



July 2, 2026

Government Appeals CIT Orders to Fight IEEPA Refunds

The U.S. Department of Justice (DOJ) filed a Notice of Appeal on June 2, 2026, to the U.S. Court of Appeals for the Federal Circuit, challenging the Court of International Trade's (CIT) "universal" refund order. This appeal specifically targets the scope of judicial authority regarding which importers are eligible for automatic refunds of the invalidated International Emergency Economic Powers Act (IEEPA) tariffs.

The government's appeal does not contest the illegality of the tariffs themselves. Instead, it challenges whether the CIT has the power to order automatic refunds for non-litigant importers whose entries are already "finally liquidated".

The DOJ divides import entries into distinct categories, which drives the mechanics of its legal challenge:

- **Phase I Entries (Uncontested):** These are entries that are unliquidated or were liquidated fewer than 81 days before a CAPE filing. The government is actively processing these. More than \$95 billion has already been queued for refund under this phase.
- **Liquidated Entries (Contested):** These are entries that were finalized *more than 80 days past liquidation*. The government argues that CBP lacks the statutory authority to voluntarily reprocess these older entries without an importer-specific court order.
- **The Litigant vs. Non-Litigant Split:** The government's core argument is that the CIT erred by issuing a "universal injunction". The DOJ maintains that only the roughly 4,000 businesses that proactively filed lawsuits at the CIT are legally eligible to recover money from finally liquidated entries. **Non-litigants**, under the government's view, *are barred from recovering this older pool of money*, which is estimated to be worth more than \$30 billion.

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□ **Urgency to File Claims:** Because the government wants to restrict what now looks to be Phase III refunds strictly to active litigants, companies that have not yet sued face the real risk of permanently losing access to their refunds if the Federal Circuit rules in the government's favor.

□ **Importers File Class Action:** To combat the government's divide-and-conquer legal approach, a coalition of importers filed a motion on June 9, 2026, to certify a class action lawsuit at the CIT. If successful, this class action would protect non-litigants by legally grouping them together under a single lawsuit, bypassing the government's objection to "universal" administrative remedies. A decision whether this approach would be acceptable by the Court remains to be seen.

If you require further assistance, need a recommendation for a trade attorney that can file suit in the court of international trade for a reasonable fee please contact us immediately!

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