Nos. 24-1287 & 25-250

In the Supreme Court of the United States

LEARNING RESOURCES, INC., ET AL., PETITIONERS

v.

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

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v.

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

ON WRIT OF CERTIORARI BEFORE JUDGMENT TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT AND ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

REPLY BRIEF FOR THE RESPONDENTS IN NO. 24-1287 AND THE PETITIONERS IN NO. 25-250

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Shortly after taking office, President Trump determined that the nation stood at the precipice of an economic and national-security crisis caused by sustained trade deficits that fostered dependency on foreign rivals and gutted American manufacturing. Executive Order No. 14,257, 90 Fed. Reg. 15,041 (Apr. 7, 2025). The President and his advisors determined that "ongoing * * * emergency of historic proportions," 25-1812

CAFC Doc. 158, at 6 (Aug. 29, 2025) (Lutnick), has brought America to "the brink of a major economic and national-security catastrophe," 25-250 Mot. to Expedite 2a (Bessent). President Trump also declared an emergency arising from the fentanyl-importation crisis that has taken hundreds of thousands of American lives.

Plaintiffs seek a ruling from this Court that would effectively disarm the President in the highly competitive arena of international trade, stymie negotiations that reflect the United States' "top foreign policy priorities," 25-1812 CAFC Doc. 158, at 28 (Rubio), expose America to the "risk of retaliation" without adequate defenses, *id.* at 32 (Bessent), and thwart measures to address the fentanyl crisis. Plaintiffs would unwind trade arrangements worth trillions of dollars, as President Trump has leveraged the IEEPA tariffs into negotiated framework deals with major trading partners—including the European Union, the United Kingdom, Japan, South Korea, and now China—that address underlying causes of the declared emergencies. *Id.* at 36-39 (Greer). Disrupting those results, the President has stated, "would render America captive to the abuses that it has endured from far more aggressive countries," and would destroy the "unprecedented success" that has made America "a strong, financially viable, and respected country again." 25-1812 CAFC Doc. 154, at 1-2 (Aug. 11, 2025).

Plaintiffs would risk those "catastrophic consequences," 25-1812 CAFC Doc. 154, at 1, based on a cramped reading of the International Emergency Economic Powers Act (IEEPA), Pub. L. No. 95-223, Tit. II, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*), that excludes tariffs—and only tariffs—from the broad range of tools that Congress conferred on the President to address in-

ternational emergencies. Text, context, and history confirm that IEEPA's phrase "regulate importation" includes tariffs, which have been recognized since the Founding as a traditional, well-established method to regulate imports. Plaintiffs concede that IEEPA authorizes a host of more aggressive actions not specifically enumerated in its text—including quotas, quality restrictions, and quarantines, VOS Br. 15; States Br. 23-24; Learning Br. 23, 35—but struggle to explain why tariffs alone should be excluded.

Plaintiffs invoke the major-questions doctrine, but it does not apply here. IEEPA addresses the most major of questions—international emergencies—by explicitly conferring major powers. A "practical understanding of legislative intent," *West Virginia* v. *EPA*, 597 U.S. 697, 723 (2022), shows that Congress made a deliberate, "eyes-open" decision, 25-250 Pet. App. 66a, 112a, 123a (Taranto, J., dissenting), to equip the President in advance with the full range of tools he might need to address foreign emergencies. Recognizing that "it is impossible to foresee * * * the extent and variety of national exigencies" or the "variety of the means which may be necessary to satisfy them," *Loving* v. *United States*, 517 U.S. 748, 767 (1996) (quoting *The Federalist No. 23* (Hamilton)), Congress retained robust political oversight over the President's exercise of those emergency powers.

Further, IEEPA vindicates, not undermines, "separation of powers principles." *West Virginia*, 597 U.S. at 723. By granting the President broad emergency powers subject to congressional oversight, Congress employed the appropriate "technique within the framework of the Constitution by which normal executive powers may be considerably expanded to meet an emer-

gency." *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 652 (1952) (Jackson, J., concurring). "Under this procedure," our Nation avoids the sort of inter-branch conflict that arose in *Youngstown*, and "retain[s] Government by law." *Id.* at 652-653.

Plaintiffs' nondelegation concerns are likewise baseless. This Court has long recognized the "unwisdom of requiring Congress in this field of [foreign relations] to lay down narrowly definite standards by which the President is to be governed," and has held that "the strict limitation upon congressional delegations of power to the President over internal affairs does not apply with respect to delegations of power in external affairs." *Youngstown*, 343 U.S. at 637 n.2 (Jackson, J., concurring). The President has a "vast share of responsibility for the conduct of our foreign relations" and "independent authority to act" in foreign affairs. *American Insurance Association* v. *Garamendi*, 539 U.S. 396, 414 (2003); see Bamzai Amicus Br. 24-28. Congress has supplemented the President's inherent authority by granting him broad authority to address foreign emergencies swiftly and decisively. Plaintiffs' contrary position threatens not only the wide and varied delegations of powers in IEEPA, but also the corresponding delegations of wartime authority in TWEA. The tariffs here fit comfortably within a long tradition of similar delegations and should be upheld.

I. IEEPA AUTHORIZES THE CHALLENGED TARIFFS

A. Authority To "Regulate Importation" Includes Tariffs

1. ***Ordinary meaning.*** IEEPA's authorization to "regulate importation" plainly encompasses tariffs. The contemporaneous ordinary meaning of "regulate" includes to "control," "to adjust by rule," and to "subject

to governing * * * laws." *Black's Law Dictionary* 1156 (5th ed. 1979). Tariffs are among the most common and traditional methods to "control" and "adjust" importation, and they plainly "subject" imports to "governing laws." Gov't Br. 24. President Nixon imposed tariffs that were upheld under statutory authority to "regulate importation," and Congress promptly reenacted that same language in IEEPA. See pp. 11-12, *infra*; Gov't Br. 26-27.

Indeed, "regulate importation" has been understood to encompass tariffs since the Founding. John Marshall, James Madison, Joseph Story, and others recognized that tariffs are a traditional—even quintessential—way to "regulate" trade (and therefore importation). Gov't Br. 24-25; see Alexander Hamilton, *Report on the Subject of Manufactures* (Dec. 5, 1791), reprinted in 10 *The Papers of Alexander Hamilton* 230, 296-297 (1966) (describing "[p]rotecting duties" and "duties equivalent to prohibitions" as well-known means of regulating imports).

This Court has long recognized the same. *McGoldrick* v. *Gulf Oil Corp.*, 309 U.S. 414, 428 (1940); *Board of Trustees* v. *United States*, 289 U.S. 48, 58 (1933); see *Gibbons* v. *Ogden*, 9 Wheat. 1, 202 (1824). Yet plaintiffs barely mention those authorities. Cf. VOS Br. 18 (acknowledging that *Gibbons* and Justice Story's views undermine their position); States Br. 25-26 (similar, for *McGoldrick*); Learning Br. 22-23 (similar, for *Gibbons*).

