

# Clients & Friends Memo

## Supreme Court Strikes Down IEEPA Tariffs: Considerations for Importers

February 23, 2026

On February 20, 2026, in a 6-3 decision, the U.S. Supreme Court held that the International Emergency Economic Powers Act (IEEPA) does not authorize the President to impose broad tariffs. The decision in *Learning Resources, Inc. v. Trump* rejected the government's argument that IEEPA's power to "regulate ... importation" includes the power to levy broad import duties. The decision left open the President's ability to impose tariffs under other legislative schemes and does not alter—or meaningfully clarify—the means by which importers can seek refunds of the estimated \$175 billion in duties paid under the IEEPA tariffs. In response to the decision, President Trump issued a Proclamation under a different statutory authority imposing a 10% global tariff on most imports for 150 days and announced an intent to raise this temporary global tariff to 15%. The administration also stated that additional, more permanent tariffs will be announced and that companies can anticipate lengthy litigation when seeking refunds for duties paid under the now-invalidated IEEPA tariffs.

### Overview and Immediate Impact

The Supreme Court's decision focused on IEEPA-based tariffs the administration imposed beginning in February 2025, based on national emergencies declared with respect to fentanyl trafficking, illegal immigration, and trade deficits, including the "reciprocal tariffs" the administration announced on "Liberation Day" in April 2025.

The Supreme Court's decision means that tariffs imposed under IEEPA are no longer valid. The decision leaves untouched tariffs imposed under other authorities, including under Section 122 of the Trade Act of 1974, Section 232 of the Trade Expansion Act of 1962, and Section 301 of the Trade Act of 1974, along with ordinary baseline duties under the Harmonized Tariff Schedule. Shortly after the Supreme Court's decision, President Trump issued a [Proclamation](#) citing Section 122 to impose a 10% global tariff on most imports for 150 days, effective at 12:01 a.m. on February 24, 2026. The administration also announced an intent to raise the temporary Section 122 global tariff to 15%.

### The Court's Reasoning

Writing for the Court, Chief Justice Roberts framed the dispute as both a question of statutory interpretation and a separation-of-powers problem. The [opinion](#) begins by noting that the Constitution vests taxing authority, including the power to impose tariffs, in Congress, and that the Executive Branch has “no inherent authority to impose tariffs during peacetime.” Because the administration did not argue that the United States is at war with every other country in the world, its defense of the tariff regime turned on whether IEEPA’s authorization to “regulate . . . importation of . . . any property in which any foreign country or national thereof has any interest” gives the President the power to unilaterally impose tariffs.

The Court emphasized that the administration’s reading would rest the President’s tariff authority “on two words separated by 16 others” in the statutory language of IEEPA, and would treat IEEPA’s authorization to “regulate . . . importation” as a “sweeping” license for the President to impose tariffs on virtually any country or product category, at any rate, and for any duration. The Court further warned that such a delegation “would replace the longstanding executive-legislative collaboration over trade policy with unchecked Presidential policymaking.”

Against that backdrop, the Court concluded that a general power to “regulate . . . importation” under IEEPA does not authorize the President to impose tariffs. The opinion rests on several related points:

- The Court pointed to Congress’s usual practice when it delegates tariff authority. IEEPA contains a detailed list of emergency powers, but it does not reference “tariffs” or “duties.” The Court considered that omission to be significant in light of Congress’s typically “clear and limited delegations.” The Court reasoned that, if Congress had intended IEEPA to authorize tariffs, it would have used clear tariff-specific language, as it has in other statutes.
- Looking to ordinary meaning and context, the Court interpreted the term “regulate” as authorizing controls and restrictions typical of emergency sanctions, not revenue-raising measures like tariffs. It therefore declined to interpret IEEPA as an implied delegation of Congress’s taxing authority.
- Based on historical precedent, the Court found it “telling that in IEEPA’s half century of existence, no President has invoked the statute to impose any tariffs, let alone tariffs of this magnitude and scope.” The Court treated the lack of precedent as significant given the breadth and economic stakes of the authority asserted, reasoning that Congress would be expected to confer such power expressly rather than by inference.

### **The President May Cite Other Authorities to Impose Tariffs**

*Learning Resources* leaves untouched several statutory authorities that explicitly delegate tariff-setting powers to the executive branch. Notably, all of these delegating authorities are constrained in scope, procedure, or duration as compared to the administration's now-invalidated IEEPA-based tariffs.

*Section 122 of the Trade Act of 1974:* Section 122 authorizes the president to impose tariffs of up to 15% on imports from specified countries in response to "large and serious" balance-of-payments deficits or to prevent "an imminent and significant depreciation of the dollar in foreign exchange markets." Section 122 tariffs may be proclaimed without any prior investigation; the sole requirement is a presidential determination that the above-stated statutory preconditions have been met. Section 122 tariffs automatically expire after 150 days unless extended by Congress. Immediately following the *Learning Resources* decision, President Trump invoked Section 122 to proclaim a global 10% tariff. On social media President Trump stated an intent to further raise the Section 122 tariffs to 15%.

