



## **WRITTEN SUBMISSION OF THE NATIONAL FOREIGN TRADE COUNCIL**

### **Request for Comments on the Section 301 Investigations of Acts, Policies, and Practices of Certain Economies Relating to Structural Excess Capacity and Production in Manufacturing Sectors** **Docket ID: [USTR-2026-0067](#)**

The National Foreign Trade Council (NFTC) appreciates the opportunity to provide input for the Office of the U.S. Trade Representative's (USTR) Federal Register notice, *Request for Comments on the Section 301 Investigations of Acts, Policies, and Practices of Certain Economies Relating to Structural Excess Capacity and Production in Manufacturing Sectors* ("the FR Notice") (Vol. 91 No. 51 FR 12889, March. 17, 2026). The comments in this submission apply to all countries that are the subject of this investigation: China, the European Union, Singapore, Switzerland, Norway, Indonesia, Malaysia, Cambodia, Thailand, Korea, Vietnam, Taiwan, Bangladesh, Mexico, Japan, and India.

#### **About NFTC**

The NFTC, organized in 1914, is an association of U.S. business enterprises engaged in all aspects of international trade and investment. Our membership covers the full spectrum of industrial, commercial, financial, and service activities. Our members support establishing and maintaining international trade norms that reflect the critical role that an open, rules-based international economy plays in the success of American businesses, entrepreneurs and workers, and shared prosperity. The NFTC also supports the effective enforcement of those rules.

#### **I. Introduction**

NFTC recognizes that persistent structural excess capacity can create market instability and other challenges for affected industries. However, structural excess capacity rarely exists in a vacuum; it is driven by non-market policies, including subsidies, state direction of investment, and other forms of aggressive state intervention. These are longstanding and extraordinarily complex issues that require a coordinated approach in conjunction with key trade partners so that capacity is not shifted from market to market.

We are concerned that a unilateral tariff-focused remedy will be ineffective at addressing the complex causes of overcapacity and will simply result in added long-term tariff costs on U.S. businesses.

#### **II. Trade Surpluses Do Not Indicate Structural Excess Capacity**

In the FR Notice, USTR identifies a goods trade surplus as evidence of structural overcapacity in each of the sixteen countries covered by this investigation. The NFTC

[noted](#) its concern with relying on goods trade surpluses alone as an indicator of non-reciprocal or distortionary trade practices in response to USTR's Federal Register notice seeking input on unfair and non-reciprocal foreign trade practices (Docket Number USTR-2025-0001). Many of our comments in that submission are applicable to this investigation.

Bilateral goods trade imbalances simply mean that the United States imported more goods from a trade partner than we sold to them. The balance of goods trade is shaped by broader macroeconomic factors, including differences in income, population, and overall consumption potential, as well as savings and investment patterns. The goods demanded in a country as large and wealthy as the United States would be expected to exceed the needs of smaller and/or poorer countries. Indeed, many U.S. imports such as equipment, inputs, and raw materials are essential to support U.S.-based manufacturing production and exports. Moreover, the goods trade balance does not provide a complete picture of the United States' bilateral trade relationships since it does not account for services exports, in which many countries maintain a trade deficit with the United States. Indeed, looking narrowly at goods trade and not taking into consideration the globally dominant position of the U.S. services sector as a source of export-led job creation and the source of more than two-thirds of U.S. GDP, overstates the economic impact of goods' trade imbalances with U.S. trading partners. In sum, a bilateral goods surplus may not, on its own, constitute evidence of conduct actionable under Section 301.

### **III. Risks for U.S. Interests**

Producing in excess of domestic consumption is a common feature of globally competitive and export-oriented industries and does not, in itself, constitute structural excess capacity arising from non-market behavior. For example, many successful U.S. agriculture exports are driven by incentivized production that exceeds domestic consumption.

NFTC is concerned that if USTR relies on domestic production levels that exceed domestic consumption as evidence of unjustifiable conduct that is actionable under Section 301, there is a risk that other countries may apply that same standard to U.S. exports in sectors where U.S. producers dominate. Thus, this Section 301 investigation and any actions taken in response carry implications beyond the immediate investigation that may inadvertently target leading U.S. exports for retaliatory or protectionist measures.

