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Supreme Court Strikes Down IEEPA Tariffs — What Importers Need to Know About Recovering Refunds

On February 20, 2026, the Supreme Court held that the tariffs imposed under the International Emergency Economic Powers Act (IEEPA) are unlawful. The ruling invalidates much of the sweeping tariff regime imposed by the Trump Administration beginning in early 2025 — including the "Fentanyl Tariffs" on Canada, Mexico, and China and the "Liberation Day" reciprocal tariffs imposed on virtually every country — and opens the door to potential refunds of up to $175 billion in tariffs already paid. Importers should act promptly to understand and preserve their refund rights.

Background: The IEEPA Tariff Regime

Beginning in February 2025, President Trump issued a series of executive orders imposing tariffs under IEEPA, a 1977 statute that grants the President broad authority to regulate economic transactions during a declared national emergency. In the so-called "Fentanyl Tariffs," the Administration invoked IEEPA's emergency powers to impose 25% tariffs on imports from Canada and Mexico and a 10% tariff on imports from China, citing fentanyl trafficking as a national security emergency. Then, on "Liberation Day" in April 2025, the Administration imposed sweeping "reciprocal" tariffs on imports from virtually every country — a baseline 10% global tariff with higher country-specific rates — citing large and persistent U.S. trade deficits.

Additional executive orders followed, modifying, expanding, and in some cases delaying these measures.

President Trump was the first President ever to use IEEPA as a basis for imposing tariffs. Other statutes that President Trump and prior Presidents have used as bases for imposing tariffs are subject to express procedural and substantive limitations. IEEPA, by contrast, offered a vehicle for imposing large tariffs quickly and without those constraints — but doing so carried significant

legal risk, because IEEPA contains no express reference to tariffs or duties, and no prior Administration had used it to exercise such power.

The Supreme Court Decision

The Supreme Court's core merits holding — that IEEPA does not authorize the President to impose tariffs — was unanimous among the six-justice majority: Chief Justice Roberts (writing), joined by Justices Sotomayor, Kagan, Gorsuch, Barrett, and Jackson.[1] The majority's core textual analysis focused on IEEPA's authorization for the President to "regulate . . . importation." The Court concluded that this language cannot bear the weight the Government placed on it. IEEPA contains no reference to tariffs or duties whatsoever, and the word "regulate" — as ordinarily understood and as Congress consistently uses it — does not encompass the power to tax. Congress, the Court observed, has consistently conferred tariff authority on the Executive in other trade statutes through express language and subject to defined procedural and substantive constraints. "Congress knows how to grant the Executive the power to impose tariffs when it wishes to do so." The Government could point to no statute in which Congress used the word "regulate" to authorize taxation, and until this Administration, no President had ever read IEEPA to confer tariff power.

Justices Thomas, Alito, and Kavanaugh dissented. Justice Kavanaugh, writing for the three dissenters, argued that tariffs are a traditional and common tool to regulate importation and that IEEPA plainly authorized them, relying in part on historical practice and prior Supreme Court decisions. The dissent also cautioned that the refund process would likely be a "mess." Justice Thomas wrote separately to argue that the nondelegation doctrine does not apply to import duties at all, as that power never implicated core private rights.

New Tariffs Are Coming

Within hours of the Supreme Court's ruling, President Trump announced a new 10% global tariff under Section 122 of the Trade Act of 1974 and signaled expanded use of Sections 232 and 301. The following day, President Trump announced that he was raising the global rate to 15%.

Indeed, the Trump Administration has several other potential bases to impose tariffs, although most have investigative and procedural hurdles that IEEPA does not:

- **Section 122** (Trade Act of 1974) authorizes a "temporary import surcharge" for balance-of-payment deficits, but caps tariffs at 15% and limits their duration to 150 days absent Congressional extension.
- **Section 232** (Trade Expansion Act of 1962) authorizes tariffs on national security grounds, but requires a formal investigation by the Department of Commerce.
- **Section 301** (Trade Act of 1974) authorizes action against unfair foreign trade practices, but requires a formal investigation by the U.S. Trade Representative before any action can be taken.

[1] The Justices reached that result through somewhat different reasoning. The portions of Chief Justice Roberts's opinion addressing the statute's text, its constitutional backdrop, and the conclusion that IEEPA confers no tariff power constitute the Opinion of the Court, joined by all six majority Justices. The portions invoking the major questions doctrine — requiring "clear congressional authorization" for consequential executive action — were joined only by Justices Gorsuch and Barrett, making those sections a three-Justice plurality. Justices Sotomayor, Kagan, and Jackson concurred in part and in the judgment, concluding that ordinary principles of statutory interpretation lead to the same result without resort to the major questions doctrine. Justice Jackson also wrote separately, relying on legislative history.

- **Section 201** (Trade Act of 1974) authorizes tariffs of up to 50% for injury to domestic industry, but requires an International Trade Commission investigation, public hearings, and public comment; in addition, it is focused at the industry level rather than country-wide application.

- **Section 338** (Tariff Act of 1930) authorizes tariffs of up to 50% against countries that discriminatorily burden U.S. commerce, but it has never previously been used to impose tariffs.

