



US Supreme Court overturns US customs tariffs: IEEPA not a suitable legal basis

On 20 February 2026, the US Supreme Court ruled unlawful the customs tariffs introduced by President Donald Trump during his second term. This finding was based on the International Emergency Economic Powers Act (IEEPA). The decision explains, in detail, why the President was not permitted to introduce the customs tariffs by executive order. It remains unclear, however, whether US customs tariffs may be introduced on other legal bases. The White House has already announced new customs duties under a different legal basis. Businesses that have, in recent months, paid customs duties on imports into the United States, which were based on the legal basis now rejected may, however, expect refunds.

1 Background

It was the task of the US Supreme Court to clarify as to whether the US President, on the basis of the IEEPA, was lawfully entitled to independently issue legal regulations on the levying of customs duties by means of executive orders. The IEEPA, enacted in 1977, is a type of emergency law. It empowers the US President to introduce legal regulations without the involvement of Congress in order to deal with “unusual and extraordinary” foreign threats to national security, foreign policy or the economy of the United States. This includes, for example, the possibility of prohibiting or controlling transactions involving foreign assets or introducing sanctions. Under the US Constitution, legislative authority in the area of taxation, duties and customs lies with Congress. It was disputed whether the wording “*regulate ... importation*” in the IEEPA also authorized the US President to enact legal regulations on the levying of customs duties.



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2 History

After taking office in January 2025, President Trump described the inflow of illegal drugs (fentanyl) from Canada, Mexico and China, and “large and persistent” trade deficits, as foreign threats. In his opinion, both threats were “unusual and extraordinary” for the United States. He therefore considered the IEEPA to be applicable. With a view to combating drug trafficking, customs tariffs of up to 25% were introduced on the importation of goods from Canada, Mexico and China. Within the framework of the so-called “*reciprocal tariffs*”, aimed at reducing trade deficits, President Trump imposed a minimum customs tariff of 10% on “all imports from all trading partners”. Importation of certain goods from individual states and customs territories were, at times, subject to significantly higher customs tariffs. President Trump subsequently adjusted the customs tariffs several times. In particular, he reduced rate where trading partners entered into trade agreements favorable to the United States, or threatened increases where they did not. Most imports of EU goods were recently subject to a minimum rate of 15%. Several companies and US federal states brought actions against the customs tariffs introduced by the US administration under President Trump. Customs tariffs imposed on other legal bases, due to unfair trade practices (sec. 301 of the US Trade Act), and the existing customs tariffs on steel and aluminium from the EU (sec. 232 of the Trade Expansion Act) were not the subject of the proceedings.

3 Decision

The Supreme Court – the highest US court – ruled, by six votes to three, against the US government and held unlawful the customs tariffs introduced on the basis of the IEEPA. The Supreme Court first made clear that the US Constitution assigns legislative competence in the field of taxes, customs and other duties, to Congress. In principle, the President has no independent legislative competence. Nor could the transfers of competence provided for in the IEEPA for exceptional situations justify the customs tariffs introduced by President Trump. The Supreme Court did not share the US government’s view that the wording “*regulate ... importation*” authorized the President accordingly. The Court criticized the fact that “customs tariffs” are not even mentioned in the IEEPA. Given the economic and political significance of the measures – unlimited customs tariffs of any amount, for any duration and vis-à-vis all states – the Court required a clear statutory basis (“*clear congressional authorization*”). The history of the IEEPA also militated against a competence to introduce customs tariffs. In the past, the IEEPA had been used for sanctions and control measures, but not for the introduction of new customs tariffs.

4 Consequences for the practice

The decision sets limits on the power claimed by President Trump. According to the Supreme Court’s reasoning, it is difficult to imagine that customs tariffs on such a scale could be introduced other than by an Act of Congress, or by an Executive Order based on an Act of Congress that expressly authorizes this. However, the Supreme Court does not address whether the US customs tariffs are generally compatible with international law. The World Trade Organization and the General Agreement on Tariffs and Trade are not mentioned in the decision. The White House has already announced that, from today, 24 February 2026, it will introduce 10% customs tariffs on all goods. The legal basis is to be sec. 122 of the Trade Act, which permits measures of initially limited duration (150 days) and limited scope (max. 15%). US President Trump had announced plans to fully utilize 15% instead of 10%. However, a corresponding Executive Order has not yet been issued. The customs duties levied under the IEEPA will likely have to be refunded on a large scale. Jurisdiction in legal matters relating to refunds lies with the Court of International Trade (CIT). Proceedings pending there had most recently been stayed awaiting the Supreme Court’s decision. In addition to the question of whether refunds are legally required, the question of how refunds will be implemented also currently remains open. One of the judges emphasized the potential problems in this regard (“*refund process likely to be a mess*”).