

The Supreme Court's Review of IEEPA Tariffs:

Why it matters to the gold market (or does it?)



The gold market faced significant developments throughout 2025 as participants responded to evolving drivers, including [US tariff policies](#). After considerable uncertainty, the White House¹ clarified that gold imported for investment purposes would be exempt from tariffs under the International Emergency Economic Powers Act (IEEPA)². However, the story may not end with this exemption. The Supreme Court's ongoing review of the Trump administration's application of IEEPA tariffs³ will have broad implications for commodity markets, especially gold. This blog, prepared in collaboration with [Brownstein Hyatt Farber Schreck](#), examines the legal context, potential effects on commodity prices, and the specific ramifications for gold as market participants, investors, and policymakers prepare for possible changes to the current tariff regime.

Legal and constitutional context

At the heart of the Supreme Court's deliberations are two pivotal questions: Can Congress delegate to the President the authority to impose tariffs as expansively as has been done under IEEPA? And did Congress do so in the language of IEEPA? These questions reflect a deeper constitutional tension between the explicit power of Congress to regulate tariffs and taxes – a core legislative function – and the President's broad authority over foreign affairs, which has historically included significant latitude in responding to international threats and emergencies.

During oral arguments, justices grappled with the meaning of "regulate importation" as used in IEEPA. Some pressed the administration to provide statutory examples of where "regulate" equates to "tax", while others considered whether the statute's language could be interpreted to allow licensing regimes rather than direct tariff imposition. This textual debate is critical, as a decision that "regulate" does *not* include the power to levy tariffs would allow the Court to resolve the case without delving into more complex constitutional doctrines.

Beyond statutory interpretation, the Court's deliberations have been shaped by two key constitutional principles: the major questions doctrine and the non-delegation doctrine. The major questions doctrine holds that Congress must speak clearly when delegating authority over issues of vast economic or political significance. Given the scale of the tariffs in question – impacting trillions of dollars in trade – the challengers argue that IEEPA's text is insufficiently explicit to support such a delegation. The non-delegation doctrine, meanwhile, restricts the ability of Congress to transfer its core powers to the executive branch without clear standards. The administration contends that IEEPA provides adequate guidance, especially in the context of national security and foreign policy. However, the justices have raised hypotheticals – such as the imposition of a 50% tariff on gas-powered cars in response to a climate emergency – to test the limits of the administration's theory and the potential for unchecked executive action.

Practical and economic implications

The stakes of the Supreme Court's decision extend far beyond legal theory. The tariffs imposed under IEEPA have generated billions of dollars in revenue⁴ and have had a significant impact on global trade relationships. If the Court invalidates these tariffs, [many companies](#) will likely seek refunds, creating substantial administrative and financial challenges for the government. Moreover, the ruling could alter the dynamics of trade negotiations, as the threat of swift, sweeping tariffs has been a powerful tool in bringing other countries to the bargaining table.

Notably, certain tariffs – such as those imposed under Section 232 of the Trade Expansion Act 1962 and Section 301 of the Trade Act 1974 – would remain unaffected by the Court's decision. These authorities provide alternative mechanisms for the administration to pursue its trade and national security objectives, albeit with more targeted and procedurally defined tools.

1. [Executive Order Modifying the Scope of Reciprocal Tariffs and Establishing Procedures for Implementing Trade and Security Agreements](#), dated September 5, 2025.

2. [The International Emergency Economic Powers Act: Origins, Evolution, and Use | Congress.gov | Library of Congress](#)

3. [Learning Resources, Inc. v. Trump](#), and [V.O.S. Selections, Inc. v. United States](#), consolidated before the U.S. Supreme Court (argued Nov. 5, 2025).

4. [Thanks To President Trump, CBP announces record-breaking \\$200 billion in tariff revenue](#), CBP.gov, 16 December, 2026.



