



Meeting the Moment Insights

Tariff Challenge Becomes Major Test of Presidential Power

On November 5, 2025, the U.S. Supreme Court spent three hours hearing arguments about whether President Trump went too far when he imposed tariffs on nearly all imports into the United States.

Although the case is technically about tariffs, the larger question is far more significant: How much power does the President have when the Constitution assigns a particular responsibility—in this case, tariffs—to Congress?

At a time when the Administration has exerted extraordinary power throughout government and beyond, the resolution of this case will have significant ramifications for the continued extension of executive powers.

Why Tariff Power Is Normally Congress's Job

The Constitution gives Congress—not the President—the power to impose tariffs. Two key parts of Article I make this clear:

- Congress can lay and collect taxes, duties, imposts, and excises.
- Congress also has the power to regulate commerce with foreign nations.

There is no real debate that tariffs fall under Congress's authority. However, because emergencies sometimes require fast action, Congress passed a law—the International Emergency Economic Powers Act (IEEPA)—that allows the President to take certain actions regarding imports during a national emergency. The Supreme Court case now centers on how far that emergency authority goes.

What Sparked the Legal Fight? The “Liberation Day” Tariffs

President Trump imposed extremely broad “Liberation Day” tariffs on imports from every country, claiming the U.S. trade deficit in goods was a national emergency. On top of that, he imposed tariffs on goods from Mexico, Canada, and China, arguing that fentanyl and chemical precursor trafficking constituted a separate emergency.

These new tariffs add to existing duties covering broad areas of the economy—such as steel, aluminum, copper, automobiles, auto parts, wooden cabinets, and certain goods from China and India—with rates reaching up to 50%.

How These Tariffs Affect Americans



Impact on Small Businesses

Small businesses were hit especially hard because the tariffs took effect with little notice. Many didn't have the cash to stock up on inventory ahead of time or absorb the sudden cost increases. The chaotic rollout added even more difficulty:

- Tariff announcements were posted informally on Truth Social.
- Rules about how importers must calculate the value of goods were complicated and unclear.
- All the chaos contributed to uncertainty in supply chains and pricing.

Impact on Consumers

Higher tariffs generally lead to higher prices for American consumers. Businesses often pass the extra costs down the supply chain, which means higher prices for goods ranging from food and apparel to home building materials.

The Legal Challenges: What the Courts Are Being Asked to Decide

Several lawsuits—brought by small importers and by 11 states—argue that the President exceeded his authority under the IEEPA when he imposed these tariffs. The cases were consolidated in the U.S. Court of International Trade, the federal court that handles disputes involving tariffs and trade laws. A secondary issue—still unresolved—is which federal court should hear these kinds of challenges.

What IEEPA Says

Under IEEPA, when the President declares an international emergency, he may exercise specified powers including:

- License imports.
- Regulate imports.
- Prohibit imports.

Noticeably absent from the law are the words: tariff, duty, or tax. That is a core part of the argument. If Congress meant to let the President impose tariffs, why did it not say so explicitly?

The Government's Argument: Tariffs Are "Regulation"

The government claims:

- The power to "regulate" imports includes the power to impose foreign-facing tariffs designed to influence behavior, not raise revenue.
- The President has inherent constitutional powers in foreign affairs that may justify such tariffs.



- Any revenue generated is merely “incidental.”

During oral argument, the Justices questioned whether tariffs are a tax, from which the revenue is not incidental.

The Major Questions Doctrine

A major part of the Supreme Court argument focused on the Major Questions Doctrine, which states that if an executive action has major economic or political consequences, Congress must clearly give the President that power. The Court has used this doctrine before to block broad regulatory actions—most recently under the Biden Administration. If the President’s interpretation of IEEPA is accepted, it could allow massive economic decisions without clear congressional approval.

Are Tariffs Different from Licensing Fees?

The plaintiffs (importers and states) argued that even if IEEPA allows the President to license imports and charge fees, a licensing fee is not the same as a tariff. The discussion centered on whether the President’s actions were:

- Regulation (which IEEPA allows), or
- Taxation (which only Congress can authorize).

The Court’s question seemed to convey skepticism that licensing authority could justify tariffs of this magnitude.

What About Blocking Imports Entirely?

IEEPA does allow the President to prohibit imports. Some argue that if the President can ban products outright, then imposing a tariff is a “lesser” restriction and therefore allowed. But several Justices questioned whether this stretches IEEPA too far—especially since Congress has passed other laws that explicitly authorize tariffs in specific situations and include clear limits, procedures, and oversight.

Broader Impact: A Test of Presidential Power

Beyond the immediate economic consequences—including the possibility that the U.S. may have to refund more than \$90 billion in tariffs—the case raises fundamental questions about the separation of powers.

- If “regulate” includes “tax,” the President and executive agencies gain enormous new economic power.
- If the Court rules against the President, it reaffirms that Congress alone controls taxation and tariff policy.



- Past Supreme Court decisions limiting executive power (using the Major Questions Doctrine) will be tested for consistency.

In short, this case will help determine whether a President can unilaterally impose broad economic policies or whether Congress must explicitly authorize such actions.

Bottom Line

This case isn't just about tariffs. It's a major constitutional test:

- How much unilateral economic authority does the President have?
- Must Congress clearly approve major policy shifts?
- And who ultimately pays the price when power shifts—businesses, consumers, or both?

The Supreme Court's ruling will shape the balance of power between the executive and legislative branches—and will directly influence prices, supply chains, and economic stability for millions of Americans.

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