

Trump's Supreme Court Tariff Case and Trade Policy: Refunds and Chaos*

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The United States faces a staggering bill: more than \$200 billion in tariffs that the Supreme Court has ruled were illegally collected. The legal battle over tariff refunds is intensifying. States and private firms have filed a stream of suits demanding that the government comply with court orders requiring the return of unlawfully collected tariffs, immediately. An entire legal and financial ecosystem is emerging around this tariff chaos. If trade policy becomes an instrument of improvisation rather than law, the consequences will extend far beyond tariffs – to diplomacy, investment, and global economic leadership. Rebuilding confidence in the international trading system will require rejecting unilateralism and protectionism and recommitting to the international legal and trading systems the US helped construct and led in the aftermath of the last century's economic and political crises of the Great Depression, World War II and the Cold War. Trade policy and foreign policy cannot be based on threats and personal grievances.

Keywords

Trump's Tariffs, International Emergency Economic Powers Act, Supreme Court Tariff Decision, US Court of International Trade, Trade Remedies, Iran War

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1. Introduction

The US faces a staggering bill: more than USD200 billion in tariffs that the Supreme Court has ruled were illegally collected.¹ What began as an improvisational tool of political pressure has evolved into a sprawling legal and financial crisis. Courts, businesses, and states are now scrambling to untangle a mess that threatens supply chains, trade credibility, and the rules-based system the country once championed.

Litigation is proliferating on multiple fronts. States have sued the federal government.² Importers - many large retailers - have sued for reimbursement. Smaller retailers, in turn, are filing suits against the original importers of record in so-called consumer actions. Plaintiffs are seeking class-action status, potentially multiplying government liability and drawing still more businesses into the fray.

This outcome is hardly accidental. It is the predictable consequence of weaponizing tariffs as a tool in geopolitics and geoeconomics. The effects are already being felt in states such as Virginia, which depend heavily on port traffic, agricultural exports, imports (fertilizers) and foreign investment.

During his presidency, Trump has wielded tariffs less as part of a coherent trade policy and more as a blunt, often impulsive instrument of personal pique and political pressure. The result was an unpredictable tax on American businesses and consumers - one that rattled supply chains, roiled financial markets, and strained alliances. Currently, the bill is coming due amid heightened economic and political uncertainty. Trump continues to threaten new tariffs, recently initiating new administrative actions, and if fact imposing several new tariffs.³

Furthermore, global events, such as war with Iran,⁴ add further volatility to oil,

1 Learning Resources, Inc. v. Trump, 607 U.S. (2026), https://www.supremecourt.gov/opinions/25pdf/24-1287_4gcj.pdf.

2 Tony Romm, *States Sue to Stop Trump from Reviving Steep Tariffs*, N.Y. TIMES (Mar. 6, 2026), <https://www.nytimes.com/2026/03/05/us/politics/states-lawsuit-trump-tariffs.html>; “One year after President Donald Trump stood in the White House Rose Garden and announced the highest U.S. tariffs (Liberation Day Tariffs) in nearly a century, the number of factory jobs is down and inflation is up.” See David Lynch, *Trump Has Reshaped the Global Economy – With Mixed Results*, WASH. POST (Mar. 29, 2026), <https://www.msn.com/en-us/money/markets/one-year-later-trump-has-remade-global-trade-with-mixed-results/ar-AA1ZEJVK>; “Now, almost exactly a year after President Trump declared “Liberation Day,” companies of every size are wrestling with uncertainty about when, how – and even if – they will get refunds.” See Louise Radnofsky et al., *Tariffs put businesses in crisis. Waiting for the refund could be worse*, WALL ST. J. (Apr. 1, 2026), <https://www.wsj.com/business/tariffs-put-businesses-in-crisis-waiting-for-the-refund-could-be-worse-473d9387>.

3 Ana Swanson & Alan Rappeport, *Trump Officials Set to Announce New Trade Probes in Tariff Push*, N. Y. TIMES (Mar. 11, 2026), <https://www.nytimes.com/2026/03/11/business/economy/trump-trade-investigations-tariffs.html>.

