

CLIENT ALERT

Supreme Court Strikes Down “Liberation Day” Tariffs: What This Decision Means for Importers

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AUTHORS

Craig C. Martin | Jeremy Bylund | David Mortlock | Britt Mosman
Erica Ross | David Levine | Joshua N. Mitchell | Aila Ganic

On Friday, February 20, 2026, the Supreme Court issued its highly anticipated opinion in *Learning Resources Inc. v. Trump*, No. 24-1287 (“**Learning Resources**”), holding that the International Emergency Economic Powers Act (“**IEEPA**”) does not authorize the president to impose tariffs on imports. Writing for a fractured Court that issued seven opinions (including two dissents), Chief Justice Roberts determined that Congress did not grant the president authority to impose tariffs through IEEPA, and that the president otherwise lacks inherent authority to impose tariffs during peacetime.¹ The decision leaves key questions unresolved, particularly concerning the procedure for obtaining any refunds, or even if there will be any, but expressly limits the president’s power to set “emergency” tariffs on his own.

¹ *Learning Resources, Inc. v. Trump*, No. 24-1287, slip op. 6, 14-20 (2026).

Key Takeaways

- **IEEPA cannot support tariff authority.** The Court held that while IEEPA grants the president power to “regulate . . . importation,” this does not include the power to impose tariffs, a power the Constitution grants Congress.² The portion of the principal opinion that attracted a majority of the Court focused on Congress’s delegation of a limited set of emergency powers to the president in IEEPA.
- **IEEPA tariffs vacated; others remain.** The ruling vacates IEEPA-based tariffs but leaves in place tariffs imposed under other authorities, including tariffs imposed under Section 232 of the Trade Expansion Act of 1962 on steel, aluminum, and automobiles.
- **Administration is pivoting to alternative authorities.** Hours after the ruling, President Trump announced a global 10 percent tariff under Section 122 of the Trade Act of 1974, which he later raised to 15 percent. He also announced new investigations under Sections 232 and 301.
- **Refunds uncertain.** Refunds will likely not be automatic. Recovery may depend on liquidation status, and litigation in the Court of International Trade (“CIT”) may be required for many importers.
- **Broader IEEPA authorities are at increased risk.** The decision may signal increasing judicial willingness to scrutinize other IEEPA-based actions, including secondary tariffs.

Implications for Tariff Programs

The decision vacated many of President Trump’s signature tariffs, including his so-called “Liberation Day” tariffs.³ However, tariffs not imposed under IEEPA remain in place, including the tariffs on steel, aluminum, automobiles, and other products levied under Section 232 of the Trade Expansion Act of 1962. Hours after the decision was released, President Trump announced he would sign an executive order imposing a 10 percent global tariff on all imports under Section 122 of the Trade Act of 1974, to go into effect on February 24, 2026,⁴ which he subsequently raised to 15 percent.⁵ However, those tariffs imposed under the Trade Act will only be in place for 150 days unless extended by Congress. Additionally, President Trump announced that the United States would initiate new investigations under Section 232 of the Trade Expansion Act of 1962 and Section 301 of the Trade Act of 1974.

² *Learning Resources, supra* note 1, slip op. at 16.

³ Press Release, The White House, *Regulating Imports with a Reciprocal Tariff to Rectify Trade Practices that Contribute to Large and Persistent Annual United States Goods Trade Deficits* (Apr. 2, 2025), <https://www.whitehouse.gov/presidential-actions/2025/04/regulating-imports-with-a-reciprocal-tariff-to-rectify-trade-practices-that-contribute-to-large-and-persistent-annual-united-states-goods-trade-deficits/>.

⁴ E.O., *Imposing a Temporary Import Surcharge to Address Fundamental International Payments Problems* (Feb. 20, 2026), <https://www.whitehouse.gov/presidential-actions/2026/02/imposing-a-temporary-import-surcharge-to-address-fundamental-international-payments-problems/>.

⁵ Tony Romm & Ana Swanson, *Trump Says He Will Raise Global Tariff to 15 Percent*, NYT (Feb. 21, 2026), <https://www.nytimes.com/2026/02/21/business/trump-tariffs.html>.

Those provisions are summarized below. In sum, the alternative tariff authorities are more restrictive and require more process than the president’s attempt to invoke IEEPA.

Comparison of Presidential Tariff Authorities

Authority	Rate Cap	Duration	Process Required	Current Status
IEEPA	None	Unlimited	National emergency declaration by the president	Invalidated for tariff use by Learning Resources
Section 122 (Trade Act of 1974)	15%	150 days (unless extended by Congress)	Minimal—no investigation required	Active ; 15% global tariff imposed Feb. 24, 2026
Section 232 (Trade Expansion Act of 1962)	None	Unlimited	Commerce Dept. investigation (270 days) + presidential determination (90 days)	Active ; steel/aluminum tariffs in place; new investigations ongoing
Section 301 (Trade Act of 1974)	None	Unlimited	USTR finding of unjustifiable/discriminatory trade practice	Active ; investigations ongoing against China and others

The Issuance of Refunds

The majority opinion did not address practical questions concerning whether or how refunds may be issued or processed, but Justice Kavanaugh’s dissent noted that the “United States may be required to refund billions of dollars to importers who paid the IEEPA tariffs, even though some importers may have already passed on costs to consumers or others.”⁶ However, the decision does clarify that the CIT has exclusive jurisdiction to decide the issue going forward.⁷

Barring unexpected action by Customs and Border Protection (“**CBP**”), refunds are unlikely to be automatic. Further, whether a refund is available at all may depend on whether CBP has liquidated (i.e., finally calculated) the duties imposed in a particular entry. For entries that have not yet been liquidated, a standard post-summary

⁶ *Learning Resources* (Kavanaugh, J., dissenting), *supra* note 1, slip op. at 6.

