



Policy Note

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THE US SUPREME COURT RULES AND FUTURE PROSPECTS OF TRUMP'S TARIFF GAMBIT

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The Supreme Court Strikes Down IEEPA Tariffs

On February 20, 2026, the Supreme Court of the United States ruled, by a majority of six to three, that the International Emergency Economic Powers Act (IEEPA) does not provide a legal basis for the Trump administration to impose sweeping tariffs. The decision sent shockwaves through financial markets and foreign capitals alike. IEEPA tariffs—encompassing both the reciprocal tariffs and the fentanyl-related tariffs—accounted for roughly 70 percent of the United States' total tariff architecture. The ruling thus struck at the very heart of the most powerful economic and foreign policy instrument that President Trump has wielded since taking office.

The IEEPA formed the statutory backbone of President Trump's so-called Liberation Day tariff, announced on April 2, 2025, which imposed sweeping import duties on most of the United States' trading partners—allies and adversaries alike. The measure drove the average US tariff rate from approximately 2.6 percent to 16.9 percent, the highest level since 1946, according to the Budget Lab at Yale University (2025). For President Trump, tariffs have served as an omnipotent policy instrument to address a cluster of economic grievances: large and persistent trade deficits, eroding manufacturing capacity, and a swelling federal debt. He has also deployed them as a foreign policy

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cudgel, claiming that the threat of tariffs helped resolve five of the eight wars he settled (Trump 2026). In his words, tariffs have made the United States the “hottest” economy in the world.

The empirical record, however, tells a very different story. The United States’ goods trade deficit reached \$1.24 trillion in 2025 (Mutikani 2026), a 2.1 percent increase over 2024, suggesting that tariffs have done little to rebalance trade flows. Despite White House proclamations that the threat of tariffs has attracted trillions of dollars in foreign investment commitments, manufacturing employment continued to decline: the sector shed 88,000 jobs from January to December 2025 (seasonally adjusted). Meanwhile, US consumers and firms have borne the overwhelming burden of the tariff revenue collected. According to a recent study by the Federal Reserve Bank of New York, approximately 90 percent of the roughly \$175 billion generated by IEEPA tariffs has been paid by domestic consumers and businesses (Amiti et al. 2026). Tariffs function as a regressive consumption tax, falling disproportionately on middle- and low-income households, suppressing consumption demand and worsening income distribution. The erratic, stop-start process of rolling these tariffs out—with frequent reversals and exemptions—has compounded the damage by intensifying uncertainties and hindering business investment. Far from being the “hottest,” the US economy recorded GDP growth of just 1.4 percent in the fourth quarter, yielding an annual growth rate of 2.2 percent, the lowest since 2022. At the geopolitical level, the United States’ unilateral tariff strategy has eroded its credibility as a reliable trading partner: its share of global trade has slipped from 11 percent to 10 percent since President Trump took office, diminishing America’s global economic footprint and diplomatic leverage.

The Legal Architecture of the Ruling

The Supreme Court’s ruling was not unexpected. Trump’s tariff regime had already been found unlawful by two lower courts. The IEEPA, enacted in 1977 as a revision of the Trading with the Enemy Act of 1917, was originally designed as a Cold War instrument, authorizing the president to freeze assets, impose financial sanctions, and sever market access in response to extraordinary threats to national security or foreign policy. The Supreme Court held that the authority the IEEPA grants to the president to “regulate” importation does not encompass the power to impose taxes or tariffs. Chief Justice Roberts, writing

for the majority, noted that IEEPA contains no explicit reference to “tariffs,” “duties,” or “taxes,” and that the word “regulate,” in the context of the statute, does not confer revenue-raising authority to the president. Roberts further invoked the “major questions doctrine,” holding that a unilateral executive expansion of power as significant as the imposition of sweeping import tariffs requires “clear congressional authorization”—something the IEEPA plainly does not provide. The Court also underscored the historical anomaly of Trump’s actions: in IEEPA’s nearly 50-year history, no president had ever used the statute to impose tariffs.

