

IN THE
Supreme Court of the United States

LEARNING RESOURCES, INC., ET AL.,
Petitioners,

v.

DONALD J. TRUMP, PRESIDENT OF THE
UNITED STATES, ET AL.,
Respondents.

DONALD J. TRUMP, PRESIDENT OF THE
UNITED STATES, ET AL.,
Petitioners,

v.

V.O.S. SELECTIONS, INC., ET AL.,
Respondents.

**On Writ of Certiorari before Judgment to the United
States Court of Appeals for the District of Columbia
Circuit and on Writ of Certiorari to the United States
Court of Appeals for the Federal Circuit**

**BRIEF AMICI CURIAE OF ECONOMISTS IN
SUPPORT OF PETITIONERS IN NO. 24-1287 AND
RESPONDENTS IN NO. 25-250**

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IDENTITY AND INTEREST OF AMICI¹

Amici Curiae are professional economists at leading universities and public policy research organizations.² They have dedicated their professional lives to understanding international trade and the economy. Many have put their expertise to use in public service for the federal government. Amici have an interest in ensuring that the fundamentals of trade economics are correctly represented in this litigation.

SUMMARY OF ARGUMENT

Plaintiffs challenge certain import tariffs imposed by President Trump under the International Emergency Economic Powers Act (“IEEPA”), 50 U.S.C. §§ 1701 *et seq.* The President issued those tariffs to address two asserted crises: (1) tariffs against Mexico, Canada, and China to fight a declared fentanyl crisis; and (2) tariffs against all global imports to address a declared economic crisis caused by the United States’ trade imbalance, and to address “a lack of reciprocity in [the United States’] bilateral trade relationships.”³ Amici

¹ No counsel for any party authored this brief in whole or in part. No party, counsel, or person other than Amici and their counsel contributed money to fund the preparation and submission of this brief. *See* S. Ct. R. 37.6.

² A complete list of Amici is included in Appendix A attached hereto.

³ These include Executive Order 14,193, Imposing Duties To Address the Flow of Illicit Drugs Across Our Northern Border, 90 Fed. Reg. 9113 (Feb. 1, 2025); Executive Order 14,194, Imposing Duties To Address the Situation at Our Southern Border, 90 Fed. Reg. 9117 (Feb. 1, 2025); Executive Order 14,195, Imposing Duties To Address the Synthetic Opioid Supply Chain in the People’s Republic of China, 90 Fed. Reg. 9121 (Feb. 1, 2025); Executive Order 14,257, Regulating Imports with a Reciprocal Tariff to

focus on the latter so-called “reciprocal’ tariffs,” which are tariffs against almost every U.S. trading partner, initially set at levels derived from the ratio of the U.S. goods trade deficit to total imports, not from tariffs or non-tariff barriers imposed by each trading partner.⁴

Even assuming that IEEPA permits the issuance of tariffs—which is not clear from IEEPA’s plain language—IEEPA has certain requirements that must be met before the President can invoke IEEPA’s remedies. First, IEEPA requires the President to declare a national emergency based on an “unusual and extraordinary threat[] . . . to the national security, foreign policy, or economy of the United States.” 50 U.S.C. § 1701(a). Trade deficits, however, have existed consistently over the past fifty years in the United States, for extended periods in the United States in the nineteenth century, and in most countries in most years in recent decades. They are thus not “unusual and extraordinary,” but rather ordinary and commonplace. *See* Part II, *infra*. Second, the existence of these ordinary and recurring trade deficits is not a “threat . . . to the national security, foreign policy or the economy” of the United States, neither generically nor with the particulars stressed by the Government or the dissenting opinion in the Court of Appeals for the Federal Circuit. *See* Part III, *infra*. Third, even if the

Rectify Trade Practices that Contribute to Large and Persistent Annual United States Goods Trade Deficits, 90 Fed. Reg. 15,041 (Apr. 2, 2025), and all modifications and amendments thereto.

⁴ Kevin Corinth & Stan Veuger, *President Trump’s Tariff Formula Makes No Economic Sense. It’s Also Based on an Error.*, AEI (Apr. 4, 2025), <https://www.aei.org/economics/president-trumps-tariff-formula-makes-no-economic-sense-its-also-based-on-an-error/>.

current trade deficit constituted an unusual and extraordinary threat to national security or the economy as required by IEEPA, the tariffs imposed under IEEPA by the President do not meaningfully reduce trade deficits and hence do not “deal with” the deficits as IEEPA requires. In fact, as explained below, the additional foreign investment that the Government claims to have procured by means of the tariffs *increases* the U.S. trade deficit. *See* Part IV, *infra*.

