No. 24-1287

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.

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

BRIEF FOR THE RESPONDENTS IN OPPOSITION

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QUESTION PRESENTED

Whether the district court had subject-matter jurisdiction to address petitioners' challenge to tariffs imposed by the President, notwithstanding Congress's vesting exclusive jurisdiction in the Court of International Trade over "any civil action" against the federal government "that arises out of any law of the United States providing for * * * tariffs." 28 U.S.C. 1581(i)(1)(B).

ADDITIONAL RELATED PROCEEDINGS

United States District Court (D.D.C.):

Learning Resources, Inc. v. *Trump*, No. 25-cv-1248 (May 29, 2025)

United States Court of Appeals (D.C. Cir.):

Learning Resources, Inc. v. *Trump*, No. 25-5202 (May 30, 2025) (docketing appeal)

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases:

Cases—Continued: Page

Cases—Continued: Page

Constitution, statutes, and rule:

Miscellaneous:

Miscellaneous—Continued: Page

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OPINIONS BELOW

The memorandum opinion of the district court (Pet. App. 3a-43a) is available at 2025 WL 1525376. The orders of the district court (Pet. App. 1a-2a, 44a-45a) are unreported.

JURISDICTION

The district court issued a preliminary injunction on May 29, 2025. The government filed a notice of appeal on May 30, 2025. The court of appeals' jurisdiction rests on 28 U.S.C. 1292(a)(1). The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1) and 2101(e).

STATEMENT

1. The International Emergency Economic Powers Act (IEEPA), Pub. L. No. 95-223, Tit. II, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*), authorizes the President to "regulate * * * importation" of "any property in which

any foreign country or a national thereof has any interest," or "with respect to any property, subject to the jurisdiction of the United States." 50 U.S.C. 1702(a)(1)(B). The President may exercise that authority "to deal with any unusual or 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, if the President declares a national emergency with respect to such threat." 50 U.S.C. 1701(a). Invoking IEEPA, the President has imposed tariffs to address two emergencies.

First, the President has declared the flow of contraband drugs through illicit distribution networks to be a national emergency, see Proclamation No. 10,886, 90 Fed. Reg. 8327 (Jan. 29, 2025), and has defined the scope of that emergency to include the conduct of the People's Republic of China (PRC), see Exec. Order No. 14,195, 90 Fed. Reg. 9121, 9122 (Feb. 7, 2025). The President found that the PRC government "has subsidized and otherwise incentivized PRC chemical companies to export fentanyl and related precursor chemicals that are used to produce synthetic opioids sold illicitly in the United States"; that "the PRC provides support to and safe haven for PRC-origin transnational criminal organizations * * * that launder the revenues from the production, shipment, and sale of illicit synthetic opioids"; and that "[m]any PRC-based chemical companies * * * go to great lengths to evade law enforcement and hide illicit substances in the flow of legitimate commerce." *Id.* at 9121. Invoking IEEPA, the President addressed that threat by imposing an additional 10% duty on most PRC products. See *id.* at 9122-9123. He later increased the additional-duty rate to 20% because "the PRC ha[d] not taken adequate steps to alleviate the

illicit drug crisis." Exec. Order No. 14,228, 90 Fed. Reg. 11,463, 11,463 (Mar. 7, 2025).

Second, in April 2025, the President declared a separate emergency arising out of "a lack of reciprocity in our bilateral trade relationships, disparate tariff rates and non-tariff barriers, and U.S. trading partners' economic policies that suppress domestic wages and consumption, as indicated by large and persistent annual U.S. goods trade deficits." Exec. Order No. 14,257, 90 Fed. Reg. 15,041, 15,041 (Apr. 7, 2025). In declaring that emergency, the President explained that "[l]arge and persistent annual U.S. goods trade deficits have led to the hollowing out of our manufacturing base; inhibited our ability to scale advanced domestic manufacturing capacity; undermined critical supply chains; and rendered our defense-industrial base dependent on foreign adversaries." *Ibid.* Invoking IEEPA, the President addressed that threat by imposing an additional 10% duty "on all imports from all trading partners," subject to certain exceptions. *Id.* at 15,045. He also imposed various country-specific tariffs. See *ibid.* The President suspended some of those reciprocal tariffs for 90 days, see Exec. Order No. 14,266, 90 Fed. Reg. 15,625 (Apr. 15, 2025), and later extended the suspension, see Exec. Order No. 14,316, 90 Fed. Reg. 30,823 (July 10, 2025).

