

PUBLICATION

President Trump's Reciprocal and Fentanyl Trafficking Tariffs Invalidated by the Court of International Trade: What You Need To Know

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On May 28, 2025, the United States Court of International Trade (CIT) ruled that International Emergency Economic Powers Act of 1977 (IEEPA) does not give the President authority to impose unlimited tariffs on goods from nearly every country. This ruling effectively stalls President Trump's trade policy and immediately suspends any tariffs currently imposed under IEEPA. These include the reciprocal tariffs and the tariffs against Mexico, Canada, and China related to fentanyl trafficking. The Trump Administration has appealed this decision to the United States Court of Appeals for the Federal Circuit (CAFC) and requested that enforcement of the decision be stayed pending the appeal. A stay for the duration of the appeal is not guaranteed, because the Government must demonstrate irreparable harm and a likelihood of success on the merits. A temporary stay, however, has been granted until the parties can fully brief, and the CAFC can fully consider, the requested stay for duration of the appeal. Tariffs remain effective during this temporary stay. If the stay is not granted, only tariffs imposed under other legal authorities—Section 232, AD/CVD, and Section 301—remain in place.

The Court of International Trade

The CIT is a specialized federal court with exclusive jurisdiction over matters related to "(A) revenue from imports or tonnage; (B) tariffs, duties, fees, or other taxes on the importation of merchandise for reasons other than the raising of revenue; (C) embargoes or other quantitative restrictions on the importation of merchandise for reasons other than the protection of the public health or safety; or (D) administration and enforcement of [other trade matters]." 28 U.S.C. § 1581(i). U.S. District Courts may not hear cases within the CIT's jurisdiction. CIT decisions are appealed to the CAFC, whose decisions are appealed to the Supreme Court.

V.O.S. Selections, Inc., et al. v. United States & Oregon, et al. v. United States

The CIT's substantial ruling granted summary judgment for two groups of plaintiffs – both states and companies – against the United States and its "officers," not including the President. The CIT reached two specific rulings. First, they found that the IEEPA did not grant the President the authority to impose sweeping, reciprocal tariffs on all countries. Second, the CIT ruled that the tariffs against Mexico, Canada, and China related to fentanyl trafficking were not specifically authorized under the IEEPA.

Reciprocal Tariffs

According to the CIT, the reciprocal tariffs were unlawful. They were therefore struck down because the Constitution expressly allocates the tariff power to Congress, so IEEPA cannot delegate unbounded tariff authority to the President. Two legal theories guided the CIT's ruling: the nondelegation and major questions doctrines. Under these theories, the IEEPA's grant of authority to the President to "regulate ... importation" does not authorize the President to impose unlimited tariffs, and therefore invalidates the reciprocal tariffs.

Beyond these theories, the CIT also examined the IEEPA's legislative history and related laws such as the Trading With the Enemies Act (TWEA) to determine that unbounded authority was never intended by Congress. For example, as the CIT explains, Section 122 of the Trade Act of 1974 sets specific limits on the President's authority to respond to balance-of-payments problems. The CIT determined these limits were applicable to the President's justification for the reciprocal tariffs which do not comply with the limitations Congress imposed upon the President's power to respond to balance-of-payments deficits.

Fentanyl Trafficking Tariffs

The CIT then ruled that the fentanyl trafficking tariffs against Mexico, Canada, and China were unlawful based on the elements that must be present for the President's IEEPA authority to arise. One such element is that the action taken must be to "deal with an unusual and extraordinary threat." The CIT found that the tariffs imposed do not actually address the threat for which they were imposed. Specifically, the CIT states that "there is no such association between the act of imposing a tariff and the 'unusual and extraordinary threat[s]' that the Trafficking Orders purport to combat."

The CIT found the government's argument that the tariffs serve as leverage to deter the importation of illegal drugs unpersuasive. Plainly, the CIT states that this is improper, stating, "if 'deal with' can mean 'impose a burden until someone else deals with,' then everything is permitted." As a result, the President's actions went beyond the authority delegated by IEEPA and the Executive Orders imposing the tariffs were invalidated.

What's Next?

The Trump Administration has appealed the CIT's order. Pursuant to the CIT's order, the reciprocal and fentanyl trafficking tariffs imposed under IEEPA are struck down during the pendency of the appeal. The Trump Administration has requested that the CIT and concurrently the CAFC grant a stay of the order while the case is under appeal to keep the tariffs effective. Both courts have the discretion to grant a stay, but it's not a guaranteed right. To obtain a stay, a party must demonstrate irreparable harm and a likelihood of success on the merits of their appeal. If granted, the tariffs will stay in place during the pendency of the appeal. If the CIT does not grant the stay for the appeal, the Administration has requested a stay for seven days to allow time for the CAFC and, if necessary, the Supreme Court to consider a stay. At the time of publication, the CAFC issued a temporary stay on the enforcement of the CIT's order until the parties can fully brief, and the CAFC can fully consider, the requested stay. Tariffs remain effective during this temporary stay.

If the stay is not granted, only those tariffs imposed under other legal authorities remain in place. These include the Section 232 tariffs on steel, aluminum, and automobiles. Additionally, the ongoing Section 232 investigations related to lumber, copper, pharmaceuticals, semiconductors, medium and heavy trucks, processed critical minerals, and commercial aviation will likely lead to further tariffs that are expected to survive appeal. Additionally, Section 301 tariffs and effective AD/CVD orders remain in place.

Our International Trade and National Security team will continue to monitor developments and provide updates as warranted. If you have any questions or would like to discuss this in further detail, please reach out to [P. Lee Smith](#), [Matthew McGee](#), Stephanie Papatsos, or any member of Baker Donelson's [International Trade and National Security](#) team.

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