Publications

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Court Clears Path for Litigant Importers to Recover IEEPA Duties on Finally Liquidated Entries

Key Takeaways

- The U.S. Court of International Trade (CIT) ordered U.S. Customs and Border Protection (CBP) to reliquidate, without IEEPA duties, covered plaintiffs' entries that have been liquidated for more than 80 days. The order creates a refund path for finally liquidated entries that prior CAPE phases could not process.
- Litigant importers may pursue those refunds while the government's appeal concerning relief for non-litigants continues. CBP must first issue submission instructions to plaintiffs' counsel before importers may file the new CAPE declarations, and CBP must accept the applicable CAPE declaration before reliquidating an entry.
- Importers should identify and map each entry to the correct plaintiff and importer-of-record number, correct any CAPE or payment errors, and keep their CIT cases open until they receive and reconcile all refund monies due.
- Importers that have not filed suit should promptly consult counsel about whether litigation may preserve additional refund rights for finally liquidated entries. The July 15 order does not itself extend relief to non-litigants.

On July 15, 2026, the U.S. Court of International Trade (CIT) closed a major gap in the International Emergency Economic Powers Act (IEEPA) refund process by directing U.S. Customs and Border Protection (CBP) to reliquidate, without IEEPA duties, plaintiffs' entries that had been liquidated for more than 80 days and on which plaintiffs had deposited estimated IEEPA duties.

For litigant importers, the order provides a court-authorized route to reliquidation of older entries that the Consolidated Administration and Processing of Entries (CAPE) System could not previously process and creates an accelerated path to refunds. The process is not automatic, however: plaintiffs' counsel must first submit specified importer information, and CBP must accept the corresponding CAPE declaration before ordering refunds.

Why Finally Liquidated Entries Required a Separate Solution

As discussed in our prior alert, CAPE Phase 1 generally accepted unliquidated entries and

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entries liquidated within the preceding 80 days. That cutoff gave CBP time to validate an importer's declaration and complete voluntary reliquidation within the 90-day period under 19 U.S.C. § 1501.

After that 90-day period, CBP's ordinary authority to voluntarily reliquidate an entry expires. CBP maintained that it needed a court order specific to litigants to reopen and reliquidate those entries after the 90-day period. The July 15 order supplies that authority for covered plaintiffs. It also reaches entries liquidated for more than 80 days, protecting entries that could otherwise become final while CBP processes the new declarations.

The order, however, does not establish the same CAPE process for non-litigants. Importers that have not filed suit should promptly consult counsel about whether litigation may preserve additional rights involving finally liquidated entries.

Litigant Refunds Can Proceed During the Government's Appeal

The CIT previously ordered broader relief, including refunds of IEEPA duties paid on finally liquidated entries. The government appealed insofar as that relief extends to importers that did not file suit, arguing that the CIT lacks authority to grant relief to non-litigants.

The July 15 order separates those issues. It authorizes CBP to reliquidate covered plaintiffs' older entries while the government continues to challenge relief for non-litigants. Litigant importers therefore need not await resolution of that appeal before pursuing refunds through the new CAPE process.

How the New CAPE Process Will Work

The order sets out three steps:

1. CBP will send plaintiffs' counsel instructions for submitting identifying information, including each importer-of-record number. Plaintiffs need not request those instructions.
2. After counsel follows the instructions, importers may submit one or more CAPE declarations for covered entries liquidated more than 80 days ago, including entries that become final after an initial declaration.
3. CBP will reliquidate an entry only after it accepts the applicable CAPE declaration.

CBP has not announced a launch date. The order authorizes reliquidation and establishes the procedure to recover duties on entries that had otherwise passed the ordinary reliquidation deadline, but it does not guarantee a payment date.

Moreover, the order does not address entries that remain beyond CAPE's current functionality, even if not finally liquidated. CAPE remains unable to process refunds for entries for which duty drawback was claimed or which were impacted by antidumping and countervailing duties. CBP has provided no anticipated date by which it expects to have added this functionality.

CAPE Processing Update

As of July 10, CBP had accepted 24.4 million entries representing approximately $121.75 billion in potential and certified refunds. CBP had liquidated or reliquidated 16.74 million entries without IEEPA duties and transmitted approximately $86.3 billion in refunds and interest to the U.S. Department of the Treasury for disbursement.

CBP also reported 4.77 million entry-level validation failures. The new order may resolve one significant failure category for litigant importers: entries rejected because they fell outside of CBP's ordinary 90-day reliquidation authority. It will not cure unrelated defects, including incorrect entry data, missing applicable IEEPA Chapter 99 tariff numbers or duplicate submissions. Another 9,837 refunds had not been transmitted to Treasury because CBP lacked the required ACH information.

These figures show both CAPE's scale and its limits.

Importers should confirm that CBP has the ACH information required to transmit refunds and should track each entry through validation, reliquidation and payment. They should investigate any difference between the expected and received amounts and consult counsel if there is a discrepancy.

Steps Litigant Importers Should Take Now

The court issued an order rather than a final judgment and kept the underlying cases stayed. That structure preserves a path back to court if CAPE does not provide appropriate relief.

The order makes entry-level alignment critical. Each entry should match the correct plaintiff, importer-of-record number, ACE record, refund recipient, and CIT case. Importers with multiple suffixes, reorganizations, acquired entities, or changed customs brokers should not assume that one identifier captures every eligible entry.

Litigant importers should prepare for the next CAPE phase now and:

- Identify every entry excluded from prior CAPE declarations because it had been liquidated for more than 80 days.
- Confirm that each entry aligns with the correct plaintiff, importer-of-record number, ACE record and refund recipient, accounting for suffixes, reorganizations, acquired entities and broker changes.
- Correct file- and entry-level validation errors and confirm that CBP has the ACH information required to transmit refunds.
- Reconcile accepted entries, reliquidations, expected principal and interest, offsets and payments received.

The order permits multiple CAPE declarations. That flexibility may help importers address different importer numbers, later-liquidating entries or entries that require separate remediation. Litigants should work with counsel to investigate differences between expected and received refunds and should not voluntarily dismiss their CIT cases until all material refund issues have been resolved.

Importers participating in transactions involving the purchase, sale or financing of IEEPA refund claims should also reassess claim status in light of the order. For litigant claims involving finally liquidated entries, the order reduces a significant legal uncertainty, but transaction parties should still confirm plaintiff status, importer-number alignment, CAPE eligibility, unresolved validation issues and control over any eventual dismissal of the underlying case.

Bottom Line

The July 15 order gives current plaintiffs a court-authorized route to seek refunds on entries that were too old for earlier CAPE phases. Complete recovery will still depend on accurate importer and entry data, successful CAPE validation, reliquidation and payment reconciliation. Litigant importers should keep their cases open until all material refund issues are resolved.

Importers that have not filed suit should promptly consult counsel about whether litigation may preserve additional rights involving finally liquidated entries, which may lead to earlier refunds. The July 15 order does not itself extend this CAPE process to non-litigants

Polsinelli’s International Trade team continues to monitor CBP’s implementation of the next CAPE phase and will provide additional guidance when CBP distributes the required submission instructions.

If your business needs strategic legal guidance or anticipates potential impacts resulting from these announcements, contact Deanna Okun, Lydia Pardini, Dominic Bianchi, Polsinelli’s Executive Action Working Group or your Polsinelli contact.