

Vital Briefing—Tariff Insights

Administration slow walking tariff refunds; \$23 billion paid out, \$143 billion remains outstanding

By [Thomas Thompson](#)

The U.S. trade court overseeing refunds of illegally collected tariffs heard from the government about slowing payments to importers at a hearing on Tuesday, June 9.

Figures presented by a Customs and Border Protection (CBP) representative indicate the agency completed processing of about \$2.6 billion in the last two weeks after processing \$20.4 billion for Treasury Department disbursement in the previous month.

On June 5, the Trump administration said it will appeal a Court of International Trade (CIT) order that lets all potential claimants seek refunds of tariffs struck down by the Supreme Court in February without individually suing the government.

CBP officials provided the CIT routine progress reports on making tariff refunds ordered by the CIT on March 4. Officials have said that data-entry factors slow overall claims processing times. On June 9, CBP told the court almost \$90 billion in claims had been successfully entered into the CBP system by importers.

Addressing fears of a deliberate – or strategic – slowdown in processing, the

government [said](#) in a filing on June 4, “CBP has and will continue to process refunds.”

Hurdles. Judge Richard K. Eaton of the CIT asked to hear from the CBP how the customs agency plans to address claims for refunds of tariff payments that CBP systems do not, by design, accept. In April, the agency implemented a new platform, Consolidated Administration and Processing of Entries (CAPE), that processes claims for tariffs that have not been “liquidated.”

At the June 9 hearing Eaton expressed his concern that disparities are evident in how high- and low-value tariff refunds have been handled, terming it an “unintended consequence.”

For items with a value of less than \$2,500, payment occurs at the time of importation in an informal entry process. Informal tariff entries are considered liquidated upon the importer’s payment of estimated duty. In the formal process for higher-valued imports, the importer posts a bond, pays an estimated tariff amount and settles up the exact amount later. According to a [Congressional Research Service \(CRS\) report](#), this liquidation process routinely

completes automatically within 314 days after entry.

CPB can extend the period for another 90 days if it “reliquidates” a tariff entry within that period.

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On April 17, Eaton ordered the CBP to refund all tariffs collected by the government under the International Emergency Economic

Powers Act (IEEPA). Eaton suspended enforcement of the order to provide time for the government to comply. In several hearings in March and April, CBP officials described its progress with CAPE and disclosed they had not made specific plans for handling refunds of liquidated tariffs.

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About two-thirds of the potential claims are estimated to be for tariffs that can be processed automatically by CAPE, leaving one-third of the claims in limbo.

Unintended consequence. At the June 9 hearing, Eaton told the government’s attorneys, “Time has come to refund all the

duties,” referring to potential claims for the almost \$50 billion or so in refunds for liquidated tariffs.

The judge added, ““One way to accomplish this would be for the government to not appeal my order.”

By the time the Supreme Court struck down IEEPA on February 20, about \$166 billion in tariffs had been improperly collected and were to be refunded.

Due to how tariffs on lower-value imports are informally liquidated, by February 20 almost all such tariffs would have been liquidated. Most claims for refunds of small tariff payments collected illegally cannot be handled by CAPE, although informal liquidations that occurred less than 90 days before February 20 might be able to be reliquidated.

Given the administrative framework for collecting and liquidating tariffs, the great majority of IEEPA tariffs on higher-value goods would likely have been pending liquidation when the tax was struck down. The first automatic liquidations, which would have occurred in December, could still be reliquidated when the Supreme Court acted.

Legal threat. The administration has said it will move to set aside Eaton’s April 17 order to refund all illegal tariff payments. If successful, the government’s appeal would bar CBP from making more-or-less

automatic refunds of finally liquidated tariffs.

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According to an article in Reuters on June 9, the delay in processing some claims was leading to a “growing inequity” between large and small importers.

The government is expected to challenge the universal nature of Eaton’s refund order, that it applies to all claimants of liquidated tariffs. The government has said CBP’s regulations authorize it only to refund tariffs that have not been liquidated as well as those eligible to be reliquidated.

If the government’s appeal succeeds, each importer would be required to file suit in Judge Eaton’s court to obtain a tariff refund. A recent article in Fortune [notes](#), “It would effectively create an arduous process out of one that has otherwise already been streamlined by CBP’s CAPE rollout.”

In a June 4 filing, plaintiffs with pending refund claims moved to ask Eaton to certify a class of claimants for refunds of liquidated tariffs. The judge did not certify the class at the June 9 hearing.