



CASE BRIEF

VOS Selections, Inc. v. Trump
(Currently on appeal before the Supreme Court of the US)



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CTIL CASE BRIEF

(*VOS Selections, Inc. v. Trump*)

By:

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2025 brought a new dimension to unilateral tariff measures. Prominent among them include the Trump Administration's "Liberation Day" and Trafficking tariffs. Globally, the phenomenon evoked the questions of a fragmented international trade order and the increasing resort to national security or emergency power measures. In the United States the tariffs were defended under the International Emergency Economic Powers Act, 1977 (IEEPA). In this regard, two notable parallel proceedings ensued, one before the US Court of International Trade (CIT) and the other before the District Court of Columbia.

Box 1. What is IEEPA?

The IEEPA authorises the President to regulate economic transactions, upon declaration of a national emergency under the National Emergency Act, 1976 (NEA). The IEEPA is a replacement legislation for its predecessor, the Trading With the Enemy Act, 1917 (TWEA). TWEA was largely used by former Presidents to impose sanctions like blocking international financial transactions and restricting exports, among others. However, the promulgation of the NEA and IEEPA provided for certain limits on the President's power during a national emergency. Despite the same, IEEPA, like TWEA, is considered to be one of the main legislations for the US's modern sanction regime. However, the power to tariff or tax has not been explicitly provided under the provisions of IEEPA, which has become main bone of contention in the underlying domestic litigations.

IEEPA Tariffs under Challenge

The following Presidential tariff orders under IEEPA are challenged before the U.S. courts:

Trafficking Tariffs

1. Executive Order 14193 (as amended) - *'Imposing Duties to Address the Flow of Illicit Drugs Across Our Northern Border'* (**Canada Tariff Order**).
2. Executive Order 14194 (as amended) - *'Imposing Duties to Address the Flow of Illicit Drugs Across Our Southern Border'* (**Mexico Tariff Order**).
3. Executive Order 14195 (as amended) - *'Imposing Duties to Address the Synthetic Opioid Supply Chain in the People's Republic of China'* (**China Tariff Order**).

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Worldwide and Reciprocal Tariffs

4. Executive Order 14257 (as amended) - ‘*Regulating Imports with a Reciprocal Tariff to Rectify Trade Practices That Contribute to Large and Persistent Annual United States Goods Trade Deficits.*’

Procedural History

VOS Selections Inc. v. Trump

The summary judgment provided by the CIT on May 29, 2025, arises from two cases, *VOS Selections Inc. v. United States (VOS Selections)* and *State of Oregon v. U.S. Department of Homeland Security (Oregon case)*. The *VOS Selections case* was brought by certain domestic manufacturers who challenged the trafficking tariffs and the worldwide tariffs as unconstitutional and beyond the powers of the President under IEEPA.

The main ground for the Plaintiffs to institute the case flowed from the interpretation of 50 U.S.C § 1702 (Presidential Authorities under IEEPA), which, according to the Plaintiffs, does not authorise the President to tariff or tax, and instead, is a Congressional power under the U.S. Constitution. Furthermore, the *Oregon case* was brought by 12 US states against the same tariff measures taken by the Trump Administration, which was challenged in *VOS Selections* on similar grounds. The CIT thus decided to provide a summary judgment after hearing both cases together and held that the challenged Tariff Orders were invalid as contrary to law, and a permanent injunction was ordered to that effect.

Box 2. What is the CIT?

The Court of International Trade was established in 1980, under Article III of the US Constitution, having its mandate rooted in Article I, Section 8 of the Constitution.¹ It was established to not only reform the practice of the Customs Court existing before it, but also to signal to the relevant parties the subject-matter expertise it would deal with.² The subject-matter jurisdiction of the CIT was broadened via the Customs Court Act of 1980, which provided the CIT with residual powers of exclusive jurisdictional authority to decide any civil action against the US, its officers, or its agencies arising out of any law on international trade. Further, the US Court of Appeals for the Federal Circuit was also established to hear cases appealed from the CIT.

¹ “About the Court, Court of International Trade, United States.” cit.uscourts.gov, www.cit.uscourts.gov/aboutcourt.

² “U.S. Court of International Trade, 1980-Present, Federal Judicial Center.” Fjc.gov, 2025, www.fjc.gov/history/courts/u.s.-court-international-trade-1980-present.

Learning Resources, Inc. v. Donald Trump

This case was brought before the District Court of Columbia by two family-owned businesses — Learning Resources, Inc. and hand2mind, Inc. — mainly dealing with the manufacturing of education-related products. The Plaintiffs relied on certain imports from China, and thus, only challenged the China Tariff Order and the Worldwide and Reciprocal Tariffs. The Plaintiffs, in this case too, challenged the scope of power of the President to impose tariffs under the IEEPA, which they claimed was a Congressional power. The District Court, much like the CIT, on May 29, 2025, issued a preliminary injunction granting the petitioner’s motion to hold the tariffs unlawful. Further, because the District Court held that IEEPA does not authorise the President to impose tariffs, it concluded that the CIT lacked jurisdiction.

