

# The IEEPA Tariffs Are Gone: Now What?

## Client Alerts

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On February 20, 2026, the Supreme Court issued a landmark decision in *Learning Resources, Inc. v. Trump* (No. 24-1287) and *Trump v. V.O.S. Selections, Inc.* (No. 25-250), holding 6-3 that the International Emergency Economic Powers Act (IEEPA) does not grant the President authority to impose tariffs. The same day, President Trump issued an Executive Order rescinding IEEPA tariffs and directing agency heads to “terminate the collection” of those tariffs “as soon as practicable.”

While the IEEPA tariffs are being wound down, it is important that businesses keep in mind that other significant tariffs remain in place under different legal authorities, and the President already has announced that he will impose new tariffs to take the place of IEEPA tariffs. Moreover, the refund process for tariffs already paid is uncertain and potentially complex. While all of this gets sorted out, it is important for businesses to review their supply chain and other contracts which were affected by IEEPA tariffs to understand their rights and obligations in seeking or receiving refunds and also to plan for potential future tariffs.

## The Supreme Court’s Holding

The Supreme Court’s majority concluded that IEEPA does not authorize the President to impose any tariffs. The Court also affirmed that IEEPA tariff challenges fall within the exclusive jurisdiction of the Court of International Trade (CIT) and, therefore, remanded the *Learning Resources* case to the district court with instructions to dismiss for lack of jurisdiction.<sup>1</sup> Three Justices (Chief Justice Roberts, Gorsuch, and Barrett) further held the administration’s interpretation violated the major questions doctrine, given IEEPA’s failure to use the words “tariff” or “duty” and the “almost unlimited power” the administration claimed.<sup>2</sup> Justices Kavanaugh, Thomas, and Alito dissented, arguing IEEPA’s “regulate . . . importation” language historically encompassed tariffs and that the major questions doctrine should not apply in foreign affairs contexts.<sup>3</sup> While the Court mentioned refunds of tariffs collected under IEEPA tariffs, it did not address whether refunds should be issued or how.

Shortly following the Supreme Court’s decision, on February 24, 2025, the *V.O.S.* plaintiffs moved for a permanent injunction in the CIT requesting that all IEEPA tariffs be permanently enjoined.<sup>4</sup> They also filed a motion in the Federal Court asking for the mandate to be issued on an expedited basis, which the government opposed. On March 2, the Federal Circuit Court of Appeals granted the

mandate, over the government's objections, to allow the CIT to begin the process of adjudicating tariff refund cases that were stayed pending the Supreme Court's decision.

## **The Affected Tariffs**

It is important to note that the Supreme Court's decision only affects the so-called Liberation Day tariffs that were issued under IEEPA. Specifically, the Supreme Court invalidated only the tariffs imposed under IEEPA, including tariffs targeting China, Canada, and Mexico initially premised on the fentanyl/opioid national emergency (Executive Orders 14193, 14194, 14195, and related orders) and the 10% worldwide "baseline tariff" and country-specific "reciprocal" tariff rates imposed on the basis of trade imbalance emergency (Executive Order 14157 and related orders).

The Supreme Court's decision does not affect tariffs imposed by other statutes. Section 232 tariffs such as those on steel, aluminum, automobiles, and auto parts remain in effect. The same is true for Section 301 tariffs that target products from specific countries such as tariffs on Chinese goods and Section 201 safeguard duties.

Further, on the same day as the Supreme Court's decision, President Trump announced a new 10% duty on imports under Section 122 of the Trade Act of 1974.<sup>5</sup> Section 122 permits the President to impose temporary import surcharges to address "large and serious United States balance-of-payments deficits."<sup>6</sup> Since then, President Trump has announced that he will raise the Section 122 tariff to 15% and has toyed with numerous potential carve outs.

Moreover, businesses should expect that the administration may pursue additional tariffs under Sections 122 and 302 of the Trade Act of 1974, Section 232 of the Trade Expansion Act of 1962, Section 301 of the Trade Act of 1974, and Section 338 of the Tariff Act of 1930<sup>7</sup>—all of which require some degree of congressional or administrative agency action of obligation, which may be why the administration did not pursue them in the first instance. As Justice Kavanaugh noted in dissent, the Court's decision means the President "checked the wrong statutory box," but it "might not substantially constrain a president's ability to order tariffs going forward" given these alternative authorities.<sup>8</sup>

## **How IEEPA Tariffs Will Be Refunded Still is Unclear**

The Court's opinion is silent on how or whether previously collected IEEPA tariffs will be refunded. As Justice Kavanaugh wrote in the dissent: "The Court says nothing today about whether, and if so how, the government should go about returning the billions of dollars that it has collected from importers."<sup>9</sup> CIT has indicated it will determine how to set up a refund process once the Supreme Court's decision is final.<sup>10</sup>

In prior proceedings, the government stipulated that, if IEEPA tariffs ultimately were found unlawful, it "will issue refunds to plaintiffs, including any post-judgment interest that accrues."<sup>11</sup> This

stipulation applies to all “current and future similarly situated plaintiffs,” not just the named parties.<sup>12</sup> Over 900 follow-on suits have already been filed at CIT by other importers seeking refunds.<sup>13</sup>

Only the importer that actually made IEEPA tariff payments can seek a refund directly from the US government. Others in the supply chain may have contractual rights to receive those refund proceeds, however, and should take immediate steps to protect their interests.

