

Policy Note



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In a 6-3 ruling authored by Chief Justice Roberts on Friday, February 20, 2026, the **Supreme Court of the United States (SCOTUS)** unambiguously struck down President Trump's use of the 1977 **International Emergency Economic Powers Act (IEEPA)** for US tariffs as unlawful. Consistent with prior rulings from the **US Court of International Trade (CIT)** in July 2025, and the **US Court of Appeals for the Federal Circuit** in August 2025, the Supreme Court effectively stripped the President of his most powerful and unrestricted tool for imposing US tariffs.

In doing so, the Court closed the back door on "national emergency" declarations by the Executive branch to impose tariffs, while reaffirming Congress' role in trade policy under Article 1 of the US Constitution. Nonetheless, and as we outline below, a wide range of statutory tools remain available to President Trump, albeit with more process and less flexibility, to conduct US trade and tariff policy.

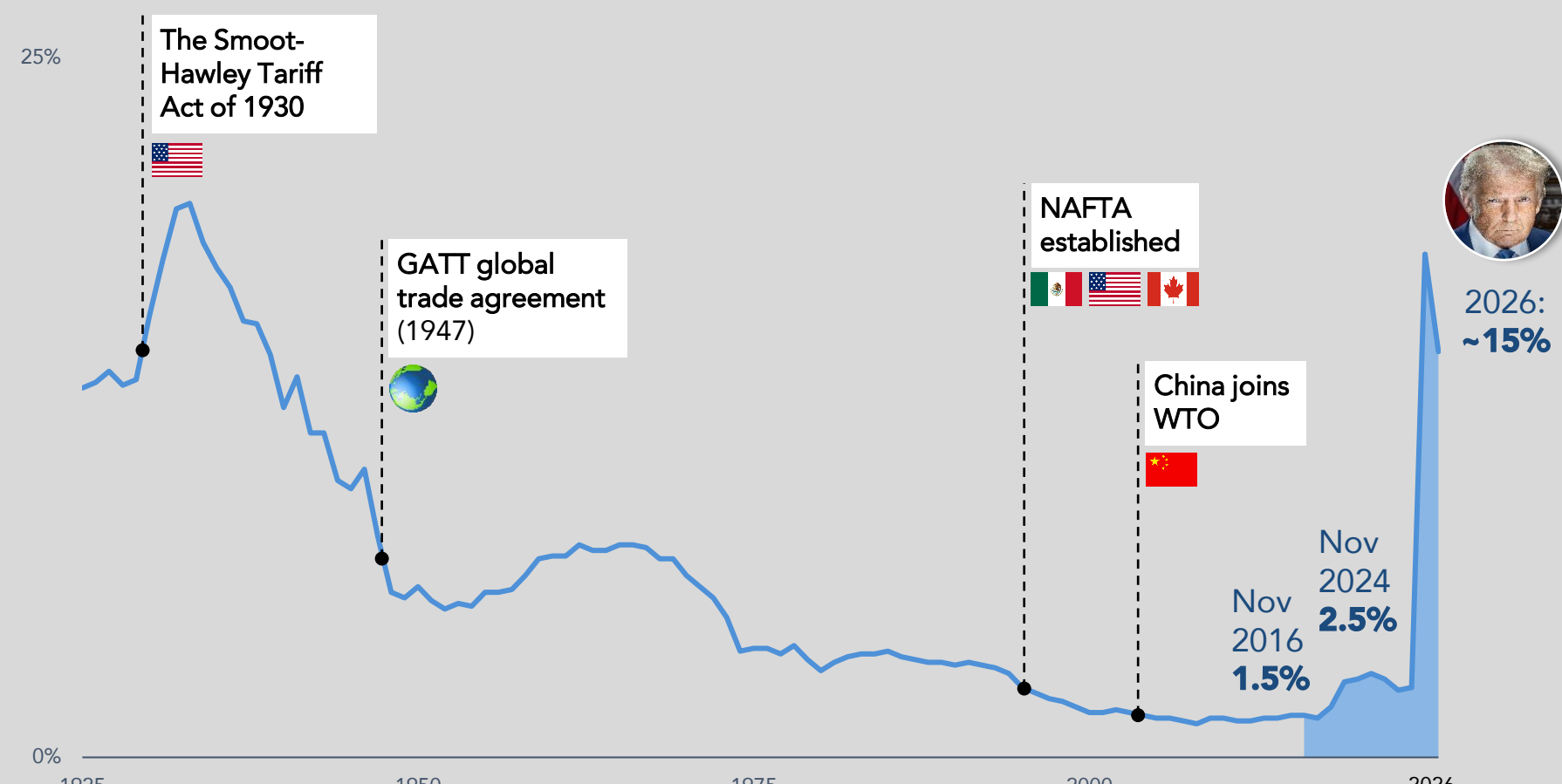
10 Key Takeaways Following the US Supreme Court's Landmark IEEPA Decision