The Federal Circuit in July 2025, however, ordered a stay on the decisions of the above-mentioned court and heard the three matters together through an *en banc* court.

Findings of the US Court of Appeals in VOS Selections, Inc. v. United States

Through the lens of the majority

The Court interpreted the challenged Tariff Orders in terms of the scope and the purpose of the statute, and the power to regulate vis-à-vis other statutes that provide for delegated legislation to the President. The Government argued that the power to impose tariffs, duties or the like is couched within 50 U.S.C. § 1701(a), from the words ‘*regulate*...*importation*’. However, the Court held that the power to ‘regulate’ has been understood to be distinct from the power to ‘tax.’ Further, the Court drew a parallel with **Sections 201, 301, and 338 of the Trade Act 1974 (TA)** and **Section 232 of the Trade Expansion Act 1962 (TEA)**, where a limited power to impose, taxes was provided to the President and the IEEPA provision cannot provide for overarching power to tax or tariff. It was also noted that such provisions did not have vague terms such as ‘*regulate*’ within the text of the provision providing for the delegated powers, and also that the provisions under the TA and TEA included the usage of terms synonymous with tariff, such as tax or duty, to avoid ambiguity, which is not provided for in the IEEPA provisions.

Further, in relation to **Section 232 of the TEA**, the Court looked at the *Algonquin* case³ where the Supreme Court of the United States (SCOTUS) read the phrase ‘*adjust imports*’ to include the power to adjust import rates when the procedural requirements under the statute were met.

³ *Fed. Energy Admin. v. Algonquin SNG, Inc.*, 426 U.S. 548, 550 (1976)

On the other hand, the Court also looked into the other IEEPA provisions and the statute's drafting history to note that there has been no mention of the term tariff, tax, or its synonyms.

The Court also looked into the major questions doctrine and the non-delegation principle to further discuss the constitutional validity of the Challenged Tariff Orders.

Major Questions Doctrine

Major questions doctrine refers to the delegation of authority by the Congress to the Executive in matters of major national significance, that mandates clear Congressional authorisation. Thus, the doctrine mandates that any delegation of legislative authority, particularly in the sphere of taxation and tariffs, must be made by Congress in explicit and unambiguous terms. This requirement flows from the constitutional principle that the power to impose taxes, including tariffs and duties, lies exclusively with the legislative branch (*Core Congressional Power vested under the US Constitution*). Addressing the applicability of the doctrine, the Court noted in line with the cases of *West Virginia v. EPA*, 597 U.S. 697, 721 (2022); and *Alabama Association of Realtors v. Department of Health & Human Services*, 594 U.S. 758, 764 (2021) regarding the *vast economic and political significance*, to conclude that the economic impact of the present tariffs (USD 4 trillion) is well within the applicability range of the said doctrine. Further, returning to the delegation of power, the Court noted that whenever Congress has intended to confer upon the Executive the authority to regulate tariffs, it has done so in a manner that is both unambiguous and precise - whether through the direct use of terms such as tariff and duty, or by adopting an overall statutory structure that clearly signals the intent to delegate such power. Thus, indicating that the Congress does not delegate power in an unduly broad interpretative scheme that would create an implied delegation of Congress's power to tax.⁴ Accordingly, the Court held, in relation to this doctrine, that in the absence of a valid and clear delegation of power from Congress, the President lacks independent authority to impose taxes.

Further, the Court also rejected the Government's reliance on the 1975 decision by its predecessor court, the U.S. Court of Customs and Patent Appeals, in *United States v. Yoshida International, Inc. (Yoshida II)* case, which dealt with the imposition of tariffs by the Nixon Administration in 1971 under the TWEA. The Court stated that the said precedent is not binding on the *en banc* court as the tariff imposed by President Nixon in the said case was within the Congressional caps set at the time. The Court also noted that the Court of Customs and Patents Appeal (CCPA), through its analysis, rejected the power of the President to impose unbound tariffs under the TWEA. Thus, rejecting the claim of the Government that the IEEPA, while replacing TWEA, ratified the *Yoshida II* holding. This was further rejected by the Court while noting that the Government must rely on the *Yoshida II* holding in its entirety rather than on a

⁴ *Biden v. Nebraska*, 600 U.S. 477 (2023)



piecemeal basis, choosing the parts that aid their argument. Lastly, the Court stated that even if the Government were to succeed with the applicability of the *Yoshida II* decision to the current case, the same would not stand as the tariffs imposed by Trump are unbound in terms of time, scope and duration, which contradict the holding of the CCPA in *Yoshida II*.

