

TRADE UPDATE

MONUMENT
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SCOTUS Overturns IEEPA

This morning, the [Supreme Court ruled](#) in a 6-3 split decision that the President cannot use the International Emergency Economic Powers Act (IEEPA) to levy tariffs, holding that the power of taxation remains in the hands of Congress.

The Supreme Court's ruling [invalidates](#) most of the Trump administration's sweeping tariffs—which had been imposed under emergency declarations using IEEPA—including duties justified on the basis of fentanyl and drug-trafficking threats associated with Canada, Mexico, and China and broad “reciprocal” tariffs tied to U.S. global trade imbalance.

In the majority opinion, issued by Chief Justice John Roberts, the Court found that “the President asserts the extraordinary power to unilaterally impose tariffs of unlimited amount, duration, and scope. In light of the breadth, history, and constitutional context of that asserted authority, he must identify clear congressional authorization to exercise it.” Given that IEEPA granted the authority to “regulate... importation” but did not directly mention tariffs or duties, the Court held that “IEEPA does not authorize the President to impose tariffs.”

Where Does the Trump Administration Go From Here?

President Trump, during a [press conference today](#), confirmed the administration's plans to reimpose tariffs using a mix of Section 232, 122, 201, 301, and 338 tariffs.

The President stated that later today, he will sign an executive order to impose a 10% global tariff using Section 122 of the Trade Act of 1974 and initiate additional Section 232 and 301 investigations. The President also affirmed that all existing section 232 and 301 tariffs will remain fully in place.

Mechanism	Statutory Requirements	Impact	Usage
Section 122 of the Trade Act of 1974	May be used to impose tariffs on all countries, or selectively against countries that maintain restrictions on U.S. commerce	Duties are capped at 15%; President may establish quotas Duties expire after 150 days without Congressional extension	Only invoked once, during the Carter administration
Section 232 of the Trade Expansion Act of 1962	Targeted towards imports that threaten U.S. national security Department of Commerce must launch an investigation, taking up to 270 days	No expiration date or cap on tariff %	Heavily relied on by Trump administration
Section 338 of the Tariff Act of 1930	May be imposed by the President if the U.S. International Trade Commission finds that a foreign country has discriminated against U.S. commerce	Duties are capped at 50% of a product's value The President may block trade from the country in question if it does not implement remedies	Never invoked before
Section 301 of the Trade Act of 1974	May be used to impose tariffs on all countries, or selectively against countries that maintain restrictions on U.S. commerce	No expiration date or cap on tariff %	Heavily relied on by Trump administration
Section 201 of the Trade Act of 1974	May be used to protect U.S. industries from serious injury caused by increased imports In addition to an investigation, the U.S. International Trade Commission would be required to carry out an investigation and public hearings	Duties are capped at 50% and must phase down after a year Allows the President to impose tariffs for four years with one four-year extension	Invoked once, during the first Trump administration

While the exact mix of tariffs that the administration will use is unclear, **President Trump maintained that existing trade agreements will not be disrupted, explaining that IEEPA tariffs will be “replaced.”**

Where Does Congress Stand?

President Trump faces steep resistance in Congress to restoring them through legislation. With [narrow Republican majorities](#) and bipartisan skepticism of broad-based tariffs, any effort to pass legislation would likely face an uphill battle and require Democratic support. During the President’s press conference, he stated that, at this point, **there is “no need for Congress to take further action” to codify his tariff policy**, maintaining that existing statutes already provide him authority to impose tariffs without congressional approval.

However, we expect significant outside pressure on Congress to legislate a streamlined refund mechanism that would avoid requiring importers to pursue litigation, though Congress itself will be loath to do so. In its decision, the Supreme Court did not provide guidance on how refunds should be handled for the [\\$175 billion](#) already paid in tariffs. The President acknowledged this uncertainty, stating that “we will end up being in court for the next five years,” signaling that the administration is unlikely to push for a legislative refund process.

So far, there have been no firm commitments from Congressional Republicans on how they plan to proceed. Speaker Mike Johnson [posted on X](#), “no one can deny that the President’s use of tariffs has brought in billions of dollars and created immense leverage for America’s trade strategy and for securing strong, reciprocal America-first trade agreements with countries that had been taking advantage of American workers for decades. Congress and the Administration will determine the best path forward in the coming weeks.”

Addressing Refunds

If Congress fails to act, refund pathways will likely depend on existing Customs procedures and ongoing court processes.

Some importers, including Costco and several others, had proactively filed cases in the U.S. Court of International Trade (CIT) seeking preliminary injunctions to prevent U.S. Customs and Border Protection (CBP) from liquidating their entries while the case was pending. Their concern was that once an entry liquidates—generally 314 days after clearance—administrative refund mechanisms become more limited and legally complex. The CIT addressed this issue in [AGS Co. Automotive Solutions v. U.S. Customs and Border Protection](#), holding that it retains authority to order reliquidation and refunds where duties were unlawfully imposed.

If Congress fails to act, refunds may proceed differently depending on whether entries are liquidated:

Unliquidated entries: CBP may permit importers to seek administrative refunds through post-summary corrections (PSCs), allowing amendment of entry data to remove the IEEPA duties. If accepted, this could enable relatively expedited refunds without litigation. Although it remains uncertain whether PSCs will uniformly apply to IEEPA-related refunds, CBP has recently moved to streamline processes, including launching an [electronic refund portal](#) on February 6, 2026.

Liquidated entries: Importers may need to file formal protests with CBP and, if denied (or deemed denied), pursue judicial relief by filing a summons at the CIT. While the CIT has indicated it possesses authority to order reliquidation and refunds, the timing, procedural requirements, and potential costs remain uncertain.

Even if Congress enacts a refund mechanism, we expect significant pushback from consumers, who have borne higher prices throughout the duration of the tariffs and are unlikely to see direct reimbursement for those costs.

Monument will continue providing insight into and analysis on these issues. In the meantime, if you have any questions please contact our trade team: trade@monumentadvocacy.com