Plaintiffs also have no convincing response to *FEA* v. *Algonquin SNG, Inc.*, 426 U.S. 548 (1976), which held that a statutory provision authorizing the President " 'to adjust the imports' " of certain products encompassed not just "quotas" but also "monetary methods" like "license fees" for "effecting such adjustments." *Id.* at 555,

561 (citation omitted). Plaintiffs dismiss *Algonquin* for relying on legislative history. VOS Br. 20; States Br. 20; Learning Br. 30. But *Algonquin* also relied on statutory text, and its key economic insight—that "a license fee as much as a quota has its initial and direct impact on imports," 426 U.S. at 571—remains true and shows that "adjusting" imports encompasses a variety of mechanisms that affect quantities and prices, including tariffs. Congress undoubtedly was aware of *Algonquin*'s statutory holding when it enacted IEEPA the following year and authorized the President to "regulate importation," which is even broader than "adjust imports."

Plaintiffs argue (VOS Br. 16-17, 20-21; States Br. 17-19, 24; Learning Br. 24-25) that if IEEPA authorizes tariffs, every other statute authorizing the Executive to "regulate" something would include the power to tax it. But the phrase "regulate importation" in IEEPA includes tariffs because tariffs are a longstanding, traditional means to regulate imports. Gov't Br. 12-14, 24-25. Other statutes that use "regulate" in different contexts, such as to "regulate the trading" of domestic securities, 15 U.S.C. 78i(h)(1), or to "regulate" the "handling of [certain] agricultural commodit[ies]," 7 U.S.C. 608c(1), do not carry the same inference or pedigree.

By isolating the word "regulate" and assigning a single scope to that term throughout the U.S. Code, plaintiffs contravene the interpretive principle that "two words together may assume a more particular meaning than those words in isolation." *FCC* v. *AT&T Inc.*, 562 U.S. 397, 406 (2011). A farmer may raise crops, raise livestock, and raise children, but the verb "raise" naturally encompasses a different set of actions as to each of

those objects, even though its general meaning is fixed across all three. So too with "regulate."

Plaintiffs veer further afield with examples of statutes (VOS Br. 21; States Br. 24; Learning Br. 25) authorizing federal officials to issue "regulations" (noun) governing the importation of certain products to achieve specific purposes for which tariffs would be inappropriate. *Ibid.* (citing, *e.g.*, 46 U.S.C. 4304, 7 U.S.C. 7711). But tariffs are *not* a traditional means of ensuring "conformity with applicable safety regulations," 46 U.S.C. 4304, or of "prevent[ing] the introduction of plant pests" that "injure, cause damage to, or cause disease," 7 U.S.C. 7702(14), 7711(a), as those statutes require.

The specificity of those provisions sharply distinguishes them from the general grant of authority in IEEPA, which counsels in favor of a broad reading of "regulate importation." IEEPA is an emergency statute and thus "unsurprisingly extends beyond authorities available under non-emergency laws." 25-250 Pet. App. 66a (Taranto, J., dissenting). "Congress can hardly have been expected to anticipate in any detail" the "nature of" or requisite "responses to" the sorts of "international crises" that IEEPA covers. *Dames & Moore* v. *Regan*, 453 U.S. 654, 669 (1981). Moreover, plaintiffs' universal view of "regulate" impugns their own interpretation of "regulate importation," which they concede encompasses things like quotas, see VOS Br. 15; States Br. 24; Learning Br. 35—even though not every statute mentioning "regulate" or "regulations" necessarily includes quotas.

2. ***IEEPA's surrounding text.*** Not only is "regulate importation" a capacious concept that has historically encompassed tariffs; the rest of Section 1702(a)(1)(B) reinforces IEEPA's breadth. Other verbs in the same

sentence include "nullify," "prohibit," and "compel"; all those verbs act on a broad list of transactions ("acquisition," "use," "exportation," etc.). That broad language makes it implausible that "regulate importation" alone should be read so narrowly as to exclude a traditional method of regulating importation.

Indeed, plaintiffs give away the game in conceding that "regulate importation" in IEEPA includes quotas on imported goods. See VOS Br. 15; States Br. 24; Learning Br. 35. As *Algonquin* illustrates, quotas and tariffs are substantively equivalent in that they both affect the price and quantity of foreign imports. See Gov't Br. 27-28; *Algonquin*, 426 U.S. at 571. Plaintiffs never explain why Congress would have authorized quotas to cap the quantities of imported goods, but not tariffs, which can achieve similar results through price-demand curves (especially given that tariffs are payable to the government, whereas quota-driven price increases may enrich foreign exporters). Plaintiffs' assertion that some tariffs here "have been 'so high as to effectively prevent importation' from China" of certain products further undermines their position. Learning Br. 13 (citation omitted). That assertion shows that tariffs can be economically equivalent to total prohibitions on imports—and IEEPA expressly authorizes the President to "prohibit" importation.

Plaintiffs thus draw the wrong inference in arguing that "regulate" must exclude tariffs because it "appears with eight other verbs, none of which involves any kind of tax." VOS Br. 15; see Learning Br. 34 ("None of the verbs surrounding 'regulate' empowers the President to raise revenue."); cf. States Br. 37 (similar). That misapplies the associated-words canon, which presumes that words in a listing share only the list's "most general

quality—the least common denominator, so to speak—relevant to the context." Scalia & Garner, *Reading Law* 196 (2012). The most general quality of IEEPA's capacious string of nine verbs is that they are broad means to control a capacious string of (at least) eleven property transactions, without detailing the specific means of control. See Gov't Br. 28-29. That combination reflects Congress's intent to grant the President the full range of tools available to act during international crises. Whether those means involve prohibiting imports, regulating the quantity of imports via quotas, or regulating their price via tariffs, Congress granted the President flexibility to take actions affecting imports—many of which are economic equivalents.

Nor is the government urging a "greater-includes-the-lesser theory" (VOS Br. 22), under which the power to "prohibit importation" would include the lesser power to impose non-prohibitory tariffs even had Congress omitted "regulat[ing] importation." Rather, when Congress includes a capacious string of verbs that cover the waterfront from "prohibit" to "compel," the term "regulate"—which lies between those poles—naturally includes the "less extreme, more flexible" tool of tariffs, 25-250 Pet. App. 97a (Taranto, J., dissenting).

