

OUT WITH IEEPA, THE SECTION 122 SWITCHEROO



PRESENTED BY
KATE RAYER LCB, CCS

AGENDA

- Tariff Tool Authority ●
- IEEPA Update ●
- Section 122, 232 and 301 ●
- General Trade Update ●
- IEEPA Refund Considerations ●
- Entry Timelines & Liquidation ●
- Example of Entry Timelines ●
- What Importers Should be Considering ●

*Please note that the information presented in this webinar is current as of **February 26, 2026**. Tariff and trade policy are evolving rapidly, and for the most up-to-date information, please contact us.*



HOSTED BY

Kate Rayer, LCB, CCS

Vice President, Regulatory Services



TARIFF TOOL AUTHORITY



SECTION 232	SECTION 301	IEEPA	SECTION 201	SECTION 122	SECTION 338
Threats to national security; sector/product-specific	Unfair Trade Practices: China, Nicaragua, and Brazil	National emergency; tariffs; litigation ongoing	Protects domestic industry; solar, washing machines	International payment issues; never used to impose tariffs, until now.	Discrimination against U.S. commerce; never used to impose tariffs
Agency: Commerce	Agency: USTR	Agency: None	Agency: ITC	Agency: None	Agency: None
Tariff Duration: No limit	Tariff Duration: 4 years , unlimited extension	Tariff Duration: No limit	Tariff Duration: 4 years + 4-year extension	Tariff Duration: 150 days	Tariff Duration: No limit
Max Tariff Rate: No limit	Max Tariff Rate: No limit	Max Tariff Rate: No limit	Max Tariff Rate: 50% with phase-down required	Max Tariff Rate: 15%	Max Tariff Rate: 50%
Remains unchanged	Remains unchanged				

IEEPA SECTION 122 TARIFF UPDATE

All IEEPA tariffs no longer collected as of February 24, 12:01 a.m. EDT

10% Section 122 tariffs replaced IEEPA tariffs effective February 24, 12:01 a.m. EDT

Existing reciprocal tariff exclusions, inc. ag, civil aircraft, informational materials, etc., USMCA, will continue.

If paying Section 232, no Section 122 applies. Derivates handled the same for steel/alum.

At this point, EU, KR, TW, JP, etc. trade deal tariffs replaced by 10% Section 122.

Existing PF status FTZ admissions subject to IEEPA remain subject to IEEPA at time of withdrawal, until further guidance is released.

Bonded warehouses subject to the rates in place at time of withdrawal.



Countries and Territories	Reciprocal Tariff, Adjusted	Countries and Territories	Reciprocal Tariff, Adjusted
Afghanistan	15%	Madagascar	15%
Algeria	30%	Malawi	15%
Angola	15%	Malaysia	19%
Bangladesh	20%	Mauritius	15%
Bolivia	15%	Moldova	25%
Bosnia and Herzegovina	30%	Mozambique	15%
Botswana	15%	Myanmar (Burma)	40%
Brazil	10%	Namibia	15%
Brunei	25%	Nauru	15%
Cambodia	19%	New Zealand	15%
Cameroon	15%	Nicaragua	18%
Chad	15%	Nigeria	15%
Costa Rica	15%	North Macedonia	15%
Côte d'Ivoire	15%	Norway	15%
Dem. Rep. of the Congo	15%	Pakistan	19%
Ecuador	15%	Papua New Guinea	15%
Equatorial Guinea	15%	Philippines	19%
European Union/Japan/South Korea: Goods with Column 1 Duty Rate[] > 15%	0%	Serbia	35%
European Union/Japan/South Korea: Goods with Column 1 Duty Rate < 15%	15% minus Column 1 Duty Rate	South Africa	30%
Falkland Islands	10%	Sri Lanka	20%
Fiji	15%	Switzerland	39%
Ghana	15%	Syria	41%
Guyana	15%	Taiwan	20%
Iceland	15%	Thailand	19%
India	25%	Trinidad and Tobago	15%
Indonesia	19%	Tunisia	25%
Iraq	35%	Turkey /Uganda	15%
Israel	15%	United Kingdom	10%
Jordan	15%	Vanuatu	15%
Kazakhstan	25%	Venezuela	15%
Laos	40%	Vietnam	20%
Lesotho	15%	Zambia	15%
Libya	30%	Zimbabwe	15%

