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The Prospects and Implications of Legal Challenges to President Trump's IEEPA Tariffs

Timothy Meyer, Duke University School of Law

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TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
V.O.S. SELECTIONS V. TRUMP.	3
THE TARIFFS ARE UNLAWFUL.	3
THE INJUNCTION.	5
If the plaintiffs win, then what?	5
REFUNDS.	5
NEW TARIFFS.	6
TRUMP'S 'DEALS'	7
ISSUES FOR CONSIDERATION	8
CONCLUSION	9
REFERENCES	10
ABOUT THE AUTHOR	12
ABOUT THE SCHOOL OF PUBLIC POLICY	13

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EXECUTIVE SUMMARY

Since his second term in the White House began in January 2025, President Donald Trump has imposed a sweeping array of tariffs on nearly all U.S. trading partners. While he has invoked familiar legal authorities such as Section 232 of the *Trade Expansion Act* of 1962, Trump has turned to the *International Emergency Economic Powers Act* (IEEPA) to justify his more extreme actions. Historically, IEEPA—which authorizes the president to act after he has declared a national emergency with respect to an unusual and extraordinary threat to U.S. security—has been used to impose a range of economic sanctions, but prior to 2025 it had never been used to impose tariffs.

Trump has imposed four major sets of tariffs under IEEPA. In February 2025, he targeted Canada, Mexico and China after declaring an emergency over fentanyl smuggling from those countries. Next, he designated April 2, 2025, as Liberation Day and imposed a 10 per cent duty on imports from all countries, along with additional “reciprocal” tariffs on specific countries, to address trade imbalances. In July, Trump imposed a 40 per cent tariff on Brazilian imports because he said Brazil’s prosecution of its former president, Jair Bolsonaro, posed a threat to U.S. security. In August, he slapped India with a 25 per cent tariff on most imports in retaliation for India’s continued purchases of Russian oil during the war in Ukraine. Legal scrutiny quickly followed the imposition of these tariffs, with more than a dozen lawsuits filed to date. The most significant of these is *V.O.S. Selections v. Trump*, which combines cases brought by small businesses and 12 U.S. states. A three-judge panel of the Court of International Trade unanimously ruled the fentanyl and Liberation Day tariffs unlawful under IEEPA and issued an injunction to halt their collection. The Federal Circuit Court of Appeals upheld this ruling, citing, among other reasons, IEEPA’s lack of clear authorization for tariffs as required by the major questions doctrine. However, the case returned to the lower court to reconsider the scope of the injunction.

In November, the Supreme Court is slated to hear a consolidation of two cases: the U.S. government’s appeal in *V.O.S. Selections* and a case called *Learning Resources vs. Trump*. In the latter case, a trial court decided that IEEPA does not authorize tariffs at all, with the Supreme Court agreeing to hear the case before the court of appeals ruled. The outcome of this hearing may offer limited prospective relief from tariffs, though, as the Trump administration has signaled it will simply resort to alternative legal authorities, including older trade laws, to maintain or reimpose tariffs.

The tariffs have had a significant economic impact. U.S. tariff revenue surged to \$135 billion through August 2025, more than double the 2024 figure. If the Supreme Court invalidates the tariffs, importers should in principle be entitled to refunds. The government, however, is unlikely to automatically issue refunds. Instead, importers are likely to have followed administrative processes to obtain refunds, including filing corrections or protests within specific timeframes. The administration may even resist issuing refunds without further litigation.

Trump has also used the tariffs as leverage for a series of “trade deals” he announced with various countries. These informal agreements, neither legally binding nor approved by Congress, offer lower tariffs in exchange for concessions. If IEEPA tariffs are invalidated, partner countries could renege on their concessions.

Firms and governments should prepare for continued trade volatility, maintain detailed tariff records, review contracts for refund eligibility and monitor developments closely. Even if the Supreme Court rules against the tariff regime, it is unlikely to end Trump’s aggressive policy of unilateral trade action.

