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February 21, 2026

# Supreme Court Holds That IEEPA Does Not Authorize Tariffs

In *Learning Resources, Inc. v. Trump*, the Supreme Court held in a 6-3 decision that the International Emergency Economic Powers Act (IEEPA) does not authorize the President to impose tariffs.<sup>1</sup> At its core, the Court's opinion distinguishes the power that IEEPA confers on the President to "regulate" the importation of goods from the separate power to tax that the Constitution grants to Congress, concluding that the power to regulate does not necessarily include the power to tax.<sup>2</sup> This ruling is significant because it eliminates the statutory authority for many of the tariff measures imposed over the last year, including the "reciprocal" tariffs that apply to almost every global trade partner first announced in April 2025.<sup>3</sup> In response to the ruling, the President issued an executive order formally terminating the IEEPA tariffs.<sup>4</sup> While the ruling does not specify whether entities subject to invalid tariffs can obtain refunds, the President has already announced that he will impose tariffs under alternative statutory authorities.<sup>5</sup>

## Background

In early 2025, the President declared national emergencies under the National Emergencies Act concerning the influx of illegal drugs and "large and persistent" trade deficits.<sup>6</sup> Invoking IEEPA, the President imposed tariffs to address each threat, including a 25% duty on most Canadian and Mexican imports, 10% on imports from China, and "reciprocal" tariffs of at least 10% on all imports from all trading partners, with dozens of nations facing higher rates.<sup>7</sup>

Two groups of plaintiffs filed suit challenging the tariffs in the U.S. District Court for the District of Columbia and in the U.S. Court of International Trade, and both courts ruled in favor of the plaintiffs, concluding that IEEPA did not grant the President the power to impose tariffs.<sup>8</sup> The Federal Circuit affirmed the decision of the Court of International Trade, holding that IEEPA's grant of authority to "regulate . . . importation" did not authorize tariffs "unbounded in scope, amount, and duration."<sup>9</sup> The Court reviewed both the Federal Circuit and the District Court's decisions, but vacated the decision of the District Court because it lacked jurisdiction over the dispute.<sup>10</sup>

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<sup>1</sup> *Learning Resources, Inc. v. Trump*, Nos. 24-1287 and 25-250, 607 U.S. \_\_\_ (2026) ("Slip. Op.") at 1 (Syllabus).

<sup>2</sup> *Id.* at 2 (Syllabus), 14-15 (majority opinion).

<sup>3</sup> *See id.* at 2-3 (Syllabus).

<sup>4</sup> Exec. Order, *Ending Certain Tariff Actions*, The White House (Feb. 20, 2026), available [here](#).

<sup>5</sup> Presidential Proclamation, *Imposing a Temporary Import Surcharge to Address Fundamental International Payments Problems*, The White House (Feb. 20, 2026), available [here](#); Fact Sheet: *President Donald J. Trump Imposes a Temporary Import Duty to Address Fundamental International Payment Problems*, The White House (Feb. 20, 2026), available [here](#).

<sup>6</sup> Slip. Op. at 2 (majority opinion).

<sup>7</sup> *Id.* at 2-3.

<sup>8</sup> *Id.* at 4.

<sup>9</sup> *Id.* at 4-5.

<sup>10</sup> The Supreme Court ultimately vacated and remanded the decision of the District Court for the District of Columbia, concluding that only the Court of International Trade had jurisdiction over the dispute. *See id.* at 5 n.1.

### The Supreme Court Decision

Chief Justice Roberts wrote the majority opinion, holding that IEEPA does not authorize the President to impose tariffs.<sup>11</sup> The Court reasoned that Article I, Section 8 of the Constitution vests the power to “lay and collect Taxes, Duties, Imposts and Excises” in Congress alone.<sup>12</sup> All six Justices in the majority agreed that IEEPA’s text, which authorizes the President to “regulate . . . importation” but makes no mention of “tariffs” or “duties,” cannot be read to confer on the President the distinct and “extraordinary” power to tax imports.<sup>13</sup> The Court observed that IEEPA authorizes the President to “investigate, block during the pendency of an investigation, regulate, direct and compel, nullify, void, prevent or prohibit . . . importation or exportation,” but makes no mention of tariffs or duties.<sup>14</sup> Interpreting IEEPA’s text, the Court rejected the government’s argument that IEEPA’s grant to the President of the power to “compel” the importation of goods on the one hand, and on the other to “prohibit” importation entirely, necessarily included the lesser power to tax the importation of goods with duties or tariffs.<sup>15</sup> The Court explained that the power to impose tariffs is a power “different in kind, not degree, from the other authorities in IEEPA,” such that Congress cannot be assumed to have intended to confer that authority when it explicitly granted the President that more “extreme” authorities enumerated in IEEPA.<sup>16</sup>

