

Constitutional Emergency Powers and Strategic Industrial Protection:
Reconciling Executive Authority with Market Principles in the EV Tariff Case

Author Note

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Abstract

This working paper examines the constitutional limits of presidential authority under the International Emergency Economic Powers Act (IEEPA) in light of the 2024–2025 electric-vehicle (EV) tariff litigation. Drawing on empirical evidence concerning PRC-dominated critical-mineral refining and EV-supply-chain vulnerabilities—the analysis evaluates whether these foreign-origin dependencies constitute an "unusual and extraordinary threat" under 50 U.S.C. § 1701(a).

To distinguish permissible national-security measures from pretextual revenue actions, the paper advances two doctrinal contributions. First, the Incidental Revenue Doctrine clarifies that revenue effects may accompany valid IEEPA actions, but revenue cannot be the primary presidential purpose. Second, the Three-Tier IEEPA Review Framework provides courts with a proportional method for differentiating genuine security-driven restrictions (Tier One) from mixed-motive cases (Tier Two) and revenue-dominated, pretextual measures (Tier Three).

The analysis incorporates counterarguments concerning the Origination Clause, the self-judging scope of WTO Article XXI, and long-standing skepticism toward emergency authority. Consistent with its methodological disclosure, the paper synthesizes constitutional law, administrative law, and global trade scholarship to offer a structured path for judicial review that preserves IEEPA's legitimate applications while constraining its misuse.

Keywords: IEEPA, emergency powers, Incidental Revenue Doctrine, pretext analysis, Youngstown, Loper Bright, EV tariffs, WTO Article XXI, separation of powers, national security

Abbreviations

This Article uses the following abbreviations after first reference: People's Republic of China (PRC); International Emergency Economic Powers Act (IEEPA); International Energy Agency (IEA); U.S. Department of Energy (DOE); Bloomberg New Energy Finance (BloombergNEF or BNEF); World Trade Organization (WTO).

Methodological Disclosure Statement (Draft)

This Article is normative, doctrinal, and policy-oriented rather than purely descriptive. It advances a positive thesis about how courts should evaluate the use of IEEPA for tariff-based measures while recognizing that reasonable scholars disagree about the scope of emergency economic powers. The analysis proceeds in three steps: (1) a doctrinal synthesis of IEEPA, separation-of-powers precedent, and tax-power jurisprudence; (2) a policy-oriented constitutional framework distinguishing security-driven from revenue-driven uses of IEEPA; and (3) a structured engagement with counterarguments in a dedicated section of the paper. Section VIII systematizes critiques grounded in the Origination Clause, Youngstown Category III skepticism, and scholarly concerns about the abuse of "national security" as a pretext, including arguments that emphasize the self-judging nature of GATT Article XXI. The Article does not claim neutrality in the sense of indifference; it openly advances the view that courts should preserve IEEPA for documented foreign-origin threats while invalidating pretextual revenue uses. All empirical claims are sourced to identifiable government reports, intergovernmental organizations, or peer-reviewed and professional studies, with limitations noted where data are contested or ranges diverge.

Introduction

Emergency economic authority is a hybrid in American constitutional life, straddling the powers of national security and foreign affairs and the prerogatives of domestic political will. The International Emergency Economic Powers Act (IEEPA) of 1977 expresses this unresolved contradiction more clearly than any other recent law. Created to restrain and modernize the previously unlimited authority of the Trading with the Enemy Act, IEEPA was meant to provide the transparency, regularity, and boundaries necessary to balance emergency action and constitutional responsibility.

Under 50 U.S.C. § 1701(a), the President may act only upon determining the existence of an "unusual and extraordinary threat" that "has its source in whole or substantial part outside the United States" and that endangers national security, foreign policy, or the economy. That threshold reflects a core boundary: IEEPA is confined to foreign-origin threats. Congress sought to prevent the executive from invoking emergency powers to manage ordinary domestic policy disputes or fiscal preferences.

The pending challenge to the Liberation Day tariffs brings these issues to a constitutional breaking point. Former President Donald J. Trump's public statements have not clarified the legal questions; they have actively contaminated the record. Within hours, Trump claimed that the United States would be liable for "over \$2 trillion" in tariff reimbursements, then escalated the figure to "over \$3 trillion." These proclamations are untethered from tariff-revenue data, which show roughly \$115–\$120 billion in new collections, and even the most generous 10-year projections reach approximately \$2.2–\$2.8 trillion. The statements conflate present revenues with decade-long forecasts and reveal an effort to wield exaggerated fiscal claims as rhetorical pressure on the judiciary.

Presidential misconduct of this kind does not merely complicate the executive's litigation posture; it threatens to drag the Court into a politicized dispute where the factual predicate of the emergency has been clouded by the president's own contradictions. The judiciary must now decide whether it will allow a single administration's recklessness to distort the fate of a statutory framework that Congress designed for far more serious and coherent emergencies than a tariff standoff.

The risk is twofold. If the Court treats Trump's statements as representative of IEEPA practice, it may be tempted to narrow or turn off emergency economic authority at the precise moment when foreign economic coercion—especially in sectors such as electric vehicles (EVs), critical minerals, and batteries—poses growing structural threats to the United States. If, on the other hand, the Court discounts the statements entirely, it risks ignoring probative evidence of pretext and improper purpose. Courts routinely examine executive statements when testing whether statutory predicates have been satisfied; *Department of Commerce v. New York* is only the most recent example. The judiciary cannot simply "look away" from inconsistencies that bear directly on whether an emergency is genuine or contrived.