Finally, while the President’s universal tariffs will not reduce the trade deficits, they will fundamentally transform the U.S. economy. These sweeping tariffs, which apply to almost every good that enters the United States, will have massive budgetary, allocative, and distributive effects across the country. Their impact on government revenue alone is one or two orders of magnitude greater than that of programs that this Court has already determined triggered the “major questions doctrine,” whereby explicit Congressional authorization is required to impose programs of significant economic impact. *See, e.g., West Virginia v. EPA*, 597 U.S. 697, 730 (2022). *See* Part V, *infra*. No such congressional authorization to transform the U.S. economy via tariffs exists here.

Amici, as economists, are well-positioned to provide an economic perspective on the critical questions of this case. Amici here speak to the scale of these effects and the existence, or in fact nonexistence, of an economic emergency sufficient to justify the use of IEEPA.

ARGUMENT

In enacting IEEPA, Congress granted the President the power to take certain measures, including to issue “instructions, licenses, or otherwise,” to “regulate[] . . . any acquisition[] . . . importation or exportation of[] . . . any property in which any foreign country or a national thereof has any interest by any person, or with respect to any property, subject to the jurisdiction of the United States” 50 U.S.C. § 1702(a). But the President may “*only*” exercise these delineated powers “to deal with an unusual and extraordinary threat,” and IEEPA powers “[can]not be exercised for any other purpose.” 50 U.S.C. § 1701(b) (emphasis added). The tariffs promulgated by the President under IEEPA fail to meet these requirements.

I. Prologue: Trade Deficits And Investment Inflows

A country has a “trade deficit” when its imports exceed its exports. In other words, its “net exports,” defined as exports less imports, are negative. These are standard macroeconomic accounting terms that denote the cross-border flow of goods and services. Based on the national income accounts identity, these trade flows can also be described in terms of net capital flows, defined as the difference between capital entering and leaving the country. That is, trade deficits are equal to net capital inflows and, using the inverse terminology, trade surpluses are equal to net capital outflows. N. Gregory Mankiw, *Macroeconomics* 122-123 (7th ed. 2010). To illustrate, consider a situation where a country imports more than it exports, i.e., its net exports are negative. In

such circumstances, and unless foreign trading partners are motivated by charity, that country's residents must finance imports that exceed exports either by reducing their holdings of foreign assets or by selling domestic assets to foreign investors. Either way, the country's trade deficit will be exactly matched by net capital inflows. Ignoring gifts, which are of minimal importance in the advanced-economy context, this means net exports will match net foreign investments. "The national income accounts identity shows that the international flow of funds to finance capital accumulation and the international flow of goods and services are two sides of the same coin." Mankiw, *Macro, supra*, at 123.

This is Economics 101, but the implications are profound. It means that another way to characterize a "trade deficit" is as a "*foreign investment surplus*": a country that imports more than it exports receives more foreign investment than it invests abroad, and vice versa. By the same token, a "trade surplus" is a "*foreign investment deficit*."

Take, for example, the government's assertion that "[d]ue to the tariffs" at issue in this litigation, "Japan and South Korea collectively have agreed to almost \$1 trillion in investments" in the United States. Gov't Br. at 10. By construction, and absent offsetting adjustments elsewhere, these investments will increase the U.S. trade deficit. If they increase net foreign investment in the United States by \$1 trillion, they must increase the U.S. trade deficit by \$1 trillion. The underlying mechanism is that to make \$1 trillion in asset purchases in the United States, Japan and Korea must

give the United States \$1 trillion in goods or services (or currency to buy such goods or services from them or other foreign nations). Thus, when the United States receives \$1 trillion in foreign investments, it receives \$1 trillion in imports. Increasing net foreign investment in the U.S. means increasing the U.S. trade deficit.

Most of our arguments to follow are applications of this basic insight.

II. Trade Deficits Are Not “Unusual And Extraordinary.”

Unsurprisingly then, there is nothing “unusual” or “extraordinary” about trade deficits. Indeed, *most countries run trade deficits most years*. Over the last fifty years, in any given year, about two thirds of the roughly 150 countries for which the World Bank publishes the relevant data have run a trade deficit.⁵

Even “large and persistent” deficits, as Executive Order 14,257 describes, 90 Fed. Reg. at 15,041, are not “unusual and extraordinary.” *Id.* The United States has run “large and persistent” deficits for the past fifty years, as well as in the past. *Id.* “From 1800-1870, the United States ran a trade deficit for all but three years and the trade balance averaged about - 2.2 percent of GDP.”⁶ Countries with economies as

⁵ World Bank Group, *DataBank: World Development Indicators*, <https://databank.worldbank.org/source/world-development-indicators> (last accessed Oct. 17, 2025) [hereinafter *DataBank*].