3. ***IEEPA's history***. IEEPA's predecessor statute, the Trading with the enemy Act (TWEA), ch. 106, 40 Stat. 411, authorized tariffs, confirming that IEEPA's identical language does too. Gov't Br. 26-27. Plaintiffs claim (VOS Br. 22-24; Learning Br. 33-35, 37-44) that IEEPA does not authorize tariffs because all other IEEPA authorities "originally applied only in wartime," whereas tariffs "tax Americans." VOS Br. 22; see *id.* at 23 ("history sharply distinguishes between traditional wartime powers for controlling foreign property and

the power to tax"). That argument falsely conflates domestic revenue-raising taxes and regulatory tariffs on foreign imports. See pp. 13-14, *infra*. Regardless, tariffs on foreign imports *have* been a traditional wartime tool. See Gov't Br. 12.

Indeed, this Court has long held that the President has *inherent* wartime authority to impose tariffs. During the Mexican-American War, President Polk announced that he would permit trade through otherwise blockaded Mexican ports "subject to duties levied and collected by the U.S. military." Bamzai Amicus Br. 8. Congress debated the President's inherent wartime authority to impose those duties, see *id.* at 8-10, but this Court "vindicated" Polk's position in *Fleming* v. *Page*, 9 How. 603 (1850), and *Cross* v. *Harrison*, 16 How. 164 (1854). Bamzai Amicus Br. 10. "No one can doubt," the Court explained, "that these orders of the President" imposing "a tariff of duties on imports and tonnage * * * was according to the law of arms and the right of conquest," in conformity with "general principles in respect to war and peace between nations." *Cross*, 16 How. at 190. *Hamilton* v. *Dillin*, 21 Wall. 73 (1875), then upheld the Executive's imposition of a duty of four cents per pound of cotton imported from Confederate States during the Civil War. See Bamzai Amicus Br. 12-14. And *Lincoln* v. *United States*, 197 U.S. 419 (1905), upheld President McKinley's imposition of duties on certain activities in the Philippines. See Bamzai Amicus Br. 15.

TWEA incorporates those precedents. See Bamzai Amicus Br. 16-18, 26, 28; contra Learning Br. 39-42. And IEEPA's operative language was "directly drawn" from TWEA, *Dames & Moore*, 453 U.S. at 671, and 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). IEEPA's authorization to "regulate importation" thus encompasses the authority to impose tariffs, consistent with this Court's approval of wartime tariff authorities in *Fleming*, *Cross*, *Hamilton*, and *Lincoln*. See Bamzai Amicus Br. 24-28.

Plaintiffs respond that "wartime precedents do not govern peacetime," VOS Br. 24 & n.2, but Congress modeled IEEPA on TWEA precisely so that the President could exercise wartime authorities during peacetime emergencies. Plaintiffs' contrary position would remarkably deny the President tariff authority not just under IEEPA in peacetime, but also under TWEA in wartime, since the two statutes employ similar language and TWEA still governs in wartime. See 50 U.S.C. 4305(b)(1)(B).

Further, Congress was aware that President Nixon had imposed tariffs that were upheld under TWEA's "regulate importation" language, and it reenacted the same language in IEEPA. Gov't Br. 26; see *United States* v. *Yoshida International, Inc.*, 526 F.2d 560 (C.C.P.A. 1975). That strongly indicates that both Congress and the public contemporaneously understood that language to encompass tariffs.

Plaintiffs observe (VOS Br. 26, 29; States Br. 46; Learning Br. 41, 43) that *Yoshida* viewed the Nixon tariffs as limited and temporary. But they offer no response to Judge Taranto's point (25-250 Pet. App. 104a-109a) that TWEA itself did not impose those limits, making it implausible that IEEPA incorporated them sub silentio. Besides, *Yoshida*'s description of the open-ended Nixon tariffs confirms their analogousness to the present ones: those tariffs had no time limits when

imposed, but induced our major trading partners to negotiate the "Smithsonian Agreement" within five months to address the balance-of-payments crisis, prompting the tariffs' termination. 526 F.2d at 568-569. President Trump has likewise leveraged these tariffs into beneficial trade arrangements and agreements. See Gov't Br. 10-11; p. 29, *infra*. Plaintiffs emphasize that IEEPA's legislative history contains statements lamenting "how 'successive Presidents have seized upon the open-endedness of TWEA's section 5(b).'" VOS Br. 27 (brackets and citation omitted); see States Br. 28. That only hurts plaintiffs' case, since Congress reenacted that open-ended language in IEEPA without material change.

B. Plaintiffs' Contrary Interpretation Lacks Merit

Though plaintiffs insist that "regulate importation" excludes tariffs, they offer little textual justification for what "regulate importation" actually includes under their view. They concede that quotas are means to "regulate importation." See VOS Br. 15 ("numerical limits"); States Br. 24 ("restricting the quantity"); Learning Br. 23 ("restricting their quantity"), 35 ("quotas"). And it is anyone's guess whether plaintiffs think "regulate importation" includes things like price controls. Meanwhile, they add that "regulate importation" includes inspections, quarantines, and licensing, see *ibid.*, even though such regimes often include user fees. And IEEPA's other verbs (like "prohibit," "nullify," and "compel") include economically momentous acts like asset freezes and total embargoes. Plaintiffs would thus render IEEPA an implausible statutory doughnut under which the President could take virtually any action, large or small—from total embargoes to small-bore regulatory measures—*except* tariffs.

1. ***Tariffs vs. domestic taxes.*** Plaintiffs' exclusion of tariffs from "regulate importation" depends not on the text, but on a repeated, false equivalence between domestic revenue-raising taxes and regulatory tariffs on foreign imports. They even suggest a clear-statement rule, citing (VOS Br. 16; Learning Br. 28-29) cases stating that "customs revenue laws should be liberally interpreted in favor of the importer, and that the intent of Congress to impose or increase a tax upon imports should be expressed in clear and unambiguous language." *Eidman* v. *Martinez*, 184 U.S. 578, 583 (1902); see *Hartranft* v. *Wiegmann*, 121 U.S. 609, 616 (1887) ("[D]uties are never imposed on the citizen upon vague or doubtful interpretations.") (citation omitted).

All of those premises are incorrect. IEEPA authorizes the imposition of regulatory tariffs on foreign imports to deal with foreign threats—which crucially differ from domestic taxation. Plaintiffs thus err in asserting (without citation) that "nobody disputes that the tariffing power is a subset of the taxing power." Learning Br. 22. The government cited *Gibbons*, *McGoldrick*, and other authorities establishing that although tariffs *can be* revenue-raising, they also are a traditional and commonplace means to *regulate* international trade (even if they also incidentally produce revenue). Gov't Br. 24-25. As plaintiffs acknowledge, some tariffs may be so prohibitively high that they raise no revenue. Learning Br. 13. An authority to regulate trade thus includes tariffs irrespective of any similar authority under a taxing power. "[T]he taxing power is a distinct power and embraces the power to lay duties, [but] it does not follow that duties may not be imposed in the exercise of the power to regulate commerce." *Board of Trustees*, 289 U.S. at 58. Hence, this Court rejected a

State's argument that tariffs were necessarily "an exertion of the taxing power" and thus subject to constitutional limitations on federal taxation of state instrumentalities. *Id.* at 57.

