Policy Backgrounder

Forced Labor Tariffs—and More to Come?

Following the expiration of the 10% global tariff on July 24, the Administration has now imposed tariffs of 10% and 12.5% on 60 economies relating to forced labor, essentially a replacement for the global tariff. The Administration is also considering two rounds of further tariffs, on “structural excess capacity” and sectoral tariffs.

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- The new tariffs are imposed at three rates: 10% for certain economies deemed to have enacted prohibitions against importation of goods produced with forced labor; a blended rate for certain countries with most favored nation (MFN) provisions in trade agreements; and 12.5% for all other covered economies, including important trading partners such as Brazil, China, and Singapore.
- Exemptions to the tariffs generally include products not made in sufficient quantities in the US to meet domestic demand. This covers many agricultural products, iron oxides, aluminum oxides, pig iron, coke, and other products in an annex to the final determination.
- Broadly speaking, the system replaces the 10% global tariff that expired by statute on July 24. Further tariffs are likely forthcoming, both in a separate USTR investigation on “structural excess capacity” covering 16 major trading partners and in current and future Section 232 investigations to impose sectoral tariffs.
- Taken together, the effect of these new tariffs could raise many US tariffs to levels near or in some cases possibly exceeding the rates of the Liberation Day and fentanyl-related tariffs the Supreme Court overturned in *Learning Resources v. Trump* earlier this year.
- Litigation against the new tariffs is very likely but the result is uncertain.

Tariffs Relating to Forced Labor

Following the Supreme Court's decision in *Learning Resources v. Trump*, which invalidated the fentanyl-related and "Liberation Day" tariffs imposed by Executive Order, the Administration responded by imposing a 10% global tariff under Section 122 of the Trade Act of 1974. This provision, limited to 150 days by law, expired July 24. On July 24, the Administration imposed a series of tariffs relating to forced labor on 60 economies accounting for virtually all US trade after an investigation under Section 301(b) of that Act. (For more on tariffs, please see The Conference Board's Tariff Tracker).

The Tariff Act of 1930 already prohibits the importation of goods produced with forced labor. Most other major US trading partners have similar prohibitions in domestic law or have adhered to relevant conventions of the International Labour Organization. Other laws, such as the Uyghur Forced Labor Prevention Act and the North Korea-focused Countering America's Adversaries through Sanctions Act, include prohibitions goods made with forced labor.[1]

Categories of tariffs

The final determination[2] divides countries by the tariff levels they will face. Countries that in USTR's view have imposed a forced labor import prohibition or that have committed to impose and enforce such a prohibition through an "Agreement on Reciprocal Trade" will face an "appropriate rate" of 10% tariffs. That list includes Argentina, Bangladesh, Cambodia, Canada, Ecuador, El Salvador, Guatemala, Honduras, India, Indonesia, Jordan, Malaysia, Mexico, Pakistan, Sri Lanka, Trinidad and Tobago, and the United Kingdom. (For Mexico and Canada, goods qualifying for tariff-free trade under USMCA are exempt).

A new second category of 10% tariffs or 12.5% tariffs "net of Most-Favored-Nation [MFN] rate" applies to "certain products of the European Union" (those not covered by the recent Turnberry Agreement on trade), Japan, South Korea, Switzerland, and Taiwan "that are not otherwise exempt.[3] In essence, this category puts a ceiling of 12.5% on these tariffs where a product's MFN tariff would be higher (while still permitting the imposition of higher tariffs under other provisions of law, such as sectoral tariffs under Section 232 of the Trade Expansion Act of 1962). All other countries that in USTR's view have "failed to impose and effectively enforce prohibitions on importation of goods with forced labor" will face 12.5% tariffs. This much longer list includes Brazil, China, and Singapore among important US trading partners as well as close allies and security partners such as Australia, which described the tariffs as "regrettable."[4]

While no investigated economy is exempt from these tariffs, the final list contains some significant changes from the list proposed in June. The European Union was shifted to the second category from the first. Japan, South Korea, and Switzerland were moved to the new second category from the third. A number of countries in Latin America and Southeast Asia were shifted to the first category from the third, presumably after having taken some administrative or legal steps regarding importation of goods produced with forced labor.[5]

