative exposure and contractual allocation.** Include ordinary duties, other Chapter 99 duties, Section 232 measures, AD/CVD, fees and bond sufficiency. Review Incoterms, tariff-adjustment provisions, change-in-law clauses and rights to any later refunds.
4. **Preserve separate compliance and litigation rights.** Maintain forced-labor traceability and due-diligence controls, retain entry-level records and monitor liquidation, protest, USTR modification and judicial deadlines.
5. **Monitor further guidance.** CBP operational instructions, USTR modifications under Section 307, the textile TRQ notice, implementation of country commitments and developments in the excess-capacity investigations may materially change the analysis.

Breaking Down the Final Action

The final action differs in several important respects from the June proposal and from the Section 122 tariff program that expired at the same moment these duties took effect. Below, we explain the key changes, how the new tariff framework applies across different countries and products, the scope of the new exclusions and several practical compliance considerations for importers.

What Changed from the June Proposal

Five economies moved to the lower rate.

Honduras, India, Jordan, Sri Lanka, and Trinidad and Tobago were proposed for a 12.5% additional duty but will instead face 10% because they adopted a forced-labor import prohibition or made a qualifying trade commitment after the proposal.

Five economies received MFN-based tariff floors.

The European Union and Taiwan now face a total MFN-plus-Section 301 rate of 10%, while Japan, South Korea and Switzerland face a 12.5% floor. The proposal had contemplated flat additional duties of 10% or 12.5% for these economies.

Product relief expanded substantially.

USTR retained the proposed exclusions, added 471 general product exclusions and adopted separate lists for certain products of 13 economies. Many country-specific exclusions reflect negotiated trade commitments rather than a general importer hardship standard.

The textile mechanism became defined but remains unavailable.

USTR will establish three-year tariff-rate quotas for Bangladesh, Cambodia, Indonesia and Malaysia. Qualifying textile and apparel volumes will enter free of the new duty based on each economy's purchases of U.S. cotton and textile inputs. Until a later Federal Register notice implements the quotas, the 10% duty applies.

The final notice closes the door on an importer exclusion process.

USTR declined to create a China Section 301-style application process. Further relief is more likely to come through bilateral negotiations, a later USTR modification, statutory review or litigation.

How This Differs from the Section 122 Duties That Just Expired

Different purpose and authority.

Section 122 addressed asserted balance-of-payments problems through a temporary presidential surcharge. Section 301 responds to conduct attributed to each foreign government and followed separate investigations, consultations, hearings and public comments.

Different coverage and rates.

Section 122 imposed a flat 10% surcharge on most imports worldwide. The new action reaches 60 economies — nearly all U.S. imports — but uses additional 10% or 12.5% duties and MFN-based tariff floors. The result may be 0%, less than 10%, 10% or 12.5%, depending on the product and origin.

Overlapping, but not identical, exclusions.

Both programs exclude specified Section 232 goods, qualifying USMCA goods, certain CAFTA-DR textiles and apparel, and many sensitive products. The final Section 301 action, however, adds broader and country-specific lists. Importers should not assume that a Section 122 exclusion remains available without checking the new Chapter 99 provisions.

No fixed sunset.

Section 122 expired after 150 days and could have continued only through congressional action. The Section 301 tariffs remain in force until USTR modifies or terminates them and are subject to Section 307 review.

A different litigation posture.

The Court of International Trade held that the Administration exceeded Section 122 authority; the Federal Circuit stayed that judgment pending appeal, and the duties continued through expiration. The Section 301 action rests on a more developed administrative record and contains detailed severability provisions, although litigation remains likely.

How the New Rates Apply

The applicable tariff treatment falls into four categories:

1. Additional 10% Duty

Unless an exclusion applies, an additional 10% duty applies to products of: Argentina, Bangladesh, Cambodia, Canada, Ecuador, El Salvador, Guatemala, Honduras, India, Indonesia, Jordan, Malaysia, Mexico, Pakistan, Sri Lanka, Trinidad and Tobago, and the United Kingdom.

These economies received the lower rate because they have adopted a forced labor import prohibition, committed through an Agreement on Reciprocal Trade (ART) to adopt and enforce one, or implemented a partial regime that prevents at least certain forced labor goods from entering their markets.

The 10% rate reflects USTR’s findings that these economies are not fully compliant. USTR found, for example, that Canada, Mexico and Pakistan have prohibitions but do not effectively enforce them. Nor did USTR create a zero-duty tier for countries that have taken corrective steps. It concluded that a rate below 10% would provide too little leverage.

2. 10% Total-Duty Floor for the European Union and Taiwan

For covered products of the European Union and Taiwan, the Section 301 duty brings the combined MFN and Section 301 rate to 10%. If the MFN rate is already 10% or higher, the Section 301 component is zero.