Plaintiffs' assertion that the "key question here is how Congress delegates that special taxing power," Learning Br. 23, thus elides the distinction between domestic revenue-raising taxes and regulatory tariffs. Further, that assertion rehashes the argument this Court recently rejected even in the domestic context—namely, that special rules apply when Congress delegates authority to impose monetary exactions. *FCC* v. *Consumers' Research*, 145 S. Ct. 2482, 2497-2498 (2025).

Plaintiffs' putative clear-statement rule fares no better. Whatever the ongoing validity of that seldom-cited substantive canon, cf. *Biden* v. *Nebraska*, 600 U.S. 477, 508-509 & n.2 (2023) (Barrett, J., concurring), IEEPA is "clear and unambiguous," not "vague and doubtful," *Eidman*, 184 U.S. at 583; *Hartranft*, 121 U.S. at 616. Besides, the opposite presumption applies in this foreign-affairs context of shared powers, where the President's actions are entitled to "the strongest of presumptions" of validity and "the widest latitude of judicial interpretation." *Youngstown*, 343 U.S. at 637 (Jackson, J., concurring).

2. ***Other tariff statutes.*** Plaintiffs rely heavily on other tariff-specific statutes, which (unlike IEEPA) expressly refer to "tariffs," "duties," or "taxes." States Br. 16-21; VOS Br. 18-20; Learning Br. 28-29. Plaintiffs disclaim any "magic words" requirement, yet leave unexplained how their argument differs from the "hallmark formulations" test this Court unanimously rejected in *Soto* v. *United States*, 605 U.S. 360, 373 (2025). If "regulate importation" is too broad or imprecise to

include tariffs, and only more specific words must do, that is just a magic-words test by another name.

Regardless, plaintiffs ignore that IEEPA sensibly did not specify all the means of "regulat[ing] importation," whether through "tariffs" or otherwise, because, unlike the tariff-specific statutes they cite, IEEPA is not a tariff-specific or even tariff-focused statute. Rather, it is a grant of emergency authority that naturally uses broader and more flexible language encompassing tariffs and much more. Gov't Br. 35. "[E]ven if Congress 'typically' confers the authority to" take certain actions using particular terms, "that standard practice does not bind legislators to specific words or formulations." *Soto*, 605 U.S. at 371 (citation omitted). Section 1702(a)(1)(B) does not mention "quotas" or "inspections" either, yet plaintiffs say those measures "regulate importation."

Plaintiffs assert (VOS Br. 30-33; States Br. 42-46) that interpreting IEEPA to authorize tariffs would effectively circumvent the specific limitations on tariffs (such as duration and rate) contained in those other tariff-specific statutes. But Congress naturally gave the President greater leeway to act during declared emergencies. See 25-250 Pet. App. 66a (Taranto, J., dissenting). And IEEPA contains its own limits, including a default one-year limit on emergencies, 50 U.S.C. 1622(d); an enumerated list of exceptions, 50 U.S.C. 1702(b)(1)-(4); and comprehensive congressional reporting requirements, 50 U.S.C. 1622(a)-(c), 1631, 1641, 1703. IEEPA and the other tariff statutes thus operate in separate (albeit overlapping) circumstances, and none is implicitly limited by any other—least of all IEEPA, which is the latest-enacted of the bunch. See Gov't Br. 39. IEEPA's limitations obviously would not

apply to the other tariff statutes, even if the President imposes tariffs under those statutes in circumstances that might rise to the level of a national emergency.

Plaintiffs' assertion (VOS Br. 33) that the other tariff statutes also "govern emergencies, even if not by that name," is thus irrelevant. What matters is not whether circumstances might constitute an "emergency" in the colloquial sense, but whether those statutes require complying with the specific procedures of the National Emergencies Act (NEA), Pub. L. No. 94-412, 90 Stat. 1255 (50 U.S.C. 1601 *et seq.*). IEEPA requires it, see 50 U.S.C. 1701(a); those other statutes do not. And by the same token, an exercise of tariff authority under those other statutes need not comply with IEEPA's limitations, just as an exercise of tariff authority under IEEPA need not comply with any limitations in those other statutes. See Gov't Br. 39.

Plaintiffs complain (VOS Br. 51-52; States Br. 40-41; Learning Br. 49) that IEEPA's limitations are too easily satisfied, but that is just a policy disagreement with Congress's decision to grant the President broad, flexible authority to deal with foreign threats. In IEEPA and NEA, Congress consciously balanced express concerns about boundless and excessive exercises of emergency powers, 25-250 Pet. App. 69a-77a (Taranto, J., dissenting), against the necessity of equipping the President with tools needed to address "exigencies" that are "impossible to foresee," *Loving*, 517 U.S. at 767 (citation omitted). "Congress," which struck that balance, "is no less endowed with common sense" than plaintiffs, "and better equipped to inform itself of the 'necessities' of government." *Mistretta* v. *United States*, 488 U.S. 361, 416 (1988) (Scalia, J., dissenting).

Anyway, plaintiffs are wrong to suggest that IEEPA's limitations are toothless: Congress has previously exercised its power to terminate a national emergency, and courts have previously enforced IEEPA's enumerated exceptions. See Gov't Br. 32. The Senate recently passed a resolution terminating the emergency underlying the Canadian trafficking tariffs, showing that Congress is carefully overseeing the challenged tariffs here. S. J. Res. 77, 119th Cong., 1st Sess. (2025).

3. ***Imports vs. exports***. Plaintiffs suggest (VOS Br. 21; States Br. 22-23; Learning Br. 31-33) that "regulate importation" covers quotas and the like but not tariffs because IEEPA also authorizes the President to "regulate exportation," and imposing duties on exports would be unconstitutional. That suggestion lacks merit. Gov't Br. 30-31. Most important, where a broad statute contains long lists of verbs and objects, each term should be given its ordinary meaning with the understanding that certain permutations might be unenforceable as applied. See *Department of Agriculture Rural Development Rural Housing Service* v. *Kirtz*, 601 U.S. 42, 61 (2024); *Robers* v. *United States*, 572 U.S. 639, 643-644 (2014). It would make little sense to adopt narrowing constructions of all nine verbs and all eleven direct objects in Section 1702(a)(1)(B) in a quixotic effort to make all 99 permutations work. The authority to, say, "nullify * * * transportation" makes little sense, but that does not justify an unduly narrow interpretation of "nullify" as applied to the other ten objects. So too here. Because the ordinary meaning of "regulate importation" includes tariffs, Congress did not need also to "write extra language specifically exempting, phrase by phrase, applications in respect to which a portion of a phrase is not needed." *Robers*, 572 U.S. at 643-644.

