

Economic Issues in IEEPA Tariff Duty Rebate Cases

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In Brief

- The Supreme Court ruling that certain tariffs under the International Emergency Powers Act (“IEEPA”) were unlawful triggered “double recovery” claims against importers of record that have been receiving refunds of tariff duties from the government. Plaintiffs allege that businesses raised prices as a result of tariffs and are seeking a share of the rebates.
- The extent of tariff duty pass-through will likely emerge as a central issue within this new wave of litigation, raising complex economic questions regarding the appropriateness of a class-wide approach and amount of refunds, if any.
- Empirically estimating the pass-through of IEEPA tariffs is challenging and depends on supply and demand conditions, market structure, changes in tariff policy, tariff avoidance, and macroeconomic factors. Further, the price paid by consumers depends on the passthrough rate at different levels of the distribution chain.
- Economists have developed tools to estimate pass-through of cost shocks across diverse contexts including tariffs, exchange rate movements, input cost increases, tax changes, and antitrust analysis. Pass-through is a highly product specific phenomenon with studies finding a wide range of pass-through rates.

On February 20, 2026, the U.S. Supreme Court ruled that the tariffs implemented by executive order in early 2025 under the International Emergency Economic Powers Act (“IEEPA”) were illegal.^[1] Shortly after, the U.S. Court of International Trade ordered the collected IEEPA tariff revenue to be reimbursed to the importers of record, who statutorily were responsible for paying the tariff duties.^[2]

Even though the importers of record paid the tariff duties to U.S. Customs and Border Protection, depending on various factors, the cost of tariff duties may or may not have been passed on to others in the supply chain or to ultimate customers. The decision to reimburse importers of record for the tariff duties that they paid has triggered litigation by downstream purchasers of imported goods against importers of record seeking reimbursement for price increases allegedly tied to the now-defunct tariffs.

Pass-through of tariff duties will likely emerge as a key issue within this new wave of litigation. Did tariff-imposed cost increases lead to price increases down the supply chain to distributors and downstream customers and, if they did, does the variation in passthrough patterns require “mini-trials” instead of a class-wide approach?

Although the IEEPA context raises novel economic issues, economists have long analyzed these types of pass-through questions, including in the context of indirect purchaser claims and class certification in antitrust matters.

Litigation Pass-Through Considerations

Across diverse contexts—such as tariffs, exchange-rate movements, input-cost shocks, tax changes, and antitrust analysis—the economic literature consistently demonstrates that pass-through is a highly product-specific phenomenon that varies significantly across industries, products, and regions.^[3] Studies find a wide range of pass-through rates,^[4] indicating that quantification in IEEPA-related litigation is likely to be challenging and may show a high degree of variance.

Courts have closely reviewed the robustness of economic methodologies, including their handling of the relevant market structure, in reaching a variety of conclusions in cases involving pass-through. For example, in the antitrust context, courts have sometimes rejected pass-through models and denied indirect purchaser class certification, as seen in

In re Graphics Processing Units Antitrust Litigation and *In re Flash Memory Antitrust Litigation*,^[5] while in other cases courts have granted indirect purchaser class certification, such as in *In re TFT-LCD (Flat Panel) Antitrust Litigation*.^[6] Pass-through rates are also contested in international trade proceedings: World Trade Organization (“WTO”) disputes and International Trade Commission (“ITC”) investigations often need to reach passthrough estimates when evaluating how tariffs, antidumping duties, or countervailing measures impact downstream domestic market prices.^[7]

Purchaser Dynamics and Cost Pass-Through

Determining pass-through, if any, is fundamentally an empirical question. The actual scope of pass-through is dictated by the specifics of demand/supply conditions, market competition, and the mechanics of how a market operates. The extent of seller/buyer bargaining power, demand/supply elasticities throughout a product's supply chain, and availability of substitutes can be critical determinants of cost pass-through. For example, in markets where consumer demand is relatively inelastic (i.e., low sensitivity to price increases) and there are no close substitutes, pass-through can be relatively high.^[8] Conversely, if large downstream purchasers have high elasticity of demand and there are many substitutes (or many firms selling similar products), upstream suppliers may be forced to absorb the tariff costs into their own margins rather than passing them on.^[9]

The extent of cost pass-through can often depend on the negotiating leverage of the buyer. For instance, direct purchasers or large institutional indirect purchasers—such as national retail chains or corporate distributors—may possess significant bargaining power.^[10] This may allow them to push back on price increases, negotiate favorable rebates, or pressure suppliers into absorbing the increased costs. In contrast, individual retail consumers generally lack this bargaining power and usually must take prices as given. However, because these individual consumers can be highly price-sensitive, attempting to pass 100 percent of the cost increase down to the retail level might result in a sharp drop in consumer demand.^[11] Consequently, retailers may be forced to absorb a portion of the margin hit rather than risk alienating their customer base.

