

Appeals court rules against Trump's reciprocal tariffs

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31 August 2025

A US court of appeal has upheld a decision in May by the International Court of Trade that the so-called reciprocal tariffs imposed by US president Trump were unconstitutional. But the tariffs will remain in place because the court decided not to put the ruling into effect until at least October 14 to allow the administration time to make an appeal to the Supreme Court.

The tariffs, which cover countries rather than specific commodities and start at 10 percent and go as high as 50 percent, were imposed under the International Emergency Economic Powers Act of 1977.

Trump claimed the IEEPA gave him the power to act because US trade deficits had created a “national emergency.”

In a 7–4 ruling, the appeals court found that Trump had exceeded his authority. It said the IEEPA “bestows significant authority on the president to undertake a number of actions to a declared national emergency, but none of these actions explicitly include the power to impose tariffs, duties, or the like, or the power to tax.”

It said when Congress gave the president the authority to impose tariffs, it did so explicitly and noted that nowhere in the legislation did the word “tariff” appear nor synonyms like “tax” and “duty.”

The majority decision said: “There are numerous statutes that do delegate to the president the power to impose tariffs; in each of these cases that we have identified, Congress has used clear and precise terms to delegate the tariff power.”

The dissenting judgement, authored by Judge Richard Taranto, claimed that Congress had cleared the way for Trump's measures: “IEEPA embodies an eyes-open congressional grant of emergency authority in this foreign-affairs realm, which extends far beyond authorities available under non-emergency laws.”

In another significant part of his dissent, he wrote: “We know of no persuasive basis for thinking that Congress wanted to deny the President use of the tariffing tool to address the threats covered by IEEPA.”

The dissent decision is being carefully studied by the Trump administration as it prepares for a Supreme Court hearing, which may be some months away.

Speaking on Fox News yesterday, Peter Navarro, senior White House adviser on trade and manufacturing and one of the most prominent tariff warriors, particularly against China, said the dissent “presents a very clear roadmap to how the Supreme Court can rule in our favor.”

While it upheld the decision of the International Court of Trade, the appeals court left open a way for its decision to be effectively bypassed. It said that the lower court, which had made the initial ruling, should revisit its decision to block the tariffs for all those affected, rather than just the parties that had brought the case.

As he has done in every case that has gone against him, Trump railed against the decision, declaring that all tariffs were still in effect.

In one of the clearest expressions of his drive to establish a personalized dictatorship, he identified himself, in the manner of Louis XIV of France, with the state itself, declaring: “Today a Highly Partisan Appeals Court incorrectly said that our Tariffs should be removed, but they know the United States of America will win in the end.”

The court did not rule on partisan lines, with judges appointed by previous Democratic and Republican administrations appearing on both sides of the split decision.

Trump is now banking on the Supreme Court, stacked with his supporters, to rule in his favor and urged its

judges to “help” keep the tariffs in place.

One of the lines of the administration’s submission was foreshadowed in one of Trump’s social media posts.

“If allowed to stand, this decision would literally destroy the United States of America.”

This followed the argument advanced in the legal submission to the court of appeal by the administration, which warned of “catastrophic consequences” if the tariff imposts had to be reversed.

“Our country would not be able to pay back the trillions of dollars that other countries have already committed to pay, which could lead to financial ruin. The president believes that a forced dissolution of the agreements could lead to a 1929-style result.”

The claim was bogus on two counts. First, other countries, including Japan and South Korea, have verbally agreed to make billions of dollars of investments in the US as part of the “deals” imposed on them to try to lower the reciprocal tariff rate. But there are no signed agreements or commitments to such investments.

Second, the revenue that has been gathered so far has not come from “foreign countries,” as asserted by Trump, but from US importers and corporations, which is now being passed on in the form of higher prices.

But notwithstanding the falsifications, the warnings of 1930s-style events did signify an awareness within the administration of a crisis brewing in the foundations of the US economy, which it is trying to resolve at the expense of the rest of the world and the working class at home.

The importance of the tariff war for the international objectives of the Trump regime was underscored by submissions to the court of appeal by Treasury Secretary Scott Bessent and Commerce Secretary Howard Lutnick as it was finalizing its ruling. They urged that any revocation of the tariffs be put on hold until it went to the Supreme Court.

Bessent said ruling the tariffs illegal would cause “dangerous diplomatic embarrassment.”

“Suspending the effectiveness of the tariffs would expose the United States to the risk of retaliation by other countries based on the perception that the United States lacks the capacity to respond rapidly to retaliation.”

Lutnick said tariffs had brought foreign powers to the

negotiating table “in ways that no other president came close to achieving” and that an adverse ruling would “send a signal to the world that the United States lacks the resolve to defend its own economic and national security.”

Whatever the final outcome of legal issues surrounding the reciprocal tariffs and any decision by the Supreme Court, the tariff war will continue and indeed intensify.

One of the avenues through which it will further proceed is via tariffs on specific commodities, rather than against countries, via Section 232 of the Trade Expansion Act of 1962, which does specifically give the president sweeping powers.

Tariffs have already been imposed on autos, aluminum and steel. New levies are being planned on semiconductors, heavy trucks, pharmaceuticals, commercial aircraft and parts, as well as critical minerals. The appeals court decision was something of a setback for the Trump regime, but the tariff war will intensify.



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