CLIENT ALERTS & INSIGHTS

Trump Tariffs Permanent Injunction – What it Means and What to Expect

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On May 28th, 2025, the Court of International Trade issued a judgment striking down several of the worldwide tariffs imposed by President Trump in the first and second quarters of 2025. The Court's ruling challenges the President's declaration of national emergencies to impose (1) the ten percent levy on all imports and higher reciprocal tariffs for dozens of countries due to trade imbalances, (2) the elimination of de minimis exceptions on imports from China, and (3) the earlier tariffs on Canada, Mexico, and China due to the fentanyl and border crisis.

CIT Decision and Appeal. The Court's three-person panel ruled that President Trump's tariffs exceeded his power under the International Economic Emergency Powers Act ("IEEPA"). The Court held that because "the Constitution's express allocation of the tariff power to Congress . . . we do not read IEEPA to delegate an unbounded tariff authority to the President." Instead, the IEEPA applies when an "unusual and extraordinary threat with respect to which a national emergency has been declared" as explained in the Order. In response, the government has kept the legal dispute alive by filing a notice of appeal. The government may seek a stay of the injunction pending appeal.

No Immediate Change. This development does not immediately change the tariff burden for importers. All tariff actions based upon IEEPA remain in force. This means that the additional reciprocal duties on worldwide imports, the unavailability of de minimis on imports from China, and the additional fentanyl-related duties are unchanged as of today. Key answers to questions on the importing community's mind will follow if the ruling is upheld on appeal, such as the precise date upon which collection of these duties ceases and the method of receiving or seeking refunds.

No Change for Non-IEEPA Tariffs. It is significant that all tariff actions that were not based upon purported legal authority under IEEPA are not impacted by this ruling. The Trump Administration's tariffs on steel, aluminum, and autos are not impacted by the ruling since these tariffs were implemented under the authority of Section 232 of the Tariff Act and not IEEPA. Similarly, tariffs assessed under the authority of Section 301 of the Tariff Act are not impacted by ITC's decision. This includes the cases pending before the Court regarding the Trump 45 Administration's use of Section 301 duties on imports from China.

Benesch will closely watch the development of the appellate activity to advise on whether the Federal Circuit Court will affirm the Court of International Trade, thereby allowing billions of dollars to be refunded. Benesch client alerts and legal publications are available for you to receive by signing up HERE.

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