

Publications

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Updates on the IEEPA Refund Process and Section 232 Derivative Content Value Calculations

Key Takeaways

- The U.S. Court of International Trade (CIT) amended its prior orders to clarify that International Emergency Economic Powers Act (IEEPA) refunds reach all duties imposed under the relevant Executive Orders – including tariffs on Brazil and India, the fentanyl tariffs, and the reciprocal tariffs – and that refunds are available even for finally liquidated entries.
- That clarification resolves the availability of refunds for finally liquidated entries. But importers should still review affected entries and consult counsel about any deadlines or procedural steps that may matter while U.S. Customs and Border Protection (CBP) finishes the Consolidated Administration and Processing of Entries (CAPE).
- CBP told the CIT that its new ACE functionality for IEEPA refunds remains on track for the originally estimated 45-day timetable, placing Phase 1 in mid- to late April. Even so, Phase 1 will cover only certain unliquidated and not-yet-final entries.
- Importers should identify and separate the entries covered by the CIT's March 20 and March 27 orders and confirm that ACE Portal Access and Automated Clearing House (ACH) refund information are current to avoid processing delays once CAPE is operational to submit refund declarations. CBP will issue refunds electronically rather than by check.
- Separately, CBP's Base Metals Center of Excellence and Expertise issued updated informal guidance on how to calculate the dutiable metal content of goods subject to section 232 tariffs.

IEEPA Refund Process Updates

As discussed in our previous alert, CBP is in the process of building the CAPE system to administer IEEPA duty refunds under the CIT's March 20 order where Judge Richard Eaton expanded refund eligibility beyond the IEEPA drug-trafficking/fentanyl and reciprocal tariffs addressed in the Supreme Court's decision in *Learning Resources, Inc. v. Trump* to include all duties imposed by various Executive Orders pursuant to IEEPA, including the tariffs imposed on Brazil and India.

The court issued another amended order on March 27 directing CBP to not only liquidate

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unliquidated entries and reliquidate non-final liquidations without IEEPA duties, but also to reliquidate finally liquidated entries without IEEPA duties. The result is straightforward: CBP must issue refunds for all entries on which IEEPA duties were paid including tariffs on Brazil and India, the fentanyl tariffs, and the reciprocal tariffs – and that refunds are available even for finally liquidated entries.

Following the March 27 order, CBP provided a new declaration on March 31 from Brandon Lord, Executive Director, Trade Programs, Office of Trade, CBP, with key updates on the agency's progress on implementing and rolling out the CAPE system across its four integrated components:

- **Claim Portal (86% complete):** a web-based ACE portal interface through which importers will upload a CSV file identifying the entry summaries for which they seek IEEPA refunds and through which CBP will validate the request.
- **Mass Processing (60% complete):** the back-end function that will remove the IEEPA HTS numbers and automatically recalculate duties for validated entries.
- **Review and Liquidation/Reliquidation (80% complete):** the module that will initiate the formal liquidation or reliquidation of validated entries.
- **Refund Processing (75% complete):** the function that will consolidate refunds by liquidation or reliquidation date and by Importer of Record and then transmit those refunds electronically.

CBP continues to develop and test CAPE. According to the March 31 declaration, Phase 1 remains on pace for deployment within the original schedule - about 45 days after CBP's first update to the court on March 6.

To meet that deadline, however, CBP narrowed Phase 1. It will cover entries that are still unliquidated or that remain within the 90-day voluntary reliquidation period under 19 U.S.C. § 1501 has not elapsed (up to the 80th day post-liquidation), including entries marked as suspended, extended, or under review. CBP estimates that Phase 1 will reach about 63% of entries for which IEEPA duties were paid or deposited.

Notably, Phase 1 will not cover: (1) entries that have been flagged for reconciliation or are Entry Type 09 – Reconciliation Summary; (2) entries designated on a drawback claim; (3) entries covered by an open protest; (4) entries not filed in ACE or lacking a liquidation status in ACE; and (5) entries subject to AD/CVD for which Commerce has issued liquidation instructions and liquidation is pending under 19 U.S.C. § 1504(d).

CBP will address finally liquidated entries in a later CAPE update. Importers therefore should sort entries now by whether they fall within the court's March 20 or March 27 orders so they are ready to submit refund declarations when CAPE opens.

The March 31 declaration also explains that CAPE's mass-processing function will recalculate total duties without the IEEPA duties, but refunds themselves will issue only when liquidation occurs in the ordinary course.

CBP further reiterated that, effective Feb. 6, 2026, all refunds must be issued electronically under Executive Order 14247. CBP issued guidance on March 27 reminding importers that ACE Portal Access and ACH setup are required to receive refunds and reported that more than 12,300 certified refunds had been rejected since Feb. 6 because the recipient had not provided the banking information required for electronic payment. Importers should confirm that their ACE access and ACH information are current before submitting IEEPA refund declarations through CAPE.

Updated CBP Guidance on Section 232 Dutiable Metal Content

Valuation

As discussed in our previous alert regarding section 232 dutiable metal content valuation, CBP has issued informal guidance directing importers to calculate the dutiable metal content of derivative goods subject to section 232 steel, aluminum, or copper tariffs based on the material composition of those goods.

The updated guidance addresses several issues left open by the earlier guidance:

- For articles made from both U.S. and foreign steel or aluminum, section 232 duties are assessed based on the article's country of origin. Importers may not separate the value of the U.S. steel or aluminum from the value of the foreign steel or aluminum.
- The exemption for articles made of U.S. melted-and-poured steel or U.S. smelted-and-cast aluminum under HTSUS 9903.81.92 or 9903.85.09, are "all or nothing" provisions. To qualify, the steel or aluminum in the article must be wholly melted-and-poured or smelt-and-cast in the United States for the article to be eligible for the section 232 duty exemption.
- When non-steel or non-aluminum products – such as perfume or lotion – are covered by the section 232 derivatives tariffs, the relevant article is the container. The importer's cost of the aluminum or steel container is therefore the value subject to section 232 duties.
- Importers may not break down the chemistry of a steel article to subtract the iron content from the section 232 dutiable value of the steel.
- For iron articles that remain subject to section 232, the dutiable iron-content value is determined in the same manner as the dutiable value for steel and aluminum.

CBP also explained how the treatment of iron has changed over time. Before June 4, 2025, CBP did not distinguish between steel and iron for section 232 purposes. The agency summarized the timeline this way:

- March 2018 to March 11, 2025: Iron articles pay section 232 duties.
- March 2018 to the present: Iron articles classified in chapter 72 pay section 232 duties. Chapter 72 has no derivatives and no separation of content value).
- March 12, 2025 to June 3, 2025: Derivative iron articles and iron parts classified outside chapter 73 do not pay section 232 duties, except for chapter 72, 8708.10.30, and 8708.29.21, where iron does pay.
- June 4, 2025 forward: Iron articles and iron parts classified in chapter 73, and in derivative articles classified elsewhere, do not pay section 232 duties, except for chapter 72, 8708.10.30, and 8708.29.21, where iron does pay).

Next Steps for Importers

With CAPE implementation underway and refund eligibility now clarified, importers should prepare for submission by identifying entries affected by the CIT's March 20 and March 27 orders and separating those that fall within CAPE Phase 1 from those that will be addressed later. Ensuring ACE portal access and up-to-date ACH information is critical, as refunds will be issued electronically and incomplete account information may delay payment. Importers should also assess any remaining procedural considerations for entries not immediately eligible for processing and work with counsel to align refund strategies with the system's phased rollout.

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