### **IV. Section 301 Tariffs Are Unlikely to Resolve Overcapacity Concerns**

Section 301 was developed to provide the President with authority to take a range of actions to secure the elimination of specific acts, policies, and practices that burden or restrict U.S. commerce. For this investigation, USTR has identified structural overcapacity using broad indicators, including the existence of a goods trade deficit or unused manufacturing capacity, rather than citing specific acts, policies, or practices of the targeted government that, if eliminated, would resolve the overcapacity concern. As noted in Section II above, structural overcapacity arises from a range of government market interventions. It is the elimination of these underlying measures that would contribute to reducing the harmful effects of structural overcapacity. These measures

are complex and persistent and require a coordinated approach from aligned trade partners to secure the elimination of excess capacity globally. It is difficult to see how a unilateral tariff applied to a limited list of predominantly U.S. allied trade partners will be effective in achieving the desired result.

The NFTC encourages USTR to prioritize the opportunity for negotiations with countries covered by this investigation to seek the removal of specific measures that may be contributing to overcapacity in key sectors (e.g., ending subsidies or non-market interventions). USTR should negotiate with trade partners to develop a coordinated approach to target the most egregious contributors to global overcapacity to ensure that capacity is not simply shifted from one market to another in response to Section 301 actions.

## **V. Section 301 Tariff Implementation Considerations**

If USTR nevertheless were to determine that tariffs are an appropriate remedy for overcapacity, NFTC urges that they be implemented in a manner that minimizes economic disruption for consumers and administrative complexity for U.S. importers. Over the last year, the Administration made several decisions regarding the design and implementation of tariffs to address administrability concerns and unintended consequences for U.S. consumers and manufacturers. We urge USTR to incorporate those elements into the structure of any tariffs imposed in this or other investigations under Section 301.

In particular, NFTC urges USTR to ensure any Section 301 tariffs imposed as a result of this investigation reflect the following to provide continuity between the IEEPA tariff regime and any new Section 301 tariffs:

- Ensure the stacking Section 301 of tariffs is consistent with past practice for tariffs imposed under IEEPA and Section 122 (e.g., excluding products that are covered by a Section 232 investigation);
- Maintain the exclusions provided in Annexes II and III of the July 31 Executive Order [\*Further Modifying Reciprocal Tariff Rates\*](#) under IEEPA and Annexes I and II of the February 20 Section 122 Proclamation [\*Imposing a Temporary Import Surcharge to Address Fundamental International Payments Problems\*](#) (e.g., for products that are otherwise not available in the United States, including critical inputs and natural resources);
- Exempt qualifying goods under the United States-Mexico-Canada Agreement; and
- Provide access to duty drawback and adequate transition periods, including exclusions for goods that are on the water in transit to the United States by a certain deadline.

In addition to reflecting past treatment of IEEPA and Section 122 tariffs, the NFTC encourages USTR to provide for a transparent and accessible process to provide a pathway to exclusions for products not previously covered by an IEEPA or Section 122 annex; set clear objectives for each investigated country to eliminate any overcapacity; conduct periodic reviews of progress toward these objectives; and terminate Section 301 tariffs when the objectives have been met. Finally, the NFTC urges USTR to take a uniform approach to Section 301 tariffs that may be imposed in response to this

investigation and avoid the overwhelmingly complex and burdensome compliance situation that would result from stacking multiple tariffs onto individual imports] for different countries and/or industries.

## **VII. Conclusion**

The NFTC appreciates USTR's willingness to engage stakeholders through this public consultation process. We would welcome the opportunity to remain engaged throughout the course of this investigation and as the agency considers any potential remedies.

We appreciate the opportunity to provide these comments and look forward to continued engagement with USTR. Should USTR or the Section 301 committee have questions regarding any of the issues raised in this submission, please contact NFTC's Vice President of Global Trade Policy, Tiffany Smith, at [tsmith@nftc.org](mailto:tsmith@nftc.org) or 202-826-9010.