

## U.S. Importers Seek Refunds of IEEPA Tariffs at the Court of International Trade

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On 5 November 2025, the U.S. Supreme Court heard arguments in *Trump v. V.O.S. Selections*, regarding tariffs imposed by President Donald J. Trump under the International Emergency Economic Powers Act ("IEEPA"). The Supreme Court has until June 2026 to issue a ruling, but a ruling could be issued at any time. There is little consensus among U.S. trade and constitutional lawyers as to how and when the Court will rule. In the meantime, a new issue has come into focus – whether and how U.S. Customs and Border Protection ("CBP") would refund duties in the event that IEEPA tariffs are struck down, and how importers can act to best preserve their right to a refund in this scenario.

### (1) What happens if the Supreme Court invalidates the tariffs

If the Supreme Court invalidates the IEEPA tariffs, it is highly unlikely that its decision would immediately trigger refunds for the thousands of affected importers. Instead, it will likely fall on the courts to determine the appropriate remedies. It is impossible to tell now what form the remedy will take, but it is most likely that the courts will direct CBP to issue refunds, either through existing administrative processes or through a novel administrative process to be overseen by the CIT. The appropriateness of the remedy itself, therefore, may still be subject to future litigation. Due to the uncertainty surrounding IEEPA tariffs, importers should consider taking action to preserve their rights to a refund either through a lawsuit at the CIT or through existing administrative procedures.

#### a. What happens to entries which are not liquidated

At the core of the issue is the legal mechanism used by CBP to "liquidate", or finalize, duty payments. Duties must normally be finalized within a year of the date of entry, and CBP typically finalizes entries within a 314-day timeframe. For entries that remain unliquidated at the time of the Supreme Court decision, importers will likely be able to submit a simple Post-Summary Correction ("PSC") to adjust the tariffs owed on the entries. PSC filings must generally be submitted within 300 days of the entry date and no later than 15 days before the scheduled liquidation date, whichever occurs first. PSC submissions outside this window will be automatically rejected.

For this reason, the first step that importers should take is ascertaining the liquidation status of their entries. This can be done through CBP's [ACE](#) portal. For the reasons stated above, knowing the liquidation status of entries will help importers determine the best course of action to obtain a refund.

For entries that are nearing liquidation, importers can request that CBP suspend liquidation of the relevant entries in order to preserve the importer's ability to pursue refunds in the event the Supreme Court decides the tariffs are invalid. CBP can unilaterally extend these timeframes, and has done so previously in instances where entries are subject to litigation. Here, however, [reporting](#) suggests that CBP has refused to extend the timeframe for many entries.

Another way to preserve the right to a refund of entries that are nearing liquidation is to bring a case under 28 U.S.C. § 1581(i), which confers residual, or ‘catch-all’, jurisdiction on the Court of International Trade (“CIT”) in tariff-related cases that cannot be challenged through typical administrative procedures (such as a customs protest). This is the jurisdictional provision under which the V.O.S. plaintiffs brought their initial lawsuit. Since the Supreme Court held argument in V.O.S., many more importers have brought challenges under the same catch-all provision. Several of these lawsuits have been consolidated under the lead case *AG Company Automotive Solutions v. U.S. Customs and Border Protection* (CIT Case No. 25-255). The consolidated plaintiffs in *AG Company* argued that the IEEPA tariffs are illegal on substantially the same grounds as in the V.O.S. case, and asked the CIT to order CBP to halt the liquidation of duty payments pending a ruling from the Supreme Court. The U.S. Department of Justice (“DOJ”), representing CBP, responded to the plaintiffs’ request by conceding that, in the event that the IEEPA tariffs are struck down, it would not contest an order by the CIT to “reliquidate” entries, or refund duties after payment has been made final.<sup>1</sup> The CIT then denied the consolidated plaintiffs’ motion on the grounds that reliquidation remained available as a remedy. By finding that reliquidation remained available as a remedy, the CIT rendered the consolidated plaintiffs’ motion moot, because reliquidation would effectively provide full relief to importers.

b. What happens to entries which are liquidated

If the Supreme Court invalidates the IEEPA tariffs, importers will likely still be able to file a lawsuit at the CIT under 28 U.S.C. § 1581(i) in order to secure a refund on duties that have already liquidated. As explained above, the CIT has ruled that reliquidation is available to importers in cases brought under 28 U.S.C. § 1581(i), meaning that duties can be refunded, and a lawsuit can likely be commenced, after the date of liquidation of entries.

Whether and what procedure the CIT will establish in order to oversee the refund of duties remains unclear at the moment and will likely depend on the Supreme Court’s decision. What is clear, however, is that parties seeking refunds by taking action at the CIT must engage in certain formalities, including filing a summons and a complaint at the CIT, if they intend to secure a refund as the result of CIT litigation. The CIT has ordered that all challenges to IEEPA tariffs that have already been filed under 28 U.S.C. § 1581(i), as well as all challenges that are filed before the Supreme Court issues its decision in V.O.S., will be stayed pending the Supreme Court’s decision. It is unclear how the CIT will approach cases that are filed after the Supreme Court issues its decision.

