# Why Trade Cases May Put Maple Leaf Deference On Review

By **Joel Nolette and Kahlil Epps** (April 29, 2025)

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Tariffs have taken center stage in the president's trade agenda during the first few months of the second Trump administration. And recently, several lawsuits have been filed in the U.S. Court of International Trade and federal district courts around the country, to challenge as unlawful tariffs the president has imposed.[1]

All these challenges could end up in the CIT before they are ultimately resolved.[2] There, the administration might soon find a more challenging legal landscape in which to defend its actions than it once enjoyed.

The U.S. Supreme Court's 2024 decision in Loper Bright Enterprises v. Raimondo overruled the 40-year-old Chevron doctrine that generally required courts to defer to the executive branch's reasonable interpretations of ambiguous statutes.[3] Instead, Loper Bright held that courts typically must "exercise their independent judgment" to adopt an ambiguous statute's "best reading," even if that reading differs from the executive's.

And though both Chevron and Loper Bright specifically involved the interpretations adopted by administrative agencies, Loper Bright emphasized that its holding was not strictly limited to that context, observing that in "an agency case as in any other," there is always a best reading for a court to adopt.

For almost the same 40-year period, the U.S. Court of Appeals for the Federal Circuit, the court of appeals over the CIT, has applied a similar doctrine — the Maple Leaf standard. This standard, from the Federal Circuit's 1985 decision in Maple Leaf Fish Co. v. U.S., requires deference to the president's actions in the international trade context, absent — as relevant here — his clear misconstruction of the law on which the challenged action is based.[4]

Maple Leaf Fish Co. involved a challenge to the president's decision to impose duties on Canadian imports of frozen mushrooms under Sections 201-03 of the Trade Act of 1974. The question arose as to the extent that "the courts can review the challenged actions" of the executive branch in this context.

The Federal Circuit answered broadly that for a court to invalidate a trade action for violating the underlying law on which it was based, the president would have had to adopt a "clear misconstruction of the governing statute." Finding that the challenger failed to show such a misreading of the relevant provisions of the Trade Act, the court upheld the duties the president had imposed.

The Maple Leaf court did not explicitly invoke Chevron as a basis for adopting this deferential standard. The court, in fact, cited no authority for this proposition specifically, instead referencing as a foundation the generally "limited role of reviewing courts" in cases "involving the President and foreign affairs."

But both the CIT and the Federal Circuit have since treated Maple Leaf as if it were essentially a trade-specific version of Chevron deference.[5] And both the CIT and the Federal Circuit have repeatedly relied on Maple Leaf in international trade disputes over the years.[6]

For instance, in 2004, during the George W. Bush administration, the CIT invoked Maple Leaf in Gilda Industries Inc. v. U.S., a dispute about the inclusion of Spanish-imported toasted breads on a retaliatory list under Sections 301-07 of the Trade Act,[7] and in Motions Systems Corp. v. Bush, about imposing quotas on Chinese-imported assisted-mobility hardware under Section 421 of the Trade Act.[8]

And during the last Trump administration, the standard came up in several disputes involving Canadian imports of solar electricity hardware under Sections 201-04 of the Trade Act,[9] tariffs imposed on global steel imports under Section 232 of the Trade Expansion Act of 1962,[10] and tariffs imposed on various Chinese imports under Sections 301-07 of the Trade Act.[11]

Before Loper Bright was decided but while it loomed on the horizon, litigants in several cases argued that the Maple Leaf standard contravenes the judiciary's obligation vis-à-vis the executive branch to decide questions of law, though those arguments were left unresolved.[12]

Now, after Loper Bright — which overruled Chevron for essentially this reason — the question is whether Maple Leaf remains good law.

Thus far, in the only decision after Loper Bright in which this issue has squarely been addressed, the 2024 supplemental opinion in Solar Energy Industries Association v. U.S., the Federal Circuit sidestepped "whether the Maple Leaf standard should be retained" by concluding that, "whatever merit there may be" to the question, the trade action in dispute was sustainable under "de novo review."[13]

That said, with international trade actions abounding in just the first few months of this new administration, several lawsuits in the CIT already challenging such actions and potentially more such challenges to follow in the CIT, this question may arise again soon.

