

After Supreme Court decision, Trump tariff war to intensify

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The US Supreme Court may have ruled that sweeping tariffs imposed by invoking an “emergency” under the 1977 International Emergency Economic Powers Act (IEEPA) were illegal, but the tariff war will go on and possibly even intensify.

That was the message from US President Trump after the Supreme Court in a 6-3 decision struck down his so-called “reciprocal tariffs” first unveiled last April and subsequently used to impose a series of shakedown deals on major US trading partners, including commitments from Japan and South Korea to make investments of hundreds of billions of dollars in the US.

Trump’s initial response was to announce the imposition of a 10 percent tariff on all goods coming into the US, later lifted to 15 percent, to come into effect from today.

In an action not carried out by any president before him, Trump has invoked the tariff under Section 122 of the 1974 Trade Act.

This provides for a tariff of up to 15 percent to be imposed for 150 days after which Congressional approval is required for an extension.

During the operation of the Section 122 tariff, which applies across the board and unlike the “reciprocal tariffs” under the IEEPA cannot be varied for individual countries, the Trump regime will seek a more permanent basis for its tariff regime, initially using Section 301 of the 1974 Trade Act.

In television interviews, Treasury Secretary Scott Bessent said the new tariffs would be temporary to ensure the continued inflow of money. He described the Section 122 imposts as a “five-month bridge during which studies on Section 232 tariffs and Section 301s are done.”

In a social media post over the weekend, Trump hinted that other means may also be developed.

“During the short number of months, the Trump Administration will determine and issue the new and

legally permissible tariffs, which will continue our extraordinarily successful process of Making America Great Again,” he wrote.

While he suffered a setback as a result of the decision, Trump made clear he was determined to press ahead using presidential authority.

“While I am sure they did not mean to do so, the Supreme Court’s decision made a president’s ability to regulate trade and impose tariffs more powerful, and more crystal clear,” he said.

The administration had considered for some time that the case would go against it—in line with lower court decisions—and had been making preparations.

Trump said that in response to the decision he would seek to use Section 301 of the 1974 Trade Act. This provides for the US to impose tariffs long-term if it is decided, after an investigation, that a country is engaged in unfair trade practices against the US.

While tariffs imposed by this means may be “potentially higher” than those previously imposed, they cannot be applied across board, as was the case with the “reciprocal tariffs,” but only on a country-by-country basis and the investigation which is required to precede their imposition can sometimes take months.

The administration has other weapons as well, the use of which could be extended. Section 232 of the 1962 Trade Expansion Act allows the president to impose tariffs on specific goods for “national security” reasons. It has already been used by Trump to impose tariffs on steel, aluminum as well as to initiate investigations into pharmaceuticals, semiconductors and other high-tech goods.

A key issue which has arisen as a result of the court decision is the fate of the “deals” imposed on a range of countries with the threat if they did not comply, they could be hit with massive “reciprocal tariffs.”

At this stage it appears that these so-called agreements

will largely remain intact, though there may be some maneuvering where a final deal has not been reached.

In a blog post over the weekend, international tariff expert Simon Evenett said the ruling did not lessen the leverage of the US because one threat would be replaced by another.

“For countries currently in negotiations with the United States, or with interim deals in place—such as Switzerland—the threat of high tariffs after the 150-day period remains, and arguably intensifies, the pressure to make concessions. Overall expect little change,” he wrote.

This was also the message delivered by the US trade representative Jamieson Greer when he spoke to the CBS program “Face the Nation” on Sunday.

“I’ve been telling them for a year—whether we won or lost, we were going to have tariffs, the president’s policy was going to continue. That’s why they signed these deals even while the litigation was pending.”

In other words, US trade partners were told that even if the reciprocal tariffs were struck down, they would be hit another way if they did not comply with US demands.

The deals with South Korea and Japan, which involved major concessions to the US in the form of investments, will remain in place because of the threat of auto tariffs not subject to the Supreme Court ruling.

The European parliament is meeting this week to consider the ratification of the so-called Turnberry agreement of last year—widely regarded as a capitulation by the European Union to the US.

The European Commission said it wanted “full clarity” on the next steps by the Trump administration. European Central Bank president Christine Lagarde said clarity from the administration was critical and that new measures would need to be “in compliance with the constitution, in compliance with the law.”

But it is considered unlikely that such expressions of opposition to what the US has done will go much further, at least at this stage.

As Nicolas Köhler-Suzuki of the Jacques Delors Institute told the *Financial Times* (FT), he expected the deal to survive, despite opposition because of the threat of “substitute deterrence.”

“The stick is alternative statutory threats, specifically... automotive tariffs. The European parliament will be emboldened by the ruling, but the economic risk of reinstated auto tariffs remains and neutralizes the incentive for [an] outright challenge,” he said.

India, which is at present negotiating the final stages of

a trade deal with the US—talks have been scheduled for this week—may seek some room for maneuver but received a blunt warning from Trump who said, “nothing changes.”

The attitude of the administration was underscored by one of its chief trade war hawks, Peter Navarro, in a comment published in today’s FT.

“Trump has noted that he has been ‘very modest’ in his initial ask of trading partners,” he wrote. “That restraint is over. Any country that believes the court’s ruling strengthens its hand—or allows it to walk away from the bargaining table—is misreading the moment.”

Within the US, one of the major issues will be the reimbursement of corporations which have paid the bulk of the tariffs so far—despite Trump’s insistence they were being borne by “foreigners.”

The Supreme Court made no ruling on this issue; neither to say the administration could keep the money it had already collected nor indicating any means by which corporations might seek redress. It appears to have thrown the matter back to the lower courts.

The National Retail Federation, which includes giants such as Walmart, said the US courts had to “ensure a seamless process to refund the tariffs to US importers.”

That is the least likely outcome. Bessent indicated that he did not expect money to be paid out soon, if indeed ever. “My sense is that [it] could be dragged over weeks, months, years.”

The Supreme Court ruling does not mean that there will be some return to constitutionality by the Trump regime or a restoration of the status quo ante as far as international economic relations are concerned—quite the opposite.

As FT columnist Edward Luce noted in a pointed remark, the Supreme Court decision may cause Trump to lash out in other ways.

“Given his instinct for unfiltered discretion, the Supreme Court’s ruling could lead to overcompensation in other spheres. US military action is the one area where the executive branch can almost always count on judicial forbearance.”



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