

Policy Note



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On May 28, 2025, a three-judge panel of the US Court of International Trade (CIT), located at 1 Federal Plaza in downtown Manhattan, ruled against President Trump’s use of the 1977 International Emergency Economic Powers Act (IEEPA) to impose punitive reciprocal tariffs on US trade counterparties. In a 7-4 ruling on August 29, 2025, the US Court of Appeals for the Federal Circuit affirmed the merits of the CIT ruling, while simultaneously staying the decision until October, allowing the Trump administration time to file a petition for review by the US Supreme Court, which they did on September 4th. On September 9, 2025, the US Supreme Court agreed to hear the case, which itself required a vote of at least four of the nine Supreme Court justices to proceed.

To facilitate the requested expedited timing of the case, briefing deadlines by all parties were due at the Supreme Court over a rolling schedule in late September and October 2025. Oral arguments in the Supreme Court case, limited to 80 minutes, have been scheduled for this week on Wednesday, November 5th, as follows:

- 40 minutes:** Allotted to the Solicitor General (representing the Trump administration and federal government)
- 20 minutes:** Allotted to one advocate on behalf of the private parties (companies and importers filing suit)
- 20 minutes:** Allotted to one advocate on behalf of the state parties (US states contesting the tariffs and delegation of US Congressional authority)

US Supreme Court deliberations will follow, as will draft opinions by the majority and dissenting sides, followed by a **final vote and announcement as early as December 2025, but no later than June 2026**, depending on the complexity of the case.

The Supreme Court IEEPA tariff case will decide several monumental legal issues including:

- Scope of US Presidential power and designation of a “national emergency” under IEEPA
- Balance of executive vs. legislative branch authority on tariffs in the US Constitution (i.e., separation of powers)
- Specific legality of President Trump’s IEEPA-based tariffs on nearly 200 countries

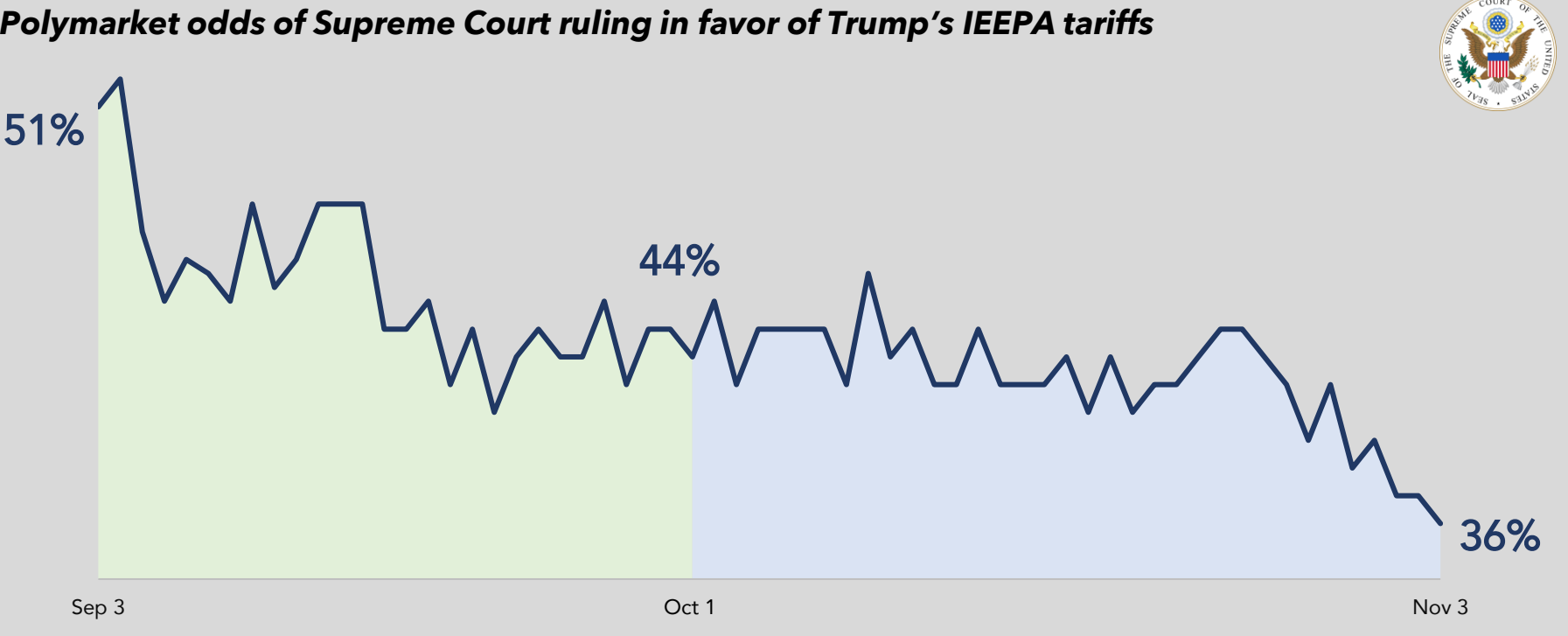
Notably, the US Supreme Court case will not be reviewing President Trump’s sector-based tariffs (i.e., auto, steel), which stand comparatively on the more legally robust ground of Section 232 of the US Trade Expansion Act of 1962.