And as the difference between deferential and de novo review is frequently outcome determinative, a reviewing court soon may have to answer this question definitively.[14]

Parties affected by the new administration's trade actions — especially those challenging such actions, considering whether to do so, or even just trying to plan for the ultimate results of such challenges — should assess what Loper Bright portends for the Maple Leaf standard and how a reviewing court might resolve this open issue if it arises in a case before it.

For instance, as litigants in the cases mentioned above have already argued, perhaps the standard simply does not survive Loper Bright given Maple Leaf's similarities to Chevron. Or perhaps the executive branch could salvage the standard by inviting a reviewing court to recast it as a still-viable corollary to the long-standing "traditional deference to executive judgment" that courts give to the president in the foreign policy arena.[15]

Further, different trade actions based on different statutes might call for different answers to the question of what to do with the Maple Leaf standard, in light of Loper Bright's preservation of Chevron-like review in cases involving statutory provisions in which

Congress has affirmatively delegated discretionary authority to the executive branch to interpret.[16]

Time will tell what becomes of the Federal Circuit's Chevron-like Maple Leaf standard. And with litigation against the president's recent trade actions currently pending, an answer may come sooner rather than later. Those that may be affected by these actions should be aware of this issue, assess its likely resolution when the issue is squarely presented again and plan their dealings accordingly.

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[1] For federal district court cases, see e.g., Compl., Emily Ley Paper Inc., d/b/a Simplified v. Trump, No. 3:25-cv-464 (N.D. Fla. Apr. 3, 2025); Compl., Webber v. U.S. Dep't of Homeland Sec., No. 4:25-cv-00026 (D. Mont. Apr. 4, 2025); Compl., California v. Trump, No. 3:25-cv-03372 (N.D. Cal. Apr. 16, 2025); Compl., Learning Resources Inc. v. Trump, No. 1;25-cv-01248 (D.D.C. Apr. 22, 2025). For cases in the Court of International Trade, see generally Compl., V.O.S. Selections Inc. v. Trump, No. 1:25-cv-00066 (CIT Apr. 14, 2025); Compl., Oregon v. Trump, No. 1:25-cv-00077 (CIT Apr. 23, 2025).

[2] See Defs.' Mot. Transfer & Mem. in Supp., Emily Ley Paper Inc., d/b/a Simplified v. Trump, No. 3:25-cv-00464 (N.D. Fla. Apr. 14, 2025) (moving to transfer the case to the CIT based on the CIT's exclusive jurisdiction under 28 U.S.C. §1581); accord Defs.' Br. in Supp. of Mot. to Transfer, Webber v. U.S. Dep't of Homeland Sec., No. 4:25-cv-00026 (D. Mont. Apr. 14, 2025); Defs.' Notice of Mot. & Mot. to Transfer to the U.S. Ct. of Int'l Trade, California v. Trump, No. 3:25-cv-03372 (N.D. Cal. Apr. 17, 2025); Defs.' Mot. to Transfer, Learning Resources Inc. v. Trump, No. 1:25-cv-01248 (D.D.C. Apr. 24, 2025).

[3] See Loper Bright Enters. v. Raimondo, 603 U.S. 369, 383, 400, 412–13 (2024) (overruling Chevron, U.S.A. Inc. v. NRDC Inc., 467 U.S. 837 (1984)).

[4] See Maple Leaf Fish Co. v. U.S., 762 F.2d 86, 89 (Fed. Cir. 1985).

[5] See, e.g., Gilda Indus. Inc. v. U.S., 625 F. Supp. 2d 1377, 1381–82 (CIT 2009) (reciting the "limited" standard of review under Maple Leaf, then using "the familiar two-step process described in Chevron" to apply that standard); Gilda Indus. Inc. v. U.S., 622 F.3d 1358, 1363 (Fed. Cir. 2010) (suggesting similarly that the Maple Leaf standard is equivalent to Chevron).

[6] See PrimeSource Building Prods. Inc. v. U.S., 59 F.4th 1255, 1260 (Fed. Cir. 2023).

