Trump's trade tariffs: exploring the potential actions his administration could take

President Trump invoked the International Emergency Economic Powers Act (IEEPA) on 1 February, citing illicit drug flows as a national emergency to justify tariffs. But that is just one of the many possibilities the administration has to apply tariffs. How might China and Europe respond?

US President Trump signs executive order in the Oval Office

President Trump invokes IEEPA to announce new tariffs

Late on 1 February, US President Donald Trump signed three executive orders announcing new unilateral tariffs on Canada, Mexico, and China. While the tariffs on Mexico and Canada will be delayed by a month and will potentially never see the light of the day, 10% on imports from China are still on the cards.

In order to conduct this first unilateral tariff strike, Trump invoked the International Emergency Economic Powers Act (IEEPA), which authorises the President to regulate imports during a national emergency declared under the National Emergencies Act (NEA). In all three cases, he cited the flow of illicit drugs as the cause for proclaiming a national emergency.

What about other possibilities to invoke tariffs? Section 201, 301 and 232

Although this hefty tariff action has drawn attention over the last couple of days, don't forget that a comprehensive investigation into US trade relationships is still outstanding and due on 1 April. During Trump's first presidency, we discovered various legal avenues for imposing tariffs on a range of products under US law. For his tariff strategy at that time, Trump relied on two key laws, invoking three specific sections:

Trade Act of 1974:

- **Section 201 tariffs:** Used to provide temporary relief to US industries affected by import surges. Under Section 201 of the Trade Act of 1974, the United States International Trade Commission (USITC) investigates whether imports are causing serious injury to domestic industries. If the investigation concludes affirmatively, the USITC recommends relief measures to the president. The USITC has 120 to 150 days from receiving a petition to determine the impact of imports and must submit its report, including any relief recommendations, to the president within 180 days.
- **Section 301 tariffs:** Used to address unfair trade practices and enforce US rights under trade agreements**.** Under Section 301 of the Trade Act of 1974, the United States Representative (USTR) investigates and consults with the private sector, conducts public hearings, and engages in consultations with the targeted foreign government to address unfair trade practices. The USTR must decide whether to initiate an investigation within 45 days of receiving a petition and make its final determinations within 12 months of starting the investigation. The president then has 90 days to decide on the appropriate action. If the president approves tariffs, they are implemented within 30 days of the decision.

Trade Expansion Act of 1962:

- **Section 232 tariffs:** Used to protect national security by adjusting imports**.** Under Section 232 of the Trade Expansion Act of 1962, the Secretary of Commerce, in consultation with the Secretary of Defence and other relevant agencies, assesses the national security implications of imports. The Department of Commerce has 270 days to complete the investigation and prepare a report. The president then has 90 days to review the report, decide whether to agree with its findings, and determine the appropriate course of action.

As the use of these trade laws requires thorough investigations, it took roughly a year into Trump's first presidency before tariffs were actually implemented.

Exploring more tariff options for US administration: Section 122 and 338

But these are not the only choices that a US administration has. For example, under Section 122 of the Trade Act of 1974, and Section 338 of the Tariff Act of 1930, tariffs could theoretically be implemented relatively quickly.

Trade Act of 1974:

- **Section 122 tariffs**: Used to help correct serious imbalances in the country's international payments. Under Section 122 of the Trade Act of 1974, the president can impose tariffs of up to 15% or quotas on all imports for up to 150 days to address balance-of-payments deficits. Extending tariffs beyond 150 days requires Congressional approval.

  However, using tariffs under Section 122 would contradict the administration's goals of sustainable economic strengthening and revenue generation, as these tariffs would only be in force for 150 days. While this approach might create a dramatic entrance, it lacks long-term impact.

Tariff Act of 1930:

- **Section 338 tariffs**: Used to tackle discrimination against US commerce. Under Section 338 of the Tariff Act of 1930, the president can impose new or additional duties on imports from a foreign country of up to 50% or exclude its products from importation if the foreign country imposes unreasonable charges or discriminates against US commerce. These duties take effect 30 days after the proclamation and do not explicitly require consultation with any department.

  Regarding Section 338, bypassing departmental consultations could still lead to legal challenges. Additionally, justifying tariffs under this section will very likely contradict WTO rules.

Given the vast legal framework of the US and its trade policies, we wouldn't be surprised if the Trump administration created a new law to justify additional tariffs.

Beyond tariffs: the hidden power in trade policies

Although most attention is directed towards tariffs, trade policies extend well beyond these. Export/import restrictions, quotas, subsidies, anti-dumping duties, countervailing duties, import licenses, and regulations can all be used to restrict or complicate trade. While tariffs undoubtedly attract the most attention, export bans can have more far-reaching consequences for a country, especially if that country is critically reliant on a product. Export bans can disrupt global supply chains, create shortages, and significantly impact industries reliant on those exports. During the Covid-19 pandemic, for example, export bans on vaccines profoundly impacted global health.

