

Overlooked: Downstream Businesses That Paid Tariffs Have Refund Options

By Darius Liely

For businesses, there are huge financial implications and refund possibilities following February's U.S. Supreme Court decision overturning a key set of tariffs. There are billions of dollars of refunds at stake, and some businesses that faced added tariff costs may not realize they have refund options.

The court ruled that the government lacked the authority to impose tariffs under the International Emergency Economic Powers Act (IEEPA). Imposed by the Trump Administration, these sweeping taxes on goods from countries like China, Canada, and Mexico made headlines for more than a year. But there's now a pathway for those that paid tariffs to seek refunds.

What many businesses overlook is that they may have a refund option for the increased tariff cost handed down to them by their shippers who imported the goods. But it's possible importers who receive tariff refunds may not pass this money along to the businesses that ultimately bore the extra cost. Businesses have several potential pathways to obtain these refunds – but time is extremely limited.

Like many things involving tariffs, there are complexities and hurdles involved. But the Frost Law team understands the details, and they can help businesses navigate these issues related to tariff refund claims.

If you are a business owner or an importer with questions, call Frost Law at (410) 204-2714 or visit Frost's [special tariff information page](#) to set up a consultation about our tariff refund services. Given tight legal deadlines, it's important to act quickly.

Here's a closer look at some of the key factors involving the court decisions and steps that businesses can take to pursue a refund.



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A Detailed Look at Key Tariff Cases

The Supreme Court ruled in *Learning Resources, Inc. v. Trump* that the President did not have authority under the IEEPA to enact sweeping tariffs on nearly all global imports. Consolidated into *Learning Resources v. U.S. Selections, Inc. v. United States*. The Plaintiffs in *U.S. Selections* were five small businesses and 12 states.

While *U.S. Selections* was an Importer of Record¹ (“IOR”) that actually paid tariffs to U.S. Customs and Border Protection (“CBP”), the government argued that two other plaintiffs, *FishUSA* and *MicroKits*, lacked standing because they did not personally import the articles subject to tariffs. However, the Court of International Trade rejected this importer-only rule for standing.

Article III of the Constitution, as determined by Supreme Court precedent, requires plaintiffs in federal court to have standing to sue. “The plaintiff must have suffered an injury in fact—a concrete and imminent harm to a legally protected interest, like property or money—that is fairly traceable to the challenged conduct, and likely to be redressed by the lawsuit.” *Biden v. Nebraska*, 600 U.S. 477, 489 (2023).

A non-importer plaintiff may “fairly employ economic logic” to establish that a tariff caused them a concrete injury. To suffer an economic injury, it is not necessary to incur direct liability to CBP or to be the primary importer. Put another way, “fair traceability” is a flexible standard. See *Invenergy Renewables LLC v. United States*, 422 F. Supp. 3d 1255, 1273 (Ct. Int’l Trade 2019). Consequently, injuries such as the prohibitively high price of operationally necessary components or the forced stoppage of production are

considered concrete harm traceable to the challenged tariffs.

The Practical Challenge of Refunds For Businesses

While standing is likely established, securing a refund is not always smooth sailing. On March 4, 2026, in *Atmus Filtration, Inc. v. United States*, Judge Eaton held that “all importers of record whose entries were subject to IEEPA duties are entitled to the benefit of the *Learning Resources* decision.” The Court ordered that all unliquidated² entries subject to IEEPA be liquidated³ without those duties, and any liquidated entries for which liquidation is not yet final be reliquidated.⁴

While *U.S. Selections* confirms that downstream businesses have the standing to seek declaratory judgments, the *Atmus* order directs refunds to the IORs—likely via the Automated Commercial Environment (ACE) database.

This presents a challenge for businesses that were not the IOR but had the cost of the tariff passed down to them by their shippers. Non-importers concerned that their importers might pocket the refund have several potential avenues for relief:

Breach of Contract

Typically, shipping customers pay the estimated customs costs prior to duties being liquidated. Tariffs are generally paid by importers who report contents and value of shipments to CBP. These filings are subject to inspection or revision for generally one year from the time the items entered the country. After that time, the filing is deemed liquidated. Standard shipping contractual provisions include so-called pass-through or reimbursement clauses stating that if a tariff is later reduced or refunded, the saving must





be passed back to the non-importer.

Unjust Enrichment

Because the ACE system issues remittances to the IOR, the importer becomes the party who receives the refund. If a shipping contract lacks a specific pass-through clause, non-importers can argue that the IOR has been unjustly enriched. Because the downstream customer already made the importer whole by paying the tariff cost, allowing the importer to keep the government refund would result in them receiving a windfall.

Frost Law Can Help With Tariff Issues

The time to act is now. With IEEPA tariffs held unconstitutional and the Court of International Trade pushing for refunds, non-importers who bore the brunt of these costs should review their available channels of relief. At Frost Law, we're monitoring the latest developments in federal trade litigation. Striking down the recent tariffs has opened the door for businesses to seek a tariff refund. We want to help you navigate the process of reclaiming those funds as quickly as possible once the courts give the green light. **You don't have to wait** to start planning your next move.

Contact Frost Law at [\(410\) 204-2714](tel:410-204-2714) to evaluate your tariff options.

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¹ An **Importer of Record** (IOR) is the owner, purchaser, or licensed customs broker responsible for ensuring imported goods comply with all local laws. They are legally responsible for filing documentation and paying tariffs, duties, and taxes to Customs See 19 CFR § 101.1

² **Unliquidated** tariffs (or more accurately, unliquidated entries) refer to imported goods that have entered the United States, but for which U.S. Customs and Border Protection (CBP) has not yet finalized the total duty and fee determination.

³ **Liquidated** tariffs represent the final, official determination of duties, taxes, and fees owed on imported goods by U.S. Customs and Border Protection (CBP). This process usually occurs automatically around 314 days after entry, finalizing the preliminary duty rates paid and allowing CBP to close the entry. See 19 CFR §159.1 and §159.11.

⁴ A **reliquidated tariff** refers to the official recalculation or correction of import duties by U.S. Customs and Border Protection (CBP) after the initial "liquidation" (finalization) of an entry has already occurred. This process is used to refund overpaid duties or collect underpaid duties, often following a successful protest by an importer or a court order.

