

Vital Briefing—Tariff Insights

Supreme Court publicly probes Trump's tariff authority

By [Thomas Thompson](#)

For more than two-and-a-half hours Wednesday morning, November 5, the U.S. Supreme Court heard oral arguments and the justices leveled questions at the opposing attorneys in the first case about tariff authority against the Trump administration. The government petitioned the court in September for this expedited hearing after losing at the U.S. Court of Appeals for the Federal Circuit. Lower courts had ordered a halt to Trump's global tariffs.

Trump imposed the tariffs in a series of Executive Orders starting in February 2025 and soon began meeting legal pushback. The administration piled on additional tariffs even as legal concerns mounted over the spring and summer.

The original cases were brought by a handful of small businesses and state attorneys general complaining that Trump overstepped when he imposed tariffs under the International Emergency Economic Powers Act (IEEPA). The sweeping tariffs announced by the White House on Liberation Day (April 2) were the first reciprocal tariffs levied by Trump.

But Trump had already invoked the IEEPA in February when he hit Canada, China and Mexico with the fentanyl-linked tariffs. He said then that the countries had not done enough to combat illegal fentanyl imports into the U.S.

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An emergency tax? The argument against the imposition of tariffs is based on an assertion that the IEEPA does not specifically put tariffs, or other taxes, in the president’s toolbox for addressing an international emergency. In agreeing with the original plaintiffs, the Appeals Court

found that the IEEPA’s authorization of the president to “regulate” imports during an emergency does not include taxing them.

The cases behind the Supreme Court pleadings do not implicate product-specific “Section 232” tariffs like those levied on steel, lumber or automobiles. Section 232 tariffs are imposed by the president upon a finding by the Secretary of Commerce that current imports of the targeted articles are at such high levels as to threaten national security.

The IEEPA can be used to address all of the imports from a country. It requires the president to determine first that an emergency prevails before imposing an IEEPA tariff. In a filing with the Supreme Court, government attorneys [said](#), “Shortly after taking office, President Trump determined that the nation stood at the precipice of an economic and national-security crisis caused by sustained trade deficits that fostered dependency on foreign rivals and gutted American manufacturing.” This constituted an “emergency of historic proportions” that “has brought America to the brink of a major economic and national-security catastrophe.”

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Predictions. The tariff case is closely watched not only because its outcome may be a harbinger for other challenges to Trump's authority but also because the tariffs are having a pervasive effect on large parts of the economy.

According to a November 5 article in the New York Times, almost half of all imports into the U.S. are now subject to tariffs. Twenty-nine per cent of all imports are taxed under the provisions of the IEEPA according to the newspaper.

In fiscal 2025, which ended on September 30, tariff revenues totalled approximately \$195 billion, 150 per cent more than the fiscal 2024's receipts, [according](#) to the Committee for a Responsible Federal Budget. Since Trump's tariffs started being collected in February, after one third of fiscal 2025 had already lapsed, the full impact of the tax collections had not been realized.

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The committee estimates that if the IEEPA tariffs are allowed to continue, revenues attributable to the new tariffs will amount to \$2.2 trillion over the next 10 years.

On Sunday, Trump railed against a possible negative outcome ahead of the Supreme Court hearing on Truth Social, [posting](#), “If

a President is not allowed to use Tariffs, we will be at a major disadvantage against all other Countries throughout the World, especially the ‘Majors.’ ”

In the meantime, U.S. prediction markets' view of the administration's prospects for victory slid downward as arguments at the Supreme Court unfolded. According to a [MarketWatch story](#) carried by Morningstar.com, odds for Trump to prevail at court withered under hard questioning by even the conservative justices.

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