No.

In the Supreme Court of the United States

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL., PETITIONERS

v.

V.O.S. SELECTIONS, INC., ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

D. JOHN SAUER
Solicitor General
Counsel of Record
BRETT A. SHUMATE
Assistant Attorney General
SARAH M. HARRIS
Deputy Solicitor General
SOPAN JOSHI
Assistant to the Solicitor General
MARK R. FREEMAN
MICHAEL S. RAAB
BRAD HINSHELWOOD
DANIEL WINIK
SOPHIA SHAMS
Attorneys

Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

QUESTIONS PRESENTED

1. Whether the International Emergency Economic Powers Act (IEEPA), Pub. L. No. 95-223, Tit. II, 91 Stat. 1626, authorizes the tariffs imposed by President Trump pursuant to the national emergencies declared or continued in Proclamation 10,886 and Executive Orders 14,157, 14,193, 14,194, 14,195, and 14,257, as amended.

2. If IEEPA authorizes the tariffs, whether the statute unconstitutionally delegates legislative authority to the President.

PARTIES TO THE PROCEEDING

Petitioners (defendants-appellants below) are Donald J. Trump, President of the United States; the United States of America; the Executive Office of the President; the Department of Homeland Security; Kristi Noem, Secretary of Homeland Security; U.S. Customs and Border Protection (CBP); Rodney S. Scott, Commissioner for CBP; the Office of the United States Trade Representative; Jamieson Greer, United States Trade Representative; and Howard Lutnick, Secretary of Commerce.*

Respondents are V.O.S. Selections, Inc.; Plastic Services and Products, LLC d/b/a Genova Pipe; MicroKits, LLC; FishUSA Inc.; and Terry Precision Cycling LLC (plaintiffs-appellees in Nos. 25-cv-66 and 25-1812). Respondents also include the States of Oregon; Arizona; Colorado; Connecticut; Delaware; Illinois; Maine; Minnesota; Nevada; New Mexico; New York; and Vermont (plaintiffs-appellees in Nos. 25-cv-77 and 25-1813).

---

* All individual petitioners were sued in their official capacities and their successors, if any, have automatically been substituted in their respective places. See Sup. Ct. R. 35.3; Fed. R. App. P. 43(c)(2); Fed. R. Civ. P. 25(d). The Court of International Trade dismissed the President as a defendant, and respondents did not cross-appeal that ruling. See App., *infra*, 22a n.10, 161a. Nevertheless, the court of appeals retained the President in the case caption and we accordingly do the same here.

RELATED PROCEEDINGS

United States Court of International Trade:

V.O.S. Selections, Inc. v. *United States*, No. 25-cv-66 (May 28, 2025)

Oregon v. *United States Department of Homeland Security*, No. 25-cv-77 (May 28, 2025)

United States Court of Appeals (Fed. Cir.):

V.O.S. Selections, Inc. v. *Trump*, No. 25-1812 (Aug. 29, 2025)

Oregon v. *Trump*, No. 25-1813 (Aug. 29, 2025)

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases:

Cases—Continued: Page

Cases—Continued: Page

Constitution and statutes:

Statutes—Continued: Page

Statutes—Continued: Page

Miscellaneous:

Miscellaneous—Continued: Page

In the Supreme Court of the United States

No.

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL., PETITIONERS

v.

V.O.S. SELECTIONS, INC., ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

The Solicitor General respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Federal Circuit in this case.

OPINIONS BELOW

The opinion of the court of appeals (App., *infra*, 1a-136a) is available at 2025 WL 2490634. The opinion of the Court of International Trade (App., *infra*, 139a-197a) is reported at 772 F. Supp. 3d 1350.

JURISDICTION

The judgment of the court of appeals was entered on August 29, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATUTORY PROVISIONS INVOLVED

Pertinent statutory provisions are reproduced in the appendix to this brief (App., *infra*, 201a-206a).

INTRODUCTION

This case addresses the validity of the Administration's most significant economic and foreign-policy initiative—the imposition of tariffs under the International Emergency Economic Powers Act (IEEPA), Pub. L. No. 95-223, Tit. II, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*), which President Trump has determined are necessary to rectify America's country-killing trade deficits and to stem the flood of fentanyl across our borders.

In January 2025, the United States faced "enormous, persistent annual U.S. goods trade deficits"—$1.2 trillion per year—that, the President perceived, "have hollowed out our domestic manufacturing and defense-industrial base and have resulted in a lack of advanced domestic manufacturing capacity, a defense-industrial base dependent on inputs from foreign adversaries, [and] vulnerable domestic supply chains." C.A. Doc. 158, at 6-7 (Aug. 29, 2025) (Lutnick).[1] Those "catastrophic" deficits, *id.* at 5, arose from asymmetric tariffs and trade barriers that virtually all our major trading partners had imposed on the United States for decades. Gov't Mot. to Expedite 2a (Bessent).[2]

The President and his most senior advisors recognized that those trade deficits had created "an ongoing economic emergency of historic proportions," C.A. Doc. 158, at 6 (Lutnick), and brought America to a "tipping point," *i.e.*, "the brink of a major economic and national-security catastrophe." Gov't Mot. to Expedite 2a (Bessent). Exercising the President's broad discretion un-

---

[1] All record citations are to Federal Circuit case 25-1812 and Court of International Trade case 25-cv-66.

[2] The government is simultaneously filing a motion to expedite consideration of the petition for a writ of certiorari and, if certiorari is granted, to expedite merits briefing and argument.

der IEEPA to "regulate * * * importation" of foreign goods to "deal with any unusual and extraordinary threat" to "national security, foreign policy, or [the U.S.] economy," 50 U.S.C. 1701(a), 1702(a)(2)(B), President Trump declared a national emergency and imposed tariffs. The President has determined that those tariffs and the ensuing trade negotiations with all our major trading partners are pulling America back from the precipice of disaster, restoring its respect and standing in the world, eliminating decades of unfair and asymmetric trade policies that have gutted our manufacturing capacity and military readiness, and inducing our trading partners to invest trillions of dollars in the American economy. The tariffs also address the separate national emergency arising from mass importation of fentanyl and other illegal drugs that have taken hundreds of thousands of American lives and helped fuel the rise of foreign cartels and traffickers. C.A. Doc. 158, at 25 (Rubio), 35-36 (Greer).

Due to IEEPA tariffs, six major trading partners and the 27-nation European Union have already entered into framework deals with the United States, accepting tariff arrangements heavily recalibrated in America's favor and agreeing to make approximately $2 trillion of purchases and investment in the United States' economy, see C.A. Doc. 158, at 13-14 (Lutnick), 36 (Greer)—with trillions more under negotiation with countries across the world.

In addition, the President recently authorized IEEPA tariffs against India for purchasing Russian energy products, to deal with a preexisting national emergency regarding Russia's war in Ukraine, as a crucial aspect of his push for peace in that war-torn country. C.A. Doc. 158, at 26 (Rubio). And the Congressional

Budget Office projected that tariffs will reduce federal deficits by $4 trillion in the coming years. *Id.* at 19.