Non-delegation doctrine

The non-delegation doctrine states that the Congress must “*lay down by legislative act an intelligible principle to which the person or body authorized to fix such [tariff] rates is directed to conform.*”⁵ The non-delegation doctrine prevents Congress from ceding its legislative power to other entities, ensuring decisions are made by elected members of Congress. The Court held that the intelligible principle set out under this doctrine would include “*both ‘the general policy’ that the President ‘must pursue, and ‘the boundaries of its delegated authority.’*”. The Court went on to reject the broad interpretation of ‘*regulate*’ in line with the doctrine, as that would provide an all-encompassing power to the President for all other means of adjustment of the quantity of export provided under the contested provision, violating the proposition that the Congress must speak clearly when authorising the power of taxation. Thus, it noted that such an interpretation would provide the President with sweeping unilateral powers in matters of withdrawal, foreign holding, transportation and exportation, among others. Hence, the Court concluded that broadening the scope of ‘*regulate*’ would render the other powers listed in the IEEPA superfluous, void and insignificant as it would make the existence of the other powers under the statute moot.

The majority opinion in this case, while holding that the President did not have the power to regulate tariffs under the IEEPA, seemed to also borrow the arguments employed by the Customs Court in the *Yoshida Int’l v. United States (Yoshida I)* judgment⁶ where the Court provided for a restrictive interpretation of Section 5(b) of the TWEA. However, the Customs Court’s findings were reversed by the CCPA in *Yoshida II*, which upheld the powers of the President in a limited capacity to regulate importation by imposing tariffs, which is valid if it is within the Congressional cap set and is a limited/ temporary measure. It is to be noted that additional restrictions, such as Section 122 of the TA, have come up post the CCPA’s opinion, which apply to the invocation of powers under the IEEPA now.

Through the lens of the minority

The minority argued that the major questions doctrine would not apply to the present case due to the broad and explicit language employed in the IEEPA provision. It went on to state that national security and foreign policy measures have historically involved *broad Presidential*

⁵ *V.O.S. Selections, Inc. v. United States*, 772 F. Supp. 3d 1350, 1383 (Ct. Int’l Trade 2025), pg 27. ⁶ *Yoshida Int’l v. United States*, 378 F. Supp. 1155, 1175–76 (Cust. Ct. 1974) (*Yoshida I*)



discretion, where the SCOTUS has avoided the application of the major questions doctrine.⁶ Further, the minority, while evaluating past IEEPA actions and discussing *Yoshida II*, held that past practices show the Congress’s intention to give the President the power to tariff through IEEPA provisions. The Court additionally rejected the claims of nondelegation doctrine’s violation as it stated that Congress provided an *intelligible principle* for the delegation of power, which is that the President may act against any “*unusual and extraordinary threats*” to national security. While holding the same, the minority also undertook a comparative discussion on the broad tariff powers which were upheld in the *Algonquin* case, although the power to tariff in this case came from Section 232 of the TEA, which provides for a pre-tariff imposition procedure, limiting the unilateral discretion of the President to impose tariffs.

The minority further went on to reject the argument on the lack of limitations on the power of the President put forth by the majority and stated that the auto expiry of the national emergency measures, unless a renewal order or act is passed, provides for constraints on the Presidential power under IEEPA. Further, it stated that there are no constraints in the text of the IEEPA provision itself for the power delegated. As the CIT argued in length and the majority concurred, that the argument of trade deficits is too ordinary to qualify as “*an unusual and extraordinary threat*” to the national security of the US, the minority rejected the same by noting the relevant parts of the Executive Order(s) which provided for the recent data in terms of the increase in country-specific trade deficits which were claimed to cause harm to the domestic industries.

Lastly, the minority held that the power to regulate tariffs fell within the interpretation of the phrase “*regulate.....importation*” as ‘*regulate*’ includes fixing, controlling or adjusting, within which the power to tariff would fit, allowing for controlling tariff rates. The minority also noted that the power to tariff is a less severe measure than other IEEPA measures, which allow for prohibition and prevention of imports via sanctions and embargoes placed on countries in the past. Thus, the minority upheld the President’s power to tariff under IEEPA.

On September 9, 2025, the Supreme Court granted certiorari, consolidated both the cases – *VOS Selections* and *Learning Resources* – and expedited the argument. The oral argumentation took place on 05 November 2025.⁷

⁶ *Dames & Moore v. Regan*, 453 U.S. 654 (1981)

⁷ See the oral argumentation at

https://www.supremecourt.gov/oral_arguments/argument_transcripts/2025/241287_097c.pdf