

## How to Protect Your Interests to Recover IEEPA Tariffs

### *IEEPA Litigation/Refunds – Recent Developments*

Following several orders from the Court of International Trade (“CIT”),<sup>1</sup> U.S. Customs and Border Protection (“CBP”) launched its IEEPA refund system – the Consolidated Administration and Processing of Entries (“CAPE”) system – on April 20, 2026, on ACE. This FAQ addresses developments since the CAPE launch and potential issues encountered by companies arising from CAPE.

#### **I. The Department of Justice (“DOJ”) has now appealed the order by the CIT. What does that mean for my recoveries?**

On June 3, 2026, the DOJ filed notices of appeal in the U.S. Court of Appeals for the Federal Circuit, challenging the CIT’s order to issue refunds to all importers who paid IEEPA tariffs. The DOJ’s filings assert that it can only issue refunds against finally liquidated entries if the claimant has filed an action at the Court of International Trade. This filing does not change the ability to receive a refund through the CAPE process. If, however, claims are not filed through CAPE and the entry has been liquidated beyond 90 days (becomes “finally liquidated”), then the appeal suggests that the recovery may only be available for those who have filed an action at the CIT. Accordingly, importers should continue to monitor liquidation and protest deadlines to preserve administrative remedies.

#### **II. I have filed protests, do I still need to file an action at the Court of International Trade to assure that I can recover the IEEPA tariffs?**

The appeal does not address how protests will be handled. The court had previously ruled that the payment of the IEEPA tariffs is not a protestable issue. That ruling, however, was issued before the Supreme Court ruled that the tariffs were unlawful. Arguably, CBP’s decision to liquidate the entry with the IEEPA tariffs that were ruled to be unlawful was a decision by CBP that can be protested. Based on the fact that the court had ruled that all IEEPA tariffs must be refunded and that filing of a protest is ordinarily the first step to gaining the jurisdiction of the court, we believe that protests should result in the refund of the tariffs. Currently, however, the only statements regarding the refund of tariffs paid on finally liquidated entries have been related to those entries filed by plaintiffs before the court. Therefore, while it is likely that protest will result in the recovery of the IEEPA tariffs, it appears that the recovery of the tariffs using this route will be delayed in comparison to the recovery issued to litigants before the CIT.

#### **III. I have filed my CAPE Declaration and I get errors, what do I do?**

The type of error will determine what an importer needs to do. As an initial matter, importers should verify whether the error flag is correct, and attempt refile on CAPE if no error is identified. However, some errors, such as “HTS Relationship Mismatch,” “Value Not Allowed on HTS,” or “Invalid HTS” may require filing a Post-Summary Correction to

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<sup>1</sup> In response to the Supreme Court ruling on February 20, 2026, ruling the IEEPA tariffs unconstitutional. See, *Trump v. V.O.S. Selections, Inc.* and *Learning Resources, Inc. v. Trump*.

address the underlying error before re-filing the CAPE declaration. CBP has issued guidance regarding specific errors and actions to remedy.<sup>2</sup>

Please note that CBP continues to make improvements to the CAPE validations that enable importers to re-file entries originally rejected. Importers who have received “Goods Value Amount Must Be Reported On The Ch 1-97” errors can now refile these entries in CAPE.

#### **IV. I have entries flagged for Reconciliation. Are they CAPE eligible?**

On June 29, 2026, CBP launched Phase 2 of the CAPE Refund System.<sup>3</sup> This Phase covers reconciliation entries where 1) the entry flagged for reconciliation is unliquidated or liquidated within 80 days and 2) the reconciliation entry (type 09) has not yet been filed. The CAPE process removes the IEEPA duties from the flagged entries, separating the IEEPA refund from the calculations on the reconciliation entry. Once the entries flagged for reconciliation are accepted on a CAPE Declaration, the reconciliation entry may be filed.

CBP advises that for entries flagged for reconciliation that are within 30 days of the reconciliation filing deadline, importers should file the reconciliation entry and deposit the duties, taxes and fees owed without the increased IEEPA duties. CBP expects to develop a future phase of CAPE to address entries flagged for reconciliation with a reconciliation entry on file.

#### **V. Why am I not getting the entire IEEPA refund that I should be receiving?**

CBP is grouping refunds by liquidation dates and processing the IEEPA refunds as part of the liquidation process. CBP may also extend liquidation to allow additional time for review. Accordingly, the IEEPA refunds are authorized after the relevant Center of Excellence and Import Specialist team has had a chance to review the entry. While each CEE and Team works differently, our experience is that some Teams do not handle the CAPE processing until the end of the 90-day reliquidation process and that it can take 4 weeks after the transmittal date to actually receive the refund. Recognizing this timeline, importers may want to consider the following:

1. Ensure that there are no Notify Parties designated to receive the refund (CF4811 Notify Parties may receive refunds if listed on the ES-022 report and listed under the importer’s ACE account as a Notify Party);

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<sup>2</sup> CBP CSMS #69056483 - *Update to Entry-Level Validations for CAPE Declarations* (June 25, 2026), [https://content.govdelivery.com/bulletins/gd/USDHSCBP-41db7e3?wgt\\_ref=USDHSCBP\\_WIDGET\\_2](https://content.govdelivery.com/bulletins/gd/USDHSCBP-41db7e3?wgt_ref=USDHSCBP_WIDGET_2)

<sup>3</sup> CBP CSMS #69066837 - *DEPLOYED – Consolidated Administration and Processing of Entries (CAPE) for IEEPA Refunds - Entries Flagged for Reconciliation* (June 29, 2026), [https://content.govdelivery.com/bulletins/gd/USDHSCBP-41de055?wgt\\_ref=USDHSCBP\\_WIDGET\\_2](https://content.govdelivery.com/bulletins/gd/USDHSCBP-41de055?wgt_ref=USDHSCBP_WIDGET_2)

