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FLASH

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Reciprocal tariffs deemed unlawful in Appeals Court; the fight will move to the Supreme Court. Other trade-related statutes could be used to impose tariffs, and with or without reciprocal tariffs, average tariffs are expected to rise, raising trade policy uncertainties.

Key Events

Latest Development:

Appeals court upholds CIT ruling that reciprocal and trafficking tariffs were unlawful

On August 29, 2025, the Federal Circuit, in a 7–4 ruling, upheld the U.S. Court of International Trade's (CIT) decision, affirming that the Trump administration's reciprocal and trafficking tariffs were unconstitutional[1/], as they exceeded executive authority without congressional approval. The case originated on May 29, 2025, when the CIT ruled in V.O.S. Selections[2/], Inc. v. United States that tariffs imposed under the International Emergency Economic Powers Act (IEEPA) were unlawful, prompting the administration's appeal.

However, the Federal Circuit issued an administrative stay, delaying the enforcement of its ruling until October 14, 2025, to allow the tariffs to remain in place while the Trump administration prepares an appeal to the U.S. Supreme Court (SCOTUS). **In addition, the court also remanded the case to the CIT for further review, potentially to address procedural or legal errors, reassess the scope of the injunction** (whether it should be nationwide or limited to the plaintiffs), **and evaluate the economic impact of the tariffs, including potential refunds for duties collected.**

The decision does not impact tariffs imposed under other statutes, such as Section 232 of the Trade Expansion Act of 1962 (e.g., steel and aluminum) or Sections 201 and 301 of the Trade Act of 1974 (e.g., China-specific tariffs).

Next Step and What to Watch

Reciprocal tariffs hang on SCOTUS. The review could stretch into mid-2026, keeping trade policy in legal limbo.

1. SCOTUS as the key player

The Trump administration is likely to appeal the Federal Circuit's ruling to the Supreme Court (SCOTUS), with President Trump previously criticizing the Federal Circuit as "highly partisan" and expressing confidence in a SCOTUS reversal. Although no formal appeal has been filed yet, **SCOTUS is expected to grant *certiorari* (accept the case) due to the significant constitutional issues involved.**

The Supreme Court's 2025-2026 term begins on October 6, 2025, and the Federal Circuit's stay expires on October 14, 2025. This timing could prompt the Trump administration to file an emergency petition for SCOTUS to extend the stay.

1/ Citing the *non-delegation and major questions* doctrines (canon). These doctrines emphasize that Congress holds the core power to impose tariffs, and any delegation of such authority must be explicit and limited

2/ The plaintiffs in the consolidated case included five small businesses—V.O.S. Selections, Inc., Plastic Services and Products, LLC (d/b/a Genova Pipe), MicroKits, LLC, FishUSA, Inc., and Terry Precision Cycling, LLC—represented by the Liberty Justice Center, alongside twelve Democratic-led states led by Oregon.

