

Insights

SUPREME COURT STRIKES DOWN KEY TRUMP ADMINISTRATION TARIFFS

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On February 20, 2026, the U.S. Supreme Court issued a 6-3 decision in *Learning Resources, Inc. v. Trump*, holding that tariffs imposed by the Trump administration under the International Emergency Economic Powers Act (“IEEPA”) exceeded the authorities Congress delegated to the President under that law. The Trump administration rolled out the tariffs subject to the decision in a series of executive orders last spring, asserting that the United States was experiencing national emergencies relating to fentanyl trafficking (resulting in tariffs imposed on imports from China, Mexico, and Canada) and the national trade deficit (resulting in so-called “reciprocal” tariffs of at least 10% on imports from most countries and higher rates of 25%-100% for certain countries).

The most important question for importers is whether the U.S. government will refund the hundreds of billions of dollars in tariffs it collected from them. While the Supreme Court concluded the President does not have the authority to impose tariffs under IEEPA, it did not address whether importers who paid the IEEPA tariffs are eligible for refunds or the process by which such refunds would be issued. Due to this ambiguity, the potential issuance of, and the process for obtaining, refunds are likely to be determined through litigation before the U.S. Court of International Trade (“CIT”) and guidance from U.S. Customs and Border Protection (“CBP”). In addition, other parties who have been impacted by tariffs (e.g., importers’ customers) will want to understand the potential commercial disputes or litigation that may arise from the Supreme Court’s decision due to disagreement regarding the proper allocation of any issued refunds.

Importantly, the Supreme Court’s decision does not prevent the Trump administration from maintaining other existing tariffs (e.g., steel and aluminum tariffs under Section 232) and imposing new tariffs under appropriate non-IEEPA legal authorities. In fact, the same day as the Supreme Court ruling, the Trump administration announced the imposition of new global tariffs under a different legal authority. As of today, the administration asserts that it will impose 15% global tariffs on all trading partners, claiming authority for these new tariffs under Section 122 of the Trade Act of 1974, which authorizes temporary tariffs in some circumstances for up to 150 days. As a result, the tariff landscape looks even more complex after the Supreme Court’s decision.

The Supreme Court’s Decision

As described in our [previous alert](#), the Supreme Court's decision follows earlier decisions by the CIT and the U.S. Court of Appeals for the Federal Circuit, both concluding the Trump administration exceeded its authority by imposing tariffs under IEEPA.

In its majority opinion, authored by Chief Justice John Roberts, the Supreme Court concluded that Congress' grant of authority to the President under IEEPA to "regulate . . . importation" does not authorize the President to impose tariffs on imports because IEEPA does not explicitly mention tariffs or duties, and the authority to "regulate" under IEEPA cannot be interpreted to include the authority to tax, which the Supreme Court determined includes the imposition of tariffs. The majority's opinion included disagreements between the majority justices about whether they must assess the issue under the "Major Questions Doctrine," but the majority justices agreed on the ultimate conclusion: IEEPA does not authorize the President to impose tariffs.

The decision affirmed the Federal Circuit's decision from August 2025, in which the intermediate court invalidated the tariffs and required the CIT to evaluate injunctive relief as appropriate when the case is remanded. That remand is expected to follow soon, given the Supreme Court's decision.

Key Takeaways

- **Refunds Timing and Process Questions:** As noted above, the Supreme Court's decision did not state whether or how importers who paid tariffs imposed under IEEPA will receive refunds. The availability of refunds and how such refunds may be obtained will be dependent on litigation before the CIT and guidance from CBP.

In its decision, the Supreme Court stated the CIT has exclusive jurisdiction over challenges to the tariffs because they modified the Harmonized Tariff Schedule of the United States. Plaintiffs have filed many lawsuits challenging the tariffs imposed under IEEPA (and arguing that the U.S. government owes them refunds), which currently are stayed at the CIT pending the Supreme Court's decision. The CIT previously confirmed it would have the authority to order refunds if the tariffs were found to be unlawful, and the U.S. Department of Justice stated that it would not oppose the CIT's authority to order such refunds after a "final and unappealable decision has been issued finding the duties to have been unlawfully collected and ordering defendants to refund the duties." Because the Supreme Court's decision did not include an explicit order to issue refunds, the Trump administration may wait for a final and unappealable order requiring the issuance of refunds before taking action. In an interview on February 22, 2026, Treasury Secretary Scott Bessent [stated](#) that the Supreme Court did not address refunds and that the issuance of refunds is not up to the administration, but is up to the lower courts, which could be "weeks or months away."

CBP will also play an important role in determining whether and how refunds will be issued. On February 20, 2026, CBP issued a [notice](#) on its Cargo Messaging System ("CMS") stating that it was reviewing the Supreme Court's decision and would issue additional information

and guidance for importers “as soon as it becomes available.” While CBP has existing standard administrative refund processes (e.g., Post-Summary Corrections and Protests), it is unclear whether a new process would be required to handle the sheer volume and value of potential IEEPA tariff refund requests. However, Secretary Bessent’s statement may indicate that CBP will wait for an order from CIT before making any announcements.