- 1 The trade war continues, though on a more cumbersome path.** Though SCOTUS struck down IEEPA, a wide range of more procedurally rigorous statutory tools remain available (i.e., Sec. 122, 232, 338, 201, 301). This means narrower, more targeted tariffs, with more trade law process (i.e., investigations, hearings), but also legally more durable. Existing Sec 232 sector based tariffs (i.e., auto, steel) were not impacted by the decision. Effective US tariff rates will remain high in aggregate (~15%).
- 2 The steady drumbeat of tariff threats, rollbacks & exemptions will also continue.** Within hours of the ruling, the Trump administration announced new Sec 122 tariffs and new Sec 301 investigations covering "most major US trading partners" (USTR Greer). Over nearly 400 days in his 2nd term, President Trump has made new tariff threats every 3-4 days, on average. About 75% of threats never come into fruition. Rolling exemption announcements now cover about 50% of US imports. This regime will substantively continue.
- 3 Short-term market impact will be very modest at a macro level.** Substantively, the trade war continues. Modest equity impact will be more sector specific than broad-index. CPI inflation impact also limited. Modest upward pressure on UST volatility and yields.
- 4 The new Section 122 tariffs have meaningful constraints.** Following the IEEPA ruling, President Trump announced new Sec 122 tariffs to their maximum threshold of 15% for 150 days (i.e., July 24, 2026). They must also be applied in a non-discriminatory manner. For those who have negotiated trade agreements with the US, the new Sec 122 tariffs are not likely to change the underlying negotiated rate. While they could become an additional surcharge in theory, practical implementation may be different (i.e., rely on balance of payments issues).
- 5 Unlikely to amend the rate or structure of 2025-26 US trade agreements.** The SCOTUS ruling does not automatically reopen or legally invalidate the tariff terms negotiated in President Trump's numerous 2025-26 trade agreements. While it could complicate ratification in theory, US trade counterparts are unlikely to reopen these agreements, knowing that President Trump has other statutory tools available. Practically, the negotiated trade agreement rates are likely to exist independently of IEEPA authority and the additional Sec 122 tariffs in force for 150 days. Ratification timelines may slow, but not much.
- 6 Existing IEEPA exemptions have been extended to new Sec 122 tariffs.** Approximately 50% of US imports had received exemptions from the IEEPA tariffs over the last year (i.e., critical minerals, aviation, food, energy products, pharmaceuticals, USMCA compliant goods, etc). The White House has extended these exclusions to the new Sec 122 duties.
- 7 150 days provides a bridge to expand the tariff toolkit later this year.** The new Sec 122 tariff authority expires on July 24, 2026. This effectively buys President Trump sufficient time to impose US tariffs under other statutes that require more process (i.e., 232, 301) later this year, as Congress is unlikely to extend the Sec 122 tariffs beyond July 24.
- 8 Theoretically, companies have a path to seek refunds on approximately \$165 bn of tariffs that SCOTUS deemed unlawful.** Practically, from both a legal and political perspective (Secretary Bessent's public comments), this path may be very difficult to execute. Nonetheless, boards and management teams should treat tariff recovery as a discrete value-creation and risk-management workstream, knowing that it will be difficult and take years.
- 9 More litigation.** More than 1,000 corporate entities have already filed tariff litigation over the last year. Having succeeded in reversing President Trump's IEEPA tariffs, plaintiffs will be emboldened to embark on new challenges to the President's expansive interpretations of Sections 232, 201, 301 and other legal provisions. By invoking the "Major Questions Doctrine" in their decision, the Supreme Court reinforced that the President cannot decide issues of "vast economic and political significance" without "clear Congressional authorization." Companies may also pursue tariff refund cases at the CIT.
- 10 IEEPA remains available for traditional US sanctions and controls, but not tariffs.** The 1977 law remains available to the President for blocking transactions, freezing assets and prohibiting specific imports or exports under certain circumstances. However, the Court has made clear that IEEPA may not be used on an independent basis for generalized or reciprocal tariff regimes.

