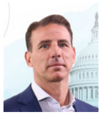
Shifting Trade Winds: A New Era of Tariff Policies

Exploring the far-reaching impacts of Trump's tariff policies on global trade, market stability, and the legal landscape.



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President Donald Trump's recent tariff policies represent one of the most significant shifts in US trade policy in the last century. The Trump administration unveiled a multi-pronged approach to tariffs on April 2, a universal 10% tariff on all imports effective April 5, and country-specific reciprocal tariffs targeting over 60 nations effective April 9. Less than 24 hours after the reciprocal tariffs went into effect, Trump called for a 90-day pause on reciprocal tariffs for most countries, excluding China.

Key Points

- The Trump administration's agenda continues to influence Washington, with tariffs and tax policy remaining key focal points.
- Ongoing uncertainty regarding tariff and trade policies is expected, with potential legal challenges on the horizon.
- Republicans in Congress have successfully navigated the initial phase of the budget-reconciliation process, but critical decisions still lie ahead.

Ripples in the Market

The approach triggered substantial market volatility, industry disruption, and strategic recalibration across the global economic landscape.

Team Trump's strategy of using uncertainty to gain leverage led to significant market instability, and the fluctuations in tariff policies ushered in an array of consequences that resonated throughout various industries, financial markets, and global supply chains. Although some domestic manufacturers may benefit in the short term from enhanced protections, the broader impact is extensive and multifaceted. Increasing supply-chain disruptions are becoming more and more apparent, compounded by inflationary pressures that risk diminishing consumer purchasing power.

Moreover, the heightened market volatility is underscored by the fact that, in the week following Trump's tariff announcements, major indices experienced sharp declines, followed by one of the strongest recoveries in recent history.[1] This roller-coaster ride underscores the ongoing uncertainty faced by investors and businesses alike, prompting a need to reassess navigating this unpredictable landscape.

Industries with intricate international supply chains, notably automotive, technology, and consumer goods, face particularly daunting challenges in navigating this new and uncertain trade terrain. The potential for retaliatory measures from allies and trading partners continues to loom large, adding another layer of risk to an already turbulent market scenario.

While the flurry of activity in Washington around issues such as the Department of Government Efficiency (DOGE), immigration, and various executive orders persists, the main focus for now will be on tariff policy and tax policy via the "one big, beautiful" reconciliation bill.

Legal Labyrinth

Trump's market-rattling tariff policies are escalating a global trade war and sparking recession fears, and legal challenges to the president's authority to impose the tariffs will likely be filed in multiple federal courts. Even though reciprocal tariffs were lifted, the 10% across-the-board tariff, as well as other sectoral tariffs, remain in place.

[1] CNBC, "The Market Rips Higher on Trump's Tariff Pause," 4/9/25.

It's unclear whether federal judges will second-guess the president's declaration of a national emergency to address what he described as harmful foreign trade and economic practices. The justification for his aggressive tariff policy, the statutory authority to use tariffs, and the legal scope of such tariffs remain uncertain.

The upcoming judicial battles could significantly impact investors, as potential suspension or disruption of the current tariff policy, and the resulting legal uncertainty affecting the administration's leverage, could further impact market conditions.

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IEEPA in Action

The administration has thus far relied on the International Emergency Economic Powers Act (IEEPA) to implement the president's tariff policies. Unlike other tariff statutes, the IEEPA allows Trump, after identifying a national emergency, to bypass time-consuming and procedural hurdles normally required before adopting new tariff policies. In this case, Trump claims that trade imbalances and risk to supply chains constitute a national emergency.

Under the IEEPA, a national emergency is "any unusual and extraordinary threat to the national security, foreign policy, or economy of the US" that emerges substantially from outside the country. Upcoming legal challenges will test the president's declaration that longstanding trade imbalances qualify as a national emergency, but federal judges may not have the stomach to jump down that rabbit hole.

While such matters may be litigated, they're unlikely to succeed as a line of attack. Federal courts are generally reluctant to scrutinize the details and basis of a president's national-security and foreign-policy judgment. These are considered political and policy decisions outside the judiciary's expertise.

However, the use, scope, and duration of the tariffs are fair game. The word "tariff" doesn't appear in the IEEPA and the Trump administration is relying on general language that allows the regulation of imports as one of the tools to address the declared national emergency. At the same time, Congress has passed laws specifically addressing tariff authority, including the Trade Expansion Act of 1962 and Trade Act of 1974. The IEEPA was passed in 1977 and has never been used to impose tariffs on imported products.

Presidential Precedent

So, can the president impose tariffs under the IEEPA? About 50 years ago, President Richard Nixon imposed import duties under the Trading with the Enemy Act—the predecessor to the current IEEPA. A federal appeals court upheld Nixon's tariff authority but noted such power is limited and must be reasonably tailored to the declared national emergency. This precedent suggests that a tariff could be a legitimate means of regulating imports in response to the declared emergency.

Nevertheless, the IEEPA was among several laws enacted to address worries that the White House had acquired excessive power over trade and tariff regulations. The National Emergencies Act of 1976 and the IEEPA of 1977 were enacted to *curb* presidential power—not *expand* it. Congress, not the president, has the explicit constitutional tariff and taxing power. The president can only act through delegated powers granted by Congress.

