What You Need to Know Today: Supreme Court Strikes Down IEEPA Tariffs

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Today, the U.S. Supreme Court ("SCOTUS") ruled in a 6-3 decision that President Trump exceeded his authority by imposing tariffs under the International Emergency Economic Powers Act ("IEEPA"). In holding that IEEPA does not, as a Constitutional matter, authorize the President to impose tariffs of any kind, the SCOTUS decision renders the IEEPA tariffs inherently void (*ultra vires*).

When do I get refunds?

Refunds will not begin with the SCOTUS decision, and it will likely take a little time to understand the available procedures.

SCOTUS did not address the question of refunds or the mechanics of implementing its decision in any way.[1] Indeed, President Trump in his news conference today signaled an intent to push back on quick refunds in some fashion, noting that SCOTUS did not, in fact, discuss refunds at all, and suggesting additional litigation in the coming "years."

As a procedural matter, the Federal Circuit's August 29, 2025, decision is affirmed and the case now returns to the Court of International Trade ("CIT"), which SCOTUS separately held has exclusive jurisdiction over the questions arising in the case. The next steps will be determined in that context.

The CIT panel overseeing this case has already made clear, in related litigation, three critical points:

1. The CIT has determined that it has the legal authority – which has been stipulated by the Government – to ***order reliquidation of entries for purposes of issuing appropriate refunds***.

2. The CIT will hold the Government to that stipulation with respect to "all current and future similarly situated plaintiffs," meaning that ***companies do not need to be current plaintiffs to be eligible for an order of reliquidation***.

3. The CIT has made clear its ***intent to craft and implement structured case management procedures*** in these circumstances. This could vary widely and will almost certainly begin with the CIT asking the parties to this case for their current positions and proposed process going forward. Whether an administrative application process at Customs and Border Protection

("CBP"), a court-ordered application process, an automatic refund mechanism, litigation by individual importers, a combination thereof or something else entirely, we expect the CIT to carefully and thoughtfully manage the implementation of this decision going forward.

The CIT will also have to address whether the universal injunction – meaning application of its finding that the IEEPA tariffs are unlawful to all similarly situated importers and not just the parties to the litigation – it originally imposed may stand. The Federal Circuit had vacated the CIT's universal injunction for the purpose of the CIT reconsidering it, but not ruling on a legally correct outcome.

What do I do for imports entering today, tomorrow, the day after that . . .?

CBP has not issued any guidance at the time of this advisory. As a technical matter, CBP's electronic Automated Commercial Environment ("ACE") does not require importers to list a Chapter 99 classification code to file an entry, which would indicate that IEEPA duties are to be applied. That said, regular procedures such as post-summary corrections are available to amend entries in the near term on which IEEPA tariffs have been paid. It is also possible that this will be separately addressed as part of a broader refund mechanism. Given the substantial uncertainty as of today, importers should be aware of the risks of making any changes or withholding IEEPA duties without clear instruction from CBP and seek legal counsel before doing so, which we would be happy to provide on a case-by-case basis.

What does this mean for all the trade deals the United States has just announced?

The tariff concessions (reductions or eliminations) to which the United States has agreed in trade deals to date expressly rely on IEEPA authority. The text of the deals with the EU, Japan, Taiwan, Indonesia, and others specifically reference the IEEPA reciprocal tariff Executive Order 14257 (and related amendments) and modify the *additional* rate of duty arising from those orders. This raises a significant question about the survival of the other terms reached by the United States and its trading partners in exchange for those Reciprocal Tariff rate reductions (e.g., auto quotas, purchase and investment commitments, import licensing, regulatory acceptance, agricultural barriers to trade, intellectual property, labor, taxes, environment, etc.). Trading partners who made their own concessions in exchange for IEEPA tariff rate reductions may seek to abrogate their respective agreements under those circumstances. The President's announcement of 10% tariffs under Section 122 of the Tariff Act of 1974 and the immediate commencement of Section 301 investigations (and perhaps other tariff and non-tariff actions) are clearly intended to be used in part as points of leverage to ensure the rest of the deals remain in place.