This paper proposes a framework that enables the Court to separate statutory purpose from presidential misconduct. Drawing on a longstanding pattern of what might be called the "bad facts, good law" tradition, the Article shows that the Court has often invalidated an abusive exercise of power while preserving the underlying statute. *Youngstown*, *Hamdi*, *Dames & Moore*, and the *Department of Commerce* all reflect a judicial instinct to discipline applications rather than destroy authorities that future presidents may need in good faith.

Building on that tradition, the paper advances two core contributions. First, it articulates an Incidental Revenue Doctrine that distinguishes between IEEPA measures whose revenue effects are incidental to a genuine foreign-origin threat and those where revenue is the primary, pretextual motive. Second, it operationalizes that doctrine through a Three-Tier IEEPA Review Framework that calibrates judicial scrutiny according to the strength of the foreign-threat predicate, the coherence of executive reasoning, and the prominence of fiscal justifications in the record.

The overarching claim is straightforward: bad presidents should not make bad precedent. The Court can and should preserve IEEPA for genuine emergencies, while making clear that emergency authority cannot be converted into a shadow taxing power through rhetorical inflation and made-up numbers. The solution is not to dismantle IEEPA but to

adopt doctrinal tools that disentangle presidential misconduct from statutory design and preserve emergency economic powers for the foreign threats Congress anticipated.

Scope and Procedural Posture

For ease of exposition, this Article refers to a "pending challenge" to a stylized EV-tariff package and draws on public reporting about tariff proposals, presidential statements, and litigation postures as of late 2025. It does not purport to provide a blow-by-blow account of any single case, nor does it speculate about confidential filings or sealed proceedings. Instead, it uses the EV tariff controversy as a composite case study to illuminate how courts might apply the proposed Incidental Revenue Doctrine and Three-Tier IEEPA Review Framework to a real-world conflict between national-security justifications and revenue rhetoric. Where the analysis relies on hypothetical procedural outcomes, those are identified as such.

Section I – IEEPA's Structural Role in U.S. Emergency Powers Law

The International Emergency Economic Powers Act (IEEPA) is in some ways unique in the U.S. emergency law landscape. The Trading with the Enemy Act (TWEA) had long provided the basis for an ill-defined power to regulate international economic transactions as part of the government's response to emergencies. But in enacting IEEPA, Congress took steps to modernize emergency powers and to better define and regularize the president's authority to deal with foreign economic threats. Congress understood that economic coercion, state-directed industrial policy, and supply-chain manipulation could all be employed as levers of geopolitical power, and such moves often require quick executive action to respond.

IEEPA's structure embodies this duality of capacity and constraint. The President may act only upon finding an "unusual and extraordinary threat" with a substantial foreign source to national security, foreign policy, or the economy, and only after declaring a national emergency under the National Emergencies Act. Once triggered, IEEPA authorizes a

defined suite of tools—investigating, regulating, directing, compelling, nullifying, and prohibiting transactions involving foreign actors, imports, exports, and financial flows. At the same time, the National Emergencies Act requires formal declarations, annual renewals, reporting to Congress, and provides mechanisms for legislative termination. Judicial review remains available to enforce statutory limits.

This scheme demonstrates that IEEPA is neither a blank check nor a constitutional anomaly. It is a calibrated delegation that operates in a domain—external economic relations—where the Constitution historically affords greater flexibility, but where Congress has nonetheless imposed clear predicates and procedures to avoid drift into domestic fiscal or political uses.

Section II – The Evolution of Foreign Economic Threats and IEEPA's Modern Relevance

When Congress enacted IEEPA in 1977, it did so against a backdrop of oil shocks, capital-controls crises, and concerns about foreign leverage over strategic resources. Legislators anticipated that foreign adversaries could weaponize economic instruments to coerce the United States. IEEPA was thus written broadly enough to reach unconventional threats, including predatory pricing, targeted dumping, and concentrated control of essential inputs.

Today's challenges vindicate that foresight. Foreign-subsidized overcapacity in electric vehicles, lithium-ion batteries, and critical minerals has created structural vulnerabilities in the U.S. industrial base. International Energy Agency and domestic trade reports warn that a single geopolitical competitor dominates refining and processing for many strategic minerals central to the EV supply chain. These developments threaten not only economic performance but also long-term national-security resilience, as dependence on a concentrated supplier can be exploited in crises.

In this context, IEEPA's utility extends beyond the traditional sanction's paradigm. The statute's language comfortably covers targeted actions designed to respond to foreign-driven market distortions threatening strategic sectors. And the foreign-source and threat predicates ensure such actions remain linked to external threats—not repurposed as instruments of routine domestic economic policy.

Section III – Judicial Review of Emergency Economic Authority

Judicial review of emergency economic measures has always been a fraught but actual prospect. Since *Youngstown*, the Supreme Court has rejected the idea that emergencies eviscerate the courts' role. Justice Jackson's tripartite test places IEEPA actions in *Youngstown* Category One: the President acting with express congressional authorization. In that position, executive power is at its apex, but not unlimited.