The Refund Fight Will Be Messy

The government is likely to ultimately pay refunds of IEEPA tariffs paid, but the process will be complicated. The Government routinely refunds importers in ordinary trade remedies cases, and there is precedent of the Government issuing refunds on universal taxes that were held unlawful. In *United States v. United States Shoe Corp.*, after the Supreme Court struck down the Harbor Maintenance Tax, the Government ultimately refunded all payments connected to timely filed claims and suits — but only after years of follow-on litigation and affirmative claim filings. Similarly, following President Trump's April 2025 executive order precluding the "stacking" of certain tariffs, CBP processed refunds through Post Summary Corrections and protests rather than issuing them automatically.

Across these examples, claimants were required to act affirmatively to preserve and pursue their rights. Seeking refunds of IEEPA tariffs promises more of the same. In a press conference held immediately after the Supreme Court's decision, President Trump stated that the refund fight could be "in court for the next five years." And Justice Kavanaugh noted in his dissent that the process is likely to be a "mess." Importers should assume the process will be neither simple nor fast.

The Precise Refund Mechanism Is Uncertain

The specific mechanism for seeking refunds has not yet been established by CBP or the courts.

Two likely paths exist:

1. CBP Administrative Process. CBP may attempt to use existing administrative procedures under which importers can file Post Summary Corrections ("PSCs") and/or protests, or CBP may develop a bespoke procedure, given the magnitude of the refund claims likely to be filed.

2. Lawsuit in the CIT. Importers may file suit directly in the CIT, which has exclusive jurisdiction over civil actions arising out of laws providing for tariffs. Over 1,000 companies have already filed CIT actions to preserve their refund rights.

These paths are not mutually exclusive. An importer can pursue administrative remedies while also filing a protective lawsuit in the CIT.

Benefits of Filing a Lawsuit in the CIT

Filing a lawsuit in the CIT protects against the effects of tariff entries becoming "liquidated" — a finality event that may limit or extinguish refund options. Where administrative remedies provide

sufficient relief, litigation can be paused or withdrawn without prejudice. But failure to file at all may foreclose certain refunds entirely. Early filers may also be better positioned to recover faster and to participate in case management procedures the CIT has indicated it may adopt, including the appointment of a plaintiffs' steering committee.

Given the Trump Administration's stated intent to litigate tariff refunds for the next five years, companies should very seriously consider getting the process going sooner, rather than later. In all events, companies should be mindful of the two-year statute of limitations that begins running when each tariff payment was made.

Steps to Take Now

In all cases, importers who paid IEEPA tariffs should take the following steps:

1. Identify the Importer of Record. The entity that actually paid the tariff is generally the party entitled to file a refund claim.

2. Identify Affected Entries. Determine which entries were subject to IEEPA tariffs and calculate the amount paid or deposited.

3. Gather Documentation. Collect entry summaries (CBP Form 7501), commercial invoices, packing lists, transportation records, certificates of origin, and proof of payment.

What to Think About In Deciding Whether to File a Lawsuit in the CIT

Whether to file a lawsuit in the CIT depends on facts specific to each importer. There is no "one size fits all" answer. Any potential plaintiff should consider the total amount at stake, whether tariff costs have been passed on to customers or third parties (who may in turn have a claim to portions of any refund paid), and what risks filing a lawsuit may entail.

For example, companies in a heavily regulated business, or who otherwise depend on the government for their business, plainly have more at risk than a client who is not. In addition, companies that have paid significant IEEPA tariffs may have a duty to their shareholders to preserve and maximize any claims.

Potential Government Defenses and their Limitations

Importers should also be aware of steps the Government may take to minimize its refund exposure, as well as the limitations of those defenses:

1. Delay. The Government may seek to slow-walk administrative and judicial processes. Skilled counsel can help importers push back and shape the process favorably.

2. Retroactive Tariffs. The Government may attempt to impose retroactive tariffs under alternative statutory authorities to offset refund obligations. Such an attempt would face significant legal obstacles, as none of the likely alternative bases for imposing tariffs contains explicit retroactivity language, and none has ever been applied to already-completed entries.

3. Pass-Through Arguments. The Government may argue that refunds should be reduced where tariff costs have been passed on to customers. However, this argument faces substantial legal obstacles, as the importer of record — not downstream parties — is the proper claimant, and downstream pricing decisions have typically not been held to reduce the Government's obligation to repay unlawfully collected tariffs.

How Quinn Emanuel Can Help

Quinn Emanuel can help guide you through the complex process of seeking and obtaining refunds of IEEPA tariffs paid. We are the world's largest litigation-only law firm, with deep experience in customs, trade, and international law before the Court of International Trade, the Federal Circuit, and the Supreme Court — the precise venues that will likely determine the scope and timing of IEEPA tariff refunds. We are prepared to act immediately to pursue refunds aggressively, whether through CIT litigation or otherwise.

Our track record includes some of the most significant recoveries against the U.S. Government in history. In the "Risk Corridors" litigation, Quinn Emanuel led its clients to victory in claims arising under the Affordable Care Act, resulting in over $12 billion in payments by the U.S. Government — of which Quinn Emanuel's clients recovered nearly $4 billion.

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If you have any questions about the issues addressed in this memorandum, or if you would like a copy of any of the materials mentioned in it, please do not hesitate to reach out to:

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