Contingency Plans

The mere filing of credible lawsuits could have meaningful political effects. If judicial uncertainty over the viability of the new tariff policy becomes an issue, foreign governments may drag their feet in resolving trade issues with the Trump administration. A judicial defeat for the administration's reliance on the IEEPA would diminish the president's bargaining power, and that could have serious ramifications for Trump working his art of the deal. The administration would likely appeal any court setbacks and consider relying on other statutory provisions for tariff policies, but the timing and trajectory of the current policy would likely be adjusted.

Typically, cases that the Supreme Court (SCOTUS) agrees to review in the spring are scheduled for hearings in the term that begins in October. However, due to the significant impact of the president's tariff policy, these cases might be expedited and heard sooner. It wouldn't be surprising if multiple cases land in courts before Memorial Day, with Supreme Court appeals potentially moving forward by early summer. SCOTUS would probably call for expedited briefing, but given the political fluidity and policy volatility of the situation, the timing for resolution is highly speculative.

Reconciliation Reckoning

Growing concerns about Trump's far-reaching tariffs are colliding at a critical juncture to advance his broader agenda, particularly in the closely divided House. With Trump's backing, Speaker of the House Mike Johnson (R-LA) overcame a major hurdle to advance the Senate-amended budget-reconciliation resolution, narrowly securing a 216-214 victory in the House. Johnson and Trump once again managed to drag 15-20 reluctant conservatives over the finish line, despite their opposition to the Senate approach.

The reasoning behind the opposition to the Senate version is reflected in Budget Chairman Jodey Arrington's (R-TX) observation that the Senate response was disappointing, "creating $5.8 trillion in new costs and a mere $4 billion in enforceable cuts." Arrington also suggested that the Senate version sets a dangerous precedent by "direct scoring tax policy without including enforceable offsets."[2]

Rather than working out an agreement with the House on reconciliation, the Senate, under Majority Leader John Thune (R-SD), left the House's instructions to its committees intact and then inserted their own, very different instructions. Thus, the Senate's budget resolution calls for Senate committees to come up with a minimum of $4 *billion* in spending cuts, while House committees have instructions for at least $1.5 *trillion* in cuts.

The direct scoring that Arrington referred to is the Senate's use of a current policy baseline, which assumes no cost for extending about $3.8-4 trillion in tax provisions from the 2017 Tax Cuts and Jobs Act that are set to expire at the end of this year. The Senate resolution then provides for at least $1.5 trillion more in tax cuts. The House, on the other hand, uses the conventional baseline based on current law and provides instructions for $4.5 trillion in tax breaks. Another major difference is that the Senate instructs the Finance Committee to increase the debt limit by $5 trillion, while the House Ways and Means Committee is instructed to provide a $4 trillion increase.

House and Senate Republican leaders have decided to move forward with this approach to a budget resolution, intending to resolve differences between the two chambers later. They aim to craft one of the most challenging pieces of legislation ever, encompassing significant tax cuts, substantial spending cuts, and a possible debt-limit increase, along with defense, energy, and immigration policy. The challenge is considerable, as members from all walks of the Republican Conference have voiced concern over the House-Senate compromise budget resolution. The tension between House and Senate Republicans only adds to the uncertainty, underscoring the high stakes of this legislative effort and the delicate balance of trust that Johnson, Thune, and Trump are asking from Capitol Hill Republicans.

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[2] Direct scoring refers to evaluating the budgetary impact of tax policies directly, without considering the broader economic effects or requiring corresponding budgetary offsets.

The Road Ahead

Republicans in the House and Senate have been united in supporting the Trump agenda for the past 80 days. However, resistance to Trump's trade authority is emerging on Capitol Hill. Democrats, along with some Republicans, are seeking to slow down Trump's encroachment through legislation that curbs or limits his tariff orders. We don't give this effort much chance of passage, but we'll continue to watch this space as unease grows over the current tariff strategy among the Republican rank-and-file.

While the world waits and recalibrates to Trump's approach to trade, pressure is mounting on Capitol Hill to move Trump's domestic agenda forward and provide more clarity on the timing, size, and scope of tax cuts as well as budget cuts and action on the debt ceiling. Thune and Johnson continue to successfully steer the Senate and House through the arduous budget-reconciliation process and are keeping to the schedule they laid out earlier this year. Despite this, they're leaving the most difficult discussions and decisions for May and June, which means we may be well into the summer before we see a final vote on a reconciliation bill.

Talk to your financial professional to help make sure your portfolio is prepared for whatever happens in Washington, D.C.

About the Author:

James R. (JT) Taylor serves as Chief Political Strategist and Macro Policy Sector Head at Hedgeye Potomac Research. JT has extensive experience in both government and business in Washington, D.C., with a career spanning the legislative and executive branches as well as the financial-services industry. Prior to joining Potomac Research Group, he ran Pelorus Research, the US public-markets division of the Holdingham Group based in the United Kingdom. He previously led a policy research team as Managing Director at DeMatteo Monness. From 2002-2009, he was Managing Partner of Kemp Partners, a Washington, D.C.-based strategic consulting, business development, and marketing firm he founded with former Housing and Urban Development Secretary Jack Kemp in 2002. At Kemp Partners, he oversaw day-to-day operations and business development while managing client relationships in both the corporate arena and financial-service industries.