What about the additional IEEPA "Anti-Corruption" tariffs on Brazilian imports and the additional IEEPA "Russian Oil" tariffs on Indian imports?

Technically speaking, the specific acts – Executive Orders 14323 and 14329 – that imposed these tariff regimes were not subject to this litigation. The SCOTUS decision, however, is maximally broad in finding that IEEPA does not permit the President to impose any tariffs. Thus, on their face, these additional tariffs imposed under the same authority are similarly unlawful. Moreover, the President removed the India/Russian Oil tariffs pursuant to agreement with India, effective February 7, 2026.

We may see relatively narrow litigation or administrative action to clarify that these additional tariffs on Brazil and India should and will be captured in whatever refund mechanism is developed going forward.

What about *de minimis* treatment for shipments from China valued at less than $800?

The impact the SCOTUS ruling has on the President's actions suspending *de minimis* treatment for low-value shipments first from China, and then from all countries, is not as clear. Although the President relied on IEEPA authority in doing so, SCOTUS's holding only speaks to the authority to impose *tariffs* under IEEPA – not other forms of action. A separate legal challenge to the *de minimis* order with respect to China is pending before the CIT and had been stayed pending the SCOTUS decision we received today (see *Axle of Dearborn, Inc. d/b/a Detroit Axle v. Dept. of Commerce*, Court. No. 25-00091). In any event, as part of the One Big Beautiful Bill Act passed on July 3, 2025, Congress repealed *de minimis* treatment for all imports, effective July 1, 2027.

What happens next?

President Trump has announced that he will today issue an order imposing a 10% global tariff under Section 122 of the Trade Act of 1974 for a period of 150 days (or until approximately July 20, 2026), effective within three days. Section 122 authorizes the President to impose tariffs of no more than 15% for 150 days "to deal with large and serious . . . balance-of-payments deficits." The effective period may be extended by an act of Congress. With respect to Section 122 action, one question is how or whether the action will contain a carveout for USMCA-qualifying products from Mexico and Canada (in the same way that the IEEPA actions for those two countries did).

The President has also announced several Section 301 investigations into unfair foreign trading practices (conducted by the U.S. Trade Representative) and "other investigations." These may include additional sectoral investigations and actions under Section 232 for imports that threaten to impair U.S. national security (conducted by the Commerce Department). Pending Section 232 investigations include commercial aircraft, medical equipment, pharmaceuticals, polysilicon, unmanned aircraft, wind turbines, and robotics & industrial machinery.

The President can also expand the application of existing tariffs 232 actions through so-called derivative product inclusion procedures, which the Administration has recently noted it is refining. A decision is pending for a second round of requests filed under the Section 232 steel and aluminum programs. Also pending is the announcement of an inclusion process for the Section 232 copper program.

What about Section 301 and Other Sectoral Tariffs Imposed Under Section 232?

The Supreme Court's ruling does not disturb Section 301 tariffs imposed during President Trump's first term on imports from China or any of the sectoral tariffs imposed under Section 232 on, for example, imports of steel, aluminum, or copper.

If/when refunds begin, how will I get them?

The refunds will be sent electronically to your bank account; paper checks will no longer be sent unless a specific waiver is granted.

On February 6, 2026, CBP required all refunds of duties, taxes, or fees to be issued electronically through the Automated Clearing House (ACH). Electronic refunds will be deposited within one to two business days after it is sent to the recipient's designated bank account. Additional guidance on how to enroll to ensure refunds are received in a timely manner can be found here. In general, importers who are not already enrolled in the ACH Refund program must submit an application for an ACE Portal account if an account does not already exist. Once an ACE Portal account has been created, the account owner must complete the ACH Refund application in the ACE Portal under the ACH Refund Authorization tab to provide CBP with the designated banking information.

[1] Notably, Justice Kavanaugh observed in his dissent:

“But the Court’s decision is likely to generate other serious practical consequences in the near term. One issue will be refunds. Refunds of billions of dollars would have significant consequences for the U. S. Treasury. 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. But that process is likely to be a ‘mess,’ as was acknowledged at oral argument.”