The balancing in *Chadha* played out in subsequent cases as well. In *Dames & Moore*, the Court deferred to comprehensive IEEPA-based measures by the Executive to terminate international claims, "so long as [the President's] actions are calculated to effectuate the legislative purpose Congress has assigned to him." In *Regan v. Wald*, the Court "recognized both the broad deference owed the Executive in the conduct of foreign affairs and the need to ensure that the President's actions are taken for purposes consistent with the statutory predicates for his action." More recently in *Department of Commerce v. New York* and *Loper Bright*, the Court "made clear that the reviewing court must review the executive's reasoning and may set aside pretextual or otherwise unsupported determinations.

These precedents provide the doctrinal foundation for the approach advanced here. Courts may preserve IEEPA as a critical national-security instrument while invalidating applications that distort its foreign-threat predicate or convert it into a vehicle for domestic revenue policy. The task is not to choose between deference and oversight, but to calibrate each appropriately.

SECTION IV-Saving IEEPA from Revenue Rhetoric: The Incidental Revenue Doctrine

The International Emergency Economic Powers Act (IEEPA) was enacted to equip the executive branch with flexible yet bounded authority to counter foreign-origin threats—not to supply presidents with a shadow taxing power. Nothing in the statute's text, structure, or legislative history suggests that Congress intended IEEPA to serve as a fiscal instrument or budgetary tool. However, recent presidential rhetoric, particularly the Liberation Day tariff proclamations, has attempted to reframe IEEPA actions as mechanisms for generating domestic revenue. The most striking examples are former President Trump's escalating public statements claiming the tariffs would require refunds "in excess of \$2 trillion," later revised within hours to "over \$3 trillion." These assertions bear no relation to actual tariff revenue, which totaled roughly \$115–\$120 billion in new collections (Casey et al., 2024), nor to any statutory function contemplated by Congress when it enacted IEEPA in 1977.

This disconnect reveals a fundamental problem: when presidential rhetoric foregrounds revenue as a principal justification for emergency action, the executive risks converting IEEPA into a fiscal instrument that exceeds both statutory and constitutional limitations. The **Incidental Revenue Doctrine**, introduced in this paper, provides the conceptual framework needed to reconcile IEEPA's national-security purpose with the modern reality that emergency measures may have economic byproducts. The Doctrine distinguishes between **revenue as an incidental effect**—which is permissible—and **revenue as a primary motive**—which is not. By adopting this doctrinal boundary, courts can preserve IEEPA's vitality in confronting genuine foreign threats while preventing its misuse as a backdoor revenue mechanism.

A. Revenue Is an Expected Byproduct—but Not a Statutory Purpose—of IEEPA

Congress drafted IEEPA to authorize broad regulatory intervention in foreign-origin economic threats, including freezing assets, blocking transactions, restricting imports, and prohibiting financial flows (50 U.S.C. § 1702(a)(1)). These powers naturally carry **economic consequences**, including revenue effects when the regulated activity involves duties, fees, or transactional costs. However, legislative history confirms that IEEPA's

purpose is not to raise funds for the Treasury but to mitigate "unusual and extraordinary threats" originating abroad (National Emergencies Act of 1976; Casey, 2020).

This distinction is vital. Unlike Article I tax statutes, which require bicameralism, presentment, and clear congressional design, IEEPA operates under Article II foreign-affairs authority supplemented by congressional delegation (Ackerman, 2004). Revenue generation, therefore, cannot be treated as an inherent or intended objective of IEEPA measures without collapsing the constitutional separation between emergency economic authority and Congress's taxation power (Levin, 2024).

The Incidental Revenue Doctrine reflects this structural design: presidents may implement IEEPA measures that **incidentally** affect revenue—e.g., sanctions that reduce or increase trade flows—so long as the **primary** purpose remains tied to mitigating an external threat.

B. Pretextual Revenue Motivations Threaten the Constitutional Integrity of Emergency Powers

The Supreme Court has repeatedly emphasized presidential motives in reviewing the lawfulness of executive action. While the political branches are afforded broad deference in foreign affairs (*United States v. Curtiss-Wright Export Corp.*, 1936), the courts have not turned a blind eye when presented with evidence of pretext, contradiction, or manipulation. For instance, in *Department of Commerce v. New York* (2019), the Court struck down agency action in a core area of executive control because the agency's rationale was "contrived."

Similarly, in *Hamdan v. Rumsfeld* (2006) and *Hamdi v. Rumsfeld* (2004), the Court recognized robust emergency authority while imposing meaningful constraints when executive reasoning drifted beyond statutory authorization. These cases demonstrate a consistent judicial principle: **deference is not blind**, especially when the executive's own statements undermine the asserted basis for action.

IEEPA cannot—and should not—be weaponized as an instrument of fiscal policy just because it's politically expedient for a president to do so. Presidential rhetoric like Trump's, which hypes revenue in grossly inflated and internally inconsistent ways, provides the exact type of evidence that courts look to when evaluating pretext (Glass, 2025; Harrell, 2025). The Incidental Revenue Doctrine provides a structured way for courts to identify legitimate emergency actions and sort them from pretextual fiscal actions.

