



US Appeal of CIT IEEPA Refund Order for Finally Liquidated Entries Only Is Likely, Lawyers Say

While the U.S. has yet to file an appeal of the Court of International Trade's order requiring CBP to pay out refunds for tariffs imposed under the International Emergency Economic Powers Act — and CBP has made good on its promises to set up an administrative refund mechanism — some trade lawyers believe an appeal to the U.S. Court of Appeals for the Federal Circuit is likely on whether CIT can order CBP to reliquidate and pay refunds for finally liquidated entries.

Following the Supreme Court's decision finding that IEEPA doesn't contain any tariff authority, CIT Judge Richard Eaton issued an order directing CBP to refund IEEPA tariffs paid for all non-finally liquidated entries, though the judge paused the order while CBP established the Consolidated Administration and Processing of Entries (CAPE) tool (see 2604070011). Eaton later broadened that order to include finally liquidated entries.

To date, the U.S. has not filed an appeal of Eaton's order. While the initial order was issued in a case titled *Atmus Filtration v. U.S.*, the judge had to re-issue the order on April 7 in a case titled *Euro-Notions Florida v. U.S.* after *Atmus* voluntarily dismissed its case (see 2604070011). The government has 60 days from the issuance of the order to file an appeal. As a result of Eaton having to re-issue the order, the deadline for an appeal to be filed is now June 8.

Some attorneys believe an appeal of the order is likely, though they think the scope of the appeal will be limited to whether CIT can order CBP to refund tariffs for finally liquidated entries. Ted Murphy, partner at Sidley, told us in an email that he believes CBP only intends to refund IEEPA tariffs “up to a point (e.g., up to the point they are able to do so under the statute),” since CBP hasn't yet made any effort to expand CAPE beyond entries that have liquidated within the past 80 days.

CBP has the authority to reliquidate entries that have liquidated within the past 90 days, though the agency has limited that authority to 80 days for entries identified in CAPE submissions. The agency has made no indication that it intends to extend CAPE to cover entries for which liquidation occurred more than 80 days ago.

Michael Roll, partner at Roll & Harris, said it appears that DOJ “does not agree that those entries should be the subject of refunds,” except for importers that have filed suit at CIT. Roll added that one open question is whether a protest for entries that liquidated after the date of the Supreme Court's ruling is needed to prevent liquidation from becoming final for those entries to ensure the trade court can order CBP to reliquidate the affected entries.

Roll suggested the government might be “lulling importers into a false sense of security by hinting there will be” a second phase of CAPE refunds covering finally liquidated entries, but then never implementing this second phase and “timing out” finally liquidated entries from CIT review. “If protests can stop liquidations from being final, then importers can still protect themselves,” he said. “If protests cannot stop liquidations from being final, then the government is allowing more entries to fall into the finally liquidated status and the government likely will argue it lacks the power to refund that money.”

Murphy likewise said importers should be prepared to file both a protest and a court case to protect their rights to secure a refund.

John Peterson, partner at Neville Peterson, said that in light of CBP appearing to be “operating CAPE in good faith,” he could see the government only appealing the part of Eaton's order requiring CBP to pay refunds for finally liquidated entries. An appeal regarding the CAPE phase one refunds seems unlikely, despite the fact that it extends to non-parties before the court in seeming violation of the Supreme Court's recent decision in *Trump v. CASA*, since protests challenging IEEPA tariffs “would ultimately have to be granted” in light of the Supreme Court's IEEPA tariffs decision, Peterson said.

Should the government appeal Eaton's order, Peterson suspects the U.S. will cite the “finality of liquidation” as a defense. Peterson noted that the CAFC's 2025 decision in *Target v. U.S.* “pretty much shut down the idea of an ‘equitable’ reliquidation,” thus requiring CIT to have the statutory power to order reliquidation for finally liquidated entries.



As Expected Refund Dates Move Up, CAPE Report Function Is Down

After Court of International Trade Judge Richard Eaton released a summary of a closed CIT conference that said tariff refund payouts would start May 11 (see [ITT 04/29/2026](#)), brokers and importers reported new difficulties getting on CBP's Consolidated Administration and Processing of Entries (CAPE) system.

When Francisco Romero Diaz, global manager of trade compliance at EFI, downloaded EFI's data on April 27, it said he would get the refund on May 7 and May 11. However, when he tried to run reports on April 29 and April 30, he got an error message: "Bad gateway."

The error page said the host website, CBP.gov, was where the error occurred. Romero Diaz said it's only for running reports, and he can still get into ACE. He has tried to run reports multiple times.

"To me, it's because they have tons of people trying to run reports and check the status," he said.

