

Court of International Trade Finds Tariffs Imposed Pursuant to IEEPA Unlawful

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Summary: On May 28, 2025, in a major development, a three-judge panel of the United States Court of International Trade (“CIT”) held that President Trump’s recent imposition of tariffs pursuant to the International Emergency Economic Powers Act (“IEEPA”) is unlawful. The Court permanently enjoined the government from collecting a host of tariffs imposed under that authority and ordered the government to issue revised orders implementing the Court’s decision within 10 calendar days. The government has already filed an appeal with the U.S. Court of Appeals for the Federal Circuit (“Federal Circuit”) and moved to stay the relief order by the CIT. The Court’s decision can be found [here](#) and judgment can be found [here](#). Several important takeaways and open questions are discussed more fully below.

Background:

President Trump issued two rounds of tariffs citing IEEPA as the authority: (1) tariffs on China, Canada, and Mexico to address illegal immigration and fentanyl trafficking (“trafficking tariffs”); (2) tariffs on all countries to address long-term trade imbalances that have been commonly referred to as “reciprocal tariffs.” The President modified these tariffs on several occasions, but the current state of play is as follows:

Country	Trafficking Tariff Rate	Reciprocal Tariff Rate
China	20%	10%
	0% for goods qualifying for preferential treatment under the USMCA (“USMCA-originating”)	
Canada	25% for non-USMCA originating* products	0%
	10% of non-USMCA originating potash	
	10% for non-USMCA originating materials	
	0% for USMCA-originating goods	
Mexico	25% for non-USMCA originating goods	0%
	10% for non-USMCA originating potash	
All Others	N/A	10%

* “Non-USMCA originating” indicates that the goods do not qualify for preferential treatment under the USMCA, even though they may be goods of Canada or Mexico for Customs purposes.

Over the past weeks and months, several parties have challenged the President's authority to impose these tariffs under IEEPA in the CIT and other district courts. The government has sought to transfer these cases to the CIT, arguing the Court has exclusive jurisdiction over the matter. The government also challenged standing of the various plaintiffs to pursue these claims.

The decision issued by the CIT yesterday evening was made in two consolidated cases filed in the first instance with the CIT – one by several individual importers affected by the tariffs, and the other by 12 states. The importer plaintiffs, challenging only the reciprocal tariffs, filed motions for a temporary restraining order (which the CIT previously denied), preliminary injunction, and summary judgment. The states challenged both the reciprocal tariffs and the trafficking tariffs and similarly filed a motion for preliminary injunction and for summary judgment.

In a lengthy decision, a three-judge panel of the CIT addressed the merits of the legal challenges and entered summary judgment for plaintiffs, finding that the President's actions were unlawful because they exceeded his authority under IEEPA. The Court vacated the trafficking and reciprocal tariff orders and permanently enjoined their operation.

Holdings:

- **Jurisdiction:** The CIT held that it has exclusive jurisdiction over actions challenging the President's authority to impose tariffs under IEEPA. Specifically, the Court held that the suits fell within the Court's residual jurisdiction statute (28 U.S.C. § 1581(i)), because they "arise out of" a "law of the United States providing for . . . tariffs, duties," and other import restrictions. The CIT further noted that while presidential action creates an appropriate basis for jurisdiction, the jurisdictional statute does not authorize proceedings directly against the President. As a result, the Court dismissed President Trump as a named defendant, but proceeded with the claims against the rest of the named defendants including the United States and the officials responsible for implementing the tariffs.
- **Standing:** The government challenged the standing of both sets of plaintiffs (the individual importers and the 12 states) to file suits challenging the President's authority to impose the trafficking and reciprocal tariffs under IEEPA. The CIT held that both groups had standing. With respect to those parties that demonstrated they imported goods (some of the importers and some of the states), the Court held these parties easily established direct harm in the form of tariffs paid. With respect to plaintiffs that had not imported goods or did not intend to import goods, the Court held that even these parties had demonstrated standing through an "economic logic" theory that the imposition of tariffs (even if those tariffs were not directly paid by the plaintiffs) had an impact on their businesses or jurisdictions.
- **Merits:** The CIT discussed the history of tariff-related authority and IEEPA at length, ultimately finding that any delegation of authority by Congress to the President that would allow the President to impose unbounded tariffs is unlawful. First, as to the reciprocal tariffs, the CIT held that the phrase regarding the President's authority to "regulate . . . importation" in the IEEPA statute did not authorize the President's sweeping tariffs on all imports from all countries. In reaching its determination, the Court analyzed the language of the statute, prior iterations of the statute, the statute's legislative history, and a decision of the Federal Circuit (the *Yoshida* case) involving a challenge to tariffs imposed by President Nixon. Second, regarding the trafficking tariffs, the CIT rejected the government's argument that the issue involved an unreviewable "political question" and held that the IEEPA statute does not authorize the tariffs because the tariffs do not "deal with" an "unusual and extraordinary threat" as the statute

