FOOTHILLS
CAPITAL ADVISORY

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SUPREME COURT RULING IEEPA TARIFFS WERE ILLEGAL AND ITS IMPLICATIONS

The Decision

On February 20, 2026, the U.S. Supreme Court ruled that the President does not have authority under the International Emergency Economic Powers Act (IEEPA) to impose broad-based tariffs. As a result, tariffs imposed under that statute have been deemed illegal and therefore recoverable.

By a 6-3 majority, the Supreme Court held that emergency powers authorizing the President to "regulate. . .. importation" does not give the President authority to tax and use IEEPA as a blank check to impose sweeping tariffs. While IEEPA was the President's favored way to quickly impose tariffs without time limits or percentage caps because of its flexibility, there are other statutes that give the president limited authority with procedural requirements to issue tariffs available to the President.

Subsequent Events

On the same day, the Administration announced a 10% global import surcharge under Section 122 of the Trade Act and a Presidential Proclamation implementing the announcement effective February 24, 2026 followed by an Executive Order terminating the duties imposed under IEEPA. Under this authority, tariffs are capped at 15% and are limited to 150 days without Congressional approval. Over the following weekend, President Trump publicly stated that he would raise that blanket tariff from 10% to 15%, but as of the date of this article, no such proclamation or Executive Order has been issued.

"Trade Agreements" in Limbo

The President used the authority he assumed under IEEPA as leverage in negotiations with other countries, including threatened tariffs as high as 30-50% last April. He used those announced "reciprocal" tariffs as leverage to negotiate broad outlines of "Trade Agreements" with many countries, including close allies with tariffs averaging 10% to 25% with exceptions on certain goods: UK (10-15%); EU (~15% ceiling); India (~25% with goal of ~18%). These arrangements were largely framework agreements rather than fully codified tariff schedules/treaties, and their enforceability is now uncertain following the

Supreme Court's decision.

After the decision, the Administration stated it would pursue tariffs under section 232 of the Trade Expansion Act of 1962, which requires an investigation by the Secretary of Commerce to determine whether imports are a threat to National Security (e.g., steel, aluminum, semiconductors, pharmaceuticals.). While the Administration generally has wide discretion on what constitutes national security grounds, decisions that stretch that standard may be subject to legal challenge. As of the date of this article, no new broad Section 232 proclamation has been issued following the Supreme Court decision.

Court of International Trade (CIT) orders Govt. to Process Refunds

For importers and other affected businesses, the immediate questions were 1) whether they were entitled to refunds, and 2) if so, how to go about claiming them. The first question was addressed fairly quickly by the CIT – a specialized court that routinely deals with international trade and customs matters.

Both before and after the Supreme Court issued its ruling, many parties filed lawsuits with the CIT and other federal courts related to IEEPA tariffs and potential refunds. On March 4, 2026, the CIT in *Atmus Filtration inc. V. United States,* Judge Richard Eaton, ruled that the CIT had the authority to consolidate all IEEPA tariff cases and issue nationwide relief. In the opinion, Judge Eaton ordered the government to take steps to refund all IEEPA tariffs to importers of record.

Specifically, the court ordered the government to:

1) "Liquidate"[1] all unliquidated entries without applying the IEEPA duties, and
2) Reliquidate entries that had been liquidated but were not yet final.

On March 6, 2026, after a conference, the CIT paused the requirement for immediate compliance and gave the US Customs and Boarder Protection (CBP) time to establish a refund process. In a sworn declaration, CBP indicated it needed approximately 45 days to develop a process (via its ACE system) for refunds.

Subsequently, on March 20, 2026, after discussions with government attorneys the prior

[1]Liquidation is a technical customs term meaning the final calculation of duties owed on an import entry. When goods enter the U.S., importers deposit estimated duties. Later, U.S. Customs and Border Protection (CBP) review the entry and 'liquidates' it — locking in the final duty amount. Once liquidated, the importer generally has 180 days to file a formal protest challenging that determination.

day, the Court issued an order that importers should be mindful of their rights under applicable statutes. The court specifically signaled that importers with entries liquidated within the last 180 days should file protest under 19 U.S.C. sec. 1514 to preserve their refund rights, given the uncertainty around how the CBP will handle final entries.

Advice to Importers

Given the CIT orders outlined above:

- Importers with **unliquidated** entries should monitor CBP guidance regarding administrative refund procedures.
- Importers with **recently liquidated entries (within 180 days)** should strongly consider filing protests to preserve their rights.

Under current law, absent a timely protest, liquidation becomes final and CPB may lack authority to issue refunds unless future court action or legislation grants relief from the strict deadlines under statute. It remains unclear how CBP will ultimately process claims for liquidated entries and whether relief will come through CBP administrative procedures, litigation, or both.

Very large importers and other large businesses with complex fact scenarios should seek advice from experienced international trade counsel. For example, many importers may be dealing with large refunds, while also facing:

- Claims from customers who paid explicit tariff surcharges
- Pricing disputes tied to tariff-driven increases
- Potential claims to pass through refunds to their largest customers

In many cases, refund entitlement may not align cleanly with those who ultimately bore the economic burden of the tariff, and for many, the ultimate recovery may pale in comparison to the cost and expense of reprocessing thousands of entries. For large importers/distributors, the Supreme Court opinion may prove to be financially significant, but procedurally complex – with uncertain outcomes that will unfold over a long period of time.

This summary is provided for informational purposes only and does not constitute legal advice. Companies should discuss their specific situation with qualified customs and trade counsel.