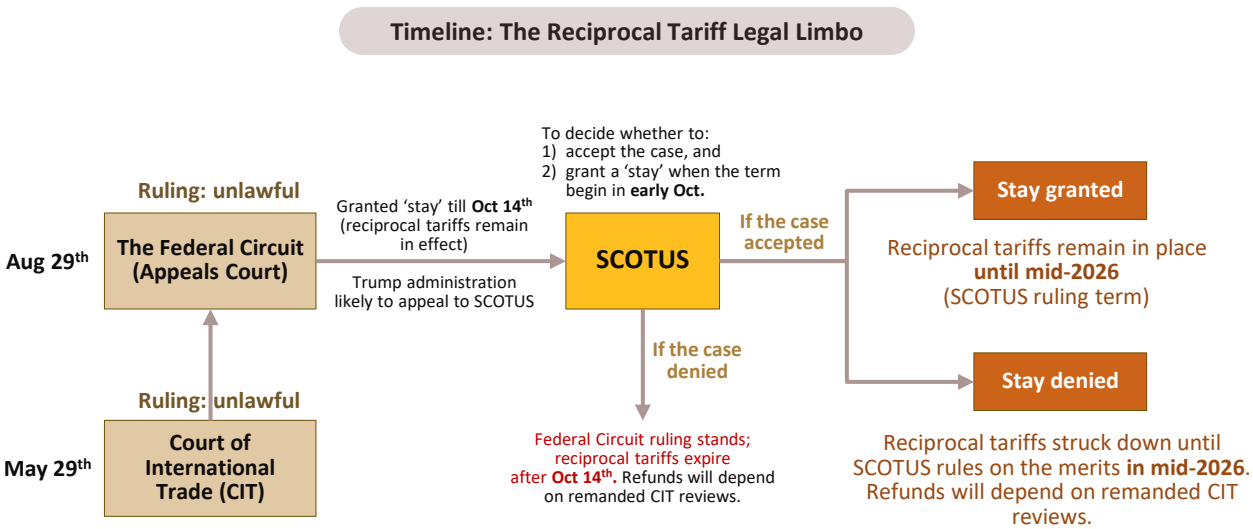
2. Crucial timing on October 14, 2025

The Federal Circuit's administrative stay, expiring on October 14, 2025, maintains the tariffs pending a potential SCOTUS appeal. If the case is accepted, a stay decision is likely to happen within weeks[3/]. Two scenarios are possible:

- **Stay granted:** The tariffs could remain in place through much of the 2025-2026 term, with a final ruling potentially by June 2026, as SCOTUS typically issues major decisions by the end of its term in late June or early July 2026.
- **Stay denied or case not accepted**: The Federal Circuit's ruling would take effect, invalidating the IEEPA-based tariffs and potentially leading to refund claims for duties collected. In addition, the remanded CIT review will reassess the injunction's scope (nationwide or plaintiff-specific) based on recent SCOTUS guidance on universal injunctions, adding further uncertainty.

3. Status of trade deals with other countries

The Federal Circuit's ruling deeming the tariffs unlawful could lead trading partners to slow down negotiations, adopting a cautious stance. However, **the unpredictable outcome of a potential SCOTUS appeal and the Trump administration's ability to leverage alternative statutes may limit the negotiating advantage of other countries**, maintaining a complex and competitive dynamic in trade discussions.



3/ SCOTUS has issued rapid stays in high-stakes cases involving executive authority, such as the Biden administration's student-loan forgiveness program.

Krungsri Research View:

With or without reciprocal tariffs, uncertainty remains, as Trump can still resort to other statutes. He has several tools at his disposal, including

1. **Section 232 of the Trade Expansion Act of 1962 – national security tariffs**, covering products such as steel, aluminum, autos, auto parts, and copper. The scope could be expanded both in tariff rates and product coverage to include other items such as pharmaceuticals and semiconductors.

2. **Sections 201 and 301 of the Trade Act of 1974 – tariffs targeting unfair trade practices,** widely used against China in the past.

3. **Section 122 of the Trade Act of 1974**[4/] – allows the president to impose tariffs of up to 15% for 150 days. **Trump could prioritize this provision while seeking to legitimize reciprocal tariffs within the 150-day window.** Other sections, such as 232 and 301, could also be applied in parallel to increase pressure.

For Thailand, existing Section 232 tariffs already cover autos and auto parts (25%), steel and aluminum (50%), and copper (50%). **Expanding coverage or raising tariffs under Section 232 would pose significant risks for Thai exporters.** For example, if the U.S. proceeds with the threatened 100% semiconductor tariff, our study shows Thai export losses in Electronics and Electrical Equipment could worsen by 2.3 times with substitution effects, or 3.7 times without. This sector is critical, accounting for 25.7% of total Thai exports in 2024, with the U.S. as the destination for 34.6% of those exports.

In summary, even if reciprocal tariffs are ruled out, Thailand will continue to face tariff-related pressures from sector-specific measures. Negotiations will likely proceed under the shadow of such threats, while domestic political uncertainty could further weaken Thailand's position. Globally, average tariffs are expected to rise with or without reciprocal measures, disrupting pricing, supply chains, and trade flows.

4/ Section 122 enables rapid tariff imposition with no prior investigation. By contrast, imposing tariffs under Section 232 (Department of Commerce), Section 201 (International Trade Commission), and Section 301 (USTR) typically requires a 6–18 month investigation. These longer processes ensure more enduring tariffs but delay action compared with Section 122.

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