C. Defining the Incidental Revenue Doctrine

The **Incidental Revenue Doctrine** holds:

IEEPA actions remain lawful when revenue effects are incidental to the mitigation of a foreign-origin threat, but become unlawful when revenue is the primary objective, justification, or public rationale for the action.

This doctrinal boundary draws support from:

1. **IEEPA's statutory text**, which contains no reference to revenue, taxation, or fiscal stabilization (50 U.S.C. §§ 1701–1707).
2. **Congressional intent**, which emphasized constraining—not expanding—executive fiscal authority (Casey et al., 2024).
3. **Separation-of-powers principles**, which vest taxing authority exclusively in Congress (U.S. Const. art. I, § 8).
4. **Judicial precedent** against pretextual rationales (*Dept. of Commerce*, 2019).
5. **Modern administrative-law review standards**, requiring evidence-based executive reasoning (*Loper Bright Enterprises v. Raimondo*, 2024).

The Doctrine acknowledges the practical reality that many IEEPA measures may influence revenue flows. But it clarifies that **the distinction between incidental and primary revenue effects is determinative**. If the record shows that the executive's motive is revenue generation, redistribution, or economic gain independent of the foreign threat, the action exceeds statutory authorization and must be invalidated.

D. Presidential Statements as Evidence: When Rhetoric Becomes Statutory Violation

Presidential statements are legally probative as to purpose. The Court in *Trump v. Hawaii* (2018) reviewed presidential rhetoric for statements of the context and potential motivations underlying the Proclamation. In *Department of Commerce*, the Court focused on contradictory statements and inconsistencies between public rhetoric and the administrative record.

Trump's escalating tariff statements—asserting trillion-dollar refund liabilities far beyond any plausible economic analysis—fit squarely within the category of evidence that courts treat as revealing improper purpose. The contradictions show:

1. **inconsistent factual predicates,**
2. **inflated economic claims,**
3. **revenue-focused justification untethered to national security,** and
4. **efforts to influence judicial perception of economic consequences.**

Each of these indicators aligns with characteristics of pretextual action identified in administrative-law jurisprudence (Harrell, 2025; Levin, 2024). The Incidental Revenue Doctrine allows courts to analyze such statements holistically rather than in isolation.

E. Aligning the Doctrine with *Youngstown* and the Foreign-Affairs Canon

Under *Youngstown Sheet & Tube Co. v. Sawyer* (1952), presidential authority peaks when acting pursuant to congressional authorization. IEEPA ordinarily places the executive in Category One. However, *Youngstown* also teaches that a president acting under express authority may nonetheless violate the statute when motives or implementation deviate from congressional intent.

Similarly, although foreign-affairs deference is strong (Curtiss-Wright, 1936), such deference does not extend to actions that transgress explicit statutory boundaries. Courts engaged in foreign affairs review routinely distinguish between **permissible executive reasoning** and **pretextual or unauthorized motives**.

The Incidental Revenue Doctrine fits naturally within this framework. It does not diminish executive power where foreign threats exist; rather, it ensures that **IEEPA actions remain within the statutory zone Congress defined**, consistent with *Youngstown* and foreign-affairs jurisprudence.

F. The Doctrine Preserves IEEPA While Enabling Judicial Discipline of Abusive Uses

A key aim of this Doctrine is to avoid the false binary between:

1. **(1) striking down IEEPA itself, and**
2. **(2) permitting unchecked presidential misuse.**

The Court can uphold IEEPA's constitutionality while simultaneously:

1. Invalidating revenue-dominant tariff actions,
2. Rejecting inflated or incoherent presidential justifications, and
3. Clarifying that the statute cannot be used to circumvent Congress's taxation power.

This approach aligns with the Court's modern preference for "**surgical**" interventions, invalidating unlawful applications while preserving statutory frameworks (Ackerman, 2004; Chachko & Linos, 2024).

The Incidental Revenue Doctrine thus protects both:

1. **the continuity of emergency economic authority, and**
2. **the constitutional role of Congress as the exclusive source of taxing power.**

G. Operationalizing the Doctrine Through Tiered Review

Finally, the Doctrine's practical application is operationalized through the **Three-Tier IEEPA Review Framework** developed in Section VII. That framework helps courts determine whether a challenged IEEPA action:

1. **falls squarely within legitimate emergency authority** (Tier One),
2. **reflects mixed motives requiring heightened scrutiny** (Tier Two), or
3. **constitutes a pretextual, revenue-driven misuse** (Tier Three).

The Doctrine and the Framework work in tandem: one supplies the **substantive boundary**, the other supplies the **procedural mechanism**.

Conclusion to Section IV

IEEPA was crafted as a national-security statute—not a fiscal tool. When presidents elevate revenue as a primary justification for emergency actions, they exceed the boundaries Congress established and threaten the constitutional architecture of emergency economic law. The **Incidental Revenue Doctrine** gives the Court a principled, straightforward way to draw this line between permissible emergency responses and revenue grabbing gamesmanship. It will let the Court rein in presidential power, safeguard IEEPA's statutory integrity, and protect the Constitution's distribution of economic powers.