Inga Fechner

How could China and Europe react to US tariffs?

The events since 1 February have made it clear that the threat of tariffs, like the sword of Damocles, will loom over the global economy for the next four years. Even if there are moments of relief, tariffs are far from off the table. A temporary deal does not eliminate the risk of new tariff conflicts flaring up. Here are some thoughts on how China and Europe might react.

China: Early retaliation, a path to de-escalation and potential for further escalation

China's initial response to the first 10% tariff hike could be characterised as relatively muted in its immediate impact, but also featuring a thinly veiled warning shot to the US as we fast approach a vital crossroads for US-China relations with top-level talks expected to occur at any time in the coming days.

After tariffs came into effect on 4 February, China responded with some retaliatory tariffs of its own. Our initial look at the categories suggests that the impacted products will be something in the range of US$15-17bn of products or something in the range of 10-12% of total imports from the US. Specifically, the retaliatory tariffs announced were:

- 15% tariff on coal ($1.5bn imported in first 11 months of 2014) and LNG imports ($1.6bn in 11M24)
- 10% tariff on crude oil ($6.0bn in 11M24), agricultural machinery ($108mn in 11M24), large displacement engine vehicles, and pickup truck imports ($6.1bn of road vehicles imported in 11M24, not all will be subject to tariffs).

Additionally, while not an official part of the response, China also announced an antitrust probe into Google, and added PVH Group (parent company of Calvin Klein) and Illumina Inc. to the unreliable entities list, which opens them up for potential restrictions and sanctions. These moves won't have an immediate impact but could be interpreted as a thinly veiled threat that China will hit back against US corporate interests if negotiations go poorly.

The early response does not preclude an agreement being struck on the fentanyl issues – there's still room to de-escalate at this stage, and China's tariffs set to take effect on 10 February clearly are designed to accommodate such a possibility.

Given China's exports of chemicals to Mexico and Canada hold a negligible weight in its exports, the fentanyl issue is one where China and the US could find it relatively easier to find room for cooperation. Other than the fentanyl issue, the other catalysts in the coming months include the investigation into China's purchases under the Phase One Trade Deal, and the ongoing TikTok sale negotiations.

Our previous report discusses China's purchase agreement in more depth, but the key takeaways are that China did not come close to meeting the purchase targets of an additional $200bn from 2017 levels, though there were also extenuating circumstances such as the pandemic, and later on export controls from the US. The outcome will likely depend on whether the US seeks a new commitment to ramp up these purchases again or prefers an excuse to increase tariffs.

As far as the TikTok sale goes, Trump's 75-day moratorium on the TikTok ban is set to expire in early April, which makes that a key window to watch. It remains possible that the fate of TikTok could play a role in the tariff picture.

Amid all the talk about China de-risking in the US, it's worth highlighting that this process works both ways. China at this point is less reliant on US suppliers and customers than it has been in the past, and has been preparing for the possibility of a second trade war for some time. We do feel that if pushed into a corner, China's retaliation could be stronger than what most expect, but we have yet to reach this stage for now.

It's worth noting that China in 2025 is likely to be more receptive toward addressing long-standing Western criticisms of its trade surplus and market access, as it seeks to boost the role of domestic demand in its economy, and as it aims to woo foreign investors back to its markets. There remains a path to de-escalation and cooperation, but this path looks narrow.

Lynn Song

Europe: EU prepares for possible retaliation as Trump administration eyes tariffs

The European Union has not (yet) been subject to the US administration's tariff announcements. However, Trump has regularly publicly criticised the EU for running trade surpluses with the US. Looking at the US bilateral trade balances, the country runs the third largest bilateral trade deficit with Germany, after China and Mexico. Given the swiftness with which the Trump administration implements election promises, it is hard to see how the EU could escape the tariff dance. Trump has already initiated a comprehensive investigation into US trade relationships. A report of this investigation is due on 1 April 2025. A crucial moment for the EU.

However, it won't take until April before the EU feels the economic pain of US tariffs. Given that many European (car) manufacturers have production facilities for the US market in Mexico, as part of the near-shoring and derisking strategy of the last four years, US tariffs on Mexico will also harm Europe.

There is little known how the EU would react to US tariffs on European goods. During the last Trump administration, the EU first reacted with direct retaliation on US tariffs on European aluminium and steel and was later able to prevent a tariff escalation by threatening to impose tariffs on Levi's jeans and Jack Daniels. Also, the EU promised the US administration it would purchase more US LNG and soybeans. A similar strategy looks possible this time around. The EU could, for example, offer to buy more US LNG or military equipment. However, the overarching question remains how transactional President Trump's approach to tariffs in his second term in office will be.

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