# OPINION

## REVIEW & OUTLOOK

# President Trump Isn't a Tariff King

**A sweeping trade court ruling puts the executive in his proper place.**

In a ruling heard 'round the world, the U.S. Court of International Trade on Wednesday blocked President Trump's sweeping tariffs. This is an important moment for the rule of law as much as for the economy, proving again that America doesn't have a king who can rule by decree.

The Trump tariffs have created enormous costs and uncertainty, but now we know they're illegal. As the three-judge panel explains in its detailed 52-page ruling, the President exceeded his emergency powers and bypassed discrete tariff authorities delegated to him by Congress. The ruling erases his April 2 tariffs as well as those on Canada and Mexico.

Small businesses and several states (*V.O.S. Selections v. U.S.*) challenged Mr. Trump's use of the 1977 International Emergency Economic Powers Act (IEEPA) to impose tariffs willy-nilly. That law gives the President broad authority in a national emergency to "deal with any unusual and extraordinary threat" including to "regulate" the "importation" of foreign property.

After declaring fentanyl an emergency, the President in February slapped tariffs on Mexico, Canada and China. Then in April he deemed the U.S. trade deficit an emergency and imposed tariffs of varying rates on the world. He later reduced those to 10% across the board for 90 days, supposedly to allow time to negotiate trade deals.

No other President has used IEEPA to impose tariffs. As the trade court explains, Richard Nixon used the law's precursor, the Trading With the Enemy Act, in 1971 to impose 10% tariffs for a short period to address a balance of payments problem. The Justice Department said Mr. Trump's tariffs are no different.

Not so. As the panel notes, Nixon tariffs were upheld by an appeals court because they were a "limited surcharge" and "temporary measure calculated to help meet a particular national emergency, which is quite different from imposing whatever tariff rates he deems desirable." The latter is what Mr. Trump did, at one point jacking up rates to 145% on China.

Congress also limited the President's emergency powers in IEEPA to prevent overreach. "The legislative history surrounding IEEPA confirms that the words 'regulate . . . importation' have a narrower meaning than the power [illegible]

Mr. Trump invoked IEEPA because he wanted to impose tariffs as he sees fit. But the Constitution doesn't let the President ignore Congress and do whatever he wants.

"Under the major questions doctrine, when Congress delegates powers of 'vast economic and political significance,' it must 'speak clearly,'" the judges stress. Democrats panned the major questions doctrine when the High Court used it to block Joe Biden's student-loan forgiveness, but perhaps they will now see its wisdom.

The judges also say Mr. Trump's fentanyl tariffs are unlawful because they don't, as IEEPA requires, "deal with" their stated objectives. The government's theory would permit "any infliction of a burden on a counterparty to exact concessions," the panel notes. "If 'deal with' can mean 'impose a burden until someone else deals with,' then everything is permitted."

Exactly. The court's ruling effectively slams the door on IEEPA as a basis to impose tariffs. This means a future Democratic President can't declare a climate emergency and wield tariffs to punish countries for CO2 emissions. Conservatives ought to cheer this restraint on one-man rule.

White House officials are attacking the trade court's ruling as liberal judicial overreach, though the three judges were Reagan, Obama and Trump appointees. On Thursday the U.S. Court of Appeals for the Federal Circuit put a stay on the trade court's ruling while it considers Mr. Trump's emergency appeal. Meanwhile, a separate federal judge also ruled the tariffs illegal under IEEPA.

The White House boasts it will win at the Supreme Court, but our reading of the trade court's opinion suggests the opposite. Mr. Trump's three Court appointees are likely to invoke the major-questions precedent.

Mr. Trump has other laws he can use to impose tariffs, though most are more limited than his emergency claims. The most expansive is Section 338 of the 1930 Smoot-Hawley Act, which lets a President impose duties up to 50% on countries found to discriminate against the U.S. But no President has ever done [illegible]

Mr. Trump would h[illegible] court[illegible]

## LETTERS TO THE EDITOR

### *The Child Tax Credit Can Put Parents to Work*

In your editorial "One Cheer for the House Tax Bill" (May 14), you describe the child tax credit as "income redistribution that does nothing to change incentives to work or invest." Yet new research comes to a different conclusion. Evidence shows that the credit, which has been part of the foundation of Republicans' pro-growth, pro-work and pro-family tax agenda since Newt Gingrich's Contract With America, incentivizes work among family breadwinners.

In a new study, Indiana University economist Anna Strauss analyzes the effect that changes to the child tax credit as part of the 2017 Tax Cuts and Jobs Act had on employment. Ms. Strauss finds that expanding the credit increased employment and hours worked among low-income single mothers and married parents. Each $500 increase in the credit increased employment by 0.9 percentage point and increased usual hours worked each week by 18 minutes for secondary earners in the credit's phase-in range.

At the same time, she finds that increasing the credit gives middle-class families more flexibility to make the work-family choices that are best for them. For such families, the expansion of the child tax credit was associated with a reduction in employment among secondary earners. Each additional $500 reduced usual hours worked by 17.4 minutes for secondary earners in cases where the breadwinner's earnings were enough to get the full credit. This reflects parents' decision to divide labor—with one parent focusing on increasing household earnings and the other focusing on investing in the next generation of Americans, especially when they have young children.

These findings demonstrate that the child tax credit incentivizes work among lower-income families while enabling greater parental investment in children among middle-income families. The changes to the child tax credit in the One Big Beautiful Bill Act advance both goals and deserve support.

JOSH MCCABE AND BRAD WILCOX
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*Lowell, Mass., and Charlottesville, Va.*

### *The 'Knowledge Class' Needs a Reality Check*

Jukka Savolainen's op-ed "The Alienated 'Knowledge Class' Could Turn Violent" (May 22) reminded me of the scene in "Blazing Saddles" when Gene Wilder advises Cleavon Little not to confront Mongo. "Don't do that," he says. "If you shoot him, you'll just make him mad."

As I see it, American universities are getting their just deserts. To say that the Trump administration should take its foot off the gas in its showdown against Harvard and its peers means these universities wouldn't receive the free-market discipline they badly need. Advanced-degree holders in political science or philosophy aren't filling a market need. Th[illegible] nal would [illegible]

rigorous liberal arts instruction.

NATE BRADEN
*Denver*

Mr. Savolainen condemns the Trump administration's crackdown on elite institutions and downsizing of public agencies as a potential catalyst for creating domestic terrorists. Yet it has been less than two years since radical leftist were terrorizing Jewish students on elite campuses. It has been five years since radical leftists established CHAZ and other "self-governing" areas in major Democratic cities—for reasons [illegible] Savol[illegible]

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