Relatedly, plaintiffs observe (Learning Br. 39-40) that IEEPA's predecessor, TWEA, originally included "export[s]" but not imports in its list of nouns. TWEA § 5(b), 40 Stat. 415. From that, plaintiffs conclude that "regulate" excluded the imposition of tariffs in 1917, and thus excludes it today in IEEPA. But TWEA covered importation in another provision, authorizing 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." § 11, 40 Stat. 422-423. That language plainly is broad enough to include tariffs. See Bamzai Amicus Br. 16-19.

Plaintiffs provide no sound reason to think Congress withdrew tariff power when it inserted "importation" into TWEA's list of nouns after the attack on Pearl Harbor. First War Powers Act, 1941, ch. 593, § 301, 55 Stat. 839; see Bamzai Amicus Br. 19-21. That insertion was necessary because Section 11 had expired at the end of World War I; but as Professor Bamzai explains, "the most plausible interpretation is that the addition sought to reintroduce the authority that had expired along with section 11 at the end of World War I"—just in a more "streamline[d]" way. Bamzai Amicus Br. 28.

In focusing on the 1917 version of TWEA while ignoring the 1941 amendment and the 1977 enactment of IEEPA, plaintiffs contravene "the most rudimentary rule of statutory construction," namely, "that courts do not interpret statutes in isolation, but in the context of the *corpus juris* of which they are a part, including later-enacted statutes." *Branch* v. *Smith*, 538 U.S. 254, 281 (2003) (opinion of Scalia, J.); see *Pugin* v. *Garland*, 599 U.S. 600, 605 n.1 (2023) (same).

4. ***IEEPA's foreign-property requirement.*** In a similar vein, plaintiffs argue that IEEPA's authorization to "regulate importation"—which applies to "any property in which any foreign country or a national thereof has any interest," 50 U.S.C. 1702(a)(1)(B)—rules out tariffs. Plaintiffs argue that the foreign-property limitation is phrased in the present tense ("has") and, by the time property is imported and thus subject to tariffs, foreigners no longer own it. Learning Br. 36-37; see States Br. 23-24. Even if that were invariably true, plaintiffs' argument rests on the mistaken premise that a foreign exporter no longer "has" any interest in property it no longer owns.

The phrase "any interest" extends beyond current possessory or ownership interests. "As this Court has repeatedly explained, the word 'any' has an expansive meaning." *Patel* v. *Garland*, 596 U.S. 328, 338 (2022) (citation and some internal quotation marks omitted). A foreign firm that sells its wares in the United States has an obvious "interest" in whether tariffs will be imposed—which could affect the demand for their foreign products—even if the firm does not formally own the items at the point tariffs are imposed. Cf. 31 C.F.R. 510.313 (OFAC regulation generally defining "the term *interest*, when used with respect to property," as "an interest of any nature whatsoever, direct or indirect").

Lower courts have thus uniformly held that "any interest" in IEEPA extends beyond current possessory interests. In *Holy Land Foundation* v. *Ashcroft*, 333 F.3d 156 (2003), cert. denied, 540 U.S. 1218 (2004), for example, the D.C. Circuit held that IEEPA allowed the government to block the assets of an organization that raised funds for Hamas, even though Hamas had no "legally protected" interest in the funds, because Hamas

had an interest in obtaining such funds in the future. *Id.* at 163; see *id.* at 162-163. The court explained that the statute encompasses interests like a "beneficial interest, or an interest not defined in traditional common law terms." *Id.* at 163; see *Global Relief Foundation, Inc.* v. *O'Neill*, 315 F.3d 748, 753 (7th Cir. 2002) (same), cert. denied, 540 U.S. 1003 (2003).

Plaintiffs' contrary argument proves too much. The foreign-property requirement applies not just to "regulate importation," but to all 99 permutations of verbs and nouns in Section 1702(a)(1)(B). Plaintiffs' reading would throw into serious doubt the application of nearly every action authorized by that provision. On plaintiffs' theory, the President could not even "prohibit importation" of property if the foreigner transfers formal title to the property before its importation into the United States. Nearly every one of the nine verbs in Section 1702(a)(1)(B) applying to "importation" or "exportation" could be evaded that way. So too many of the other nouns, like "transportation" and "use." Courts should avoid interpretations of a statute that would facilitate "evasion of the law" or "enable offenders to elude its provisions in the most easy manner." *The Emily*, 9 Wheat. 381, 389, 390 (1824).

C. The Major-Questions Doctrine Does Not Support Plaintiffs' Reading

Private plaintiffs have abandoned reliance on the major-questions doctrine for the proposition that IEEPA authorizes only some tariffs, but not others. Cf. 25-250 Pet. App. 34a-39a; Gov't Br. 32-34. Instead, they now invoke the doctrine to argue that IEEPA does not authorize tariffs at all. See VOS Br. 39-47; Learning Br. 44-48. But the Court has never applied the major-questions doctrine in the foreign-policy context, espe-

cially as to emergency powers. Gov't Br. 34-36. The doctrine also has less purchase when Congress delegates authority to the President, not an inferior officer within an agency, because Congress often delegates consequential power to the President, especially to act during an emergency. *Id.* at 36. And this case involves not an agency's discovering an unheralded power in a statutory backwater, but an invocation of a frequently used emergency statute to take actions mirroring President Nixon's well-known actions. *Id.* at 36-37.

1. The Court has never applied the major-questions doctrine to the foreign-policy and national-security contexts, partly because the doctrine "does not reflect ordinary congressional intent in those areas" and because "the President possesses at least some independent constitutional power to act even without congressional authorization." *Consumers' Research*, 145 S. Ct. at 2516 (Kavanaugh, J., concurring). In foreign affairs, conferring broad authority on the President comports with "both separation of powers principles and a practical understanding of legislative intent." *West Virginia*, 597 U.S. at 723.

Plaintiffs argue that when Congress enacts statutes that "delegate[] tariff-related authority, it does so explicitly and with strict limits." VOS Br. 44. That suggestion just reprises their faulty bid for a magic-words test, pp. 14-15, *supra*, and contravenes *Algonquin*'s rejection of that very argument, 426 U.S. at 557 (rejecting 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' ") (citation omitted); see Gov't Br. 28. Plaintiffs' upside-down view of congressional in-

tent is particularly misplaced in this foreign-emergency context, where Congress delegates broad authority using broad terms, given the impossibility of "anticipat[ing] in any detail" what "responses" would be needed. *Dames & Moore*, 453 U.S. at 669; see *Loving*, 517 U.S. at 767.

Plaintiffs also suggest that "the President has no 'independent' constitutional power to set tariffs." VOS Br. 45. But the President unquestionably has inherent authority under Article II to address foreign threats and foreign emergencies. See *Garamendi*, 539 U.S. at 414. And Congress, recognizing the "changeable and explosive nature of * * * international relations," *Zemel* v. *Rusk*, 381 U.S. 1, 17 (1965), has armed the President with a full range of tools—including tariffs—to deal with them.