Three Justices in the majority (the Chief Justice, joined by Justices Gorsuch and Barrett) relied on the major questions doctrine to decide the case, which would require “clear congressional authorization” for the President’s “extraordinary assertion” of tariff authority, emphasizing the vast “economic and political significance” of the President’s asserted power.<sup>17</sup> A clarity lacking in IEEPA’s text, which makes no mention of tariffs or duties.<sup>18</sup> Justice Kagan, joined by Justices Sotomayor and Jackson, concurred in the judgment but declined to rely on the major questions doctrine, reasoning that “ordinary tools of statutory interpretation amply support today’s result.”<sup>19</sup> In a separate concurrence, Justice Jackson emphasized the relevance of legislative history, noting that Congress intended IEEPA to authorize the President “to control or freeze property transactions where a foreign interest is involved,” not to impose tariffs.<sup>20</sup>

Justice Kavanaugh, joined by Justices Thomas and Alito, dissented.<sup>21</sup> The dissent argued that statutory text, history, and precedent demonstrate that tariffs are clearly authorized as a means to “regulate . . . importation.”<sup>22</sup> The dissent emphasized that President Nixon imposed 10% tariffs under IEEPA’s predecessor statute with the same language, and those tariffs were upheld in court.<sup>23</sup> The dissent also noted that the Court’s decision “might not substantially constrain a President’s ability to order tariffs going forward” because numerous other federal statutes authorize the President to impose tariffs.<sup>24</sup>

### Implications

- **IEEPA Gives the President the Power to Regulate, Not Tax.** The ruling invalidates broad tariffs imposed under IEEPA without calling into question other statutory authorities that explicitly grant the President authority to impose tariffs.
- **Immediate Impact on IEEPA Tariffs.** The tariffs currently in place under IEEPA, including reciprocal and secondary tariffs affecting many global trade partners, are now invalid and have been formally terminated by executive order.<sup>25</sup>

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<sup>11</sup> *Id.* at 20-21.

<sup>12</sup> U.S. Const. art. I, § 8; Slip. Op. at 5-6.

<sup>13</sup> Slip. Op. at 14-16.

<sup>14</sup> 50 U.S.C. § 1702(a)(1)(B); Slip. Op. at 8, 14.

<sup>15</sup> Slip. Op. at 16-17.

<sup>16</sup> Slip. Op. at 17.

<sup>17</sup> Slip. Op. at 7-8, 11-13.

<sup>18</sup> 50 U.S.C. § 1702(a)(1)(B); Slip. Op. at 8, 14.

<sup>19</sup> Slip. Op. at 1 (Kagan, J., concurring in part and concurring in judgment).

<sup>20</sup> Slip. Op. at 3-4 (Jackson, J., concurring in part and concurring in judgment).

<sup>21</sup> *Id.* at 1 (Kavanaugh, J., dissenting).

<sup>22</sup> *Id.* at 2-4.

<sup>23</sup> *Id.* at 14-16.

<sup>24</sup> *Id.* at 5-6, 62-63.

<sup>25</sup> See Exec. Order, *supra* note 4.