Trump’s Response: Doubling Down

The ruling would have presented an opportunity for the administration to course-correct, given the demonstrable economic costs of the tariff gambit. Instead, President Trump’s reaction was to condemn the ruling and redouble his commitment. At a press conference shortly after the decision, he denounced the Court’s ruling as a “disgrace” and levelled unfounded accusations that the justices had been “swayed by foreign interests.” He reserved ire for the two conservative justices, Justice Gorsuch and Justice Barrett, he himself had appointed but who joined Chief Justice Roberts in the majority. He then announced two immediate moves: first, the imposition of a 10 percent global tariff under Section 122 of the Trade Act of 1974; and second, the launch of new investigations under Section 301 and other tariff-enabling authorities. He insisted that, while the Supreme Court had stripped him of IEEPA, his administration retained a broad toolkit to impose tariffs that could be even higher.

Alternative Tariff Authorities: Scope and Limitations

Section 122 of the Trade Act of 1974 permits the imposition of import tariffs of up to 15 percent, or equivalent import quotas, to address international balance-of-payments difficulties. It is designed to be a temporary measure, expiring after 150 days unless Congress authorizes an extension. The provision has never been invoked for the straightforward reason that the United States, even while running persistent trade deficits since the 1970s, has always been able to meet its external payment obligations simply by creating US dollars. The legality of invoking Section 122 in current circumstances will almost certainly be challenged on the grounds that the United States

does not, in fact, face an international payments problem in the statutory sense. The provision also requires that any tariff be applied on a non-discriminatory basis across trading partners, though it does permit the president to exempt countries that do not maintain large and persistent bilateral surpluses with the United States, and to carve out specific products. The blanket 10 percent global tariff President Trump proclaimed on February 20 was subsequently raised to 15 percent the following day, with carve-outs for Canada, Mexico, and for certain agricultural commodities, including beef, tomatoes, and oranges. Even so, the statutory ceiling of 15 percent offers significantly less bite than the reciprocal tariffs—which ranged between 10 and 41 percent—affording some trading partners meaningful relief. The mandatory non-discriminatory application also blunts President Trump’s negotiating leverage: differential tariff rates have been his primary bargaining chip. It is unlikely that a Republican-controlled Congress, wary of economic disruption, will authorize an extension. Section 122 is best understood as a holding measure—a mechanism used to buy time while the administration assembles a more durable legal framework.

Section 301 of the Trade Act of 1974 is likely President Trump’s most potent next move. To invoke it, the United States Trade Representative must investigate violations of trade agreements and unfair trading practices by foreign nations. Section 301 carries no statutory tariff cap and imposes duties that are, in principle, applied for four years but are renewable. At the post-ruling press conference, USTR Jamieson Greer described Section 301 as “incredibly legally durable,” sending the signal that the administration intends to use it as the primary vehicle for rebuilding the US tariff wall.

Section 232 of the Trade Expansion Act of 1962 offers another avenue. It authorizes the president to impose tariffs, quotas, or other trade restrictions on imports deemed to threaten national security, following an investigation by the Department of Commerce. It permits sector-specific duties at uncapped rates and of indefinite duration. While it was historically used to protect domestic oil production, the Trump administration has already deployed it to impose 50 percent tariffs on steel, aluminum, copper, automobiles, auto parts, lumber, and furniture products such as kitchen cabinets. It could be wielded against any country heavily dependent on a narrow range of exports to the United States—such as automobiles or pharmaceuticals—as leverage in bilateral negotiations.