The stakes in this case could not be higher. The President and his Cabinet officials have determined that the tariffs are promoting peace and unprecedented economic prosperity, and that the denial of tariff authority would expose our nation to trade retaliation without effective defenses and thrust America back to the brink of economic catastrophe. C.A. Doc. 158, at 8-9 (Lutnick).

To the President and his most senior advisors, these tariffs thus present a stark choice: With tariffs, we are a rich nation; without tariffs, we are a poor nation. According to the President, "[o]ne year ago, the United States was a dead country, and now, because of the trillions of dollars being paid by countries that have so badly abused us, America is a strong, financially viable, and respected country again." C.A. Doc. 154, at 1 (Aug. 11, 2025). The President predicts that "[i]f the United States were forced to pay back the trillions of dollars committed to us, America could go from strength to failure the moment such an incorrect decision took effect," and "the economic consequences would be ruinous, instead of unprecedented success." *Id.* at 1-2.

Nonetheless, in a fractured, 7-4 decision, the en banc Federal Circuit declared that the President's use of IEEPA tariffs was unlawful. That decision casts a pall of uncertainty upon ongoing foreign negotiations that the President has been pursuing through tariffs over the past five months, jeopardizing both already-negotiated framework deals and ongoing negotiations. C.A. Doc. 158, at 8-9 (Lutnick), 39 (Greer). Few cases have so clearly called out for this Court's swift resolution.

The Federal Circuit did not question that those crises constitute "unusual and extraordinary threat[s]" to "national security, foreign policy, or [the U.S.] economy" sufficient to trigger the President's emergency powers under IEEPA. 50 U.S.C. 1701(a). And the Federal Circuit did not rule out that the President's authority under IEEPA to "regulate * * * importation" of foreign goods to "deal with" such threats might authorize *some* tariffs. See App., *infra* 25a. That court simply held that *these* particular tariffs are too significant and enduring to fall within IEEPA's bounds, reasoning that Congress needed to authorize them more expressly. See *id.* at 38a-39a.

As Judge Taranto's dissent recognized, that reasoning is profoundly wrong. It contradicts IEEPA's plain text, the Court's cases, statutory history, and longstanding practice. App., *infra*, 64a-136a. Without further qualification, IEEPA authorizes the President to "regulate" —*i.e.*, to govern or control—foreign imports to address national emergencies. *Id.* at 94a-103a. Imposing tariffs is a quintessential method of governing or controlling imports. The Court has long interpreted "regulation of commerce" in this area to encompass tariffs or duties. *E.g.*, *Gibbons* v. *Ogden*, 9 Wheat. 1, 202 (1824) (Marshall, C.J.). And the Court has interpreted the phrase "adjust imports" to encompass tariffs. *FEA* v. *Algonquin SNG, Inc.*, 426 U.S. 548 (1976).

By contrast, the Federal Circuit majority's atextual, some-but-not-others theory of IEEPA tariffs would leave courts with no metrics for judging when tariffs last too long, realize too much revenue, cover too many countries, or become too effective for the court's liking. IEEPA does not empower federal judges to perversely

declare tariffs unlawful at some judicially discerned point when they achieve too much.

There is nothing new or suspect about IEEPA's broad delegation of tariff authority to address national emergencies. Congress has long supplemented the President's Article II foreign-affairs powers by delegating capacious authority to impose tariffs that, in the President's judgment, will advance national security, foster economic prosperity, or facilitate negotiations with foreign counterparts. Likewise, the major-questions doctrine on which the Federal Circuit relied is inapplicable. IEEPA quite naturally addresses the most major of questions—the powers available to Presidents to address extraordinary national emergencies in the foreign-affairs context—by conferring major powers.

The decision below eviscerates a critical tool for addressing emergencies through fuzzy reasoning that improperly transforms judges into foreign-policy referees. Though the Federal Circuit has stayed its mandate pending this Court's review, its decision has jeopardized ongoing foreign negotiations and threatens framework deals. Gov't Mot. to Expedite 1a-2a (Bessent). Left undisturbed, the decision below would, in the President's view, unilaterally disarm the United States and allow other nations to hold America's economy hostage to their retaliatory trade policies. This Court should grant certiorari, expedite consideration of the merits, and reverse.

STATEMENT

A. Statutory Background

1. For over a century, Congress has supplemented the President's constitutional power over foreign affairs and national security by delegating to him the authority to manage tariffs or duties on foreign imports in re-

sponse to international conditions. See *Marshall Field & Co.* v. *Clark*, 143 U.S. 649, 680 (1892).

This Court has repeatedly upheld presidential exercises of such authority. In 1813, this Court upheld an 1810 statute that authorized the President to reinstate the terms of the Non-Intercourse Act of March 1, 1809, ch. 24, 2 Stat. 528, and prohibit imports from either Great Britain or France if either nation "violate[d] the neutral commerce of the United States." *Cargo of Brig Aurora* v. *United States*, 7 Cranch 382, 384 (citation omitted); see *id.* at 388. In 1892, this Court upheld the constitutionality of the Tariff Act of 1890, ch. 1244, 26 Stat. 567, which authorized the President to suspend an exemption for certain products from import duties "for such time as he shall deem just" "whenever, and so often as [he] shall be satisfied," that the exporting country "imposes duties or other exactions" on American products that "he may deem to be reciprocally unequal and unreasonable." *Marshall Field*, 143 U.S. at 680 (citation omitted). And in 1928, the Court upheld the Tariff Act of 1922, ch. 356, 42 Stat. 858, which empowered the President to raise import duties "whenever the President * * * shall find" that existing tariffs do not equalize the differences between foreign and domestic production costs, and to modify the tariffs "when he determines" that "the differences in costs of production have changed." *J.W. Hampton, Jr., & Co.* v. *United States*, 276 U.S. 394, 401-402 (citation omitted).

Congress has since enacted many other statutes authorizing the Executive to impose or modify tariffs or duties on imports, including Section 338 of the Tariff Act of 1930, ch. 497, 46 Stat. 704 (19 U.S.C. 1338); Section 232 of the Trade Expansion Act of 1962, Pub. L. No. 87-794, 76 Stat. 877 (19 U.S.C. 1862); and Titles II and

III of the Trade Act of 1974, Pub. L. No. 93-618, 88 Stat. 2011, 2041 (19 U.S.C. 2251 *et seq.*, 2411 *et seq.*).

Most relevant here, the 1917 Trading With the Enemy Act (TWEA), ch. 106, § 11, 40 Stat. 422-423, authorized the President to specify foreign goods that may not be imported during wartime "except at such time or times, and under such regulations or orders * * * as the President shall prescribe." In 1941, Congress expanded that authority to apply during times of peace. See First War Powers Act, ch. 593, 55 Stat. 838, 839 (authorizing the President to "regulate * * * importation").

