

# CLIENT ALERTS

## UPDATE: Court of Appeals Places Hold on Court of International Trade's Decision Regarding "Liberation Day" and Other IEEPA-Based Tariffs

### Client Alert

5.30.2025

Late Wednesday, May 28<sup>th</sup>, a three-judge panel of the Court of International Trade (CIT) unanimously blocked President Trump's tariffs under the International Emergency Economic Powers Act of 1977 ("IEEPA"). The court issued a summary judgment in two cases that blocks: 1) the 25% tariffs on non-USMCA (United States-Mexico-Canada Agreement) compliant goods from Canada and Mexico; 2) the 20% additional tariffs imposed on China in February and March; and 3) both the 10% "baseline" tariff and all "reciprocal" tariffs announced on "Liberation Day" (April 2, 2025). In its Wednesday opinion in the consolidated matters of *V. O.S. Selections, Inc., et. al. v. The United States of America, et. al.*, and *The State of Oregon, et. al. v. The United States Department of Homeland Security, et. al.*, the CIT panel determined that it would be unconstitutional for Congress to have delegated unbounded authority to implement tariffs, and that the scale of tariffs imposed by the Trump administration "lacked any identifiable limits."

The judgment gives the government 10 days to wind down the tariffs. The court did not address refunding tariffs that have already been collected. The Department of Justice has already filed notice of an appeal to the of Appeals for the Federal Circuit, the decision of which could then also be appealed to the US Supreme Court. The administration also petitioned the CIT to pause any enforcement of its order while it pursues its appeals. Either of those appeals could result in a stay of implementation of the CIT judgment. The enforcement of currently in place IEEPA tariffs for the next ten days is unclear; without further judicial action, the Executive Orders implementing them will be vacated and their operation "permanently enjoined" in ten days.

### Related People

Catherine M. Karol  
Of Counsel

Mitchell Zajac  
Shareholder

Andrew S. AbdulNour  
Associate

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The Department of Justice has said that the CIT order would strip President Trump of leverage in his ongoing global trade negotiations, and that a stay is needed to avoid immediate and irreparable harm to US foreign policy and national security. It also said it would seek emergency relief from the Supreme Court if the Federal Circuit Court has not acted by Friday, May 30, 2025.

The CIT ruling has no impact on existing or future Section 232 tariffs, including those on steel and aluminum (and derivatives) and automotive and automotive parts. Similarly, all existing Section 301 tariffs are unaffected. The CIT decision outlined several alternatives for the Trump administration to pursue its ambitious tariffs agenda—expansion of both Section 301 and 232 tariffs, as well as implementation of duration-limited tariffs under the previously unused Section 122 of the Trade Act of 1974.

UPDATE: Roughly 24 hours later, the United States Court of Appeals for the Federal Circuit on Thursday, May 29, 2025, issued a per curiam order granting the Trump administration's motion to consolidate its appeals from the CIT rulings and to temporarily stay the judgment and injunction while that motion is being considered. The Federal Circuit Court directed the plaintiffs-appellees to respond to the Trump administration's motions for a stay by June 5, 2025. The administration must file a single, consolidated reply in support no later than June 9, 2025.

Also on May 29, 2025, a second federal court issued a preliminary injunction staying the imposition of the IEEPA-based tariffs. Judge Rudolph Contreras of the US District Court for the District of Columbia ruled that the IEEPA does not enable "the president to impose, revoke, pause, reinstate, and adjust tariffs to reorder the global economy." The preliminary injunction staying the imposition of the IEEPA tariffs applies only to tariffs that would be paid by the two named plaintiffs (two educational toy companies).

The Butzel Automotive and Tariffs groups are available to assist in dealing with tariffs and related issues. We will continue to update you as quickly and thoroughly as possible through these Client Alerts.

**Catherine M. Karol**

313.225.5308

karol@butzel.com

**Mitchell Zajac**

313.225.7059

zajac@butzel.com

**Andrew S. AbdulNour**

734.213.3251

abdulnour@butzel.com