Two further instruments are under consideration. Section 201 of the Trade Act of 1974 authorizes tariffs to protect domestic industries against import surges that cause “serious injury.” It requires an investigation and public hearings conducted by the International Trade Commission. There is no statutory cap, though historically Section 201 tariffs have added between 20 and 50 percent on top of existing duties. Measures under Section 201 may be imposed for an initial period of four years and extended to a maximum of eight years, with duties required to be phased down progressively. It has been used previously against imports of solar panels and washing machines. Finally, Section 338 of the Tariff Act of 1930 authorizes retaliation against countries that discriminate against American commerce; the president simply declares that discrimination exists and may impose tariffs or ban imports outright. Despite being on the books for nearly a century, Section 338 has never been used—most likely because of the difficulty of establishing a cognizable act of “discrimination” and due to the legal uncertainty surrounding its application, particularly in light of the United States’ World Trade Organization commitments.

Implications for US–China Trade Relations

The invalidation of IEEPA tariffs will reduce China’s effective tariff rate from the current 36.8 percent to approximately 21.2 percent (Evenett 2026)—a meaningful but incomplete reprieve. China’s export performance has proved resilient and formidable even under the IEEPA tariff regime: it has rapidly diversified its trade relationships toward non-US markets while steadily upgrading the value-added content of its exports. The bilateral tension between Washington and Beijing extends well beyond tariffs and looms large across a range of contested domains: US technology export restrictions, the designation of Chinese firms on the Commerce Department’s Entity List, and deeper structural disputes over industrial policy and market access. These issues will require sustained, high-level diplomatic engagement to address. President Trump’s scheduled visit to China may yield an extension of the tariff truce (with Section 122 replacing IEEPA tariff) reached after the Busan meeting last October and make incremental progress on some outstanding disputes. But the removal of IEEPA tariffs, while a constructive development, plays a positive rather than decisive role in stabilizing the broader US–China relationship.

Conclusion: Recalibration Without Resolution

The Supreme Court's ruling on IEEPA is a watershed moment in the ongoing struggle over the boundaries of executive power in the United States. By striking down the legal foundation of the administration's most sweeping tariff measures, the Court has reaffirmed that presidential authority, however broad, is not unlimited—and that imposing taxes on the American public requires clear congressional sanction. The ruling is a major setback for President Trump, not merely because it dismantles his signature economic instrument, but because it exposes the fragility of a trade policy built on executive fiat rather than on durable statutory authority.

It would, though, be premature to conclude that the Court's decision marks the end of President Trump's tariff ambitions. The administration has made clear that it views the ruling not as a constitutional rebuke, but as an invitation to recalibrate. The pivot to Section 122, Section 301, and Section 232 signals that the tariff wall will be rebuilt on different legal foundations—some more tested than others. The transition, however, is unlikely to be seamless. Once Section 122's 150-day clock expires, the scope, rates, and sequencing of new tariffs will once again become matters of executive discretion, heightening the very uncertainty that has already chilled business investment and strained trading relationships.

The short-term relief to trading partners should also not be mistaken for a lasting reprieve. Countries that reached trade deals under the shadow of IEEPA tariffs may choose to honor their commitments to avoid antagonizing President Trump and inviting Section 301 investigations, but they also now see the limits of Trump's executive power. Investment pledges may slow, especially at the corporate level in the face of intensifying uncertainties. Trade diversification away from the United States, already underway, will likely continue. The administration's aggressive posture has damaged America's reputation as a predictable, rules-based trading partner in ways that will outlast any individual tariff measure.

Ultimately, the Supreme Court has handed the administration an opportunity that it has, so far, declined to take: a chance to construct a trade policy that is both legally sound and economically coherent. A durable approach to addressing trade imbalances, rebuilding manufacturing, and competing with China will require congressional engagement, multilateral coordination, and a willingness to distinguish between strategic sectors and political theater. Without that

pivot, the recalibration now underway risks repeating, in a different legal register, the same cycle of uncertainty, disruption, and diminishing credibility that has defined the tariff gambit from the outset. The Court has drawn a line. Whether the administration chooses to work within it—or to spend the next two years testing its limits—will determine whether President Trump's trade legacy is remembered as bold statecraft or an expensive lesson in wielding unilateral power.

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