

## Trade Alert: Court of International Trade Strikes Down Tariffs, Declares Executive Orders Unlawful

May 29, 2025

In a significant decision affecting U.S. trade policy, the U.S. Court of International Trade (“**CIT**”) has invalidated several Trump Administration’s Executive Orders that imposed sweeping tariffs on imports from China, Canada, Mexico, EU and most other countries. In a consolidated [decision](#) issued in *V.O.S. Selections, Inc. v. United States and State of Oregon v. United States*, a three-judge panel unanimously held that the President exceeded his statutory authority under the International Emergency Economic Powers Act (“**IEEPA**”), and permanently enjoined enforcement of the tariffs issued under IEEPA, referred to in the opinion as the “Worldwide and Retaliatory Tariffs” (*i.e.*, the current 10% universal and country-specific retaliatory (or reciprocal) tariffs) and the Trafficking Tariffs (commonly referred to as the fentanyl tariffs).

### Key Holdings

In its final [judgment](#), the three-judge panel ordered as follows:

**"ORDERED** that Executive Order 14193, *Imposing Duties To Address the Flow of Illicit Drugs Across Our Northern Border*, 90 Fed. Reg. 9113 (Feb. 1, 2025); Executive Order 14194, *Imposing Duties To Address the Situation at Our Southern Border*, 90 Fed. Reg. 9117 (Feb. 1, 2025); Executive Order 14195, *Imposing Duties To Address the Synthetic Opioid Supply Chain in the People’s Republic of China*, 90 Fed. Reg. 9121 (Feb. 1, 2025); Executive Order 14257, *Regulating Imports with a Reciprocal Tariff to Rectify Trade Practices that Contribute to Large and Persistent Annual United States Goods Trade Deficits*, 90 Fed. Reg. 15041 (Apr. 2, 2025) (collectively, the “Challenged Tariff Orders”); and all modifications and amendments thereto; **be, and hereby are, declared to be invalid as contrary to law**". (*Id.* (emphasis added)).

These Executive Orders (along with all related amendments) imposed tariffs ranging from 10% to as high as 145% on imports from most countries, allegedly to address national security and economic threats.

In support of its decision, CIT reasoned as follows:

- IEEPA does not confer on the President the “unbounded authority” to impose tariffs, and any such interpretation of the statute would render it an unconstitutional delegation of Congress’ power. Instead, the IEEPA empowers the President to act under certain specifically delineated circumstances, which require (among other conditions) a “threat” that is “unusual and extraordinary.” The President’s tariffs lack any “identifiable limits” and otherwise fail to meet those requirements.

- Because the President's tariffs deal with imbalance of trade, they must satisfy the narrower, non-emergency requirements embodied in Section 122 of the Trade Act of 1974, which sets specific limits on the President's authority to respond to balance-of-payments problems. The President's tariffs do not meet those requirements.

## Implications and Remaining Tariffs

The CIT decision does not eliminate all tariffs and in fact, new tariffs under the authority of other statutes are on the horizon. Tariffs currently imposed under other legal authorities remain in force and continue to impact pricing and supply chains across multiple sectors:

- **Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. § 1862):** national security tariffs on steel, aluminum, and related derivatives, as well as products like automobiles, automobile parts, jet engines, smartphones, and even certain pharmaceuticals.
- **Section 301 of the Trade Act of 1974 (19 U.S.C. § 2411):** tariffs on Chinese goods and others based on findings of unfair trade practices. These include measures separate from IEEPA-based orders, as well as Antidumping and Countervailing Duties (AD/CVD) affecting products like solar panels, chemicals, and textiles. Port fees under Section 301 are also expected to increase later this year.
- **Section 201 of the Trade Act of 1974 (19 U.S.C. § 2251):** global safeguard tariffs on washing machines, solar panels, and other surging imports that threaten domestic industries.

The CIT ruling may significantly constrain future attempts by Presidents to use emergency powers for trade policy purposes, reaffirming congressional control over tariffs. However, in striking down the so-called Worldwide and Retaliatory and the Trafficking Tariffs, CIT emphasized that Congress had already addressed the kind of trade imbalance concerns the Executive Orders claimed to target. Specifically, Section 122 of the Trade Act of 1974 (19 U.S.C. § 2132) empowers the President to impose tariffs of up to 15% for 150 days (with a possible extension by Congress) in response to:

- A large and serious U.S. balance-of-payments deficit;
- An imminent and significant depreciation of the dollar; or
- A coordinated multilateral effort to address an international balance-of-payments disequilibrium.

## Appeal Filed

The Trump Administration has immediately appealed the ruling to the U.S. Court of Appeals for the Federal Circuit. On appeal, the Federal Circuit will review legal conclusions *de novo*—meaning without deference to the lower court—while deferring to factual findings unless clearly erroneous. The court may affirm, reverse, or remand the decision in a ruling that can take up to 6 to 12 months considering the time needed to review, brief and argue the CIT decision. An expedited briefing request or a request to stay the injunction is likely and would alter the timeline.

## Implications for U.S. Trade and Importers

This ruling underscores the constitutional limits on presidential power in trade matters and signals that future attempts to impose tariffs under emergency authorities will be subject to close judicial scrutiny. We advise importers affected by the now-invalidated tariffs to gather all transaction documents related to payments of Worldwide and Retaliatory and/or Trafficking Tariffs to be ready to request refunds. As this opinion is being appealed, we expect to see further guidance for affected importers related to past, current and future entries. As of today, Customs guidance would require it to continue to collect IEEPA tariffs. Stay tuned!

For further guidance on how this ruling may affect your business or trade compliance obligations, or to better understand CIT's reasoning, please contact your Dentons Cohen & Grigsby International Trade and Litigation teams.

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Because these changes are ongoing, Dentons will continue to monitor these developments and provide additional updates. We provide our clients access to resources in Canada, Mexico, China, and globally to help navigate these rapidly changing trade measures.

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