Since returning to office in January 2025, U.S. President Donald Trump has imposed far-reaching tariffs on imports from every country in the world. Although he has continued to rely on legal authorities that he invoked during his first term, in particular Section 232 of the *Trade Expansion Act* of 1962, Trump has broken new ground by relying on the *International Emergency Economic Powers Act* (IEEPA) of 1977 as the basis for his most sweeping actions. As relevant to tariffs, IEEPA authorizes the president to “regulate... importation” in order: 1) “to deal with” 2) a presidentially declared emergency that represents 3) an “unusual and extraordinary threat” and 4) “has its source in whole or substantial part outside the United States” (Cornell Law School 1977a, b).

To date, Trump has imposed four sets of tariffs under IEEPA. First, in February 2025, Trump imposed tariffs on products from Canada, Mexico and China (White House 2025a). These tariffs have been referred to as the “fentanyl tariffs” because the predicate emergency is the smuggling of fentanyl (and other illegal activities) into the United States. Initially set at 25 per cent, Trump increased the rate to 35 per cent on Canada, although the tariffs do not apply to products covered by the Canada-United States-Mexico Agreement (CUSMA) (White House 2025b).

Second, in April 2025, Trump imposed the so-called Liberation Day tariffs, which consisted of a 10 per cent baseline tariff on imports from every country and additional “reciprocal tariffs” on certain countries, although the duties on Canada and Mexico under this order only take effect if the fentanyl tariffs are removed (Federal Register 2025). The predicate emergency for these tariffs is the U.S. trade deficit. The reciprocal tariffs have been suspended and adjusted over time, most recently being reimposed on many countries at the beginning of August 2025.

Third, in July 2025, Trump imposed an additional 40 per cent tariff on Brazilian imports to counteract supposed threats to the United States from Brazil’s prosecution of its former president, Jair Bolsonaro (White House 2025c). Finally, in August 2025, Trump imposed an additional 25 per cent tariff on most imports from India in response to India’s continued purchase of Russian oil and gas, tying the tariffs to a declared emergency with respect to Russia’s invasion of Ukraine (White House 2025d).

Over a dozen lawsuits have been filed in U.S. courts challenging the legality of these tariffs. Most were filed in April and May and thus challenge only the Liberation Day and fentanyl tariffs, although the resolution of those cases could have implications for other IEEPA-based tariffs. This policy brief explains these cases, including the legal claims raised, their current status and the implications should the challenges succeed.

V.O.S. SELECTIONS V. TRUMP

The most important case filed against the Trump administration is actually the consolidation of two cases: one filed by a group of small business and the other filed by a group of 12 U.S. states led by Oregon. The Court of International Trade (CIT), a specialized federal court that has exclusive jurisdiction over cases arising from laws authorizing tariffs, heard arguments in the combined case, known as *V.O.S. Selections v. Trump*, on May 21, 2025 (United States Court of International Trade 2025). Most of the other cases challenging the tariffs have been paused while *V.O.S. Selections* goes forward. Although the CIT is a trial court, a three-judge panel heard the case because of its extraordinary significance. The CIT panel unanimously held that both sets of tariffs exceed the president's authority under IEEPA (United States Court of International Trade 2025). The CIT then issued an injunction, preventing the government from collecting the tariffs from any importer.

The government immediately appealed to the U.S. Court of Appeals for the Federal Circuit, which paused the injunction's effect while it heard the case. Normally, U.S. courts of appeals sit in three-judge panels as well, but Federal Circuit took the unusual step of deciding to hear the case before the full 11-judge court, a procedure known as an *en banc* hearing. Argument before the Federal Circuit occurred on July 31, 2025, and the Federal Circuit issued its extraordinarily swift decision on August 29, 2025 (United States Court of Appeals for the Federal Circuit 2025). By a vote of seven to four, the Federal Circuit ruled that the tariffs are unlawful.

