Congressional Research Service
Informing the legislative debate since 1914

IN FOCUS

January 13, 2026

Potential Refunds of Tariffs Imposed Under the International Emergency Economic Powers Act (IEEPA)

In 2025, President Donald J. Trump issued a series of executive orders invoking the International Emergency Economic Powers Act (IEEPA) to impose tariffs on most U.S. trading partners (IEEPA tariffs). According to the government, importers had paid approximately $129 billion in estimated duty deposits for entries covered by most of the IEEPA tariffs as of December 10, 2025. Several importers and states have filed lawsuits challenging the President's authority to impose tariffs under IEEPA, and multiple courts have held that IEEPA does not authorize the challenged tariffs. The Supreme Court heard oral arguments to review those lower court decisions in November 2025.

This In Focus analyzes potential paths and obstacles for importers to obtain refunds of the IEEPA tariffs, as well as options for Congress, in the event that the Supreme Court holds that some or all of these tariffs are unlawful.

Background on Collection of Tariffs

There are generally two processes for the entry of goods into the United States and the collection of duties—formal (19 U.S.C. § 1484) and informal (19 U.S.C. § 1498).

Formal entry is required for goods with a value greater than $2,500. In general, the importer posts a bond with Customs and Border Protection (CBP) and pays estimated duties on the merchandise. Later, the government makes a final ascertainment of the duties owed on those goods, known as "liquidation." Under 19 U.S.C. § 1504, liquidation must occur within one year of the entry of goods, although the Secretary of the Treasury may extend the period in certain circumstances. Per CBP's practice, liquidation typically occurs automatically 314 days after entry.

Informal entry uses simplified procedures and generally does not require the posting of a bond. Informal entries are generally considered to have been liquidated upon payment of estimated duties.

Potential Paths to Tariff Refunds

Liquidated Versus Unliquidated Entries

Because the first IEEPA tariffs took effect in February 2025, a significant percentage of imports affected by the IEEPA tariffs have not yet been liquidated. The government has stated that, as of December 10, 2025, approximately 19.2 million of the approximately 34 million entries subject to the IEEPA tariffs remained unliquidated. For unliquidated imports, the government may be required to issue refunds upon liquidation if the Supreme Court rules that the IEEPA tariffs are unlawful. The Secretary of the Treasury holds statutory authority to refund duties "[w]henever it is ascertained on liquidation or reliquidation . . . that more money has been deposited or paid as duties than was required by law." Customs regulations generally require refunds to be issued in such cases unless the discrepancy is less than $20. Customs regulations also acknowledge that refunds may be required following court-ordered reliquidation, a scenario discussed below.

Millions of informal entries subject to the IEEPA tariffs were considered liquidated at or near the date of their entry. Beginning in mid-December 2025 (314 days after the initial IEEPA tariffs took effect), many formal entries likely also began to be liquidated. Based on statutory authorization and limitations, current CBP regulations provide that CBP may voluntarily reliquidate an entry within 90 days of its original liquidation "to correct errors in appraisement, classification, or any other element entering into the liquidation or reliquidation, including errors based on misconstruction of applicable law." This authority may allow CBP to reliquidate and provide refunds for entries that were liquidated within the preceding 90 days. Once this deadline has passed—or if CBP does not use this voluntary reliquidation authority—importers may have other paths to seek refunds of any unlawful tariffs, as discussed below.

Protests for Liquidated Entries

One potential avenue for importers to seek refunds for already-liquidated entries is to file a formal protest with CBP. Under 19 U.S.C. § 1514(c)(3), an importer may file a protest of a decision of CBP within 180 days after the date of liquidation or, in some circumstances, the date on which the decision was made. Some law firms have advised importers to file protests pending the Supreme Court's decision in case the Court invalidates the IEEPA tariffs.

Under 19 U.S.C. § 1515(a), CBP must either "deny" or "allow" a protest "in whole or in part." If CBP allows the protest, "any duties . . . found to have been assessed or collected in excess shall be remitted or refunded . . . ." Section 1515 gives CBP up to two years to review a protest but allows a protester to request "accelerated disposition." If CBP does not decide the protest within 30 days of a request for accelerated disposition, the protest is "deemed" (considered to be) denied. CBP's denial of a protest allows the protester to seek judicial relief, as discussed below.

There may be some doubt as to whether CBP's collection of the IEEPA tariffs may be protested under Section 1514, since CBP collected these tariffs pursuant to executive orders issued by the President. The U.S. Court of Appeals for the Federal Circuit (which has exclusive jurisdiction to hear intermediate appeals of certain trade cases) has held that some "purely ministerial" actions taken by CBP are not protestable decisions under Section 1514. To be subject to

protest, the court has held, CBP must make "substantive determinations or undert[ake] . . . discretionary actions." For example, the court has found that CBP's ministerial implementation of rate determinations made by the Commerce Department in antidumping and countervailing duty investigations was not subject to protest under Section 1514. One court decision held protesting CBP's collection of IEEPA tariffs to be futile because CBP lacks authority to assess the legality of the President's executive orders.