Post IEEPA, Effective US Tariff Rates Now at ~ 15%

Within hours of the Supreme Court's Feb 20th IEEPA ruling, the Trump administration announced new Sec 122 tariffs of 15% as well as new Sec 301 investigations covering most major US trading partners. With consideration to US tariff policy in aggregate - including new tariffs, new investigations, existing exemptions and sector based tariffs that were not impacted by the SCOTUS ruling - average US tariffs currently stand at approximately 15%.

Average tariff rate on all imports



Source: (1) US International Trade Commission, "US Imports for Consumption, Duties Collected, and Ratio of Duties to Value." Table 1. US Census Bureau. The Tax Foundation, "Trump Tariffs: Tracking the Economic Impact of the Trump Trade War." 2025 rate is an estimate from Capital Economics as of February 2026.

The Menu of Alternative Statutory Authorities Available to President Trump

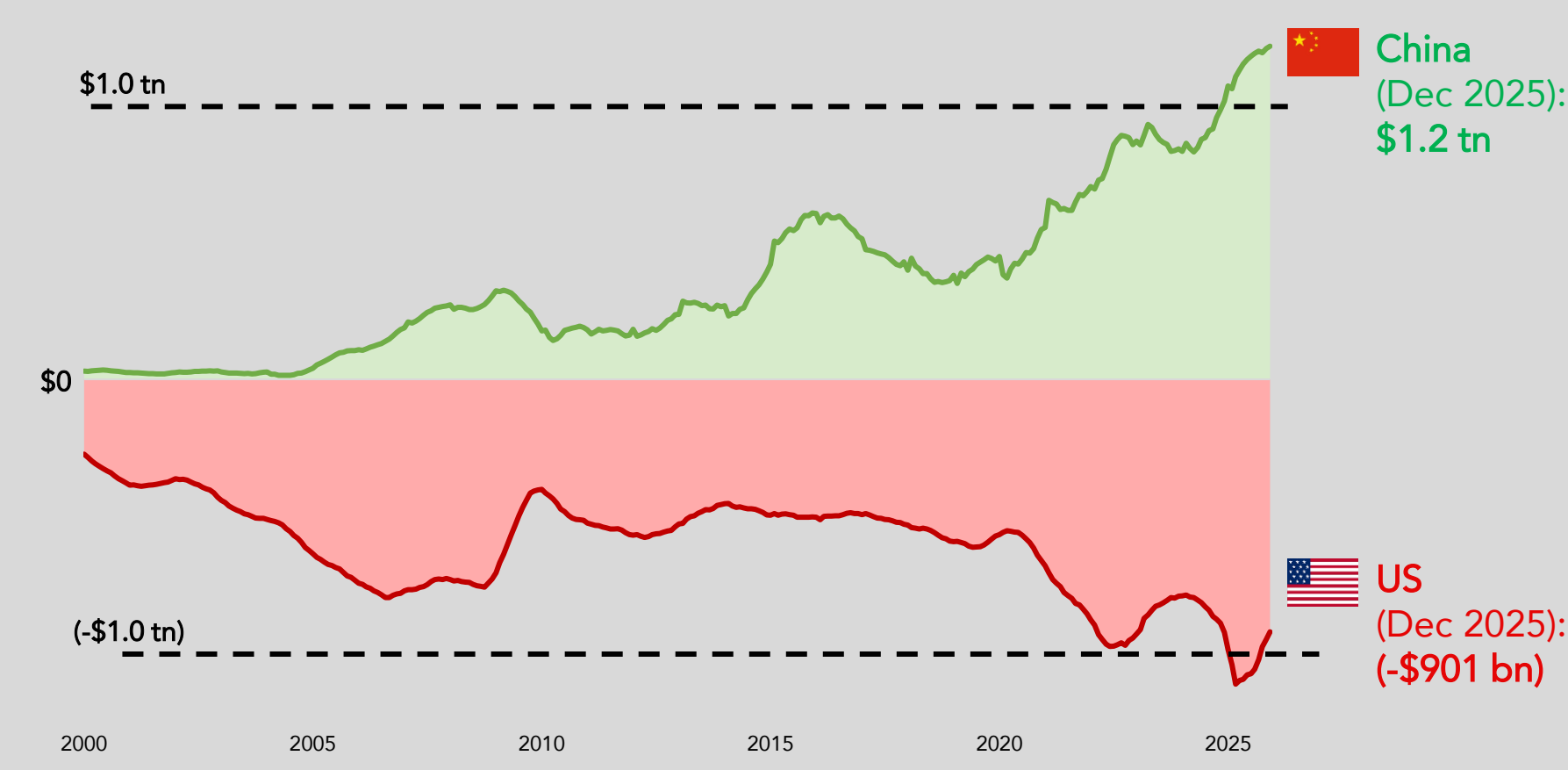
The menu of alternative statutory authorities available to President Trump