Options if IEEPA is overturned

Should the Supreme Court strike down the use of IEEPA for tariff imposition, the administration has several alternative statutory tools at its disposal:

- **Section 232 (Trade Expansion Act 1962):** Allows the President to impose tariffs on imports that threaten national security, following an investigation by the Department of Commerce. While effective for sector-specific actions, it cannot easily support broad, across-the-board tariffs.
- **Section 301 (Trade Act 1974):** Empowers the US Trade Representative to investigate and remedy unfair trade practices, including through tariffs. These actions are country-specific where there is evidence of trade violations, offering flexibility but not universal coverage.
- **Section 338 (Tariff Act 1930):** Enables the President to impose additional tariffs on imports from countries that discriminate against US commerce. Its lack of precedent makes it a risky but potentially powerful tool.
- **Section 122 (Trade Act 1974):** Allows for the imposition of temporary import surcharges or quotas to address serious trade deficits, subject to caps of 15% and 150 days. It could serve as an interim measure while longer investigations are conducted.

Together, these authorities form a “plan B” for maintaining tariff leverage. The administration could deploy Section 232 for strategic sectors, use Section 301 to target specific countries and practices, explore Section 338 for counter-discrimination, and activate Section 122 for short-term coverage. However, none of these statutes permit the kind of sweeping, universal tariffs attempted under IEEPA.

Impact on gold prices

Gold’s unique role

Gold has historically benefited from periods of trade policy uncertainty and [tariff-driven market volatility](#). During the recent tariff regime, gold prices surged to record highs, driven by safe-haven flows, central bank buying, and investor diversification. The threat and implementation of tariffs led to significant changes in gold market behaviour. COMEX gold inventories rose sharply as traders moved physical gold from London to New York, anticipating potential disruptions, and US gold premiums were driven up relative to global prices.

If tariffs are overturned

The removal of tariffs will likely raise questions on all assets, commodities and even potentially gold. For gold, this could lead to increased volatility, regional price impact and the movement of large stocks to and from the U.S. Gold may experience a short-term pullback as uncertainty fades and risk appetite returns to other asset classes. However, elevated geoeconomic risks and ongoing policy volatility are more likely to support gold prices.

Over the longer term, gold’s spot market has remained resilient and well-behaved, generally benefiting from flight-to-quality flows. Even if tariffs are overturned, gold is expected to remain supported by central bank demand, diversification needs, and its role as a hedge against broader economic and policy risks.

Considerations for gold market participants

Overall, the gold market’s reaction to tariff developments has been more pronounced in physical flows and regional premiums than in spot prices – a reminder that trade policy can reshape market mechanics even when headline prices remain resilient. If tariffs are overturned, we are likely to see the physical market experience an increased level of activity between the London OTC market and the NY market, with physical stocks moving aggressively to address the condition. There is also the potential for the market to assess and move quickly to navigate refund litigation and customs procedures, while staying attentive to the possibility that new tariff authorities could reintroduce volatility. All the while, gold’s safe-haven appeal is expected to remain intact, supported by persistent geopolitical and economic uncertainty, making ongoing monitoring of global risk factors essential for market participants.



Prepare for the pivot

The Supreme Court's decision on IEEPA tariffs will have profound implications for the future of US trade policy, the balance of power between Congress and the President, and the practical realities of global commerce. For some commodity markets, the removal of tariffs could exert downward pressure on prices, though the adjustment will likely be gradual and uneven, reflecting the complexities of supply chains and contract renegotiations. For gold, the story is more nuanced: while tariff-driven uncertainty may have contributed to a higher gold price, its role as a safe haven and hedge against broader risks ensures continued resilience, even after regional premiums normalized and trading patterns rebalanced.

As the legal and economic landscape evolves, stakeholders must remain vigilant, adaptive, and prepared for a new era in the regulation of international trade. The persistence of Section 232 and 301 authorities ensures that tariffs will remain a central feature of US trade policy, albeit in more targeted forms. Businesses should prepare for potential refund claims, shifts in exposure from universal tariffs to sectoral or country-specific actions, and ongoing policy volatility as new investigations and proclamations emerge.

The Supreme Court's ruling will shape the contours of executive action and legislative oversight for years to come. Whether the outcome brings immediate relief or ushers in a new phase of market volatility, the gold market and broader commodity sectors will continue to play a critical role in reflecting and responding to the evolving dynamics of global trade and policy risk.



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