Another potential remedy for entries that have already liquidated is to file a protest with CBP within 180 days of liquidation challenging the liquidation decision. It is unclear right now whether such a protest will be permissible before the Supreme Court rules on the validity of the IEEPA tariffs. In any case, CBP will have two years to review and act on a protest.

If CBP denies the protest, the primary jurisdictional basis for challenging that denial is 28 U.S.C. § 1581(a), which grants the CIT exclusive authority to review adverse protest determinations. However, CBP may contest the CIT’s jurisdiction by arguing that CBP’s role in enforcing tariffs is purely ministerial, or non-decisional – that is, CBP has no authority to set tariffs and merely implements and collects tariffs established by others (in this case, President Trump).

## **(2) Options for Importers**

Until the Supreme Court issues its ruling, it will not be clear what mechanism will be used to refund duties, making it difficult to determine the best course of action. Still, there are several practical considerations that importers should take into account when considering how to proceed.

Importers seeking refunds generally have two options: (1) challenge the IEEPA tariffs immediately through the CIT’s

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<sup>1</sup> Reliquidation is an extraordinary remedy that is highly contested in CIT cases. In previous challenges to the Trump administration’s tariff authority, DOJ has argued that the CIT cannot order reliquidation in cases brought under the CIT’s residual jurisdiction.

residual jurisdiction while concurrently filing customs protests; or (2) wait for further clarity or until the Supreme Court issues a decision to either file suit with the CIT or file customs protests with CBP.

The benefit of option (1) is that it will bring the most certainty to importers seeking refunds. The CIT, in holding that reliquidation will be available to importers as a remedy, has confirmed that importers who are filing lawsuits at the CIT have the right to a refund even where entries have been liquidated or finalized. Further, because DOJ now claims that it will not contest a CIT order to reliquidate entries, the CIT has found that the United States is barred from changing this position in the future. Moreover, by filing a lawsuit with the CIT now, importers are not precluded from pursuing a refund through the appropriate administrative processes later in time. While not strictly necessary to file a lawsuit at the CIT, importers pursuing this option should also file customs protests on applicable entries to minimize risk, in the event that customs protests turn out to be a more appropriate or cost-efficient means of securing a refund.

The downside of option (1) is that CIT litigation is costly, and importers may be concerned about political blowback from a challenge to the administration's IEEPA tariffs (although this has not seemed to affect many of the importers who have filed suit so far). It is possible that the Supreme Court either upholds the IEEPA tariffs, or issues a ruling which obviates the need for the CIT to reliquidate entries (for example, by ruling that any remedy will be limited to future entries), at which point a lawsuit at the CIT will have been unnecessary.

Under option (2), importers that wait for further clarity will likely still have access to a refund. Importers have up to 180 days after the liquidation of entries to file a customs protest, and can challenge the denial of a protest at the CIT. The first tranche of entries to which IEEPA applies only began to liquidate in December 2025, meaning that most importers will have until at least May 2026 to file customs protests on their entries. Further, importers have at least two years from at least the date of any entries to bring a challenge to the IEEPA tariffs at the CIT, meaning that importers may be able to wait and see if a lawsuit will be necessary before pursuing an approach similar to option (1).

Still, there is uncertainty as to how a refund process might play out for importers who delay action. While a customs protest is relatively straightforward to file, the administrative process will be very lengthy given the sheer volume of entries that are subject to IEEPA duties.<sup>2</sup> There is also a strong likelihood that CBP will deny any protests out of hand on the basis that the President, and not CBP, is the party responsible for imposing duties under IEEPA. This position was more or less endorsed by the CIT, which found that that a customs protest against duties collected under IEEPA would be "futile" and that "there is no [c]ustoms decision of a type that can be made and protested". While parties have plenty of time to bring a challenge to the IEEPA tariffs themselves, there is a concern that importers who wait to file suit may not receive the same treatment as parties who brought a challenge earlier in time. Indeed, one of the considerations the CIT makes in determining the appropriate remedy in a tariff case is whether parties acted vigilantly or swiftly to preserve their rights. Given that the case before the CIT is unprecedented and given the unusual nature of reliquidation as a remedy, it is difficult to predict whether the CIT will permit reliquidation or give priority to importers in cases brought after the Supreme Court issues its ruling.

To conclude, the safest option for importers who are most concerned about securing refunds is to file suit with the CIT as soon as possible, and to file customs protests concurrently with any CIT litigation. Recognizing, however, that this option may bring unnecessary costs and political risk, importers should still be able to secure a refund on the same or other grounds later in time, once the legal situation surrounding the IEEPA tariffs becomes clearer. The best course of action for an importer will ultimately depend on the importer's willingness to pursue litigation and the volume of duties at issue. We will continue to provide updates on any legal developments surrounding the IEEPA tariffs, including the pending Supreme Court decision.

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<sup>2</sup> According to CBP, 34 million entries are subject to the IEEPA duties that are being challenged at the Supreme Court, and 19.2 million of those entries are not finalized. CBP argued that halting the collection of those duties would be "crushing" and an "impossibility".

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