"CBP is aware that ACE Truck Manifest and References Tab applications, including ACE Reports, are currently unavailable in the ACE Mod Portal," CBP said in a [CSMS message](#). A CSMS will be sent out when the issue is resolved.

Denise Calle, a principal attorney at Olsson Frank, said it's hard to manage cases when she's consistently running into an error prompt.

She said she has been unable to confirm whether her refund dates have changed since Eaton's summary. She had tried to generate a report to get an update on her client's refunds. Initially, Calle got an error message. Since then, her report functionality has been removed from her account. The importers she works with have also gotten the error message.

She said she's experienced hourslong waits getting in contact with ACE support. Calle said she's having a hard time gaining visibility on the status of claims because the system keeps crashing.

Calle said the earliest refunds will come for those entries whose status isn't under review. With refunds now seemingly imminent based on CBP's court filing, importers are asking whether they need to do more related to their refunds. She said she's getting a lot of questions related to those entries that don't show an early refund date in ACE: "If I'm getting a refund date for only a certain percentage of my entries, what do I do about the rest of my entries where I don't have a refund date established and I've already submitted through CAPE? Should I be doing more?"

Calle said the refunds likely will work, and importers can rely on them, especially with the set date for the start of refunds. She said having that date does make it less likely the government will appeal the Supreme Court decision on the tariffs, though the possibility remains.

Calle said importers should slow down, as the CIT update showed there have been a lot of rejections and error messages, and, by implication, how importers weren't doing an audit of their declarations. She and Romero Diaz said there's an uptick in importers saying they want to file their declarations and are trusting their original policies in place to ensure accuracy, as importers are seeing how fast their refunds could come in.

When submitting a CAPE declaration, there's a box asking importers to agree that all entries submitted are accurate. The conversation Calle is having with her clients before they check that box is to prepare and check over each entry more carefully. She said if CBP has to clear up the rejections on the back end, that will make the process of claiming a refund take longer.

Romero Diaz said refunds usually take 10 days after CBP's scheduled refund date, so the government can check the

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company doesn't owe anything otherwise, and offset any debts owed with the refund money. Therefore, it may be a few days after a company's scheduled refund day that those funds hit their account.

He also said the electronic refund will be faster than the checks used to be, and he said the sped-up timeline is great news for importers.

"I will say that Customs, actually, they are doing a great job. They are surprising importers because many people, we thought this was going to take even longer," he said. — *Kalie Walker*

Bessent: IEEPA Tariff Levels Could Return by Early July

Treasury Secretary Scott Bessent, [speaking](#) to the head of the editorial board at *The Wall Street Journal*, said that tariffs could return to levels in place under the International Emergency Economic Powers Act by the beginning of July through the use of Section 301.

Bessent, who described the loss at the U.S. Supreme Court on the constitutionality of using the IEEPA for tariffs as a setback, said that corporations held up investing in U.S. manufacturing "because of the IEEPA lawsuit that eventually made its way to the Supreme Court. Now using Section 301, which has survived more than 5,000 legal challenges, they will be certain of what the tariff policy is.

"We're already seeing a pick-up in the cap ex," he said, using a financial abbreviation for capital expenditures,

At the White House on April 15, Bessent was asked about \$127 billion in IEEPA tariff refunds.

Bessent clarified that \$127 billion is the scope of tariffs that were paid by entities that have signed up for direct deposit (which covers slightly more than 80% of the total refunds).

"That's not being run out of Treasury. That's being run out of CBP," he said, so importers should contact CBP if they have questions about the process of applying.

"We'll see what the timeline is for that," he said, referring to how quickly the billions will be returned. When asked

about the impact on the U.S. economy of the refunds, he said it would depend on what the companies do with the money. "Just to be clear, some of this money's going back to China," he added.

CBP issued [updated guidance](#) late on April 13 that said that, for most unliquidated entries, refunds will generally be issued within 60-90 days following acceptance of a refund declaration in CBP's Consolidated Administration and Processing of Entries system, unless a compliance concern requires CBP review. That includes 45 days for CBP review, plus additional time for Treasury to process the refund. — *Mara Lee*

Vietnam Could Face Higher Tariffs for Weak Enforcement on Counterfeits, Services Theft

Vietnam has been named a "priority foreign country" in the annual Special 301 [report](#) for intellectual property violations, the first time in 13 years that there has been a category above "priority watch list." The Office of the U.S. Trade Representative said that it will decide within 30 days whether to initiate a Section 301 investigation, which could lead to higher tariffs.

Vietnam was categorized this way because it had more "egregious IP-related acts, policies, and practices with the greatest adverse impact on relevant U.S. products," compared with China, Russia, Chile, India, Indonesia and Venezuela, and because it hadn't entered into good faith negotiations over the issues, the report said.

