

IEEPA Tariffs Struck Down—Where Do We Go From Here?

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Agenda

- I. Overview of US Supreme Court decision in *Learning Resources, Inc. et al. v. Trump*
- II. Status of lower court cases
- III. The Administration's posture
- IV. Next steps
- V. Replacement tariffs
- VI. Q&A

Overview of US Supreme Court decision in *Learning Resources, Inc. et al. v. Trump*

- On February 20, 2026, the Supreme Court of the United States issued its decision in *Learning Resources, Inc. et al. v. Trump*
 - Holding that the International Emergency Economic Powers Act (IEEPA) does not authorize the president to impose the:
 - Fentanyl and migration-related tariffs regarding Mexico, Canada, and China
 - Country-specific reciprocal tariffs
- The reasoning stated that:
 - IEEPA's statutory language (granting the power to "regulate...importation") does not include the power to tax
 - Such power is exclusively held by Congress
 - If Congress grants the power to impose tariffs, it must be done explicitly and with clear constraints
 - IEEPA could not grant the president unbounded authority to unilaterally impose tariffs

Status of Lower Court Cases

- On February 25 – After the SCOTUS decision, the plaintiffs moved the Federal Circuit to issue its mandate immediately so the case could be returned to the Court of International Trade (CIT) for remedial proceedings (i.e., to start adjudicating reliquidation/refund claims)
 - The Justice Department asked the Federal Circuit to delay issuing its mandate until the Supreme Court formally finalize its judgment (usually 32 days) and then to impose an *additional* 90-day stay before remanding the case
- On March 2nd, 2026 – the Federal Circuit rejected the DOJ’s request by unanimous order and denied the government’s motion for a stay
- On March 4th, 2026 – Judge Richard Eaton issued an order in *Atmus Filtration, Inc. v. United States*, one of several actions at the CIT seeking refunds of those tariffs

Judge Eaton's March 4 Order and CBP's Answer

- In his order, Judge Eaton held:
 - “All importers of record whose entries were subject to IEEPA duties are entitled to the benefit of the *Learning Resources* decision.”
 - Ordered CBP to
 - (1) liquidate any and all unliquidated entries that were entered subject to the IEEPA duties address in *Learning Resources* (i.e. Canada/Mexico, China, and Reciprocal)
 - (2) to reliquidate any liquidated entries for which liquidation is not final
 - Reaffirmed that CIT has *exclusive subject-matter jurisdiction* over these claims
 - Confirmed he will be the sole judge who will hear cases regarding the IEEPA refunds
 - Confirmed the CIT is authorized to issue universal injunctions
- On March 6th, 2026 – CBP issued a declaration addressing the Judge's March 4 order and offered a proposed solution only for entries that are unliquidated or within the 90-day reliquidation period

CBP's Proposed Solution

- For entries that are unliquidated or within the 90-day reliquidation period, the proposed solution includes:
 - Developing a new Automated Commercial Environment (ACE) functionality to handle the volume of IEEPA duty refunds
 - The process would include:
 1. Importer-Triggered Declaration filed in ACE
 2. Automated Re-Calculation by ACE
 3. CBP Verification and Processing
 4. Aggregation and Interest by ACE
 5. Electronic Refund Issuance by Department of the Treasury
- Judge Eaton ordered CBP to file a short report by March 12, 2026, describing the progress made toward the development of a process to issue refunds of IEEPA duties paid with interest

Administration's Posture on Refunds

- The Trump Administration has tried to prevent and/or delay the refund process:
 - As discussed, the Justice Department asked the Federal Circuit to delay issuing its mandate
 - Despite the administration stipulating in CIT proceedings that it would refund IEEPA tariffs following a “final and unappealable decision” ordering the government to issue refunds including any post-judgment interest that accrues
 - On Jan. 9, 2026, the US Treasury Secretary Scott Bessent stated that the US Treasury has more than adequate funds to pay the refunds but still clarified that it could take over a year.
 - He also criticized the tariff refunds as “the ultimate corporate welfare”
 - President Trump “guess[es] it has to get litigated for the next two years.” At the same time, administration officials are exploring legal ways to hold on to the billions collected (e.g. discourage companies from claiming their refunds, allow companies to jump to the front if they agree to forfeit some of the money, etc.)

Administration's Posture on Alternative Legal Bases

- The Trump Administration is exploring alternative legal authorities to support the various actions it has taken under IEEPA, for example:
 - On February 20, 2026, President Trump issued a new executive order that changed the legal basis for the suspension of the *de minimis* exemption for shipments from all countries
 - The suspension was originally based on IEEPA and tied to the IEEPA fentanyl-trafficking and reciprocal tariff executive orders
 - The new legal basis will maintain the original *de minimis* suspension without modification

Next Steps

- CBP expects the new ACE functionality could be ready in about 45 days, but there was no clarification on how long the refund process will take once the functionality is ready
- It is still unclear how CBP will handle liquidated entries that are beyond the 90-day window in which CBP can reliquidate
- Almost 2,500 companies have filed complaints at the CIT requesting a refund
- If you have entries that are beyond the 90-day CBP reliquidation window or entries that are subject to the additional IEEPA tariffs on India or Brazil, filing a complaint at the CIT remains the most effective and reliable method for companies to preserve their right to a refund
- If all your entries are unliquidated or well-within the 90-day CBP reliquidation window, then you could wait for the CBP administrative process

Replacement Tariffs

- President Trump announced new tariffs shortly after the SCOTUS decision:
 - **10% tariff under Section 122 of the Trade Act of 1974**
 - Effective February 24, 2026 - July 24, 2026
 - Treasury Secretary Bessent stated that the Section 122 tariffs will likely increase to 15% - no official announcement has been made yet
 - Section 122 allows for temporary import surcharges or quotas for up to 150 days to deal with large balance-of-payment deficits
 - **New investigations under Sections 232 and 301**
 - With an intention to conduct these investigations on an accelerated timeframe
- Treasury Secretary Bessent also stated that the “Treasury's estimates show that the use of Section 122 authority, combined with potentially enhanced Section 232 and Section 301 tariffs will result in virtually unchanged tariff revenue in 2026.”

Questions?



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