*Section 201 of the Trade Act of 1974:* Section 201 authorizes the president to impose tariffs in any amount on imports of particular articles if the U.S. International Trade Commission (ITC) finds that increased imports of such articles cause or threaten serious injury to a domestic industry. These "safeguard" tariffs are temporary: they may remain in effect for four years after their proclamation, and may be extended to eight years if the ITC and president determine that they continue to be necessary.

*Section 301 of the Trade Act of 1974:* Section 301 empowers the U.S. Trade Representative (USTR) to investigate foreign acts, policies, or practices that are unjustifiable and that burden or restrict U.S. commerce. Tariffs targeting specific unfair practices may be imposed in any amount following such investigations. During President Trump's first term, his administration invoked Section 301 to impose tariffs on hundreds of billions of dollars of imports from China following a USTR investigation that concluded that China engaged in unfair trade practices related to technology transfer, intellectual property, and innovation. Immediately after the *Learning Resources* decision, President Trump directed the USTR to proceed with investigations that may enable additional Section 301 tariffs.

*Section 232 of the Trade Expansion Act of 1962:* Section 232 authorizes the president to impose tariffs in any amount on imports of particular articles following an investigation and finding by the Secretary of Commerce that such imports "threaten to impair the national security." Commerce Department Section 232 investigations typically take months to complete, precluding immediate presidential action. During President Trump's first term, his administration invoked Section 232 to impose tariffs on imports of steel and aluminum.

*Section 338 of the Tariff Act of 1930:* Section 338 authorizes the president to impose tariffs of up to 50% on goods from countries that discriminate against U.S. commerce. Modern courts have had little occasion to interpret the authority of Section 338, which has not been invoked since 1935. As a result, questions remain regarding Section 338's scope, implementation, and vulnerability to challenge if deployed aggressively.

### **IEEPA Tariff Refunds**

Many importers that paid IEEPA tariffs have considered options for those amounts to be refunded in the event the tariffs were struck down. The *Learning Resources* decision does not resolve whether or how refunds will be paid. Members of the administration, including the President and Treasury Secretary, stated after the Supreme Court's decision that importers' attempts to secure refunds are likely to involve lengthy litigation.

At this time, there is no certain path to IEEPA tariff refunds. Despite calls for clarity from governors, federal legislators and business leaders, neither the Customs and Border Protection (CBP) nor the Department of the Treasury has published any post-*Learning Resources* refund guidance. As a result, IEEPA tariff refund considerations remain essentially unchanged from before the *Learning Resources* decision. Importers have two potential avenues to seek a refund: (i) file an administrative protest with CBP or (ii) file a complaint with the Court of International Trade (CIT).

*Administrative Protests:* When goods enter a U.S. port of entry, an importer must file entry paperwork with CBP declaring the duties owed. Unless the duties are extended or suspended, CBP makes a final determination of the duties owed within 314 days after the goods enter the U.S., through a process known as liquidation. Before CBP makes a liquidation determination, an importer may file a "post-summary correction" to make changes in the entry declarations. After liquidation, CBP is expected to issue a refund to the importer for any overpayment of duties, or a bill for any underpayment of duties. The importer then has 180 days to file an administrative protest regarding CBP's liquidation determination. For many importers, the 180-day period after liquidation leaves open a path to protest most, if not all, duties paid in 2025 under the now-invalidated IEEPA tariffs.

*CIT Complaints:* If an importer's administrative protest to CBP is denied, the importer may file an appeal with the CIT under 28 U.S.C. § 1581(a). Alternatively, an importer may file a complaint directly with CIT under 28 U.S.C. § 1581(i) to challenge CBP determinations and tariffs on certain "nonprotestable" grounds, such as the legality of the tariffs imposed. In *Learning Resources*, the Court affirmed that CIT, not United States District Courts, has exclusive jurisdiction over challenges to IEEPA tariffs brought under 28 U.S.C. § 1581(i). A complaint may be filed with the CIT up to two years after the entry of goods on which IEEPA tariffs were paid—for the earliest entries of goods subjected to IEEPA tariffs, importers have the ability to file complaints up to February 2027. However, pursuant to a [December 23, 2025 Administrative Order](#), the CIT has stayed all pending

and any future cases challenging the IEEPA tariffs, stating that it “expects to determine the appropriate next steps for resolution” following the Supreme Court’s final, unappealable decision in *Learning Resources*. This stay remains in effect; as a result, importers may continue to file complaints with the CIT, but the actions will not proceed until the stay is lifted.

Importers considering an IEEPA refund request should continue to preserve all relevant documentation and records and consult with experienced counsel to evaluate their options for filing protests with CBP and complaints with CIT, as appropriate.

### Looking Ahead

The *Learning Resources* decision is expected to have far-reaching implications for U.S. trade and trade policy. Most immediately, following the decision, the administration has proclaimed new global tariffs under Section 122 and ordered the USTR to proceed with Section 301 investigations that may enable additional tariffs. As a result, businesses should anticipate layered tariff regimes with differing legal bases, duty amounts, time horizons, and resulting risks and compliance obligations.

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If you have any questions, please feel free to contact any of the following Cadwalader attorneys.

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