



SUPREME COURT IEEPA TARIFFS DECISION NEXT STEPS (March 4, 2026)

The U.S. Supreme Court's decision striking down the International Emergency Economic Powers Act ("IEEPA") tariffs has raised numerous issues for our clients. Foremost amongst them are: (1) obtaining IEEPA refunds; and (2) the handling of FTZ-status merchandise.

A. IEEPA Tariff Refunds

Despite a number of significant developments in the last few days, no one yet knows for sure what will be required to obtain refunds. There are currently several options available (i.e., take no current action, file Protests, submit Post Summary Corrections (PSCs), or court filings). We have generally encouraged clients not to take immediate action unless there are unusual circumstances. The refund process is going to play-out and should be clarified over the following weeks and months. A concern is that if an importer takes immediate action (for example, filing Protests or a court filing), it may prevent them from taking advantage of a better option that becomes available later (for example, an administrative refund process or court-directed Customs liquidation).

The refund process will likely be determined by the U.S. Court of International Trade (CIT) and/or U.S. Customs and Border Protection. Last week, the plaintiffs in the V.O.S. Selections, Inc. v. U.S. case asked the U.S. Court of Appeals for the Federal Circuit (CAFC) to issue a mandate to the CIT to begin the process of developing a refund process. On February 27, the U.S. Department of Justice filed its [response](#), arguing that the complexity of the refund process warrants careful consideration, not expedited action. In particular, the Justice Department notes that the Supreme Court does not normally send down its judgment to the lower courts until 32 days after entry of judgement or until there has been a denial of a request for rehearing. In a February 27 social media post, President Trump himself raised the possibility of requesting a rehearing. However, the CAFC disagreed with the Justice Department's motion, and issued an [Order](#) and its mandate on March 2, which was duly filed with the CIT.

There is a significant development today (March 4) in a newly-filed CIT case, Atmus Filtration, Inc. v. U.S. At a hearing today, the CIT judge issued an [Order](#) which states that "All importers of record whose entries were subject to IEEPA duties are entitled to the benefit of the *Learning Resources* decision." The CIT judge reasoned that as a court with national geographic jurisdiction, the CIT could order relief for all importers which "otherwise would be to thwart the efficient administration of justice and to deny those importers who have filed suit the efficient resolution of their claims, and to deny entirely importers who have not filed suit the benefit of the *Learning Resources* decision." Importantly, the CIT Order specifically orders CBP to liquidate all unliquidated Customs entries, and reliquidate all liquidated entries, subject to IEEPA duties without regard to IEEPA tariffs, as follows:

with respect to any and all unliquidated entries that were entered subject to the IEEPA duties, U.S. Customs and Border Protection is hereby directed to liquidate those entries without regard to the IEEPA duties. Any liquidated

entries for which liquidation is not final shall be reliquidated without regard to IEEPA duties.

During the hearing, the Court denied the Government's request for a Stay. Further, the CIT ordered a conference to take place this Friday, March 6. This conference is not open to the public. It is expected that the CIT action will be appealed to the CAFC.

Including today's development, when the refund process is ultimately established, it could take the form of:

- CIT-directed CBP liquidation and reliquidation of entries subject to IEEPA tariffs;
- Customs administrative actions using existing processes (i.e., Post Summary Corrections ("PSCs") and Protests);
- A separate CIT or agency-administered administrative refund process; and/or
- Required filing of importer lawsuit at the CIT to obtain refunds or participate in the administrative refund process.

Some importers have already filed lawsuits in the CIT seeking IEEPA tariff refunds, and some law firms are recommending this course of action. It is our view that such lawsuits are not necessary at this time. In fact, depending on the refund process or processes that are ultimately implemented, there could be significant downsides to filing a lawsuit at this time. Considerations include:

- If the CIT directs CBP liquidation and reliquidation of all or most entries, few entries could remain that require other actions.
- Filing suit at the CIT may not expedite refunds because the CIT has automatically stayed all new IEEPA tariffs cases.
- If an administrative refund process is established, it may exclude or delay processing claims that are subject to pending litigation.
- Most CIT actions are filed under the CIT's 28 U.S.C. § 1581(i) "residual" jurisdiction, which has a two-year statute of limitations. Since the first IEEPA tariffs were implemented in February 2025, importers have until February 2027 to file claims under this two-year statute of limitations. If a Protest is filed and Customs issues a decision, then CIT jurisdiction is under 28 U.S.C. § 1581(a), which requires court filing within 180 days from the date of Protest denial. Under either basis for CIT jurisdiction, importers still have 180 or more days to file a lawsuit unless there are unusual circumstances, during which time an administrative refund process may be created that negates the need to file a court action or Protests.
- It is unclear how interest will be handled for refunds. In its February 27 submission, the Justice Department states that "compensable monetary loss is a classic harm that can be remedied by payment of money with appropriate interest..." Whether or not interest is provided could be determined by litigation or by the agreement reached on an administrative refund process. In any event, it is still to be determined.
- The filing of a lawsuit may attract attention from the Trump Administration, which may be a concern for some companies based on their other business interests and government dealings.
- Companies may be able to avoid the legal expenses associated with filing a lawsuit by waiting until the refund process is determined. Even if a CIT filing is required to participate in the refund process that is ultimately established,

filing a lawsuit once that process has been established will likely be less expensive because it will likely be a *pro forma* filing that is substantially identical to filings by other participants in the process. During the [U.S. v. Shoe HMF](#) on exports refund process, we saw some companies paying law firms contingency fees to obtain their refunds even though the refund process had already been determined. If a refund process is established, that should not be necessary or appropriate in our view.

For these reasons, it is not yet clear whether pursuing administrative remedies by filing PSCs, Protests, or filing a court action is the best strategy.

As explained in our December 5, 2025, What's New [update](#), it is still very important to monitor entry liquidations because of the 180-day post-liquidation period to file Protests. This 180-day Protest filing deadline may ultimately force a decision on how to proceed for liquidated entries if an administrative refund process has not already been determined. Clients should run ACE Portal reports to identify affected Customs entries and liquidation dates.

If a decision is made to file a CIT action, our firm remains ready to file such action in the CIT on behalf of clients. Given our ongoing representation, and unlike other law firms, arrangements can be made without onerous and costly contingency fee structures.

B. Foreign-Trade Zone Entries

Customs stopped collecting IEEPA tariffs for goods entered or withdrawn from warehouse for consumption at 12:00am EST on February 24. CSMS #[67834313](#) (Feb. 22, 2026). As of today, there is no written guidance on whether goods admitted in Privileged Foreign (PF) status before February 24 but entered on or after that date will continue to be subject to IEEPA tariffs or will be subject to Section 122 10% "global tariffs." We have been informed by CBP Headquarters that there may be technical issues with FTZ entry filings caused by ACE, broker software, or inadvertence.

This client update provides only a summary discussion of nuanced issues. Please contact [Marshall Miller](#), [Brian Murphy](#), [Sean Murray](#), or [David Ostheimer](#) with questions or to discuss specific circumstances in detail.

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