⁶ Brian Reinbold & Yi Wen, *Historical U.S. Trade Deficits*, Fed. Rsrv. Bank of St. Louis (May 17, 2019), <https://www.stlouisfed.org/on-the-economy/2019/may/historical-u-s-trade-deficits>.

Deficits become even more unremarkable if trade in goods and services are considered separately, *i.e.*, as sector-specific deficits. President Trump refers specifically to “large and persistent annual U.S. *goods* trade deficits.” 90 Fed. Reg. at 15,041 (emphasis added). But countries import and export both goods and services, and there is no reason why a country should import the same mix of goods and services as it exports. For example, the United States is a net exporter of software, education, and finance (services) but a net importer of bananas (goods).⁸ If the sector-mix of imports is different from the sector-mix of exports, however, the country will run a deficit in one sector (goods or services) and a surplus in the other even if its

⁸ Compare World Integrated Trade Solution, *United States Bananas, including plantains, fresh or dried imports by country in 2023*, <https://wits.worldbank.org/trade/comtrade/en/country/USA/year/2023/tradeflow/Imports/partner/ALL/product/080300> (page refreshed Oct. 17, 2025, 17:02 ET) (imports) and World Integrated Trade Solution, *United States Bananas, including plantains, fresh or dried exports by country in 2023*, <https://wits.worldbank.org/trade/comtrade/en/country/USA/year/2023/tradeflow/Exports/partner/ALL/product/080300> (page refreshed Oct. 17, 2025, 17:06 ET) (exports). U.S. Bureau of Economic Analysis, *International Data: Table 2.1., U.S. Trade in Services, by Type of Service* (release date: July 3, 2025), <https://apps.bea.gov/iTable/?reqid=62&step=9&isuri=1&6210=4#eyJhcHBpZCI6NjIsInN0ZXZBZlJpbMSw5LDZdLCJkYXRhIjpibWYJQcm9kdWN0IiwNCjdlFsiVGFibGVMaXN0IiwMjQ1Il1dfQ==> [hereinafter U.S. Bureau of Economic Analysis, *International Data*] (lines 21, 30, 44 (exports) and 124, 133, 147 (imports) for education, finance, and software licenses, respectively).

overall trade is balanced. These sector-specific deficits and surpluses are likely to be very persistent because the underlying reasons are as well: some countries have a comparative advantage producing goods, while others have a comparative advantage producing services. The United States has the dominant technology sector in the world and, as a result, has been running a persistent surplus in trade in services for decades.⁹ Conversely, the United States has long run banana trade deficits because the climate in the United States is not good for banana farming.

A similar logic explains why bilateral trade deficits—deficits between the United States and individual countries—are a virtual logical certainty. Nobel prize winner Robert Solow made the point with this quip: “I have a chronic deficit with my barber, who doesn’t buy a darned thing from me.”¹⁰ There is no reason why the United States—or any country, for that matter—should have balanced trade with every other country. The United States may (only) sell goods to country A, which sells goods to country B, which then sells the same amount of goods to the United States. In this example, U.S. trade may be balanced overall (*i.e.*, with countries A and B combined), but the United States runs a deficit with country B and a surplus with country A. Such country imbalances are to be expected because

⁹ U.S. Bureau of Economic Analysis, *International Data*, *supra* note 8 (line 207).

¹⁰ Peter Passel, *Economic Watch; Big Trade Deficit With Japan: Some Think It's No Problem*, N.Y. Times (Feb. 15, 1994), <https://www.nytimes.com/1994/02/15/business/economic-watch-big-trade-deficit-with-japan-some-think-it-s-no-problem.html>.

different countries supply and demand different goods and services, only some of which are in demand and supply, respectively, in the United States. Because bilateral trade deficits are a virtual logical certainty, it is odd to economists, to say the least, for the United States government to attempt to rebalance trade on a country-by-country basis, as Executive Orders 14,257 and 14,266 appear to do with their country-specific “reciprocal tariffs.” *See, e.g.,* Mankiw, *Macro, supra*, at 124; Anne O. Krueger, *International Trade: What Everyone Needs to Know* 81 (2020).