The list above are the countries on the "priority watch list."

The report said that the reasons for Vietnam's classification are:

- Failure to provide persistent and effective enforcement to combat online piracy
- Failure to provide sufficient enforcement against widespread counterfeiting
- Lack of effective border enforcement
- Lack of enforcement actions against unlicensed software use; and
- Lack of criminal measures against cable and satellite signal theft.

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The report noted that the USTR proposed a work plan for Vietnam in 2020, and a revised proposal in 2023. “However, Vietnam failed to make meaningful progress on these issues in subsequent bilateral engagement, as well as in recent negotiations for an Agreement on Reciprocal, Fair, and Balanced Trade.”

The watch list is for countries with some IP issues, but not as serious as those on the priority watch list. The report said that list includes Algeria, Argentina, Barbados, Belarus, Bolivia, Brazil, Canada, Colombia, Ecuador, Egypt, the EU, Guatemala, Mexico, Pakistan, Paraguay, Peru, Thailand, Trinidad and Tobago and Turkey.

The EU was not on the watch list last year; it was added this year because of its legislation that impacts digital copyright, its recent provisional agreement on the EU General Pharmaceutical Legislation (GPL), “as well as issues related to geographical indications (GIs). The EU sees its GI rules as protecting intellectual property, so that only champagne from Champagne, France can earn that name, or so that Greece is the only place that can call its salty cheese feta. The U.S. dislikes these rules, because it has cheese producers who make Parmesan or feta, and they cannot label their cheeses that way in countries that follow EU GI rules.

Mexico moved down from the priority watch list to the watch list “due to substantial actions it has taken to address significant IP concerns.” Argentina also moved down from the priority watch list to the watch list.

Bulgaria moved off the watch list due to “significant enforcement actions and progress in criminal prosecutions during the past year.” However, Bulgaria is an EU member.

Footwear Distributors and Retailers of America CEO Matt Priest [reacted](#) to the Vietnam designation by saying it’s deeply concerning.

“For years, U.S. policy has encouraged companies to diversify sourcing away from China, and many brands did exactly that—investing in Vietnam and other countries to build resilient supply chains. Targeting those same partners now creates a whack-a-mole policy environment that raises costs, disrupts planning, and risks pushing production decisions in the wrong direction,” he said. He asked USTR

to consult with Vietnam rather than hike taxes on American companies “in the name of protecting intellectual property. Making goods more expensive for Americans is never the answer.”

The International Intellectual Property Alliance said the report helps drive progress toward “more open, fair, and competitive global markets for creative content,” and thanked the agency for paying attention to digital piracy and stream ripping, among other issues. — *Mara Lee*

Commerce Adds New Duty-Free HTS for Section 232 Goods That Contain No Steel, Aluminum or Copper

The Commerce Department is adding a new provision to the tariff schedule for goods listed under a subheading subject to Section 232 tariffs on steel, aluminum or copper that don’t actually contain any of those metals. New subheading 9903.82.01 will apply a zero additional tariff rate to such goods, retroactive to the initial effective date of recent Section 232 tariff changes on April 6, Commerce said in a [notice](#).

The addition of the new subheading resolves an issue where importers of goods of chapters 72, 73, 74 and 76 were unable to declare a tariff exemption, even if their goods contained no metal. Subheading 9903.82.03 provides for a 15% “de minimis” exemption by weight from Section 232 metals tariffs, but that subheading can’t be used for goods of chapters 72, 73, 74 and 76.

A broker with knowledge of the issue said after the April 2 executive action, there was no way to report when a product had no steel, aluminum or copper content, so importers were forced to use the 9903.82.03 de minimis subheading. Now, importers have to correct entries going back to April 6.

“Resources are tight. Now with CAPE filings, resources are even more tight,” the broker said. “Now we’re talking about, again, going back and amending entries that have already been filed.”

The broker said the priority is correcting anything that hasn’t been paid on a statement yet, which are shipments that have been cleared within the last week, and file a post summary correction for anything earlier. The broker said

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the notice gives clarity toward the issue, which the broker said was a large gray area in the trade community.

"This clears that gap up for us," the broker said.

According to the notice, "filers should use this new sub-heading for goods that are imported under an HTSUS heading, subheading, or statistical reporting number listed in subparts (c)(i)-(x) of U.S. Note 16 in subchapter III of Chapter 99 of the HTSUS (Note 16) that do not contain any aluminum, steel, or copper because it is not an aluminum, steel or copper article or one of their derivatives, and therefore, the duties imposed do not apply," Commerce said in the notice.

