CLIENT ALERTS & INSIGHTS

IEEPA Tariff Refunds Challenged in Court - Q&A for Supply Chains

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Featured Industries: Transportation & Logistics, International Trade & Supply Chain Management

Key Takeaways

- The DOJ has taken steps to challenge refunds for tariffs paid under IEEPA. The DOJ simultaneously appealed a CIT injunction and explained its decision to appeal in a petition to the CAFC on a related issue.
- CBP plans to launch Phase 2 tariff refunds for reconciliation entries on June 29 and Phase 3 tariff refunds for all finally liquidated entries at the end of July.
- This legal challenge creates uncertainty for supply chain stakeholders on whether the CAPE administrative process will work for all refunds or if litigation will be required.

Many of our clients have filed declarations to receive International Emergency Economic Powers Act ("IEEPA") tariff refunds for "Phase 1" of the new refund process. Some have already received those funds. Recent Department of Justice ("DOJ") actions between June 2 and June 9, 2026, raise questions about the viability of this administrative process for duty refunds beyond those allowed in Phase 1.

DOJ recently appealed the Court of International Trade ("CIT") April 17, 2026, injunction ordering US Customs Border and Protection ("CBP") to reliquidate final entries without IEEPA duties and refund all duties paid under IEEPA. DOJ concurrently petitioned US Court of Appeals for the Federal Circuit ("CAFC") for a writ mandamus on a related witness testimony issue. The CIT decided to allow CBP to send an alternate testimony witness on June 5, 2026.

DOJ's actions could mean that IEEPA duties paid and liquidated before those allowed under Phase 1-and not currently under protest-will not be recoverable through CBP's Consolidated Administration and Processing of Entries ("CAPE") system. In response, one plaintiff requested class action certification on June 4, 2026, to continue the case on behalf of other importers of record ("IORs") with tariff refunds that CBP will not currently process. In recent testimony, CBP's witness explained that the agency will move to Phase 2 on June 29, 2026, and Phase 3 at the end of July.

Here are the top four questions at the forefront of supply chain stakeholders' minds right now:

Q1: What is the intent of DOJ's June 2 filings and June 9 arguments?

A1: First, DOJ appealed the CIT's injunction issued on April 17, 2026. That injunction required CBP to (1) liquidate unliquidated customs entries without IEEPA duties applied; and (2) reliquidate all liquidated entries without IEEPA duties applied. In its appeal, DOJ essentially argues that CIT exceeded its authority by ordering universal refunds in this manner. The CIT stayed immediate compliance with the injunction to allow CBP to create a refund mechanism shortly after April 17.

Second, DOJ sought to block the CIT's request for the CBP commissioner to testify in IEEPA tariff-related hearings. DOJ also discusses the CIT's universal injunctions in that petition. Specifically, DOJ asserts that the CIT unlawfully issued universal injunctions to all IORs with entries subject to IEEPA tariffs. DOJ essentially disagrees with the CIT on whether allowing IORs that have not filed suit to receive IEEPA tariffs is appropriate.

Third, in a June 9 hearing DOJ expressed that CBP's current refund process has been reasonable. Nonetheless, DOJ continued to argue that full and complete refunds for all IEEPA-based duties collected should be issued only to IORs who have filed suits with the CIT.

Q2: What have we learned about future Phase 2 and Phase 3 refunds in the CAPE system?

A2: CBP Executive Assistant Commissioner, Susan Thomas, testified at the June 9, 2026, hearing. CBP will open CAPE to receive tariff refund requests for reconciliation entries under Phase 2 on June 29, 2026. CBP is preparing to possibly accept refund requests for finally liquidated entries in Phase 3 at the end of July. These are the set of entries currently contested in DOJ filings. CBP did not yet indicate that it will seek to hold its process and the July timeline throughout the litigation process.

Q3: Do DOJ's actions result in immediate changes to the current IEEPA refund process?

A3: No, the IEEPA refund process remains the same at this time despite DOJ's actions. IORs can continue to submit tariff refunds for Phase 1 via the CAPE application in CBP's ACE platform. CBP will continue to validate and process those declarations. The entries that generally qualify for processing under Phase 1 are those involving: (1) unliquidated entries; and (2) entries within 80 days of liquidation. CBP signaled a timeline of issuing refunds for those declarations within 60-90 days after accepting a CAPE submission, although some clients are receiving refunds much faster. For entries that do not fall within Phase 1 the best practice remains to file protest before the end of the 180-day protest period (although if less than 80 days have passed since liquidation then filing a declaration is preferrable).

Q4: Can DOJ's actions have future impact on the tariff refund process?

A4: Yes, if DOJ succeeds then the immediate impact is that refunds for entries falling outside the Phase 1 or Phase 2 metrics may require filing suit before the CIT. This presumes that the Phase 3 process forecast by CBP may not go into effect or may have procedural requirements. To date the vast majority of IORs have chosen to rely upon the CAPE process rather than filing suit due to the ease, expediency, low cost and low publicity of that administrative process. Still, some clients have chosen to conservatively file suit in the interest of taking all potential actions for duty recovery. The statute of limitations on those actions is expected to begin running in February 2027 for the earliest of IEEPA duty payments, and so, some time remains before recovery is precluded through litigation.

Benesch is available to counsel clients on managing current tariff recovery options, supplier and customer demands, and litigation risks, as well as ongoing tariff compliance and government enforcement. You may receive our client alerts on tariffs and related supply chain issues by signing up HERE.

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