

U.S. Supreme Court to Consider IEEPA Tariffs on Expedited Basis

by T. Augustine Lo, Dave Townsend, Lawrence Ward, Justin T. Huff, and Paula Ortiz Cardona

On September 9, 2025, the U.S. Supreme Court granted a writ of certiorari to hear appeals from two cases challenging the Trump Administration's tariff actions that rely on the International Emergency Economic Powers Act ("IEEPA"). The Court will schedule a hearing in early November 2025 on an expedited basis to consider these cases, which could mean a decision before the end of the year. It remains to be seen whether the Court will uphold or strike down the IEEPA tariffs, and whether there will be an opportunity for duty refunds that could total hundreds of billions of dollars. [1]

- **IEEPA Tariff Actions and Recent Developments**

As we [reported](#), since February 2025, President Trump has invoked IEEPA to implement tariff actions on short notice. Although previous U.S. Presidents have used IEEPA frequently to impose economic sanctions that prohibit transactions with various countries and persons, no previous U.S. administration has invoked IEEPA to impose import duties. Unlike tariff actions under other laws, U.S. Presidents do not generally engage in any public proceedings before taking action under IEEPA. [2]

The result has been frequent and sudden increases and decreases in tariff rates and changes to the scope of the tariff actions. For example, on September 5, 2025, President Trump modified the IEEPA reciprocal tariffs to both add and remove exemptions for certain goods. The modifications also created a list of potentially exempt products that might not be subject to IEEPA tariffs if from countries that reach trade and investment agreements with the United States. The list of potentially exempt products includes certain agricultural products, aircraft and aircraft parts, and non-patented articles for use in pharmaceutical items. [3]

- **Overview of the Lawsuits**

As we previously [reported](#), the U.S. Court of International Trade ("CIT") ruled earlier this year that President Trump's tariff actions exceeded the President's IEEPA authority. These challenged tariff actions include the IEEPA tariffs imposed on Canadian, Chinese,

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and Mexican goods for declared emergencies relating to opioid trafficking and the global “reciprocal” tariffs imposed on the goods of all countries due to persistent trade deficits. The CIT’s holding potentially extends to other tariff actions that President Trump subsequently imposed citing IEEPA, such as the tariffs on goods from Brazil and India.

The CIT, accordingly, issued an injunction preventing the continued imposition of IEEPA tariffs. This injunction was stayed by the U.S. Court of Appeals for the Federal Circuit (“CAFC”) while the case was on appeal at the CAFC.

On August 29, 2025, in a split 7-4 decision, the CAFC upheld the CIT decision in part. While a majority of the CAFC circuit judges agreed that the Trump Administration’s IEEPA tariff actions are unlawful, they found that the CIT failed to apply the correct legal standard to issue the injunction and remanded the case to the CIT to reevaluate the injunction. However, anticipating an appeal by the Trump Administration to the U.S. Supreme Court, the CAFC delayed the effect of its judgment until the U.S. Supreme Court issues its judgment in the cases.

The CAFC ruling is important for several reasons. First, the CAFC cited recent U.S. Supreme Court case law limiting nationwide injunctions to require a more thorough consideration of the applicable legal standards before the CIT enjoined future collection of IEEPA tariffs. The CAFC accordingly directed the CIT to consider intervening case law to decide whether a nationwide injunction is appropriate. Second, while the majority held that the challenged IEEPA tariffs by President Trump are unlawful, they did not preclude tariff actions under IEEPA in all instances. The CAFC majority opinion cited an earlier case upholding temporary tariff action by President Nixon under IEEPA’s predecessor statute, the Trading With the Enemies Act (“TWEA”).^[4] Third, the remaining four judges in the minority issued a dissenting opinion that would have upheld the legality of the challenged IEEPA tariff actions, providing a potential roadmap for the U.S. Supreme Court to reverse the CAFC and uphold President Trump’s IEEPA tariffs. ^[5]

- **Implications for the Trade Community**

While it is too early to tell whether the U.S. Supreme Court will uphold or strike down the IEEPA tariff actions, there are some points for the trade community to consider.

- **Protest Deadline for Duty Refunds.** U.S. customs law generally bars duty refunds if an importer does not file a “customs protest” within 180 days of “liquidation” (final duty assessment). U.S. Customs and Border Protection ordinarily liquidates import entries 314 days after the date of import, but the actual date could vary. Companies may wish to review this option with trade counsel or consultants to preserve the refund right.
- **Initiation of Additional Cases.** Recent court decisions create uncertainty as to whether, even if plaintiffs succeed in those cases, all importers will benefit from the judgment. Companies that wish to secure tariff refunds could consider initiating their own lawsuits in case the courts limit the relief only to the plaintiffs in those cases.
- **Downstream Purchasers.** Many downstream purchasers of imported goods have seen price increases because of import duties paid by upstream importers and resellers. It may be worth reviewing contractual terms to see if there are potential ways to recover any windfall duty refunds to the importer.

- Continuing Importance of Customs Compliance. Even if the U.S. Supreme Court strikes down the IEEPA tariff actions, there are many other trade laws that authorize trade actions and import duties. While many companies have tried various strategies to mitigate import duties, they should be mindful of the legal constraints under U.S. law. The U.S. Government has at least five years (and more in some cases) to investigate and punish potential customs violations. Particular attention should be paid to any strategies that involve a change in tariff classification, country-of-origin, and declared value.

Dorsey & Whitney has experienced attorneys closely monitoring these cases and developments in U.S import tariffs. Please contact one of the attorneys below if you have questions.

[1] These appeals do not affect tariffs imposed under Section 232 of the Trade Expansion Act of 1962 on numerous imported goods including aluminum, automotive, copper, and steel products, nor the tariffs on Chinese origin goods imposed since 2018 under Section 301 of the Trade Act of 1974.

[2] The IEEPA statute contains certain statutory exemptions for information and informational materials, personal baggage, and certain other goods that present novel issues for importers.

[3] President Trump also issued a “Stacking Order” to alleviate some of the duplicative tariff burden from tariff actions under other laws, such as the Section 232 duties on aluminum products, automotive goods, steel products, among other goods. However, the Stacking Order does not provide relief for all tariff actions that the U.S. Government has imposed.

[4] See *United States v. Yoshida Int’l, Inc.*, 526 F.2d 560 (C.C.P.A. 1975).

[5] In a separate lawsuit filed in federal district court in Washington, D.C., a second set of plaintiffs successfully challenged President Trump’s authority to issue tariffs under IEEPA but limited the injunction to the plaintiffs in that case. The Trump Administration challenged the court’s jurisdiction and argued that the CIT is the only proper court to hear the case. The U.S. Court of Appeals for the D.C. Circuit was set to review the lower court ruling, but the Trump Administration sought immediate review by the U.S. Supreme Court.