



THE PENINSULA

Reciprocal Tariffs and the Trouble with Old Trade Rules

Published March 31, 2025

Author: [Hyerim Kim](#)

Category: [Economics](#)



The United States is poised to escalate its trade brinkmanship once again. On April 2, the Donald Trump administration is expected to unveil a sweeping new tariff regime under the banner of “[reciprocal tariffs](#),” aimed at countries with significant trade surpluses with the United States—including close allies like South Korea.

White House officials purport they are leveling the playing field by mirroring the tariff and non-tariff barriers imposed by foreign governments. But their language of fairness and economic nationalism reveals a more disruptive truth: these measures bypass traditional trade frameworks, rely heavily on executive discretion under national emergency authorities, and risk triggering a new wave of retaliation. South Korea depends strongly on U.S. market access and will seek immediate exemptions even as it prepares for volatility driven as much by macroeconomic imbalances as by political calculation.

Trump 2.0 Tariff Policy to Date

President Trump [signed an executive order](#) on February 1, 2025, that imposed sweeping new tariffs on trade partners. These included a 25 percent levy on imports from Canada and Mexico and an additional 10 percent on Chinese goods, which was later doubled to 20 percent in response to Chinese retaliation.

To justify the tariff measures, the White House invoked the [International Emergency Economic Powers Act](#) (IEEPA), citing a national emergency driven by what it says is an influx of illegal migrants and an associated surge in drug trafficking. Deploying IEEPA in this

way marks a notable shift in the execution of U.S. trade policy. Unlike traditional tariffs imposed under the Tariff Act of 1930, the Trade Expansion Act of 1962, and the Trade Act of 1974—each requiring months-long investigations and procedural hurdles—the IEEPA allows for the rapid imposition of trade restrictions under the guise of national security. These statutory workarounds enable the administration to sidestep long investigative procedures usually conducted by the U.S. Department of Commerce, the U.S. International Trade Commission (USITC), and the Office of the U.S. Trade Representative (USTR), which could take a year or longer.

On February 10, Trump amended the imposition of tariffs on steel and aluminum under Section 232 of the Trade Expansion Act. Citing renewed threats to national security, the administration not only raised aluminum tariffs from 10 percent to 25 percent but also eliminated all country-specific exemptions and expanded coverage to include derivative products. Two weeks later, the Commerce Department was instructed to initiate a Section 232 investigation into copper imports, followed by timber and lumber on March 1. On March 26, the administration announced a 25 percent tariff on imported automobiles and automobile parts, citing a Section 232 investigation conducted in 2019.

The White House also announced a “reciprocal tariff” plan on February 13 aimed at correcting the United States’ trade deficit. The Commerce Department and USTR were tasked with examining a broad range of potential distortions: tariff asymmetries, tax regimes, currency interventions, subsidies, and other non-tariff barriers. The outcome is a new wave of targeted tariffs set to take effect on April 2, possibly pursuant to the IEEPA, Section 301 of the Trade Act, and Section 232 of the Trade Expansion Act mentioned above. These tariffs could focus on countries that have prolonged trade surpluses with the United States, including Australia, Brazil, Canada, China, the European Union, India, Japan, Mexico, South Korea, Russia, and Vietnam.

Responses by Trading Partners

Canada, Mexico, and China responded swiftly to these tariff announcements with independent countermeasures targeting key U.S. exports and firms. China led the charge, announcing retaliatory tariffs on liquefied natural gas, coal, agricultural machinery, and other critical U.S. goods. It also opened an antitrust probe into Google, signaling that the dispute would not remain confined to tariffs. Furthermore, China initiated a WTO dispute complaint regarding U.S. tariff measures.

Mexico responded in kind, decrying the measures as an abuse of emergency powers and vowing to challenge them under the dispute settlement provisions of the U.S.-Mexico-Canada Agreement (USMCA). Meanwhile, Canada imposed its own retaliatory duties of up to 25 percent on U.S. dairy, vehicles, and construction materials while initiating consultations at the WTO regarding U.S. tariffs, citing IEEPA and Section 232.

Elsewhere, the European Union, the United Kingdom, India, Japan, and South Korea appealed for exemptions from the proposed “reciprocal tariff” regime. Seoul urged restraint, citing its commitments under the Korea-U.S. Free Trade Agreement (KORUS FTA) and its prior concessions during Trump’s first term.

Pertinent WTO Cases

In 2018, citing threats to the domestic industrial base, Washington imposed sweeping levies on imports of steel and aluminum, invoking Section 232. To defend its actions at the WTO, the United States leaned heavily on Article XXI of the General Agreement on Tariffs and Trade (GATT), the so-called national security exception.

The WTO was not persuaded. In a string of rulings, including the landmark United States—Certain Measures on Steel and Aluminium Products case, a WTO panel held that national security claims were not immune from review. The tariffs, the panel ruled, did not meet the criteria of being “taken in time of war or other emergency in international relations,” as required under Article XXI(b)(iii). Nor did they align with the most-favored-nation (MFN) principle under Article I or the obligation to maintain bound tariff rates under Article II.