4 It is striking that President Trump has requested USD200 billion from Congress to pay for the Iran War and that is the same amount of the pending tariff refunds. See Marcus Weisgerber et al., *Trump’s \$200 billion war request faces*

gas, financial markets, and global business strategies, amplifying the disruption beyond the tariff wars themselves. “World trade flows and economic growth are set to slow more sharply than previously expected if the rise in energy prices and disruptions to transport caused by the Middle East conflict are long-lasting.”⁵ These developments have imperil the upcoming Xi–Trump summit and, as the war continues, further strain the US–China relations, as well as trade relations with major partners such as Korea, Japan, India, and the EU.

The questionable legality of U.S. military actions under congressional legislation, constitutional provisions and international treaties, raised forcefully by Virginia Senator Tim Kaine, will undoubtedly grow as the war and economic consequences become more severe. Only raised minimally so far is the justness of the war and its undefined goals.⁶ Not discussed at all, however, is the principle that a treaty procured through the illegal threat or use of force is void under international law.⁷

2. The Legal Action

The legal battle over tariff refunds is intensifying. States and private firms have filed a stream of suits demanding that the government comply with court orders requiring the return of unlawfully collected tariffs. The administration’s response – primarily through the Departments of Treasury and Justice – has consisted largely of procedural delays and implementing inadequate refund procedures.

skepticism in Congress, WALL ST. J. (Mar. 19, 2026), <https://www.wsj.com/politics/policy/pentagon-will-ask-for-more-money-to-fund-iran-campaign-b1a58c27>.

5 Paul Hannon, *WTO Sees Trade and Growth Slowing More Sharply if Middle East Conflict Persists*, WALL ST. J. (Mar. 19, 2026), <https://www.wsj.com/economy/trade/wto-sees-trade-and-growth-slowing-more-sharply-if-middle-east-conflict-persists-0f5ee4a3>. It reads: “[T]he WTO said goods trade flows this year would grow by just 1.4%, a weaker outcome than the 1.9% increase that was expected before the attacks on Iran.”

6 Phil Klay, *Trump Has Made a Fundamental Miscalculation About Iran*, N.Y. TIMES (Mar. 22, 2026), <https://www.nytimes.com/2026/03/22/opinion/trump-iran-war-memes.html>. It reads: “[O]ur defeats (in Vietnam and Iraq) were often related to a failure to fully comprehend that peoples in other countries have their own passions and ideals, that they might not simply be projections of our own desires, wanting what we want them to want, and loathing what we want them to loathe.”

7 Vienna Convention on the Law of Treaties art. 52; STUART MALAWER, IMPOSED TREATIES AND INTERNATIONAL LAW 1 (1977); *A New Concept of Consent and World Public Order*, 4(1) VANDERBILT J. TRANSNAT’L L. 1 (1970), <https://scholarship.law.vanderbilt.edu/vjtl/vol14/iss1/1>. See also Amanda Taub, *Legal experts express concerns over ‘violations of international law’ in the war*, N.Y. TIMES (Apr. 2, 2026), <https://www.nytimes.com/live/2026/04/02/world/iran-war-trump-news?searchResultPosition=1#law-experts-express-concerns-over-violations-of-international-law-in-the-war>; Edward Wong, *Trump Revels in Making Threats to Commit War Crimes*, N.Y. TIMES (Apr. 5, 2026), <https://www.nytimes.com/2026/04/05/us/politics/trump-iran-war-crimes-truth-social.html>.

Congress, despite periodic attempts to reclaim its constitutional authority over trade and taxation, has remained on the sidelines.

Despite early victories by the Trump administration in the Supreme Court, concerning a broad range of executive actions (including emergency orders in the “shadow docket”) federal courts have recently served as a critical check on the executive’s overreach in several areas, for example, use of the national guard and immigrant detention policies.

The US Supreme Court ruled against the administration’s global tariffs,⁸ despite continuous and scandalous public attacks on the justices by the president – before, during and after the court decision and the State of the Union message.⁹ Subsequently, the US Court of Appeals for the Federal Circuit refused to stay refunds and returned the matter to the US Court of International Trade, which ordered that refunds proceed.¹⁰ The Justice Department has sought additional delays, buying time while aggravating uncertainty for consumers, businesses and states alike. The US Court of International Trade is now the center of this litigation.¹¹