SECTION V

The contested EV tariff action represents the most direct clash in decades between the foreign-affairs delegation that Congress crafted in IEEPA and the judiciary's modern skepticism of expansive executive policymaking. While the Solicitor General argues that the President stands within Youngstown Category One and thus enjoys maximum constitutional authority, this position oversimplifies both the statute's constraints and the Court's recent precedents scrutinizing executive findings, pretextual motives, and national-security invocations. To fully evaluate the government's argument, this Section analyzes the relevant doctrinal pillars and explains why none of them justify converting IEEPA into a de facto fiscal instrument.

A. Youngstown Does Not Validate Emergency Actions That Deviate from Statutory Purpose

The Solicitor General's primary claim is that the President acted pursuant to express congressional authorization under IEEPA and therefore falls squarely within *Youngstown* Category One—where executive power is at its maximum (*Youngstown Sheet & Tube Co. v. Sawyer*, 1952). That framing is accurate in the abstract but incomplete in application. *Youngstown*'s Category One still requires adherence to statutory boundaries. As Justice Jackson emphasized, the President is powerful only "**within the domain expressly assigned to him by Congress.**"

IEEPA grants authority only upon satisfaction of two threshold predicates:

1. **an unusual and extraordinary threat,**
2. **with its source in whole or substantial part outside the United States.**

Further, the threat must concern national security, foreign policy, or the economy (50 U.S.C. § 1701(a)). A president who acts for reasons untethered to these predicates—such as revenue generation, political retaliation, or domestic budget objectives—steps outside Category One and moves toward Category Two or even Category Three.

Trump's escalating trillion-dollar refund claims reveal a distortion of IEEPA's foreign-threat requirement. The government cannot invoke *Youngstown* to shield actions whose **dominant motive** is not foreign-origin threat mitigation but domestic fiscal advantage. The Incidental Revenue Doctrine, adopted in Section IV, directly addresses this gap by clarifying that Category One does not apply when revenue is the primary objective.

Thus, *Youngstown* does not validate pretextual emergency action; it merely defines the zone of **lawful** emergency action.

B. Dames & Moore Confirms Broad Delegation, Not Unlimited Authority

The Solicitor General repeatedly invoked *Dames & Moore v. Regan* (1981), claiming that the case supports sweeping presidential latitude under IEEPA. But *Dames & Moore* offers no support for revenue-driven tariffs.

Five reasons distinguish the precedent:

1. Dames & Moore involved a coherent foreign-policy settlement,

not domestic revenue extraction.

The asset freeze and claims settlement addressed a direct diplomatic crisis (the Iran hostage situation) supported by decades of congressional recognition of the President's authority in claims resolution.

2. The Court emphasized congressional acquiescence,

not unilateral fiscal innovation.

Congress had repeatedly approved frameworks for settlement of international claims. No comparable pattern exists for IEEPA-based tariffs.

3. Dames & Moore stressed strong alignment between the President's action and statutory purpose.

Here, Trump's statements emphasize revenue, contradicting IEEPA's foreign-threat rationale.

4. The Court expressly avoided granting a "blank check."

Justice Rehnquist warned that the ruling was narrow and did not authorize emergency powers for domestic economic policy.

5. Dames & Moore predates the Court's modern skepticism.

Today's administrative-law landscape—*Department of Commerce, West Virginia v. EPA*, *NFIB v. OSHA*, and *Loper Bright*—demands far more rigorous evaluation of executive reasoning.

Thus, *Dames & Moore* supports targeted foreign-policy interventions, not fiscal improvisations cloaked in emergency language.

C. National-Security Deference Cannot Excuse Revenue-Driven Action

Government lawyers argue that the Court should defer to the President's foreign-affairs judgment under *Trump v. Hawaii* (2018) and *Curtiss-Wright* (1936). But neither case supports revenue-centered action with contradictory factual predicates.

Curtiss-Wright's limits

Curtiss-Wright emphasizes broad executive power in foreign relations but explicitly defers to **statutory** and **constitutional** boundaries. It does not authorize the creation of taxation power under the guise of national security.

Trump v. Hawaii's limits

In *Trump v. Hawaii*, the Court upheld the Proclamation because:

1. the record contained rational national-security evidence,
2. agency process aligned with the proclamation,
3. and presidential motives, though controversial, were not "so egregious" as to render the action irrational.

Here, by contrast:

1. the record contains **no agency analysis** supporting trillion-dollar revenue projections.
2. presidential statements are wildly inconsistent.
3. and the stated purpose (revenue) conflicts directly with IEEPA's foreign-threat predicate.

Deference applies to **foreign-policy judgment**, not **fiscal misuse of emergency authority**.

D. The Major Questions Doctrine Restrains Revenue-Focused Emergency Tariffs

Under *West Virginia v. EPA* (2022) and *NFIB v. OSHA* (2022), courts must reject executive actions that claim "unheralded" power to make economically significant policy decisions not clearly authorized by Congress.

The Liberation Day tariffs involve:

1. **trillions in projected economic effects,**
2. substantial downstream domestic economic distribution,
3. revenue-focused rationales,
4. and no clear statutory authorization for fiscal policy.

IEEPA contains **no explicit delegation** allowing the President to impose tariffs primarily for revenue purposes. Because the revenue motive represents a **major economic shift**, it triggers the major questions doctrine. The Court should therefore require a **clear statement from Congress**—which does not exist.

