



USTR initiates Section 301 investigations over excess global capacity: Potential Implications for India

I. BACKGROUND

On March 11, 2026, the Office of the U.S. Trade Representative (**USTR**) initiated new investigations under Section 301 of the U.S. Trade Act of 1974 into alleged structural excess capacity and production in manufacturing sectors of several economies, including India.

The investigations focus on the concern that certain trading partners have developed manufacturing capacity that significantly exceeds domestic and global demand, often supported by state policy. According to the USTR, such conditions may contribute to persistent trade surpluses and global overproduction that adversely affect U.S. manufacturers and workers.

These investigations are being largely viewed as a tool to replace the recent reciprocal tariffs that were imposed by the U.S. President under the International Emergency Economic Powers Act (**IEEPA**) and have been struck down by the U.S. Supreme Court in *Learning Resources, Inc. v. Trump President of the United States*.

In these investigations, USTR will examine economies that appear to have structural excess manufacturing capacity including China, India, and several ASEAN and East Asian countries.¹

II. LEGAL BASIS: SECTION 301 OF THE U.S. TRADE ACT

Section 301 authorizes the USTR to investigate and respond to foreign government acts, policies or practices that are considered unreasonable, discriminatory, or otherwise burden or restrict U.S. commerce.

The provision forms part of U.S. domestic trade law and operates independently of WTO trade remedy disciplines.

Historically, Section 301 has been used in a range of contexts including:

- intellectual property protection
- digital trade restrictions
- market access barriers
- industrial subsidies and technology transfer practices

In the present investigations, the USTR is examining whether State policies contributing to structural manufacturing overcapacity constitute actionable practices.

¹ USTR initiation notice identifies China, the European Union, Singapore, Switzerland, Norway, Indonesia, Malaysia, Cambodia, Thailand, Korea, Vietnam, Taiwan, Bangladesh, Mexico, Japan, and India, as economies that appear to exhibit structural excess capacity and production.

- promoting production and export untethered from market drivers of supply, demand, and investment, through subsidies;
- suppressing domestic wages;
- non-commercial activities of state owned enterprises;
- sustained market access barriers;
- inadequate environmental or labor protection or social safety net;
- subsidized lending;
- financial repression and currency practices.

If USTR finds the practices “*actionable*”, the U.S. administration can impose additional customs duties, quotas, licensing restrictions or other non-tariff measures on imports from the concerned country and can also suspend any existing trade concessions.

III. INVESTIGATION PROCESS AND TIMELINES

- **Initiation:** The investigations have been initiated on **March 11, 2026**.
- **Creation of Trade Policy Staff Committee:** Section 301 investigations are conducted by a “*Section 301 Committee*”, established as a subordinate, staff-level body of the USTR-led, Trade Policy Staff Committee (TPSC). This Section 301 committee will investigate the issue, conduct public hearings and make recommendations to the TPSC regarding potential actions under Section 301. USTR bases its decision on recommendations provided by the TPSC.
- **Public comment phase and hearings:** The USTR will open electronic dockets for submission of written comments and requests to appear at hearings on 17 March 2026.
 - Deadline for written comments and hearing requests: 15 April 2026
 - Public hearings: 5–8 May 2026 (Washington D.C.)
 - Post-hearing rebuttal comments: 7 days following the hearing

Exporters, industry associations and other stakeholders may participate in these proceedings.

- **Consultations:** Following initiation, the USTR must request consultations with the governments concerned. These consultations provide an opportunity for the Government of India to contest the characterisation of structural overcapacity and seek to prevent or limit potential trade measures.
- **Determinations and Implementation:** Following consultations, USTR conducts an investigation to determine if the alleged conduct is unfair and harms U.S. trade and whether to take retaliatory action. Section 301 divides actions into mandatory and discretionary categories. They are as follows:
 - If USTR concludes there is a violation of a trade agreement or that an act, policy, or practice of a foreign government is “unjustifiable” and “burdens or restricts” U.S. commerce, action is mandatory.
 - On the other hand, if the USTR determines that an act, policy, or practice of a foreign government is “unreasonable” or “discriminatory” and “burdens or restricts” U.S. commerce, action is discretionary.

USTR generally aims to make this determination within about 12 months of initiation, though timelines can vary. If it finds a violation, USTR then decides what remedial action to take. However, public reports indicate that USTR aims to conclude the Section 301 investigations before the temporary tariffs imposed by the U.S. President expire in July.

- **Retaliatory Action:** If action is imposed, USTR must seek public comment on proposed measures and can later modify, suspend or terminate them.