The tariffs have prompted fruitful negotiations with the United States' foreign partners. For instance, "more than 75 * * * foreign trading partners * * * have approached the United States to address the lack of trade reciprocity in our economic relationships and our resulting economic security concerns." 90 Fed. Reg. at 15,626. The tariffs also prompted the PRC to return to the negotiating table, resulting in a framework agree-

ment to reduce China's tariffs on U.S. goods. See Ana Swanson et al., *'Deal' With China Mends Ties but Doesn't Erase Tariffs*, N.Y. Times, June 12, 2025, at A10.

2. Petitioners are companies that claim to import goods from China and other countries affected by the tariffs. See Pet. App. 3a. They brought this suit in the United States District Court for the District of Columbia, claiming that the tariffs exceed the President's authority under IEEPA. See *id.* at 3a-4a.

The district court denied the government's motion to transfer the case to the Court of International Trade (CIT), rejecting the government's argument that the CIT possesses exclusive jurisdiction over this case. See Pet. App. 18a-21a. The court also granted petitioners a preliminary injunction prohibiting the government from collecting the tariffs from petitioners. See *id.* at 3a-43a. The court found that petitioners were likely to succeed on the merits of their claim that the President's power under IEEPA to "regulate" importation does not include the power to impose tariffs. See *id.* at 21a-37a.

On its own motion, the district court stayed its preliminary injunction for 14 days. See Pet. App. 43a. The government appealed to the D.C. Circuit, and the district court granted the government's motion to stay its injunction pending appellate review. See *id.* at 44a-45a. The government's appeal remains pending.

ARGUMENT

Petitioners ask this Court to grant certiorari before judgment to consider their contention that IEEPA does not authorize the President to impose tariffs. This Court should reject that request. This particular case does not warrant the extraordinary step of granting certiorari before judgment at the behest of the party

that prevailed in the district court. That is especially true given that the district court lacks subject-matter jurisdiction and that petitioners' claim plainly lacks merit. Granting certiorari before judgment would be particularly unusual here because the D.C. Circuit has expedited its consideration of the appeal in this case, and the en banc Federal Circuit is considering the tariffs' legality on a highly expedited timeline in a parallel case. This Court should not leapfrog those fast-moving proceedings, especially not to grant a petition in a case in which the district court lacked jurisdiction.

1. Petitioners ask this Court to depart in two ways from its ordinary practice. First, they seek certiorari before judgment, which this Court reserves for cases "of such imperative public importance as to justify deviation from normal appellate practice and to require immediate determination in this Court." Sup. Ct. R. 11. Second, they seek certiorari after having prevailed in the district court, even though this Court has "generally declined to consider cases at the request of a prevailing party." *Camreta* v. *Greene*, 563 U.S. 692, 703-704 (2011).

This particular case does not warrant that doubly special treatment. The D.C. Circuit has adopted an expedited briefing schedule and has scheduled argument for September 30, 2025. See C.A. Doc. 2121448 (June 18, 2025); C.A. Doc. 2123376 (July 1, 2025). The parties will have an opportunity to seek certiorari after the court of appeals issues its decision. If petitioners ultimately prevail on their legal challenge to the tariffs, moreover, they could obtain refunds of the tariffs that they have paid during the pendency of this litigation. See *Sunpreme Inc.* v. *United States*, No. 15-315, 2017 WL 65421, at *5 (C.I.T. Jan. 5, 2017). In these circumstances, this Court "should not jump ahead of the lower

courts," particularly at the behest of a prevailing party. *Moyle* v. *United States*, 603 U.S. 324, 336 (2024) (per curiam) (Barrett, J., concurring).

2. In any event, this case is not a suitable vehicle for addressing the underlying lawfulness of the President's tariffs. The threshold issue in this case, unlike in the parallel case in the Federal Circuit, is whether the district court had subject-matter jurisdiction to address petitioners' challenge to the tariffs. Because the district court lacked jurisdiction, this case is unlikely to resolve ultimate questions about the lawfulness of the tariffs.

a. Federal law grants the CIT "exclusive jurisdiction" over various international-trade matters. 28 U.S.C. 1581. District courts lack jurisdiction over such matters. See 28 U.S.C. 1337(c); *K Mart Corp.* v. *Cartier, Inc.*, 485 U.S. 176, 182-183 (1988). As relevant here, the CIT's exclusive jurisdiction encompasses "any civil action commenced against the United States, its agencies, or its officers, that arises out of any law of the United States providing for * * * tariffs, duties, fees, or other taxes on the importation or merchandise for reasons other than the raising of revenue" or "any law of the United States providing for * * * administration and enforcement with respect to" such tariffs. 28 U.S.C. 1581(i)(1)(B) and (D).

