Foster Garvey

Legal Alerts

Supreme Court Review of IEEPA Tariffs Brings Importer Refund Rights Into Focus

01.15.26

As you may have seen in the news, tariffs imposed under the International Emergency Economic Powers Act (IEEPA) are now before the Supreme Court after the Court of Appeals for the Federal Circuit found them unlawful. While this raises the possibility that the tariffs could ultimately be invalidated, a business's right to a refund would not be automatic. Businesses affected by the tariffs may therefore wish to consider steps to preserve their ability to recover import duties paid if the tariffs are struck down.

The Supreme Court Case & Related Litigation

The Supreme Court recently heard oral arguments in *V.O.S. Selections, Inc. v. Trump*, with the Justices expressing skepticism over the legality of the tariffs. Even if the Court ultimately strikes down the tariffs, businesses may not be entitled to an automatic refund for import duties already paid.

Multiple businesses have now filed follow-on lawsuits in the Court of International Trade to protect their rights in the event the Supreme Court invalidates the IEEPA tariffs. These lawsuits follow the existing challenge in *V.O.S. Selections* and related challenges involving tariffs imposed on goods from countries such as India and Brazil.

How Import Duties Are Finalized

When a business imports goods into the United States, the importer pays an estimated duty on entry based on its customs declaration. Customs and Border Protection reviews and finalizes the entry, notifying the importer of record whether additional duties are owed or whether the importer is entitled to a refund. This process, known as liquidation, must generally occur within one year, although Customs and Border Protection typically seeks to liquidate duties approximately 314 days after the date of entry.

Why Liquidation Matters

If an importer protests the amount paid, it must do so within 180 days, asking Customs and Border Protection to "reliquidate" the duties. However, there are some circumstances in which a business cannot protest an entry's liquidation, such as when Customs and Border Protection acts in a purely ministerial capacity (*i.e.*, without discretion). The risk of liquidation is the basis for recent lawsuits filed in the Court of International Trade, as companies seek to enjoin the federal government from imposing and enforcing any tariffs under the IEEPA and to recover any duties paid on the allegedly unlawful tariffs.

© 2026 Foster Garvey PC. All Rights Reserved.

In recent filings, the Government has indicated that it is willing to treat similarly situated plaintiffs in similar ways, but that approach may require a proper challenge filed in court to prevent liquidation or to obtain an order requiring reliquidation.

Important Considerations for Businesses

Businesses that have paid import duties on challenged tariffs should consult with a lawyer, as even if the Supreme Court strikes down the tariffs, refunds may not be automatic, and importers may lack the ability to recover duties on already-liquidated entries if no action is taken.

If you have questions about these developments or how they may affect your business, please contact a member of Foster Garvey's Litigation team.

Authored by

Graham Fulton

Associate|Seattle

206.447.7906 graham.fulton@foster.com

Benjamin J. Hodges

Principal|Seattle

206.447.6282 ben.hodges@foster.com

Related Areas

- Business
- Litigation

© 2026 Foster Garvey PC. All Rights Reserved.