[7] Gilda Indus. Inc. v. U.S., 353 F. Supp. 2d 1364, 1366, 1369–70 (CIT 2004), aff'd in part, vacated in part on other grounds, 446 F.3d 1271 (Fed. Cir. 2006).

[8] Mot. Sys. Corp. v. Bush, 342 F. Supp. 2d 1247, 1249–50, 1259–62 (CIT 2004), aff'd, 437 F.3d 1356 (Fed. Cir. 2006) (en banc).

[9] Invenergy Renewables LLC v. U.S., 422 F. Supp. 3d 1255, 1287–90 (CIT 2019); Invenergy Renewables LLC v. U.S., 552 F. Supp. 3d 1382, 1386, 1394 (CIT 2021); Solar Energy Indus. Ass'n v. U.S., 553 F. Supp. 3d 1322, 1326, 1330–32, 1335, 1340, 1343 (CIT 2021), rev'd, 86 F.4th 885 (Fed. Cir. 2023), supplemental opinion on pet. for reh'g, 111 F.4th 1349 (Fed. Cir. 2024).

[10] See, e.g., Severstal Export GMBH v. U.S., No. 18-00057, 2018 WL 1705298, at *1–2, *7–8 (CIT Apr. 5, 2018); Transpacific Steel LLC v. U.S., 466 F. Supp. 3d 1246, 1251 (CIT 2020), rev'd, 4 F.4th 1306 (Fed. Cir. 2021); PrimeSource Building Prods. Inc. v. U.S., 497 F. Supp. 3d 1333, 1337–38, 1340, 1359–61 (CIT 2021), rev'd, 59 F.4th 1255 (Fed. Cir. 2023); Universal Steel Prods. Inc. v. U.S., 495 F. Supp. 3d 1336, 1342 (CIT 2021), aff'd sub. nom USP Holdings Inc. v. U.S., 36 F.4th 1359 (Fed. Cir. 2022).

[11] In re Section 301 Cases, 570 F. Supp. 3d 1306, 1328–29 (CIT 2022).

[12] See, e.g., Pet. for Cert. at i, 18–34, PrimeSource Building Prods. Inc. v. U.S., No. 23-69 (U.S. July 21, 2023), cert. denied, 144 S. Ct. 245 (2023) (mem.); Pet. for Cert. at i, 12–31, Oman Fasteners, LLC v. U.S., No. 23-432 (U.S. Oct. 20, 2023), cert. denied, 144 S. Ct. 561 (2024) (mem.); Corrected Pls.-Appellees' Pet. for Reh'g En Banc, Solar Energy Indus. Ass'n v. U.S., No. 22-1392 (Fed. Cir. Jan. 12, 2024); see also Corrected Br. of the Cato Inst. as Amicus Curiae in Support of Pls.-Appellants' [sic] Pet. for Reh'g En Banc, Solar Energy Indus. Ass'n v. U.S., No. 22-1392 (Fed. Cir. Jan. 30, 2024).

[13] See Solar Energy Indus. Ass'n v. U.S., 111 F.4th 1349, 1351, 1358 (Fed. Cir. 2024).

[14] See, e.g., In re: MCP No. 185, 124 F.4th 993, 997, 999–1000 (6th Cir. 2025) (reviewing de novo the FCC's Biden-era net neutrality rules under Loper Bright and invalidating them, even though a prior iteration of those rules had been upheld under Chevron).

[15] See Regan v. Wald, 468 U.S. 222, 243 (1984) (citing U.S. v. Curtiss-Wright Export Corp., 299 U.S. 304, 319 (1936)); see also Fed. Mogul Corp. v. U.S., 63 F.3d 1572, 1581 (Fed. Cir. 1995) ("Trade policy is an increasingly important aspect of foreign policy, an area in which the executive branch is traditionally accorded considerable deference.").

[16] See Loper Bright Enters. v. Raimondo, 603 U.S. 369, 394–95 (2024); see also Stephen Obermeier, Joel Nolette, & Leah Deskins, 6th Cir. Ruling Paves Path Out of Loper Bright 'Twilight Zone,' Law360 (Mar. 12, 2025), https://www.law360.com/telecom/articles/2307274/6th-circ-ruling-paves-path-out-of-loper-bright-twilight-zone-.