III. Trade Deficits Are Not A “Threat” Within The Meaning Of IEEPA.

A. Both aggregate and bilateral trade deficits are harmless per se.

IEEPA authorizes the President to act to counter only “unusual and extraordinary” threats. 50 U.S.C. § 1701. President Trump purports to “find” a “threat to the national security and economy of the United States” in “underlying conditions[] . . . as indicated by large and persistent annual U.S. goods trade deficits.” 90 Fed. Reg. at 15,041. The challenged tariffs are supposed “to rebalance global trade flows,” *i.e.*, to eliminate trade deficits between the United States and other countries. *See id.* at 15,045.

But trade deficits are not only usual and ordinary, they are also harmless *per se* and not a “threat to the national security and economy of the United States.” *Id.* at 15,041.

First, bilateral and sector-specific trade deficits are benign for the same reason that they are ubiquitous.

Indeed, economists consider them irrelevant. Mankiw, *Macro, supra*, at 124; *cf.* Krueger, *supra*, at 81 (“bilateral trade deficits . . . mean nothing”). Just as Robert Solow was not threatened by his trade deficit with his barber, or more generally by his trade deficit in barber services, the United States is not threatened by a trade deficit with any individual country, or any individual sector (*e.g.*, goods or bananas). An unequal distribution of trade across trading partners and sectors will result even just from efficient specialization.

To be sure, specialization can be *strategically* problematic. Thus, trade deficits in particular industries could pose a threat to the United States. For example, the United States may not want to offshore weapons production. But such a threat would be industry- and perhaps country-specific and cannot be measured simply in dollars or percentages of the aggregate trade deficit, nor could it be countered by generic measures aiming at aggregate trade and the aggregate trade deficit.¹¹

Second, aggregate trade deficits are neither good nor bad *per se* for the reasons laid out *supra* Section II. As we explained there, trade deficits are the flipside of foreign investment surpluses. The first (trade deficits) may sound bad, the second (foreign investment

¹¹ These and similar threats are properly addressed under other different statutory schemes, such as Section 232 under the Trade Expansion Act of 1962, which allows the President to adjust imports that threaten to impair U.S. national security. 19 U.S.C. § 1862. The President has used Section 232 to, most recently, impose tariffs on imports of steel and aluminum. Proclamation 10,895, 90 Fed. Reg. 9807 (Feb. 10, 2025); Proclamation 10,896, 90 Fed. Reg. 9817 (Feb. 10, 2025).

surpluses) good, but viewed as a whole, in and of themselves, they are neither.

In fact, even the negative connotation of “deficit” in trade is misleading. A “trade deficit” is an excess of imports over exports; in other words, it is just accounting terminology. That the United States persistently runs a “trade deficit” simply means that the United States persistently receives more goods and services from other countries than those other countries receive from the United States, which is in and of itself a good thing.

Turning to the underlying reasons why some countries run trade surpluses while others run trade deficits, the leading explanations of the U.S. trade deficit view it as a sign of U.S. strength, not weakness. The reasons why the United States has been the preferred destination of capital for many decades are the same reasons it has persistently run trade deficits: its innovative and dynamic economy, deep and liquid markets, and status as a safe haven. As this brief emphasizes repeatedly, a trade deficit is the flipside of a foreign investment surplus. Thus, one explanation for persistent U.S. trade deficits is simply that the United States is a superior investment. This is what generates Americans’ ability to buy more from the rest of the world than we sell to it (*i.e.*, running a trade deficit). *Cf.*, *e.g.*, Paul R. Krugman, Maurice Obstfeld & Marc J. Melitz, *International Economics: Theory & Policy* 507 (9th ed. 2012) (“countries where investment is relatively productive should be net importers of current output (and have current account deficits”). Posed this way, a

trade deficit reflects the relative strength of our economy.

Other complementary theories stress the role of the U.S. *budget* deficit. Empirically, the United States started running a trade deficit at about the same time that it started running a budget deficit.¹² This is not a coincidence. A budget deficit means that the government spends more than it earns. This is offset by U.S. citizens earning more than they spend, but only partly. On net, the United States—government and citizens combined—spends more than it earns. At the national level, spending more than one earns means importing more than one exports, *i.e.*, running a trade deficit.¹³ See, *e.g.*, Douglas A. Irwin, *Three Simple Principles of Trade Policy* 18-20 (1996); Robert Feenstra & Alan M. Taylor, *International Trade* 51-53 (5th ed. 2021); Krueger, *supra*, at 81 (“[T]here is virtually complete consensus among economists about trade deficits. Trade deficits (or more correctly current account deficits) are not the result of other countries’ tariffs. They are the outcome of a country’s domestic macroeconomic monetary and fiscal policies.”).

