

Higher Tariffs Not Dead

The Trump Tariffs are dead, long live the Trump Tariffs!

As we expected, the Supreme Court struck down most of the new tariffs President Trump had imposed since taking office thirteen months ago. While Congress gave the President “emergency” powers to regulate trade in a 1977 law, the Court, in a 6-3 ruling said that law does not expressly include tariffs. As a result, many Trump tariffs exceeded the powers Congress delegated to the president.

The tariffs struck down include extra tariffs on China, Canada, and Mexico based on illegal immigration and drug trafficking, “liberation day” tariffs intended to address trade deficits, as well as additional duties on Brazil and India, based on the way the former country handled the prosecution of its former president and the latter’s handling of Russian oil.

However, other Trump tariffs remain in place. These include those on steel and aluminum as well as tariffs on China that date back to the first Trump Administration. In addition, there are other legal avenues for President Trump to use to impose tariffs. Justice Kavanaugh went so far as to spell those out in his dissent. And the president announced a new 10%+ tariff (over the weekend, he said he would raise this to 15%) on the rest of the world using those other legal avenues.

In other words, Trump’s tariffs are going to change and evolve but aren’t going away. As a result, the reaction in markets on Friday (stocks up, bond yields down) is likely to reverse once the smoke clears.

Some are claiming the Court decision will mean lower inflation, but if tariffs remain, that argument falls apart. More importantly, that argument is flawed economically. Inflation is a monetary phenomenon. Higher tariffs meant consumers had to spend more on tariffed goods, but that meant less money left over for other goods and services. Inflation is caused by too much money supply chasing too few goods and money supply growth has been slow.

And lost in the noise is some good news for those who want a smaller, less intrusive government. The court ruling may have been a bitter pill for the Trump Administration to swallow, but

over time the reasoning used to strike down the tariffs will make it tougher to expand the power of the federal government. For example, if a future president wanted to use “emergency” tariffs to punish countries that don’t limit carbon emissions or countries that strictly limit immigration, then those tariffs wouldn’t be legal, either.

Higher tariffs are also likely to outlast this presidency. If a Republican is elected in 2028, it’s doubtful that new administration would make a major break from Trump on trade policy or lose the revenue generated by tariffs.

Another possibility is a Democrat wins the presidency in 2028, but the GOP maintains control of the U.S. Senate. If so, it’s very unlikely that president would have enough Senate votes to raise income taxes or taxes on corporate profits. In turn, that means keeping tariffs to help finance spending increases without a huge expansion in the budget deficit. Yes, deficit spending has grown wildly in the past, like during the Global Financial Crisis and COVID – but that was when the interest cost of the debt was about 1.5% of GDP, not 3.0%+ like it is now.

If we get a Democratic Sweep in 2028 – President, Senate, and House – then lower tariffs are possible. But would you want to be the president who cuts tariffs on China only to have them invade Taiwan six or nine months later? We think geopolitical issues will limit cuts in some tariffs in the years ahead.

The big issue remaining to be decided is whether the tariffs struck down by the Court will be refunded. The Supreme Court punted that issue back to the lower court. For all we know, that lower court may decide a refund would be a windfall gain for some businesses because it was their customers who truly paid the extra cost and those customers will not get the refund money. Or the court could decide refunds are due but it could take years for the refunds to actually happen.

In the meantime, while the Trump tariffs seemingly died, they are not gone for good. And while many may hate the tariffs for all kinds of philosophical and economic reasons, the economy continues to grow with relatively low inflation.

Date/Time (CST)	U.S. Economic Data	Consensus	First Trust	Actual	Previous
2-23 / 9:00 am	Factory Orders – Dec	-0.7%	-0.9%	-0.7%	+2.7%
2-26 / 7:30 am	Initial Claims – Feb 21	216K	213K		206K
2-27 / 7:30 am	PPI – Jan	+0.3%	+0.3%		+0.5%
7:30 am	“Core” PPI – Jan	+0.3%	+0.2%		+0.7%
8:45 am	Chicago PMI – Feb	54.0	52.2		54.0
9:00 am	Construction Spending – Dec	+0.2%	+0.3%		NA