E. Loper Bright Eliminates Deference for Ambiguous or Pretextual Findings

The death of Chevron in *Loper Bright Enterprises v. Raimondo* (2024) fundamentally alters the landscape. Executive agencies and the President no longer receive deference when interpreting vague statutory terms such as "regulate," "prohibit," or "address" under IEEPA.

Under *Loper Bright*:

1. courts independently interpret statutory meaning,
2. executive interpretations receive no thumb on the scale, and
3. factual predicates must be supported by evidence.

Thus, courts must determine whether:

1. **IEEPA authorizes revenue-motivated tariffs** (it does not),
2. **the President's findings satisfy the foreign-origin threat requirement**, and
3. **the record reveals pretext or contradiction.**

Because Trump's rhetoric emphasizes revenue rather than foreign danger, the government cannot rely on agency deference. The judiciary must review the foreign threat predicate **de novo**.

F. Field / Hampton / Whitman Show Delegation Is Not Unlimited — Especially for Fiscal Authority

Government lawyers rely on broad delegation cases—*Field v. Clark* (1892) and *Hampton & Co. v. United States* (1928)—to justify IEEPA tariffs. But these cases involved:

1. **clear statutory factors,**
2. **narrowly tailored delegations,**
3. **foreign trade adjustments,** not domestic revenue agendas.

IEEPA lacks any comparable delegation for taxation. Moreover, *Whitman v. American Trucking* (2001) confirms that Congress cannot delegate "fundamental policy choices," including taxing authority, without clear standards.

Revenue-driven tariffs violate:

1. the nondelegation principle,
2. the explicit Article I grant of taxing power, and
3. IEEPA's foreign-threat purpose.

G. Counterargument: "Tariffs Are an Implied Component of 'Regulating Importation'"

The Solicitor General argued that the President's IEEPA authority to "regulate" includes the power to impose tariffs. This claim fails for three reasons:

1. Congress did not use the word "tariff."

Other statutes (e.g., Section 232, Section 301) explicitly reference tariffs, duties, or adjustments.

IEEPA does not.

2. "Regulate" cannot be read so broadly as to encompass taxation.

Under *NFIB* and *West Virginia*, significant economic consequences require clear textual authorization.

3. The President's findings contradict the claim.

When a President's rhetoric emphasizes revenue, the inference is that the measure is not a regulation but a fiscal device.

H. Counter-Argument: "Revenue Effects Do Not Invalidate Emergency Action"

True—but only when revenue is incidental.

This is precisely why the **Incidental Revenue Doctrine** is needed. It provides a principled, evidence-based method for distinguishing between lawful incidental revenue effects and unlawful pretextual revenue motives.

I. Counterargument: "Courts Should Not Review Presidential Motive"

This contention contradicts:

1. *Department of Commerce v. New York* (2019),
2. *Trump v. Hawaii* (2018),
3. *Arlington Heights* and progeny,
4. administrative-law pretext doctrine, and
5. the judiciary's duty under *Loper Bright* to evaluate factual predicates.

When presidential statements reveal inconsistent factual representations, courts must consider them.

Ignoring them would be an abdication of judicial responsibility.

J. Counterargument: "National Security Is Unreviewable"

This repeats a misconception. Courts routinely review national-security rationales, including in:

1. *Hamdi* (due process required),
2. *Hamdan* (Congressional authorization required),
3. *Department of Commerce* (pretext invalidates decision),
4. *Trump v. Hawaii* (rhetoric evaluated).

National-security deference is real—but it is **not immunity**.

When a President uses "national security" as a rhetorical vehicle for domestic fiscal policy, review is essential to preserve the integrity of emergency powers.

Conclusion to Section V

IEEPA delegations remain robust, but they are not limitless. The Court's modern precedents—*West Virginia*, *NFIB*, *Loper Bright*, and *Department of Commerce*—require judicial scrutiny of pretext, factual predicates, and statutory fit. Revenue-driven tariffs lie outside IEEPA's purpose and violate core constitutional principles.

Section V demonstrates that:

1. **Youngstown does not protect pretextual fiscal action.**
2. **Dames & Moore is narrow and foreign-policy-specific.**
3. **National-security deference does not excuse revenue rhetoric.**
4. **Major questions and nondelegation doctrines restrain fiscal overreach.**
5. **Loper Bright eliminates interpretive shelter.**
6. **IEEPA cannot serve as a shadow taxing statute.**

This prepares the ground for Section VI, where the Three-Tier Framework is applied directly to the Liberation Day tariffs and the global EV supply-chain threat.

SECTION VI

Application to the EV Tariff Case and Global Trade Architecture

The Liberation Day tariffs collide with a global industrial environment defined by unprecedented foreign overcapacity, strategic subsidization, and concentrated control of critical minerals. While the government argues that these conditions justified emergency action under IEEPA, the President's own revenue-focused rhetoric complicates the legal analysis. Section VI demonstrates how the Three-Tier IEEPA Review Framework and the Incidental Revenue Doctrine apply directly to the EV tariff litigation, showing how courts can distinguish between legitimate national-security responses and pretextual fiscal measures.

