

SCOTUS Invalidates Use of IEEPA for Trade Tariffs

February 20, 2026

On February 20, 2026, in a significant decision limiting presidential trade powers, the U.S. Supreme Court held – by a 6–3 majority – that the International Emergency Economic Powers Act (IEEPA) does not authorize the President to impose tariffs. Chief Justice Roberts, writing for three of the six judges striking down the tariffs, held that while “the Government reads IEEPA to give the President power to unilaterally impose unbounded tariffs,” that view “would ‘represent[] a transformative expansion’ of the President’s authority over tariff policy.”

Key Holding

The Court concluded that the statutory phrase “regulate ... importation” in IEEPA does not include the power to impose tariffs, emphasizing:

1. IEEPA does not mention tariffs, even though tariffs are a major tool of trade regulation.
2. Reading IEEPA to authorize tariffs would raise constitutional concerns.
3. IEEPA’s other grants of authority address targeted sanctions and controls—none involve the “distinct and extraordinary power to raise revenue” through tariffs.

Tariffs Impacted

Today’s ruling affects

- (1) the “reciprocal tariffs” on U.S. trading partners, other than Canada and Mexico;

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Practice Areas

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- (2) the “fentanyl/border” tariffs on Canada and Mexico;
- (3) the “fentanyl” tariffs on China; and
- (4) special tariffs on India and Brazil.

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These tariffs were all imposed last year, beginning with the “fentanyl” tariffs on China, which took effect on February 4, 2025.

The decision does not impact tariffs imposed under authorities other than IEEPA, including

- Section 232 duties on steel, aluminum, copper, automotive, and other products;
- Section 301 duties on China; or
- antidumping and countervailing duties.

In particular, the President’s imposition of tariffs under Section 232 and Section 301 are not currently subject to legal challenge and, where they have been challenged in the past, the legal authority for imposing them has been upheld.

Next Steps

- *Cessation of Tariff Collection:* Tariffs are expected to remain in place until either (1) the lower courts rules further on the scope of the outcome, including whether it applies universally or just to the plaintiffs in the Supreme Court challenge; or (2) the President revokes them through executive action.
- *Refunds:*
 - The majority and concurring opinions did not address refunds or shed light on the process or availability of those refunds. In separate lawsuits, the U.S. Court of International Trade has found that it has the authority to order refunds, and the Department of Justice has stipulated that it will not challenge that authority as to all existing and “similarly situated” future plaintiffs that file litigation to challenge the IEEPA tariffs.
 - Beyond litigation, the Administration could permit importers to seek refunds through administrative processes, including U.S. Customs’ typical post-summary correction and protest processes, or a bespoke refund

process for the IEEPA tariffs. However, there are no indications that it plans to do so.

- *Replacement Tariffs:* In a press conference held shortly after the Supreme Court's decision was announced, President Trump stated that he would replace the IEEPA tariffs with new tariffs imposed under other existing legal authorities, where the President's authority to impose tariffs is clear.
- - The President stated that he would sign an executive order to impose a 10% global tariff under Section 122 of the Trade Act of 1974. That statute authorizes tariffs of up to 15% for a period of 150 days to address balance-of-payments issues.
 - The President also stated that he would begin new investigations under Section 301 of the Trade Act of 1974 and other authorities. The Trade Act of 1974 authorizes tariffs to address unfair trade practices and was used during the first Trump Administration to impose duties on Chinese goods.

Opinions Breakdown

The principal opinion joined by six justices concludes that the power to impose tariffs falls outside the scope of IEEPA because the term "regulate ... importation" does not encompass tariffs. Justices Gorsuch and Barrett joined the Chief Justice in further finding that the "major questions doctrine" would require Congress to clearly authorize the tariff power, and that IEEPA does not provide such clear authorization. The dissenting opinion written by Justice Kavanaugh and joined by Justices Alito and Thomas argued that IEEPA's language giving the President the power to "regulate . . . importation" does encompass tariffs, and that the major questions doctrine does not apply.

On Monday, February 23 from 1-2 pm EST, Wiley will be hosting a webinar to provide a deeper dive into today's ruling, what it means and what to expect in the upcoming CIT proceedings. To register, [click here](#).