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The Supreme Court's Tariffs Ruling: What Companies Need to Know

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On Friday, February 20, the U.S. Supreme Court ruled 6-3 in *Learning Resources, Inc. v. Trump*, No. 24-1287 and 25-250, that the International Emergency Economic Powers Act ("IEEPA") did not authorize the President to tariff imports from foreign countries based on a declared "national emergency" regarding the influx of illegal drugs into the U.S. and its trade deficits.

The majority held that while the IEEPA allows the President to "regulate...importation" of foreign property in the event of a national emergency, this did not mean Congress delegated power to the President to "impose tariffs on imports from any country, of any product, at any rate, for any amount of time." The Court explained that the delegated power to "regulate" is not the same as the power to collect taxes, including tariffs, which lies solely with Congress under Article I, Section 8 of the Constitution. A dissent written by Justice Kavanaugh reached the opposite conclusion, and noted that the majority decision might require a refund process for the billions of dollars paid in IEEPA tariffs, which is "likely to be a 'mess.'"

Following the ruling, the President indicated the government intends to litigate whether the IEEPA tariffs must be refunded to the companies that paid them. In court filings, the government stated "plaintiffs" who sued the government (not all payors) "could" receive back IEEPA tariffs they paid, if there are decisions ordering "reliquification of entries" and "to refund the duties."

Companies should review the tariff calculation by U.S. Customs and Border Protection when import entries are liquidated to confirm that it does not include the IEEPA tariffs. If IEEPA tariffs have been imposed, companies should file a protest asking that the tariffs be removed within 180 days of liquidation (19 U.S.C. § 1514). If more than 180 days have elapsed, companies should consider filing suit to seek a money judgment for the return of overpaid tariffs with interest. Under the Supreme Court's ruling, this suit must be filed in the U.S. Court of International Trade.

Riley Safer Holmes & Cancila attorneys will continue to monitor these evolving issues. If you have questions about the Supreme Court ruling or the process for challenging or seeking repayment of IEEPA tariffs, please contact the authors of this article.

Client **Alert**

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