

Insights: Alerts

Still Tariffed? What the Latest Federal Court Order Blocking Tariffs and the Subsequent Court of Appeals Ruling Means for You

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Summary

Recent rulings in courts throughout the country may signal more uncertainty in the tariff landscape. Here, we provide an overview of a May 28 ruling by the U.S. Court of International Trade (“CIT”) effectively ending various tariffs imposed by the Administration under various Executive Orders signed by President Trump since the start of the year. On May 29, the U.S. Court of Appeals for the Federal Circuit granted the Government’s request to stay the effect of the CIT’s ruling pending appeal—in other words, leaving the tariffs in place. That same day, however, the U.S. District Court for the District of Columbia (“DC District Court”) issued an order granting a preliminary injunction in a different case declaring tariffs derived from the Executive Orders targeting imports from China as unlawful. That order was also appealed by the Government.

The CIT’s Opinion

The CIT broadly categorized the Administration’s imposition of tariffs since the start of 2025 into two categories: (1) “Worldwide and Retaliatory Tariffs” related to the reciprocal tariffs on all imports from virtually all U.S. trading partners; and (2) “Trafficking Tariffs” related to tariffs on imports from Canada, Mexico, and China in response to the influx of opioids into the U.S., as well as drug trafficking and other crimes. Both categories of tariffs were promulgated by the Administration under the International Emergency Economic Powers Act (“IEEPA”). The Court held, however, that IEEPA (including its legislative history) does not authorize the President to impose unlimited tariffs on goods from nearly every country, as these actions exceeded the scope of authority delegated by Congress and do not comply with statutory conditions for exercising economic powers to deal with “an unusual and extraordinary threat” with respect to a declared “national emergency.”

Key Points under the CIT’s Opinion:

- **Scope of Presidential Authority Limited** – The Court found that while IEEPA allows some presidential discretion during national emergencies, it does not grant unbounded authority to impose tariffs for any reason or duration. Congressional intent, as reflected in IEEPA’s legislative history and related trade statutes, was to limit—not expand—executive power over international economic transactions. The Worldwide and Retaliatory Tariff Orders exceeded any authority granted to the President by IEEPA to

regulate importation by means of tariffs.

- **Failure to Meet Statutory Conditions** – The Court ruled that the President's Trafficking Tariffs do not satisfy IEEPA's requirement that such powers may only be exercised to “deal with an unusual and extraordinary threat” having its source substantially outside the United States. The Court found no direct link between the tariffs and the specific threats cited in the executive orders, rejecting the government's argument that IEEPA could be used to take whatever action by simply declaring them pressure or leverage tactics to illicit a third party's response to an unconnected threat.
- **Balance-of-Payments and Trade Deficit Rationale Insufficient** – The Court emphasized that Congress, through other statutes (notably Section 122 of the Trade Act of 1974), provided a narrower, non-emergency route for imposing tariffs in response to trade deficits, with express limitations on rate and duration. Use of IEEPA for these purposes and for issuance of the “Worldwide and Retaliatory Tariffs” was beyond the scope of the President's legal power (i.e., *ultra vires*).
- **Relief Granted** – The Court permanently enjoined the operation of the challenged tariffs, citing both statutory and constitutional grounds, and held that these tariffs are unlawful as to all affected parties—not just the plaintiffs. However, this injunction was short lived as the Court of Appeals for the Federal Circuit granted the Government's administrative stay pending appeal and temporarily stayed the permanent injunction while the court considers the appeal. This effectively reinstates the challenged tariffs for the time being.

The DC District Court's Opinion

The case in the DC District Court addressed two categories of challenged Executive Orders issued under IEEPA: (1) the executive order (including amendments) predicated on influx of synthetic opioids into the U.S. through China; and (2) the executive order (and amendments) predicated on large and persistent annual U.S. goods trade deficits and trade asymmetries (“Reciprocal Tariff Order”). Much like with the CIT's opinion, the DC District Court's opinion addressed whether the President had an unrestricted tariff power under IEEPA.

Although the CIT's opinion pertaining to the Trafficking Tariffs addressed tariffs on imports from Canada, Mexico, and China, the DC District Court's opinion addressed only the legality of the Executive Orders addressing similar “trafficking” from China only. Both courts, however, addressed the legality of the reciprocal tariffs order referred to in the CIT's opinion as the “Worldwide and Retaliatory Tariffs” and in the DC District Court's Opinion as the Reciprocal Tariff Order.

Key Points under the DC District Court's Opinion:

- **IEEPA Extends Only To Property In Which a Foreign Party or Country Has Any Interest** – Since tariffs are assessed after U.S.-based importers have taken legal possession of imported goods, property legally owned by U.S. nationals falls outside of IEEPA's scope.
- **IEEPA Does Not Include The Power to Tariff** – IEEPA is not a law that provides for tariffs, and that the power to “regulate” in the statutory phrase “regulate . . . importation” is not the power to tax—rather, the power to issue economic sanctions. In passing IEEPA, Congress did not delegate to the President the

power of taxing ordinary commerce from any country at any rate for virtually any reason. The tariffs that derive from the challenged Executive Orders are *ultra vires*.

- **Relief Granted** – The Court enjoined the Government from collecting any tariff deriving from the challenged executive orders from two specific plaintiffs.

Practical Impact of Both Opinions

The CIT and the DC District Court did not foreclose the ability of the Administration to reissue the challenged tariffs under other statutory authority (for example, under Section 232 or Section 122 of the Trade Act of 1974). Additionally, neither court addressed other tariffs currently in place since the start of 2025, such as Section 232 tariffs on aluminum and derivatives, steel and derivatives, automobiles and automobile parts. Importers and businesses should monitor potential appeals or legislative responses that may affect tariff administration and presidential trade powers. More generally, U.S. trading partners may see the legal challenges to President Trump's tariffs as new leverage to stall tariff negotiations with the Administration, which would only prolong economic uncertainty for importers, businesses, and U.S. consumers.

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