



News & Types: Client Advisories

Federal Circuit Maintains Stay of Tariff Injunction

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Practices: Commercial, Competition & Trade

This is a 6/11/2025 update to the prior client alert.

Executive Summary

The U.S. Court of Appeals for the Federal Circuit issued a significant order on June 10, 2025, maintaining the stay of the Court of International Trade's (CIT) May 28 injunction that had blocked numerous Trump administration tariffs imposed under the International Emergency Economic Powers Act (IEEPA). The Federal Circuit granted the government's motion for a stay pending appeal and, recognizing the "exceptional importance" of the case, ordered expedited en banc consideration with oral arguments scheduled for July 31, 2025.

Background: The CIT's Sweeping Injunction

On May 28, 2025, a three-judge panel of the CIT issued a comprehensive ruling in consolidated cases *V.O.S. Selections, Inc. v. Trump* and *State of Oregon v. Trump*, holding that IEEPA does not delegate to the President authority to "impose unlimited tariffs on goods from nearly every country in the world". The CIT's decision permanently enjoined several categories of tariffs:

- **Worldwide "Reciprocal" Tariffs:** A 10% ad valorem duty on imports from all trading partners, with higher country-specific rates ranging from 11% to 125% for 57 countries
- **Trafficking Tariffs:** 25% duties on Canadian and Mexican products, 20% duties on Chinese products, and 10% duties on Canadian energy resources, all justified under national emergency declarations related to drug trafficking and border security

The CIT ruled that these tariffs exceeded "any authority granted to the President by IEEPA to regulate importation by means of tariffs" and violated both the non-delegation doctrine and the major questions doctrine.

Federal Circuit's June 10 Order

The Federal Circuit's per curiam order, issued by all active circuit judges except those recused or disqualified, granted the government's stay motion after "having considered the traditional stay factors" referenced in *Rule 8 of the Federal Rules of Appellate Procedure* and *Nken v. Holder*. The court applied the balancing test from

Trump v. Wilcox, noting that interim relief serves "not to conclusively determine the rights of the parties, but to balance the equities as the litigation moves forward".

The order does not specify a fixed end date. Rather, it continues the stay of the Court of International Trade's injunction "pending the appeal of the case," meaning the tariffs remain in effect while the Federal Circuit reviews the merits of the government's appeal

Procedural Considerations and Timeline

The Federal Circuit concluded that "these cases present issues of exceptional importance warranting expedited en banc consideration of the merits in the first instance". This determination triggers two significant procedural departures:

1. **En Banc Review:** Rather than the typical three-judge panel, the entire court will hear the case initially.
2. **Expedited Schedule:** The court ordered an accelerated briefing timeline culminating in oral arguments on July 31, 2025.

Given the expedited schedule, importers should prepare for potential rapid changes in tariff regimes. Based on the date of the oral argument, the Federal Circuit's decision could come as early as mid-August to early September 2025, potentially ordering immediate alterations or rescission of IEEPA tariff regimes.

Given the case's constitutional significance and potential impact on presidential trade authority, both sides may pursue Supreme Court review regardless of the Federal Circuit's outcome.

Practical Implications for Importers

Immediate Impact: Tariffs Remain in Effect.

All challenged IEEPA tariffs continue to be collected by U.S. Customs and Border Protection (CBP) pending the Federal Circuit's final determination. This includes:

- 10% worldwide reciprocal tariffs on most countries
- Higher country-specific rates (currently suspended until July 9, 2025, except for China)
- 25% trafficking tariffs on Canadian and Mexican products
- 20% trafficking tariffs on Chinese products
- 10% trafficking tariffs on Canadian energy resources

Recommendations

For Current Operations:

1. **Continue IEEPA Tariff Compliance:** All challenged tariffs remain in full effect and must be paid as assessed
2. **Monitor Entry Records:** Maintain detailed records of entries subject to IEEPA tariffs for potential refund eligibility

For Strategic Planning:

1. **Prepare for Rapid Changes:** The Federal Circuit's decision could trigger immediate tariff modifications within 60-90 days
2. **Evaluate Supply Chain Exposure:** Consider diversification strategies for goods heavily impacted by IEEPA tariffs
3. **Legal Risk Assessment:** Factor potential tariff invalidation into contract negotiations and pricing strategies

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