

U.S. Supreme Court Invalidates President Trump's Emergency Tariffs

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On February 20, 2026, the Supreme Court of the United States (SCOTUS) issued a landmark 6–3 decision sharply curtailing presidential authority to impose unilateral tariffs under the International Emergency Economic Powers Act (IEEPA). The ruling immediately invalidates a major portion of President Trump's long-running tariff program, with significant implications for importers, supply chains, and ongoing trade negotiations.

KEY COMPONENTS OF THE RULING

- 1. IEEPA Does not Authorize Tariffs.** The Court held that IEEPA's authorization to "regulate... importation" does not include the power to impose tariffs, rejecting the government's argument that emergency economic authorities implicitly encompass broad revenue-raising measures.
- 2. The Tariffs Struck Down Include Global and Country-Specific Measures.** As a result of the ruling, the 25% tariff on most Canadian and Mexican imports, the escalating tariff on Chinese goods that ultimately produced an effective rate of 145%, and the baseline 10% tariff on all imports from all trading partners, many of which faced even higher rates, are all struck down.
- 3. Refund Question Left Unresolved.** The majority expressly declined to address whether the federal government must refund tariffs already collected, an amount estimated by some models to be between \$175 billion and \$200 billion.

6-3 MAJORITY OPINION

In a major separation-of-powers ruling, SCOTUS held that IEEPA does not authorize the President to impose tariffs, concluding that Congress never delegated such expansive taxing authority to the Executive Branch. Chief Justice John Roberts, writing for the majority, emphasized that IEEPA contains no reference to tariffs, duties, or taxation, and that unilateral imposition of sweeping import duties requires clear congressional authorization, which the administration failed to identify. Joined by Justices Gorsuch and Barrett, the Chief Justice also invoked the major questions doctrine, which requires clear congressional statements before statutes can be construed to confer monumental powers like the power to levy tariffs.

Justice Kagan, joined by Justices Sotomayor and Jackson, concurred in the portions of the Chief Justice's Opinion that construed the statute, but they declined to join that portion of the Opinion relying on the major questions doctrine.

DISSENTING OPINIONS: JUSTICE KAVANAUGH (JOINED BY JUSTICES THOMAS AND ALITO)

Justice Kavanaugh's dissent argued that IEEPA plainly authorizes tariffs as a means to "regulate...importation," emphasizing that tariffs have long been a traditional tool of trade regulation. He framed the legal question as straightforward: whether tariffs fall within the power to regulate importation and answering "clearly yes" based on statutory text, history, and precedent.

Justice Kavanaugh thus rejected the majority's application of the major questions doctrine, asserting both that (1) tariffs were neither unheralded nor unsupported by historical practice, and (2) the doctrine should not apply in foreign-affairs contexts.

COMPLIANCE AND ENFORCEMENT TAKEAWAYS

As a result of the Court's February 20 decision, the stay of the lower court's invalidation of the tariffs is lifted, and the tariffs are no longer enforceable.

1. Tariffs Require Clear Statutory Authorization; Executive Orders Are No Longer Sufficient

The Court reaffirmed that any action with "vast economic and political significance," including tariff measures, requires clear congressional authorization. As a result, agencies such as U.S. Customs and Border Protection (CBP) cannot enforce tariff obligations created solely through IEEPA-based executive orders. This will require (1) revision of enforcement manuals, guidance documents, and training materials across CBP, BIS, OFAC, and USTR; (2) withdrawal or amendment of any enforcement actions premised on IEEPA-based tariff obligations; and (3) increased scrutiny of emergency economic authorities going forward.

2. Existing IEEPA-Based Tariffs Are Unlawful; Refund Exposure Is High

Because the Court held that IEEPA cannot authorize any tariff, all tariffs collected under the challenged framework were unlawfully assessed and the United States may be required to refund billions of dollars already collected from importers, a process that was acknowledged at oral argument to be a potential "mess." For importers that paid IEEPA tariffs and passed costs on to consumers or downstream purchasers, the refund process raises significant questions about how those funds will be returned and to whom.

3. Heightened Litigation and Administrative Challenge Prospects

The majority Opinion is likely to prompt additional challenges to executive actions taken under vaguely worded statutes. The decision may spur increased APA litigation targeting emergency-based trade measures, greater judicial willingness to enjoin expansive executive actions, and heightened scrutiny of agency enforcement efforts.

The ruling may also create uncertainty for existing trade arrangements that were negotiated in reliance on the now-invalidated IEEPA tariffs. According to the Government, those tariffs played a role in securing trade agreements worth trillions of dollars with key partners, including China, the United Kingdom, and Japan. The loss of the tariffs' legal foundation could raise questions about the stability or continued enforceability of such arrangements.