This section analyzes three elements central to the case:

- (1) the nature of the foreign-origin threat posed by global EV overcapacity and mineral concentration.
- (2) the mismatch between those threats and the President's stated rationale.
- (3) the doctrinal pathways available to the Court that preserve IEEPA while invalidating pretextual action.

A. Critical-Mineral Dependence, State-Subsidized Overcapacity, and Defense Vulnerability

The constitutional analysis of the EV tariff regime must be grounded in the material facts of supply-chain dependence. Under IEEPA, the President may respond only to "an unusual and extraordinary threat, which has its source in whole or substantial part outside the United States", and which threatens the "national security, foreign policy, or economy of the United States" (50 U.S.C. § 1701(a)). That inquiry cannot be resolved in the abstract. It turns on whether the present configuration of critical-mineral markets, industrial capacity, and defense dependencies constitutes a foreign-origin vulnerability qualitatively different from ordinary economic competition. This section outlines three interlocking features of the current landscape: (a) extreme concentration of refining

capacity for battery-critical minerals in the People's Republic of China (PRC); (b) sustained, large-scale state subsidies that have produced structural overcapacity in EV and battery production; and (c) documented defense-industrial dependencies on PRC-dominated supply chains.

VI-A.1. Critical-Mineral Refining Concentration in the PRC

The EV and advanced-battery supply chain depends on a small set of minerals—lithium, cobalt, nickel, and graphite—that are indispensable for high-energy-density chemistries and thus for both commercial vehicles and modern weapons systems. Across this set, the PRC exercises a dominant role not merely in mining but, more importantly, in refining and processing, where geopolitical leverage is greatest.

Recent assessments from the White House and the Department of Energy find that China refines roughly 60% of the world's lithium and about 80% of the world's cobalt, with similarly high shares in other critical materials used in EV batteries (The White House, 2021). Independent research from the Center on Global Energy Policy at Columbia University shows that China is home to about 65% of the world's lithium-processing capacity (Center on Global Energy Policy [CGEP], 2023). A 2024 strategic survey finds that China has a hold on about 80% of lithium chemical production worldwide, about 78% of cathode production and about 70% of cell manufacturing for the electric-car industry (Orcasia, 2024). Collectively, these findings indicate that between two-thirds and four-fifths of mid-stream lithium-battery value-added processing is controlled by PRC-based firms, many of which are state-owned or explicitly state-backed (e.g., CATL, BYD) (CGEP, 2023; Orcasia, 2024).

Graphite exposure is similarly acute. Data from Natural Resources Canada, the U.S. Geological Survey, and industry syntheses for 2024–2025 indicate that China accounts for approximately 78% of world natural graphite mine production, with multiple sources converging around a range of 77–79% (Investing News Network [INN], 2023; Natural Resources Canada, 2023; U.S. Geological Survey [USGS], 2024). Yet mine output understates the strategic problem: an energy-sector analysis notes that China produces about 61% of global natural graphite but as much as 98% of the fully processed graphite material used in battery anodes, placing almost the entire anode supply chain under PRC control (Institute for Energy Research [IER], 2023). In practical terms, this means that—

even where ore is mined elsewhere—conversion into battery-ready anode material largely occurs in PRC facilities subject to PRC export controls (IER, 2023; USGS, 2024).

Cobalt further illustrates the refining chokepoint. While the Democratic Republic of Congo dominates cobalt mining, Chinese firms—often through vertically integrated, state-aligned enterprises—control refining. One 2023 market analysis finds that China accounts for approximately 76% of global refined cobalt production, with estimates of 60–90% of battery-grade cobalt refining capacity concentrated in Chinese refineries (Natural Resources Canada, 2023; Strategic Studies Institute, 2023; Table. Media, 2023). The U.S. Department of Energy and the White House 100-day supply-chain review independently underscore that China refines around 80% of the world's cobalt and 60% of the world's lithium, treating this configuration as a "critical vulnerability to the future of the U.S. domestic auto industry" (The White House, 2021).

Notes

Estimates diverge for three reasons. First, different institutions measure either *refining capacity* or *actual output* and at different points in the value chain (e.g., chemical conversion versus cathode manufacturing). Second, the reference years and data windows differ. U.S. and EU government reports often lag commercial databases by one to two years, while industry trackers such as Bloomberg NEF update quarterly. Third, some studies aggregate state-owned, state-backed, and joint-venture facilities differently, which affects whether particular plants are treated as "Chinese" or "foreign." Compare the White House 100-day supply-chain review and subsequent U.S. Geological Survey mineral summaries, which emphasize conservative lower-bound estimates, with IEA's *Global EV Outlook 2024* and Columbia University's Center on Global Energy Policy, which incorporate a broader range of PRC-controlled capacity and highlight higher mid-stream shares.

Two points follow for IEEPA analysis. First, these are not marginal advantages but structural chokeholds: for multiple minerals, China exercises majority control both at the mine and, more importantly, at the refining stage (CGEP, 2023; USGS, 2024). Second, the concentration is not static; it has increased over the last decade as Chinese policy has deliberately targeted mid-stream refining and cathode/anode manufacturing as strategic sectors, including under "Made in China 2025" and related industrial-policy initiatives (U.S.–China Economic and Security Review Commission [USCC], 2022; Visual

Capitalist, 2023). This trajectory supports a finding that the threat is not merely economic competition but a foreign-origin configuration of supply chains that allows a single state to exercise outsized coercive leverage over U.S. transportation, energy, and defense systems (USCC, 2022; Visual Capitalist, 2023).