Trade law provision	Purpose	Invoked under Trade War 1.0	Invoked under Trade War 2.0	Investigation required	Process
Section 203, International Emergency Economic Powers Act of 1977 (IEEPA)	Unusual and extraordinary threats	No	Yes	No	Allows for tariff implementation after a "national emergency" is declared
Struck down by US Supreme Court on Feb 20, 2026					
Section 122, Trade Act of 1974	Balance of payments issues / dollar stability	No	Yes	No	President can impose 15% tariffs for 150 days, intended for short-term crises
Invoked by President Trump on February 20, 2026					
Section 232, Trade Expansion Act of 1962	National defense & economic security	Yes	Yes	Yes	Reports within 270 days, President decides within 90 days on tariffs
Section 338, Tariff Act of 1930	Discrimination against US goods	No	Not yet	No	Allows punitive tariffs up to 50% or blocking imports from offending countries, up to President's discretion
Section 301, Trade Act of 1974	Unfair trade practices	Yes	Not yet	Yes	Reports within 12 months, President can impose tariffs
Section 201, Trade Act of 1974	Industries injured by import surges	Yes	Not yet	Yes	Report to President within 180 days, President has 60 days to act, measures can be applied up to 4 years

Record China Trade Surpluses & US Deficits

Despite a decade of escalating trade conflict, China has emerged with the world's largest goods surplus, while the US runs by far the world's largest trade deficit. China has very effectively reduced its US trade dependencies, redirecting exports to other markets and driving its trade surplus above \$1 trillion for the first time in history.