If the Supreme Court upholds the lower court IEEPA decision: establishment of complex judicial and administrative processes for unwinding IEEPA tariffs, as well as remedies and refunds for nearly ~\$100 bn of tariff duties previously paid by importers; the Trump administration will likely seek other legal avenues (i.e., Section 122 or 301) to implement new country-targeted tariffs; and increased use of Section 232 sector-based tariffs.

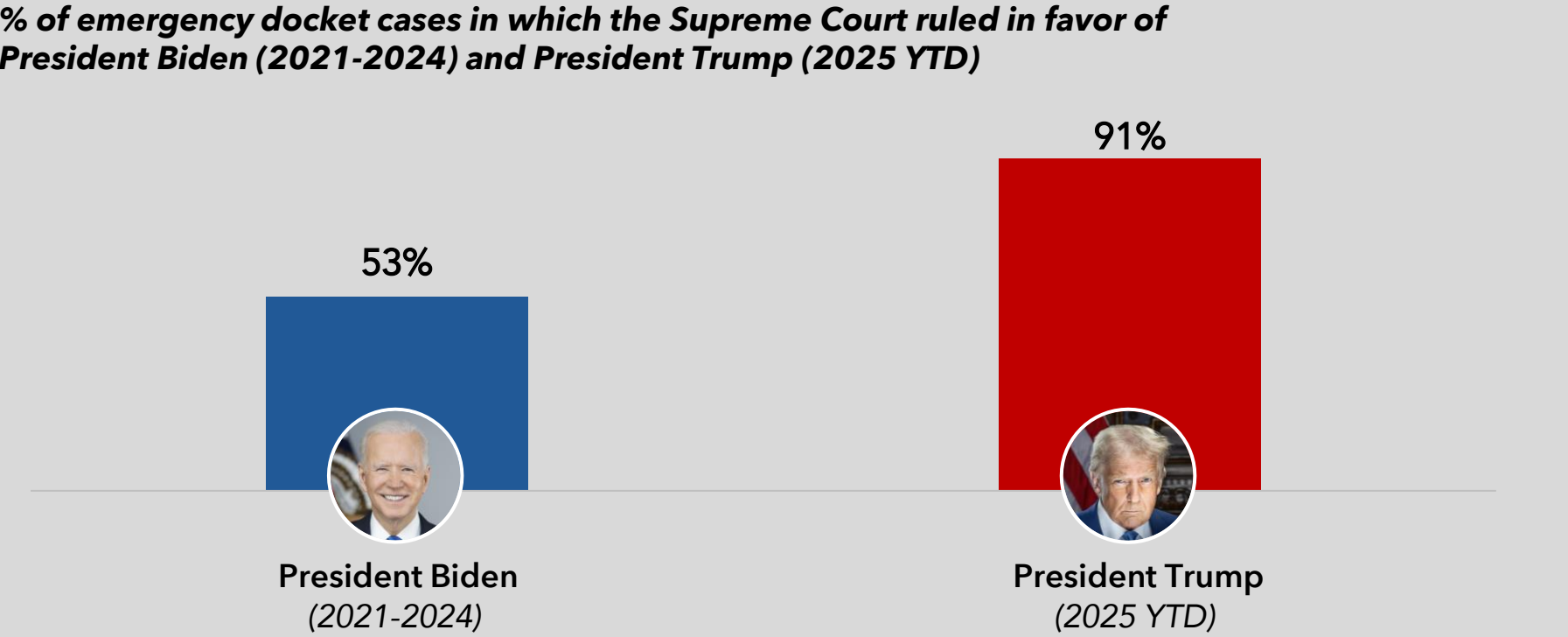
If the US Supreme Court strikes down the lower court IEEPA decision: a dramatic expansion and use of emergency power authority on tariffs by President Trump may follow; possible expansion of emergency powers to other policy areas as well; sharp dilution of Congressional tariff authority oversight; more unpredictability for businesses, supply chains, trade counterparts and markets; possible future legal challenges to narrow scope of authority.

If the US Supreme Court renders a mixed-decision on IEEPA-based tariffs: the Supreme Court could uphold certain Trump administration IEEPA-based tariffs (i.e., fentanyl-targeted tariffs on China, Canada and Mexico), while striking down most other uses of IEEPA-based tariff powers.

Currently, betting markets are pricing just a 36% probability that the US Supreme Court rules in favor of President Trump’s IEEPA-based tariffs. Notably, the market view stands in sharp contrast to SCOTUS emergency rulings vis-à-vis the Trump administration in 2025 YTD.