Beyond this, USTR has shifted its proposed quota system for imports of textiles and apparel. (The argument is that because inputs such as cotton may be produced with forced labor, and other countries' exports have risen, this is evidence that US goods are at a disadvantage; the analysis does not address other factors such as higher US input costs, including labor.) Now, the Administration will establish "when feasible, tariff-rate quotas (TRQs) for Bangladesh, Cambodia, Indonesia, and Malaysia, based on each economy's importation of U.S. inputs, to encourage the importation by each of these economies of U.S. cotton and textile goods, in order to reduce reliance on inputs from other sources that are more likely to contain forced labor inputs." This appears to be a change from a mandatory action to one taken "when feasible." The "other sources" of cotton are likely to be China, India, and Brazil, the three largest global cotton producers ahead of the US, which is fourth.[6] As such, it is designed to promote US exports, undercutting the cost advantage of regional producers.

Exemptions

In its initial determination, USTR proposed certain exemptions from the new tariffs. Presumably because of concern over inflationary effects, the new tariffs exclude many food and agriculture imports, including bananas, beef, coffee, and other products. Some of the exemptions cover products not generally produced in the US, but the list includes others such as beef that are.

The very long list of exemptions in the final determination remained similar, though with some important changes. USTR retained all exemptions from Annex A of the June 5 proposal "except the non-pharmaceutical applications of certain chemical products" (some chemical products will no longer be exempt). In addition, the final determination adds many agricultural products, iron oxides, coke, pig iron, and aluminum oxides, among other products.

Generally, the list of exemptions include "raw materials with limited-to-no availability from domestic sources or cannot be grown or produced in sufficient quantities or at reasonable prices in the United States or obtained from other sources" or "products for which tariffs may not contribute substantially to the elimination" of practices related to forced labor. However, beef stayed on the exemption list despite commenters arguing that the exemption gives an advantages to economies in which beef production may be connected with forced labor.

Agreements on Reciprocal Trade – and Future Tariffs

The Administration's policy for the last year has been to negotiate framework trade agreements (Agreements on Reciprocal Trade, ARTs) with trading partners, generally offering lower tariffs than the proposed Liberation Day rates in exchange for promises to remove what it sees as trade barriers and non-tariff barriers, to increase investment in the US and increase purchases of US goods, and in some cases promises to increase cooperation against third countries.

By invalidating the earlier tariffs, the *Learning Resources* decision raised questions about the future of the framework trade agreements. The President has threatened some countries with "much higher" tariffs[7] if they do not fully implement their commitments under the framework trade agreements even though the agreements are not fully binding on the US itself.

The Administration remains committed to implementing the ARTs. For instance, even having a commitment to prohibit importation of goods made with forced labor in an ART is enough to lower the new tariffs from 12.5% to 10%. So the standard is different: a simple commitment to prohibit importation for countries with an ART; an actual prohibition in domestic law and "effective enforcement" of it in USTR's sole determination for those countries without one.

One way to understand these new tariffs, therefore, is as additional leverage on countries to implement ARTs, including changes to domestic law and promises to purchase US goods. Even implementing an ART, however, would not reduce tariffs below a global level; no ART has permitted tariffs on covered goods below 10%; most, such as those with the EU, Japan, and South Korea, have a rate of 15% for covered goods, while others (for instance in Southeast Asia) have rates above that. Still, the pressure on countries to negotiate ARTs will continue and likely increase with the announcement of any future tariffs.

"Structural Excess Capacity" and Section 232 investigations

Business also faces the prospect of even higher tariffs ahead. First, USTR is continuing an investigation into 16 major trading partners about alleged "structural excess capacity"[8]; it is unclear when the investigations will conclude, but the tariffs imposed under them could potentially be heavy.