3. 12.5% Total-Duty Floor for Japan, South Korea and Switzerland

The same structure applies at a 12.5% level for products of Japan, South Korea and Switzerland. If the MFN rate is below 12.5%, the Section 301 treatment brings the total to 12.5%. If the MFN rate is at least 12.5%, the incremental Section 301 duty is zero. Specific and compound MFN rates must be converted to an ad valorem equivalent to determine the correct treatment.

These floor mechanisms require careful analysis. The MFN rate determines which Chapter 99 heading applies. When the MFN rate is below the applicable floor, the new heading generally sets both the “General” and “Special” rates at 10% or 12.5%. Accordingly, an otherwise duty-free South Korean product may still face a 12.5% rate where its MFN rate is below 12.5%. By contrast, if the product’s MFN rate is already at or above 12.5%, no Section 301 add-on applies, and the underlying preferential rate may remain available.

4. Additional 12.5% Duty

Unless excluded, an additional 12.5% duty applies to products of: Algeria, Angola, Australia, the Bahamas, Bahrain, Brazil, Chile, China, Colombia, Costa Rica, the Dominican Republic, Egypt, Guyana, Hong Kong, Iraq, Israel, Kazakhstan, Kuwait, Libya, Morocco, New Zealand, Nicaragua, Nigeria, Norway, Oman, Peru, the Philippines, Qatar, Russia, Saudi Arabia, Singapore, South Africa, Thailand, Türkiye, the United Arab Emirates, Uruguay, Venezuela and Vietnam.

For these economies, the new duty generally stacks with ordinary customs duties, other Chapter 99 duties and antidumping and countervailing duties. The notice also provides that ordinary preferential tariff treatment does not eliminate the Section 301 duty unless U.S. Note 52 establishes a specific exception.

What Items are Excluded

The final notice retains the proposed exclusions and adds 471 products. The principal categories are:

Raw materials, essential inputs and sensitive products.

The general list includes specified agricultural and food products; fertilizer and pesticide inputs; pharmaceuticals and pharmaceutical ingredients; wood products; pig iron, metal scrap and other industrial inputs; critical-mineral and battery inputs; semiconductor-manufacturing equipment; used clothing; and art, antiques and collectibles.

Section 232 goods.

Products subject to specified Section 232 measures are excluded, including covered metals, vehicles and parts, wood products, semiconductors and - beginning July 31 - patented pharmaceutical articles. This is distinct from the separate pharmaceutical Section 232 action, which currently leaves generic pharmaceuticals outside its scope and calls for later reassessment; the forced-labor action does not create or accelerate a generic-drug Section 232 tariff.

Country-specific lists.

Separate exclusions apply to certain goods of Argentina, Bangladesh, Cambodia, Ecuador, El Salvador, the European Union, Guatemala, Indonesia, Jordan, Malaysia, Switzerland, Taiwan, and the United Kingdom.

USMCA goods.

Canadian and Mexican goods entered free of duty under the USMCA are excluded. Eligibility alone is not enough; importers must make and support the preferential entry claim.

CAFTA-DR textiles and apparel.

Qualifying textile and apparel goods from Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua that enter free of duty under CAFTA-DR are excluded. The exception does not cover all CAFTA-DR goods.

Other statutory and entry categories.

Informational materials, donations, accompanied baggage, and goods properly entered under most Chapter 98 provisions are excluded or receive special value treatment.

The controlling question is whether the product falls within the precise HTSUS provision and satisfies any origin, end-use or entry requirement. Importers should consult counsel to ensure compliance. USTR did not create an process for requesting additional exclusions.

What are the Practical Implications

The in-transit exception is narrow.

It covers goods loaded onto a vessel and in transit on the final mode of transportation before 12:01 a.m. Eastern time on July 24 only if they enter for consumption, or are withdrawn from warehouse, before 12:01 a.m. on July 28. The text does not provide comparable relief for air, truck or rail shipments.

Foreign-trade-zone treatment can lock in the duty.

Covered foreign merchandise admitted on or after the effective date generally must enter in privileged foreign status unless eligible for domestic status. FTZ users should review admission timing and inventory duration.

Forced-labor admissibility remains a separate inquiry.

The tariff turns mainly on origin, classification, rate treatment and exclusion eligibility. CBP admissibility turns on the production process and supply chain under Section 307, UFLPA and applicable Withhold Release Orders.

Additional duties may follow.

USTR's parallel excess-capacity investigations remain pending for 16 economies also covered here. The final forced-labor action contains no general non-stacking protection against a later Section 301 remedy.

Litigation will not necessarily unwind the whole program.

USTR drafted each country action, product tariff and exclusion as severable. A successful challenge to one provision therefore may not eliminate other country actions or restore all duties. Importers considering a potential challenge should maintain complete entry data and consult counsel before applicable liquidation, protest or judicial deadlines expire.

If your business needs strategic legal guidance or anticipates potential impacts resulting from these announcements, contact Deanna Okun, Lydia Pardini, Dominic Bianchi, Polsinelli's Executive Action Working Group or your Polsinelli contact.