The challenged Executive Orders qualify as a "law" "providing for" "tariffs," or for "administration and enforcement with respect to" tariffs, within the meaning of that provision. 28 U.S.C. 1581(i)(1)(B) and (D). The Executive Orders modified the Harmonized Tariff Schedule of the United States. See 90 Fed. Reg. at 15,090; 90 Fed. Reg. at 15,626. Congress has provided that "[e]ach modification or change made to the Harmo-

nized Tariff Schedule by the president under authority of law" "shall be considered to be statutory provisions of law for all purposes." 19 U.S.C. 3004(c)(1)(C).

This case also "arises out of," 28 U.S.C. 1581(i)(1), the Harmonized Tariff Schedule and the Executive Orders modifying it. The crux of petitioners' claim is that, because of the Executive Orders and "corresponding revisions to the [Harmonized Tariff Schedule]," they "must pay additional tariffs to the federal government." C.A. J.A. 19. Petitioners seek a declaration that the "modifications to the [Harmonized Tariff Schedule]" made by the challenged Executive Orders "are unlawful," an injunction against their enforcement, and an order "set[ting] aside" the modifications. *Id.* at 35-37, 41, 43, 45.

The CIT has accordingly explained that challenges to the tariffs at issue here fall within its exclusive jurisdiction. See *V.O.S. Selections, Inc.* v. *United States*, 772 F. Supp. 3d 1350, 1366-1367 (C.I.T. 2025) (per curiam), appeal pending, No. 25-1812 (Fed. Cir. filed May 28, 2025). Three other district courts facing challenges to the same tariffs have likewise recognized that such suits belong exclusively in the CIT. See *California* v. *Trump*, No. 25-cv-3372, 2025 WL 1569334, at *4 (N.D. Cal. June 2, 2025), appeal pending, No. 25-3493 (9th Cir. filed Apr. 28, 2025); *Emily Ley Paper, Inc.* v. *Trump*, No. 25-cv-464, 2025 WL 1482771, at *8 (N.D. Fla. May 20, 2025); *Webber* v. *United States Department of Homeland Security*, No. 25-cv-26, 2025 WL 1207587, at *4 (D. Mont. Apr. 25, 2025), appeal pending, No. 25-2717 (9th Cir. filed June 3, 3025).

By consolidating tariff challenges in the CIT, with appellate review in the Federal Circuit, Congress prioritized national uniformity of judicial decisionmaking in this specialized domain. That choice reflects Congress's

view of the importance, in the international-trade arena, of "eliminat[ing] the possibility of conflicting decision[s]" from different courts and ensuring "expeditious decisions in matters which are important both to our country and to our trading partners." S. Rep. No. 466, 96th Cong., 1st Sess. 3-4 (1979).

b. The district court concluded that the CIT would have exclusive jurisdiction only if IEEPA authorizes the tariffs at issue here—and thus treated jurisdiction and the merits as a single inquiry. See Pet. App. 19a. That is incorrect. Petitioners' suit falls within the CIT's exclusive jurisdiction because it arises out of the Executive Orders modifying the Harmonized Tariff Schedule. This Court, moreover, has cautioned against interpreting jurisdictional statutes in a way that "would make a court's jurisdiction * * * dependent upon the merits of the claim." *Garland* v. *Aleman Gonzalez*, 596 U.S. 543, 554 (2022). For good reason. Where Congress has provided for review of a class of cases in a particular court, "it would be nonsensical to say that the jurisdiction of the reviewing body is limited to instances in which the underlying decision construes and applies the statute correctly." *Michael Simon Design, Inc.* v. *United States*, 609 F.3d 1335, 1341 (Fed. Cir. 2010); see *Steel Co.* v. *Citizens for a Better Environment*, 523 U.S. 83, 92-93 (1998) (similar).