The notice also makes a technical correction to the U.S. note describing treatment of steel and aluminum derivatives and articles of copper, correcting an "inconsistency" in the note.

And the notice "clarifies" that U.K.-origin steel made by Tata Steel UK that contained steel melted and poured in the Netherlands is eligible for the lower U.K.-specific rate for Section 232 steel tariffs under subheading 9903.82.04 until Jan. 1, 2028. Commerce said that has been the case since the U.S. and the U.K. signed an "economic prosperity deal" in June 2025. "Additionally, U.K.-origin steel articles made by Tata Steel UK for which the reported country of melt and pour is the Netherlands may also count toward the 95 percent of steel melted and poured under note 16(d) of the HTSUS (with respect to products under Headings 9903.82.04 and 9903.82.05)," also until Jan. 1, 2028, the notice said. — *Brian Feito and Kalie Walker*

Allies Forge New Trade Paths as US Retreats, Panel Says

A year after President Donald Trump's "Liberation Day" tariff announcement disrupted decades of U.S.-led economic integration, America's closest partners are rapidly restructuring their trade relationships—a reordering that trade experts warned could permanently weaken Washington's influence in the global system.

At a Network 20/20 [webinar](#) on April 22, the speakers said the U.S. is stepping away from its stabilizing role in the global economy, prompting countries to reduce their reliance on the U.S.

They agreed that the turn toward unilateralism has pushed allies to seek strategic autonomy through new trade partnerships, while U.S. companies face an uncertain environment that is freezing investment and complicating supply chains.

The speakers also warned that by weaponizing trade and ignoring multilateral rules, Washington is driving a permanent fragmentation of the global trading system that leaves the U.S. more isolated as its own companies confront rising costs and weakening competitiveness.

Adam Posen, president of the Peterson Institute for International Economics, said the U.S. has shifted from providing global financial and security "insurance" to running a "protection racket" by pressuring allies with threats rather than supporting them.

"Essentially, the U.S. government has gone around bullying allies, in particular because they can't do it effectively against China, and saying, 'You have a nice little economy. There would be a shame if anything happened to it, and therefore you should write me a check for billions and billions of dollars,'" he said.

Posen noted that this uncertainty has paralyzed the private sector, with corporate investment remaining "absolutely flat" outside the artificial intelligence sector since the Trump administration took office.

"The rest of the world is getting on with it" regardless of U.S. interests, he said.

Edward Alden, a senior fellow at the Council on Foreign Relations specializing in U.S. economic competitiveness, trade and immigration policy, noted how allies have responded with strategic diversification, not retaliation.

He pointed to the EU's recent trade agreements with India and Mercosur as evidence that nations are moving away from U.S. dependency.

Canada, historically vulnerable to U.S. pressure, has also "mended fences" with China and India, Alden said.

"The rest of the world is busy trying to preserve and build as much of the global trading system as it can," he said.

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Alden also warned of a “severe double whammy” for U.S. competitiveness caused by the combination of protectionist trade and restrictive immigration policies that have seen net migration fall toward zero.

“We are really seeing that pipeline turned off,” Alden said about the loss of global scientific and technology talent in the U.S.

Alice Slayton Clark, senior vice president of trade, investment and digital policy at the U.S. Council for International Business, said the tariff upheaval is increasing compliance costs for U.S. companies and disrupting their supply chains.

“Unilateralism is now the new world order,” she said, noting that 40% of U.S. imports are manufacturing inputs—meaning the tariffs directly undermine the Trump administration’s reshoring goals.

Small and medium-size firms are hit the hardest because they lack the legal and compliance capacity to keep up with shifting rules, she said.

The panel concluded that while the U.S. remains too large to ignore, its “brand erosion” is driving a more volatile, multipolar world.

“The world may not be as good a place economically, but the rest of the world is going on with life ... in a way that the U.S. is not,” Posen said. — *Roseanne Gerin*

Labor Department Launches Tools for Detecting Forced Labor in Supply Chain

The Department of Labor launched a new suite of voluntary self-assessment tools for U.S. companies to oversee forced labor in supply chains, it [said](#) April 8.

The resources include a mobile app that has information on labor violations in over 145 countries and a “red-flag list”

gleaned from labor abuse research for high-risk goods for importers. There also are tools meant to build strong labor due diligence systems and manage risk and visibility in supply chains.

“By equipping companies with actionable tools, the department is helping businesses reduce risk, strengthen supply chains, and compete from a position of strength,” the agency said.

The tools are meant to provide guidance for companies to evaluate labor practices and map risks to comply with laws banning imports made with forced labor, and to ensure American businesses are not put at a disadvantage.

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