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## WASHINGTON POLICY STRATEGY

# Potomac Perspective

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**President Trump's "Liberation Day" announcement seems to be part of an ambitious effort to restructure the American economy. The long-term economic impact is unclear, but in the short-term, uncertainty surrounds U.S. policy and the international response. These unknowns will continue to weigh on economic growth and the markets. In this note, we review some key elements of Mr. Trump's Executive Orders and discuss potential next steps.**

**Although the U.S. seemed to open the door to negotiations with trading partners, domestic political considerations in those countries could make new trade agreements difficult to achieve. Trade wars are easy to start but hard to end.**

Yesterday, President Donald Trump issued an Executive Order under the International Emergency Economic Powers Act (IEEPA). This order imposed a minimum global tariff of 10%, with higher tariffs on countries that have higher trade surpluses with the U.S. Given the scope of President Trump's Liberation Day announcement, it is impossible to cover all the implications and repercussions of the policy, but we offer a few thoughts about what it means and possible next steps.

- **Reciprocity or Restructuring?** Despite some of the rhetoric included, we believe the goal of yesterday's Executive Order is to restructure the American economy rather than to achieve some concessions with trading partners. If the goal was to achieve lower tariffs, the administration would have targeted specific countries and their practices. Instead, this was a blunt instrument consistent with the recent automobile tariff announcement.
  - The new U.S. tariffs are based on a crude formula which divides a foreign country's trade surplus by the dollar amount of goods imported by the U.S.
  - Tariffs were levied even on countries with whom the U.S. has trade surpluses, which does not seem to suggest that a negotiated settlement is the goal.
  - We acknowledge there could be some small concessions by U.S. trading partners. For example, before Wednesday's announcement, Israel announced it was dropping its tariffs on U.S. imports. The Executive Order, however, did not exempt Israel, which raises the question of what concessions are acceptable to the Trump administration.
- **China** – It appears the newly announced tariffs on China will be stacked on top of previously announced tariffs. Furthermore, the existing *de minimis* exemption, which excluded goods of less than \$800 from tariffs, was eliminated.
- **Mexico and Canada** – No new tariffs were added to those previously announced on Canadian and Mexican imports.

- **Exemptions** – Some goods will not be subject to the tariffs included in yesterday’s Executive Order. These include:
  - Steel and aluminum articles, as well as autos and auto parts, which were already subject to Section 232 tariffs
  - Copper, pharmaceuticals, semiconductors, and lumber articles
  - All articles that may become subject to future Section 232 tariffs
  - Bullion
  - Energy and other certain minerals that are not available in the United States
- Although some goods and materials were not included in yesterday’s announcement, we would not rule out future actions to include them in the new tariff regime.
- **Potential Next Steps**
  - **Congress** – IEEPA provides a framework under which Congress can consider a resolution to disallow a president’s emergency declaration. The president would have to sign the resolution, which is unlikely. Congress could, in turn, override a presidential veto (requiring a two-thirds vote), but that is practically impossible, as it would require over 70 House Republicans to override a Trump veto. Any congressional vote would be symbolic, but it could still be notable depending on how many Republicans might vote to end the emergency declaration.
  - **Courts** – The IEEPA declaration is subject to judicial review, but the courts generally defer to presidents when they declare emergencies. That does not, however, mean the courts will not intervene. The courts could find Mr. Trump overstepped his legal authority and block the Executive Order. In our opinion, Wednesday’s announcement is the broadest use of IEEPA. The use of that law is usually targeted, so the courts might decide Mr. Trump’s use of IEEPA was overly broad. Also, the Supreme Court has recently curtailed Congress’s delegation of power to the Executive Branch, as was done in IEEPA. We think litigation to block President Trump’s Executive Order has a better chance of succeeding than it would have several years ago. Lastly, a court could grant an injunction to temporarily block the Executive Order if a plaintiff can show irreparable harm.

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