The absence of a meaningful relationship between foreign tariffs on a country’s exports and that country’s

¹² GovInfo, *Historical Tables, Budget of the United States Government, Fiscal Year 2025* (Mar. 2024), <https://www.govinfo.gov/app/details/BUDGET-2025-TAB/context>.

¹³ Theoretically, a savings deficit can be offset not only by a trade deficit but by other components of the so-called “current account,” which are essentially returns to capital. In practice, however, these are much smaller for the United States and thus play only a small role in the overall U.S. balance of payments.

balance of trade is not merely theoretical, but also holds empirically, both in the contemporary context and over long time periods. Foreign tariff rates on US exports do not correlate positively with the size of US trade deficits. “In fact, if you put all the countries on a graph with their average tariff levels on the horizontal axis and the size of the US trade deficit with them on the vertical axis, you get a line that slopes down. That means higher foreign tariffs are actually associated with *smaller* US trade deficits.” Kyle Handley, *Why I Signed the Economists’ Amicus Brief Challenging Trump’s Emergency Tariffs*, Cato at Liberty Blog (July 30, 2025), <https://www.cato.org/blog/why-i-signed-economists-amicus-brief-challenging-trumps-emergency-tariffs> (figure 1). Broadening the inquiry beyond recent US trade deficits and tariffs to data from the entire world likewise falsifies the putative link between foreign tariff rates and trade balances. “A large-sample study covering 189 countries from 1988 to 2022 found no statistically significant effect of tariffs on trade balances, even after controlling for country characteristics and the global business cycle.” Enrique Martínez García & Kei-Mu Yi, *Are trade deficits good or bad, and can tariffs reduce them?* (Sept. 4, 2025), <https://www.dallasfed.org/research/economics/2025/0904>.

An illustration of the importance of macroeconomic factors in determining the aggregate trade deficit comes from the dramatic growth in U.S. domestic oil and gas production in the 2010s.¹⁴ In 2011,

¹⁴ Thomas Klitgaard, *Why Does the U.S. Always Run a Trade Deficit?*, Fed. Rsrv. Bank of N.Y. (May 20, 2025),

the U.S. trade deficit in petroleum products peaked at \$330 billion, well over half of the entire trade deficit of \$558 billion. Then, domestic oil and gas production dramatically increased. The trade deficit in that industry disappeared by 2019. Nevertheless, the overall U.S. trade deficit grew to \$617 billion, consistent with the wider saving gap that developed over this period.

In its brief, the government demands judicial deference for its determination that “decades of cumulative, uncorrected trade imbalances had brought the United States to a ‘tipping point,’ *i.e.*, the brink of a major economic and national-security catastrophe.” Gov’t Br. at 43 (quoting from motion to expedite). Amici are not in a position to comment on the appropriate judicial deference to the executive branch. They can vouch, however, that they know of no “tipping point theory” of trade deficits, or a clear causal pathway from persistent trade deficits to an undefined “national security catastrophe,” and the government has not identified any. That being the case, demanding deference for fear of a “tipping point” is simply a less transparent way of demanding deference for “a major economic and national-security catastrophe” of an unspecified type or origin.

B. There is nothing specific about the targeted trade deficits warranting a different conclusion.

The Federal Circuit’s dissenting opinion accepted the basic point that trade deficits are generally

<https://libertystreeteconomics.newyorkfed.org/2025/05/why-does-the-u-s-always-run-a-trade-deficit/>.

harmless. But it then insisted that a threat may yet emanate from the “*particular* goods trade deficits ... that cause a number of *specified* negative effects” identified in the 25-250 Pet. App. at 90a (Taranto, J., dissenting) (emphasis added). The links that Executive Order 14257 draws from the U.S. trade deficit to several other phenomena, however, are nonexistent.

First, Executive Order 14257 states that: “Large and persistent annual U.S. goods trade deficits have led to the hollowing out of our manufacturing base.” 90 Fed. Reg. at 15,041. This cannot be correct. Even if the entire U.S. trade deficits in goods (4% of GDP) were replaced with domestic manufacturing on top of the current U.S. manufacturing GDP share of 10%, U.S. manufacturing today would be only 14% of GDP—half of its peak in the early 1950s.¹⁵ This decline has nothing to do with the trade deficit. Manufacturing as a percentage of GDP has shrunk even in countries that run persistent trade surpluses (*e.g.*, Germany). In addition, the underlying driver for the decline in manufacturing employment is a large increase in labor productivity. In fact, the United States does not manufacture less today than it did in the past. Instead, the same manufacturing now requires fewer people and is less expensive relative to other goods.¹⁶

¹⁵ U.S. Bureau of Econ. Analysis, *Interactive Data: Value added by Industry as a Percentage of Gross Domestic Product* (last revised Nov. 16, 2021), <https://apps.bea.gov/iTable/?reqid=147&step=2>.

