

Client Alert: Update on Preserving IEEPA Refund Rights

Customs and Import Regulation Export Controls and Sanctions BJ Shannon bjshannon@bcrlaw.com (202) 293-1074 (advisory author) David Baron Perry Bechky Dale Eppler Daniel Fisher-Owens Ray Gold Babak Hoghooghi Clemens Kochinke Jason McClurg Michelle Roberts John Sandage Bruce Zagaris	March 11, 2026 It's been almost three weeks since the Supreme Court's February 20 ruling that the International Emergency Economic Powers Act (IEEPA) doesn't give the President authority to impose tariffs.¹ On the same day, the President instructed U.S. Customs and Border Protection (CBP) to stop collecting IEEPA tariffs.² Since February 2025, however, the government has collected \$166 billion in IEEPA tariff revenue.³ The importers who paid these tariffs naturally wonder, if the tariffs were collected without authority, shouldn't the government have to issue refunds? In earlier litigation seeking to preserve such refund rights, the government stipulated that it would refund duties if the courts ultimately struck down the tariffs.⁴ The government raised eyebrows, therefore, when it opposed a request to send <i>V.O.S. Selections</i> promptly back to the Court of International Trade (CIT) for refund proceedings. The government stated that perhaps the court "could limit its decision to prospective relief."⁵ The Court of Appeals for the Federal Circuit (CAFC) immediately remanded the case to the CIT anyway. Before remand proceedings occurred, though, the CIT ruled in <i>Atmus Filtration, Inc. v. United States</i> that CBP must liquidate all unliquidated entries without IEEPA duties and reliquidate any entries that are not finally liquidated with refunds of IEEPA duties. Moreover, the CIT stated: "All Importers of record whose entries were subject to IEEPA duties are entitled to the benefit of the <i>Learning Resources</i> decision."⁶ What does this mean for importers seeking refunds? Refunds should eventually be available, but the details are still unclear. Must importers file CIT claims to obtain refunds? We do not know if the government will appeal the <i>Atmus Filtration</i> order that <i>all importers</i> are entitled to refunds, or how processes for refund requests will be finalized. Thus, we cannot yet rule out the possibility that individual importers might
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¹ *Learning Resources, Inc. et al. v. Trump* (together with *Trump, et al. v. V.O.S. Selections, Inc., et al.*), 607 U.S. __ 2026, WL 477534 (Feb. 20, 2026).

² Executive Order 14389, "Ending Certain Tariff Actions," 91 Fed. Reg. 9437 (Feb. 25, 2026).

³ Declaration of Brandon Lord, *Atmus Filtration, Inc. v. United States*, Ct. Int'l Trade, Case No. 26-01259 (filed Mar. 6, 2026).

⁴ Plaintiffs' Memorandum in Support of Plaintiffs' Motion for Permanent Injunctive Relief, *V.O.S. Selections v. Trump*, U.S. Court of International Trade Case No. 25-00066 (Feb. 24, 2026) (filed Dec. 15, 2025) (citing to stipulations in *V.O.S. Selections v. Trump* and in *AGS Co. Automotive Solutions v. CBP*, __ F. Supp. 3d. __, 2025 WL 3634261 (Ct. Int'l Trade)).

⁵ Opposition to Motion for Immediate Issuance of the Mandate and Cross-Motion to Stay the Mandate, *V.O.S. Selections v. Trump*, U.S. Court of Appeals for the Federal Circuit Case Nos. 2025-1812, -1813, U.S. (Feb. 27, 2026).

⁶ Order, *Atmus Filtration*, Case No. 26-01259 (filed Mar. 4, 2026).

eventually need to seek their own CIT judgements, although the CIT's orders on universal relief and administrative refunds are encouraging.

If not in the CIT, how can importers seek refunds? CBP has told the CIT that it is developing a refund process in its Automated Commercial Environment (ACE), but CBP also said it needs more time to complete the task. CBP suggested this might take 45 days.⁷ That estimate could be overly optimistic. In the meantime, the CIT stayed the immediacy of its order in *Atmus Filtration* and required CBP to submit a follow-up report by March 12.⁸ CBP is not accepting post summary correction requests for refunds on unliquidated entries and is suspending protests seeking refunds on liquidated entries. In other words, CBP is not yet issuing any refunds.

For now, importers should consider how to preserve all avenues for refund rights.

1. **File protests to keep liquidations from becoming final.** While it's arguable that the CIT could order refunds on finally liquidated entries too, this is not certain and not helpful if CBP eventually processes refunds in ACE only for entries that have not reached final liquidation.
2. **Consider CIT litigation and timing.** The statute of limitations under 28 U.S.C. 1581(i) is two years from when the claim arises, and the CIT has conclusively ruled that injunctions to stay liquidation are not necessary, but the government may still try to argue that later-filing plaintiffs are not "similarly situated" to those in earlier cases, and some companies also have concerns about where their filing might sit in a backlog of CIT claims. Thus, the decision of whether and when to file a CIT claim is an individual one.
3. **Prepare for possible CBP compliance reviews.** In response to questions from the CIT, CBP stated that, before giving IEEPA refunds, "CBP still requires a review period to ensure no violation of other Customs laws and no other duties, taxes, or fees are owed (e.g., anti-dumping, Sec. 301 duties, Sec. 232, etc.)."⁹ Refunds of illegally collected IEEPA duties should not be contingent on the correctness of other information reported at entry, but CBP may nonetheless direct additional scrutiny to entries that are the subject of refund requests.
4. **Ensure that your company can receive ACH refunds.** Effective February 6, CBP stopped issuing paper refund checks. An importer must have an ACH account or appoint an agent with an ACH account to receive refunds of IEEPA tariffs.¹⁰

⁷ Declaration of Brandon Lord, *Atmus Filtration*, Case No. 26-01259 (filed Mar. 6, 2026).

⁸ Orders, *Atmus Filtration*, Case No. 26-01259 (both filed Mar. 6, 2026).

⁹ Declaration of Brandon Lord in Response to the Court's Questions of March 3, 2026, *Atmus Filtration*, Case No. 26-01259 (filed Mar. 4, 2026).

¹⁰ See <https://www.cbp.gov/trade/automated/ace-portal-and-ach-refunds-faqs>.

	5. Remain aware that litigation is ongoing and the government's posture is evolving. Recommended steps for preserving refund rights may evolve as well. Be patient, but stay informed. We are helping importers navigate this process, from protests to litigation. As explained, the risks and benefits vary based on an importer's unique circumstances. Case-specific counsel is therefore important, and we encourage you to reach out to BJ Shannon at bjshannon@bcrlaw.com with questions.
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