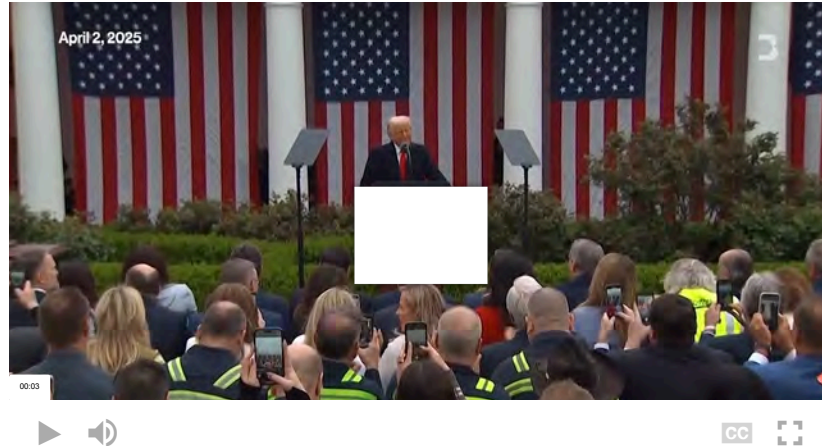


Trump's Global Tariffs Face Key Test in US Trade Court



Why Trump Unleashed Tariff Chaos

By [Erik Larson](#), [Sabrina Willmer](#), and [Bob Van Voris](#)

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✦ Takeaways NEW

A group of small businesses urged the US trade court to block President Donald Trump's "Libertarian" tariffs during a court hearing that could have a major impact on the Republican's economic agenda.

Lawyers for the businesses and the Trump administration on Tuesday delivered arguments before the US Court of International Trade in Manhattan, where a panel of three judges is weighing whether to issue a preliminary injunction against the tariffs, and if so for how long.

The businesses argued that Trump invoked a bogus national emergency to justify the levies, which the Commerce Department said the president's decision shouldn't be reviewed by the courts. The panel didn't rule on that issue, which will come later.

The fight – which could impact trillions of dollars in global trade – comes amid a wave of legal challenges to Trump's executive orders, which are testing the limits of presidential power on everything from trade to restrictions on birthright citizenship.

The businesses are seeking a court order barring the US from implementing Trump's April 2 executive orders. The case proceeds. They've also requested an alternative ruling that could grant the businesses a preliminary injunction without a trial, and permanently block the tariffs.



The US Court of International Trade in New York. *Photographer: Yuki Iwamura/Bloomberg*

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At the center of the fight is Trump's use of the International Emergency Economic Powers Act to sweeping tariffs. The law grants the president authority over a variety of financial transactions d emergencies, typically with sanctions. Trump said he could impose tariffs under that law because "large and persistent" annual trade deficits constituted "an unusual and extraordinary threat" to and the economy.

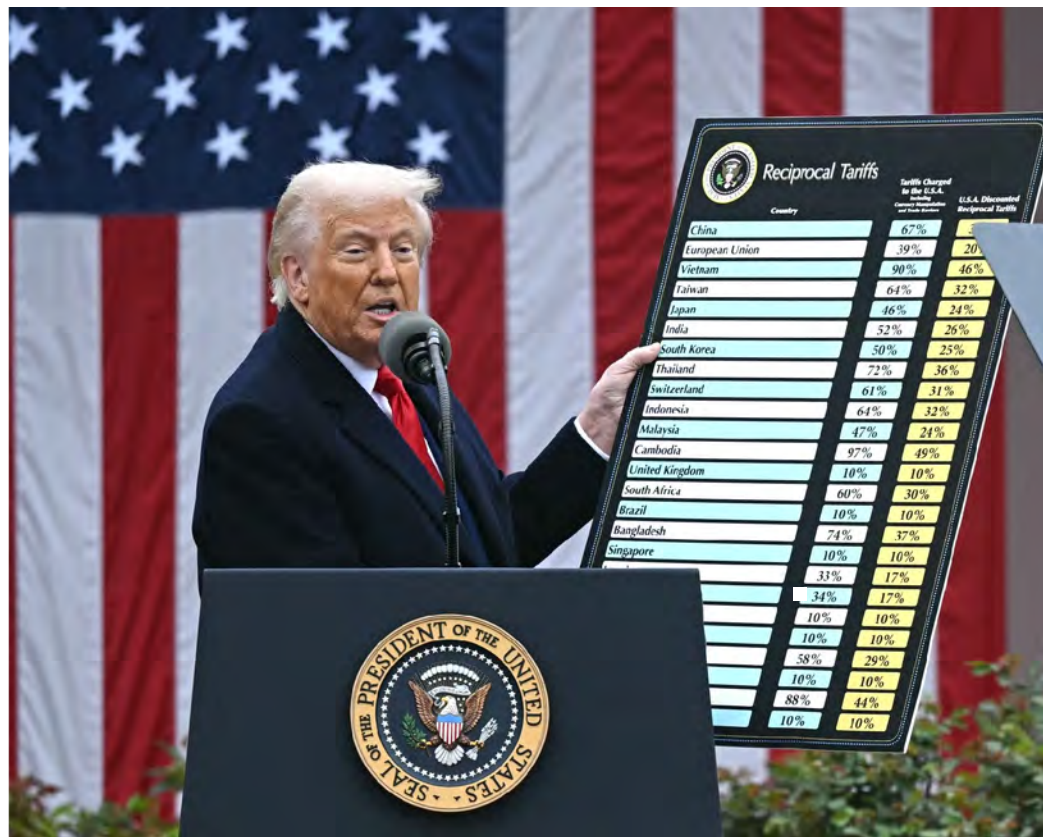
The suit alleges Trump is misusing the law. The small businesses argue the US trade deficit "is no emergency nor an unusual or extraordinary threat." Even if it were, the group says, the emerger allow a president to impose across-the-board tariffs.