However, it also found that the CIT did not adequately explain why it had ordered the government to cease collecting the tariffs from any importer, rather than only the plaintiffs in the case. It sent the case back to the CIT to reconsider whether the injunction should protect only the plaintiffs, or whether it should indeed prevent the government from collecting the tariffs from anyone. In a further wrinkle, the Federal Circuit paused the effect of its ruling until October 14, 2025, to give the government time to seek review from the Supreme Court.

On September 3, the government asked the Supreme Court to hear the case and expedite the proceedings (United States Supreme Court 2025). Less than a week later, the Supreme Court agreed, setting the case for argument in the first week of November. It also agreed to hear a third case challenging the tariffs, *Learning Resources v. Trump*, which it consolidated with *V.O.S. Selections* (United States District Court for the District of Columbia 2025). In *Learning Resources*, a district court in Washington, D.C. held that the IEEPA does not authorize tariffs at all. The government had appealed that decision to the D.C. Circuit Court of Appeals, which had not yet ruled when the Supreme Court agreed to hear the case.

A decision from the Supreme Court is thus possible before the end of 2025 and should be issued at the latest in June 2026.

THE TARIFFS ARE UNLAWFUL

Under Article I, Section 8 of the U.S. Constitution, the power "to lay and collect Taxes, Duties, Imposts and Excises" and "To regulate Commerce with foreign Nations" belongs to Congress, not the president (United States Congress n.d.). Thus, the president can only impose tariffs if he can identify a law authorizing the imposition of tariffs, and if he follows the requirements of that law.

A seven-judge majority of the Federal Circuit concluded that IEEPA contains "no clear congressional authorization ... for tariffs of the magnitude" of the Liberation Day and fentanyl tariffs. The court reasoned that IEEPA does not explicitly authorize tariffs, nor does it even mention the term or any similar terms such as taxes or duties.

By contrast, many laws do authorize the imposition of tariffs, but almost all do so using one of those terms explicitly (Arato, Claussen and Meyer, forthcoming). All of those laws, moreover, contain various limits on the government's power to impose tariffs. For instance, they might require an administrative agency to conduct an investigation and make findings prior to the imposition of tariffs, or they might impose limits on the amount or duration of any tariffs. Beyond requiring the president to declare an emergency — a discretionary determination that is not reviewable by courts — IEEPA does not contain any procedural requirements, does not require the participation of any administrative agencies and does not impose any limits on the amount or duration of measures taken under the statute.

The court also found that the magnitude of the challenged tariffs meant that clear congressional authorization is necessary under the “major questions doctrine” (United States Supreme Court 2022). Under that doctrine, Congress must have clearly authorized government action on issues of major economic and political significance. Since IEEPA does not mention tariffs at all, Congress could not have clearly authorized Trump's wholesale rewriting of the U.S. tariff schedule.

Finally, the court rejected the government's reliance on the only historical instance it could find of tariffs being imposed and upheld under a statute that does not explicitly refer to tariffs, taxes, duties or the like. As Inu Manak has discussed previously, in 1971 then-president Richard Nixon imposed a 10 per cent surcharge on most imports into the United States to address a balance-of-payments problem.

In defending the president's actions, the government argued that the term “regulate ... importation” in IEEPA's predecessor statute, the *Trading with the Enemy Act* (TWEA), authorized the tariffs (Library of Congress n.d.). The court of appeals ultimately agreed in a case called *United States v. Yoshida International, Inc.* (Court Listener 1975). Its decision made clear that it rested on the narrowness of Nixon's actual tariffs including their temporary nature (only five months) and the fact that they did not apply where Congress had approved lower tariffs. As well, the decision did not “approve in advance any future surcharge of a different nature, or any surcharge differently applied or any surcharge not reasonably related to the emergency declared.”

Because IEEPA carries forward TWEA's language authorizing the president to “regulate ... importation,” the government has argued that the courts should uphold Trump's tariffs as the court did in *Yoshida*. The court, though, interpreted Congress's subsequent passage of IEEPA as at most ratifying the narrow power approved by the *Yoshida* court, not the broad power Trump has claimed.