requires. Specifically, the CIT held that Customs' collection of tariffs from importers does not directly "deal with" a foreign government's failure to combat illegal immigration or fentanyl trade; rather, the tariffs create "leverage" intended to elicit another country's response to an "unconnected threat."

- **Relief:** The CIT: (1) held the Executive Orders imposing the trafficking and reciprocal tariffs to be unlawful; (2) permanently enjoined the government from collecting the trafficking and reciprocal tariffs; and (3) provided the government 10 calendar days to implement the Court's decision.
- **Subsequent History:** The government immediately appealed the CIT's decision to the Federal Circuit. The government also moved the CIT and Federal Circuit to stay implementation of the relief granted by the CIT pending a final and conclusive judgment following all appeals (which could include an appeal to the Supreme Court of the United States). The government also requested the CIT, as an alternative to granting a stay pending a final and conclusive judgment, to grant a seven-day administrative stay to allow the Federal Circuit to rule on the government's motion to stay relief. In its motion to stay filed with the CIT, the government stipulated that it would not oppose reliquidation of any entries of goods subject to IEEPA duties paid by plaintiffs.

Key Takeaways and Open Questions:

1. The trafficking tariffs and reciprocal tariffs will remain in place through at least Saturday, June 7.

The Court vacated the Executive Orders imposing the trafficking and reciprocal tariffs under IEEPA and permanently enjoined the operation of the Orders. However, the Court provided the government with 10 calendar days to issue administrative orders to effectuate the Court's decision.

2. The trafficking tariffs and reciprocal tariffs may remain in place much longer.

The government appealed the CIT decision to the Federal Circuit *and* moved to stay relief ordered by the Court pending the entry of a final and conclusive judgment after all appeals. If the CIT or Federal Circuit grant the government's motion to stay, the trafficking and reciprocal tariffs will remain in effect pending a final and conclusive judgment, which could take many months.

3. Tariffs imposed under other authorities remain in effect.

It is important to note that Section 301 tariffs imposed by President Trump on a wide range of Chinese goods remain in place. Similarly, national security tariffs imposed under Section 232 of the Trade Expansion Act of 1962 on steel and aluminum articles, their derivatives, automobiles and auto parts all remain in place. The government is also conducting Section 232 investigations of imports of lumber, copper, pharmaceuticals and pharmaceutical ingredients, semiconductors, critical minerals, trucks, and commercial aircraft and jet engines. Tariffs imposed as a result of these investigations would not be disturbed by the CIT's decision.

4. Negotiations with trading partners.

The Trump Administration has used the trafficking and reciprocal tariffs as leverage to negotiate deals with a long list of trading partners. A preliminary deal with the United Kingdom, and an agreement to negotiate with China, have already been announced. The CIT's decision may delay or undermine these negotiations as countries "wait and see" whether the appellate court(s) affirm the CIT's decision.