In addition, the Administration has at least seven open investigations under Section 232 of the Trade Expansion Act of 1962 that would permit it to impose sectoral tariffs. The investigations (six of which were first initiated in 2025) concern commercial aircraft and jet engines; polysilicon and derivatives; unmanned aircraft systems; wind turbines; personal protective equipment and other medical equipment; robotics and industrial machinery; and a recently announced investigation into anthracite coal.[9]

The Administration has already imposed duties under Section 232 for a number of sectors, which remain in force even after adoption of the forced labor tariffs, including steel, aluminum, and copper (with rates as high as 50% in some cases); autos and auto parts (generally 25%, though in some cases the rates were lowered by bilateral trade agreements); medium- and heavy-duty vehicles (generally 25%, 10% on buses); timber and lumber derivatives (10% on timber and softwood lumber, with 50% for kitchen cabinets); semiconductors (25% on certain advanced chips). Negotiations continue on critical minerals.

Tariffs on imported patented pharmaceuticals, with some exemptions, are scheduled to rise to 100% on July 31 and Sepember 29 under another Section 232 decision (with exceptions for rates negotiated in ARTs).[10] The dates are company-specific; in addition, the rate is lowered to 20% for companies that have plans to onshore production in the US and exempts companies with Most Favored Nation pricing for the US market under agreements with the Department of Health and Human Services. Section 232 tariffs, therefore, can become company-specific (based on concessions to the US), product specific (with higher tariffs in certain areas), or cover an entire sector. They can also be "stackable" on top of other tariffs such as the global tariff, or not (as with the forced labor tariffs).[11]

In each case, business faces higher tariffs, in some cases approaching or even exceeding the Liberation Day tariff rates and associated pressures to evaluate supply chains and consider moving production.

Analysis and Implications for Business

The determination attracted a large number of comments and led to some intense diplomatic activity over the last six weeks. While some countries were successful in shifting their designation, others, including some countries that have and enforce legal prohibitions against forced labor were not.[12] No economy succeeded in being removed from the list, giving rise to suspicions that part of the purpose of the investigation was simply to replace the 10% global tariff with a new framework of longer duration on a different statutory ground.

However, except for some changes to the exemptions list, USTR appears to have accepted few comments from affected businesses and other groups. For instance, some commenters advocated reduced tariff rates for countries with export indsutries with a low-risk of supply, notably including because of US-industry led coalitions and supply chain verificiation on forced labor. However, USTR repied simply that “[t]hese comments misunderstand the aims of the investigations and the use of tariffs as leverage.” For US businesses that have taken the lead in these types of coalitions and spent significant sums on verification and enforcement mechanisms, including in some cases removal of suppliers, this is a disappointing result.

Implications for US business

The determination has implications for US business as well beyond addressing the impact of higher tariffs. The Tariff Act provision applies to all importers without exception; other relevant laws have very high standards for exemptions. US businesses therefore should reexamine their supply chains for evidence of products produced with forced labor, which risk being prohibited entry. CBP’s guidance for “standards of reasonable care” involves implementing procedures, programs, or systems to ensure compliance, including third-party audits where appropriate.

More broadly, of course, the tariffs mark the continuation of a global tariff regime under different circumstances than that which the Supreme Court overturned in *Learning Resources*. This leads to further diversion of global trade. For instance, some goods from the EU and UK will face different levels of tariffs now despite each jurisdiction having a bilateral trade agreement with the US.[13] And many foreign manufacturers will seek to lessen their dependence on the US market to avoid the tariffs, which could pose problems for some US importers.

Litigation

It is quite likely that at least some affected importers will file suit against the new tariffs. Without predicting how courts might respond, importers could have several grounds to do so. First, they could argue that the tariffs are disproporationate to the actual effect on US commerce. Second, they could argue that the rapid pace of the investigations is not consistent with past practice and thus that the investigations and associated consultation with foreign governments were not sufficiently thorough (for instance, USTR accepted the legal commitments of some countries but not others without sufficiently explaining why). Plaintiffs could argue as well that adoption of an International Labour Organization convention against forced labor is incorporation into domestic law (as it would be in the US), even though USTR disagrees.[14] Third, plaintiffs could argue that USTR erred in not accepting specific comments made during the comment process or provided insufficient reasons for rejecting them. (The determinations with respect to each country are, in many cases, nearly identical.) The final determination is clearly designed to anticipate litigation; it states that "every" tariff or other action "is lawful" and is severable if certain provisions of the determination are overturned by courts.