- **Trump Administration Response:** The Trump administration’s response to the Supreme Court’s decision has been rapid and evolving. After the Supreme Court’s decision, President Trump issued an [executive order](#) ending the imposition of tariffs under IEEPA and ordering that the tariffs imposed under IEEPA “shall no longer be in effect and, as soon as practicable, shall no longer be collected.” However, with respect to refunds, President Trump stated during a [press conference](#) immediately following the Supreme Court’s decision that “[w]e’ll end up being in court for the next five years” because the Supreme Court did not explicitly state whether or how to refund the tariffs paid.

In addition, the White House immediately issued a [proclamation](#) to impose a 10% global tariff, subject to [certain exceptions](#), under Section 122 of the Trade Act of 1974 (“Section 122”), which authorizes the President to impose tariffs of up to 15% to address fundamental international payment problems (including trade deficits). On February 21, 2026, President Trump issued a post on [Truth Social](#) stating that he would order the increase of the Section 122 tariffs to 15%. If the White House officially announces this change, it could have the unexpected result of lowering certain countries’ high tariff rates (e.g., India’s 25% rate) to 15% while negatively impacting allies whose tariff rates were set at 10% under the IEEPA tariffs by *raising* them to 15%. Countries in the process of negotiating lower duties via trade agreements, including EU Member States, also have questioned how these new announcements will impact their negotiations.

It remains to be seen—but is not unlikely—whether these renewed efforts to replace the invalidated tariff regime with alternatives under Section 122 will be challenged in court through further CIT litigation.

- **Availability of Other Tariff Authorities:** The Trump administration made clear that it will use other authorities to advance its tariff agenda. In December 2025, Secretary Bessent [stated](#) that the Trump administration could “recreate the exact tariff structure” with other tariff authorities if the Supreme Court struck down the IEEPA tariffs. Similarly, immediately after the Supreme Court’s decision, President Trump [stated](#), “[t]he good news is that there are methods, practices, statutes and authorities . . . that are even stronger than the IEEPA tariffs available to me as president of the United States.” Similarly, on February 22, 2026, U.S. Trade Representative (“USTR”) Jamieson Greer [stated](#) that the Trump administration has found ways to “reconstruct” its tariffs and described the new duties as “very durable tools.”

These authorities include Section 122 as well as:

- Section 301 of the Trade Act of 1974, which authorizes the imposition of tariffs if USTR determines an act, policy, or practice of a foreign government is “unreasonable or discriminatory” and “burdens or restricts” U.S. commerce.
- Section 201 of the Trade Act of 1974, which authorizes the President to impose tariffs if the U.S. International Trade Commission determines imports are a “substantial cause of serious injury, or the threat thereof” to U.S. industries.
- Section 232 of the Trade Expansion Act of 1962, which authorizes the President to impose tariffs on goods if the U.S. Department of Commerce, following an investigation, concludes that the quantity or other circumstance of those imports “threaten to impair” U.S. national security.
- Section 338 of the Tariff Act of 1930, which authorizes the President to impose tariffs on articles produced by, or imported on the vessels of, foreign countries that discriminate against U.S. commerce in certain ways.

Nevertheless, these authorities all require some form of investigation and finding before the implementation of tariffs, which means the Trump administration (a) would need to undertake these steps before announcing tariffs under these authorities, and (b) could not quickly threaten or impose tariffs as a negotiating tactic or geopolitical pressure tool.

Next Steps

It will be important to monitor developments before the CIT to understand whether the Trump administration will resist the issuance of refunds and whether and how the CIT might require the Trump administration to issue such refunds. In addition, parties should carefully monitor guidance from CBP, which will likely address whether CBP’s current administrative processes will be the means for obtaining refunds or if a new process will be implemented. In preparation for potential refunds, importers should carefully review and document the tariffs they have paid under IEEPA.

Moreover, parties should evaluate their engagements and agreements to determine whether and how tariff costs were allocated and whether any additional obligations or requirements related to refunds could impact their business. This will be important for parties to understand how best to address any disputes or litigation with counterparties regarding any refunds.

Finally, it is important to understand that the Supreme’s Court decision does not mean the end of the Trump administration’s tariff policies. Based on the Trump administration’s response thus far, we may see new and broader attempts to impose additional tariffs under existing authorities, which could create a more confusing patchwork of tariffs. Importers should closely monitor the

Trump Administration's actions under the relevant authorities for potential new tariffs that could impact their operations.

For each of the foregoing, parties should consult with international trade and litigation counsel to help understand their specific circumstances and the best approaches to maximizing their potential for obtaining their refunds and minimizing their tariff risk. BCLP has a deep bench of attorneys with substantial expertise who are closely monitoring all tariff-related developments. We stand ready to advise clients as to the latest developments and the potential impacts on their business interests. For more information, contact BCLP Partners Alexis Early and Daniel Mach.

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MEET THE TEAM



Alexis Early

Partner, Washington

alexis.early@bclplaw.com

[+1 202 508 6089](tel:+12025086089)



Daniel P. Mach

Partner, New York

daniel.mach@bclplaw.com

[+1 212 541 1146](tel:+12125411146)



Adam Harper

Counsel, Washington

adam.harper@bclplaw.com

[+1 202 508 6090](tel:+12025086090)



Grace Driskell

Associate, Atlanta

grace.driskell@bclplaw.com

[+1 404 572 6654](tel:+14045726654)

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