2. Importers should verify that their bank account information is on file with CBP through the ACE Portal. *See more information at [ACH Refund Enrollment Overview](#).* Importers can verify if a refund has been rejected through ACE Reports, REV-613 ACH Rejected Refunds Report;

3. As part of the liquidation process, CBP may review entries to assure that the correct duties, taxes and fees, aside from IEEPA, were correctly reported and may use the IEEPA refund to offset additional duties that may be due;

4. CBP will also check for any unpaid debts owed to CBP by the importer before issuing refunds, and consistent with 19 CFR 24.72, the IEEPA refund will be used to cover an unpaid debt before any balance will be issued to the importer. Diversion of a refund can be tracked on the REV-603, Trade Refund Report, or the REV-615, Trade CAPE Detail Refund Report.

We encourage Importers to track the liquidation status of entries filed on a CAPE Declaration, understanding that a protest may be required if, for some reason, the entry becomes finally liquidated with the IEEPA tariffs notwithstanding the filing of the CAPE claim.

#### **VI. I am getting invoices from CBP. Are these triggered by CAPE?**

Entries that are filed on a CAPE Declaration are subject to any duties, taxes and fees, aside from IEEPA, that are applicable upon liquidation or reliquidation. As CAPE is a reliquidation, it is possible that the duties, taxes and fees owed on the entry may exceed the IEEPA refund (see above). For example, although importers may have paid IEEPA duties, importers may have underpaid or failed to pay other duties (such as Section 232, 301, or 201) that are applicable. CBP has also reported that the CAPE process has inadvertently resulted in the denial of Chapter 98 treatment in certain instances (*i.e.* utilizing certain 9817 provisions for preferential treatment of certain items). You may need to protest these actions.

#### **VII. What do I do with the invoices CBP has issued?**

If you believe the invoice was incorrectly issued, consider filing a protest. Protests are due 180 days (6 months) from the date of liquidation or reliquidation. You may still want to consider paying the invoice as interest will continue to accrue. If the invoice seems correctly issued, follow the directions provided by CBP to complete the payment.

#### **VIII. I am hearing stories about CBP liquidating entries after CAPE and increasing duties. Should I hold off on filing CAPE?**

No, importers should consider filing CAPE Declarations within 80 days from liquidation to ensure entries that can be filed through CAPE are filed, and to prevent reliance on protests, which may take up to 2 years for CBP to resolve. However, importers should be aware that, as CAPE is a liquidation process, filing a CAPE Declaration triggers a new CBP review of all classification, valuation, country of origin, and tariff stacking determinations made at the time of entry, thus subjecting entries to possible increases in duties, as would liquidation generally.

**IX. What are my risks for delaying my CAPE filings?**

For entries currently eligible for CAPE, importers are encouraged to file within the 80-day deadline as the current version provides refunds under a clear statutory and regulatory framework. Delaying CAPE filing increases the risk that the entry will surpass the CAPE deadline and require protests or litigation to recover those duties.

**X. I see reports that large amounts have been refunded using CAPE. I filed CAPE, but I am not seeing my refunds. What gives?**

CBP states that CAPE Claims will be processed within 60-90 days following acceptance of the CAPE Declaration, unless further CBP review is warranted. Entries that are extended, suspended or under review, and warehouse entries will maintain their liquidation status with validated refunds issued at liquidation.

Most refunds will appear in importer's designated ACH account three to five weeks from the end of the 90-day post-liquidation reliquidation period. Importers can monitor refunds through ACE Reports. CBP recently developed the ES-022 report which details entries filed on CAPE and refund status. The liquidation dates in Column I and refund dates in Column P give good indications of when refunds will be deposited (typically appearing 3-5 weeks from the refund date). If your ES-022 shows liquidation dates over 2 months out without refund dates, you may need to check that ACH Refund is complete. The REV-603 Trade Refund Report covers pending and successful refunds, and the REV-613 ACH Rejected Refunds Report will highlight any refunds that have been rejected due to the recipient not being enrolled in ACH Refunds.

In the REV-603 Trade Refund Report, once CBP has finished processing, the entry will show the status "Sent to Treasury." Once the refund has been issued, the entry will show the status "Treasury issued."

**XI. How can I determine if CBP has processed my CAPE refund request?**

Once a CAPE Declaration is filed, the claim will be validated. A CAPE claim number will be issued and indicates that CBP will process the accepted entries. Importers are encouraged to track the progress of IEEPA refunds through the ES-022 CAPE Entry Summary Report. The ES-022 links the CAPE Declaration number to the underlying entry numbers, displays the approved refund amounts (including both the principal refund amount and the interest amount), and indicates whether the entry has been processed and approved for a refund.

**XII. If I have a complaint filed at the CIT, do I need to do anything else to prepare for future CAPE phases?**

CBP's most recent statements indicate that Phase 3 of CAPE will allow CBP to process refunds for liquidated entries filed by litigants. It is expected that this phase of the CAPE system will be functional at the end of July, although CBP is seeking CIT authorization for those refunds. At this time, importers with a complaint filed at the CIT should verify all Importer of Record ("IOR") numbers that have entries eligible for IEEPA tariff refunds, as these will likely need to be submitted as part of the CAPE process. Additionally, importers

should continue to file CAPE Declarations for eligible entries and protest entries that are ineligible for CAPE.

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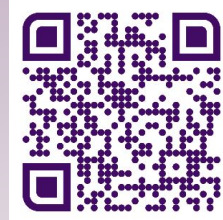
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