SECTION 122 TARIFF UPDATE

- **Current rate for Section 122 tariffs is 10% for all countries, through July 24th.**
- **The White House has confirmed that the 10% rate** reflected in CBP's message was correct, while also noting the administration is working on a **separate action to increase the rate to 15%**, which would require the President's signature; no timeline was provided.
- **The in-transit exemption is a short window** and is only for ocean cargo under 9903.03.02.
Are goods that (i) were loaded onto a vessel at the port of loading and in transit on the final mode of transit prior to entry into the United States, before 12:01 a.m. eastern standard time on February 24, 2026; and (ii) are entered for consumption, or withdrawn from warehouse for consumption, before 12:01 a.m. eastern standard time, February 28, 2026.
- **FTZ admissions** subject to Section 122 continue to require **Privileged Foreign Status**.
- **Duty drawback is available** for Section 122.



Read the Full Proclamation: <https://www.whitehouse.gov/presidential-actions/2026/02/imposing-a-temporary-import-surge-to-address-fundamental-international-payments-problems/#:~:text=Section%20122%20authorizes%20the%20President,of%20fundamental%20international%20payments%20problems>

IEEPA VS. SECTION 122

SECTION 122

Canada & Mexico

Without USMCA

General Rate of Duty +
10% Section 122

USMCA – 0%

Now Duty Drawback Eligible

China

General Rate of Duty +
10% Section 122

Fentanyl & Reciprocal orders
terminated

Section 301 remains

Trump to travel to China in
March to talk trade

Indonesia

10% Section 122

19% IEEPA orders
terminated

India

10% under Section 122

25% + 25% IEEPA
orders terminated

Brazil

10% under Section 122

40% + 10% IEEPA
orders terminated

DEPENDS

Japan EU S. Korea Taiwan

10% Section 122 vs. 15% max,
inclusive of the General Rate
of Duty IEEPA

Countries are seeking
assurances from the U.S. that
the tariff deal will
not change

EU Parliament held up
ratification of US-EU tariff
agreement due to Section
122 tariffs

