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Trade Court Rejects Section 122 Tariffs, Appeal Pending

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The US Court of International Trade (CIT) recently held in a split decision that the Trump administration's imposition of a 10% global tariff, effective February 24, 2026, under Section 122 of the Trade Act of 1974 was "invalid" and "unauthorized by law." While the CIT issued a permanent injunction prohibiting the collection of further Section 122 duties (and the government did not contest that the CIT could order reliquidation of entries and refunds after a final, unappealable decision), that relief was limited to plaintiff importers who paid the challenged tariffs. The CIT declined to issue universal injunctive relief. The US Court of Appeals for the Federal Circuit has since temporarily stayed the judgment, meaning the tariffs remain in effect for the importer plaintiffs for now, pending further ruling by the appellate court.

The CIT's ruling, the Federal Circuit's stay and practical implications

After the US Supreme Court held that the tariffs imposed under the International Emergency Economic Powers Act (IEEPA) were unauthorized in February 2026, the administration immediately imposed a new global 10% tariff on most imported goods, invoking Section 122 of the Trade Act of 1974, which authorizes the imposition of tariffs to address "large and serious United States balance-of-payments deficits," among other specified circumstances. A coalition of states and private importers challenged this executive action.

The CIT held that the tariffs exceeded the scope of the statute but limited injunctive relief to plaintiffs who imported goods subject to Section 122 tariffs. The CIT enjoined the government from collecting Section 122 tariffs solely with respect to these plaintiffs. The CIT declined to enter a universal injunction. The ruling was divided, with a dissenting judge arguing that the tariffs were lawfully imposed pursuant to authority delegated by Congress.

Shortly thereafter, the government appealed the CIT's decision, and the Federal Circuit issued a temporary stay while it decides whether to issue a broader stay pending resolution of the government's appeal. The CIT's ruling and Federal Circuit's stay underscore the rapidly evolving landscape and leave open questions regarding the relief available and steps affected entities must take to preserve their rights to a potential refund of Section 122 tariffs.

If you have any questions concerning this ruling or its potential implications, please reach out to your Cooley contact or one of the lawyers listed below.

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