In 1971, President Nixon imposed peacetime tariffs that were upheld under those authorities. See Proclamation No. 4074, 36 Fed. Reg. 15,724 (Aug. 17, 1971). Because a "prolonged decline in the international monetary reserves" of the United States over a number of years had seriously threatened its "international competitive position" and potentially impaired its ability to assure national security, *ibid.*, President Nixon "declared a national emergency with respect to the balance-of-payments crisis and under that emergency imposed a surcharge on imports," H.R. Rep. No. 459, 95th Cong., 1st Sess. 5 (1977) (IEEPA House Report); see Proclamation No. 4074, 36 Fed. Reg. 15,724 15,724 (Aug. 17, 1971). In *United States* v. *Yoshida International, Inc.*, 526 F.2d 560 (C.C.P.A. 1975), the Federal Circuit's predecessor upheld those tariffs under TWEA, rejecting an argument that TWEA—which authorized the President to "regulate * * * importation" of foreign goods—did not authorize the President to impose tariffs. *Id.* at 575-576.

2. In 1976 and 1977, Congress modified TWEA through the National Emergencies Act of 1976, Pub. L.

No. 94-412, 90 Stat. 1255, and IEEPA, respectively. The National Emergencies Act "authorized" "the President" "to declare [a] national emergency" "[w]ith respect to Acts of Congress authorizing the exercise, during the period of a national emergency, of any special or extraordinary power." 50 U.S.C. 1621(a). Congress placed no substantive conditions on the President's ability to declare a national emergency.

Congress gave itself oversight authority over national-emergency declarations. National-emergency declarations must be "immediately * * * transmitted to the Congress and published in the Federal Register." 50 U.S.C. 1621(a); see 50 U.S.C. 1641(a)-(c). Congress may terminate a national emergency. 50 U.S.C. 1622(a)(1). And Congress must meet within six months of the national-emergency declaration to consider terminating it. 50 U.S.C. 1622(b). In addition, national-emergency declarations automatically terminate after one year unless the President notifies Congress that the emergency "continue[s]." 50 U.S.C. 1622(d).

IEEPA, in turn, separated the President's authority to act in wartime and peacetime. Congress limited TWEA to periods of declared wars. 50 U.S.C. 4302. IEEPA then extended the President's authority to periods of declared national emergencies during peacetime. See *Regan* v. *Wald*, 468 U.S. 222, 227-228 (1984). The broad powers that IEEPA grants to the President are "essentially the same as" those under its predecessor TWEA. *Id.* at 228. Indeed, IEEPA's operative language was "directly drawn" from TWEA. *Dames & Moore* v. *Regan*, 453 U.S. 654, 671 (1981). IEEPA authorizes the President to exercise those powers during peacetime "to deal with any unusual and extraordinary threat, which has its source in whole or substantial part

outside the United States, to the national security, foreign policy, or economy of the United States." 50 U.S.C. 1701(a).

Once the President declares a national emergency relating to such a threat, IEEPA grants the President deliberately broad powers, including to "regulate[] or prohibit" certain foreign monetary transactions, 50 U.S.C. 1702(a)(1)(A), and to "confiscate" certain property during "armed hostilities," 50 U.S.C. 1702(a)(1)(C). As relevant here, IEEPA also empowers the President to "regulate * * * importation" of "any property in which any foreign country or a national thereof has any interest by any person, or with respect to any property, subject to the jurisdiction of the United States." 50 U.S.C. 1702(a)(1)(B). Unlike TWEA, IEEPA contains an enumerated list of exceptions to those broad grants of authority. See 50 U.S.C. 1702(b)(1)-(4). None is at issue here.

Congress also gave itself oversight authority over exercises of IEEPA powers beyond that afforded by the National Emergencies Act. 50 U.S.C. 1703(d). The President "shall consult regularly with the Congress so long as [IEEPA] authorities are exercised." 50 U.S.C. 1703(a). The President also is directed to "immediately transmit to the Congress a report" on the emergency, with updates every six months. 50 U.S.C. 1703(b)-(c). Nonetheless, Congress recognized that those "new authorities should be sufficiently broad and flexible to enable the President to respond as appropriate and necessary to unforeseen contingencies." IEEPA House Report 10.

B. The Challenged Actions

In early 2025, President Trump declared national emergencies arising from the influx of contraband

drugs into the United States from Mexico, Canada, and the People's Republic of China (PRC); and from the United States' exploding goods trade deficit.

1. Contraband drug tariffs

a. *Mexico and Canada*. In January 2025, the President declared the flow of contraband drugs like fentanyl through illicit distribution networks, and the resulting public-health crisis, to be a national emergency. Proclamation No. 10,886, 90 Fed. Reg. 8327 (Jan. 29, 2025); Executive Order No. 14,157, 90 Fed. Reg. 8439 (Jan. 29, 2025). On February 1, 2025, the President found that the actions of Canada and Mexico contributed to that crisis. Executive Order No. 14,193, § 1, 90 Fed. Reg. 9113, 9114 (Feb. 7, 2025); Executive Order No. 14,194, § 1, 90 Fed. Reg. 9117, 9118 (Feb. 7, 2025).

Invoking his powers under IEEPA, the President addressed that unusual and extraordinary threat to the United States' national security, foreign policy, and economy, by ordering a 25 percent duty on most Canadian and Mexican imports. 90 Fed. Reg. at 9114; 90 Fed. Reg. at 9118.

Since that time, the President has variously paused and adjusted those duties following negotiations and in response to international events. See, *e.g.*, Executive Order No. 14,197, 90 Fed. Reg. 9183 (Feb. 10, 2025); Executive Order No. 14,198, 90 Fed. Reg. 9185 (Feb. 10, 2025); Executive Order No. 14,231, 90 Fed. Reg. 11,785 (Mar. 11, 2025); Executive Order No. 14,232, 90 Fed. Reg. 11,787 (Mar. 11, 2025).

b. *PRC*. On February 1, 2025, the President took action under IEEPA to address the contraband-drug threat from the PRC. Executive Order No. 14,195, 90 Fed. Reg. 9121 (Feb. 7, 2025). To address the national emergency, the President imposed a 10 percent duty on

most goods imported from the PRC. *Id.* at 9122-9123. On March 3, 2025, the President increased the rate to 20 percent. Executive Order No. 14,228, 90 Fed. Reg. 11,463 (Mar. 7, 2025).

2. Reciprocal tariffs

On April 2, 2025, the President declared a separate national emergency, finding that the United States's exploding goods trade deficit—caused by foreign trading partners' asymmetrical "tariff" and "non-tariff barriers" that prevent fair and reciprocal trade—and the consequences of that trade deficit "constitute an unusual and extraordinary [foreign] threat to the national security and economy of the United States." Executive Order No. 14,257, 90 Fed. Reg. 15,041 (Apr. 7, 2025).