Uncertainty about Section 1514 protestability may cast doubt on the proper path to sue the government for refunds, as shown by an earlier set of court decisions. In its 1998 decision *United States v. U.S. Shoe Co.*, the Supreme Court held that a harbor maintenance tax (HMT) enacted by Congress partly violated the Constitution's Export Clause, which bars taxation of U.S. exports. In some lawsuits, the Federal Circuit held that the collection of the HMT was not protestable, because "Customs is powerless to perform any active role in the determination of the constitutionality of the [HMT]." Thus, the court held that plaintiffs could sue the United States for refunds of the HMT without first exhausting the protest process. In another instance, the Federal Circuit held that the denial of an HMT refund request was a protestable decision, giving plaintiffs a separate avenue to seek judicial relief with a different statute of limitations but also an exhaustion requirement.

Lawsuits in the U.S. Court of International Trade

Importers who are otherwise unsuccessful in obtaining refunds may attempt to obtain relief by suing the United States in the U.S. Court of International Trade (CIT). The CIT is a specialized court with exclusive, nationwide jurisdiction over certain trade cases, including (1) civil actions commenced to contest the denial of a protest, under 28 U.S.C. § 1581(a), and (2) other civil actions arising out of laws providing for revenue from imports and tariffs, duties, fees, and other taxes on importation, under 28 U.S.C. § 1581(i) (so-called "residual" jurisdiction). Lawsuits seeking refunds of IEEPA tariffs could conceivably fall under either of these jurisdictional grants, depending on whether or not CBP's collection or retention of these tariffs is protestable under 19 U.S.C. § 1514, as discussed above. Under the statute of limitations (29 U.S.C. § 2636), lawsuits to contest the denial of a protest must be filed within 180 days after the denial, while lawsuits under the CIT's residual jurisdiction must be filed within two years "after the cause of action first accrues"—potentially, the point in time when the tariffs were paid.

Some court decisions have held that the CIT may reliquidate entries to provide for refunds in Section 1581(i) cases, while others have raised doubts about the scope of this authority. In litigation challenging the IEEPA tariffs, the CIT has held that it has the authority to order reliquidation and that the government may not contest this authority given its assertion to the court that it will "not oppose" reliquidation or resulting refunds to plaintiffs if the Supreme Court holds that the IEEPA tariffs are unlawful.

Potential Limits on Judicial Relief

The CIT generally has authority under 28 U.S.C. § 2643 to order money damages, injunctions, and any other "appropriate" relief. Yet it is uncertain whether the CIT has the power to order refunds for importers other than plaintiffs. Class action lawsuits may potentially provide a means for large numbers of importers to obtain tariff refunds without bringing individual lawsuits. The CIT's Rule 23 permits the claims of numerous individuals or entities to be aggregated into a single class action proceeding where a case meets the rule's requirements (concerning, e.g., the numerosity and commonality of the class), although past cases may cast doubt on whether class certification would be available for importers seeking IEEPA tariff refunds. In 1996, the CIT decided not to certify a class of persons who had paid the HMT, suggesting instead that "Congress should decide whether to create a special procedure to refund small amounts to individuals who choose not to sue . . . ." At least one class action lawsuit seeking refunds of IEEPA tariffs has been filed in the CIT, although that suit was voluntarily dismissed (withdrawn) before any substantive proceedings.

Under Supreme Court precedent, refunds might arguably be considered a form of equitable (i.e., injunctive) relief insofar as they seek "to restore to the [importer] particular funds . . . in the [government's] possession." This argument raises the question of whether the CIT could enter a so-called nationwide injunction ordering that refunds of IEEPA tariffs be paid to all importers, regardless of whether they are parties to a lawsuit. In June 2025, the Supreme Court held in *Trump v. CASA, Inc.* that federal courts may not issue injunctions that are broader than needed to provide complete relief to the parties. The Court left open the possibility that nationwide injunctions might sometimes meet this standard, and lower courts have found such injunctions to be needed to provide relief to state plaintiffs in some circumstances. *CASA*'s implications for the CIT's ability to order tariff refunds for nonparties may be unclear, in part because states as well as private parties have filed lawsuits challenging the IEEPA tariffs. In 1998, the CIT ordered a streamlined claims resolution procedure to obtain HMT refunds, but this procedure was available only to plaintiffs who filed lawsuits in the CIT.

Considerations for Congress

Although existing law may provide avenues for importers to obtain refunds of IEEPA tariffs in the event that the Supreme Court holds that the tariffs are unlawful, refunds may be challenging to obtain in some cases, particularly for entries that have already been liquidated. The potential requirement that an importer file a lawsuit to obtain judicial relief may make it difficult for small and medium-sized enterprises, particularly those who made use of the informal entry process, to obtain a refund. Congress may exercise oversight over how the Trump Administration and federal courts respond to the Court's ruling as well as consider enacting legislation to streamline the process of obtaining any refunds. Alternatively, Congress could consider legislation expressly approving the IEEPA tariffs to prevent some or all importers from obtaining refunds.

Christopher T. Zirpoli, Legislative Attorney
Christopher A. Casey, Analyst in International Trade and Finance

IF13150

Disclaimer