



Legislative History of the International Emergency Economic Powers Act

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On Wednesday, November 5, 2025, the U.S. Supreme Court heard arguments in *Learning Resources, Inc., v. Trump* (Case No. [24-1287](#)). The case asks whether the International Emergency Economic Powers Act (IEEPA) authorizes the President to impose tariffs on countries based on national security or other threats to the United States. Beginning in February 2025, President Trump unilaterally began imposing tariffs on China through an executive order claiming authority under IEEPA. On April 2, 2025, President Trump expanded the implementation of tariffs covering every nation in the world, as well as increased tariffs on China. On April 22, 2025, Petitioners initiated litigation against the President. This article reviews the legislative history for IEEPA based on the discussion in a legal brief by University of Virginia law professor Aditya Bamzai (Bamzai, [amicus curie](#)) and a brief by the Solicitor General, John Sauer (Respondents, [reply brief](#)).

Background

The International Emergency Economic Powers Act (IEEPA) authorizes the President to impose tariffs on countries that pose an “unusual and extraordinary threat” to the United States (50 U.S.C. § 1701(a)). Through IEEPA, Congress grants the President the power to “regulate . . . importation” (50 U.S.C. § 1702(a)(1)(B)) from those countries which have been declared a threat to the United States. IEEPA’s predecessor statute was the Trading with the Enemy Act of 1917 (TWEA) and common-law principles developed pre-TWEA. Congress directly pulled IEEPA’s operative language from TWEA. Moreover, in enacting TWEA, Congress codified common-law principles of executory wartime powers established during Nineteenth Century conflicts—specifically, the executive’s power to immediately prohibit all commercial transactions between citizens of adverse nations. However, in the early years of the U.S., it was undecided if the power to entirely prohibit trade included the power to impose a tax or fee on goods from adversarial nations.

Discussion

(1) Common-Law Prior to Trading With the Enemies Act.

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In 1847, during the Mexican-American War, President Polk announced to Congress that he would allow trade with Mexican ports subject to fees levied in support of the military. When asked for the legal justification of these fees, President Polk claimed that Congress's declaration of war gave the executive branch the power to prohibit all commercial transactions between adversaries, and that power to prohibit included the power to impose a fee on those commercial transactions. This did not sit well with some members of Congress, who felt that President Polk's imposition of a fee was outside of the scope of a President's duty to execute the law and trampled on the powers of Congress to declare war. When the issue reached the Supreme Court, the Court found that President Polk's imposition of fees aligned with the "general principles in respect to war and peace between nations" (*Cross v. Harrison* (1853)).

In 1863, during the Civil War, President Lincoln and Treasury Secretary Chase imposed a fee on the sale of cotton from the Confederacy. Following the war, several cotton merchants sued seeking to recover their payment of the fee. Echoing the concerns of Congress when President Polk imposed a fee, the cotton merchants argued that the Constitution gives Congress the non-delegable power to tax (See U.S. Const. art. I, § 8, cl. 1). The Supreme Court upheld this fee, however, finding it to be within "the war power of the United States government" (*Hamilton v. Dillin* (1874)). From the Courts perspective, in *Dillin*, the fee did not fall under "the power to levy and collected taxes," but instead was within "the war powers of the government," which dated back to English common-law. In applying English common-law war powers, which were solely "exercised by the crown," to the U.S. Constitution, which established a separation of powers between the three branches of government, the *Dillion* Court notes the importance of "a concurrence of both [legislative and executive powers]." And in this case, the Court found that Congress had authorized the President to impose the fee on the sale of cotton.

Finally, in 1898, during the Spanish-American War, President McKinley imposed similar fees on the Philippine Islands. Again, the Supreme Court upheld this Presidential imposition of fees on an adversarial nation (*Lincoln v. U.S.* (1905)). But this time, the Court clarified that the President's authority to impose the fee ended upon a treaty of peace. In other words, the tariffs only remained in effect during a war declared by Congress.

(2) *Trading with the Enemy Act of 1917 (TWEA)*

Seeking to codify the common-law that formed throughout these wars, Congress enacted TWEA during World War I. When writing TWEA, legislators knew that military, economic, and political conditions had changed since the common-law principles were established. So, Congress created a provision within TWEA that authorized the President to "investigate, regulate, or prohibit . . . any transactions in foreign exchange" (P.L. 65-91, 40 Stat. 411, 415, § 5(b)). Originally, TWEA imparted this power to the President only during a declared war, and it made no mention of imports. Amid the Great Depression, Congress expanded the scope of TWEA to include a "national emergency" (P.L. 73-1). And a few years later, prompted by the attack on Pearl Harbor, Congress expanded TWEA again by adding "importation" to the list of matters the President could "regulate" (P.L. 77-354).

In 1950, "President Truman invok[ed] TWEA to declare a national emergency because of the outbreak of the Korean war and the threat of communist imperialism" (*VOS Selections, Inc. v. Trump* (Fed. Cir. 2025) (citing 15 Fed. Reg. 9029 (1950))). Under this declaration, the Truman Administration established regulations that prohibited Cuban nationals from transferring property outside of the United States (31 C.F.R. § 515.201). Sardino, a Cuban national living in Cuba with a savings account in a New York bank challenged this regulation as violating the nondelegation doctrine and due process (*Sardino v. Federal Reserve Bank of New York*, 361 F.2d 106 (2nd Cir. 1966)). The Second Circuit rejected both challenges. The appellate court rejected Sardino's nondelegation challenge by invoking a 1936 Supreme Court decision, *United States v. Curtiss-Wright Export Company*. In *Curtiss-Wright*, the Court held that it is not a violation of the nondelegation doctrine for Congress to give the President "broad discretion" in the field of international relations (299 U.S. at 329). Overall, *Sardino* "demonstrated how [TWEA] raised complex constitutional questions about whether and how the wartime justifications for [] TWEA extended to the non-wartime context of the Cuban embargo" (Bamzia, [amicus curie](#)).

