

# Trade In Limbo: The Legal Storm Reshaping Trump's Tariffs

By **Meghann Supino, Michael Stroud and Joe Heaton** (June 24, 2025)

In the final days of May, decisions in two significant court actions — *V.O.S. Selections Inc. v. U.S.* and *Learning Resources Inc. v. Donald Trump* — affected the tariff and trade landscape.

If the courts' rulings are not overturned on appeal, they would unwind the majority of the tariffs that President Donald Trump has imposed on imported goods within his first five months in office and drastically alter the White House's approach to future tariffs.

This is yet another sudden twist in the roller coaster of tariff news that businesses have struggled to follow since Trump took office in January.

On May 28, in *V.O.S. Selections*, a three-judge panel of the U.S. Court of International Trade issued a unanimous decision invalidating a series of tariffs imposed by the president earlier this year under the International Emergency Economic Powers Act.[1] The court specifically held that the IEEPA does not authorize the imposition of broad tariffs without a clearly defined and substantiated national emergency. Therefore, the court held, the executive orders imposing these tariffs are unlawful and void.

If the court's decision stands, this would mean that IEEPA-based tariffs are no longer enforceable. IEEPA tariffs include what the White House is calling reciprocal tariffs, imposed on all global imports "to rectify trade practices that contribute to large and persistent annual United States goods trade deficits."

IEEPA tariffs also include the additional "fentanyl" tariffs on Canadian, Mexican and Chinese imports, which were imposed in an attempt to curb the illegal trade of fentanyl.

Reciprocal tariffs are currently 10% on all goods globally, but many countries will have higher rates when two separate 90-day pauses expire in July (globally) and August (China). The fentanyl tariffs are, with exceptions, 25% on Canadian and Mexican goods that do not satisfy the United States-Mexico-Canada Agreement rules of origin, and 20% on Chinese goods.

If upheld, imports would no longer be assessed under the IEEPA tariffs. There is also potential for refund eligibility based on tariffs already paid under the invalidated orders. Importantly, this would mean big refunds for businesses affected by the highest reciprocal tariff rate — 125% on Chinese goods, which ended on May 12.

U.S. Customs and Border Protection is expected to issue guidance if the court's order stands, including instructions for processing entries without the IEEPA tariffs and preserving rights to refunds.

The decision only affects tariffs issued under the IEEPA, which encompass a majority of the



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tariffs issued since Trump took office. The order does not affect any of the tariffs imposed during Trump's first administration, including tariffs on steel and aluminum issued under Section 232 of the Trade Expansion Act, and tariffs on certain itemized goods from China issued under Section 301 of the U.S. Trade Act.

Tariffs on automobiles and automobile parts that were imposed by proclamation on April 3 were likewise issued under Section 232 and are therefore not affected.

In response to the U.S. Court of International Trade decision, the U.S. Department of Justice filed an appeal on May 29 with the U.S. Court of Appeals for the Federal Circuit to stay the U.S. Court of International Trade decision while the White House prepares an appeal for emergency relief to the U.S. Supreme Court. The Federal Circuit granted the White House's request.

Separately on May 29, the U.S. District Court for the District of Columbia issued two historic rulings in the Learning Resources case.[2] First, it ruled that the U.S. Court of International Trade lacks jurisdiction to hear cases involving the president's use of tariff authority under the IEEPA. Second, the district court determined that the president cannot unilaterally "impose, revoke, pause, reinstate, and adjust tariffs to reorder the global economy" under the IEEPA, as only Congress can define the scope of presidential tariff authority.

The court in Learning Resources granted a preliminary injunction that blocked the government from collecting IEEPA tariffs from the parties involved in that particular case. The injunction did not prevent the government from collecting tariffs from other importers and businesses.

On June 3, the D.C. federal court paused the injunction while the government appeals the ruling in the U.S. Court of Appeals for the District of Columbia Circuit. Learning Resources then attempted an expedited Supreme Court review, but the Supreme Court denied the request on June 20.

Despite the consistency in the U.S. Court of International Trade and district court results — that the IEEPA does not give the president the sweeping authority to impose these broad-ranging tariffs — the two parallel paths could potentially lead to a conflict within the judicial circuits.

As one appeal proceeds through the Federal Circuit, and the other through the D.C. Circuit, the appellate courts could arrive at different decisions on the same subject. As such, this potential split would likely escalate the issue to the Supreme Court for a final decision.

Until the Supreme Court rules, businesses and supply chains should expect the tariffs to remain in place. Businesses should further expect that the Trump administration will continue vigorously pursuing and enforcing all available trade policies to implement its priorities.

The "America First" trade policy makes clear that the administration will proceed with reviewing and using all available levers of trade enforcement.

Specifically, businesses should anticipate an increase in antidumping and countervailing duty investigations, both of which have seen an increased number of petitions and investigations since the 2024 election.

As a result of the ongoing litigation mentioned above, businesses should fully anticipate

increased Section 232 investigations, especially since the legislative actions and judicial decisions support the basis for Section 232 investigations.

In the first few months of the new term, the Trump administration directed the secretary of commerce to begin investigations of timber, lumber, copper, pharmaceuticals, critical minerals, trucks and truck parts, and derivative products pursuant to Section 232. Plainly stated, Section 232 tariffs are an established area for further action.

Also, for good measure, businesses should watch for possible uses of infrequently used provisions of the trade laws. Specifically, Section 201 of the Trade Act addresses import surge proceedings, referred to as safeguard actions, as well as Section 301 unfair trade proceedings. Both types of proceedings have been used to affect trade and import patterns, and might be used again.

The use of Sections 201 and 301 can have lasting effects, as we saw from the first Trump administration through the Biden administration.

Lastly, one other area where we expect to see action is Section 122 of the Trade Act. Section 122 allows the president to impose 15% tariffs for 150 days. This could be another tariff tool in the toolbox.

It is also likely that the "America First" trade policy will be used to foster additional negotiation of other global trade agreements, such as the U.S.-U.K. free trade agreement, the United States-Mexico-Canada Agreement, and other regional and bilateral trade agreements, all of which would also affect tariffs and business operations.

While the rapidly shifting tariff and trade landscape may continue to be difficult to navigate with ongoing uncertainty as these cases head up on appeal, mitigation strategies for businesses do exist.

Businesses' counsel and customs brokers should examine how best to position companies for flexibility on shipments. Specifically, businesses should review their supply chain plans, including how and when cargo is processed upon arriving at ports, such as by reexamining freight forwarder policies and practices on entry procedures or exploring options for bonded warehouses to create ultimate flexibility on import timing.

Many businesses are also using the pause on higher tariffs to reexamine and ensure accuracy in their imported products' classifications and potential exemptions under Chapter 98 of the Harmonized Tariff Schedule, valuations, manufacturing processes, and supply chain contracts. All such exercises can be productive regardless of the outcome of the tariff litigation because these actions can often lead to better application of existing or changing tariff rates.

Finally, businesses might also explore whether and how to adjust their manufacturing, including importing components and assembling them or manufacturing portions of the products in the U.S., Mexico or Canada. The only guarantee at this time is that change is coming.

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[1] <https://www.cit.uscourts.gov/sites/cit/files/25-66.pdf>.

[2] [https://icemiller.gjassets.com/content/uploads/2025/05/3-1-25CV01248\\_DocketEntry\\_05-29-2025\\_37\\_MEMORANDUM-AND-OPINION-denying-Motion.pdf](https://icemiller.gjassets.com/content/uploads/2025/05/3-1-25CV01248_DocketEntry_05-29-2025_37_MEMORANDUM-AND-OPINION-denying-Motion.pdf).