Four members of the seven-judge majority would have gone further. Writing separately, they would have found that IEEPA never authorizes tariffs. In their view, the term “regulate” as used in IEEPA does not include the power to tax. Holding otherwise would make little sense in context, because the term “regulate” in IEEPA applies to a host of activities that no one has ever thought could be taxed under IEEPA. Moreover, the government's interpretation of the statute, which permits essentially any tariff structure without any process or limit, would be unconstitutional under the non-delegation doctrine, requiring Congress to guide the executive branch's exercise of discretion with an “intelligible principle” when delegating power. The remaining four judges dissented, arguing that IEEPA should be interpreted broadly to include the power to impose tariffs and these specific tariffs were consistent with IEEPA's preconditions.

This division among the judges leaves open the possibility that some tariffs might still be lawful under IEEPA. Only four of the 11 judges were prepared to say that tariffs under IEEPA are never authorized. This means that the decision does not clearly resolve the legality of the Brazil and India tariffs, and it also leaves open the possibility that narrower tariffs on other countries under IEEPA might be permissible.

THE INJUNCTION

The court unanimously agreed that the case needed to be sent back to the CIT to consider how broadly the injunction against collecting the tariffs should apply. In an unrelated case, the Supreme Court recently concluded that courts should only issue so-called “universal injunctions” — orders preventing the government from enforcing a policy against anyone, not only the plaintiffs to a case — when doing so is necessary to grant the plaintiff the relief it has sought (United States Supreme Court 2024).

The CIT had concluded that its order should prevent the collection of tariffs from any importer because the Constitution requires that tariffs be “uniform” throughout the United States. An order to cease collecting the tariffs only with respect to the plaintiffs would violate this rule by effectively allowing higher tariffs on importers other than the plaintiffs. If and when the case returns to the CIT, it will have to consider how that constitutional rule interacts with the Supreme Court’s decision on universal injunctions.

IF THE PLAINTIFFS WIN, THEN WHAT?

Contrary to the conventional wisdom, a final victory for the plaintiffs in *V.O.S. Selections* is unlikely to produce any immediate change in U.S. policies, for two reasons. First, although the decision in *V.O.S. Selections* will determine the legality of the tariffs, the plaintiffs did not seek refunds of the tariffs already paid and thus the decision will not immediately result in any refunds. Second, Trump has other legal authorities on which he can rely to reimpose tariffs for at least some period of time. As a result, the so-called trade deals that Trump has negotiated at tariff point will also likely remain in place, although a victory for the plaintiffs could ultimately leave the president without the authority to implement the agreements unless Congress passes new legislation.

REFUNDS

Due to the Trump tariffs, U.S. government tariff revenue has exploded in 2025. Through August 21, 2025, the U.S. government had raised a gross total of \$135 billion in tariff revenue in 2025 (Snyderman, Lautz, Quakenbush and Lahiri 2025). By way of comparison, in 2024 the United States had raised only \$57 billion in gross tariff revenue at that point in the calendar year, while it raised \$78 billion by the same point in 2022, the next closest year in terms of gross tariff revenue. Of course, not all of this revenue is from the IEEPA tariffs. But a final ruling that they are unlawful would in principle mean that a substantial portion of the additional tariff revenue raised in 2025 would be subject to refund. As a result, investment firms — including Cantor Fitzgerald, U.S. Commerce Secretary Howard Lutnick’s old firm that continues to be run by his children — have been looking into purchasing the rights to any subsequent refunds (Matsakis and Schiffer 2025).

The process for getting refunds is subject to some doubt, however. The plaintiffs in *V.O.S. Selections* did not seek an order from the courts requiring the refund of tariffs to importers generally. Doing so would have slowed the case down. Instead, the only generally applicable relief the plaintiffs sought was a determination that the tariffs are unlawful and an order against the tariffs being collected in the future. Therefore, the resolution of *V.O.S. Selections* will not directly result in an order to refund the tariffs.