US & China trailing 12 months trade balance, USD bn

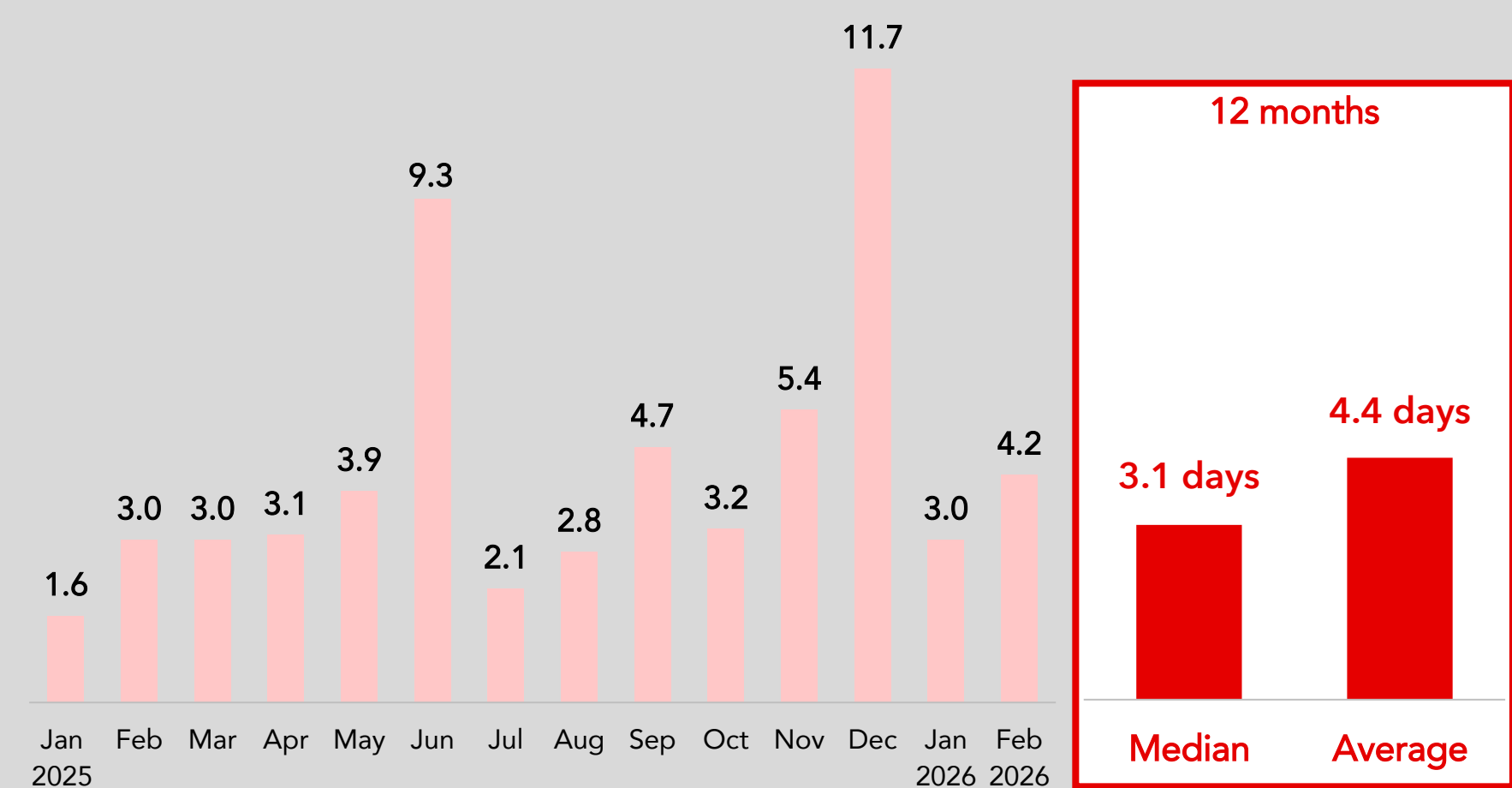


Source: (1) Bloomberg. Data through December 2025. China's General Administration of Customs.

New Tariffs Announced Every 3-4 Days

Over the first 400 days of his second term, President Donald Trump has made a significant new tariff policy announcement or threat every 3 - 4 days, on average. We expect this regime to continue.