¹⁶ YiLi Chien & Paul Morris, *Is U.S. Manufacturing Really Declining?*, Fed. Rsrv. Bank of St. Louis (Apr. 11, 2017), <https://www.stlouisfed.org/on-the-economy/2017/april/us-manufacturing-really-declining>.

Second, Executive Order 14257 also incorrectly asserts that: “Large and persistent annual U.S. goods trade deficits have . . . inhibited our ability to scale advanced domestic manufacturing capacity; undermined critical supply chains; and rendered our defense-industrial base dependent on foreign adversaries.” 90 Fed. Reg. at 15,041. Trade deficits, however, especially aggregate ones, are not the same as trade. Trade—the sourcing of goods across borders—may create supply chain vulnerabilities, for example if the goods are defense-related. But this has nothing to do with the existence of a trade deficit. A country could be running a persistent trade *surplus* and still face these vulnerabilities if it lacks domestic means of production. Similarly, domestic production of sufficient scale may be hard to achieve when competing with cheaper imports, but in that case the specific goods imported are the problem, not the general excess of imports over exports (which could be in an entirely different industry and thus not help with scale).

Third, the Executive Order claims that the U.S. trade deficit indicates “a lack of reciprocity in our bilateral trade relationships, disparate tariff rates and non-tariff barriers, and U.S. trading partners’ economic policies that suppress domestic wages and consumption.” 90 Fed. Reg. at 15,041. Some trading partners of the United States may well fit that pattern. The Executive Order, however, applies irrespective of individual partners’ tariffs rates, non-tariff barriers, and economic policies. Indeed, the correlation between the United States’ country-specific tariffs under the Executive Order and the respective foreign country’s

tariffs on imports from the United States is *negative*: U.S. tariffs tend to be higher on countries that have *lower* tariffs on U.S. goods. See Scott Lincicome & Alfredo Carrillo Obregon *Please Stop Calling them “Reciprocal” Tariffs*, Cato at Liberty Blog (Aug. 14, 2025), <https://www.cato.org/blog/please-stop-calling-them-reciprocal-tariffs> (figure 1). The U.S. tariffs also tend to be higher than the foreign tariffs in the absolute. See *id.* (figures 2 and 3). Calling the tariffs “reciprocal” is, therefore, a misnomer.

IV. The Reciprocal Tariffs Do Not “Deal With” The Aggregate Trade Deficit.

A. While tariffs reduce imports *and* exports, they do not meaningfully reduce the overall trade deficit.

Even assuming that trade deficits were to constitute an unusual or extraordinary threat under IEEPA, the reciprocal tariffs do not “deal with” the aggregate trade deficit as the text of IEEPA requires. 50 U.S.C. § 1701(b) (“The authorities granted to the President by section 1702 of this title may only be exercised *to deal with* an unusual and extraordinary threat . . .” (emphasis added)). In fact, to the extent the (threat of) tariffs merely serve to extract investments from foreign trading partners, they must *increase* the U.S. trade deficit, as we explained *supra* section II.

As demonstrated (*supra* III.A), tariffs do not address aggregate trade deficits because they are not the primary drivers of such deficits. As the standard introductory economics textbook puts it: “Trade policies do not affect the trade balance. That is, policies that

directly influence exports or imports do not alter net exports.” N. Gregory Mankiw, *Principles of Economics* 696 (7th ed. 2015). This is because the trade balance equals national savings minus domestic investment, and trade policies do not directly affect national savings or domestic investment. *Id.*; see also, e.g., Irwin, *supra*, at 18-20; Krueger, *supra*, at 81; Martínez García & Yi, *supra*; see generally *supra* section II. Empirical evidence from a large set of countries over the past half century confirms that “the net effects of higher tariffs on the trade balance are small and insignificant”. Davide Furceri et al., *The Macroeconomy After Tariffs*, 36 World Bank Econ. Rev. 361, 368 (2022).

The key to understanding this perhaps counterintuitive fact is that trade deficits are not the same as trade. Tariffs unambiguously reduce total trade flows. But they generally do so in both directions—both in and out. Irwin, *supra*, at 2-9; Mankiw, *Macro, supra*, at 143; Furceri et al., *supra*, at 369. Thus, while the volume of trade will fall, the level of the trade deficits may remain unchanged.