3. Petitioners' challenge also fails on the merits.

a. IEEPA authorizes the President to "regulate * * * importation" of "any property in which any foreign country or a national thereof has any interest," or "with respect to any property, subject to the jurisdiction of the United States." 50 U.S.C. 1702(a)(1)(B). The power to "regulate" imports includes the power to impose tariffs on them.

That follows from the ordinary meaning of "regulate": 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). Imposing tariffs is a way of "control[ling]" imports, "adjust[ing]" them "by rule," and "subject[ing]" them "to governing principles or laws." *Ibid.*

This Court's precedents reinforce that conclusion. Two centuries ago, Chief Justice Marshall referred to the "right to regulate commerce * * * by the imposition of duties" and observed that duties are often "imposed * * * with a view to the regulation of commerce." *Gibbons* v. *Ogden*, 9 Wheat. 1, 202 (1824). More recently, this Court has held that a statute authorizing the President "'to adjust the imports'" of a product allows not just "quantitative methods" for adjusting imports (such as "quotas"), but also "monetary methods" (such as "license fees"). *Federal Energy Administration* v. *Algonquin SNG, Inc.*, 426 U.S. 548, 561 (1976). Such fees, the Court explained, have a "direct impact on imports" "as much as a quota" would. *Id.* at 571. So too for the tariffs at issue here. Like the license fees in *Algonquin* (fees for each barrel of oil imported), the tariffs here are a "monetary method" for "adjusting" imports and are thus a means of "regulating" imports. See *Borusan Mannesmann Boru Sanayi ve Ticaret A.S.* v. *United States*, 63 F.4th 25, 34 (Fed. Cir. 2023) ("quotas" and "duties" are alternative means of "'adjust[ing] imports'") (citation omitted).

A year before *Algonquin*, moreover, the Federal Circuit's predecessor reached the same conclusion, as to the same statutory language at issue here, in *United States* v. *Yoshida International, Inc.*, 526 F.2d 560

(C.C.P.A. 1975). That court construed the Trading With the Enemy Act (TWEA), ch. 106, 40 Stat. 411, which empowered the President "to 'regulate importation,'" to authorize the imposition of "an import duty surcharge." *Yoshida*, 526 F.2d at 576. Congress drew IEEPA's language directly from TWEA, see *Dames & Moore* v. *Regan*, 453 U.S. 654, 671 (1981), after *Yoshida* had read that language to authorize tariffs. "Congress is presumed to be aware of an administrative or judicial interpretation of a statute and to adopt that interpretation when it re-enacts" the relevant language. *Lorillard* v. *Pons*, 434 U.S. 575, 580 (1978). Indeed, the House Report on IEEPA cited *Yoshida* and approvingly discussed its holding. See H.R. Rep. No. 459, 95th Cong., 1st Sess. 5 (1977).

b. Petitioners invoke (Pet. 23) the major-questions doctrine, but that doctrine is inapposite for many reasons. Most important, it applies only "in the domestic sphere." *FCC* v. *Consumers' Research*, No. 24-354, 2025 WL 1773630, at *22 (June 27, 2025) (Kavanaugh, J., concurring) (emphasis added). "[T]he 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." *Id.* at *23. "On the contrary, the usual understanding is that Congress intends to give the President substantial authority and flexibility to protect America and the American people—and that Congress specifies limits on the President when it wants to restrict Presidential power in those national security and foreign policy domains." *Ibid.* The doctrine also "does not translate to those contexts because of the nature of Presidential decisionmaking in response to ever-changing national security threats and diplomatic challenges." *Ibid.*

Indeed, Presidents have long imposed tariffs and other trade restrictions under generally worded statutes and their inherent constitutional authority. See, *e.g.*, *Cargo of Brig Aurora* v. *United States*, 7 Cranch 382, 384 (1813) (Non-Intercourse Act); *Marshall Field & Co.* v. *Clark*, 143 U.S. 649, 680 (1892) (Tariff Act of 1890); *J.W. Hampton, Jr., & Co.* v. *United States*, 276 U.S. 394, 401-402 (1928) (Tariff Act of 1922); *Dames & Moore*, 453 U.S. at 672, 686 (IEEPA and inherent authority); see also, *e.g.*, Tariff Act of 1930, ch. 497, § 338, 46 Stat. 704 (19 U.S.C. 1338) (Smoot-Hawley); Trade Expansion Act of 1962, Pub. L. No. 87-794, § 232, 76 Stat. 877 (19 U.S.C. 1862); Trade Act of 1974, Pub. L. No. 93-618, Tits. II & III, 88 Stat. 2011, 2042 (19 U.S.C. 2251 *et seq.*, 2411 *et seq.*).

