

March 24, 2026

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Tariff Refund Mechanism Takes Shape After Supreme Court's IEEPA Ruling

Executive Summary

- **What's new:** Following the Supreme Court's decision that IEEPA does not authorize tariffs, the U.S. Court of International Trade has ordered CBP to refund approximately \$165 billion in unlawfully collected IEEPA duties, and CBP is building a new refund system called CAPE.
- **Why it matters:** Over 330,000 importers paid IEEPA duties across more than 53 million entries, and a potential government appeal could significantly delay the receipt of refunds.
- **What to do next:** Companies may wish to carefully consider the status of their affected entries and options available to maximize their ability to leverage the CAPE refund mechanism, including ensuring they have completed CBP's electronic ACH refund registration process.

Following the U.S. Supreme Court's decision in *Learning Resources, Inc. v. Trump*, which held that the International Emergency Economic Powers Act (IEEPA) statute does not authorize tariffs, the U.S. Court of International Trade (CIT) — through *Atmus Filtration, Inc. v. United States* — has ordered that U.S. Customs and Border Protection (CBP) refund approximately \$165 billion in unlawfully collected IEEPA duties.

In response to the CIT's order, CBP has been building a new system called CAPE — Consolidated Administration and Processing of Entries — to process refunds. As of March 19, 2026, the system's four components range from 45% to 80% complete.

Background: From the Supreme Court to the CIT

On February 20, 2026, the Supreme Court held in *Learning Resources, Inc. v. Trump* that IEEPA does not confer authority to impose tariffs. As discussed in a [previous Skadden client alert](#), the decision was categorical on the merits but silent on the mechanics of refunding already-collected tariffs. In the immediate aftermath, the widespread expectation was that the refund question would play out through the lead V.O.S. Selections case on remand at the CIT,¹ while the more than 2,500 individual IEEPA tariff cases pending would remain subject to the automatic stay imposed by [Administrative Order 25-02](#).

¹ *Trump v. V.O.S. Selections, Inc.*, No. 25-00066 (Ct. Int'l Trade 2025), and *Learning Resources, Inc. v. Trump*, 784 F. Supp. 3d 209 (D.D.C. 2025), were consolidated into *Learning Resources, Inc. v. Trump*, 607 U.S. __ (2026).

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The CIT upended these expectations by plucking a single case — *Atmus Filtration, Inc. v. United States* (CIT Court No. 26-01259) — from obscurity and exempting it from the stay. The judge assigned to the case, the Honorable Richard K. Eaton, moved quickly, scheduling a hearing for March 4, 2026, and ordering the government to respond to the plaintiff’s motions for a temporary restraining order (TRO) and preliminary injunction. He also directed the government to answer a series of pointed questions, including whether CBP was continuing to liquidate entries with IEEPA duties and whether it had issued any refunds.

In its response, the government emphasized that it did not dispute the court’s authority to order reliquidation, and asserted that CBP’s system currently was not capable of providing refunds automatically at the scale required. In a supporting declaration, the executive director of CBP’s Trade Programs Directorate in the Office of Trade confirmed that CBP was continuing to liquidate entries with IEEPA duties, had issued no refunds since the Supreme Court’s decision and had not instructed its officers to liquidate entries without IEEPA duties. He also disclosed that approximately \$166 billion in IEEPA duties had been collected across more than 53 million entries filed by over 330,000 importers.

With these responses in hand, Judge Eaton on March 4 issued an order directing CBP to (1) liquidate all unliquidated entries without regard to IEEPA duties and (2) reliquidate any liquidated entries for which liquidation was “not final,” and noting that he was the only judge designated to hear IEEPA refund cases. The order applied to all importers, not only *Atmus Filtration* or even the roughly 2,500 importers who had filed at the CIT. Judge Eaton reasoned that he could enter a sweeping injunction of this kind given the CIT’s exclusive jurisdiction and national geographic reach, which he viewed as distinguishing it from the universal injunctions that the Supreme Court prohibited in *Trump v. CASA, Inc.*

When Is a Customs Entry ‘Not Final’?

Critically, Judge Eaton did not explain in his order which customs entries would qualify as being “not final” after liquidation. This matters, because his order only compels CBP to reliquidate entries that are “not final.” Under the judge’s order, CBP is permitted to exclude all “final” entries from the scope of the refund mechanism that it is building. Judge Eaton did not address what, if any, avenues for refunds are available for “final” entries.

Confusion persists over the meaning of the term “not final.” On the one hand, comments made by Judge Eaton during the March 4 hearing appear to indicate that he intended the term “not final”

to refer to those entries that are within 90 days after liquidation.² This reflects the fact that, under 19 U.S.C. § 1501, CBP has 90 days after liquidation in which to voluntarily reliquidate entries.

Notably, however, importers have 180 days after liquidation in which to file a protest, the filing of which precludes the entry from becoming “final” for purposes of 19 U.S.C. § 1514. And in a March 20, 2026, order, Judge Eaton noted that whereas at a status conference no agreement could be reached with respect to the reliquidation of entries that have become final, “importers should be aware of the remedies available under 19 U.S.C. § 1514 (Protest against decisions of Customs Service).” This could imply a view that a protest — even one filed near the end of the 180-day period set out in this statutory provision — could “stop the clock” and preclude finality, earning an entry the right to be included in the CBP refund mechanism.

