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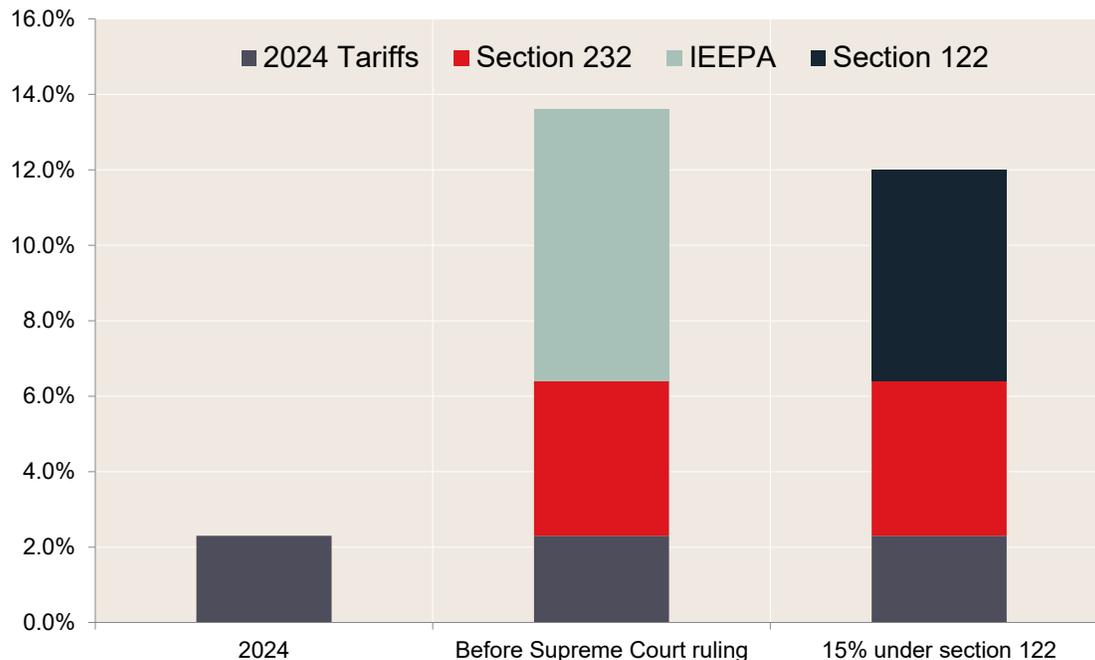
Tariffs After the Supreme Court: The White House Riposte

By Angelo Katsoras and Jocelyn Paquet

The Supreme Court's February 20 decision to invalidate many of the Administration's tariffs temporarily reduced the average effective rate on U.S. imports from roughly 13.6% to 6.4%. That relief, however, was short-lived. Following a **proclamation** last Friday, the President invoked Section 122 authority to impose a 15% across-the-board tariff, lifting the effective rate back to approximately 12% and largely restoring the previous trade burden (chart).

U.S.: IEEPA is out... Section 122 of the Trade Act of 1974 is in

Average effective tariff rate on all goods imports to the U.S.



NBC Economics and Strategy (data via Bloomberg)

This report examines three key factors shaping the new direction of the government's trade strategy

- The Trump administration's ability to rebuild its tariff strategy
- A need to partially reconstruct tariffs in order to preserve revenue
- The long-term trend towards lower tariffs continues, although a return to the highly liberalised free-trade environment of the recent past is unlikely

The ability to rebuild tariffs using alternative legal provisions

The U.S. Supreme Court ruled that President Trump had exceeded his authority by imposing broad tariffs on imports from other countries under the International Emergency Economic Powers Act. Below are several legal options available to the Trump administration to salvage its trade strategy.