The extent of cost pass-through also depends on the time horizon. In the short run, passthrough tends to be mostly incomplete.^[12] At longer time horizons, other determinants of price can further complicate an analysis of pass-through: In response to sustained cost increases, suppliers can readjust supply chains, retailers can readjust purchasing plans, and consumers can adjust spending habits if prices increase.

To evaluate pass-through dynamics, economists rely on a variety of methods:

- **Regression models** can estimate the relationship between upstream costs and downstream prices while controlling for other supply and demand factors that could influence the relationship. While flexible and generalized to multiple questions with moderate data requirements, these models are sensitive to specification choices and can be limited to

estimating average effects rather than isolating effects for a single firm within an industry. They can also be limited in capturing detailed market structures, complex supply chains, and multiproduct firms.

- **Quasi-experimental designs, such as difference-in-differences**, can estimate passthrough by comparing price changes of affected downstream products relative to price changes of similar but unaffected products. This approach requires that the product markets used as benchmarks are sufficiently similar to the market being evaluated in terms of demand, supply, and competitive conditions. In the context of IEEPA tariffs, finding an appropriate control group may be challenging given the economy-wide effects of tariffs.
- **Structural models**, commonly used in merger reviews,^[13] can be used to simulate the effects of a policy change such as tariffs on an industry or firm. These models allow economists to capture complex international supply chains and market structures, although this approach has high data requirements and can be sensitive to model parameters like elasticities and assumptions by the researcher. Structural models are also frequently employed to assess the impact of trade policies, including tariffs. For example, in WTO arbitration, economists use industry-specific structural models to quantify the effects of antidumping and countervailing duties, aggregated to the industry level.^[14]

Tariff Pass-Through Complexities: Border Versus Retail

The context of international trade introduces distinct issues in pass-through estimation. The unprecedented scale of the IEEPA tariffs introduced rapid, exogenous shocks that may have caused shifts in supply chain bargaining power and dynamic adjustments in sourcing. Understanding how to adapt traditional empirical frameworks to account for these shifts can be critical for measuring downstream impact accurately. At a high level, tariff passthrough can be broken down into two main components: border pass-through and retail pass-through.

Border pass-through refers to the pass-through of costs imposed by tariffs to the importers of record. Depending on the product, market dynamics, and competitive pressure, foreign exporters might absorb a portion of the tariff costs by lowering their pretariff export prices, meaning that a portion of the economic cost of the tariff may be borne by exporters.^[15]

Retail pass-through refers to the pass-through of the costs imposed by the tariffs from the importers of record to downstream purchasers of intermediate and final goods.

Determining exactly which products are impacted by IEEPA tariffs at the consumer level is further complicated by inventory lag: Because retailers may hold stock that was imported prior to the tariff's implementation date, there may be a significant delay before the cost of the tariff actually materializes in the broader market. The research into retail passthrough has shown high variability in rates between products and industries. There is little consensus on exact rates other than that retail pass-through appears to be mostly incomplete, with estimated pass-through rates covering a wide range.^[16]

Other Empirical Challenges in Estimating Pass-Through of IEEPA Tariff Duties

Empirically estimating the pass-through of IEEPA tariffs poses even more unique complexities for economists, including other changes in tariff policy, tariff avoidance, and confounding macroeconomic factors.