Average # of days between changes in President Trump tariff policy (includes new threats and announcements)

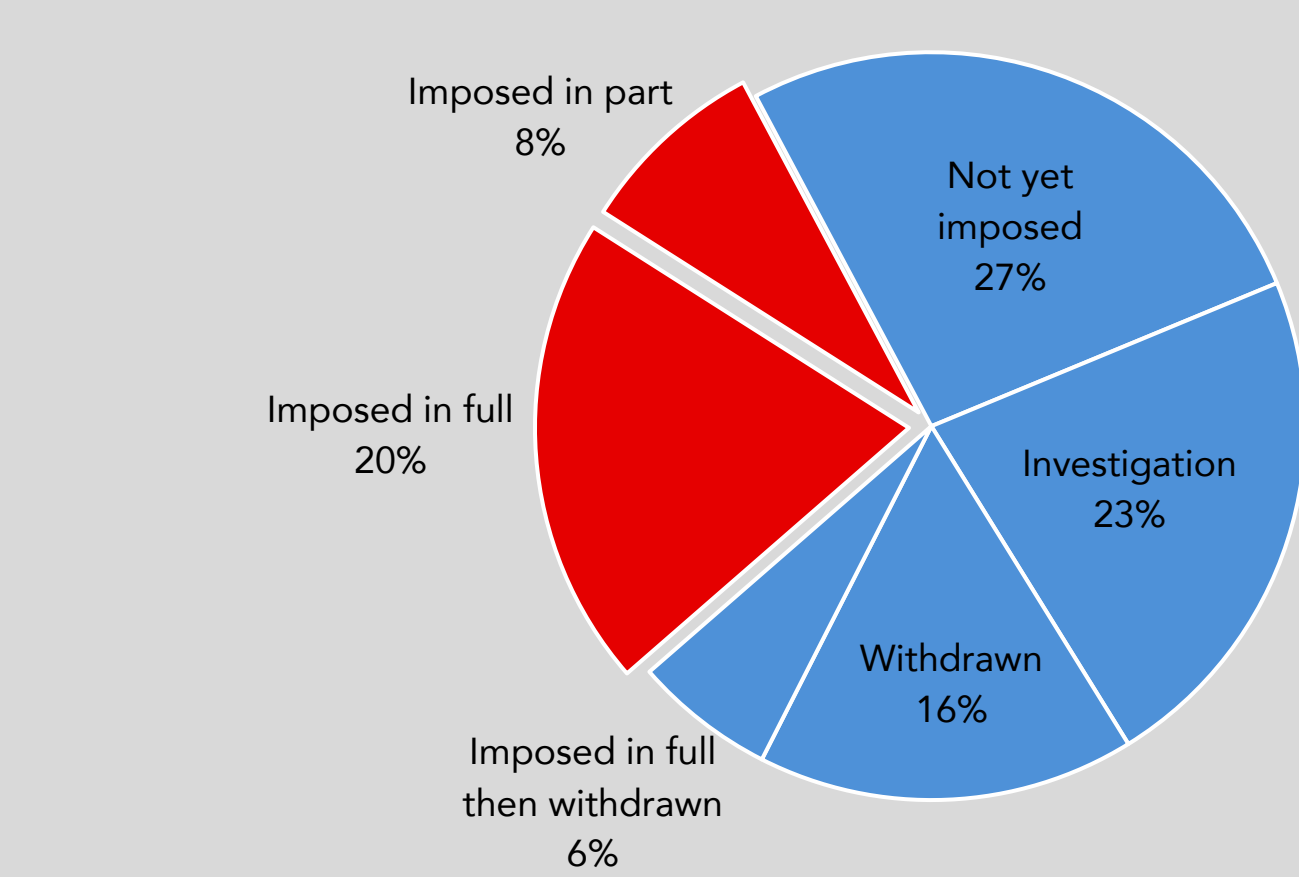


Source: (1) Various News Sources. January 2025 is Jan 20-31. February 2026 is Feb 1-20.

Breakdown of Trump's Tariff Threats Since 2024

According to a Bloomberg Economics review of President Trump's second term tariff threats, only about a quarter of his tariff announcements are actually imposed, with the other 75% either delayed, withdrawn or not ultimately implemented.

Breakdown of Trump tariff threats since November 2024



Source: (1) Bloomberg Economics. Bloomberg Government, Trump's Empty Tariff Threats Start to Pile Up.

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"Macro stability isn't everything, but without it, you have nothing."