US Supreme Court Strikes Down Emergency Tariffs: What In-house Counsel Need to Know

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The US Supreme Court has struck down some of the most sweeping tariffs imposed by the current administration, holding in a 6–3 decision that the International Emergency Economic Powers Act (IEEPA) does not authorize the US President to impose tariffs.

“Over the past year, many of our members have turned to ACC’s forums to navigate the Trump Administration’s trade policy and its impact on their businesses,” said ACC President & CEO Jason L. Brown. “The tariffs imposed last year had significant global consequences. Legal departments were tasked with guiding their organizations through rapid and sweeping supply chain adjustments while ensuring compliance with evolving trade requirements.”

For corporate legal departments, the ruling is not simply a constitutional milestone. It may open the door to what could become one of the largest tariff-recovery efforts in modern US trade history — potentially involving hundreds of billions of dollars.

In-house counsel should assume that the window to preserve refund rights is already running.

The decision and its immediate corporate impact

The Court held that when Congress delegates tariff authority, it does so explicitly and subject to strict limits. IEEPA, which authorizes the President to "regulate" economic transactions during national emergencies, does not expressly grant tariff-imposition authority. Because tariff authority is a core congressional power, the Court concluded it cannot be inferred.

The practical consequence: Tariffs imposed under IEEPA lack statutory authorization.

It is important to underscore that the Court's ruling applies specifically to tariffs imposed under IEEPA. It does not invalidate tariffs enacted under other trade authorities, such as Section 232 of the Trade Expansion Act (national security–based tariffs) or Section 301 of the Trade Act of 1974 (unfair trade practices). Those statutes contain explicit congressional delegations of tariff authority and remain intact unless separately challenged. For in-house counsel, this distinction is critical: Only duties assessed pursuant to IEEPA are potentially subject to refund as a result of this decision, while Section 232 and 301 tariffs continue to operate under existing legal frameworks.

Shortly after the ruling, President Trump stated that his administration will pursue implementation of a new 10-percent global tariff through alternative legal authorities and indicated that any rebate claims stemming from the Court's decision could face litigation lasting years to come.

The Wharton School of the University of Pennsylvania estimates total US customs duty collections of more than US$261 billion in 2025, compared to US$91.5 billion in 2024 — an almost 300-percent increase year over year. According to DWF's Executive VP and Chief Legal Officer George Hefferan, along with co-authors Walter Wilkens and Mary Beth Decker, a decision invalidating the administration's IEEPA tariffs could permit importers to seek more than US$200 billion in rebates.

Critically, the Court's decision did not address whether the federal government must provide rebates to importers who have paid tariffs nor how any such rebates might be granted. Additionally, the underlying litigation was not a class action. Companies must act independently to preserve and pursue their own claims.

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Rebates and remedies: The procedural landscape

US Customs and Border Protection (CBP) currently recognizes three primary mechanisms to contest tariff assessments, the DWF authors shared with ACC. All pivot on the concept of "liquidation."

In customs law, liquidation is the final, official calculation and assessment of duties, taxes and fees owed on imported goods. It typically occurs 314 days after entry.

The available procedural paths include:

1. Post Summary Correction (PSC). A PSC allows an importer to challenge duties before liquidation by asserting that the tariff assessed was unlawful. PSCs must be filed within 300 days of entry and no later than 15 days before the scheduled liquidation date, whichever is earlier. Submissions occur through the Automated Commercial Environment (ACE). Late PSCs are automatically rejected.

Importers seeking additional time may petition CBP to extend liquidation. Extensions may be granted in one-year increments but remain discretionary.

2. Administrative Protest After Liquidation. Once liquidation occurs, importers have 180 days to file a protest using CBP Form 19 or through the ACE protest module. The protest process is the standard mechanism for challenging customs decisions.

However, although the Supreme Court's ruling operates to invalidate the tariffs categorically — rather than through individualized CBP determinations — the Court did not provide guidance on whether traditional protest procedures still apply. Further agency guidance is expected.

3. Litigation in the Court of International Trade (CIT). Importers may initiate suit in the CIT, which has jurisdiction over customs matters and may issue rulings suspending liquidation. In recent months, companies including Revlon, Kawasaki, and Costco filed challenges amid concern that waiting could foreclose relief.

The litigation route may become especially significant, since refund eligibility or procedural requirements remain unsettled following the Court's decision.

Which avenue ultimately proves most effective may depend on how the ruling is implemented — whether through CBP administrative guidance, judicial clarification, or congressional action.

Immediate action items for in-house counsel

Given the procedural complexity and potentially significant sums involved, legal departments should move quickly in several areas:

1. **Conduct a Tariff Exposure Audit**
    - Identify all entries subject to IEEPA-based tariffs.
    - Quantify duties paid and determine liquidation status.
    - Calendar PSC and protest deadlines.
    - Coordinate closely with customs brokers and trade compliance teams.
2. **Preserve Claims Proactively**

    - Consider filing protective PSCs where liquidation has not occurred.
    - Evaluate whether liquidation extensions are appropriate.
    - For liquidated entries, assess protest deadlines immediately.

3. **Evaluate Litigation Strategy**
    - Assess whether to initiate or join CIT proceedings.
    - Consider suspension-of-liquidation strategies where applicable.
    - Weigh potential recovery against litigation cost and business disruption.

4. **Assess Financial Reporting Implications**
    - Determine whether refund recoveries may be recognized under applicable accounting standards.
    - Evaluate disclosure obligations in light of contingent asset rules.
    - Consider implications for earnings guidance.

5. **Review Contractual and Supply Chain Exposure**
   The refund question does not end at Customs. In-house counsel should examine:
    - Whether tariff costs were passed downstream through pricing adjustments.
    - Whether contracts allocate responsibility for seeking rebates.
    - Whether counterparties may assert reimbursement claims if refunds are obtained.

As the DWF authors note, companies may confront difficult questions: Does an importer have a duty to seek a rebate if it has already passed the cost down the supply chain? How do downstream parties pursue redress? Some issues will turn on contract language; others may require judicial or regulatory clarification.

Uncertainty remains

The Court's ruling does not necessarily end the matter. Congress could attempt to enact retroactive authorization or establish a special claims-resolution procedure. Alternatively, executive agencies may issue implementing guidance that shapes how refunds are processed.

If the Court had upheld the tariffs, importers would have been confined to traditional CBP challenges. Now, the opposite scenario presents its own uncertainty: the possibility of a new pathway for relief — or efforts to limit retroactive recovery.

Even with the decision in hand, the full practical outcome may take months to crystallize.

For general counsel and trade compliance leaders, this development is both an opportunity and a risk-management exercise.

The potential financial recovery is significant. But so too are the procedural pitfalls, accounting implications, and commercial consequences. Companies that fail to act within statutory deadlines may permanently forfeit substantial claims.

This is not a passive moment. Legal departments should assume that preserving rights now — even amid uncertainty — is the most prudent course while agencies, courts and Congress determine what comes next.

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