CIT Signals Intent to Announce Future Procedures for IEEPA-Related Litigation

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We continue to watch closely for a pronouncement from the U.S. Supreme Court on the lawfulness of the fentanyl trafficking-related and global reciprocal tariffs imposed under the International Emergency Economic Powers Act (IEEPA) in the consolidated case of *Trump v. V.O.S. Selections, Inc.* and *Learning Resources, Inc. v. Trump* ("*VOS Selections*"). Meanwhile, recent interlocutory decisions by the Court of International Trade (CIT) in the consolidated case of *AGS Co. Automotive Solutions v. U.S. Customs and Border Protection*, Ct. No. 25-00255-3JP ("*AGS*"), provide some clues about how the trial court will endeavor to implement the Supreme Court's decision once it is handed down.

Filed in November 2025, after the Supreme Court heard oral argument in the *VOS Selections* case, *AGS* – and the many cases consolidated under that caption – involves claims by multiple U.S. importers similarly challenging the lawfulness of the IEEPA tariffs. Notably, *AGS* is pending before the same three-judge panel (Judges Katzmann, Reif, and Restani) that initially decided *VOS Selections*.

On January 14, 2026, the CIT denied the Government's motion in *AGS* to adopt certain case management procedures. As the Government explained in its motion, "From October 2025 to the present, over 900 cases have been commenced challenging the IEEPA tariffs," indicating that case management procedures such as automatic stays, a plaintiffs' steering committee, a consolidated filing and service mechanism, and a universal stipulation on reliquidation would ease the burden of mass litigation. The requested procedures largely reflected the CIT's and parties' experience in the mass China Section 301 tariff litigation, *In Re Section 301 Cases*, Ct. No. 21-00052-3JP. The CIT panel in *AGS* declined to adopt the Government's proposal, although it did so "without prejudice," meaning that parties may file a similar request in the future should circumstances change.

In its paperless order denying the motion, the CIT made two critical statements:

1. The court confirmed "that the Government's stipulation regarding reliquidation applies to all current and future similarly situated plaintiffs." This refers to an earlier December 15, 2025, order in *AGS* in which the CIT denied the plaintiffs' motion for preliminary injunctive relief in the form of suspended liquidation of entries on which IEEPA tariffs had been assessed. The court concluded there is no irreparable harm to plaintiffs if the affected entries are allowed to liquidate because "where jurisdiction {under 28 U.S.C. § 1581(i)} has attached, this court has authority to order reliquidation, and the Plaintiffs cannot claim that they would be denied a refund of tariffs paid in the event that the challenged Executive Orders are ultimately deemed unlawful by the Supreme Court." Importantly, the Government stipulated that it will not object to the court ordering reliquidation in the future if the IEEPA tariffs are found to be unlawful, and the CIT held the Government is judicially estopped from claiming otherwise after the Supreme Court decision

issues.

Key Takeaway: Setting aside whether non-litigants (i.e., U.S. importers affected by the IEEPA tariffs that do not currently have cases pending before the CIT) will have to file lawsuits in the future to preserve refund rights, the CIT is reiterating that is has the legal authority, acknowledged by the Government, to order reliquidation of entries for purposes of issuing appropriate refunds.

Notably, the CIT's reference to "future similarly situated plaintiffs" indicates that the court will hold the Government's stipulation to apply to non-litigants that may be plaintiffs *in the future* – meaning that companies do not need to be current plaintiffs, already having filed a legal action invoking the court's 1581(i) jurisdiction, to be eligible for an order of reliquidation if appropriate following the Supreme Court's decision.

2. The court explained that it "will implement additional case management procedures as may be necessary following a final, unappealable decision in V.O.S."

Key Takeaway: There has been wide speculation as to exactly what the mechanism will look like for affected importers to obtain refunds should the Supreme Court hold any aspect of the IEEPA tariffs to be unlawful. That could vary widely, from an administrative application process designed and driven by Customs and Border Protection (CBP), to a court-ordered application process, to an automatic refund mechanism, to litigation by individual importers. The path forward will likely depend on the nuances of the outcome in *VOS Selections* and how the Government (including CBP), current litigants, and CIT approach a solution, and if it is one that is universally applicable.

The language in the *AGS* court's order is highly relevant because with it, the CIT panel is signaling its intent to craft and implement structured case management procedures at a future date, after the SCOTUS decision. While there is still significant uncertainty as to exactly what that will look like, it is now reasonable to expect the court will offer guidance and rules to thoughtfully address and manage litigation to the extent it is necessary – it will not be a "free for all" if the court can avoid it.