

Alert | International Trade/Tariff Task Force



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How the US Supreme Court’s Invalidation of IEEPA Tariffs May Impact European Companies

As discussed in a [Feb. 20, 2026, GT Alert](#), the U.S. Supreme Court (the Court) ruled that the tariffs imposed under the Trump administration pursuant to the International Emergency Economic Powers Act (IEEPA) were unlawful. The decision specifically concerned the so-called “reciprocal tariffs” as well as the “fentanyl duties,” i.e., tariffs on a wide range of goods from nearly all countries of origin, including the European Union. According to the Court, these tariffs were imposed without a legal basis and must be reversed.

The Court found that IEEPA does not grant the president authority to impose tariffs, noting that the power to impose tariff measures instead lies with Congress. The justices found that neither the wording nor the structure of IEEPA indicates a delegation of tariff authority and that the legislation created an instrument for economic emergency management, not for the imposition of import duties. This clarification restricts the administration’s scope of action under IEEPA and simultaneously confirms that tariffs imposed under that law are invalid.

European Companies May Be Eligible for IEEPA Duty Refunds

The Supreme Court’s decision affects companies that have imported goods into the United States since 2025 and were assessed duties under IEEPA-based tariff codes.

This includes not only U.S. importers but also European manufacturers whose products were imported into the United States by their U.S. subsidiaries or independent distributors. Imports from the EU as well as from third countries are relevant if European companies acted as importer of record through subsidiaries or contractually bore the customs liability.

For European companies, refunds may be possible on a broad scale. As things stand, a claim may arise where companies were themselves the importers of record or where they were financially liable for the duties vis-à-vis their U.S. subsidiary or distributor. Importers of record are generally entitled to seek refunds from U.S. Customs and Border Protection (CBP), regardless of whether they ultimately passed the cost of duties on to downstream buyers. However, while the legal right to the refund from CBP remains with the importer of record, the economic allocation of any recovered duties may be subject to separate commercial arrangements.

If importers passed customs duties on to their trading partners or end customers, they may still face downstream commercial claims, particularly in relation to unjust enrichment, contractual allocation of risk, or pricing representations. The Court's decision explicitly identified such issues as a potential area for future class-action litigation. However, any obligation to pass through refunds is not automatic as a matter of customs law; it is sometimes a business and contractual decision between the parties, depending on the relevant agreements and governing law.

Potential Implications for M&A Transactions

As outlined in a supplementary [GT Alert from Feb. 20](#), buyers and sellers in U.S.-related transactions may wish to examine how potential refunds for periods prior to closing are contractually allocated. Standard post-closing tax clauses sometimes fail to address such extraordinary customs refunds with sufficient precision. Accordingly, parties may wish to consider including an explicit contractual provision that not only specifies the economic allocation but also the obligation to actively initiate and pursue refund claims — including the required level of effort and the allocation of procedural costs.

In addition, European companies may wish to verify whether their U.S. entities have already exported the transaction data from CBP's Automated Commercial Environment (ACE) to help identify affected imports.

As discussed in [March 30](#) and [April 6](#) GT Alerts, CBP has been developing a refund process for IEEPA duties, which it calls the Consolidated Administration and Processing of Entries (CAPE) functionality. On [April 10](#), [the agency announced](#) that it will launch the first phase of CAPE in ACE on April 20, 2026. According to CBP, the first phase of CAPE launch will apply only to “certain unliquidated entries and certain entries within 80 days of liquidation,” but the agency plans to bring forth additional functionality for “more complicated scenarios” in future phased rollouts.

Accordingly, parties should continue to monitor developments regarding implementation details and procedural steps for obtaining refunds. At this stage, companies may wish to emphasize ensuring importer information is up to date in CBP's ACE portal and that their ACH banking information is accurate. Parties may also consider applicable CBP protest deadlines and potential litigation timelines before the Court of International Trade and be attuned to preservation of internal records and import data to potentially support any future refund claims or related proceedings.

Takeaways

The Supreme Court's decision offers European companies with U.S. business an opportunity to recover unlawfully collected customs duties. At the same time, it may require an analysis of their import and supply structures, the contractual allocation of customs risks, and potential refund rights within intra-group or commercial relationships.

[Read in German.](#)

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