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Appeals court pauses decision that invalidated Trump's tariffs

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After a US federal court had ruled on Wednesday that most of the tariffs imposed by Trump were invalid, an appeals court yesterday suspended this blockade for the time being while it deliberates on the matter. If these tariffs are ultimately rejected, Trump could also invoke other legal grounds. Even in this case, the tariff dispute would therefore be far from over.

On Wednesday, a US federal court had blocked most of the tariffs imposed by Trump. However, an appeals court has now paused this ruling "until further notice". No decision has yet been made on the matter itself.

Specifically, the tariffs imposed by Trump on the basis of the International Emergency Economic Powers Act (IEEPA) of 1977 had been stopped on Wednesday by the United States Court of International Trade. This applies to the "reciprocal" tariffs (currently 10% across the board) and the tariffs imposed on Canada, Mexico, and China related to the fentanyl crisis. The United States Court of International Trade stated that Trump had exceeded his emergency powers, noting in particular that the IEEPA was not intended to address trade or balance of payments crises. In the end, the US Supreme Court may even have to decide as the court of last resort. It could rule in Trump's favor. If not, Trump could try to enforce his tariff policy by other means.

Industry-specific tariffs on aluminum, steel, cars (and soon probably also on pharmaceutical products and semiconductors) are permissible. This is because they have a different legal basis (Section 232 of the Trade Expansion Act of 1962), but certain requirements, such as a comprehensive economic analysis, must be met. Trump could therefore extend these tariffs to more industries. Trump could also invoke Section 122 of the Trade Act of 1974, which, however, only allows tariffs of up to 15% for 150 days before Congress must get involved. Some trade law experts also consider Section 338 of the Tariff Act of 1930 to be suitable, as it allows tariffs of up to 50%. In addition, Section 301 of the Trade Act of 1974 allows tariffs to be imposed on countries that violate existing trade agreements in a "discriminatory" manner.

Average tariff rate would fall from 17% to 7%

Before Trump took office in January, the average US tariff rate was just over 2%. The tariffs he has since introduced have raised it to around 17%, according to the Yale Budget

Lab. If Wednesday's court ruling is upheld and some tariffs are removed, the average tariff would be 7%, according to the Yale Budget Lab. This would still be a significant shock, but the 5 percentage point increase would only be a third of the original increase (from 2% to 17%).

Uncertainty remains high

Uncertainty about the future of tariffs remains high, which could lead companies to put investment decisions on hold, for example. The courts could still rule that Trump's tariffs are lawful after all. Alternatively, Trump could introduce similar tariffs on other grounds, but this would probably mean losing some of the flexibility he has enjoyed in recent weeks to set or change tariffs at his own discretion. Negotiations on trade agreements (e.g., with the EU) are set to continue. However, trading partners are likely to feel a tailwind and may prefer to wait and see whether their negotiating position improves.

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