In addition, 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).

Relatedly, 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, 517-518 (2023) (Barrett, J., concurring). No such mismatch exists here, given that IEEPA addresses national emergencies (the most important of circumstances) and directly authorizes the President (the most important person in

government) to take certain actions in response to those emergencies. IEEPA, on its face, is designed to address major questions, and thus it would make little sense to construe the statute to avoid addressing major questions. Nor is this a case where "an agency claims to discover in a long-extant statute an unheralded power." *Utility Air Regulatory Group* v. *EPA*, 573 U.S. 302, 324 (2014). Congress has long granted Presidents extremely broad authority over tariffs, including under the very statute on which IEEPA was modeled. See pp. 9-11, *supra*.

c. Petitioners argue (Pet. 23-24) that the government's reading of IEEPA violates the nondelegation doctrine, but that contention, too, lacks merit. The nondelegation doctrine plays a "more limited role" in "the national security and foreign policy realms" than in the domestic sphere. *Consumers' Research*, 2025 WL 1773630, at *22 (Kavanaugh, J., concurring). In "authorizing action by the President in respect of subjects affecting foreign relations," Congress may "leave the exercise of the power to his unrestricted judgment, or provide a standard far more general than that which has always been considered requisite with respect to domestic affairs." *United States* v. *Curtiss-Wright Export Corp.*, 299 U.S. 304, 324 (1936). In particular, Congress may "invest the President with large discretion in matters arising out of the execution of statutes relating to trade and commerce with other nations." *Marshall Field*, 143 U.S. at 691.

That makes sense given that Article II gives the President the "lead role in foreign policy." *American Insurance Association* v. *Garamendi*, 539 U.S. 396, 415 (2003) (citations and ellipsis omitted). Here, where the President possesses both his own inherent constitu-

tional authority over foreign relations and a broad delegation of authority from Congress under IEEPA, "his authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate," and his actions are "supported by the strongest of presumptions and the widest latitude of judicial interpretation." *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 635-637 (1952) (Jackson, J., concurring in the judgment and opinion of the Court). Indeed, any "limitations" 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). When Congress delegates "authority over matters of foreign affairs," therefore, it "must of necessity paint with a brush broader than that it customarily wields in domestic areas." *Zemel* v. *Rusk*, 381 U.S. 1, 17 (1965); cf. Michael W. McConnell, *The President Who Would Not Be King* 334 (2020).

In any event, even if the domestic nondelegation doctrine were applicable, IEEPA's provisions authorizing the President to "regulate" imports "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," 50 U.S.C. 1701(a), 1702(a)(1)(B), easily satisfy that doctrine. See *United States* v. *Shih*, 73 F.4th 1077, 1092 (9th Cir. 2023) (collecting cases), cert. denied, 144. S. Ct. 820 (2024).

4. Finally, this Court should deny certiorari before judgment given the ongoing proceedings before the Federal Circuit. Two other sets of plaintiffs filed suits challenging the tariffs in the CIT. Addressing both challenges, the CIT granted a universal permanent in-

junction against the collection of the tariffs. See *V.O.S. Selections*, 772 F. Supp. 3d at 1383. The en banc Federal Circuit has stayed that injunction, see *V.O.S. Selections, Inc.* v. *Trump*, No. 25-1812, 2025 WL 1649290, at *1 (June 10, 2025) (per curiam); expedited the appeal; and scheduled oral argument on July 31, 2025, see 6/13/25 Order, *V.O.S. Selections*, *supra* (No. 25-1812).

Once the Federal Circuit issues its decision, this Court would likely have an opportunity to determine whether to grant certiorari and, if so, to hear the case during the October 2025 Term. To the extent that certiorari would be warranted, that case would be a better vehicle than this one for resolving the tariffs' legality because that case originates in the CIT, which has exclusive jurisdiction over suits challenging tariffs. If the Court ultimately grants review in the Federal Circuit case, and if it believes that there is any meaningful doubt as to the CIT's exclusive jurisdiction, it could simply address the jurisdictional question in that case or grant review in this case after the D.C. Circuit has issued its judgment.

CONCLUSION

The petition for a writ of certiorari before judgment should be denied.

Respectfully submitted.

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