



PERSPECTIVES

TARIFFS, THE COSTCO LAWSUIT, AND THE COMING RECKONING FOR IEEPA

What Businesses Need to Understand—
Before the Window Closes

Our perspectives feature the viewpoints of our subject matter experts on current topics and emerging trends.

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Introduction: Why this Moment Matters

Tariffs rarely command sustained attention outside of trade or government affairs teams—until they disrupt margins, pricing models, or earnings guidance. In late 2025, however, a convergence of litigation, Supreme Court review, and active refund disputes has brought renewed scrutiny to a statute many business leaders had never heard of: the International Emergency Economic Powers Act (IEEPA).

What began as a framework for sanctions and emergency economic controls has, over time, been used as the legal basis for sweeping tariff measures affecting billions of dollars in imports. Whether that expansion of authority withstands judicial review is now an open and consequential question.¹

For companies that have paid IEEPA-based tariffs, the issue is no longer academic. The central risk is not simply whether the tariffs may be invalidated, but whether organizations will be positioned—procedurally and evidentially—to recover duties already paid.

The Legal Fault Line: IEEPA and Tariff Authority

IEEPA was enacted to grant the executive branch broad powers during declared national emergencies, primarily to restrict transactions, freeze assets, and limit economic activity involving foreign threats.² Its use as a tariff-imposition mechanism has long drawn criticism, largely because tariffs operate as a

form of taxation—an authority traditionally reserved for Congress.

Recent decisions by the U.S. Court of International Trade and federal appellate courts have questioned whether IEEPA provides sufficiently clear authorization for broad, economy-wide tariffs. These concerns have now reached the U.S. Supreme Court through consolidated cases challenging the legality of IEEPA-based tariff actions.

The Court’s decision to hear these cases signals that the issue is not procedural, but structural. At stake is the boundary between emergency powers and trade policy—a distinction with implications far beyond the current tariff regime.

Why the Costco Lawsuit Changed the Conversation

Against this backdrop, Costco Wholesale Corporation filed suit in the U.S. Court of International Trade seeking relief from IEEPA-imposed tariffs and, critically, attempting to preserve its ability to obtain refunds.³ While much of the public discussion has focused on the legality of the tariffs themselves, Costco’s case highlights a quieter but more immediate risk: liquidation.

Under U.S. customs law, once an entry liquidates, the assessment of duties becomes final unless a timely protest or other action has been filed.⁴ Costco raised concerns that U.S. Customs and Border Protection (CBP) declined to extend liquidation deadlines, potentially foreclosing refund opportunities even if the tariffs are later ruled unlawful.

¹ See challenges to tariff authority under the International Emergency Economic Powers Act currently under review by the U.S. Supreme Court.
² International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-1707.
³ *Costco Wholesale Corp. v. United States*, U.S. Court of International Trade (2025); This matter is an individual action in the U.S. Court of International Trade. Costco is also one of the many companies participating in the consolidated AGS Company Automotive v. United States litigation involving similar tariff issues.
⁴ 19 U.S.C. § 1514; 19 C.F.R. Part 159.

The significance of the case lies less in Costco's size than in the precedent it illustrates. The company is effectively warning that favorable court rulings do not, on their own, guarantee financial recovery. Administrative timing matters, and waiting for judicial clarity may come at a cost.

The Myth of Automatic Refunds

A common assumption among importers is that if a tariff is invalidated, refunds will follow automatically. In practice, that outcome is far from certain. Courts may determine that a tariff was unlawfully imposed without prescribing a universal refund mechanism, leaving recovery to the existing customs protest framework or individual litigation.

Recent rulings declining to suspend liquidation while Supreme Court review is pending underscore this risk. From a business perspective, the implication is clear: rights can expire while legal questions remain unresolved. This dynamic has given rise to what many trade professionals now describe as a "refund race"—not a rush to file lawsuits, but a race against administrative finality.

What Companies Should Be Doing Now

This environment requires a shift in how tariffs are managed internally. In this environment, organizations should recognize that IEEPA-based duties may give rise to potential recovery implications and should be evaluated accordingly from a strategic perspective.

That begins with developing a defensible, reconciled understanding of tariff payments across customs data, broker records, enterprise

systems, and general ledgers. Companies should also understand the liquidation status of affected entries and document the rationale behind strategic decisions related to protests, extensions, or litigation.

Challenges to IEEPA based tariffs may take years to work their way through the courts as cases proceed. At the same time, the regulatory landscape continues to evolve as new rulings are issued, agencies adjust their responses to those developments, and policymakers refine their positions. When disputes span long time horizons, maintaining clear, organized, and contemporaneous documentation is critical. By contrast, gaps in data, inconsistent explanations, or incomplete documentation significantly undermine a company's position in any recovery effort. Organizations that preserve complete, reconciled, audit-ready documentation will be better positioned to substantiate claims, withstand scrutiny, and adapt effectively as legal developments unfold.

Equally important is scenario planning. A Supreme Court decision could uphold the tariffs, invalidate them entirely, or limit their application without providing a clear remedy. Each scenario carries different financial, operational, and compliance implications. Organizations that prepare for only one outcome assume a level of certainty the courts have not offered.

The Role of Independent Advisory Support

Tariff disputes of this nature sit at the intersection of law, finance, and supply chain operations. While trade counsel provides critical legal guidance, organizations also require accurate quantification, reliable documentation, and clear narratives explaining

what was paid, why it was paid, and how recovery amounts were calculated.

At J.S. Held, these matters draw on expertise across supply chain analysis, forensic accounting, damages assessment, and dispute advisory. Our role is often to help organizations develop recovery-ready analyses that can withstand regulatory review, audit scrutiny, or expert examination—long before a dispute becomes adversarial.

In periods of uncertainty, preparation is not defensive; it is strategic.

A WWCD Perspective: Tariffs as a White-Collar Risk

For professionals in the Women’s White Collar Defense Association, the IEEPA tariff issue illustrates how trade matters can evolve into white-collar and enforcement risks. Large potential refunds increase scrutiny around classification, valuation, country of origin, and internal controls.

Periods of regulatory ambiguity tend to expose weaknesses in documentation and governance. They may also create pressure to aggressively pursue recoveries without sufficient evidentiary support. From an enforcement standpoint, refund claims are not merely financial submissions—they are representations subject to review and challenge.

For compliance leaders and defense practitioners, key questions include whether tariff positions were reasonable, consistently applied, and properly overseen, and whether organizations can demonstrate that their decision-making processes were sound. Independent, expert-grade analysis often plays a decisive role in answering those questions

Conclusion: A Narrow Window, Not a Distant Horizon

The Supreme Court’s eventual ruling on IEEPA tariffs will be significant, but it will not rewind the clock. Administrative deadlines and evidentiary requirements unfolding today will determine who can benefit from any future decision and who cannot.

The lesson from the Costco litigation is not that every importer should litigate, but that every importer should understand its exposure, its timelines, and its options. Tariffs imposed under contested authority represent both risk and opportunity—but only for organizations prepared to act deliberately.

The cost of inaction may ultimately exceed the cost of preparation.

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