Nevertheless, should the plaintiffs win, the tariffs will be unlawful and subject to refund. U.S. Customs and Border Patrol (CBP or Customs) has a standard process for adjusting and refunding tariffs. Under that process, importers can file a “post-summary correction” for 314 days once the duty is paid (Gottlieb 2025). After that period, a duty is “liquidated,” but importers can still file a protest for 180 days.

The Trump administration has already voluntarily used this procedure to refund certain tariffs that were “stacked,” meaning that two sets of the administration’s extraordinary tariffs applied to the same product. These administrative procedures could offer importers the most straight-forward path to a refund, provided that courts resolve the legality of the tariffs conclusively within the window of time in which these procedures are available.

The timing of the final resolution of *V.O.S. Selections* casts some doubt on the availability of these procedures, though. The earliest IEEPA tariffs were collected in February 2025 on imports from China, with Canada and Mexico becoming subject to tariffs in March and the rest of the world in April. That means that for those tariffs, the 314-day liquidation period would expire between December and February 2026, and the 180-day protest period would stretch out until sometime between June and August 2026 (the time limits would run from the date the tariffs are paid, so they would stretch further into the future for tariffs paid later). Under the current briefing schedule, the earliest the Supreme Court could resolve the case is likely December 2025 and the latest date is June 2026. That means importers may have only a small window to file a protest with respect to tariffs paid in the earliest days of the IEEPA tariff regime.

Moreover, even within those time limits, the Trump administration could make it difficult for importers to claim refunds, such as through delays, onerous documentation requirements or arbitrary decision-making in terms of who gets a refund. And because *V.O.S. Selections* will not actually result in an order to refund the tariffs, the Trump administration could in principle simply refuse to issue refunds unless importers go back to court. In any of these situations, importers seeking refunds would have to file a lawsuit at the CIT seeking a court order compelling the government to issue refunds. If lawsuits become necessary, the issuance of refunds could be delayed into at least 2027. Importers are thus advised to keep detailed records of tariffs they have paid and to consult with experts who can advise them on the time limits and procedures necessary to claim refunds if the *V.O.S. Selections* plaintiffs ultimately prevail.

Finally, importers may have passed the cost of the tariffs on to subsequent purchasers of the imported products. Such subsequent purchasers would not be entitled to a refund from Customs itself. They might be entitled to a refund from an importer who received a refund, but the right to such a refund would be governed by any contracts between the importer and the subsequent purchaser.

NEW TARIFFS

A victory for the plaintiffs likely won’t provide immediate relief from the imposition of tariffs either. In part, this is because the Trump administration has launched a number of investigations under Section 232 and Section 301 of the *Trade Act* of 1974 to provide authority for tariffs on specific products (Section 232) or against specific countries (Section 301) (GovInfo 2024). The decision in *V.O.S. Selections* does not implicate those tariffs. Moreover, as noted above, the Federal Circuit’s decision seems to give the administration at least a bit of leeway to reimpose tariffs under IEEPA by narrowing their scope and magnitude. And the Federal Circuit’s order, if upheld by the Supreme Court, would require the CIT to reimpose and justify an order to stop collecting these tariffs before the government was obliged to stop. That order itself would likely be subject to appeals, potentially delaying its effectiveness.

Trump also has two other authorities that would likely provide him some ability to reimpose tariffs for at least a little while. The first is Section 122 of the *Trade Act* of 1974 (Cornell Law School 1975). Enacted in response to Nixon’s 1971 surcharge, Section 122 authorizes the president, in relevant part, to impose up to a 15 per cent tariff in response to address “large and serious United States balance-of-payments deficits” or “fundamental international payments problems.”

