

# Publications

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## IEEPA Tariffs Head to Supreme Court: Could Refunds Be Next? What Businesses Should Know

On Nov. 5, the U.S. Supreme Court will hear the Administration's appeal of the split decision upholding the Court of International Trade's order striking down use of the International Emergency Economic Powers Act (IEEPA) as a basis for imposing tariffs on trading partners around the world. Court observers expect a decision soon after oral argument. **A ruling could unlock significant tariff refunds for importers — but the path forward remains uncertain, and businesses should be ready to act.**

The case concerns two sets of tariffs imposed by the Administration under IEEPA: (1) the fentanyl/immigration tariffs imposed on Canada, China and Mexico in February and March 2025, as subsequently amended, and (2) the reciprocal tariffs imposed on most trading partners in April 2025, as subsequently amended.

### How Refunds Could Play Out If the Court Affirms

If the decision of the U.S. Court of Appeals for the Federal Circuit (CAFC) is affirmed, the federal government could be required to refund the challenged IEEPA tariffs paid by importers. The court may hold that all, some or none of the challenged tariffs are lawful, or remand the case for additional proceedings. However, no clear procedure or timeline exists for unwinding the tariffs collected.

Three potential refund scenarios include:

- The court could dictate refund eligibility requirements and deadlines;
- The Administration could issue guidance in implementing the refund process; or
- Importers could be instructed to simply rely on the conventional tariff refund process.

Although additional tariffs imposed on Brazil and India under IEEPA are not directly at issue, the Court's ruling could impact their viability — depending on what, if any, guardrails the Court places on the Administration's use of the IEEPA to set tariffs on trading partners.

### What Steps Businesses Can Take Now

### Related People

- Lydia C. Pardini
- Deanna Okun

### Related Capabilities

- Trade Law Remedies
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- Executive Orders

The attached fact sheet provides guidance on preparing for potential IEEPA refunds. Polsinelli will issue another e-alert updating guidance once the Supreme Court acts.

If your business needs strategic legal guidance or anticipates potential impacts resulting from these announcements, contact Deanna Okun, Lydia Pardini, Polsinelli's Executive Action Working Group or your Polsinelli contact.