Moreover, plaintiffs are wrong on their specific point. The President has inherent authority to impose tariffs on international commerce in wartime. See pp. 9-12, *supra*. IEEPA, which effectively codifies those wartime precedents, reflects the deliberate congressional intention to authorize the President to exercise those wartime authorities during peacetime emergencies. See *ibid.*

Plaintiffs thus retreat to the improbable position that this case does not actually involve foreign policy at all. See VOS Br. 45 (asserting that "the government uses 'national security' and 'foreign policy' too loosely" because "tariffs tax *Americans*"); States Br. 37 (the tariffs "impos[e] taxes on *domestic* importers"); Learning Br. 46 ("[A]t issue here is taxation."). That argument again falsely conflates domestic revenue-raising taxes and regulatory tariffs on foreign imports, and it also impugns plaintiffs' own interpretation. Like tariffs, quotas on foreign products—which plaintiffs treat as the

heartland of what "regulate importation" covers—also affect demand for imported goods and spur domestic production. Cf., *e.g.*, John Keilman, *Volvo Pivots to U.S. Production*, Wall St. J., Sept. 29, 2025, at B1. Yet even plaintiffs do not claim that quotas on foreign imports involve only domestic affairs, or that the major-questions doctrine would preclude the President from imposing quotas under IEEPA's authorization to "regulate importation." This Court should reject the invitation to gerrymander a major-questions problem for tariffs.

2. Plaintiffs see no difference for major-questions purposes between statutory delegations to agencies and those directly to the President, observing that "delegations to executive officers and agencies are *de facto* delegations to the President." VOS Br. 45 (brackets, citation, and ellipsis omitted); see Learning Br. 46 (same); States Br. 38 ("[T]he Constitution generally vests the executive power in the President."). That observation is true but irrelevant. When a statute expressly delegates authority directly to the President (especially to deal with national emergencies), Congress more likely conferred major and consequential powers than if the statute delegated routine authority to an agency. Gov't Br. 36.

The major-questions doctrine "serves as an interpretive tool reflecting 'common sense as to the manner in which Congress is likely to delegate a policy decision of [large] economic and political magnitude.'" *Nebraska*, 600 U.S. at 511 (Barrett, J., concurring) (citation omitted). Common sense confirms that a statute directing an agency to "regulate importation" as a matter of course likely means something different from an emergency statute directing the President himself to "regulate importation" to deal with major foreign threats, es-

pecially when the same provision empowers the President to block, prohibit, and nullify such transactions entirely.

3. Unlike private plaintiffs, the States continue to argue (Br. 30-34) that the major-questions doctrine might preclude some tariffs under IEEPA but not others. Yet the States notably never address the fundamental problem (Gov't Br. 33-34) that their atextual theory would improperly empower unelected judges to gauge the legality of tariffs based on their own policy views of how long is too long, how much is too much, or how many countries or products are too many.

The States claim (Br. 30-32) that this Court adopted a "some but not others" approach in *Biden* v. *Nebraska*, *supra*, *NFIB* v. *OSHA*, 595 U.S. 109 (2022) (per curiam), *Alabama Association of Realtors* v. *Department of Health & Human Services*, 594 U.S. 758 (2021) (per curiam), and *FDA* v. *Brown & Williamson Tobacco Corp.*, 529 U.S. 120 (2000). That is incorrect. *Brown & Williamson* and *Alabama Realtors* did not hold that FDA could regulate some cigarettes but not others, or that CDC could prohibit some evictions but not others, or that the agencies could regulate those things as long as the regulations did not go too far, or last too long. Rather, those cases held that the agencies lacked those major powers because the statutory text precluded them altogether.

Similarly, *OSHA* held that the agency lacked authority to require vaccination or weekly testing of employees for COVID-19 because that disease "is not an *occupational* hazard," as the statute required. 595 U.S. at 118. The Court did not suggest that the agency could require vaccination or testing so long as the agency limited its rules to a few workplaces or only monthly or

yearly testing. The Court's reference to "targeted regulations" simply made clear that the disease *might* be "occupational" in the statutory sense—and thus regulatable by the agency—if it "poses a special danger because of the particular features of an employee's job or workplace," such as for "researchers who work with the COVID-19 virus." *Id.* at 118-119.

Finally, *Nebraska* disclaimed even needing to apply the major-questions doctrine. See 600 U.S. at 506 & n.9. Besides, the principal issue there involved the statutory term "modify," which the Court held means "to make modest adjustments," not to "transform." *Id.* at 495. The Court thus addressed whether the challenged actions there were modest or transformative. See *id.* at 495-496. The States have identified no analogous text in IEEPA that could be read to authorize modest, but not more impactful, tariffs.

D. The Tariffs Here Satisfy IEEPA's Other Conditions

1. The trade tariffs address "unusual and extraordinary" threats

IEEPA's authorities "may be exercised to deal with any unusual and extraordinary threat" originating from outside the country "if the President declares a national emergency with respect to such threat." 50 U.S.C. 1701(a). Here, the President declared emergencies with respect to conditions underlying a goods trade deficit that he and his senior advisors determined had brought the United States to the brink of catastrophic decline and dependency on geopolitical adversaries, as well as a devastating fentanyl crisis that has killed hundreds of thousands of Americans. Gov't Br. 2-5. Plaintiffs contend (VOS Br. 33-39) that the goods trade deficits underlying the trade tariffs do not qualify as an "emer-

gency" or as an "unusual and extraordinary threat" under IEEPA, but do not dispute that the fentanyl emergency suffices to trigger IEEPA. That selective interpretation makes no sense.

a. IEEPA does not require that circumstances constitute an "emergency" in some colloquial sense. Contra VOS Br. 34-35. Instead, IEEPA requires that "the President declare[] a national emergency" under the NEA. 50 U.S.C. 1701(a). The President plainly *declared* emergencies under the NEA here. Plaintiffs deny that large and persistent goods trade deficits reflect "unusual and extraordinary" threats in the first place. VOS Br. 37-39. But such determinations are generally unreviewable because judges lack institutional competence to determine when foreign threats are unusual or extraordinary. The NEA leaves the declaration of an emergency to the President's discretion and judgment, cf. 50 U.S.C. 1621, 1622, 1631, and "[h]ow the President chooses to exercise the discretion Congress has granted him is not a matter for [judicial] review," *Dalton* v. *Specter*, 511 U.S. 462, 476 (1994).

