



Footwear & Politics

By Thomas Crockett • Nov 05, 2025

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Today, the Supreme Court heard oral arguments on the legality of President Trump’s International Emergency Economic Powers Act (IEEPA) tariffs.

Listen: You can listen to the full oral arguments from both sides [here](#).

Below are a few things that caught our attention during the nearly 3 hours of oral arguments:

The Trump Administration argued the tariffs are “regulatory tariffs” not revenue-raising tariffs.

- **Why it matters:** IEEPA *does* give the President the power to “regulate” imports. IEEPA does not mention the word tariffs.
- **Tell me more:** The Trump administration is arguing Congress delegated this tariff authority to the President through IEEPA to address international emergencies (consistent with the president’s constitutional powers related to foreign policy). The administration argued the IEEPA tariffs are most effective if no one pays them but instead shifts consumption to domestic goods; the money coming in is just “incidental.”

Say what?! This is not the same thing the President has said:

- *In August:* “Without Tariffs, and all of the TRILLIONS OF DOLLARS we have already taken in, our Country would be completely destroyed, and our military power would be instantly obliterated.” *In October:* “We’ve made so much money on Tariffs, that we are going to take a small portion of that money, and help our Farmers.” *This week:* “Tariffs have brought us Great Wealth and National Security in the nine months that I have had the Honor to serve as President ... If we win [the case], we will be the Richest, Most Secure Country anywhere in the World, BY FAR. If we lose, our Country could be reduced to almost Third World status — Pray to God that that doesn’t happen!”

The plaintiffs argued that Congress gave the President a lot of authorities through IEEPA to deal with international emergencies (including quotas, licenses, etc.) ... but Congress did not hand over, through IEEPA, the power to raise revenue through tariffs.

- As we all know, tariffs operate as taxes. Taxation is a core power of Congress. Prior to President Trump, IEEPA, a law enacted in 1977, had never been used to impose tariffs.
- **One more thing:** Another reason the stakes are so high here — as Justice Gorsuch pointed out in his questioning, if Congress did in fact give this authority to the President, it will be almost impossible for Congress to take it back. Any president can just veto that move.

One more thing: Justice Alito pointed out that the President could move on to the next tariff tool, Section 338, and this whole situation could go on for another year as that power is challenged in the courts. He wondered whether the Supreme Court should consider the unusual move of addressing some of the other tariff authorities now.

Our thought bubble: A lot of press reports are suggesting the justices expressed skepticism on the tariffs based on the questions they asked today. We encourage our members not to read too much into the line of questioning as a way to predict how the case will be decided.

- We will be joined by Sean Reilly from Hughes Hubbard again on next Tuesday’s weekly member call for his thoughts. Register here (one-time signup for the rest of the year):

Weekly Call

Thanks for reading this week’s Footwear & Politics update. Feel free to share this newsletter with others on your team. Have a great rest of the week!

Thomas

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