

# USING TARIFFS TO ACHIEVE AMERICA FIRST TRADE POLICY

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## AMERICA LAST TRADE POLICIES HAVE HURT AMERICANS

The United States faces dual emergencies: a dangerously high and growing trade deficit and deadly illegal opioids flooding across our borders. America's flawed trading regime, influenced by previous administrations, has put America last by granting foreign competitors unfettered access to U.S. markets while failing to hold trading partners accountable for imposing significant tariffs and non-tariff barriers on American companies.

### ONE-SIDED "FREE-TRADE" PUTS AMERICA LAST, HURTS AMERICAN JOBS

The U.S.'s embrace of unfettered free trade has benefited foreign producers at the expense of domestic manufacturers, leaving American companies at a disadvantage in foreign markets where added duties and regulatory costs make their products less competitive.

#### Cheap Chinese imports devastated American manufacturing, driving up the U.S. trade deficit.

For far too long, the U.S. trading regime has been anchored by "free trade" rather than "reciprocal fair trade," which has encouraged dangerously elevated levels of foreign reliance, hollowed out domestic industry, and fueled a persistently high trade deficit.

- ★ Since China's admission to the World Trade Organization (WTO) in 2001, domestic industry erosion has accelerated.<sup>1</sup>
- ★ In the past two decades, close to 5 million American manufacturing jobs have been lost to cheap, forced, and unethical Chinese labor.<sup>2</sup>
  - As Americans have become more dependent upon foreign-produced goods, the rest of the world relies less upon U.S. goods.
- ★ This reliance has left America with a goods trade deficit of over [\\$1 trillion](#), a sharp increase from [\\$346 billion](#) in 2001.

#### The previous administration's open border policies caused the deadly opioid emergencies at America's borders.

Due to weak U.S. border policies of the past, drug trafficking organizations (DTOs) have grown their presence in Mexico and Canada, allowing them to easily traffic opioids across the border.

- ★ Mexico and Canada have become incubators for transnational criminal organizations (TCOs), newly-declared foreign terrorist organizations (FTOs), and DTOs, in turn creating a deadly emergency that has impacted [hundreds of thousands](#) of Americans.
- ★ This has resulted in fentanyl becoming the [#1 killer](#) of American adults ages 18-45.

## PRESIDENT TRUMP IS SOLVING AMERICA'S TRADE EMERGENCY

To combat two major foreign-based crises that pose significant threats to Americans, President Trump invoked the International Emergency Economic Power Act (IEEPA) to impose appropriate tariffs on all relevant parties and to give the necessary economic safeguards to all Americans. Under the National

<sup>1</sup> Lighthizer, R. E. (2023). No trade is free: Changing course, taking on China, and helping America's workers. Broadside Books.

<sup>2</sup> Ibid.

Emergencies Act (NEA), the president must first declare a national emergency before invoking IEEPA authorities. Once such an emergency is declared, the president is authorized under the IEEPA “to regulate... the importation... of... any property in which any foreign country or a national thereof has any interest” to address any “unusual and extraordinary threat” to the national security or economy of the United States.<sup>3</sup>

- ★ On February 1, 2025, President Trump issued Executive Orders No. [14193](#), [14194](#), and [14195](#) imposing a 25% ad valorem tariff on all goods from Mexico and Canada and 10% on all goods from China, citing the failure of these nations to address the trafficking of opioids into the United States.
- ★ On Liberation Day (April 2, 2025), the President, via Executive Order No. [14257](#), imposed a baseline 10% ad valorem tariff on all U.S. trading partners and additional individualized “reciprocal” ad valorem tariffs of up to 50% on imports from designated high-deficit countries, as calculated by the Department of Commerce pursuant to Annex A of the order.

### The challenge to Trump's tariff authority has landed at the Supreme Court.

- ★ In April 2025, V.O.S. Selections led a group of small businesses to file suit against the federal government before the Court of International Trade (CIT), arguing that the IEEPA did not authorize the trafficking tariffs or the Liberation Day tariffs.<sup>4</sup>
  - On August 29, 2025, the Court of Appeals for the Federal Circuit decided that the tariffs in question did not fall under the power granted through the IEEPA to “regulate importation” and thus violated the “major questions doctrine,” which requires Congress to explicitly delegate powers of economic and political significance.<sup>5</sup>
  - A companion suit, *Learning Resources v. Trump*, raised similar IEEPA and tariff claims and was consolidated for Supreme Court review.<sup>6</sup>
- ★ Arguments on the President's tariff authority under the IEEPA will be heard by the Supreme Court on November 5, 2025.
- ★ AFPI filed two amicus briefs with the Supreme Court in support of the government, one as counsel and one as client. They can be found [here](#) and [here](#).

### AMERICAN JOBS AND BILLIONS OF DOLLARS ARE AT STAKE

President Trump's swift executive actions are steering America away from a dangerous foreign-dependent, consumer-driven economy to a pro-American worker, producer-driven economy. Balanced trade and America First policies increase American resilience and sovereignty, which protect and grow American jobs. Importantly, these policies save lives, too, by forcing America's trading partners to finally crack down on illegal drugs flooding the country, which kill hundreds of thousands of Americans each year.

The pending Supreme Court decision has serious ramifications for the U.S. balance sheet and trade negotiations. With over [\\$195 billion](#) in tariffs collected in fiscal year 2025—a [150% increase](#) from the previous year, despite Trump entering office mid-fiscal year—the U.S. could face a reimbursement of historic proportions. Beyond the immediate financial implications, the Supreme Court decision will have significant implications for the president's leverage to negotiate trade deals, which will impact all Americans.

<sup>3</sup> 50 U.S.C. §§ 1701 (2025).

<sup>4</sup> *V.O.S. Selections, Inc. v. United States*, 772 F. Supp. 3d 1350 (Ct. Int'l Trade 2025).

<sup>5</sup> *V.O.S. Selections, Inc. v. Trump*, 149 F.4th 1312 (Fed. Cir. 2025), cert. granted, No. 25-250 (U.S. Sept. 9, 2025).

<sup>6</sup> *Learning Res., Inc. v. Trump*, 784 F.Supp.3d 209 (D.D.C. 2025), cert. granted, No. 24-1287 (U.S. Sept. 9, 2025).