In particular, the President found, "large and persistent annual U.S. goods trade deficits" have "atrophied" our nation's "domestic production capacity," and "[i]ncreased reliance on foreign producers for goods * * * has compromised U.S. economic security by rendering U.S. supply chains vulnerable to geopolitical disruption and supply shocks." 90 Fed. Reg. at 15,043. Those deficits "and the concomitant loss of industrial capacity, have compromised military readiness," and "this vulnerability can only be redressed through swift corrective action to rebalance the flow of imports into the United States." *Ibid.* The President determined that "[t]he future of American competitiveness depends on reversing" the hemorrhage of manufacturing capabilities to create "the industrial base" that the nation "needs for national security." *Id.* at 15,044. Using his broad IEEPA powers, the President addressed that unusual and extraordinary threat by imposing an additional 10 percent duty on most imported goods. *Id.* at 15,045. Those duties took effect on April 5, 2025, with

additional duties imposed on select countries on April 9. *Ibid.*

Since then, the President has taken additional actions that he deemed necessary to address that national emergency, both by using the tariffs to reduce the trade deficit and to increase leverage on other countries to eliminate barriers to fair, reciprocal trade. The President signaled that if "trading partner[s] take significant steps to remedy non-reciprocal trade arrangements and align sufficiently with the United States on economic and national security matters," that may prompt him to "decrease or limit in scope the duties" imposed, while the countries negotiated trade and security agreements to deal with the emergency. 90 Fed. Reg. at 15,047. Alternatively, if a "trading partner retaliate[d] against the United States," the President indicated that he would "ensure the efficacy" of his action by "increas[ing] or expand[ing] in scope the duties" he imposed. *Ibid.*

Soon after the President's imposition of tariffs, "more than 75 * * * trading partners * * * approached the United States to address the lack of trade reciprocity in our economic relationships and our resulting national and economic security concerns." Executive Order No. 14,266, 90 Fed. Reg. 15,625, 15,626 (Apr. 15, 2025). Given those "significant steps" by trading partners to address the emergency, the President paused the increased tariffs for 90 days for the cooperating countries, facilitating the negotiation of trade deals. *Id.* at 15,625. At the same time, the President maintained a 10 percent tariff to encourage those countries to swiftly negotiate agreements. The President also made clear that if trading partners were not "sincere" in their "intentions * * * to facilitate a resolution to the national emergency," then he would increase tariffs. *Id.*

at 15,626. As Secretary Bessent explained, "[t]he success of the negotiations depends on the credible threat of prompt imposition of tariffs." C.A. Doc. 158, at 31.

Those negotiations have produced historic reciprocal trade deals with the United Kingdom, the European Union, Japan, the Republic of Korea, the Philippines, Indonesia, and Vietnam, among others. C.A. Doc. 158, at 9-10.[3] For example, the framework deal with the European Union will cause the EU to "buy $750 billion in U.S. energy exports," "invest $600 billion in the United States by 2028," and "eliminate certain non-tariff barriers" on "industrial goods, digital, and agricultural products." *Id.* at 37.

In contrast, after extensions of the 90-day pause to give more time for negotiation, see Executive Order No. 14,316, 90 Fed. Reg. 30,823 (July 7, 2025); Executive Order No. 14,326, 90 Fed. Reg. 37,963 (Aug. 6, 2025), the President found that some trading partners "offered terms" that "do not sufficiently address imbalances in our trading relationship." 90 Fed. Reg. at 37,963. The President accordingly did not renew the pause for those countries and instead increased tariffs on them. *Id.* at 37,963-37,964.

The President has now "set the tariff rates for all foreign-trading partners" without triggering "retaliation for this restructured and rebalanced tariff regime," save for one short-lived exception. C.A. Doc. 158, at 9. Still, the United States remains in "delicate" high-stakes negotiations with "dozens of countries." *Id.* at 39-40. No agreements "would be possible without the

---

[3] Those countries are still negotiating final trade and security agreements based on the terms of framework deals. C.A. Doc. 15, at 38 (Greer).

imposition of tariffs to regulate imports," and the tariffs "br[ought] other countries to the table." *Id.* at 38.

C. Proceedings Below

1. Respondents are plaintiffs in two consolidated cases filed in the Court of International Trade (CIT). Respondents in *V.O.S.* (No. 25-cv-66) are a group of importers challenging the reciprocal tariffs. Respondents in *Oregon* (No. 25-cv-77) are a group of States challenging both the reciprocal and contraband-drug tariffs. The CIT denied a temporary restraining order in *V.O.S.*, and consolidated briefing on a preliminary injunction and for summary judgment in each of the cases. See App., *infra*, 156a-158a (recounting the procedural history).

2. The CIT granted summary judgment to respondents, vacated the tariff orders, and entered a universal permanent injunction against the tariffs' imposition, ordering the government to restore the pre-emergency rates within 10 days. App., *infra*, 139a-197a.

The CIT held that IEEPA does not authorize the reciprocal tariffs. App., *infra*, 169a-181a. The CIT acknowledged (App., *infra*, 174a-175a) that IEEPA's authorization to "regulate * * * importation," 50 U.S.C. 1702(a)(1)(B), authorizes the President to impose *some* tariffs, but held that Section 122 of the Trade Act of 1974, 88 Stat. 1987, "removes the President's power to impose remedies in response to balance-of-payments deficits, and specifically trade deficits, from the broader powers granted to a president during a national emergency under IEEPA," App., *infra*, 178a. Section 122, codified at 19 U.S.C. 2132, authorizes the President to, among other things, impose "a temporary import surcharge, not to exceed 15 percent," "for a period not exceeding 150 days," whenever "fundamental interna-

tional payments problems require special import measures to restrict imports * * * to deal with large and serious United States balance-of-payments deficits." 19 U.S.C. 2132(a). In the CIT's view, any tariff that "responds to an imbalance in trade * * * must conform with the limits of Section 122," even if the tariff otherwise complies with IEEPA. App., *infra*, 179a-180a.

The CIT further held that IEEPA does not authorize the contraband-drug tariffs. App., *infra*, 181a-196a. The CIT observed that IEEPA provides that the President may exercise his authorities only to "deal with" a threat underlying a declared emergency. 50 U.S.C. 1701(b). In the CIT's view, however, the contraband-drug tariffs were "'pressure' or 'leverage' tactics," and thus insufficiently "direct" to satisfy IEEPA's "'deal with'" requirement. App., *infra*, 193a.

The CIT declared the tariffs unlawful, issued a universal permanent injunction against the tariffs, and ordered the government to revert to prior tariff rates within 10 days. App., *infra*, 199a-200a. The Federal Circuit stayed the CIT's order pending appeal. 2025 WL 1649290.