### **Immediate Next Steps for Companies Affected by IEEPA Tariffs**

Though only the importer that actually made IEEPA tariff payments can seek a refund from the US government, others in the supply chain should take steps to evaluate what rights they may have to refunds. All participants in the supply chain should:

- Identify supply chain relationships that were subject to IEEPA tariff levies that may have been passed along in the price or in some other way, and which entities in the supply chain paid IEEPA tariffs.
- Preserve and collect relevant documentation on those transactions, including contracts, purchase orders, acknowledgement forms, bills of lading and other shipment documentation, invoices and payment records.
- Review contract documents to identify who was responsible for tariff payments, whether any provisions addressing refunds or setoffs for amounts incorrectly paid, and provisions that may require your supplier to seek a refund. In some cases, this may require revisiting analyses previously performed when the tariffs were first imposed. In our experience, the extent to which older contracts explicitly or implicitly addressed absorption of tariffs into pricing varies. In addition, given events over the past year many supply chain participants have reached agreements regarding treatment of tariffs in older contracts, or have incorporated provisions addressing the cost of tariffs in their more recent contracts and contract forms.
- Consult with suppliers to ensure that they are taking appropriate steps to pursue the right to refunds.
- Take care when considering offers to purchase refund claims, and make sure that suppliers do not sell your refund rights without your consent.
- Ensure that pricing for future transactions is adjusted given the ruling on IEEPA tariffs, recognizing that the administration issued an order imposing a 10% global tariff under Section 122 of the Trade Act of 1974, and may impose other tariffs in coming days.
- In light of continuing uncertainty, consider implementing changes to contracts and contract forms to clarify: (1) who is responsible for paying tariffs, (2) whether pricing may be adjusted for new

tariff levies, and (3) responsibility for pursuing refunds and who is entitled to refunds which are actually obtained.

## How Jenner & Block Can Help

While the Supreme Court's decision eliminated IEEPA tariffs, significant tariffs remain in place under other legal authorities and substantial uncertainty surrounds the refund process. Therefore, companies should act promptly to assess their exposure, preserve their rights, and position themselves to benefit from any refunds that ultimately become available. Jenner & Block's **Tariff Task Force** brings together a multidisciplinary team of litigators, former government prosecutors, and subject matter experts and stands ready to help clients with this process.

## Footnote

[1] Slip Op. at 5 n.1.

[2] Slip Op. at 8-13

[3] Slip Op. (Kavanaugh J., dissenting) at 1-63

[4] Memorandum in Support of Plaintiffs' Motion for Permanent Injunctive Relief, *V.O.S. Selections, Inc. v. Donald Trump*, 1:25-cv-00066, Dkt. No. 72 at 2 (Ct. Int'l Trade Feb. 24, 2026)

[5] Fact Sheet, *Fact Sheet: President Donald J. Trump Imposes a Temporary Import Duty to Address Fundamental International Payment Problems* (Feb. 20, 2025), <https://www.whitehouse.gov/fact-sheets/2026/02/fact-sheet-president-donald-j-trump-imposes-a-temporary-import-duty-to-address-fundamental-international-payment-problems/>.

[6] *Slip Op.* (Kavanaugh, J., dissenting) at 27 (citing 19 U.S.C. § 2132(a)).

[7] *Slip Op.* (Kavanaugh, J., dissenting) at 5–6 (listing these authorities).

[8] *Id.*

[9] *Slip Op.* (Kavanaugh, J., dissenting) at 63. The refund process was acknowledged at oral argument to be "likely to be a 'mess.'" *Slip Op.* (Kavanaugh, J., dissenting) at 6 (quoting Tr. of Oral Arg. 153–155).

[10] *Order, AGS Co. Auto. Sols. v. U.S. Customs & Border Prot.*, 1:25-cv-255, Dkt. 35 (Ct. Int'l Trade Jan. 14, 2026).

[11] *V.O.S. Selections*, Fed. Cir. Dkt. No. 6 at 25 (May 29, 2025).

[12] *AGS Co. Auto. Sols. v. CBP*, No. 1:25-cv-255, Dkt. No. 34 at 2 (Ct. Int'l Trade Jan. 8, 2026)

[13] Memorandum in Support of Plaintiffs' Motion for Permanent Injunctive Relief, *V.O.S. Selections, Inc. v. Donald Trump*, 1:25-cv-00066, Dkt. No. 72 at 2 (Ct. Int'l Trade Feb. 24, 2026).

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