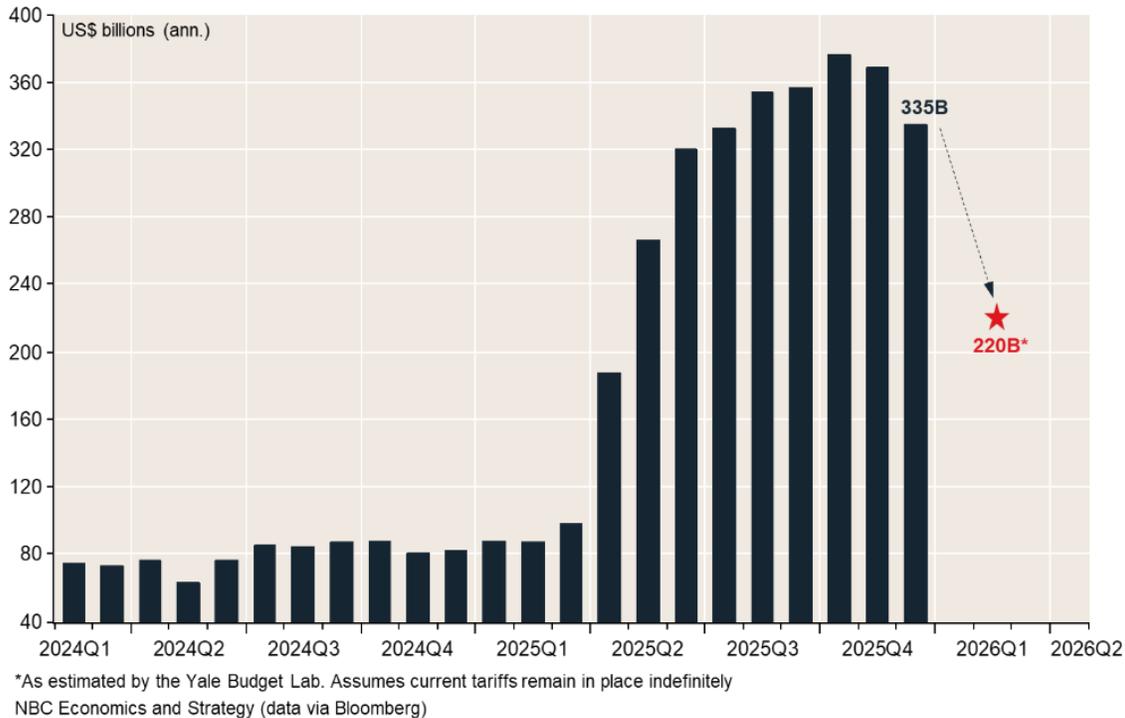
- **Section 122 of the Trade Act of 1974** allows for temporary tariffs of up to 15% for a period of up to 150 days in order to address concerns relating to the balance of payments. Any tariffs imposed beyond this period require congressional approval. The administration has already exercised this authority.
- **Section 301 of the Trade Act of 1974** authorises the imposition of tariffs on countries engaging in unfair trade practices. During President Trump's first term, his administration used this section to impose tariffs on China. A formal investigation must be conducted before penalties can be imposed.
- **Section 338 of the Tariff Act of 1930**, though never used, theoretically permits the president to impose tariffs of up to 50% on imports from countries discriminating against U.S. trade.
- **Section 232 of the Trade Expansion Act of 1962** allows for the introduction of sector-specific tariffs following national security investigations. This provision has already been applied to steel, aluminium and automobiles. While investigations are required before tariffs can be imposed, related items can be added to the list unilaterally once the authority to target a sector has been granted.

The need to maintain some tariff revenues

The latest estimates from the Congressional Budget Office states that tariffs currently generate \$335 billion in annual revenue. Failing to replace illegal tariffs would result in lower revenues, worsen debt projections and potentially increase future borrowing costs (chart).

U.S.: Less tariffs, less revenues to pay for the OBDD

Federal government custom receipts



Why we have probably passed peak tariff levels

When considering the long-term durability of many of President Trump's tariffs, there are three points to bear in mind.

- Although President Trump secured a solid victory in the 2024 election, it was not a landslide. He received 49.8% of the popular vote, just 1.5 percentage points more than the Democratic candidate.
- Trade measures imposed by executive order can easily be reversed by a subsequent president.
- Public support for tariffs targeting Canada appears limited. A January 2025 Angus Reid poll found that 50% of Americans opposed such tariffs, compared with 26% who supported them. This limited support was further emphasised when six Republicans joined the Democrats in passing a recent House resolution to end President Trump's tariffs on Canada related to fentanyl.

Further proof that the United States is now in peak-tariff territory can be seen in the response to the court ruling. Although the administration announced a global 15% tariff, its application was limited to products previously subject to reciprocal tariffs. Exemptions for USMCA-compliant goods were maintained, and an expanded carve-out was introduced for civil aircraft and parts, highlighting the political and economic constraints that now limit the scope for further tariff escalation.

However, it is also important to note that, while public opinion, business lobbying and rising prices in certain sectors may prompt the current government and future administrations to repeal additional tariffs, it is unlikely that we will see a return to the highly liberalised trade environment of earlier decades. In a global economy characterised by declining trust between geopolitical rivals and even traditional allies, the United States and other economies are expected to continue using trade restrictions to protect their strategic industries.

Bottom line: Although some tariffs may be reduced, it is unlikely that the United States — or other countries — will return to the era of fully liberalised trade seen in recent decades. In the short term, the US is expected to adjust its tariff strategy to preserve its negotiating leverage with trading partners and prevent its debt projections from deteriorating further. The Supreme Court's ruling has reshaped the legal landscape, but trade policy uncertainty persists.



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