3. Sitting initially en banc, the Federal Circuit in a 7-4 decision affirmed the declaratory relief but vacated the injunction in its entirety and remanded to the CIT to reconsider the scope of injunctive relief, if any. App., *infra*, 1a-136a.

a. In a per curiam opinion, the en banc court of appeals held that IEEPA did not authorize the challenged tariffs. But that court relied on different grounds from the CIT.[4]

---

[4] Like the CIT, the court of appeals confirmed that the CIT had subject-matter jurisdiction under 28 U.S.C. 1581(i)(1)(B), which grants the CIT "exclusive jurisdiction of any civil action commenced

The court of appeals purported not to address "whether IEEPA authorizes any tariffs at all," and (unlike the CIT) the court did not categorically rule out IEEPA tariffs to address balance-of-payments deficits. App., *infra*, at 25a. Instead, the court held, IEEPA does not authorize "tariffs of the magnitude of the" challenged tariffs here. *Id.* at 38a; see *id.* at 25a-42a. The court stated that "whenever Congress intends to delegate to the President the authority to impose tariffs, it does so explicitly." *Id.* at 30a. The court found it significant that unlike various tariff-specific statutes, IEEPA uses the phrase "regulate * * * importation," but does "not use the term 'tariff' or any of its synonyms, like 'duty' or 'tax.'" *Id.* at 27a.

The court of appeals contemplated that IEEPA might authorize some tariffs, but held that to interpret IEEPA as authorizing "unlimited tariffs" would "run[] afoul of the major questions doctrine." *Id.* at 34a. The court explained that although past Presidents had invoked IEEPA, they mostly did so "to freeze assets, block financial transfers, place embargoes, or impose targeted sanctions," not to impose tariffs. *Id.* at 36a. The court distinguished the tariffs imposed by President Nixon under IEEPA's predecessor statute (TWEA) as "'limited'" in "time, scope, and amount." *Id.* at 40a (brackets and citation omitted). The court thus affirmed the CIT's holding that IEEPA does not authorize the challenged tariffs.

---

against" the government "that arises out of any law of the United States providing for * * * tariffs." The court of appeals explained that respondents' suits arose out of modifications to the Harmonized Tariff Schedule of the United States, which Congress has directed "shall be considered to be statutory provisions of law for all purposes," 19 U.S.C. 3004(c)(1). App., *infra*, 22a-25a.

As to remedies, the court of appeals affirmed declaratory relief, but vacated the CIT's universal injunction in its entirety in light of *Trump* v. *CASA, Inc.*, 145 S. Ct. 2540 (2025), and remanded to the CIT for further consideration of the scope of injunctive relief, if any. See App., *infra*, 43a-45a.

b. Judge Cunningham, joined by Judges Lourie, Reyna, and Stark, filed an opinion expressing additional views. App., *infra*, 47a-62a. In her view, IEEPA does not authorize any tariffs at all, and a contrary interpretation would violate the nondelegation doctrine. *Ibid.*

c. Judge Taranto, joined by Chief Judge Moore and Judges Prost and Chen, dissented. App., *infra*, 63a-136a. He explained that the plain meaning of "regulate importation" includes the authority to impose tariffs, and that the omission of "additional limits" simply reflects that "IEEPA embodies an eyes-open congressional grant of broad emergency authority in this foreign-affairs realm, which unsurprisingly extends beyond authorities available under non-emergency laws." App., *infra*, 66a; see *id.* at 93a-113a, 121a-123a. Judge Taranto also rebutted the CIT's different rationales. See 113a-121a, 124a-136a.

4. The Federal Circuit stayed its mandate pending the completion of any further proceedings in this Court. C.A. Doc. 161 (Aug. 29, 2025). Accordingly, its previously entered stay pending appeal remains in effect and the challenged tariffs remain in force.

REASONS FOR GRANTING THE PETITION

The decision below jeopardizes tariffs that the President has determined are essential to the country's future. Whether the President has authority to impose those tariffs under IEEPA is a question of surpassing importance—and a question that the court of appeals

erroneously answered in the negative. IEEPA authorizes the President to "regulate * * * importation" of foreign goods—clearly encompassing the authority to impose tariffs. IEEPA need not use the word "tariff" to delegate tariff authority; nor does IEEPA atextually limit the President to not-too-big, not-too-enduring tariffs. Given the obvious importance of the scope of the President's authority under IEEPA, and the legality of the challenged tariffs in particular, this Court should grant the petition for a writ of certiorari and reverse the judgment below.[5]

A. IEEPA Authorizes The Challenged Tariffs

1. a. IEEPA's plain text authorizes the President to impose the challenged tariffs. Under IEEPA, "[a]t the times and to the extent specified in section 1701," the President may "regulate * * * importation" of "any property in which any foreign country or a national thereof has any interest" or "any property, subject to the jurisdiction of the United States." 50 U.S.C. 1702(a)(1)(B).

The power to "regulate importation" encompasses the power to impose tariffs or duties on imports. The ordinary meaning of "regulate" is to "fix, establish or control; to adjust by rule, method, or established mode; to direct by rule or restriction; to subject to governing principles or laws." *Black's Law Dictionary* 1156 (5th ed. 1979). That self-evidently covers the imposition of tariffs or duties. As Chief Justice Marshall observed,

---

[5] The pending petition for a writ of certiorari before judgment in *Learning Resources, Inc.* v. *Trump*, No. 24-1287 (filed June 17, 2025), also involves a challenge to the tariffs. As the government has explained in its brief in opposition, that case is not an appropriate vehicle for review because the district court there lacked subject-matter jurisdiction.

the "right to regulate commerce, even by the imposition of duties, was not controverted" by the Framers. *Gibbons* v. *Ogden*, 9 Wheat. 1, 202 (1824). Indeed, tariffs and duties historically have been one of the most common ways to "regulate" importation. See pp. 7-8, *supra*. Given that IEEPA separately authorizes the President to entirely "prohibit" importation, 50 U.S.C. 1702(a)(1)(B), it would be particularly anomalous to read "regulate importation" as excluding the "less extreme, more flexible tool for pursuing the same objective." App., *infra*, 97a (Taranto, J., dissenting).

b. The court of appeals erroneously rejected that plain meaning even as it disclaimed deciding whether IEEPA "authorizes any tariffs at all." App., *infra*, 25a. The court emphasized that IEEPA "d[oes] not use the term 'tariff' or any of its synonyms, like 'duty' or 'tax,'" as evidence that IEEPA does not authorize the challenged tariffs. *Id.* at 27a. But this Court has repeatedly rejected such "magic words" requirements in a variety of statutory contexts. *E.g.*, *Soto* v. *United States*, 605 U.S. 360, 371 (2025); *FAA* v. *Cooper*, 566 U.S. 284, 291 (2012). The court of appeals also asserted that "whenever Congress intends to delegate to the President the authority to impose tariffs, it does so explicitly." App., *infra*, 30a. But "even if Congress 'typically' confers the authority to" take certain actions using a particular term, "that standard practice does not bind legislators to specific words or formulations." *Soto*, 605 U.S. at 371 (citation omitted).

