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Actionable Steps for Importers and Supply Chain Partners Catching Up to the Supreme Court's Decision Invalidating IEEPA Tariffs

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In our previous alert, we explained that the Supreme Court held that the 2025 tariffs the current Trump Administration implemented under the International Emergency Economic Powers Act (IEEPA) "extend beyond the President's 'legitimate reach'" under IEEPA and reiterated that "[t]he Framers gave 'Congress alone' the power to impose tariffs during peacetime." The Court ruled that IEEPA does not authorize the President to impose tariffs, effectively striking down the tariffs as illegal. This decision impacts the Trump Administration "reciprocal tariffs" that targeted all of America's trading partners, and the "fentanyl/trafficking" tariffs that targeted China, Mexico, and Canada.

The big question now is how importers can get refunds. The Court made a point to indicate that its decision does not address whether or how the Government should go about returning the billions of dollars that it has collected from importers. The process towards any potential refund requires careful consideration of critical deadlines.

- Generally, on goods valued greater than $2,500 that enter the U.S., the importer posts a bond with U.S. Customs and Border Protection (CBP) and pays an estimated duty. The final amount of duties are determined by CBP during the liquidation process, which normally takes just under a year (technically 314 days after the date the entry is filed, though it can be earlier). The importer must then pay the final amount. The liquidation process is essentially CBP's final accounting action that closes the entry.
- For goods valued less than $2,500, the entries are generally considered to be liquidated once the estimated duties are paid, with nothing additional due from the importer.
- Liquidation is critical to any potential for a refund. An unliquidated entry can still be modified. A liquidated entry is considered final, and requesting a refund becomes a steep uphill challenge.
- For unliquidated entries, the Post Summary Correction (PSC) is the most straightforward path. The PSC is an administrative process (not a legal one), with a lower burden of proof, and is the most streamlined method for the importer and CBP. The PSC can only be filed before an entry is liquidated. In this regard, monitoring your liquidation timeline is critical.
- Once the entry is liquidated, the importer will have 180 days to file a protest. This is a formal objection that requests CBP to unliquidate the entry and reliquidate it without the IEEPA duties. Alternatively, the importer can sue the United States in the U.S. Court of International Trade (CIT). The suit must be filed within 2 years "after the cause of action accrues," which can be the date the tariffs were paid.
- Exactly how the refund process will be handled is unclear given the unprecedented situation. In fact, some businesses with unliquidated cases have already filed suits in the CIT seeking injunctions to suspend liquidation of IEEPA tariffs. On December 15, 2025, in a suit before the CIT, the court noted that "the

Government has taken the 'unequivocal position' that 'liquidation will not affect the availability of refunds after a final decision'" and that the "Government would be judicially estopped from 'assum[ing] a contrary position in the future."' Read more.

- The importer of record will be the entity that requests the refund, though importers may also designate parties such as the customs broker to be the importer of record on their behalf, provided they are eligible to be an importer under CBP's guidelines. Read More.

Note: It is estimated that CBP has collected approximately $129 billion in IEEPA tariffs and other duty deposits. There is plenty more IEEPA tariff revenue that has yet to be liquidated.

Based on this still developing framework, here are the steps you should be taking now:

- Importers should identify all entries subject to IEEPA tariffs, confirm liquidation status, gather entry summaries and proofs of payment, and monitor filing deadlines.
- For entries that have not yet been liquidated, evaluate whether the PSC process will provide a path to refunds. Also consider whether it is appropriate to request an extension of the liquidation process.
- For entries that have been liquidated, determine whether a protest or suit at the CIT is appropriate.
- A purchaser who is not an importer of record should consider seeking reimbursement through private contractual agreements since refunds are issued to the party who initially paid the tariffs (i.e., the importer of record).
- Purchasers in the supply chain should review their respective contracts to determine how to recover tariff costs in the event of a refund, including determining how tariffs costs were allocated and whether there are any provisions addressing refunds or duty drawbacks.
- Supply chain participants should coordinate with importers to ensure that administrative post-summary corrections, protests, or lawsuits are filed as needed to preserve refund rights.

The Supreme Court's decision does not impact all tariffs rolled out in 2025. Non-IEEPA tariffs are not impacted by this decision. Unaffected tariffs include product-specific duties under Section 232 of the Trade Expansion Act of 1962 - e.g., steel, aluminum, cooper, automobiles, auto parts, medium/heavy trucks, and buses.

CBP has indicated that it will stop collecting the now-invalidated IEEPA tariffs at 12:00 a.m. ET on February 24, that includes the reciprocal tariffs, the fentanyl/trafficking tariffs, and the additional 40% tariff on Brazil.

Tariffs Will Still Be a Relevant Business Consideration

While the decision struck down IEEPA tariffs, the Trump Administration has other tariff options. In fact, just after the decision was issued, the White House announced global tariffs "over and above" normal tariffs. Further, President Trump stated that his administration will be initiating "several Section 301 and other investigations to protect our economy from unfair trading practices of other countries and companies." Thus, companies should continue to monitor the tariffs landscape carefully.