



CIT STRIKES DOWN IEEPA RECIPROCAL TARIFFS AND FENTANYL TARIFFS

(May 29, 2025)

On May 28, the U.S. Court of International Trade (CIT) entered [Summary Judgment](#) against the Government and permanently enjoined four of the additional tariff programs imposed by the Trump Administration under the authority of the International Emergency Economic Powers Act (IEEPA):

- IEEPA Reciprocal (Worldwide) Tariffs
- IEEPA Canada Fentanyl Tariffs
- IEEPA Mexico Fentanyl Tariffs
- IEEPA China Fentanyl Tariffs

The CIT held that IEEPA Reciprocal Tariffs “exceed any authority granted to the President by IEEPA to regulate importation by means of tariffs,” citing limits on the delegation of Congress’s Constitutional power to lay and collect duties and regulate commerce and relying on the Court’s authority to interpret statutory language. The CIT also held that the IEEPA Fentanyl Tariffs (which it refers to as the “Trafficking Tariffs”) fail because they do not “deal with” an unusual and extraordinary threat set forth in those orders, dismissing arguments that they involve nonjusticiable political questions. Instead, the CIT noted the Government stated the IEEPA Fentanyl Tariffs were intended to “create leverage” to deal with the objectives set forth in the Executive Orders, which was outside authority delegated by statute.

The CIT concluded that the IEEPA Tariffs will be vacated and their operation permanently enjoined. The Court will issue administrative orders to take effect within 10 days (i.e., by June 7). Within hours of the release of the CIT’s decision, the Government appealed the decision to the U.S. Court of Appeals for the Federal Circuit (CAFC). The Government also filed in the CIT and CAFC motions to “stay” enforcement of the CIT injunction pending an appellate decision and to limit its application to the litigants, supported by declarations of the U.S. Trade Representative and Secretaries of State, Commerce, and Treasury.

After the CAFC decision, the losing side will have the opportunity to appeal the CAFC’s decision to the U.S. Supreme Court. At this point, it is too early to determine how quickly the CAFC will hear and decide the appeal.

If the CIT’s decision survives appeal, importers should have an opportunity to receive refunds of IEEPA tariffs. A procedure for claiming or receiving refunds has not been established. The CIT decision was filed under the Court’s residual jurisdiction, so Court actions may not be necessary by other importers, but importers should still monitor liquidations of their Customs entries and consider filing Protests which might be necessary to preserve refund possibilities.

Finally, it is noted that the CIT decision has no impact on other additional tariff actions, including China Section 301, Section 232 steel and aluminum, Section 232 autos and auto parts, etc. Several active Section 232 investigations are underway that could lead to additional tariffs being placed on products under Section 232 authority that was not challenged in the current court action. These active Section 232 investigations involve:

- Copper

- Timber and Lumber
- Semiconductors and Semiconductor Manufacturing Equipment
- Pharmaceuticals and Pharmaceutical Ingredients
- Trucks
- Processed Critical Minerals and Derivative products
- Commercial Aircraft and Jet Engines

We expect the White House to explore other statutory provisions including those under the Trade Act of 1974 and Tariff Act of 1930 for increasing tariffs.

Please contact [Marshall Miller](#), [Brian Murphy](#), [Sean Murray](#), or [David Ostheimer](#) with questions.

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