

# All Hail the... President?

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## 1 Introduction

A federal court just dealt a major blow to Presidential authority. In late May, the United States Court for International Trade (CIT) ruled that President Trump's global tariff exceeded the limits of legal executive action under the International Emergency Economic Powers Act (IEEPA). Rarely discussed outside of select Beltway circles, this little-known legislation has become one of the most important tools in creating the separation-of-powers crisis we are faced with today. The Court's decision didn't just rein in a specific policy—it's the first step in reaffirming a crucial constitutional boundary that has been quietly eroding for decades.

## 2 Executive Overreach

The IEEPA was never meant to give the President a blank check to flout Congress. In fact, it was passed in 1977 as a post-Watergate effort to bring discipline to emergency powers, not enable new ones. The law specifically dictates that "The authorities granted to the President by section 1702 of this title may only be exercised to deal with an unusual and extraordinary threat ... and may not be exercised for any other purpose."

Yet over the past two decades, presidents of both parties have used it against not just hostile foreign states, but on entire economic sectors, companies, and individuals—often with minimal oversight and in the absence of any declared war or armed conflict. Although President Trump is the first to use the law to justify tariffs on imported goods, it has been invoked by leaders ranging from Bush to Obama to enact a litany of trade restrictions.

This isn't how the Constitution is supposed to work. Article 1 explicitly gives Congress—not the President—the power to regulate international commerce.

However, Congress's inexplicable ceding of authority to the Executive has led to an inverted system: the President gets to set the rules, while Congress sits silently watching. Beyond that, there is a pragmatic reason to check broad executive powers. Harold Koh, a constitutional scholar and professor at Yale Law School, wrote in 2024 that "executive unilateralism has generally failed to ad-

vance our national interests,” increasing the risk of “militarism and catastrophic outcomes.”

By putting our entire nation’s foreign policy in the hands of one man, we not only defy the very principles that founded it, but also risk escalating conflicts and alienating our allies abroad. The judicial check must not stop at tariffs. The same logic used to invalidate the President’s unconstitutional tariff authority must now be applied to another area where executive overreach has flourished unchecked: economic sanctions. These sanctions, often indefinite and levied without congressional authorization, have produced real-world harm, from compounding humanitarian crises to undermining diplomatic engagement. Worse yet, many persist long after their original justification has expired.

Since the IEEPA was passed, it has been used to invoke 69 national emergencies, the vast majority being used for sanctions. 49 are still in effect today. That is absurd. As the House Committee on International Relations put it: “A state of national emergency should not be a normal state of affairs.” When the President is allowed to punish any country he wants, for any reason he wants, we no longer live in a democracy.

### 3 What’s Next?

The CIT’s ruling is a reminder that courts can and should play a role in checking the political branches. The past fifty years have seen a stunning rise in executive power, with the vision of a “unitary executive” driven by the presidencies of Ronald Reagan, George W. Bush, and Donald Trump. With the executive becoming more powerful day by day, and the legislative branch unwilling or unable to reclaim its power, the Courts must fight to preserve our constitutional democracy. In her 2022 Virginia Law Review article “The Runaway Presidential Power Over Diplomacy”, Professor Jean Galbraith of Penn Carey Law School wrote: “Without the courts...the executive branch can always win if it really wants to.” Only the binding ruling of an independent judiciary can compel the President to obey the constitution.

Command over the world’s largest economy and all the international responsibilities associated with it should not be treated lightly, being faux-legislated through executive orders and proclamations. It must be intensely deliberated on by our elected officials.

In a world increasingly mired in geopolitical uncertainty, our government must exercise caution. Wantonly declaring national emergencies that punish our very own allies is entirely incommensurate with the measured, law-bound foreign policy that the international order needs. As we face rising threats from an increasingly aggressive China, a resurgent Russia, and a whole host of other recalcitrant states including Iran and North Korea, the United States cannot afford to base its foreign policy on the unstable foundation of sole executive authority. The Constitution demands better. So should we.