Plaintiffs blithely assert (VOS Br. 36) that such determinations are "a matter of ordinary understanding," as if gauging national emergencies involved garden-variety factfinding. But subjecting a presidential determination of a national emergency to judicial examination—perhaps by hearing from competing experts, each armed with charts like the one in the VOS plaintiffs' brief—would improperly second-guess the President in the exercise of core constitutional authority, as supplemented by congressional authorization. Cf. *Trump* v. *Hawaii*, 585 U.S. 667, 686 (2018); *Youngstown*, 343 U.S. at 635-637 (Jackson, J., concurring). In practice, such examination would effectively require the President

(contrary to longstanding practice) to provide detailed explanations for his emergency declarations, as if he were an agency, inviting something akin to arbitrary-and-capricious review. See Gov't Br. 42. That is the antithesis of how statutes delegating emergency powers to Presidents have been understood.

b. In any event, plaintiffs' challenge is legally and factually meritless. Plaintiffs legally err in suggesting that an "unusual and extraordinary" threat cannot be a longstanding or persistent one. Even longstanding and persistent threats can eventually reach "a 'tipping point,'" as the President and his senior advisors have determined happened with the ballooning goods trade deficit. 25-250 Mot. to Expedite 2a (Bessent); see Gov't Br. 42-43. Plaintiffs' approach would call into question myriad previous emergency declarations addressing longstanding threats, from the Iran hostage crisis to South African apartheid. See *ibid.*

Plaintiffs also invent requirements entirely divorced from the phrase "unusual and extraordinary." For example, plaintiffs say that qualifying threats must arise "sudden[ly]," VOS Br. 34, 39, and that the threat cannot be "already covered by another, ordinary tariff statute," States Br. 47. Those atextual limits would make many past IEEPA actions unlawful. Many did not arise suddenly and many were at least arguably covered by other statutes. Cf. *id.* at 51 (asserting that the apartheid and human-rights-abuse threats were covered by other statutes).

As to the facts, plaintiffs are wrong to deny any unusual and extraordinary threat. See 25-250 Mot. to Expedite 1a-4a (Bessent); 25-1812 CAFC Doc. 158, at 3-17, 24-40 (Aug. 29, 2025) (Lutnick, Rubio, Bessent, Greer); 25-cv-66 CIT Doc. 53, at 4-24 (May 23, 2025) (same).

For example, the Commerce Secretary explains that "enormous, persistent annual U.S. goods trade deficits," which have reached $1.2 trillion per year, "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, vulnerable domestic supply chains, and a sensitive geopolitical environment." 25-1812 CAFC Doc. 158, at 7. He confirms that the current accumulating goods trade deficits reflect "an ongoing economic emergency of historic proportions," *id.* at 6; and the Treasury Secretary adds that they have brought America to "the brink of a major economic and national-security catastrophe," not unlike the "economic 'tipping point' back in 2007, when almost no one foresaw or took any action," 25-250 Mot. to Expedite 2a.

The President's determination that tariffs are the most critical tool keeping the country away from a spiraling goods trade deficit that will destroy the American manufacturing base and generate dependency on geopolitical rivals has self-evident, acute national security implications. Insufficient domestic manufacturing capacity, especially for defense and military purposes, has been recognized as an obvious national-security threat since the Founding. See, *e.g.*, Hamilton, *Report on Manufactures*, *supra*. Take just one example: China has attained a strategic stranglehold on rare earth elements, which are "vital materials in products ranging from electric vehicles to aircraft engines and military radars," and has deployed that advantage as leverage with other countries, to the detriment of U.S. access and domestic manufacturing. Reuters, *China expands rare earths restrictions, targets defense and chips users*,

perma.cc/E5PY-YT79 (Oct. 10, 2025); cf. Executive Order No. 14,285, 90 Fed. Reg. 17,735 (Apr. 29, 2025). The IEEPA tariffs have helped secure framework deals and final agreements with trading partners across the globe, including China itself, to ensure the United States' access to rare earth elements. See, *e.g.*, Cat Zakrzewski et al., *Trump cuts tariffs on China after 'truly great' meeting with Xi*, Washington Post (Oct. 30, 2025, 6:03 a.m.), perma.cc/4UM4-R8JN; Press Release, The White House, *Agreement Between the United States of America and Malaysia on Reciprocal Trade* (Oct. 26, 2026); Gov't Br. 10. Those deals—facilitated by the IEEPA tariffs—thus advance vital national and economic security objectives. As that example illustrates, the conditions underlying the trade tariffs are just as much an unusual and extraordinary threat as the fentanyl smuggling underlying the trafficking tariffs, which undisputedly is such a threat.

Plaintiffs attempt to rebut (VOS Br. 37-38) the emergency with their own charts and data. But that supplies no basis to jettison the President's determinations, which are backed by senior advisors whose job is to analyze reams of economic data and render policy judgments. IEEPA and the NEA "exude[] deference" to the President's determinations about the nature and scope of emergencies precisely to avoid rule by politically unaccountable armchair economists. *Hawaii*, 585 U.S. at 684.

2. *The trafficking tariffs "deal with" the declared threats and emergencies*

IEEPA provides that its authorities "may be exercised to deal with" the threats as to which a national emergency is declared. 50 U.S.C. 1701(a). Plaintiffs contend that the trafficking tariffs do not "deal with" the threat of drug trafficking. States Br. 52-56. That

contention lacks merit because "deal with" is a broad phrase whose plain meaning encompasses indirect methods, such as those that create leverage to incentivize the target to change its behavior. Gov't Br. 39-41. IEEPA thus permits leveraging 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.

Plaintiffs ignore that plain-meaning argument. Instead, they emphasize Section 1701(b)'s additional statement that IEEPA's authorities "may not be exercised for any other purpose." 50 U.S.C. 1701(b). Plaintiffs infer from that language that "Congress regarded the 'deal with' requirement as a substantive and important limit." States Br. 52. Even if so, that cannot constrict the plain meaning of "deal with." Regardless, as the sentence immediately following the "any other purpose" language illustrates, Congress's real concern was to ensure that a national emergency was properly declared with respect to each threat—not to substantively curtail the President's authority to deal with those threats. See 50 U.S.C. 1701(b) ("Any exercise of such authorities to deal with any new threat shall be based on a new declaration of national emergency.").

Plaintiffs also dismiss *Dames & Moore* because it did not cite the "deal with" clause. States Br. 54. But the Court's approving description of an exercise of IEEPA authority as a valid "bargaining chip" is incompatible with plaintiffs' cramped conception of "deal with." Plaintiffs also observe that the "property at issue in that case was property of the Government of Iran and its instrumentalities." *Ibid.* But that property had no evident connection to the taking of American hostages by revolutionaries, and so would fail plaintiffs' own test.