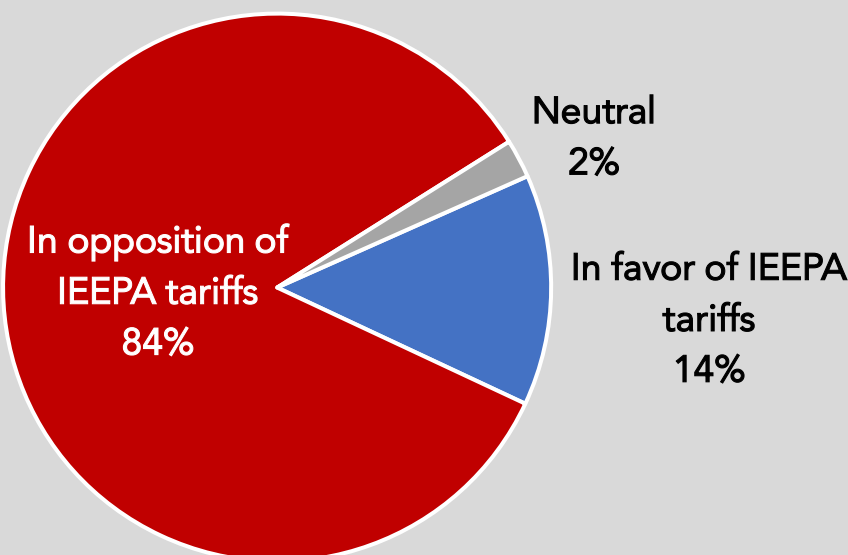


In 2025, the Conservative-led US Supreme Court has ruled in favor of President Trump a remarkable 91% of the time, giving the President enormous latitude to exercise presidential power on a wide range of cases. Of 23 relevant rulings on the emergency or “shadow docket” in 2025, the Trump administration has secured 21 victories with only two losses. During the Biden Administration from 2021-2024, the US Supreme Court ruled in favor of his administration on 53% of such cases.



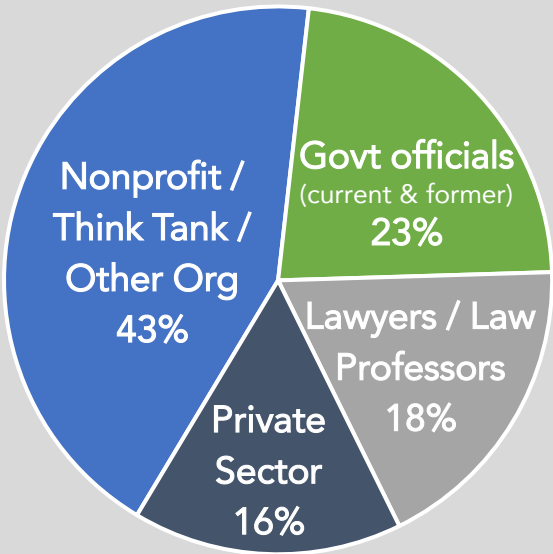
Amicus briefs are those filed with the court by an individual or organization that is not a party to the case. On a rolling schedule during late September and October, 44 amicus briefs representing hundreds of interested parties were filed with the US Supreme Court regarding its forthcoming decision on President Trump’s use of IEEPA authority for tariffs. Of those, 37 amicus briefs (or 84%) opposed the President’s use of IEEPA-based tariffs; six amicus briefs (or 14%) were in favor and one amicus brief (or 2%) took a neutral stance.

Breakdown of 44 amicus briefs filed regarding President Trump’s use of IEEPA tariffs



The 44 amicus briefs filed with the US Supreme Court in September and October represented the views of more than 500 economists, over 200 elected officials in the US Congress, as well as dozens of other current and former US government officials, think-tanks and lawyers.

Breakdown of 44 amicus briefs filed regarding President Trump’s use of IEEPA tariffs



As mentioned previously, Section 232 and 301 sector-based tariff revenue (i.e., autos, steel & aluminum) are not subject to US Supreme Court review in the current case. If the US Supreme Court rules against the Trump administration’s use of IEEPA-based tariff authority, a series of complex judicial and administrative actions will take place to implement remedies and refunds of nearly \$100 billion of US tariff revenue previously collected from US importers in 2025 YTD. Refunds may also not be automatic; but rather, require many importers to proactively file claims with established processes and time limits. Congressional appropriations may also be required.

FY 2025 IEEPA-based tariff revenue at risk of being refunded, USD bn



Source: Supreme Court of the US, Veda Partners (Henrietta Treyz), Bloomberg. Data as of November 3, 2025. US Customs and Border Protection. FY 2025 import duties assessed as of September 23, 2025. China imports include Hong Kong.

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“Macro stability isn’t everything, but without it, you have nothing.”