- **Other changes in tariff policy:** The IEEPA was not the only mechanism by which tariffs were enacted. For example, other tariffs were imposed around the same time as the IEEPA tariffs, such as Section 232 steel and aluminum tariffs and Section 301 China tariffs.^[17] U.S. industries that rely on intermediate inputs subject to these tariffs may have experienced cost increases, which in turn may have influenced their pricing decisions. Economists would have to disentangle cost increases due to IEEPA tariffs from these other tariffs to assess their impact. For example, the U.S. automotive industry relies on imported parts that are subject to Section 232 and 301 tariffs, rules of origin requirements, and IEEPA tariffs, all of which impose separate costs that may be passed on to consumers.^[18]
- **Tariff avoidance:** Firms may engage in behavior that mitigates the high costs of IEEPA tariffs but increases costs for other reasons. IEEPA tariffs are country specific and vary widely, which may lead to diversion of sourcing to lower-tariff countries.^[19] However, such production shifting may increase production or shipping costs. For example, Apple has started to move its iPhone production from China to India, which has relatively lower tariffs but may have higher labor and production costs.^[20] Researchers will need to consider how much of price increases are due to tariffs versus increases in production and sourcing costs.
- **Confounding macroeconomic factors:** Any evaluation of pass-through from IEEPA tariffs must account for shifting macroeconomic conditions to isolate the impact of the tariffs. For example, price changes due to tariffs must be untangled from global inflationary pressures and fluctuating exchange rates. Furthermore, the analysis must appropriately account for

any concurrent policy interventions occurring in either the products' country of origin or the U.S. to ensure an accurate assessment of price dynamics.

Conclusion

Across general academic research, litigation, and trade-specific analyses, the extent of pass-through is not clear and highly depends on specific circumstances. Pass-through issues will likely present a challenge to a class-wide approach in "double recovery" litigation.

The views expressed herein are those of the authors and do not necessarily reflect the views of Cornerstone Research.

1. Learning Res. Inc. v. Trump, No. 24-1287 (U.S. Feb. 20, 2026); [Exec. Order No. 14257](#) (Apr. 2, 2025) ("Regulating Imports with a Reciprocal Tariff to Rectify Trade Practices That Contribute to Large and Persistent Annual United States Goods Trade Deficits"). ¹
2. Atmus Filtration Inc. v. United States, No. 26-01259 (Ct. Int'l Trade Mar. 4, 2026); Goodyear Tire & Rubber Co. v. U.S. Customs & Border Prot., No. 25-00498 (Ct. Int'l Trade Dec. 10, 2025); Costco Wholesale Corp. v. U.S. Customs & Border Prot., No. 25-00316 (Ct. Int'l Trade Nov. 28, 2025). ¹
3. Cavallo et al. found mixed evidence of retail pass-through of the 2018 tariffs across countries and products, including brand-level heterogeneity. Alberto Cavallo et al., *Tariff Pass-Through at the Border and at the Store: Evidence from US Trade Policy*, 3 *AM. ECON. REV.*: *INSIGHTS* 19 (2021).

Ganapati et al. found that 70 percent of energy input cost increases in the U.S. manufacturing industry are passed through to consumers. Sharat Ganapati, Joseph Sharpiro & Reed Walker, *Energy Cost Pass-Through in U.S.*

Manufacturing: Estimates and Implications for Carbon Taxes, 12 *AM. ECON. J.: APPLIED ECON.* 303 (2020). Lillard and Sfekas found cigarette prices increased by more than the sum of federal and state taxes and escrow payments. Dean R. Lillard & Andrew Sfekas, *Just Passing Through: The Effect of the Master Settlement Agreement on Estimated Cigarette Tax Price Pass-Through*, 20 *APPLIED ECON. LETTERS* 353 (2013). ¹