In any event, the court of appeals mischaracterized Congress's practice. In *FEA* v. *Algonquin SNG, Inc.*, 426 U.S. 548 (1976), this Court addressed a statutory provision authorizing the President "to adjust the imports" of a product—without mentioning "tariffs" or

"duties" in that provision. *Id.* at 555 (citation omitted). Nonetheless, this Court held, that phrase encompassed not just "quantitative methods—*i.e.*, quotas" to prescribe import quantities, but also "monetary methods—*i.e.*, license fees" for "effecting such adjustments." *Id.* at 561. Like the license fees in *Algonquin* (imposed per barrel of oil there), a tariff also is a "monetary method" (imposed ad valorem). Cf. *id.* at 553. And because "regulate importation" is broader than "adjust imports," the authority to impose tariffs under IEEPA follows *a fortiori* from this Court's decision in *Algonquin*.

The court of appeals attempted to distinguish *Algonquin* by noting that a neighboring provision in the statute at issue used the term "duty." App., *infra*, 29a-30a. But *Algonquin* did not rely on that neighboring provision; it simply analyzed the text, context, and history of the "adjust the imports" provision. See 426 U.S. at 561-562. Further, *Algonquin* rejected the argument that "reading the statute to authorize the action taken by the President 'would be an anomalous departure' from 'the consistently explicit, well-defined manner in which Congress has delegated control over foreign trade and tariffs.'" *Id.* at 557 (citation omitted). This Court thus has already rejected the very reasoning that the court of appeals embraced here.

The court of appeals also thought it significant that the tariff statute in *Algonquin* "is within title 19 of the U.S. Code, which is entitled 'Customs Duties,'" whereas IEEPA is "within title 50, which is entitled 'War and National Defense.'" App., *infra*, 29a. But Congress has not enacted either Title 19 or Title 50 into positive law. And that placement (presumably by a codifier in the House Law Revision Counsel) signifies especially little because it is natural for a tariff-specific statute to be

placed in Title 19. But it would make little sense and risk confusion to shoehorn IEEPA in that title when it authorizes far more than just tariffs.

The court of appeals' other rationales lack merit. The court observed (App., *infra*, 31a) that the Constitution vests in Congress the power to "regulate" interstate and foreign commerce and the power to impose "Taxes" and "Duties" in separate clauses of Article I, Section 8. That is a non sequitur. The point is that the plain meaning of "regulation" *includes* the imposition of taxes or duties, as *Gibbons* recognized. 9 Wheat. at 202. That the Constitution grants the federal government an additional, broader power to tax domestic and noncommercial activity does not constrict the power to regulate. Courts must "approach federal statutes touching on the same topic with a 'strong presumption' they can coexist harmoniously" by "giving effect to both," *Department of Agriculture Rural Development Rural Housing Service* v. *Kirtz*, 601 U.S. 42, 63 (2024) (citations omitted); the same goes for constitutional provisions.

The court of appeals also thought that interpreting "regulate importation" to include tariffs "would mean, for example, that Congress delegated to the SEC power to tax substantial swaths of the American economy by granting the SEC the authority to regulate various activities." App., *infra*, 32a. That misconstrues the government's argument: when the broad term "regulate" is paired with "importation," the term is best read to include the power to impose duties because that is a traditional way to regulate importation. The grant of authority to an agency to "regulate the trading" of certain securities consistent with its mission to protect investors and maintain fair, orderly, and efficient markets,

15 U.S.C. 78i(h)(1) and (2), does not naturally carry the same inference.

The court of appeals further stated that "the history of the enactment of IEEPA lacks any * * * legislative lodestar" indicating Congress's recognition that the statute would encompass tariffs. App., *infra*, 29a. The opposite is true. Shortly before IEEPA's enactment, President Nixon imposed tariffs that the Federal Circuit's predecessor upheld under TWEA. *United States* v. *Yoshida International, Inc.*, 526 F.2d 560 (C.C.P.A. 1975). This Court has recognized that IEEPA's language was "directly drawn" from TWEA, *Dames & Moore* v. *Regan*, 453 U.S. 654, 671 (1981), and that the "authorities granted to the President" under IEEPA "are essentially the same as those" under TWEA, *Regan* v. *Wald*, 468 U.S. 222, 228 (1984); see *id.* at 228 n.8 (listing differences, all immaterial here). "[W]hen Congress 'adopts the language used in an earlier act,' [courts] presume that Congress 'adopted also the construction given'" to that language. *Georgia* v. *Public.Resource.Org*, 590 U.S. 255, 270 (2020) (brackets and citation omitted). Congress indisputably was aware of the "construction given" to TWEA by *Yoshida*. See IEEPA House Report 5 (approvingly citing *Yoshida*'s interpretation of TWEA as authorizing the "imposition of duties").

The court of appeals attempted to distinguish TWEA and *Yoshida* on the ground that the Nixon tariffs were supposedly more "'limited'" in "time, scope, and amount." App., *infra*, 40a (citation omitted). But as Judge Taranto explained, those supposed limits either did not actually exist (such as a rate cap for "almost all countries" or a "temporal constraint") or were imposed pursuant to *separate* statutory constraints that do not apply here.

Id. at 104a n.9, 105a. IEEPA contains its own limits—such as the default one-year time limit on emergencies, congressional reporting requirements, and an enumerated list of exceptions, see 50 U.S.C. 1702, 1703—that differ from those under TWEA. The court of appeals did not claim that the tariffs here violate any of IEEPA's unique constraints. And in any event, "[i]t is the obvious role of emergency laws to confer authority that Congress has not conferred in non-emergency laws." App., *infra*, 109a (Taranto, J., dissenting).

2. Despite expressing skepticism that IEEPA authorizes any tariffs, the court of appeals ultimately declined to hold so broadly. Instead, the court contemplated that IEEPA might authorize some tariffs—just not ones of the duration, scope, or amount of the tariffs challenged here. But the court identified no such limitations in IEEPA's text, even as it held that IEEPA does not authorize "tariffs of the magnitude of the" challenged tariffs here. App., *infra*, 38a.

That textually incoherent holding invites judges to gauge the legality of tariffs based on their own policy views of how much is too much, how long is too long, or how many countries are too many. Such judicial second-guessing of the President's determinations would be improper. See *Wald*, 468 U.S. at 242 ("Matters relating 'to the conduct of foreign relations * * * are so exclusively entrusted to the political branches of government as to be largely immune from judicial inquiry or interference.'") (citation omitted); *Haig* v. *Agee*, 453 U.S. 280, 292 (1981) ("Matters intimately related to foreign policy and national security are rarely proper subjects for judicial intervention.").

The court of appeals grounded its holding that *these* tariffs go too far (App., *infra*, 34a-39a) on the major-

questions doctrine. But that doctrine has no purchase here for several reasons.