For now, companies should consider adopting a conservative posture and assume that entries are “not final” if they are within the 90-day period following liquidation.

The CAPE Refund System

CBP has complied with Judge Eaton’s orders and, through progress reports, has explained that it is developing its refund mechanism as a new module within ACE called the Consolidated Administration and Processing of Entries, *i.e.*, CAPE. Notably, this mechanism does not confer refunds automatically; it relies on importers to come forward and submit evidence concerning entries for which IEEPA duties were levied. This feature could result in less sophisticated importers failing to secure refund opportunities.

The module is designed with four integrated components:

1. **Claim portal:** A web-based interface through which importers and customs brokers submit refund requests via CSV file upload, subject to automated file and entry-level validations. As of March 19, 2026, this component was **73% complete**.
2. **Mass processing:** The automated removal of IEEPA HTS numbers from validated entry summaries, followed by recalculation of duties as if IEEPA duties had never been imposed. As of March 19, 2026, this component was **45% complete**.

² U.S. Court of Int’l Trade, [Audio Recording of Hearing](#), No. 26-0159 (Mar. 4, 2026) at 14:12–14:51. (Judge Eaton: “Even with respect to liquidated entries, it’s probably the case — so, you don’t know — that the, what might be called the 90-day voluntary reliquidation period will not have gone by. That, let me put it another way, that the liquidation would not have become final yet. That there’s a 90-day period after the liquidation where it does not become final, and so there might be another 90 days, with respect to even some of the liquidated entries, during which they have not become final.”)

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3. **Review and liquidation/reliquidation:** A component that sets entries on a schedule for liquidation or reliquidation, allowing for manual CBP review. As of March 19, 2026, this component was **80% complete**.
4. **Refund:** The consolidation of refunds by liquidation date and importer of record (or a designated third-party recipient via CBP Form 4811), with electronic disbursement through the Department of the Treasury. As of March 19, 2026, this component was **63% complete**.

CBP has indicated that refunds will proceed in phases. The first phase of CAPE will cover the majority of formal and informal entries, whereas a second phase will encompass entries that are subject to antidumping (AD) or countervailing (CVD) duties, entries with suspended or extended liquidation status, and certain other entry types. It is unclear how this phased system will work in practice and what the implications will be for importers who submit claims covering entries that implicate both phases.

The Status of Other Suits at the CIT

As CBP is developing the CAPE system, the CIT has continued to stay all IEEPA refund suits other than *Atmus* and rebuffed — at least for now — requests to reactivate consideration of any suit on these refunds through an expanded case management system or otherwise. On March 18, 2026, *Atmus Filtration* filed a motion requesting that the CIT create a master case for all IEEPA tariff litigation, appoint a Plaintiffs' Steering Committee and formalize the case management procedures that Judge Eaton had been conducting informally. The motion noted that more than 2,500 IEEPA cases have been filed by over 350 lead counsel and that orders entered in *Atmus Filtration* would affect all 330,000 importers who paid IEEPA duties. The government had made a similar request in a separate case (*AGS Company Automotive Solutions v. United States*) in December, which was denied. Judge Eaton denied the motion before him on March 19, 2026, ahead of a closed status conference with the parties.

Still, on March 19, the CIT reassigned 485 IEEPA tariff cases to Judge Eaton, which were all then concurrently stayed “to facilitate [. . .] administration.” Other similar suits, including many that remain unassigned to any judge, remain on hold.

Implications and Outlook

The government has not yet appealed Judge Eaton's March 4 order and has been complying with the court's directives. However, several factors — including the order's broad scope in extending relief to all importers regardless of whether they have filed suit, the fact that Judge Eaton handed down the order without a live motion before him, and the order's reliance on the CIT's unique jurisdictional characteristics to distinguish the CASA decision — may prompt the government to consider pursuing an appeal. The government's deadline to appeal runs through early May 2026. If an appeal is filed, it could lead to a stay of Judge Eaton's order and of the process of developing and implementing the refund mechanism. This, in turn, could considerably delay the receipt of IEEPA refunds.

In planning for IEEPA tariff refunds, companies should carefully consider the status of affected entries and options available to maximize their ability to leverage the CAPE refund mechanism. Companies should consider:

- The import value of their entries.
- Category of entries and implications of this for refund strategy (e.g., Type 11 entries, which are self-liquidating, are more likely to fall outside either a 90- or 180-day post-liquidation finality window for the CBP mechanism).
- Possible grounds for offset against refunds (e.g., errors in the entries, CBP disagreement with classification decision).
- Entry timing: Companies may wish to use a 404-day mark as a precautionary point of reference, representing the typical 314-day timeline for liquidation, plus 90 days.
- Exploring ways to stave off finality.
- Assessing the potential for litigation over the proceeds of tariff refunds.
- Ensuring that they have completed CBP's electronic ACH refund registration process: CBP has indicated that until companies register, their refunds will be rejected.

The next milestone at the CIT is a progress report from the government due on March 31, 2026, followed by a closed settlement conference that afternoon. Ongoing developments at the court should be closely monitored for insights into the evolving CBP refund mechanism and the prospects and timing of recovering IEEPA refunds.

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