SAME, FOR NOW

United Kingdom

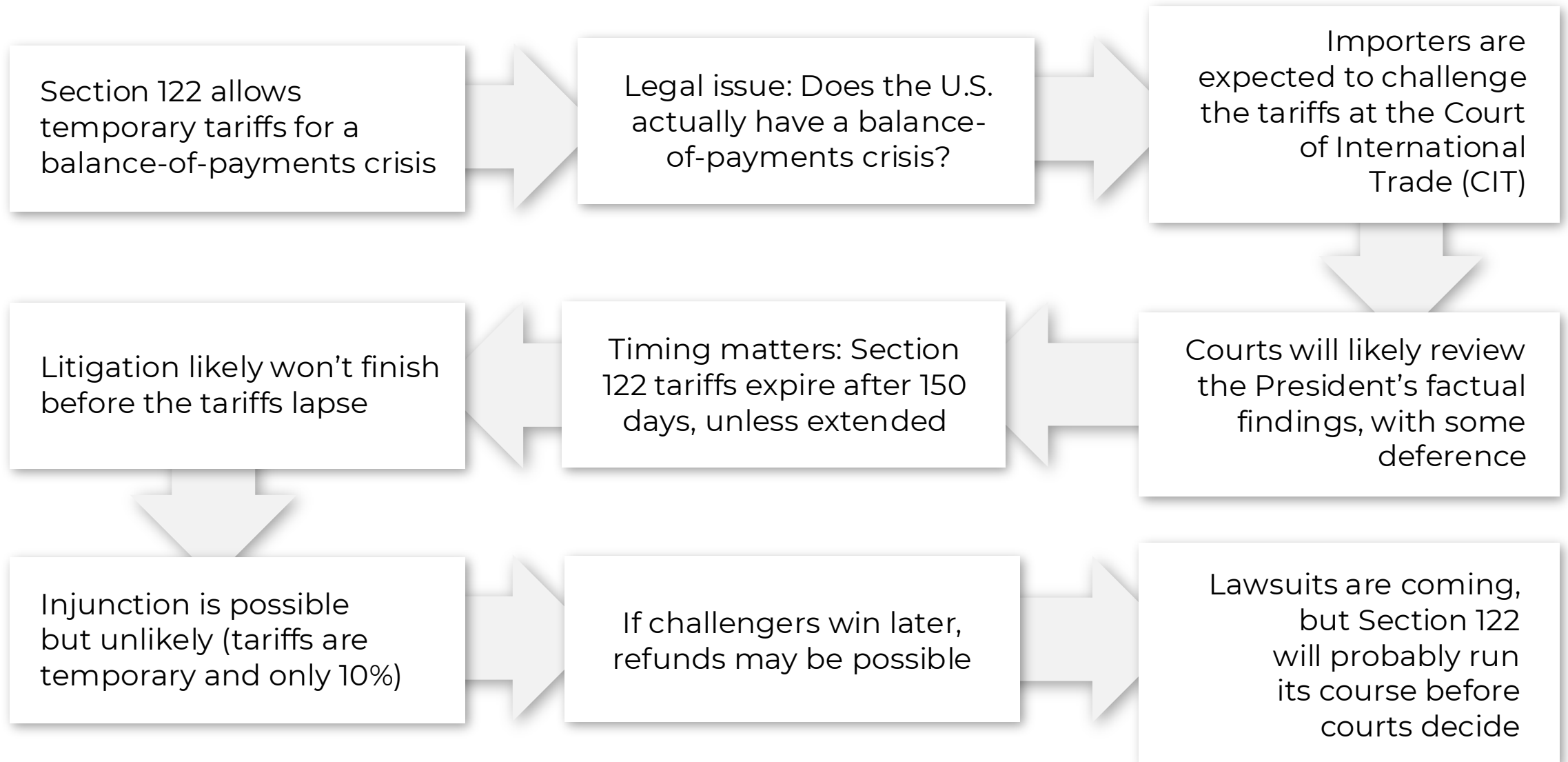
10% under Section 122

10% IEEPA
orders terminated

Country-specific
considerations
under Section 122:
What happens
with all the
trade deals?



LEGALITY OF SECTION 122



TRADE UPDATE



Administration officials say Section 301 investigations can be completed within 5 months

Target tariffs discussed:

19%: Malaysia, Bangladesh, Indonesia, Cambodia & 18%: India + other country-specific rates

Some trading partners are raising concerns about higher tariff rates than under the deals they signed

Section 122 risk for allies If 15% Section 122 is imposed:

EU, South Korea, Japan may see it as U.S. breaking its side of the deal.

Their deals were 15% all-in; Section 122 would be additive to MFN.

They may pause tariff cuts or non-tariff barrier reductions.

USTR Jamieson Greer

During the 5-month Section 122 window, the U.S. will run new investigations.

Goal is to enable new tariffs under Section 301 or 232, if justified, to provide continuity in the administration's tariff program.

Treasury Secretary Scott Bessent:

Section 301 China tariffs and Section 232 tariffs have survived past legal challenges.

Likely outcome is higher 232s and 301s after investigations conclude.

The purpose would be to restore tariff revenue levels previously generated by reciprocal + 232 + 301 tariffs.

Administration says:

The U.S. is engaging trading partners & partners want to keep existing trade deals in place.

President Trump warned of higher tariffs on countries that backtrack on U.S. trade deals & said that countries that "play games" will face tariffs higher than what they just agreed to.

Former USTR General Counsel Steven Vaughn:

USTR is already reaching out to partners that signed trade deals and he expects partners to honor market-opening commitments

"You can't collect a tariff just because another country agreed to a tariff."

