



Tariff Authority Tested: Court Rejects Trump's Broad Use of Emergency Powers in Trade

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Prior to the ratification of the Sixteenth Amendment in 1913—the amendment authorizing the imposition of a federal income tax—tariffs were a crucial revenue-raising mechanism for the federal government. However, with a novel means of revenue raising in hand and the ever-increasing interdependency of the international economic landscape, tariffs began to serve a more amorphous policy purpose, prompting Congress to create the non-partisan International Trade Commission to [set tariff rates](#). Subsequently, in 1977, Congress granted power to the president to regulate trade in times of national emergency under the International Emergency Economic Powers Act (IEEPA).

More recently, citing a “national emergency” from the existing trade deficit, fentanyl trafficking, immigration, and cartel violence, President Trump placed a blanket 10% tariff rate on all imports and imposed even higher rates on [“bad actors.”](#) In fact, the tariffs on China reached as high as 145% at one point. Overall, President Trump’s so-called “Liberation Day” tariff initiative constituted a crucial component of the administration’s trade and economic agenda.

Legal Challenges to the Trump Administration’s Tariffs

The tariffs announced on April 2, 2025, were sweeping in scope and incorporated a threat of up to a 50% increase if negotiations faltered. Although many of the tariffs were paused for 90 days to encourage active negotiation with trade partners, they were scheduled to take effect again in July absent court intervention. Ultimately, wine importer V.O.S. Selections, four other small businesses, and a dozen states spearheaded by Oregon challenged the tariffs in the Court of International Trade (the “Trade Court”), a court that resolves trade disputes by interpreting and applying

[international trade laws](#). The plaintiffs argued that the tariffs exceeded the authority granted to the president under the IEEPA. More specifically, the plaintiffs raised concerns that the imposition of the tariffs constituted an impermissible delegation of Congressional power violative of core Constitutional principles. Under Art. 1, § 8, cls. 1, 3 of the U.S. Constitution, Congress retains the exclusive power to “lay and collect Taxes, Duties, Imposts, and Excises.” Thus, the question for the Trade Court to answer was whether IEEPA “delegates these powers to the President in the form of authority to impose unlimited tariffs on goods from every country in the world.”

The Trade Court’s Decision

The Trade Court in *V.O.S. Selections, Inc. v. United States* held that the IEEPA does not authorize the challenged tariffs, as they exceeded the president’s delegated authority. More specifically, Judges Gary Katzmann (Obama appointee), Jane Restani (Reagan appointee), and Timothy Reif (Trump appointee) found that Trump’s “Worldwide and Retaliatory Tariff Orders” lacked statutory basis under the IEEPA. Legal experts noted the bipartisan composition of the panel strengthened the ruling’s credibility, and many viewed the decision as a reinforcement of the separation of powers.

Moving Forward: Effects of the Trade Court’s Ruling

- On May 29, 2025, a day after the issuance of the Trade Court’s opinion, the United States Court of Appeals of the Federal Circuit stayed the Trade Court’s order. A stay order effectively halts the decision of a lower court, so the status quo will persist pending appellate review. In all likelihood, this case will end up at the U.S. Supreme Court. According to the order, the plaintiffs are directed to respond to the United States’ motion for a stay by June 5, and the United States may file a reply no later than June 9, so the appeal will be handled promptly.

- While the disposition of the case remains uncertain, President Trump still retains significant trade powers under Sections 232 and 301 of the Trade Act. These tools allow for more targeted tariffs, typically on specific sectors or for unfair trade practices. In fact, the Section 232 steel and aluminum tariffs and the Section 301 tariffs on Chinese goods were in place before President Trump took office. Analysts noted that such measures do not replicate the sweeping and discretionary approach attempted through the IEEPA. Some trade lawyers and former officials suggested Trump could invoke Section 122 of the Trade Act of 1974, which allows for temporary tariffs of up to 15% for 150 days on countries with which the U.S. runs trade deficits, but this option is more limited and temporary.
- Because of the swift nature of the judicial intervention, the ruling complicates ongoing negotiations with trading partners, calling into question recent deals such as the agreement with Britain. Indeed, some countries may now be less inclined to strike quick deals if they believe the legal foundation for Trump's tariffs could be permanently invalidated.
- In Asia and the United States, stock markets rose following the decision, suggesting investor optimism over eased trade tensions. Yet manufacturers and exporters voiced caution given the potential of the Trump administration to resort to other legal sources for trade regulation.
- Ultimately, the Trade Court's ruling doesn't end the trade war; rather, it introduces new guardrails and raises fundamental questions about the scope of presidential authority in international trade.

Key Takeaways

For the recovery of tariffs previously tendered, such refunds may not be available until the final disposition of the case. In the meantime, additional changes to the structure of U.S. tariff programs are almost certainly on the horizon. Frost Brown Todd's [Trade and Foreign Law](#) team will continue to monitor for updates and stands ready to provide guidance about the effects of tariffs. Fostering a [responsive, adept strategy](#) will ensure a competitive

advantage. Please contact the authors or member of our trade team if you have any questions.

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