Importers should also assess potential indemnification or reimbursement rights under commercial contracts. Many agreements allocate responsibility for duties, taxes, or changes in law, and tariffs paid and passed through to counterparties may give rise to claims under indemnification provisions, change-in-law clauses, or price-adjustment mechanisms.

ALTERNATIVE BASIS FOR TARIFFS

For trade compliance purposes, the SCOTUS decision underscores that any future tariff actions by the Executive Branch must be evaluated against the particular statute invoked and that statute must clearly authorize the imposition of tariffs.

Although the Court struck down the President's use of IEEPA as a basis for tariffs, the decision does not eliminate all presidential tariff authority. The majority and the dissent both acknowledged numerous other statutes that continue to authorize the President to impose tariffs on foreign imports.

- **Section 232 of the Trade Expansion Act of 1962** authorizes the President to "adjust the imports" of an article after the Secretary of Commerce and the Secretary of Defense, investigate and issue a report finding that imports "threaten to impair the national security."
- **Section 201 of the Trade Act of 1974** provides that, if the International Trade Commission determines an article is being imported in quantities that cause or threaten "serious injury" to a competing domestic industry, the President may take action, such as imposing a duty.
- **Section 301 of the Trade Act of 1974** allows the President, via an officer, to impose duties if a foreign act or policy is found unjustifiable and restricts U.S. commerce.
- **Section 338 of the Tariff Act of 1930** allows the President to impose tariffs up to 50% if he finds that a foreign country places a burden or disadvantage on U.S. commerce.

- **Section 122 of the Trade Act of 1974** authorizes the President to implement a temporary import surcharge, limited to a maximum of 15% for a duration of up to 150 days, in response to significant United States balance-of-payments deficits.

Each of these alternative statutes shares a common feature that IEEPA lacks: they explicitly reference tariffs, duties, or surcharges and impose specific substantive and procedural constraints on the exercise of that power. This includes caps on rates, time limits, phasedown requirements, and prerequisites such as formal investigations and public hearings. They accordingly allow some time-limited continuation of tariffs, but they do not permit the limitless tariffs that the President imposed under IEEPA.

IMMEDIATE WHITE HOUSE RESPONSE

President Trump sharply criticized the ruling, calling it a “disgrace” and asserting he would pursue alternative statutory authorities to continue imposing import fees. Shortly after the ruling, the White House issued a Proclamation imposing a new 10% tariff on all foreign goods under Treasury’s Section 122 authority, which allows temporary, nondiscriminatory tariffs for up to 150 days.^[1] The temporary import duty will take effect February 24 at 12:01 a.m. eastern standard time. After the 150-day period, Section 122 requires Congress to extend the measures.

This new measure is intended to preserve aspects of the administration’s tariff policy while circumventing the Court’s IEEPA limitation. However, some goods will not be subject to the temporary import duty because of the needs of the U.S. economy or “in order to ensure the duty more effectively addresses the fundamental international payments problems facing the United States,” including:

- certain critical minerals, metals used in currency and bullion, energy, and energy products;
- natural resources and fertilizers that cannot be grown, mined, or otherwise produced in the United States or grown, mined, or otherwise produced in sufficient quantities to meet domestic demand;
- certain agricultural products, including beef, tomatoes, and oranges;
- pharmaceuticals and pharmaceutical ingredients;
- certain electronics;
- passenger vehicles, certain light trucks, certain medium and heavy-duty vehicles, buses, and certain parts of passenger vehicles, light trucks, heavy-duty vehicles, and buses;
- certain aerospace products; and
- informational materials (e.g., books), donations, and accompanied baggage.^[2]

The White House has signaled that additional trade actions may follow as it reassesses its strategy in light of the Court’s ruling.

If you have any questions about this subject or related subjects, or if you need assistance, please contact the authors or your Winston & Strawn relationship attorney.

[1] See Proclamation, *Imposing a Temporary Import Surcharge to Address Fundamental International Payments Problems*, White House (Feb. 20, 2026), <https://www.whitehouse.gov/presidential-actions/2026/02/imposing-a-temporary-import-surcharge-to-address-fundamental-international-payments-problems/#:~:text=Section%20122%20authorizes%20the%20President,of%20fundamental%20international%20payments%20pr>

[2] *Fact Sheet: President Donald J. Trump Imposes a Temporary Import Duty to Address Fundamental International Payment Problems*, White House (Feb. 20, 2026), <https://www.whitehouse.gov/fact-sheets/2026/02/fact-sheet-president-donald-j-trump-imposes-a-temporary-import-duty-to-address-fundamental-international-payment-problems/>

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