4. Cavallo et al. found pass-through rates of the 2025 tariffs to be between 14 and 20 percent. Alberto Cavallo, Paola Llamas & Franco Vazquez, Tracking the Short-Run Price Impact of U.S. Tariffs (Nat'l Bureau of Econ. Rsch., Working Paper No. 34496, 2025). Flaaen et al. found tariff pass-through to consumers from wine tariffs to be over 100 percent. Aaron Flaaen et al., Who Pays for Tariffs Along the Supply Chain? Evidence from European Wine Tariffs (Nat'l Bureau of Econ. Rsch., Working Paper No. 34392, 2026). [↑](#)
5. In re Graphics Processing Units Antitrust Litig., 253 F.R.D. 478 (N.D. Cal. 2008); In re Flash Memory Antitrust Litig., No. C 07-0086 SBA (N.D. Cal. June 9, 2010); see also Rachel Slajda, 9th Circ. Nixes Cert. Appeal in Toshiba Antitrust Action, LAW360 (June 30, 2011). [↑](#)
6. In re TFT-LCD (Flat Panel) Antitrust Litig., 935 F. Supp. 2d 1107 (N.D. Cal. Mar. 29, 2013) (MDL No. 1827). [↑](#)
7. WORLD TRADE ORG., DISPUTE SETTLEMENT NO. DS464, UNITED STATES—ANTI-DUMPING AND COUNTERVAILING MEASURES ON LARGE RESIDENTIAL WASHERS FROM KOREA (Feb. 8, 2019); U.S. INT'L TRADE COMM'N, USMCA AUTOMOTIVE RULES OF ORIGIN: ECONOMIC IMPACT AND OPERATION, 2025 REPORT (July 2025) (Publ'n No. 5642, Investigation No. 332-600); U.S. INT'L TRADE COMM'N, RICE: GLOBAL COMPETITIVENESS AND IMPACTS ON TRADE AND THE U.S. INDUSTRY (Mar. 2025) (Publ'n No. 5600, Investigation No. 332-603). [↑](#)
8. See, e.g., Lillard & Sfekas, *supra* note 3; E. Glen Weyl & Michal Fabinger, Pass-Through as an Economic Tool: Principles of Incidence Under Imperfect Competition, 121 J. POL. ECON. 528 (2013). [↑](#)
9. See, e.g., Ganapati et al., *supra* note 3. [↑](#)
10. Rubens found evidence of a monopsonistic Chinese tobacco market and cited to other examples of vertically structured industries with buyer power, like book publishing and beef processing in the U.S. Michael Rubens, Market Structure, Oligopsony Power and Productivity, 13 AM. ECON. REV. 2382 (Sept. 2023). [↑](#)

11. Weyl and Fabinger showed that the pass-through rate is determined by the relative elasticity of supply and demand, where higher elasticity of demand would lead to a decrease in pass-through. Weyl and Fabinger, *supra* note 8. [↑](#)
12. Cavallo et al., *supra* note 4. [↑](#)
13. See, e.g., Justin McCrary & Daniel L. Rubinfeld, Measuring Benchmark Damages in Antitrust Litigation, 3 J. ECONOMETRIC METHODS 63 (2014); Daniel L. Rubinfeld, Quantitative Methods in Antitrust, in ISSUES IN COMPETITION LAW AND POLICY 723 (ABA Section of Antitrust Law 2008). [↑](#)
14. WORLD TRADE ORG., *supra* note 7. The U.S. International Trade Commission uses similar models to quantify the impact of trade policies in fact-finding investigations for the executive branch and Congress. See U.S. INT'L TRADE COMM'N, USMCA AUTOMOTIVE RULES OF ORIGIN, *supra* note 7; U.S. INT'L TRADE COMM'N, RICE: GLOBAL COMPETITIVENESS, *supra* note 7. [↑](#)
15. Amiti et al. found that border pass-through rates of the 2025 U.S. tariffs average between 86 and 94 percent, depending on the time period. Mary Amiti et al., Who Is Paying for the 2025 U.S. Tariffs?, LIBERTY ST. ECON. (Feb. 12, 2026). Gopinath and Neiman similarly found pass-through rates of the 2025 U.S. tariffs to be between 80 and 100 percent. Gita Gopinath & Brent Neiman, The Incidence of Tariffs: Rates and Reality (Nat'l Bureau of Econ. Rsch., Working Paper No. 34620, 2026). [↑](#)
16. Cavallo et al. found average pass-through rates of the 2025 tariffs to be between 14 and 20 percent. See Cavallo et al., *supra* note 4. Flaaen et al. found tariff pass-through to consumers from wine tariffs to be over 100 percent. See Flaaen et al., *supra* note 4. [↑](#)
17. See, e.g., Exec. Order No. 14257, *supra* note 1; White House, Fact Sheet: President Donald J. Trump Increases Section 232 Tariffs on Steel and Aluminum (June 3, 2025). [↑](#)
18. U.S. INT'L TRADE COMM'N, USMCA AUTOMOTIVE RULES OF ORIGIN, *supra* note 7. [↑](#)
19. Aaron Flaaen, Ali Hortaçsu & Felix Tintelnot, The Production Relocation and Price Effects of US Trade Policy: The Case of Washing Machines, 110 AM. ECON. REV. 2103 (2020). [↑](#)

20. Sankalp Phartiyal, Apple Now Makes About 25% of iPhones in India After China Pivot,
ECON. TIMES (Mar. 10, 2026). [↑](#)

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