



## Insight

# The Supreme Court Strikes Down IEEPA

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### Executive Summary

- In a 6-3 decision, the Supreme Court has ruled against President Trump’s use of the International Emergency Economic Powers Act (IEEPA), striking down “Liberation Day” tariffs of at least 10 percent on nearly every U.S. trade partner, as well as the fentanyl-related tariffs on China, Canada, and Mexico.
- What we know: The Court’s decision will set narrower guardrails on presidential tariff authority and remove approximately \$230 billion in annualized tariff costs; while not discussed in the decision, the ruling could push the administration to pay back up to \$175 billion in collected tariff revenue.
- What we don’t know: It is unclear to what extent the Trump Administration will rely on other tariff pathways to fill in the gaps left behind by IEEPA, whether Congress will step in to further restrict the president’s tariff powers, or how the decision may impact President Trump’s trade deals.

### Introduction

In a 6-3 [decision](#), the Supreme Court has ruled against President Trump’s use of the International Emergency Economic Powers Act (IEEPA), striking down “Liberation Day” tariffs of at least 10 percent on nearly every U.S. trade partner, as well as the fentanyl-related tariffs on China, Canada, and Mexico. The Court’s decision will set narrower guardrails on presidential tariff authority and remove approximately \$230 billion in annualized tariff costs.

Notably, the Court decision does not discuss the issue of tariff refunds for U.S. businesses which could be as high as \$175 billion. It is unclear to what extent the Trump

Administration will rely on other tariff pathways to fill in the gaps left behind by IEEPA, whether Congress will step in to further restrict the president's tariff powers, and how the decision may impact President Trump's trade deals.

## **How Did We Get Here?**

Last year on [February 1](#), President Trump used IEEPA for the first time in history to impose tariffs on Mexico, Canada, and China citing national emergencies surrounding the fentanyl crisis and illegal immigration. Then on [April 2](#), the president declared U.S. "liberation" from foreign products by imposing tariffs up to 50 percent on all U.S. trade partners, once again citing IEEPA - a presidential authority with no prior use for tariffs. According to American Action Forum [research](#), initial "Liberation Day" tariffs imposed \$366.5-\$391.6 billion in annualized costs on U.S. businesses and consumers. Since then, there have been various tariff pauses and trade deals that have slowly clawed back the magnitude of IEEPA tariff policy. This paper estimates annual IEEPA tariff costs currently stand at around \$230 billion.

## **What Is the Court Case About?**

The IEEPA case came down to an argument over the extent to which IEEPA tariffs were revenue raising, as taxation falls under the constitutional authority of the legislative branch. The administration held that these tariffs fell more so under Article II of the [Constitution](#) which grants wide presidential authority over U.S. foreign policy, emphasizing that IEEPA allows the regulation or prohibition of imports. The case against IEEPA held that tariffs are taxes on Americans and that the president bypassed Congress' taxing power despite there being no clear language to do so within IEEPA.

## **What Does the Decision Mean?**

The final ruling marks one of the most consequential decisions for trade law, tariffs, and executive authority in the modern era. The IEEPA ruling upholds the separation of powers as well as the role Congress is intended to play in setting trade and tax policy, a role outlined in the founding documents of the country. Article I of the [Constitution](#) provides the legislative branch with the power to enact tariffs and [The Federalist Papers](#) make it clear that each branch of government should not infringe on the powers of another branch. Despite the fact Congress has repeatedly delegated both trade and foreign policy to the president, this decision underscores that there remain limits to executive power.

## **What's Next for the Administration?**

While there is still a great deal of uncertainty on what might come next, it is clear that U.S.

tariff policy is not going anywhere anytime soon. The Trump trade team has repeatedly made clear that the administration will maintain tariffs even if the Supreme Court strikes down IEEPA tariff authority, with the White House [stating](#) it was “always preparing for Plan B” the day the court case was taken. Most recently, U.S. Trade Representative Jamieson Greer [emphasized](#) that the administration has been preparing a tariff backup plan.

President Trump still has a few [tariff authorities](#) at his disposal, the two most likely being Section 232 for national security and Section 301 for unfair trade practices. Both of these authorities have been tested and legally upheld in the past and provide the broad ability to investigate specific import categories and countries. The only drawback to this approach (for the administration) is that there are [formal processes](#) in place that lengthen implementation, meaning new tariff proposals could have a wait time of well over a year. Currently, there are 12 separate Section 232 investigations that have been implemented or started since President Trump took office. The administration could expand the scope of these investigations through the [new](#) “inclusion process” that allows tariffs to hit derivative products, which are products made, at least in part, from the targeted import. This was most recently used in mid-August with the addition of more than 400 steel and aluminum derivatives based on their metal content. In this scenario, a Section 232 action could serve as an anchor tariff with further offshoots to hit derivative products, impacting hundreds of additional imports with hundreds of billions of dollars in value. This approach, combined with the occasional Section 301 tariff, could easily replicate the IEEPA tariffs going forward.

There are a few other possibilities on the table. President Trump could urge Congress to lock in current tariff rates in a legislative package of some kind. This option is unlikely to succeed as there is congressional [opposition](#) to tariffs that make it a difficult sell. Alternatively, Section 338 of the Tariff Act of 1930 allows the president to impose tariffs of up to 50 percent on any country that discriminates against U.S. goods, although there is no tested implementation process, making it ripe for further legal challenges. Finally, Section 122 of the Trade Act of 1974 remains available to impose tariffs of up to 15 percent for 150 days and is specifically designed to address a trade deficit.

### **What Questions Remain?**

To be sure, there are still a great deal of questions that remain. The largest of these is the status of tariff refunds for U.S. businesses, a topic the Court did not rule on in this [case](#). [Many companies](#) have already taken legal action and sued to receive rebates. The course of these actions, as well as the Trump Administration response moving forward, will shape what happens next. According to U.S. Customs and Border Protection, approximately \$133 billion has been collected via IEEPA from inception until December 14, 2025. Economists from the Penn-Wharton Budget Model, however, [estimate](#) that if IEEPA tariff revenue is

refunded it could amount to as much as \$175 billion.

Regarding refunds, the Court decision stated: “Refunds of billions of dollars would have significant consequences for the U. S. Treasury. The Court says nothing today about whether, and if so how, the Government should go about returning the billions of dollars that it has collected from importers. But that process is likely to be a ‘mess,’ as was acknowledged at oral argument.”

Another question will be the status of each of the U.S. trade deals and whether trade partners will fulfill their commitments. Countries struck investment and trade deals with the United States to avoid excessive IEEPA tariff rates. Although there is the possibility that other tariff authorities could fill in the gap left behind by IEEPA, these options are more limited, which takes away the immediate threat tariffs pose to trade partners. If it takes longer to formulate and impose the president’s tariff threats used for negotiating leverage, trade deals may take longer to implement, and future deals may be harder to come by for the foreseeable future. As the Court case itself stated, the decision will “generate uncertainty regarding various trade agreements” because IEEPA helped to facilitate them.

Thus, a final question will be whether Congress will act to further restrict President Trump’s tariff authorities moving forward.