In 1971, President Nixon invoked TWEA "to temporarily suspend existing tariff agreements," which added a 10 percent duty "on all dutiable articles imported into the United States" (*VOS Selections, Inc. v. Trump* at 1325). One of those "dutiable articles" was zippers. Yoshida International, a zipper importer, challenged President Nixon's additional 10 percent duty. Yoshida won its initial challenge in the United States Customs Court (*Yoshida International, Inc. v. United States*, 378 F. Supp. 1155 (Cust. Ct. 1974)).

That decision was reversed by the Court of Customs and Patent Appeals (CCPA), which held that an additional 10 percent duty was within the President's authority under TWEA (*United States v. Yoshida International, Inc.*, 526 F.2d 560 (C.C.P.A. 1975)). Importantly, CCPA did "not hold that TWEA created unlimited authority in the President to revise the tariff schedule, but only the limited temporary authority to impose tariffs that would not exceed the Congressionally approved tariff rates" (*VOS Selections, Inc. v. Trump* at 1325).

(3) *International Economic Emergency Powers Act (IEEPA)*

Importantly, Congressional concerns about presidential use of TWEA led Congress to limit or reduce the "scope of TWEA and enacted the National Emergencies Act (NEA)" in 1976 (P.L. 94-412). Under NEA, Congress "limited presidential power and placed restrictions on the use of authorities granted by TWEA" (*VOS Selections, Inc. v. Trump* at 1325). Additionally, Congress created new procedural "restrictions on the declaration and termination of future national emergencies" (*VOS Selections, Inc. v. Trump* at 1325). Although NEA did not address section 5(b), which is at issue in *Learning Resources*, a Senate Report supports an argument that Congress sought to "propose such revisions as might be found necessary to limit the President's exercise of authority granted in section 5(b) during peacetime" (S. Rep. 95-466, at 2 (1977)). As the Federal Circuit Court put it, "IEEPA is the result of this legislative effort" (*VOS Selections, Inc. v. Trump* at 1326).

Congress narrowed the authority granted to the President under IEEPA. For example, IEEPA does not grant the President "the power to vest (i.e., to take title to) foreign assets, to regulate purely domestic transactions, to regulate gold or bullion, or to seize records" (*Regan v. Wald*, 468 U.S. 222, 228 (1984)). Additionally, IEEPA is limited to "any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States," and establishes exceptions to the granting of authority (50 U.S.C. § 1701). However, Congress kept the same language in TWEA authorizing the President to "regulate . . . importation" in IEEPA (50 U.S.C. § 1701(a)(1)(B)).

Conclusion

The Trump Administration has argued that the word "regulate," grants it authority to "impose[] varying tariffs of unlimited duration on imports of nearly all goods from nearly every country with which the United States conducts trade" (*VOS Selections, Inc. v. Trump* (Fed. Cir. 2025)). In a 7-4 split, the Federal Circuit Court held that President Trump's broad, sweeping tariffs go beyond the authority granted under IEEPA. In its decision, however, the court emphasized that the word "tariff," or other similar words like "duties, customs, taxes, or imposts" are not found in IEEPA. The court relied on the plain meaning of the word "regulate," and the fact that, in other statutes, Congress specifically uses "tariff" or other similar words to delegate a limited power to impose tariffs to the President.

The Supreme Court has previously interpreted the word "regulate" to include the power to impose taxes in other contexts. The Supreme Court could use a similar line of reasoning to find that President Trump exceeded the scope of IEEPA. But they could also use the legislative history to find that "regulate . . . imports" includes a power to establish tariffs. If it does, the Court will also presumably have to resolve constitutional issues from the nondelegation and major questions doctrines (see e.g., *Federal Communications Commission v. Consumers' Research*, 606 U.S. 656 (2025); *Biden v. Nebraska*, 600 U.S. 477 (2023)). For both doctrines, the Court could find, like it did in *Curtiss-Wright*, that "the President [is] the sole organ of the federal government in the field of international relations," and thus, when it comes to foreign affairs, the nondelegation and major questions doctrines are not implicated.

References

U.S. Const. art. I, § 8, cl. 1

50 U.S.C. § 1701

40 Stat. at 415, § 5(b)

S. Rep. No. 95-466, at 2 (1977)

15 Fed. Reg. 9029 (1950)

31 C.F.R. § 515.201

P.L. 73-1

P.L. 77-354

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

United States v. Curtiss-Wright Export Company, 299 U.S. 304 (1936)

Cross v. Harrison, 57 U.S. 164 (1853)

Federal Communications Commission v. Consumers' Research, 606 U.S. 656 (2025)

Hamilton v. Dillin, 88 U.S. 73 (1874)

Learning Resources, Inc., v. Trump, No. 24-1287 (October 23, 2025)

Lincoln v. U.S., 197 U.S. 419 (1905)

Sardino v. Federal Reserve Bank of New York, 361 F.2d 106 (2nd Cir. 1966)

VOS Selections, Inc. v. Trump, 149 F.4th 1312 (Fed. Cir. 2025)

Yoshida International, Inc. v. United States, 378 F. Supp. 1155 (Cust. Ct. 1974)

United States v. Yoshida International, Inc., 526 F.2d 560 (C.C.P.A. 1975)

Brief of Professor Aditya Bamzai as Amicus Curiae in Support of Neither Party, *Learning Resources, Inc., v. Trump*, No. 24-1287 (October 23, 2025)