⁷ *Learning Resources*, *supra* note 1, slip op. at 5 fn. 1.

correction may be available, though it is unclear if CBP will honor such attempts at correction. If liquidation has occurred, and assuming CBP does not provide an alternative process, importers with such entries should file a protest using a CBP [Form 19](#) to request that CBP remove the IEEPA tariffs. Such a filing must be made within 180 days of an entry’s liquidation. In order to maintain the protest if it is denied by CBP, the importer must file a summons in the CIT within 180 days after receiving notice of the denial.⁸

In addition to administrative action before the CBP to preserve challenges to previously liquidated tariffs, described above, litigation in the CIT is likely to be the most direct—and possibly the only—path for importers to preserve their rights to a refund. Under the logic of the Supreme Court’s previous decision limiting the availability of universal remedies for similarly situated plaintiffs,⁹ importers who elect not to pursue claims against the administration for illegally imposed duties may be left without a remedy.

Implications for Other IEEPA-Based Authorities

Given the Court’s clear holding on the president’s main IEEPA tariffs, the president may also lack authority to impose *secondary* tariffs under IEEPA. Secondary tariffs, which are tariffs levied against a country for transacting with a sanctioned country, have also been premised on the president’s authority to “regulate ... importation” under IEEPA. For example, in August 2025, President Trump imposed secondary tariffs on India for importing Russian oil.¹⁰ More recently, President Trump threatened secondary tariffs on countries providing oil to Cuba.¹¹ The logic of the *Learning Resources* opinion would seem to extend to those actions as well, leaving them exceptionally vulnerable to legal challenge by an impacted party.

While the administration has relied indirectly on the IEEPA tariffs (and more directly on the emergencies the president declared under the National Emergencies Act) in pursuing and concluding bilateral trade agreements over the past year, the administration’s position is that *Learning Resources* does not have any direct effect on those agreements.¹² *Learning Resources* held only that IEEPA does not grant the president authority to impose tariffs. It made no holding on the president’s declaration of the national emergencies themselves.¹³ Accordingly, tariff rates set through bilateral negotiation are likely to survive for now, even if litigation regarding their validity is likely to follow.

⁸ For additional details on administrative action with CBP for preserving the right to a refund, see our past client alert on this topic: [Don’t Forfeit Your Refund: Considerations for Importers While IEEPA Litigation is Pending](#).

⁹ *Trump v. CASA, Inc.*, 606 U.S. 831 (2025).

¹⁰ E.O. 14326, *Addressing Threats to the United States by the Government of the Russian Federation* (Aug. 6, 2025), <https://www.whitehouse.gov/presidential-actions/2025/08/addressing-threats-to-the-united-states-by-the-government-of-the-russian-federation/>.

¹¹ E.O. 14380, *Addressing Threats to the United States by the Government Of Cuba* (Jan. 29, 2026), <https://www.whitehouse.gov/presidential-actions/2026/01/addressing-threats-to-the-united-states-by-the-government-of-cuba/>.

¹² Catherine Lucey, *US Tells Partners to Honor Tariff Deals as Trump Regroups*, Bloomberg (Feb. 22, 2026), <https://www.bloomberg.com/news/articles/2026-02-22/us-bilateral-trade-deals-are-still-on-track-greer-says>.

¹³ *Learning Resources*, *supra* note 1, slip op. at 2–3.

What This Means Going Forward

The administration is actively pursuing alternative tariff mechanisms, but none replicate IEEPA’s speed and scope. Section 122 offers quick implementation but is capped at 15% for 150 days. Sections 232 and 301 allow higher rates with unlimited duration but require lengthy investigative processes that may be vulnerable to challenges under the Administrative Procedure Act.

For importers seeking refunds, the path forward likely depends on whether entries have been liquidated. While the CBP may provide some administrative pathways, we believe that litigation before the CIT currently is the surest route for importers to preserve their right to a refund.

Additionally, bilateral tariff agreements concluded under Executive Order 14257 remain in effect, as the Court invalidated only the use of IEEPA for direct tariff imposition—not the underlying national emergency declarations supporting these agreements.

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We will continue to monitor developments and provide updates as the administration implements alternative tariff authorities and refund procedures become clearer.

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

Craig C. Martin

312 728 9050
cmartin@willkie.com

Jeremy Bylund

202 303 1053
jbylund@willkie.com

David Mortlock

202 303 1136
dmortlock@willkie.com

Britt Mosman

202 303 1057
bmosman@willkie.com

Erica Ross

202 303 1271
eross@willkie.com

David Levine

202 303 1062
dplevine@willkie.com

Joshua N. Mitchell

202 303 1232
jmitchell@willkie.com

Aila Ganic

202 303 1225
aganic@willkie.com



BRUSSELS CHICAGO DALLAS FRANKFURT HAMBURG HOUSTON LONDON LOS ANGELES
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