

The International Emergency Economic Powers Act (IEEPA), the National Emergencies Act (NEA), and Tariffs: Historical Background and Key Issues

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On February 1, 2025, President Donald J. Trump [announced](#) that he was imposing tariffs on [Canada](#), Mexico, and China and cited the [International Emergency Economic Powers Act of 1977](#) (IEEPA) ([50 U.S.C. §§1701 et seq.](#)) as his underlying authority. IEEPA may be used “to deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States,” if the President declares a national emergency under the National Emergencies Act (NEA) ([50 U.S.C. §§ 1601 et seq.](#)) with respect to that threat. IEEPA authorizes the president to “regulate” a variety of international economic transactions, including imports. Whether “regulate” includes the power to impose a tariff, and the scale and scope of what tariffs might be authorized under the statute, are open questions as no President has previously used IEEPA to impose tariffs.

Although IEEPA has never previously been used to impose tariffs, in 1971 former President Richard M. Nixon used the similarly worded [Trading with the Enemy Act of 1917](#) (TWEA), upon which IEEPA was based, to impose a 10% tariff on all imports into the United States in response to a monetary crisis.

President Nixon’s Emergency Tariff

On August 15, 1971, President Nixon issued [Proclamation 4074](#), in which he declared a national emergency and imposed a 10% *ad valorem* supplemental duty on all dutiable articles imported into the United States. That evening, [in a televised address to the nation](#), President Nixon outlined his new economic policy, the targets of which were unemployment, inflation, and international speculation. He addressed the supplemental duty specifically:

I am taking one further step to protect the dollar, to improve our balance of payments, and to increase jobs for Americans. As a temporary measure, I am today imposing an additional tax of 10% on

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goods imported into the United States. This is a better solution for international trade than direct controls on the amount of imports.

This import tax is a temporary action. It isn't directed against any other country. It is an action to make certain that American products will not be at a disadvantage because of unfair exchange rates. When the unfair treatment is ended, the import tax will end as well.

While the tariff was not explicitly “directed against any other country,” some observers had surmised the Nixon Administration was [using the surcharge as leverage](#) to compel [Japan and West Germany](#) to revalue their currencies. Robert Hormats, a staff economist on the National Security Council at the time, [argued](#) that the surcharge be used as “a lever only for securing appropriate currency revaluations.” Then-Under Secretary of the Treasury for Monetary Affairs Paul Volcker, likewise, thought, “the president had been convinced that [the import surcharge] was both an essential negotiating tactic and a way to attract public support.”

Over the next several months, the Nixon Administration negotiated with the Group of Ten (G-10, composed of the world's 10 biggest economies at the time) to resolve the monetary crisis and convince West Germany and Japan to revalue their currencies. On December 18, 1971, President Nixon [announced the conclusion of the Smithsonian Agreement](#), which he billed as “the most significant monetary agreement in the history of the world.” Two days later, [President Nixon removed the supplemental duties](#).

In response to the import surcharge, several importers filed suit, alleging that Nixon lacked the authority to impose the surcharge. The government argued that it had the authority to impose the import surcharge under [Section 5\(b\)\(1\)\(B\) of TWEA](#). The United States Court of Customs and Patent Appeals [held](#) in *United States v. Yoshida International* that it was “incontestable that [TWEA] does in fact delegate to the President, for use during war or during national emergency only, the power to ‘regulate importation’” and upheld the President’s action, in part because “the President’s action in imposing the surcharge bore an eminently reasonable relationship to the emergency confronted” and was “a reasonable response to the particular national emergency declared therein.” A year later, the court held the same in [a similar case](#).

When [testifying before Congress on reforms to TWEA in 1977](#), Andreas F. Lowenfeld, a scholar of international economic law in the United States, spoke disapprovingly about President Nixon’s actions and said that he found the Court of Customs and Patent Appeals reasoning in *Yoshida* “thin.” He recommended, among other things, changing the language of the statute. Despite Lowenfeld’s recommendation, Congress maintained the language of Section 5(b)(1)(B) of [TWEA](#) in Section 203(a)(1)(B) of [IEEPA](#). Additionally, Congress gave the President the explicit power to impose temporary import surcharges in response to balance-of-payments issues in [Section 122 of the Trade Act of 1974](#).

Issues for Congress

President Trump imposed the tariffs in response to what he described as a series of failures on the part of Canada, Mexico, and China governments to address the flow of narcotics into the United States. If Congress approves of these tariffs, no further action is needed by Congress to keep the tariffs in place. If Congress disapproves of these tariffs, it has several options for expressing that disapproval. Congress could terminate the underlying national emergency or emergencies by [enacting a joint resolution](#) of disapproval using the expedited procedures provided in the NEA ([see list of previous joint resolutions](#)). Congress could also amend IEEPA to restrict its use in imposing tariffs. Several Members of Congress introduced bills, in the 116th Congress, to do just that following then-President Trump’s 2019 threatened tariffs against Mexico (S. 764, H.R. 1755, S. 2413, H.R. 3557).

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