- **The President Can Still Impose Tariffs Through Other Authorities and Has Already Indicated He Will Do So.** As noted in the dissent, and also highlighted in our National Security Year-In-Review in January,<sup>26</sup> despite this ruling, the President can still impose tariffs under other authorities that explicitly grant the President that authority.<sup>27</sup> These include Section 301 of the Trade Act of 1974, Section 338 of the Tariff Act of 1930, and Section 232 of the Trade Expansion Act of 1962, though these authorities typically require some degree of process and in some cases limit both the amount and duration of tariffs.<sup>28</sup> The Commerce Department is already conducting several Section 232 national security investigations in different industries that could be used as a basis to impose tariffs, such as the semiconductor tariffs imposed by the President in January under the authority of Section 232.<sup>29</sup>

Notably, the President has already announced a new 10% global tariff under Section 122 of the Trade Act of 1974, which provides the President authority to impose temporary tariffs of up to 15% for up to 150 days to address balance-of-payment deficits.<sup>30</sup> (Update: later on February 21, 2026, the President announced that he would increase the global surcharge under Section 122 from 10% to 15%).<sup>31</sup> The surcharge takes effect on February 24, 2026, and is additive to most existing duties (such as Section 301 tariffs), but does not apply in addition to Section 232 tariffs.<sup>32</sup> This authority has never been invoked and may be susceptible to legal challenges given its narrow scope. The President further stated that, during that time period, the government would begin new tariff investigations under Section 301 of the Trade Act, which can result in more permanent tariffs, as noted above.<sup>33</sup> It is also possible that Congress will consider further legislative action affecting the scope of the President's powers to impose tariffs.

- **Availability of Tariff Refunds Unclear.** The ruling does not specify whether entities subject to invalid tariffs can obtain refunds, leaving it to lower courts to determine the practical effect and scope of any potential refund.<sup>34</sup> In dissent, Justice Kavanaugh noted that “the United States may be required to refund billions of dollars to importers who paid the IEEPA tariffs, even though some importers may have already passed on costs to consumers or others,” and acknowledged that the refund process is likely to be a “mess.”<sup>35</sup> Notably, some entities filed lawsuits requesting refunds even before the Court published its opinion.<sup>36</sup> To the extent there will be a refund protocol, parties to M&A transactions are well advised to take potential refunds into account, including by contractually establishing which party is entitled to pre-closing refunds.
- **Impact on Trade Deals Uncertain.** The ruling's impact on the trade agreements negotiated with several foreign governments over the last year is also unclear. While the Court did not rule on the validity of any trade deal, its ruling could limit the President's ability to impose the same tariffs that he relied upon as leverage in some of these trade deals. By contrast, it is also possible that the President could invoke alternative statutory authorities to maintain the current trade deal status quo. Ultimately, the President is likely to prioritize preserving the substance of existing trade arrangements, including by identifying novel legal and policy frameworks to achieve that goal, and we therefore expect that most current trade deals will remain in place largely unchanged.

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<sup>26</sup> See Paul, Weiss, *2025 Year-In-Review: National Security* (Jan. 2026), available [here](#).

<sup>27</sup> Slip. Op. at 5-6 (Kavanaugh, J., dissenting).

<sup>28</sup> See 19 U.S.C. § 2411 (Section 301 of the Trade Act of 1974); 19 U.S.C. § 1338 (Section 338 of the Tariff Act of 1930); 19 U.S.C. § 1862 (Section 232 of the Trade Expansion Act of 1962).

<sup>29</sup> Presidential Memorandum, *Adjusting Imports of Semiconductors, Semiconductor Manufacturing Equipment, and Their Derivative Products Into the United States*, The White House (Jan. 2026), available [here](#).

<sup>30</sup> Proclamation, *supra* note 5; Fact Sheet, *supra* note 5; *see also* 19 U.S.C. § 2132.

<sup>31</sup> Suarez Sang & Joe Walsh, *Trump says he will raise global tariffs to 15% after Supreme Court decision*, CBS News (Feb. 21, 2026), available [here](#).

<sup>32</sup> Proclamation, *supra* note 5.

<sup>33</sup> Fact Sheet, *supra* note 5 (“In addition to today's actions, the President has directed the Office of the United States Trade Representative to use its section 301 authority to investigate certain unreasonable and discriminatory acts, policies, and practices that burden or restrict U.S. commerce.”).

<sup>34</sup> Slip. Op. at 6, 63. (Kavanaugh, J., dissenting).

<sup>35</sup> *Id.* at 6.

<sup>36</sup> See, e.g., Jonathan Stempel, *Costco sues US to preserve tariff refunds if Trump loses appeal*, Reuters (Dec. 1, 2025), available [here](#).

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This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

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