In United States—Tariff Measures on Certain Goods from China, a WTO panel rejected the United States’ rationale for imposing duties under Section 301 of the Trade Act. These tariffs, the United States argued, were a response to Beijing’s practices involving forced technology transfer and intellectual property theft—allegations framed under GATT Article XX(a), or the public morals exception. The panel acknowledged that economic harm might be linked to public moral but found the connection between the U.S. concerns and the product-specific tariffs too tenuous, failing the “necessity test” set out in Article XX(a). The panel also found that the United States failed to satisfy the chapeau of Article XX, which requires that measures are not applied in a discriminatory or trade-restrictive manner. The ruling marked another legal blow to the United States’ tariff policy, undermining its invocation of both general and national security exceptions.

Meanwhile, the United States’ trade adversaries were facing legal scrutiny of their own. In China—Additional Duties on Certain Products from the United States, a WTO panel ruled against China’s retaliatory measures on U.S. goods. China had argued that the Section 232 tariffs were *de facto* safeguard measures, triggering the WTO Agreement on Safeguards and justifying immediate retaliation under Article 8. The panel disagreed, stating that the U.S. action was taken under national security grounds, not under WTO-compatible safeguard provisions. Similar retaliatory efforts by Canada, the European Union, India, Mexico, Russia, and Turkey—all of whom characterized the U.S. tariffs as illegal safeguards—have been challenged by the United States in parallel cases.

Economic and Policy Implications

These rulings highlight a deeper challenge. WTO rules were not built for an era of strategic economic confrontation. The U.S. position—that national security is non-justiciable—is fundamentally at odds with the WTO’s insistence on legal discipline.

At the same time, the WTO’s Appellate Body, which would hear any appeals, remains effectively defunct after years of neglect. All the cases mentioned above have been appealed, but without at least three sitting members, no final decisions can be adopted. In practice, this renders panel decisions moot and the WTO dispute settlement system unusable.

In this legal vacuum, countries are turning to their own instruments of retaliation. The European Union adopted its Anti-Coercion Instrument in 2023, granting itself the authority to impose tariffs, quotas, or restrictions on services, investments, procurements, and intellectual property if it determines that a third country is attempting economic coercion. “Coercion” is defined broadly, including not only action but threats of action.

China, for its part, enacted its Anti-Foreign Sanctions Law in 2021, authorizing countermeasures against entities and individuals complying with foreign sanctions targeting Chinese interests. On March 24, Beijing expanded the law through a new rule, strengthening enforcement mechanisms and broadening its reach. These laws signal a growing readiness by major economies to circumvent multilateral frameworks in favor of tit-for-tat retaliation.

South Korea also has several legal avenues at its disposal. It could request bilateral negotiations with the United States under GATT Article XXVIII to modify tariff commitments or push for systemic reform through Article X of the Marrakesh Agreement, which governs amendments to WTO agreements. The latter route is politically arduous: any change would require a two-thirds majority vote of 166 WTO members—or, in some cases, consensus—alongside domestic ratification. Unsurprisingly, the United States has shown little appetite for either bilateral compensation talks or multilateral treaty reform, particularly given its longstanding skepticism toward WTO dispute settlement and rule-making.

Renegotiating the KORUS FTA presents another option. The agreement allows for formal amendments under Article 24.2, provided both parties consent. But the United States' Trade Promotion Authority, which gives the president the authority to lower tariffs, expired in July 2021. It is up to Congress to revive this authority, a tough ask for an institution where free trade skepticism runs deeply on both sides of the aisle. A more viable path may lie in convening a joint committee under Article 22.2, which enables a targeted review of the agreement, focusing on the United States' specific interests and concerns. Failing that, South Korea could consider dispute settlement under Article 22. Should it prevail and Washington fails to comply, Seoul could request compensation or suspend equivalent concessions. Yet, this mechanism has never been tested, and turning to legal warfare against Washington would be diplomatically fraught.

There is, however, a narrow diplomatic window. Trump has hinted that his proposed "reciprocal tariff" policy may allow exceptions for selected countries or companies. Following Hyundai's announcement of a USD 21 billion investment in the United States, Trump pledged tariff leniency in return.

South Korea could seize this opening to seek a tailored exemption, but it should tread carefully. Even if granted temporary relief, South Korea's trade surplus with the United States is vulnerable to forces beyond its control. If the U.S. dollar appreciates relative to the Korean won, or if a recovering U.S. economy drives Americans to consume more imported Korean goods and services, the U.S. current account deficit will widen.

A rising surplus, driven by external macroeconomic factors rather than policy choices, could once again expose South Korea to retaliatory pressure. Both sides have agreed to establish a working-level channel to address tariffs and deepen cooperation in shipbuilding and energy. However, steering through this moment will require political and diplomatic finesse, which will take a marathon of work, not a sprint.

Hyeyim Kim is Lecturer at Seoul National University's Graduate School of International Studies and former Deputy Director at ROK Ministry of Trade, Industry and Energy. The views expressed here are the author's alone.

Photo from [Shutterstock](#).

KEI is registered under the FARA as an agent of the Korea Institute for International Economic Policy, a public corporation established by the government of the Republic of Korea. Additional information is available at the Department of Justice, Washington, D.C.

Return to the Peninsula

Tweet

Share

Share

Email