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USTR Section 301 Investigations and the Evolving U.S. Tariff Regime – From the Perspective of Japanese Businesses

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OVERVIEW

The U.S. tariff landscape is in active transition. Following the Supreme Court's February 2026 decision holding that IEEPA does not authorize presidential tariffs, the administration has shifted to Section 301 of the Trade Act of 1974 as its principal vehicle to impose new trade measures. On June 2, 2026, USTR released proposed findings from its forced-labor investigation covering 60 economies, including Japan, and proposed additional tariffs that would apply at a 12.5% rate to Japan.

Section 301 is the Trade Act mechanism that allows USTR to investigate whether a foreign country's acts, policies, or practices are unreasonable or discriminatory and burden or restrict U.S. commerce, and, after notice-and-comment procedures, to recommend responsive measures such as additional duties. In practical terms, it is the statutory basis for the China tariffs first imposed in 2018 and now serves as the administration's most durable alternative to the invalidated IEEPA tariff program.

Foreign businesses should now expect a more formal but potentially longer-lasting tariff regime, with multiple overlapping authorities and a material risk that new Section 301 duties will be layered onto existing product-specific duties.

SECTION

122

SUNSET

After the IEEPA tariffs were struck down, the administration imposed a temporary 10% global surcharge under Section 122 of the Trade Act of 1974. That authority is limited to 150 days and is expected to expire on July 24, 2026 absent congressional action, which at present appears unlikely. Although the Court of International Trade ruled in May that the Section 122 surcharge exceeded statutory authority, the Federal Circuit has stayed that decision pending appeal, so the surcharge remains in effect for now.

The practical question is what replaces Section 122 when it sunsets. Current indications are that the administration intends to use Section 301 to avoid a gap in coverage, which is consistent with the timing of the ongoing investigations and recent commentary from trade analysts and industry groups.

BILATERAL AGREEMENTS AND TARIFF CAPS

In the case of Japan, the U.S.-Japan framework deal reached in 2025 established a 15% baseline tariff treatment for most Japanese imports, inclusive of existing MFN duties for covered goods. Japanese officials have therefore argued that newly proposed tariffs should not upset the agreed ceiling.

On June 4, 2026, USTR Jamieson Greer stated that the United States would honor tariff caps contained in bilateral deals with Japan, the European Union, and others, saying in substance that "a deal is a deal." The important qualification, however, is that the administration appears to view Section 301 as a separate legal basis that can operate within or alongside those agreements, leaving open the possibility that product-specific tariff stacking could still drive effective rates above 15% for some imports.

For Japanese companies, that means the bilateral deal remains relevant but may not function as a complete ceiling against all future duties. Companies that priced transactions or supply chains assuming a hard 15% cap should revisit those assumptions.

SECTION 301 OUTLOOK

USTR is currently pursuing two Section 301 tracks that matter for Japan. First, the forced-labor investigation has already produced proposed findings and a proposed 12.5% tariff rate for Japan, with comments due July 6 and a hearing set for July 7, 2026. Second, USTR separately launched an excess-capacity investigation in March 2026 that also includes Japan and could lead to additional sector-specific tariffs later this year.

As a long-term matter, Section 301 tariffs are more durable than the IEEPA tariffs because Section 301 expressly contemplates trade remedies, requires a developed administrative record, and does not carry the built-in 150-day sunset that limits Section 122. That said, the breadth of the new investigations makes litigation likely, especially because USTR is using Section 301 on a multi-country scale broader than its classic country-specific applications.

WHAT JAPANESE COMPANIES SHOULD WATCH

- The July 24, 2026 sunset of the Section 122 surcharge and whether Section 301 measures are finalized before then.
- Whether the final forced-labor tariffs on Japan remain at 12.5% or are adjusted after comments and the public hearing.
- Whether USTR's excess-capacity investigation results in additional duties on industrial, automotive, electronics, or machinery products from Japan.
- Whether the United States treats the 15% bilateral cap as a true ceiling or permits additional tariff stacking under separate statutory authorities.

CONCLUSION

While a Supreme Court decision invalidating IEEPA tariffs would be legally significant, the practical path to recovery for affected businesses is neither simple nor guaranteed. Importers must navigate complex administrative procedures, meet strict deadlines, and potentially litigate to secure refunds. Those who passed tariff costs to customers face additional considerations around contractual obligations, unjust enrichment, consumer protection compliance and potentially sensitive relationship concerns. The enforcement of refund rights often requires not only favorable legal rulings but also diligent follow-through, precise documentation, and, in many cases, cooperation or resolution of disputes with commercial counterparties.

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