First, the statute unambiguously authorizes tariffs, leaving no basis to apply the major-questions doctrine to atextually limit the *types* of authorized tariffs.

Second, the major-questions doctrine addresses the "particular and recurring problem" of "*agencies* asserting highly consequential power beyond what Congress could reasonably be understood to have granted." *West Virginia* v. *EPA*, 597 U.S. 697, 724 (2022) (emphasis added). Those concerns dissipate when, as here, Congress delegates authority directly to the President—"the most democratic and politically accountable official in Government," *Seila Law LLC* v. *CFPB*, 591 U.S. 197, 224 (2020).

Third, the major-questions doctrine applies where there is an apparent "'mismatch[]'" between the breadth of the asserted power and the "narrow[ness]" of the statute in which the agency claims to have discovered it. *Biden* v. *Nebraska*, 600 U.S. 477, 511, 517 (2023) (Barrett, J., concurring) (citation omitted). No such mismatch exists here. IEEPA addresses national emergencies (the most important of circumstances) and authorizes the President (the most important person in government—and uniquely situated to react quickly) to respond to those emergencies. In short, IEEPA is *all about* major questions, and the more natural presumption is that Congress intends broad language conferring emergency powers to be construed *broadly*, not narrowly.

Fourth, "the major questions canon has not been applied by this Court in the national security or foreign policy contexts, because the canon does not reflect ordinary congressional intent in those areas." *FCC* v. *Con-*

sumers' Research, 145 S. Ct. 2482, 2516 (2025) (Kavanaugh, J., concurring). In those areas, Congress and the President enjoy concurrent constitutional authority, so the presumption flips: "Congress specifies limits on the President when it wants to restrict Presidential power." *Ibid.* When Congress authorizes the President to impose tariffs (as multiple overlapping statutes, including IEEPA, do), that should *eliminate*, not create, doubts about the President's authority. Cf. *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 635-637 (1952) (Jackson, J., concurring).

Fifth, the major-questions doctrine counsels "skepticism" where "an agency claims to discover in a long-extant statute an unheralded power to regulate 'a significant portion of the American economy.'" *Utility Air Regulatory Group* v. *EPA*, 573 U.S. 302, 324 (2014) (citation omitted). But Congress has long granted Presidents capacious authority over tariffs, and IEEPA is a particularly broad delegation in the domains of foreign policy and national security—areas that implicate the President's expertise and independent constitutional authority, see, *e.g.*, *Department of the Navy* v. *Egan*, 484 U.S. 518, 529-530 (1988); cf. *Youngstown*, 343 U.S. at 635-637 (Jackson, J., concurring).

3. Nor can the judgment below be justified by the CIT's rationales, which the court of appeals tellingly did not adopt.

a. *Section 122.* As to the reciprocal tariffs, the CIT held that Section 122 of the Trade Act of 1974, 19 U.S.C. 2132, "removes the President's power to impose remedies" that the plain text of IEEPA otherwise authorizes as to balance-of-payments imbalances, App., *infra*, 178a. Section 122 provides that whenever "fundamental international payments problems require special im-

port measures to restrict imports," including "to deal with large and serious United States balance-of-payments deficits," "the President shall proclaim, for a period not exceeding 150 days," "a temporary import surcharge, not to exceed 15 percent ad valorem, in the form of duties (in addition to those already imposed, if any) on articles imported into the United States." 19 U.S.C. 2132(a). The CIT held that even if IEEPA's text authorizes tariffs to address balance-of-payments problems, that tariff must nevertheless satisfy the 150-day and 15-percent limitations in Section 122. App., *infra*, 177a-181a.

That holding is incorrect. Section 122 and IEEPA each provides an independent source of authority; the President's choice to exercise his authority under one does not compel him to comply with the terms of the other. Although both Section 122 and IEEPA address tariffs, courts "approach federal statutes touching on the same topic with a 'strong presumption' they can coexist harmoniously. Only by carrying a 'heavy burden' can a party convince us that one statute 'displaces' a second." *Kirtz*, 601 U.S. at 63 (citations omitted). And here, the two statutes are "merely complementary." *Ibid.* Section 122 is available to address balance-of-payments deficits whether or not they rise to the level of a declared emergency. IEEPA is available to address emergencies whether or not there exist balance-of-payments deficits. That Section 122 contains scope and duration limits that IEEPA omits is hardly surprising given that Congress naturally gave the President broader leeway in the narrower circumstance of an emergency covered by IEEPA. See App., *infra*, 113a-121a (Taranto, J., dissenting).

b. *"Deal with."* The CIT held that IEEPA does not authorize the contraband-drug tariffs because the phrase "deal with" in IEEPA requires "a direct link between an act and the problem it purports to address," and precludes actions that merely "aim to create leverage to 'deal with' th[e stated] objectives." App., *infra*, 191a-192a; see *id.* at 190a-196a. But the intransitive verb "deal," when paired with "with," is a broad term that simply means "[t]o be occupied or concerned," "[t]o behave in a specified way toward another," or "[t]o take action." *The American Heritage Dictionary of the English Language* 339 (1969); cf. *Public Citizen* v. *FMCSA*, 374 F.3d 1209, 1221 (D.C. Cir. 2004) ("'Deal with,' in the sense meant here, means 'to take action with regard to someone or something.'") (brackets and citation omitted). Nothing in that broad definition supports the CIT's proposition that one can "deal with" a problem only directly, not indirectly through leverage. See App., *infra*, 134a-136a (Taranto, J., dissenting). History is littered with counterexamples, including this Court's recognition that IEEPA permits using property to "serve as a 'bargaining chip' to be used by the President when dealing with a hostile country." *Dames & Moore*, 453 U.S. at 673.

Besides, whether a given action in fact "deal[s] with" an identified threat or emergency in the areas of foreign affairs and national security is a question on which courts should give substantial deference to the President. See *Wald*, 468 U.S. at 242; *Agee*, 453 U.S. at 292. Such determinations resist meaningful judicial review because of their discretion-laden nature and the lack of judicially manageable standards. See *Webster* v. *Doe*, 486 U.S. 592, 599-601 (1988). In another national-security and foreign-relations context, this Court stated that

courts should not scrutinize "'[w]hether the President's chosen method' of addressing perceived risks is justified from a policy perspective." *Trump* v. *Hawaii*, 585 U.S. 667, 686 (2018) (citation omitted). Such scrutiny is "inconsistent with the broad statutory text and the deference traditionally accorded the President in this sphere." *Ibid.* So too here.