Commenting on the administration’s reaction¹² to the Supreme Court

8 Learning Resources, Inc. v. Trump, 607 U.S. ____ (2026), https://www.supremecourt.gov/opinions/25pdf/24-1287_4gcj.pdf.

9 “During a roundtable at the White House, President Donald Trump again criticized the Supreme Court: “voicing deep frustration with “a number” of recent decisions that have included the rejection of his signature tariff policy ... “I think the Supreme Court ought to be ashamed of itself for a lot of reasons, ok?” “I got to live with these people. And I say this ... and they’ll only vote bad, and I couldn’t care less at this point. They have hurt this country so badly because they haven’t had the guts to do what’s right.” See Kelsey Dallas & Nora Collins, *SCOTU Today for Monday, March 9*, SCOTUSblog (Mar. 9, 2026), <https://www.scotusblog.com/2026/03/scotustoday-for-monday-march-9>. “President Trump’s relationship with the Supreme Court has never been more toxic. Now, it risks getting worse. After the court’s rejection of Trump’s tariffs provoked a new level of hostility from the president, the justices are set to consider a pillar of his immigration crackdown: limiting U.S. citizenship.” See *Birthright Citizenship Case Pushes Trump’s Relationship with Supreme Court to Brink*, WALL ST. J. (Mar. 29, 2026), https://www.wsj.com/us-news/law/trump-supreme-court-relationship-birthright-citizenship-db72ff70?st=RNm1a&reflink=article_email_share; Ann Marimow et al., *Trump Attends Supreme Court Oral Arguments, Then Leaves an Hour In*, N. Y. TIMES (Apr. 1, 2026), <https://www.nytimes.com/2026/04/01/us/politics/trump-supreme-court-visit.html>.

10 *Atmus Filtration Techs. Inc. v. United States*, <https://www.courtlistener.com/docket/72339861/atmus-filtration-inc-v-united-states>. A recent article in the New York Times states: “A federal judge (*of the CIT previously*) ordered the Trump administration to take the first steps toward issuing more than \$100 billion in potential tariff refunds, ratcheting up a legal battle over a roster of sky-high duties that the Supreme Court deemed illegal. ... Generally, tariffs are due when a product enters the United States. But the exact amount that an importer owes is finalized over a roughly yearlong process known as liquidation. Purchasers may file formal protests with the federal government if they dispute what the government says they owe.” See Tony Romm & Ana Swanson, *U.S. Court Takes First Steps Toward Ordering Tariff Refunds*, N.Y. TIMES (Mar. 6, 2026), <https://www.nytimes.com/2026/03/04/us/politics/judge-order-trump-tariff-refunds.html>.

11 U.S. Court of International Trade, <https://www.cit.uscourts.gov/about-court>.

12 Aime Williams & Demetri Sevastopulo, *US Companies Denied Refunds on Trump’s Illegal Tariffs*, FIN. TIMES (Mar. 6, 2026), <https://www.ft.com/content/0315349e-763e-4faa-a5b1-c02ce7801cbd>. It reads: “The US government has

decision, observers, such as the former NEW YORK TIMES Supreme Court reporter and Pulitzer Prize recipient, have pointed out the broader implications of the Court's ruling: a potentially more restrictive view of presidential power in the future.

Chief Justice John Roberts does not waste words. His majority opinion in last week's tariff ruling was, characteristically, a model of succinctness. In a mere 21 pages (Justice Neil Gorsuch's concurring opinion, by contrast, clocked in at 46 pages, and Justice Brett Kavanaugh's dissent at 63), he explained why, as a matter of statutory interpretation and the constitutional separation of powers, President Trump lacked the authority he had claimed, under the International Emergency Economic Powers Act, to impose a hodgepodge of tariffs on countries all over the world [T]he chief justice is sending a message not necessarily or not only to Mr. Trump but also to the waiting world. Something along the lines of, "People, this is what we're dealing with." [T]he point being not that "some fertilizers" are now exempt from reciprocal tariffs but that a reckless president is sowing chaos in America and around the globe.¹³

3. The Administration

Meanwhile, the administration has explored new legal pathways to impose even newer tariffs despite the Supreme Court decision.¹⁴ Secretary of the Treasury Scott Bessent has taken the lead in confronting the court rulings.¹⁵ A new 15% tariff was imposed under Section 122 of the Trade Act of 1974, which allows

declined to refund tariffs the Supreme Court has ruled illegal ... Trump administration tries to hold on to as much as \$150bn in disputed levies. Customs officials are rejecting companies' attempts to reclaim duties imposed under emergency powers invoked by Trump, leaving businesses in limbo and pushing more cases into court ... Companies submit entries to US Customs and Border Protection detailing products to be imported and relevant tariff codes, among other things..."

