U.S. Court of International Trade Rules Section 122 Tariffs Unlawful: What Importers Need to Know

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On May 7, 2026, a divided three-judge panel of the U.S. Court of International Trade (CIT) held that the Trump administration's temporary 10% global tariffs imposed under Section 122 of the Trade Act of 1974 are "invalid" and "unauthorized by law," as applied to the plaintiffs before the court (the State of Washington and two private companies). The panel enjoined collection of the Section 122 duties from the plaintiffs but did not extend relief nationwide, meaning other importers may continue paying the tariffs unless and until additional relief is obtained or the ruling is broadened on appeal.

Section 122 and the 'Replacement' Tariff Program

Section 122 of the Trade Act of 1974 authorizes the president to impose temporary import surcharges, capped in rate and duration, to address certain balance-of-payments problems or to prevent an imminent and significant depreciation of the U.S. dollar. Following the U.S. Supreme Court's February 2026 decision invalidating earlier IEEPA-based tariffs, the Trump administration invoked Section 122 to impose a ***new, across-the-board 10% tariff intended to operate as a stopgap measure.***

The CIT's Decision

In its ruling, the CIT majority concluded that the Trump administration exceeded the statutory limits of Section 122 when it used that authority to impose a broad 10% global tariff based on trade deficits and related economic concerns. The court therefore declared the proclamation imposing the tariffs invalid and barred collection of the duties from the plaintiffs. The court, however, did not order nationwide relief, opting instead for a narrower injunction applicable only to the plaintiffs.

Practical Implications for Importers

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- Tariffs may remain payable for most importers. Because relief was limited to the plaintiffs, companies that are not covered by the injunction should assume U.S. Customs and Border Protection (CBP) will continue to collect Section 122 duties unless and until a stay, broader injunction, or additional plaintiff-specific relief changes that posture.
- The decision creates a roadmap for similarly situated importers to seek comparable, plaintiff-specific injunctive relief. Companies evaluating litigation should consider standing, the nature of their imports, and the evidentiary record needed to support irreparable harm and other equitable factors.
- Even with the favorable merits ruling, the limited scope of relief means tariff allocation clauses, pricing mechanisms, and customer communications remain critical to managing short-term exposure.

What's Next?

The Trump administration is likely to appeal the CIT's decision to the U.S. Court of Appeals for the Federal Circuit. During appeal, the government may seek a stay of the injunction as to the plaintiffs. Conversely, additional parties may file new actions seeking similar relief, and the scope of relief could expand if other courts or panels grant broader injunctions.

Key Takeaways

The CIT's Section 122 decision is a consequential check on the use of emergency trade authorities to impose broad, across-the-board global tariffs. However, because the decision's injunction is currently limited to the plaintiffs, most importers should plan for continued collection unless they pursue (or benefit from) additional litigation or subsequent court orders.

FBT Gibbons' Trade and Foreign Law team is monitoring developments, including any Federal Circuit activity and CBP implementation posture. Please contact the authors if you have

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questions about exposure, contract allocation strategies, or options to preserve and pursue relief.

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