B. IEEPA Does Not Violate The Nondelegation Doctrine

The CIT and Judge Cunningham reasoned that interpreting IEEPA to authorize tariffs would amount to "a functionally limitless delegation of Congressional taxation authority." App., *infra*, 58a; see *id.* at 169a-172a. But "in the national security and foreign policy realms, the nondelegation doctrine (whatever its scope with respect to domestic legislation) appropriately has played an even more limited role in light of the President's constitutional responsibilities and independent Article II authority." *Consumers' Research*, 145 S. Ct. at 2516 (Kavanaugh, J., concurring); see *United States* v. *Curtiss-Wright Export Corp.*, 299 U.S. 304, 314-329 (1936). "Congress may assign the President broad authority regarding the conduct of foreign affairs or other matters where he enjoys his own inherent Article II powers." *Gundy* v. *United States*, 588 U.S. 128, 170-171 (2019) (Gorsuch, J., dissenting). "[L]imitations" on Congress's authority to delegate are "less stringent in cases where the entity exercising the delegated authority itself possesses independent authority over the subject matter." *United States* v. *Mazurie*, 419 U.S. 544, 556-557 (1975).

This Court has long approved broad congressional delegations to the President to regulate international trade, including through tariffs. *E.g.*, *Algonquin*, 426 U.S. at 558-560; *J.W. Hampton, Jr., & Co.* v. *United*

States, 276 U. S. 394, 406, 409 (1928); *Marshall Field & Co.* v. *Clark*, 143 U.S. 649, 680 (1892); *Cargo of Brig Aurora* v. *United States*, 7 Cranch 382, 384-388 (1813).

Even if the nondelegation doctrine were applicable, IEEPA would easily pass muster. Congress at most "commit[ted] something to the discretion" of the Executive, *Wayman* v. *Southard*, 10 Wheat. 1, 46 (1825), which is permissible so long as Congress sets forth "an intelligible principle to which the person or body authorized to [act] is directed to conform," *Hampton*, 276 U.S. at 409. Congress must delineate both "'the general policy'" and "'the boundaries of [the] delegated authority,'" so that "both 'the courts and the public'" can "'ascertain whether the agency' has followed the law." *Consumers' Research*, 145 S. Ct. at 2497 (citations omitted).

IEEPA satisfies those standards. It prescribes a general policy for Presidents to pursue: "to deal with any unusual and extraordinary [foreign] threat * * * to the national security, foreign policy, or economy of the United States" during a "national emergency" by "regulat[ing] * * * importation" of property, among other options. 50 U.S.C. 1701(a), 1702(a)(1)(B).

IEEPA's boundaries are likewise plain: the President may exercise his authorities only "to deal with an unusual and extraordinary threat with respect to which a national emergency has been declared," and may not exercise those authorities to "regulate or prohibit, directly or indirectly," an enumerated list of items. 50 U.S.C. 1701(b), 1702(b). Congress itself oversees the President's exercise of authority in this area. See 50 U.S.C. 1703 (describing reports to and consultation with Congress). This Court has repeatedly upheld multiple statutes granting the President broad authority to set or change tariffs. See *Algonquin*, 426 U.S. at 558-560;

Hampton, 276 U.S. at 409; *Marshall Field*, 143 U.S. at 683-689. Lower courts have uniformly rejected non-delegation challenges to similar delegations of tariff authority, *e.g.*, *Yoshida*, 526 F.2d at 580-581; *PrimeSource Building Products, Inc.* v. *United States*, 59 F.4th 1255, 1263 (Fed. Cir. 2023), cert. denied, 144 S. Ct. 345 (2023), and 144 S. Ct. 561 (2024); and to IEEPA more generally, see *United States* v. *Shih*, 73 F.4th 1077, 1092 (9th Cir. 2023) (collecting cases), cert. denied, 144 S. Ct. 820 (2024).

C. The Decision Below Warrants Further Review

This case easily satisfies this Court's criteria for review. The Federal Circuit's decision casts doubt upon the President's most significant economic and foreign-affairs policy—a policy that implicates sensitive, ongoing foreign negotiations and urgent national-security concerns. This Court often grants review when lower courts prevent the President's exercise of asserted foreign-affairs and economic powers, especially in times of emergency. See, *e.g.*, *Dames & Moore*, *supra*. If allowed to take effect, the decision below would reflect an intolerable judicial intrusion into the President's responsibility to manage foreign relations and trade, where he exercises both inherent and delegated authority. Cf. *Youngstown*, 343 U.S. at 635-637 (Jackson, J., concurring). And the Court's ordinary preference to grant review to resolve circuit conflicts is inapposite given that the CIT and Federal Circuit have exclusive jurisdiction to review tariff challenges.

Whether IEEPA authorizes the challenged tariffs here also is of unquestionable importance, as the court of appeals itself recognized (App., *infra*, 34a) and as evidenced by its sua sponte decision to consider the case initially en banc on an expedited basis. The scope of the

President's authority under IEEPA—a statute that provides vital tools to protect the American economy and national security—is itself important enough to warrant review. And Cabinet members have submitted declarations attesting to the surpassing importance of tariffs in particular. To give just a few examples:

- The Treasury Secretary states that the tariffs "have been one of the country's top foreign policy priorities for the last several months" and that allowing the decision below to take effect "would lead to dangerous diplomatic embarrassment," "expose the United States to the risk of retaliation," and "interrupt ongoing negotiations midstream, undermining our ability to protect the national security and economic welfare of the American people." C.A. Doc. 158, at 32.
- The Secretary of Commerce states that the decision below "would cause massive and irreparable harm to the United States and its foreign policy and national security both now and in the future"; "would threaten broader U.S. strategic interests at home and abroad"; would "likely lead to retaliation and the unwinding of agreed-upon deals by foreign-trading partners"; and would "derail critical ongoing negotiations with foreign-trading partners." *Id.* at 8-9.
- The Secretary of State explains that if the decision below were to take effect, the President's recent exercise of his IEEPA authority "in connection with highly sensitive negotiations he is conducting to end the conflict between the Russian Federation and Ukraine" could be jeopardized,

with "severe consequences for ongoing peace negotiations and human rights abuses." *Id.* at 26.

- The U.S. Trade Representative describes framework deals with the European Union and other trading partners that "will reverse the crippling effects of our exploding trade deficit," among other economic and national-security benefits, and observes that "[n]one of these agreements would be possible without the imposition of tariffs to regulate imports and bring other countries to the table." *Id.* at 36, 38.

The Congressional Budget Office projection indicates that tariffs will reduce federal deficits by $4 trillion in the coming years. *Id.* at 19. In short, the tariffs rank among the most consequential programs whose legality the Court has been asked to review in recent years. Cf. *Nebraska*, 600 U.S. at 502 (describing a $0.5 trillion program as one of "staggering" significance).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

D. JOHN SAUER
Solicitor General
BRETT A. SHUMATE
Assistant Attorney General
SARAH M. HARRIS
Deputy Solicitor General
SOPAN JOSHI
Assistant to the Solicitor General
MARK R. FREEMAN
MICHAEL S. RAAB
BRAD HINSHELWOOD
DANIEL WINIK
SOPHIA SHAMS
Attorneys

SEPTEMBER 2025