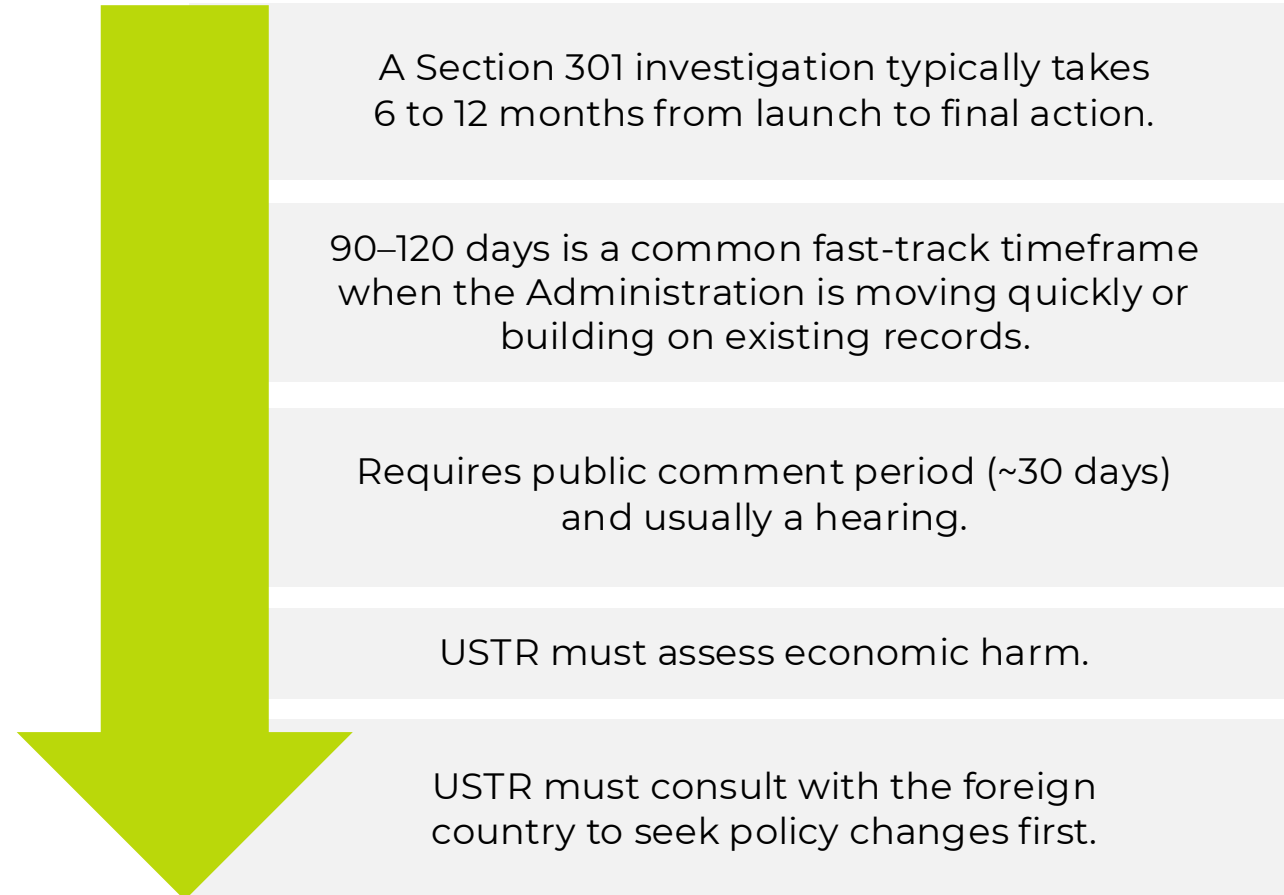
What about Section 301?

USTR (FEB. 20 STATEMENT):

- Section 301 investigations will cover most major trading partners.
- Focus areas include:
 - Industrial excess capacity
 - Forced labor
 - Pharmaceutical pricing
 - Discrimination vs. U.S. tech & digital services
 - Digital services taxes
 - Ocean pollution
 - Seafood, rice, and other products
- Investigations will be accelerated.
- If unfair practices are found, tariffs are one possible tool.

USTR: STATEMENT: <https://ustr.gov/about/policy-offices/press-office/press-releases/2026/february/ambassador-greer-issues-statement-supreme-court-ieepa-decision>

HOW SECTION 301 WORKS (PROCESS REALITY):