Like IEEPA, Section 122 does not require any executive branch agency involvement or specific factual findings. Unlike IEEPA, though, Section 122 only allows the tariffs to remain in place for 150 days unless Congress acts to extend them and must also be imposed on a non-discriminatory basis. Section 122 might provide authority for the president to reimpose the baseline 10 per cent duty he imposed under IEEPA for 150 days, so long as he did not exempt any countries.

Section 122 has never been used to impose tariffs, so there are questions that could provide the basis for legal challenges. For example, would the trade deficit — the predicate for Liberation Day tariffs — qualify as a balance-of-payments problem? The CIT thought so because the trade deficit is a component of the balance of payments, but it's also much broader, including things like inbound and outbound investment and trade in services, where the United States runs a surplus.

Trump could also try to reimpose tariffs after the 150 days, perhaps by recharacterizing the nature of the problem or simply by claiming that the 150-day limit does not prevent him from reimposing tariffs for multiple 150-day periods. Although the statute would not seem to permit such an action, the Federal Circuit has been sympathetic to this kind of argument in the context of time limits in Section 232 (United States Court of Appeals for the Federal Circuit 2021).

The second authority is Section 338 of the *Tariff Act* of 1930 (Cornell Law School 1930). This section authorizes the president to raise tariffs up to 50 per cent of an imported good's value if another country is unreasonably discriminating against U.S. trade. To use Section 338, the president must find that another country is imposing "any unreasonable charge, exaction, regulation, or limitation which is not equally enforced upon the like articles of every foreign country" or that "by or in respect to any customs, tonnage, or port duty, fee, charge, exaction, classification, regulation, condition, restriction, or Prohibition" that a foreign country discriminates against U.S. products or services.

Like Section 122, Section 338 has never been used as a basis for tariffs. There are therefore questions about how it would work. One central issue is whether the imposition of tariffs first requires an investigation and finding of discrimination by the International Trade Commission. Section 338 assigns to the Commission "the duty ... to ascertain whether any of the discriminations" contemplated by the statute exist.

For context, during the 1930s, Commission investigations were common and the primary mode for implementing Section 338. Courts sometimes look to historical practice to understand ambiguous laws, so courts could rely on that practice to hold that a Commission investigation is required before presidential action. However, the law does not explicitly say that a Commission investigation is a predicate to the president's determination that discrimination exists and warrants action.

Taken together, Section 122 and Section 338 would likely provide the president authority to reimpose most of the current IEEPA tariff regime at the conclusion of *V.O.S. Selections*, even if subsequent litigation challenged those tariffs.

TRUMP'S 'DEALS'

V.O.S. Selections also has implications for Trump's so-called trade deals. In April, Trump announced that his administration would negotiate "90 deals in 90 days" (Messerly, Desrochers and Hawkins 2025). According to the administration, these deals are needed to eliminate the national emergency concerning the U.S. trade deficit by extracting tariff and non-tariff concessions from these countries (United States Senate Committee on Finance 2025). The basic template appears to be that the United States will raise its tariffs on countries that reach

agreements with it, but not by as much as it would without an agreement. The threat of larger tariffs will thus induce other countries to make concessions.

As of the time of writing, the Trump administration had announced “deals” with the United Kingdom, the European Union, Vietnam, Indonesia, Japan, South Korea, Pakistan and the Philippines, while de-escalating tariffs on China (White House 2025e, f; Rapoport 2025). Canada has dropped some of its retaliatory tariffs on the United States in the hopes of jump-starting negotiations (Yousif 2025). Significantly, none of these “deals” are trade agreements in the legal sense, at least yet. They are not legally binding. The Trump administration is not asking Congress to approve and implement the agreements as a matter of U.S. law and although terms have been announced in some cases, no final texts have been made publicly available.

Consequently, the Trump administration’s authority to implement the tariffs called for by these deals, as well as the larger tariffs that are prompting the deals, depends on whether tariffs are permitted under IEEPA or another law. If the Supreme Court agrees with the lower courts that IEEPA does not authorize tariffs, the Trump administration’s tariff threats may appear less credible, causing nations to reconsider whether they wish to continue to provide any additional market access they granted under the threat of tariffs.