To be sure, extreme tariffs must reduce the trade deficit because such prohibitive tariffs would shut down all trade. Where there is no trade, there is no trade deficit (or trade surplus, for that matter). More generally, the lower trade is, the lower trade imbalances must be (an upper bound being the maximum of imports and exports). Theory suggests that if savings decisions themselves are affected by trade policy, tariffs can affect the trade deficit (*cf.* Arnaud Costinot & Iván Werning, *How Tariffs Affect Trade Deficits* (Nat’l Bureau Econ. Res., Working Paper No. 33709, Apr. 2025),

<https://www.nber.org/papers/w33709>), but these effects appear to be negligible in practice. Empirically, there is no correlation between tariffs and trade imbalances even at the highest rates observed in the last 60 or so years. See Furceri et al., *supra*, at 368 (figure 1); Martínez García & Yi, *supra*, (chart 4).

The fact that the trade deficit in goods from the beginning of 2025 through the end of July—the most recent available numbers—exceeds last year’s trade deficit over the same period illustrates this. The increase has happened despite a very large increase in tariffs from both the reciprocal tariffs discussed here and a range of others. The full set of tariffs imposed this year to date corresponds to a 15.6 percentage point increase in the U.S. average effective tariff rate (14.6 percentage points after accounting for behavioral responses, from a base of 2.4%).¹⁷ Despite those increases, the goods trade deficit equaled \$840 billion for January through July of 2025, about a 23% increase from last year’s \$682 billion.¹⁸

¹⁷ Budget Lab at Yale, *State of U.S. Tariffs: October 17, 2025* (2025), <https://budgetlab.yale.edu/research/state-us-tariffs-october-17-2025> [hereinafter *State of U.S. Tariffs: October 17*].

¹⁸ Press Release, U.S. Census Bureau, *U.S. International Trade in Goods and Services, July 2025*, Release No. CB25-135 (Sept. 4, 2025), https://www.census.gov/foreign-trade/Press-Release/current_press_release/ft900.pdf.

B. While the tariffs may reduce trade deficits with specific countries, they will increase trade deficits with other countries.

The fact that reciprocal tariffs do not meaningfully change the aggregate trade deficit does not mean they do not affect some specific bilateral trade deficits. While the sum of all of the bilateral trade deficits will remain roughly the same, their relative sizes can and likely will change, as both tariffs and demand and supply responses vary across countries and products. This means reciprocal tariffs, therefore, will reduce some bilateral trade deficits while increasing others.

During the first Trump administration, the United States increased tariffs on imports from China significantly, from about 3% to about 19%. At least partially as a result, between 2016 and 2020 imports from China decreased—as did the bilateral trade deficit with China. At the same time, the U.S. trade deficit with a number of other major trading partners *increased*, more than offsetting the decrease in the bilateral deficit with China.

V. The Reciprocal Tariffs Implicate The Major Questions Doctrine Because they Will Have Vast Impact On The U.S. Economy.

Under the major questions doctrine, agencies must point to “clear congressional authorization when they claim the power to make decisions of vast economic and political significance.” *West Virginia*, 597 U.S. at 735 (Gorsuch, J., concurring). These tariffs, of a scale and

scope unseen since the 1940s, ensure a massive impact across the United States. The adoption of the tariffs thus appears to be the paradigmatic “decision[] of vast economic and political significance” that requires clear Congressional authorization. *Id.* at 716 (quotation marks omitted).

However, IEEPA, the statute at question here, does not even explicitly mention tariffs; it only provides that the President may “regulate[] . . . importation.” 50 U.S.C. § 1702(a)(1)(B). The Federal Circuit held that these words do not permit vast, if not unlimited, authority over trade and to “grant the President unlimited authority to impose tariffs.” 25-250 Pet. App. at 30a. Amici agree that, based on their scope of impact and recent Supreme Court precedent, the “regulate[] . . . importation” language in IEEPA could not possibly have authorized such extensive and impactful tariff authority. 50 U.S.C. § 1702(a)(1)(B).