3. Section 122 of the Trade Act of 1974 does not displace IEEPA

Plaintiffs maintain (States Br. 42-46) that even if IEEPA authorizes the trade tariffs, the tariffs must nevertheless satisfy the rate (15 percent ad valorem) and duration (150 days) requirements of Section 122 of the Trade Act of 1974, Pub. L. No. 93-618, 88 Stat. 1987 (19 U.S.C. 2132), because they happen to involve the same sort of balance-of-payments deficits that Section 122 addresses. That argument lacks merit because both statutes should be read to coexist in their own spheres, without grafting the limitations of one statute onto the other. Gov't Br. 37-39; see *Kirtz*, 601 U.S. at 63. IEEPA overlaps substantially with other provisions of law with respect to other emergency authorities, and there is no reason to treat the tariff authority differently. See *Dames & Moore*, 453 U.S. at 675-687 (noting the overlap of IEEPA, the Hostage Act, and inherent presidential authorities). Section 122 certainly should not be read to implicitly limit the later-enacted IEEPA.

Contrary to plaintiffs' assertion (States Br. 44), the government is not arguing that "IEEPA purports to override Section 122's limits." Rather, IEEPA's limits apply to actions under IEEPA, and Section 122's limits apply to actions under Section 122. Nor does the government's argument mean that "Section 122 applies only to nonemergency situations." *Ibid.* Section 122 applies wherever its plain terms permit it to apply; for a declared national emergency addressing threats from serious balance-of-payments deficits, the President might well impose tariffs under *both* IEEPA and Section 122.

II. IEEPA RAISES NO NONDELEGATION CONCERNS

Only the VOS plaintiffs challenge IEEPA's authorization of tariffs as unconstitutional on nondelegation grounds; the other plaintiffs merely raise "questions" or constitutional-avoidance "concerns." VOS Br. 47-53; cf. States Br. 38-41; Learning Br. 42-43. However framed, plaintiffs' nondelegation objections fail. This Court has long recognized "the unwisdom of requiring Congress in this field of governmental power to lay down narrowly definite standards by which the President is to be governed." *United States* v. *Curtiss-Wright Export Corp.*, 299 U.S. 304, 321-322 (1976). The "limitation upon congressional delegations of power to the President over internal affairs does not apply with respect to delegations of power in external affairs." *Youngstown*, 343 U.S. at 637 n.2 (Jackson, J., concurring). Accordingly, the Court has upheld broad delegations in the national-security and foreign-policy realms. Regardless, IEEPA satisfies the "intelligible principle" requirement applicable to domestic delegations because it provides an identifiable "policy" and erects clear "boundaries" to the execution of that policy. Gov't Br. 43-47.

Plaintiffs again attempt to take this case out of the foreign-affairs context by conflating domestic revenue-raising taxes and regulatory tariffs, and by portraying this case as a more extreme version of the delegation this Court upheld in *Consumers' Research*, *supra*. VOS Br. 49; States Br. 40; Learning Br. 49. But broad delegations of tariff authority are the heartland of permissible delegations, as confirmed by this Court's decisions uniformly rejecting nondelegation challenges to statutes delegating tariff authority to the President. *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).

Those decisions reflect that when Congress delegates "authority over matters of foreign affairs," it "must of necessity paint with a brush broader than that it customarily wields in domestic areas." *Zemel*, 381 U.S. at 17. One reason is that the President "enjoys his own inherent Article II powers" in foreign affairs. *Gundy* v. *United States*, 588 U.S. 128, 170-171 (2019) (Gorsuch, J., dissenting); see *Department of Transportation* v. *Association of American Railroads*, 575 U.S. 43, 80 n.5 (2015) (Thomas, J., concurring in the judgment); *Curtiss-Wright*, 299 U.S. at 319-320.

Plaintiffs claim (VOS Br. 52-53) that the President lacks independent foreign-affairs powers over tariffs, but that is wrong. See pp. 9-12, *supra*; Bamzai Amicus Br. 24-28. When combined with IEEPA's delegation, the President's "authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate." *Youngstown*, 343 U.S. at 635-637 (Jackson, J., concurring).

Plaintiffs object that under the government's view, IEEPA authorizes the President to impose tariffs "at any rate, for any good, from any place, for any length of time." VOS Br. 47; see Learning Br. 49. But even under plaintiffs' view, IEEPA's authorization to "prohibit importation" and its other verbs and nouns are similarly unrestricted. If those broad delegations are unconstitutional, most longstanding IEEPA authorities would be invalid, including asset freezes, embargoes, and blocking of property. TWEA—which uses similar language—would apparently fall too. 50 U.S.C. 4305(b)(1)(B).

IEEPA is hardly unconstitutional because it omits the limits plaintiffs desire (cf. VOS Br. 51-52) in favor of the limits Congress chose, like the default one-year limit on emergencies, 50 U.S.C. 1622(d); an enumerated list of exceptions, 50 U.S.C. 1702(b)(1)-(4); and comprehensive congressional reporting requirements, 50 U.S.C. 1622(a)-(c), 1631, 1641, 1703.

III. THE *LEARNING RESOURCES* DISTRICT COURT LACKED JURISDICTION

The CIT has exclusive jurisdiction over "any civil action" against the government that "arises out of any law" providing for tariffs or their administration and enforcement. 28 U.S.C. 1581(i)(1). Presidential "modification[s]" to the Harmonized Tariff Schedule of the United States (HTSUS) qualify as such "law[s]," 19 U.S.C. 3004(c)(1)(C), especially when made under an "Act[] affecting import treatment," 19 U.S.C. 2483. See Gov't Br. 47-49. Plaintiffs' claims "arise[] out of" those modifications; their complaint seeks to declare the modifications unlawful, enjoin their enforcement, and set them aside. *Id.* at 47-48.

The *Learning Resources* plaintiffs (Br. 51-52) assert that because the HTSUS "does not provide the substantive law" or "require any interpretation" in this case, their "claims center on IEEPA," not the modifications to the HTSUS. That assertion contradicts their complaint and prayer for relief. See Compl. ¶¶ 24, 73-74, 89-90, 99, 113. And it lacks merit on its own terms because IEEPA is a law "affecting import treatment," 19 U.S.C. 2483, so the CIT has exclusive jurisdiction regardless. Gov't Br. 48.

Plaintiffs' only answer (Learning Br. 54) is that the government's interpretation "would absurdly render *any* executive action invoking IEEPA" subject to the

CIT's exclusive jurisdiction. That is incorrect; only executive actions under IEEPA that modify the HTSUS would trigger the CIT's exclusive jurisdiction under 28 U.S.C. 1581(i)(1) and 19 U.S.C. 2483 and 3004(c)(1)(C). See Gov't Br. 48. Plaintiffs' contrary view is far more absurd. Courts would routinely have to resolve the merits of a tariff dispute just to determine whether they had jurisdiction to resolve the merits of that dispute. Plaintiffs call that "Congress's choice to make." Learning Br. 55. But nothing suggests Congress made that bizarre choice here.

Respectfully submitted.

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