As noted, the Trump administration may be able to use Section 122 and Section 338 to re-implement the tariffs. The administration could also ask Congress to grant it the authority to impose tariffs called for by these deals, as would ordinarily be done for trade agreements. But firms whose businesses are impacted by their own governments’ concessions to the United States under threat of tariffs should prepare for the possibility that their own governments will walk back those concessions if the U.S. government loses in *V.O.S. Selections*.

ISSUES FOR CONSIDERATION

Given the uncertainty around the ongoing availability of IEEPA to justify Trump’s tariffs, governments and firms would be wise to take the following steps:

- Prepare for the reality that elevated U.S. tariffs are likely here to stay for the foreseeable future. *V.O.S. Selections* is unlikely to result in a court decision to halt the collection of IEEPA tariffs prior to June 2026 at the earliest. Even if the IEEPA tariffs are held unlawful, the administration will likely reimpose a similar tariff regimen, kicking off another round of litigation.
- Importers of record in the United States should maintain detailed records with respect to any tariffs paid to the United States, including the reason the tariff was assessed, the amount and the timing. Such records are likely to be necessary should refunds become available. If *V.O.S. Selections* ultimately confirms the illegality of the IEEPA tariffs, importers should consult with counsel to ensure that they follow the correct procedures for seeking a refund and do not miss any applicable deadlines.
- Review their contracts. Firms that face cost increases due to the tariffs, but are not importers of record, should review their contracts to see whether they may be entitled to refunds from importers who actually paid the tariffs. Because such firms will not be able to directly claim refunds, if they are entitled to refunds they may wish to make sure the importers properly seek any refunds that become available.
- Monitor the situation. Firms that rely on the terms of any trade deal reached between the United States and another country should monitor the extent to which governments continue to implement the terms of their agreements with United States. A common and successful tactic

during the first Trump administration was to allow Trump to announce agreements with which U.S. trading partners would not strictly comply. Firms should thus not presume that the terms of any deal with Trump will be strictly observed by U.S. trading partners.

At the same time, governments should also continue to keep abreast of the situation with respect to the legality of U.S. tariffs. The U.S. government's substantial authority to impose tariffs outside of IEEPA may mean that governments will want to continue any deals that they make with the Trump administration, even if the IEEPA tariffs are held unlawful. But governments may also wish to consider modifying their behaviour if IEEPA is no longer available as a basis for the kinds of sweeping tariffs the Trump administration has imposed in its second term.

CONCLUSION

The challenges to Trump's tariffs are moving through the U.S. court system at a breakneck pace. The first cases were filed in April, and the Supreme Court will hear the two consolidated cases in November and could decide by the end of the year. So far, every court to address the lawfulness of the tariffs has concluded that they are illegal. But even if the Supreme Court agrees, do not expect tariffs to go away. Trump will continue to impose tariffs under other authorities and, depending on how the Supreme Court resolves the case, he may be able to continue to rely on IEEPA for at least some tariffs. Equally importantly, the Supreme Court is unlikely to address directly and conclusively importers' entitlements to refunds. A Supreme Court decision striking down the tariffs is thus really only the start of a potentially long process for importers seeking refunds.

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About the Author

Timothy Meyer is the Richard Allen/Cravath Distinguished Professor in International Business Law and co-director of the Center for International and Comparative Law at Duke University School of Law. He is an expert in international trade and investment law, international environmental law, and U.S. foreign relations law. Meyer serves on the Board of Editors of the *American Journal of International Law*, the *Journal of International Economic Law*, and is an elected member of the American Law Institute. He regularly serves both as counsel and as an expert in international arbitrations and in cases raising international and foreign relations law issues in U.S. courts. Before entering the academy, he served as an attorney-adviser in the U.S. State Department's Office of the Legal Adviser and clerked for the Honorable Neil M. Gorsuch.



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