SECTION 232 INVESTIGATIONS UPDATE



Sector	Status	Investigation Initiation Date	Authority / Instrument	FR Doc No.	FR Citation	Docket ID
Pharmaceuticals & Pharmaceutical Ingredients	Tariffs announced, pending scope & rates (FRN pending)	2025-04-01 (initiated)	BIS Notice (Request for Comments)	2025-06587	90 FR 15951 (Apr. 16, 2025)	BIS-2025-0022
Processed Critical Minerals & Derivative Products	Investigation only	2025-04-22 (initiated)	BIS Notice (Request for Comments); per EO 14272 (90 FR 16437)	2025-07273	90 FR 17372-17373 (Apr. 25, 2025)	BIS-2025-0025
Commercial Aircraft & Jet Engines (and Parts)	Investigation only	2025-05-01 (initiated)	BIS Notice (Request for Comments)	2025-08500	90 FR 20273-20274 (May 13, 2025)	BIS-2025-0027
Polysilicon & Derivatives	Investigation only	2025-07-01 (initiated)	BIS Notice (Request for Comments)	2025-13345	90 FR 31955-31956 (July 16, 2025)	BIS-2025-0028
Unmanned Aircraft Systems (UAS) & Parts	Investigation only	2025-07-01 (initiated)	BIS Notice (Request for Comments)	2025-13365	90 FR 31958-31959 (July 16, 2025)	BIS-2025-0059
Wind Turbines	Investigation only	2025-08-13 (Initiated)	BIS Notice (Request for Comments)	2025-16191	90 FR 41380 (Aug 25, 2025)	BIS-2025-0191
Robotics and Industrial Machinery	Investigation only	2025-09-02 (Initiated)	BIS Notice (Request for Comments)	2025-18749	90 FR 46382 (Sept. 26, 2025)	BIS-2025-0257
PPE, Medical Consumables, and Medical Equipment, Including Devices	Investigation only	2025-09-02 (Initiated)	BIS Notice (Request for Comments)	2025-18729	90 FR 46383 (Sept. 26, 2025)	BIS-2025-0258
ANNOUNCED / REPORTED UNDER CONSIDERATION	Energy Storage & Battery Inputs, Large-scale Batteries, Cast Iron and Iron Fittings, Plastic Piping, Industrial Chemicals, Power Grid & Telecom Equipment					

Note: All actions listed are Section 232 (Trade Expansion Act) and are not affected by the IEEPA ruling. Separate actions under Section 122, 301, or other authorities are not shown here.
 Last updated 2/24/2026

How This Fits the July 24 Deadline

Section 122 is the bridge; Section 301/232 will likely be the permanent structure.

WORKING BACKWARD FROM JULY 24:

To have 301 tariffs ready by late July, USTR needs to:

Section 122 expires: July 24

Fast-track Section 301 timeline: ~90–120 days

TO BRIDGE THE GAP:

- 301 investigations must be launched by March–April
- Be in comment + consultation mode in April–May
- Findings & tariffs likely targeted for June–July

EXPECT:

- Multiple parallel 301 cases
- Focus on excess capacity, subsidies, forced labor, digital trade, pharma, ag, industrial goods
- Goal: Replace temporary 122 tariffs with longer-lived 301/232 tariffs

If 301s aren't ready by July 24:

Section 122 must expire or be modified (can't legally continue as-is)

ADMINISTRATION WOULD FACE:

- A tariff gap, or
- Pressure to rely more heavily on Section 232, or
- A new legal workaround (much harder after the IEEPA ruling)

That's why the tempo is aggressive right now.

MOST LIKELY THE PATH FORWARD WILL BE:

- Continued Section 301 and 232 investigations
- Potential Section 338 action as the 120th day of the Section 122 tariffs approaches (150 days minus the 30-day waiting period for Section 338 tariffs to take effect)
- Continued focus on enforcement, particularly for Section 232s



(a) IEEPA authorizes the President to “investigate, block during the pendency of an investigation, regulate, direct and compel, nullify, void, prevent or prohibit . . . importation or exportation.” §1702(a)(1)(B). Absent from this lengthy list of specific powers is any mention of tariffs or duties. Had Congress intended to convey the distinct and extraordinary power to impose tariffs, it would have done so expressly, as it consistently has in other tariff statutes.

The power to “regulate . . . importation” does not fill that void. The term “regulate,” as ordinarily used, means to “fix, establish, or control; to adjust by rule, method, or established mode; to direct by rule or restriction; to subject to governing principles or laws.” Black’s Law Dictionary 1156. The facial breadth of this definition places in stark relief what “regulate” is not usually thought to include: taxation. Many statutes grant the Executive the power to “regulate.” Yet the Government cannot identify any statute in which the power to regulate includes the power to tax. The Court is therefore skeptical that in IEEPA—and IEEPA alone—Congress hid a delegation of its birth-right power to tax within the quotidian power to “regulate.”