In fact, the economic impact of the reciprocal tariffs is predicted to be far greater than in two programs that the U.S. Supreme Court previously found to trigger the major questions doctrine. In *Alabama Ass’n of Realtors v. Department of Health and Human Services*, the Supreme Court held that the power to impose “\$50 billion in . . . economic impact” was “exactly the kind of power” “of vast economic and political significance” for which it “expect[s] Congress to speak clearly.” 594 U.S. 758, 764 (2021) (per curiam) (internal quotation marks removed). The Supreme Court explicitly benchmarked against the \$50 billion impact in *Alabama Ass’n* the student loan forgiveness program challenged in *Biden v. Nebraska*, 600 U.S. 477 (2023). In

Biden v. Nebraska, the Court disapproved of a statutory interpretation that would allow the agency to “enjoy virtually unlimited power to rewrite” the enabling statute. *Id.* at 502. It pointed to the “staggering” scope of impact of the program “between \$469 billion and \$519 billion,” which was “ten times the ‘economic impact’” in *Alabama Ass’n* that it previously concluded “triggered analysis under the major questions doctrine.” *Id.* at 502-03 (internal quotation marks omitted).

The cost estimate for the impact of *Biden v. Nebraska* came from “[a] budget model issued by the Wharton School.” *Id.* at 502. The Wharton School’s budget model now predicts an economic impact of the reciprocal tariffs that far exceeds even the “staggering” impact of the latter program. According to this model, the government will collect \$2.9 trillion in additional revenue over the next ten years without accounting for behavioral responses (the “static score”), and \$2.6 trillion in revenue when behavioral responses are taken into account (the “dynamic score”). *Budget Model: Tariff Simulator: Revenue and Prices*, Penn Wharton Univ. of Pa., <https://budgetmodel.wharton.upenn.edu/issues/2025/2/26/tariff-revenue-simulator> (last visited Oct. 17, 2025). The government’s own estimates are even higher. It has claimed that the tariffs will “generate between \$2.3 trillion and \$3.3 trillion” in revenue over the same period, reflecting a range of revenue outcomes that depend on changes in demand and “enforcement efficacy.”¹⁹

¹⁹ Statement from the Off. of Commc’ns, *FACT: One, Big, Beautiful Bill Cuts Spending, Fuels Growth*, The White House (May 28, 2025),

The tariffs' economic impact is not merely budgetary. They also will “structurally shift” the economy more broadly.²⁰ For example, they will reduce the purchasing power of households throughout the income distribution. The Budget Lab at Yale estimates that for a household in the lowest income decile, the tariffs will cost consumers an average of \$1,032 per household per year. For households in the middle, the burden rises to roughly \$1,500 per household per year, and for those in the top tenth, it averages \$4,136.²¹

The tariffs also will change the behavior of companies and households throughout the economy, which explains the large differences between the static and dynamic scoring that the Wharton School uses to estimate the impact of tariffs on government revenue. In response to the imposition of tariffs, firms and households will make countless changes to their behavior that result in different purchases of consumer goods and services, altered choices of business inputs and capital goods, and shifts of capital and human resources across industries and occupations. As these adjustments reverberate throughout the economy, purchases of imported goods subject to the tariffs generally will decrease, reducing the amount of tariff

<https://www.whitehouse.gov/articles/2025/05/fact-one-big-beautiful-bill-cuts-spending-fuels-growth/>.

²⁰ Ari Hawkins, *Navarro: Trump Will ‘Structurally Shift’ American Economy with Tariff Revenue*, Politico (Feb. 4, 2025), <https://www.politico.com/news/2025/02/04/navarro-trump-will-structurally-shift-american-economy-with-tariff-revenue-00202344>.

²¹ *State of U.S. Tariffs: October 17*, *supra* note 17 (figure 7).

revenue collected. In the government’s assessment, this reduction corresponds to almost a third of the revenue that would have been collected in the absence of behavioral responses, or about \$1 trillion.

The tariffs will change the distribution and allocation of resources not only across firms and households but also across U.S. states. The tariffs will affect states differently, depending, among other factors, on the exposure states have to international trade and the extent to which their industries compete with or rely on foreign producers. The most affected states are estimated to lose 5% of real income relative to the least affected states.²²

Amici’s view—and that of the economics profession at large—is that trade deficits are not “unusual and extraordinary” or a “threat” to national security or the U.S. economy. Regardless, the reciprocal tariffs do not “deal with” the trade deficits. Instead, they will have trillions of dollars’ worth of impact on the economy, an impact that will reverberate across every household and state.

CONCLUSION

For all of these reasons, the court should affirm the decision of the court below.

²² Andrés Rodríguez-Clare et al., *The 2025 Trade War: Dynamic Impacts Across U.S. States and the Global Economy* (Nat’l Bureau of Econ. Rsch., Working Paper No. 33792, May 2025), <https://www.nber.org/papers/w33792>.

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APPENDIX A: SIGNATORIES

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