"The President has directed . . . "

Finally, another ground for litigation could be language found repeatedly throughout the determination that USTR was taking action "consistent with the specific direction of the President" and that "because the comments suggested alternative actions that are inconsistent with the specific direction of the President, the Trade Representative cannot accommodate them."[15] Plaintiffs could argue that Congress – which, as *Learning Resources* affirmed, has the sole power to tax – delegated this authority to USTR on the understanding that it would conduct investigations and make a determination on the basis of those determinations. If, on the other hand, USTR is bound by the President's determinations, then it is acting beyond the delegation Congress gave to it, and the notice and comment process that Congress intended is not a meaningful and determinative process within the meaning of the statute.

Litigation along these lines would be both highly contentious and likely to reach even the Supreme Court. It would address a seeming conflict between two decisions this year of the Court: *Learning Resources*, which affirmed that the President cannot impose tariffs on his own authority but only when delegated by Congress, and *Trump v. Slaughter*, which reaffirmed that all subordinate officers of the Executive Branch report to the President alone. If the President cannot impose tariffs, then how can he direct USTR to do so? But if USTR is under the sole control of the President, how can the President not have the authority to direct USTR to impose tariffs? Is, in fact, Section 301 an unconstitutional delegation of Congressional authority?

How the Court woud respond to these questions would have major implications for tariff and trade policy in the years ahead. In the meantime, US business faces the certainty of a continued effectively global tariff and the uncertainty of when additional tariffs in other areas might come, complicating business planning and supply chain analysis and raising the potential of further diversion of trade which could ultimately harm US exporters as countries find new markets for their goods or choose to source outside the US.

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Endnotes

[1] https://www.cbp.gov/trade/forced-labor/laws-and-authorities

[2] https://ustr.gov/sites/default/files/files/Press/Releases/2026/FLIP%20301%20Investigation%20Final%20Action%20FRN%207-23-26%20FINAL.pdf

[3] https://ustr.gov/sites/default/files/files/Press/Releases/2026/FLIP%20301%20Investigation%20Final%20Action%20FRN%207-23-26%20FINAL.pdf

[4] https://www.washingtonpost.com/business/2026/07/23/trump-announced-new-tariffs-nations-that-he-says-buy-products-made-with-forced-labor/

[5] https://www.reuters.com/world/india/india-ban-import-goods-made-using-forced-labour-2026-07-14/ (India); https://www.whitehouse.gov/fact-sheets/2026/02/fact-sheet-trump-administration-finalizes-trade-deal-with-indonesia/ (Indonesia)

[6] https://www.fas.usda.gov/data/production/2631000

[7] Namrata Sen, "Malaysia Becomes First Country to Declare US Trade Deal 'Null and Void' After Supreme Court Tariff Ruling," Benzinga, Mar. 16, 2026.

[8] https://ustr.gov/about/policy-offices/press-office/press-releases/2026/march/ustr-initiates-section-301-investigations-relating-structural-excess-capacity-and-production

[9] https://www.bis.gov/about-bis/bis-leadership-and-offices/SIES/section-232-investigations

[10] https://www.whitehouse.gov/presidential-actions/2026/04/adjusting-imports-of-pharmaceuticals-and-pharmaceutical-ingredients-into-the-united-states/

[11] https://www.supplychaindive.com/news/us-imposes-tariffs-over-forced-labor-before-global-duty-ends/825951/

[12] See, e.g., https://ustr.gov/sites/default/files/files/Press/Releases/2026/FLIP%20301%20Investigation%20Final%20Action%20FRN%207-23-26%20FINAL.pdf (Singapore)

[13] https://www.theguardian.com/business/2026/jul/24/trump-tariffs-uk-disadvantage-eu-turnberry-competition

[14] https://ustr.gov/sites/default/files/files/Press/Releases/2026/FLIP 301 Investigation Final Action FRN 7-23-26 FINAL.pdf

[15] https://ustr.gov/sites/default/files/files/Press/Releases/2026/FLIP%20301%20Investigation%20Final%20Action%20FRN%207-23-26%20FINAL.pdf