

Where things Stand After a Monumental Day on Tariffs

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February 20, 2026 started off with arguably the most economically significant Supreme Court ruling in living memory when the Court struck down the White House's use of IEEPA authority for tariffs representing roughly half of collected tariff revenue over the last year. The day ended with executive orders from an undeterred White House laying out a course for its continued tariffs strategy. What remains most uncertain is the question of refunds for IEEPA tariffs paid.

The Administration's Pathway Forward

Reuters reported a quote from Treasury Secretary Scott Bessent that summarizes the Administration's plans well enough:

The Supreme Court has taken away the President's leverage, but in a way, they have made the leverage that he has more draconian because they agreed he does have the right to a full embargo. . . We will get back to the same tariff level for the countries. It will just be in a less direct and slightly more convoluted manner.

Later in the day, in two different executive actions ([here](#) and [here](#)), the White House responded to the Supreme Court's decision by announcing specific actions:

Immediate 10% tariff replacing in part the IEEPA tariffs: rescinding prior executive orders implementing the tariffs based on IEEPA but using Section 122 authority to enact a temporary 10% import duty for 150 days on most imported goods, with specific exemptions for items otherwise covered or in relation to certain trade partners. (Note: as we are writing this, President Trump reportedly announced that the 10% will immediately be increased to 15% on most goods.)

Continuing the De Minimis Exemption. Although IEEPA authority had also been used to remove the *de minimis* exemption for low-value shipments, the suspension of *de*

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minimis continues under IEEPA.

New 301 Investigations to Come. The Administration directs the United States Trade Representative to launch unspecified Section 301 investigations into unreasonable or discriminatory foreign trade practices that restrict American commerce.

It appears that Section 122 tariffs will act as a bridge between today and when the 301 tariffs can be implemented. The timeline for the new 301 tariffs is unclear, but there is a 150-day limit on the Section 122 tariffs. This could, in short, create a temporary situation where the effective tariff rate dips for several months or even most of 2026 while the 301 tariffs are completed. We also expect new 232 duties and perhaps other (as-of-today) unknown duties that will be imposed to bridge the gap.

Refunds

Dorsey's [client update](#) on the Supreme Court's decision explains the (hopefully temporary) uncertainty regarding a pathway to refunds.

The Court's majority opinion vindicates the plaintiffs in these cases substantively, but there remains ambiguity whether U.S. Customs and Border Protection ("CBP") will stop collecting the IEEPA tariffs before the U.S. Court of International Trade ("CIT") reconsiders its grant of a nationwide injunction. It is also uncertain whether CBP will issue tariff refunds to importers who have not filed their own tariff lawsuits in the CIT to challenge these tariff actions. All eyes will turn to the lower court proceedings, the Trump Administration, and CBP to see how they interpret the scope and impact of the Court's judgment.

On the assumption that importers will ultimately be able to obtain refunds of IEEPA tariffs paid, we will be providing updated advice and strategies as things develop with the CIT and CBP. For some, the pathway may be more expensive and time consuming than makes sense to pursue. In the short term, companies should be gathering data and documentation regarding tariffs paid so that they are in a strong position to make a refund claim.

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