

TRENDMACRO LIVE!

On the Administrative Stay against Trump's Tariff Ruling

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The tariffs are gone. No, now they're back. At least for a couple weeks.

As an intermediate step on the way to the Supreme Court, the United States Court of Appeals for the Federal Circuit has issued [an administrative stay](#) pausing the ruling by the US Court of International Trade's [ruling yesterday](#) vacating President Donald J. Trump's tariffs under [1977's International Emergency Economic Powers Act](#) (see ["You Heard It Here First: Court Strikes Down Trump's Tariffs"](#) May 28, 2025).

- The tariffs that the Trade Court had ordered to stop within ten days can continue while the parties brief the appellate court. Plaintiffs must brief by June 5, and defendants must respond by June 9.
- Both the Trade Court and the Court of Appeals for the Federal Circuit have national jurisdiction granted by Congress. A ruling by the Court of Appeals would have national precedential power, just as a Supreme Court ruling would.
- The Court of Appeals' administrative stay was issued *en banc*, that is, by all twelve active judges. Four were appointed by Republican presidents, eight by Democratic presidents. One judge appointed by Ronald Reagan is now so old – 98 years – that she has been twice found incompetent and put on suspension, so she did not participate in the stay.
- As of this writing we don't know how many judges will be on the panel that will consider the case, nor their partisan composition. The Court of Appeals has a history of convening larger panels for cases deemed to be extremely important.
- We continue to think this case is destined for the Supreme Court, where we continue to think Trump will lose.
- Earlier today the White House had said that if a stay were not granted they would make an emergency appeal to the Supreme Court tomorrow. Presumably, now, they will wait on that.
- The market reaction to yesterday's ruling was muted, as it was also to today's ruling. Markets have become inured to the performative politics of Trump's tariffs (see ["Video: What you're not hearing about the narrowest equity risk premium in 23 years"](#) May 23, 2025). And they realize that tariffs imposed under the IEEPA, when quashed by the courts, can just come back under other statutory pretexts. But as we said yesterday, those other pretexts are slow and limiting. The worst of the Trump *ad hoc* tariff terror is over.

Update to strategic view

US MACRO: The Court of Appeals for the Federal District has issued an administrative stay on yesterday's ruling by the International Trade Court, which had vacated Trump's tariffs under the International Emergency Economic Powers Act. Plaintiffs have until June 5 to brief, defendants have until June 9 to respond. The tariffs stay in place at least till then, and while the case plays out. The stay was issued *en banc* by all the active judges, the majority of whom were appointed by Democratic presidents. We don't yet know who or how many will make up the panel that decides the case. However the Court of Appeals rules, it is a court with national jurisdiction and the power to create national precedent. Surely the case will end up in the Supreme Court where we think Trump will lose. Market reaction is muted, having gotten used to the performative politics of Trump tariffs. Trump has other ways to impose tariffs, but they are more limiting. The worst is over.

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