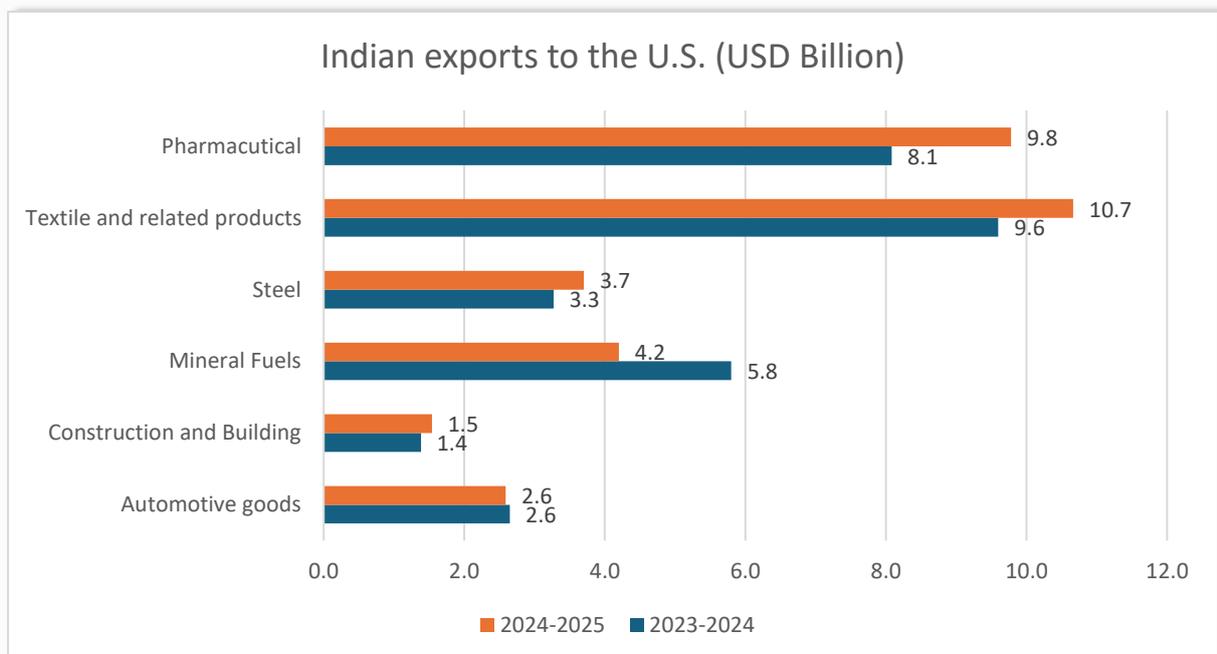
- **Timelines:** Section 301 actions are formally time-bound to four years but can be extended following a review and requests from interested parties. This means measures can, in practice, remain in place or be adjusted over a longer horizon.

IV. SCOPE OF CURRENT INVESTIGATION AGAINST INDIA

The USTR notice identifies India's bilateral goods trade surplus with the U.S. and highlights sectors where it believes there is structural excess capacity. The initiation notice states that in 2025, India had a bilateral trade surplus of USD 58 billion with the U.S. and India's global goods trade surplus sectors include textiles, health, construction goods, and automotive goods. Further, it also states that India has also created significant excess capacity in petrochemicals, steel, and other industries. These sectors are illustrative, and additional industries may also fall within the scope of the investigation.

V. EXPOSURE OF INDIAN SECTORS

The sectors highlighted in the Initiation Notice together represent roughly USD 32.5 billion in Indian exports to the U.S., constituting around 38% of total outbound trade. Their export volumes are depicted in the chart below:



In sum, the new Section 301 investigations mark a formal escalation of U.S. scrutiny of India's industrial capacity and export surpluses in several key sectors.

VI. NEXT STEPS FOR INDIAN BUSINESSES

Although the investigation does not immediately result in new duties, it creates the possibility of future trade restrictions.

Indian exporters may therefore consider the following actions:

- **Immediate internal assessment:** Indian exporters should map their exposure to the U.S. market across the highlighted sectors (solar, steel/metals, petrochemicals/chemicals, textiles & apparel, autos, construction-related goods). They should review their supply chains and pricing structures to assess their ability to absorb or pass through any potential tariff increases.

- **Participation in the USTR process:** Indian exporters may consider engaging in the investigations themselves, or through trade associations, and key U.S. customers. Submissions can provide evidence that exports are driven by commercial factors rather than state-supported excess capacity.
- **Contractual and commercial safeguards:** Businesses may consider reviewing their existing and new contracts with U.S. buyers to clarify tariff and trade-policy risk allocation including price adjustments or renegotiation clauses triggered by material tariff or non-tariff changes.
- **Market diversification:** Where feasible, exporters may also consider diversifying markets, product lines or production locations to reduce exposure to potential U.S. trade measures.

VII. CONCLUDING OBSERVATIONS

The new Section 301 investigations signal an expansion of U.S. trade policy scrutiny beyond traditional subsidy or market-access issues toward industrial capacity and structural trade imbalances.

While the process remains at an early stage, it could ultimately lead to significant additional tariffs or other trade restrictions affecting a number of Indian export sectors. Early engagement in the investigation process and careful assessment of commercial exposure will therefore be important for businesses operating in the affected industries.

We trust you will find this an interesting read. For any queries or comments on this update, please feel free to contact us at insights@elp-in.com or write to our authors:

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