While taxes may accomplish regulatory ends, it does not follow that the power to regulate includes the power to tax as a means of regulation. Indeed, when Congress addresses both the power to regulate and the power to tax, it does so separately and expressly. That it did not do so here is strong evidence that “regulate” in IEEPA does not include taxation.

A contrary reading would render IEEPA partly unconstitutional. IEEPA authorizes the President to “regulate . . . importation or exportation.” §1702(a)(1)(B). But taxing exports is expressly forbidden by the Constitution. Art. I, §9, cl. 5.

The “neighboring words” with which “regulate” “is associated” also suggest that Congress did not intend for “regulate” to include the revenue-raising power. *United States v. Williams*, 553 U. S. 285, 294. Each of the nine verbs in §1702(a)(1)(B) authorizes a distinct action a President might take in sanctioning foreign actors or controlling domestic actors engaged in foreign commerce, as Presidential practice confirms. And none of the listed authorities includes the distinct and extraordinary power to raise revenue—a power which no President has ever found in IEEPA. Pp. 14–16.

IEEPA LEGAL STATUS

ON FEB 20

The review was limited to whether IEEPA authorized the President to impose tariffs, and if so, whether this was constitutional.

The Supreme Court held that the IEEPA cannot be used to impose tariffs.

The Court ruled 6-3 that the statute does not confer any tariff-setting authority.

The high-court affirmed the decision of the U.S. Court of Appeals for the Federal Circuit, which sent the case back to the Court of International Trade to address whether the lower court can issue a “nationwide injunction” against tariffs imposed under IEEPA.

THE ISSUE OF REFUNDS WAS NOT ADDRESSED

“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.”

(Justice Kavanaugh, dissenting.)

IEEPA REFUNDS? **Not legal advice.**

All 9 justices agreed that the CIT has exclusive jurisdiction over IEEPA tariff lawsuits, meaning the district courts lack jurisdiction.

The Decision returns the case to the Federal Circuit, but it could take up to a month for the case to return to the CIT.

The CIT will have to decide the appropriate procedural mechanism for refunding importers—lawsuits filed under 28 USC 1581(i), administrative protests, or some other court-directed procedure. This decision could take months, which could then be appealed, which will drag this process out.

U.S. Trade Representative Jamieson Greer was asked about refunds, and he said the administration needs guidance from CIT on whether importers must sue to secure refunds.

Treasury Secretary Scott Bessent said the administration “will follow the court’s direction” on refunding IEEPA tariffs but will not begin a refund process until it hears from the Court of International Trade.

Bessent said several times on CNN that it could be “weeks or months away” before CIT rules on a refund process.

IEEPA REFUNDS? **Still not legal advice.**

More guidance will come from both CIT and from CBP, either through a Federal Register notice or CSMS.

Additional companies are starting to file suits to secure refunds, including FedEx, Dyson, L'Oréal, and Bausch & Lomb this week, bringing the total to over 1,600 per the Wall Street Journal.

While we don't know if filing a suit will be required, it may be the best way to mitigate challenges down the road. Any refund processes may be less burdensome and/or administrative, if the CIT case is filed. It is not currently clear whether, and how, refunds will be issued for those that do not go to Court.

Again, there is a possibility that litigation under 1581(i) will be needed for refunds. Whether this makes sense at this point is a business decision based on a company's overall risk tolerance, dollars to be recovered, and what timeframes look like relative to correction windows. If entries pass deadlines, litigation will be the only option.

We recommend seeking advice from trade attorneys on this matter and can refer as needed.



IEEPA GUIDANCE – WHAT IMPORTERS SHOULD CONSIDER

EVALUATE

Analyze past entries that were subject to IEEPA tariffs.

It's important to understand your overall IEEPA exposure and assess whether filing a case is right for your company.

LEVERAGE DATA

Make sure your ACE Portal is active, and you have data from your Customs brokers

ACE Reporting is available for entry summaries, entry line detail, entry summary status, post summary corrections, liquidation status, financial and duty payment reports, refund status, CF28/29s, etc.

ACE Reports for evaluating IEEPA impacted entries:

Entry Summary reports - ES-001, ES-002, ES-003 - Liquidation reports - ES-701, ES-702

Customs Broker and internal data will also be helpful for evaluation.

