



Written by [Veronika Kyrylenko](#) on March 9, 2026

States Sue Trump Over New Tariffs Imposed Under 1974 Trade Act

A coalition of 24 Democrat-led states has filed a sweeping federal lawsuit against President Donald Trump and several federal agencies and officials, arguing that their latest tariffs violate both federal law and the U.S. Constitution. [The case](#), filed last Thursday in the United States Court of International Trade, challenges tariffs imposed under long-dormant [Section 122 of the Trade Act of 1974](#) right after the Supreme Court [struck down](#) the administration's earlier "emergency" tariff policy.



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The states are asking the court to block the tariffs and order refunds for the costs already paid.

A New Tariff Strategy

The legal battle began after a major ruling from the Supreme Court on February 20.

In [Learning Resources, Inc. v. Trump](#), the Court ruled that the administration could not impose sweeping tariffs using the International Emergency Economic Powers Act (IEEPA). That law allows presidents to respond to economic emergencies, but the Court concluded that it does not authorize tariffs. The ruling was a significant blow to the administration's trade policy. For more than a year, the White House had been imposing global tariffs using IEEPA.

But the administration swiftly adopted a new strategy. Per the challenge:

Having lost the battle on IEEPA, the President now dusts off a separate statute: Section 122 of the Trade Act of 1974, 19 U.S.C. § 2132, which is another statute that has never been used to impose tariffs. Indeed, it has never been used at all.

On the same day the Supreme Court decision was issued, Trump [signed a proclamation](#) invoking Section 122 to impose a 10-percent tariff on most imports worldwide for a period of 150 days. The new tariff took effect on February 24.

The next day, the president [announced](#) on Truth Social that the tariff would rise to 15 percent — the maximum rate allowed by the statute. Treasury Secretary Scott Bessent later [confirmed](#) the prospect.

Section 122

The lawsuit centers on a key legal question: Does Section 122 give the president the power to impose sweeping tariffs?



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The states argue that the answer is no.

Congress enacted Section 122 during the economic turmoil of the early 1970s. The states' attorneys general argue that

Section 122 exists to permit a limited tariff authority to address "fundamental international payments problems" that require "special import measures to restrict imports" to deal with "large and serious balance-of-payments deficits," among other things.

Such issues were possible under the old, fixed exchange-rate system, when currencies were tied to gold or to one another. But that system ended nearly half a century ago.

The complaint notes that the United States has operated under floating exchange rates since 1976, meaning a true balance-of-payments crisis cannot occur in the same way.

Economist Milton Friedman predicted this decades ago. As quoted in the lawsuit:

[A] system of floating exchange rates completely eliminates the balance-of-payments problem — just as in a free market there cannot be a surplus or a shortage in the sense of eager sellers unable to find buyers or eager buyers unable to find sellers. The price may fluctuate but there cannot be a deficit or a surplus threatening an exchange crisis.

The states argue that the administration is redefining the law's terminology in order to justify its tariffs. Specifically, they say the administration is conflating a trade deficit with a balance-of-payments deficit. But those are not the same thing.

"A trade deficit is *not* a balance of payments deficit," the lawsuit states.

In fact, the government admitted as much in earlier litigation before the Supreme Court. As the complaint notes, the administration previously acknowledged that "trade deficits ... are conceptually distinct from balance-of-payments deficits."

Numbers Behind the Dispute

The [fact sheet](#) accompanying Trump's proclamation cites a large U.S. trade deficit as justification for the tariffs.

According to the administration, the United States recorded a \$1.2 trillion goods trade deficit in 2024.

But the states argue that this number tells only part of the story. They describe that the balance of payments includes three components: the current account, the capital account, and the financial account. Per the lawsuit:

The President's Proclamation completely ignores the balance, so to speak, of the balance of payments: foreign capital and financial investment inflows into the United States, which are essential components of the definition of the "balance of payments," and are what balances a trade deficit in the balance of payments today.

The complaint says the United States recorded an "extraordinary" \$1.13 trillion in financial account inflows in 2024. Trump "dismissed or outright ignored" them in his proclamation. Yet, those inflows



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largely offset the trade deficit.

As a result, the overall balance-of-payments position was only about negative \$53 billion, roughly 0.2 percent of America's GDP. The lawsuit describes this as "essentially a rounding error."

Because the legal trigger in Section 122 is a balance-of-payments crisis, the states argue that the statute does not apply.

Additional Legal Problems

The lawsuit also challenges how the tariffs were structured.

Section 122 requires tariffs to be applied nondiscriminatorily and uniformly. Trump's proclamation, however, exempts numerous countries and products.

Goods from Canada, Mexico, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua are partially exempt.

The proclamation also includes more than 80 pages of product exceptions. According to the lawsuit, the administration did not provide factual findings explaining those exceptions.

At the same time, the statute allows exemptions only under limited circumstances. These include situations where domestic supply is unavailable or where imports are essential raw materials. The states say the proclamation does not justify the exceptions under those criteria.

Economic Harm

The plaintiffs argue that the tariffs impose direct costs on state governments.

Many states purchase imported goods for public projects. These include equipment, infrastructure materials, and government supplies. Therefore, say the states,

Because tariffs directly impact the costs of these products, they cause direct financial harm to Plaintiff States.

Even when states do not import products directly, they may still pay higher prices through vendors and contractors.

A Federal Reserve Bank of New York [report](#) cited in the lawsuit estimates that 90 percent of tariff costs are ultimately borne by American consumers and companies. That finding challenges the administration's claim that tariffs primarily fall on foreign exporters rather than on domestic buyers.

The states also argue that the administration's "erratic swings in trade policy" dependent on "the President's whims on a particular day rather than reasoned decision" make budgeting and procurement more difficult.

"The President's abrupt policy changes have disrupted Plaintiff States' economies," the complaint maintains.

What the States Are Asking the Court to Do

The states are asking the court to issue several orders.

First, they want the court to declare the tariffs illegal. Second, they want an injunction blocking federal



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agencies from collecting them. And third, they seek refunds for tariffs already paid.

The lawsuit also targets U.S. Customs and Border Protection, which collects tariffs under a directive known as [CSMS #67844987](#). The states argue that the agency cannot enforce tariffs that lack statutory authority, and that under the Administrative Procedure Act (APA), courts must set aside agency actions that exceed legal authority.

Broader Constitutional Question

Even if the suit appears to be a partisan attempt by Democrats to tie up the administration, it raises a valid, broader, and crucial constitutional claim.

The Constitution assigns tariff authority to Congress. Indeed, [Article I, Section 8](#) gives Congress the power to “lay and collect Taxes, Duties, Imposts and Excises.”

“The President has no inherent authority to impose tariffs,” the lawsuit says.

It argues that Trump’s tariffs violate the separation of powers by allowing the executive branch to exercise legislative authority.

The Supreme Court addressed this issue in its February ruling. Chief Justice John Roberts wrote that when the executive seeks to exercise sweeping economic authority, it must point to “clear congressional authorization.” The states argue that Section 122 does not provide the required authorization.

Justice Neil Gorsuch also emphasized the separation of powers.

“The Constitution lodges the Nation’s lawmaking powers in Congress alone,” he wrote, and warned against executive encroachment under the “[major questions doctrine](#).”



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