After Supreme Court setback, Trump back on trade war path

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26 July 2026

US president Trump has returned to the trade war battlefield with the imposition of tariffs of between 10 and 12.5 percent on around 60 countries, comprising the major trading partners of the US, with the threat of more to come.

The tariffs were imposed on Friday under Section 301 of the Trade Act of 1974 which allows the president to impose tariffs on countries that are deemed to have engaged in unreasonable or discriminatory action against the US.

After what was widely recognised as a sham investigation, aimed simply at trying to hold off possible legal challenges, the office of the US Trade Representative determined that the targeted countries had not taken sufficient action to enforce laws banning the use of goods made with slave or enforced labour.

This decision followed the basic modus operandi of the Trump administration which is to act first and then concoct pseudo legal arguments to try to justify its measures.

The decision to invoke Section 301 was taken after the Supreme Court in February struck down the legality of the sweeping "reciprocal tariffs" imposed by Trump in April 2025. It determined in a 6-3 vote that he had exceeded his powers under the International Emergency Powers Act of 1977 which he had sought to employ.

The administration continued tariffs of 10 percent using Section 122 of the 1974 Trade Act, which allows the president to impose tariffs over balance of payments issues, as a stopgap measure. But such action is limited to 150 days before Congressional approval is necessary, and that expired last Friday.

The sweeping use of Section 301 may also come under legal challenge because while it has been invoked against specific countries, it has never been used to impose tariffs over a range of countries as in this case.

But whatever the legal issues—and the invoking of failure to deal with slave and forced labour as a justification is an obvious sham—the administration is determined to proceed.

As US Trade Representative Jamieson Greer testified in Congress last week: "The specific authorities this administration is using have changed, but the trade strategy has not. We are committed to use tariffs and to negotiate deals to support the re-industrialisation of our economy, protect American workers and increase their wages and shrink our trade deficit."

Events have exposed these fictions. The trade deficit for 2025 was $901 billion, basically unchanged from the previous year, and has started to rise again in the first half of this year, at least 100,000 manufacturing jobs have been lost during the second Trump administration and real wages are declining, not least because of the new round of inflation unleashed by the war on Iran.

In his State of the Union address delivered in February, Trump advanced the economic Big Lie which is constantly wheeled out that the tariffs would be "paid for by foreign countries" and may even come to replace the income tax system.

The amount raised by income taxes is at least six times that obtained by customs duties and studies by the New York Federal Reserve and Germany's Kiel Institute have shown that more than 90 percent of the tariff imposts are paid for by US companies and consumers.

The tariff measures are not aimed at lifting living standards or wages but are part of the desperate drive by American imperialism to overcome its economic decline at the expense of its rivals and competitors, particularly China, by all measures considered necessary. And as in the 1930s, they are an integral component of the unfolding of a new world war.

The new measures adopted under Section 301 are set to be extended.

The US Trade Representative has also opened a separate investigation into whether tariffs can be imposed against China and a range of other countries, mainly in Asia, because of overproduction of industrial goods. According to a report in the *Wall Street Journal*, the results could come by next month, after which there would be a comment period before the tariffs were imposed.

Overall, the *Journal* article estimated that when all the 301 and other measures are put in place the average US tariff rate will return to about 17 percent, where it was before the Supreme Court decision, from the present level of around 11 percent.

And further measures may be invoked as well. In a decision, which one media report said caused “raised eyebrows,” the administration used a provision of the 1930 Tariff Act—the infamous Smoot-Hawley Act considered responsible for deepening the Great Depression—to impose a 50 percent tariff of billions of dollars of goods from Canada.

The use of this hitherto obscure provision has been interpreted as a warning shot to Canada and Mexico as negotiations with the US begin on the renewal of their trade pact.

It may also have been a trial balloon for its broader use. The *Journal* noted Section 338 of the Tariff Act, which had never been used before in US trade law covering trade discrimination against US goods, could give Trump “more flexibility to impose tariffs on a whim, rather than the months of investigation required by Section 301.”

In addition to the tariffs on Canada, a 50 percent impost has been imposed on Brazil.

A new clash with Europe is in the making on top of the tariffs already imposed as a result of the European Union imposing an €890 million fine on Google for breaching its rules.

Trump responded immediately on his Truth Social Platform saying his administration would start a new tariff investigation against the EU for “robbing” American companies and the American taxpayer.

“The European Union will pay a very big price for this illegal and highly unethical conduct, which I have consistently warned them about. The penalties will be entirely reversed and, we anticipate, a substantial TARIFF to be placed on them as the earliest possible moment.”

There may also be conflicts in areas that were previously considered to have been settled.

The *Financial Times* (FT) reported last week that a clash had arisen with Japan over a $40 billion nuclear power plant in the US. Japan agreed to finance it as part of the commitment it made, under the threat of having sweeping, now declared illegal, “reciprocal tariffs” imposed on it, to make $550 billion worth of investments in the US.

The Japanese side apparently raised concerns that it would be liable in the event of a nuclear accident. The US commerce department was reported to have given an assurance this would not be the case, but this has not been put in writing—a process that could take months.

Under the investment “deal” agreed to by Japan—more like a protection payment to the US—investments are decided on by the US and are American-owned.

According to the FT report, Japanese officials have said they are under pressure to move at “Trump speed” to announce a new round of projects, a semi-conductor plant and an oil and gas terminal, in time for the midterm elections in November, but are concerned about the commercial viability of the projects.