To apply for an ACH Refund: The importer, or other party with an account owner role, can set up on the ACH Refund Authorization tab within the ACE Portal

RECORDKEEPING

Ensure your records are complete and compliant. Maintain proof of payment of the tariffs.

IEEPA GUIDANCE – WHAT IMPORTERS SHOULD CONSIDER

Protesting toward the end of the 180-day protest window.

Filing a protest may preserve liquidation from becoming final and protect against the risk that courts later determine a protest was required. It may also maintain the possibility of obtaining refunds directly from CBP without the need for litigation. If courts ultimately require relief to be pursued under 28 U.S.C. § 1581(i), protesting may later prove unnecessary.

Consider filing suit at the Court of International Trade under 28 U.S.C. § 1581(i).

At this time, such a filing is not required to preserve refund rights, if you are also protesting as needed; however, it may be a prudent step for companies that want to take a more aggressive approach to protecting potential refunds. We can provide a referral as needed to trade counsel.

If you have entries that have missed the protest window – it makes sense to file the suit if you're going to want a refund.

Right now, it is unclear whether CBP will act on PSCs.

CBP has been refusing to extend liquidation for IEEPA tariff reasons.

IEEPA REFUNDS?

House Republican Calls on Congress to Expand Presidential Tariff Power

- Rep. Riley M. Moore (R-WV) criticized the Supreme Court's IEEPA ruling
- Called the decision wrong for U.S. workers and trade policy
- Called the decision wrong for U.S. workers and trade policy
- Bill would give the White House broader power to impose reciprocal tariffs
- Also expands authority to address quotas, subsidies, and non-tariff barriers

This bill shifts tariff refunds from importers/corporations to consumers, aiming to return money directly to households that paid higher prices.

House Bill Proposes Consumer Tariff Refunds (Not Corporate Refunds)

Rep. Mike Thompson (D-CA) introduced the Illegal Tariff Refund Act, which would create an “individual tariff refund credit” for American households.

If a court orders tariff refunds:

- Treasury would distribute funds as IRS rebates
- Rebates calculated per person in each household
- Rationale: Tariffs act like a consumer tax, so refunds should go to families

Anti-corporate windfall provision:

- Large companies face a 100% excise tax on tariff refunds
- Unless they can prove that tariff costs were not passed on to consumers

Thompson says:

- Average family in his district paid ~\$1,900 more last year due to tariffs
- Argues the President lacked authority to impose the tariffs without Congress
- Praised the Supreme Court for upholding the rule of law



IEEPA REFUNDS?

House Democrats Introduce Bill for Automatic IEEPA Tariff Refunds

- Would require CBP to issue refunds automatically, no protests or applications needed.
- Require refunds within 90 days of enactment
- Eliminate individual filings and formal protests
- Aim to level the field for small and independent businesses
- House Speaker Mike Johnson says he doesn't think Congress needs to direct refunds

Sen. Ron Wyden (D-OR): Businesses and consumers have been “hammered” by repeated tariffs & the goal is to get money back to small businesses and manufacturers quickly

Senate Democrats Push Bill to Force IEEPA Refunds Within 180 Days

- Bill would require tariffs + interest to be refunded within 180 days
- Applies even to liquidated entries
- Lawmakers argue the current process favors large importers
 - Large companies can afford outside counsel and consultants
 - Small businesses risk being left behind
- Bill directs CBP to:
 - Issue refund & drawback guidance within 60 days
 - Prioritize small businesses where practicable
 - Report to committees every 30 days until refunds are complete



ENTRY TIMELINES & LIQUIDATION

ENTRY DATE

Also known as "time of entry." The entry date is defined as the time the entry summary is filed in proper form with estimated duties attached, which cannot be before time of import.

Reflected in Box 7 of CBP Form 7501, and available within broker or ACE data.



DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection
ENTRY SUMMARY

OMB CONTROL NUMBER 1651-0022
EXPIRATION DATE 11/30/2025

1. Filer Code/Entry Number	2. Entry Type	3. Summary Date	4. Surety Number	5. Bond Type	6. Port Code	7. Entry Date
8. Importing Carrier		9. Mode of Transport		10. Country of Origin		11. Import Date
12. B/L or AWB Number		13. Manufacturer ID		14. Exporting Country		15. Export Date
16. I.T. Number	17. I.T. Date	18. Missing Docs	19. Foreign Port of Lading		20. U.S. Port of Unlading	

WHAT IS LIQUIDATION?