Jeffrey M. Schwab, a lawyer for the businesses from the conservative Liberty Justice Center, told Tuesday that Trump's order represents an "unprecedented and unlawful expansion of presiden would allow Trump to impose tariffs "on any country at any rate at any time simply by declaring emergency, without meaningful judicial review."

"This is not what Congress intended" when it passed IEEPA, Schwab said, adding that Trump's f rates and delays made it "very difficult" for businesses to make decisions.

The judges asked Schwab how they're supposed to determine if something is really an emergen Justice Department's argument that the courts shouldn't question the president's conclusions.

"We're not asking the court to second-guess a close question of whether something is an emerge Schwab said. He said Trump's order is "so far outside of what is considered an emergency" that tell Trump "we have to stop you because otherwise there would be no limits to what the presid IEEPA."



Donald Trump holds a chart as he delivers remarks on tariffs during an event in the Rose Garden at the White House in Washington, DC, on April 2, 2017. *Brendan Smialowski/AFP/Getty Images*

Trade Deficits

Justice Department lawyer Eric Hamilton argued that Trump’s emergency declaration was justified because the “cumulative effects” of annual trade deficits are a threat to the US economy and the supply chain.

Hamilton said the court didn’t have the authority to review Trump’s interpretation of an executive order. “That is a political question,” he told the panel.

Hamilton said the only legal precedent that relates to the current dispute favors the administration. He said former President Richard Nixon used a similar emergency law to issue tariffs during a currency crisis in the early 1970s. Hamilton also argued that Congress is signing off on Trump’s move, fulfilling its duty under the law.

“Each of the boxes has been checked,” he said.

Ed Lebow, an international trade attorney with Haynes Boone who isn’t involved in the case, said such cases are rare because plaintiffs usually fail to demonstrate they’re suffering irreparable harm.

“If you win the case, eventually you can get money back,” he said.

Trump is certain to appeal any order against his tariffs, and the US Supreme Court is likely to hear the case. The government has argued that the tariffs are justified by a legitimate emergency and that the court has no authority to review Trump’s decision on the matter. The administration has asked the trade panel to dismiss the lawsuit.

Market Fluctuations

Global markets have fluctuated wildly since Trump announced the levies in a sweeping executive order. Since then, trillions of dollars in market value have been shed and regained amid weeks of delay and announcements about potential trade deals, particularly with China.

The suit is among several over Trump's tariffs, including complaints brought by other small business owners in Democratic-led states and the Blackfeet Nation tribe in Montana.



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The states, which will argue for a nationwide injunction at a hearing in the same court next week, amount to a massive tax on American consumers and infringe on the authority of Congress. The injunctions against Trump's executive orders issuing tariffs on Mexico and Canada, which cite the law based on claims about cartel activity and drug trafficking.

The states also allege that the broad nature of Trump's tariffs undercut his claims about the purport because they don't target goods or services connected in any way to drug trafficking.

The Trump administration argued in court filings that the plaintiffs are improperly questioning his orders, "inviting judicial second-guessing of the president's judgment."

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V.O.S. Selections v. Donald J. Trump, 25-cv-00066, US Court of International Trade (Manhattan).
(*Updates with analysis by trade lawyer.*)

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