13 Linda Greenhouse, *Roberts is Losing Patience with Trump*, N. Y. TIMES (Feb. 24, 2026), <https://www.nytimes.com/2026/02/24/opinion/tariffs-trump-john-roberts.html>.

14 Aime Williams, *Donald Trump risks getting bogged down in legal action over new tariffs*, FIN. TIMES (Mar. 23, 2026), <https://www.ft.com/content/e8870e53-b95d-4e28-836f-5e6b18e118e0?syn-25a6b1a6=1>. It reads: "Donald Trump's new tariff plans risk getting bogged down in protracted legal challenges as the president relies on obscure laws to wage his trade war after the top court in the US ruled many of his previous duties illegal."

15 "Treasury Secretary Scott Bessent said that the recently imposed 10% global tariff will likely rise to 15% sometime this week and that tariff rates will "effectively return to where they stood before the Supreme Court" struck down President Donald Trump's signature tariffs. See Kelsey Dallas, *SCOTUS today for Thursday, March 5*, SCOTUSblog (Mar. 5, 2026), <https://www.scotusblog.com/2026/03/scotustoday-for-thursday-march-5>.

temporary duties to address balance-of-payments problems. But the US does not face a true balance-of-payments crisis. While the country runs a significant trade deficit with China, its overall balance-of-payments deficit - including international investment flows - is modest, a distinction the administration ignored.¹⁶

Other statutory avenues remain available to the president. Section 232 of the Trade Expansion Act of 1962 allows tariffs on national security grounds, while Section 301 of the Trade Act of 1974 authorizes duties following investigations into unfair trade practices, which the president just initiated against 16 of our trading partners.¹⁷ Traditional trade remedies - anti-dumping, countervailing duties, and Section 201 "escape clause" actions - also remain on the books for specific economic contingencies. Trade sanctions are also available, such as those in response to forced labor.¹⁸

From the perspective of someone who has spent decades teaching international trade law and national security law, the misuse of statutory trade provisions for geopolitical theatrics is deeply troubling. Tariff laws were designed to address specific economic concerns - unfair trade practices, national security risks, or balance-of-payments crises - within a broader, rules-based multilateral trading system. They were not meant to serve as a president's all-purpose, often whimsical, geopolitical or geoeconomic instrument. Yet that is precisely what they have become.

The broader consequences of Trump's actions are only beginning to unfold. Massive refund liabilities, new tariffs imposed through alternative legal channels, unsettled trade agreements, and disrupted supply chains - these are

16 *The Legal Case Against Section 122 Tariffs*, WALL ST. J. (Mar. 8, 2026), <https://www.wsj.com/opinion/democrat-attorneys-general-lawsuit-tariffs-section-122-donald-trump-milton-friedman-2dd186a5>.

17 Ana Swanson & Tyler Pager, *U.S. Accuses 16 Trading Partners of Unfair Practices and Opens Investigation*, N. Y. TIMES (Mar. 11, 2026), <https://www.nytimes.com/2026/03/11/business/economy/trump-trade-investigations-tariffs.html>. It reads: "The Trump administration on Wednesday announced a new trade investigation into unfair trading practices by 16 of America's largest trading partners, as it works to resurrect a system of tariffs recently struck down by the Supreme Court. ... More trade investigations are on the way ... potentially into issues including digital services, pharmaceutical pricing and unfair trade in sectors like rice and seafood The administration is pursuing a patchwork of actions to replace the tariffs that were rejected by the Supreme Court." See also Gavin Bade & Xavier Martinez, *Trump administration unveils up to 100% tariff on branded drugs*, WALL ST. J. (Apr. 2, 2026), <https://www.msn.com/en-us/money/markets/trump-administration-unveils-up-to-100-tariff-on-branded-drugs/ar-AA2022FM?ocid=BingNewsSerp>. It reads: "The U.S. will impose tariffs of as much as 100% on branded pharmaceuticals, the White House said Thursday, though nations or drugmakers that strike deals with the Trump administration or commit to build manufacturing facilities in the U.S. can receive lower levies The pharmaceutical tariffs will be imposed under Section 232 of the Trade Expansion Act of 1962, which allows the president to levy tariffs to address national-security risks. Those are separate from Trump's so-called reciprocal tariffs, which the Supreme Court struck down in February, and the 10% global tariff that Trump imposed to replace the invalidated levies."