The final computation or ascertainment of duties on entries for most consumption or drawback entries.

- CBP posts anticipated liquidation dates visible in ACE and in broker systems.
- Liquidations are processed weekly, with entry summaries liquidated every Friday.
- Once an entry summary is liquidated, ACE will automatically populate a liquidation date equal to the next immediate Friday.
- Liquidations processed before 11:59:59 PM Wednesday ET will post Friday of the same week; liquidations occurring after this timeframe will post the following Friday.
- Notice of liquidation of formal entries is also provided on CBP's public website. This notice will be maintained for a minimum of 15 months from the date of posting.
- Link to CBP Official Notice of Extension, Suspension and Liquidation for public notice for liquidation actions for entry summaries: [Official Notice of Extension, Suspension and Liquidation - Customs and Border Protection](#)

POST SUMMARY CORRECTIONS (PSC)

A PSC is a replacement of an entry summary before liquidation.

- Submission of a PSC is the sole method for trade to electronically correct formal entry summaries before liquidation.
- Entry Summary must be in accepted status, cannot be under CBP review, and must be in CBP control.
- Entry Summary must be paid.
- Entry Summary cannot be liquidated.
- PSC filers can submit these changes within 300 days from Entry Date and up to 15 days before the scheduled liquidation date, whichever is earlier.
- This date is extended if CBP approves a liquidation extension. Liquidation extensions due to pending litigation has not been shown to be “good cause” for extension.

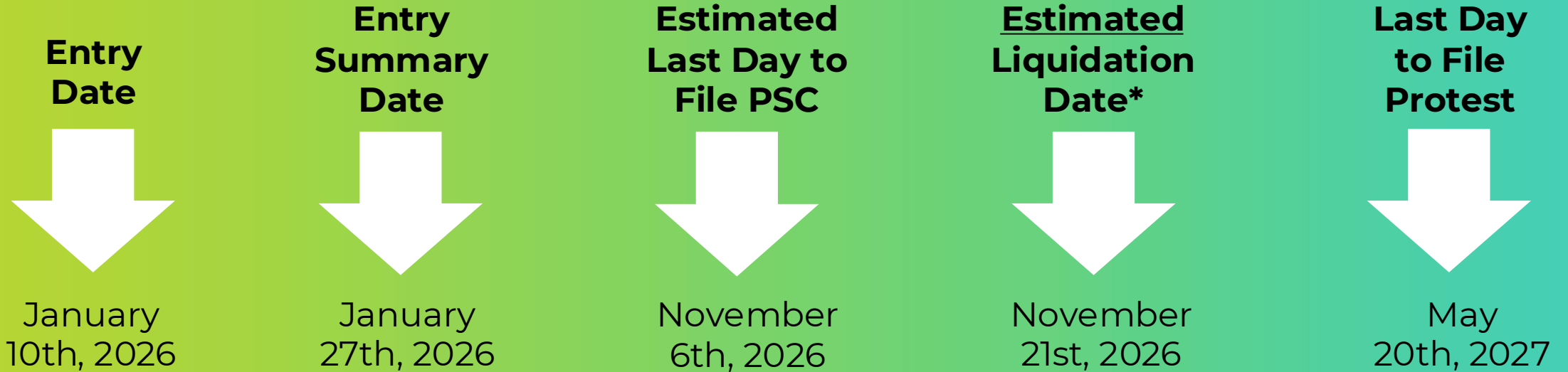
PROTESTS

A protest is a legal procedure for importers and "interested parties" to administratively contest CBP decisions related to imported merchandise.

- Can only be filed after liquidation.
- **Matters subject to Protest:** Clerical errors, mistakes of fact, and other inadvertences.
- Protests must be filed within 180 days of notice of liquidation.
- CBP will review protests and all related entry data/documentation.
- CBP has two years from the date the protest is filed to review.

THE PROCESS OR MECHANISM FOR POTENTIAL IEEPA REFUNDS IS UNKNOWN

EXAMPLE OF ENTRY TIMELINE



*Note that CBP has been liquidating entries faster at times.

Thank you for attending

A copy of this presentation will be emailed to all attendees



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