18 Tariff Act of 1930, § 307.

already injecting instability into state, national, and global commerce. The ripple effects extend beyond domestic and international markets, affecting diplomacy, investment, global stock markets, and global economic development. The Iran war will most certainly greatly exacerbate the global chaos.

4. The Iran War

The impact of the Iran war will certainly be obvious in the US-China relations. My judgment, contrary to some, will see a shift in the administration's view – moving away from a broad confrontation with China to a more balanced strategy of competition and compromise – reflecting a more traditional national interest and balance of power. A similar assessment appeared recently in the WALL STREET JOURNAL:

Trade negotiations between Washington and Beijing during President Trump's first term often felt like an existential clash of economic models. Recent talks are more like the management of a fragile status quo Fast forward to 2026, and the atmosphere heading into Trump's first expected state visit to Beijing during his second term feels fundamentally different. The era of aggressive structural engineering has given way to what looks like a period of truce management.¹⁹

The economic fallout from the Iran war is affecting not only US-China relations but it is spreading globally, with particularly impacts across South and East Asia including India, Thailand, Taiwan, South Korea, and Japan. Governments in these countries are bracing for rising inflation due to restrictions on energy imports from the Middle East. Undoubtedly, new trade patterns, trade agreements and cross-border flows are likely to emerge.²⁰ However, the economic consequences are not the only concern; even more significant is the potential impact on existing security arrangements.²¹

19 Lingling Wei, *Trump Shifts U.S.-China Strategy on Trade to Dealmaking*, WALL ST. J. (Mar. 17, 2026), <https://wsjchina.cmail20.com/t/d-e-ghittlk-duhttyhuhu-r>.

20 Miranda Jeyaretnam, *How Trump's War With Iran Is Impacting Asia's Economy—and Why That Matters for the World*, TIME (Mar. 16, 2026), <https://time.com/article/2026/03/16/us-israel-iran-war-trump-asia-economy-oil-energy-inflation-recession>. It reads “The economic fallout from the U.S. and Israel's war on Iran is rippling across the world, but the effects are especially pronounced in Asia. From New Delhi to Bangkok, governments are bracing for a new wave of inflation driven by disruptions in the world's most important energy corridor, the Strait of Hormuz, which has been effectively shut by Iran in retaliation for American and Israeli attacks.”

21 Bianka Venkataramani, *The Iran war should boost security cooperation by US Pacific allies like Japan, the Philippines and South Korea*, Chatham House (2026), <https://www.chathamhouse.org/2026/03/iran-war-should-boost-security-cooperation-us-pacific-allies-japan-philippines-and-south>. It reads: “Such (U.S. military) moves (in the Middle East) raise questions in the wider region about the US's reliability as a security partner. For decades,

As these tariff and trade disputes continue to wind through the US courts, trade and tariff policies are becoming a volatile issue in upcoming midterm elections. What began as a strategy of economic brinkmanship could ultimately become a significant political liability - not only for the president who embraced it but also for lawmakers who failed to check it.

5. Conclusion

The US once prided itself on maintaining a predictable, rules-based trading system grounded in both domestic and international law. That system is now at risk. If trade policy, involving both tariffs and trade sanction, becomes an instrument of improvisation rather than law, the consequences will extend far beyond tariffs - to diplomacy, investment, and global economic leadership.

Rebuilding confidence will require rejecting unilateralism and protectionism and recommitting to the international system the US helped construct and led in the aftermath of the last century's economic and political crises of the Great Depression, World War II and the Cold War. Trade policy and foreign policy cannot be based on threats and personal grievances.

I remain convinced that, with rational policies based in reality, discipline and adherence to law, it is possible to restore that system - and with it, the US credibility and leadership on the global stage. I am proud that US federal courts are leading the way.

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the US invested time, money, and troops to develop a strong web of security relationships across East Asia that countries have come to rely on - particularly Japan, South Korea, and the Philippines. As President Donald Trump wages war in the Middle East, that carefully constructed Pacific web is overshadowed by significant uncertainty. US allies in the region should meet this new security environment by boosting their interoperability."