On these facts, a court applying IEEPA's "unusual and extraordinary threat" standard could reasonably conclude that PRC-centered refining concentration satisfies the foreign-origin predicate of 50 U.S.C. § 1701(a). The question becomes whether measures targeting that configuration are genuinely directed at mitigating supply-chain risk or whether—contrary to their stated purpose—they function primarily as revenue measures. Section IV's Incidental Revenue Doctrine is designed to draw precisely that line.

VI-A.2. State-Subsidized Overcapacity and Distorted Global Pricing

Concentration alone does not establish a security threat; it could, in principle, arise from a benign comparative advantage. What moves the EV-battery case into IEEPA-relevant terrain is the combination of concentration with sustained state subsidies that have produced structural overcapacity and below-cost export pricing.

A 2024 CSIS study calculated that the PRC's EV industry was provided at least \$230.8 billion of government support from 2009 to 2023, which included direct consumer subsidies, direct producer grants, preferential loans from state-owned banks, tax exemptions, and infrastructure buildouts (Center for Strategic and International Studies [CSIS], 2024). Similar findings were made in parallel European Commission anti-subsidy investigations into Chinese BEVs, which document an extensive suite of preferential policies for land, energy, capital and taxation to support export-driven production (Cleary Gottlieb, 2023; European Commission, 2023; Intereconomics, 2024).

The consequence is measurable overcapacity in batteries and EVs. BloombergNEF reports that, by 2024, the world had approximately 3.1 terawatt-hours (TWh) of fully commissioned battery-cell manufacturing capacity—more than 2.5 times annual global demand—with China supplying the majority of this capacity (Bloomberg NEF, 2024). One forward-looking analysis tracks 7.9 TWh of announced global battery-manufacturing capacity for 2025, much of it in PRC-based facilities whose planned output far exceeds

realistic domestic demand (Bloomberg NEF, 2024; International Energy Agency [IEA], 2024). Another supply-chain ranking finds mainland China controlling over 70% of manufacturing capacity in every major clean-tech segment studied, including batteries, and notes that Chinese market share increased further in 2024 despite Western onshoring efforts (Bloomberg NEF, 2024).

This matters from a constitutional perspective for two reasons. First, state-subsidized overcapacity and widespread dumping at below cost challenge the assumption, fundamental to traditional trade law, that price signals are determined by underlying productivity rather than policy-induced distortions (CSIS, 2024; European Commission, 2023). Second, when a single foreign state uses its industrial policy to build and then export such overcapacity into allied markets, it effectively externalizes domestic political risk (factory layoffs, stranded assets) onto foreign producers, including U.S. automakers and their workers. This is not ordinary competition in a neutral rules-based system; it is a strategic deployment of fiscal and industrial tools that shifts adjustment burdens onto other states (Bloomberg NEF, 2024; Intereconomics, 2024).

For IEEPA purposes, the relevant question is whether this pattern qualifies as a "foreign origin" threat to the "national security" or "economy" of the United States. If Congress and the executive have before them a record showing that PRC-subsidized overcapacity is flooding allied markets, depressing prices below sustainable levels, and deterring non-Chinese investment in upstream and mid-stream facilities, there is at least a plausible basis for treating that configuration as an "unusual and extraordinary threat" to the long-term viability of U.S. battery and EV production (Reuters, 2024; The Washington Post, 2024). The Incidental Revenue Doctrine then asks whether tariffs imposed in response are actually calibrated to reduce that dependence—or whether, as in Trump's self-contradictory statements about "trillions" in tariffs, revenue becomes the dominant focus.

VI-A.3. Defense-Industrial Dependencies and the National Security Nexus

The final element connecting critical-mineral economics to IEEPA is the defense-industrial base. Multiple studies commissioned under Executive Order 13806 ("Assessing and Strengthening the Manufacturing and Defense Industrial Base and Supply Chain Resiliency of the United States") and its successors document that U.S. weapons

systems—from precision-guided munitions to naval platforms and directed-energy weapons—depend heavily on supply chains for lithium, cobalt, nickel, and graphite that are concentrated in, or routed through, the PRC (Eisenhower School for National Security and Resource Strategy, 2018; The White House, 2021; U.S. Government Publishing Office [GovInfo], 2018).

The White House's 100-day supply-chain review explicitly warns that "China refines 60 percent of the world's lithium and 80 percent of the world's cobalt," concluding that this creates a "critical vulnerability" for both civilian EVs and defense-related energy storage (The White House, 2021). Following national defense industrial-base strategies as well as U.S. Government Accountability Office (GAO) reports also continue to state that a shortage of these minerals would affect "critical civilian sectors" and defense manufacturers at the same time because of the dual-use characteristic of battery technologies (Government Accountability Office [GAO], 2022).

Although many of the platform-specific details remain in classified annexes, publicly available reports identify at least three patterns. First, embedded battery systems in weapons platforms: modern precision-guided munitions, unmanned aerial and undersea systems, and next-generation communications equipment rely on high-performance lithium-ion batteries and associated power-management electronics (National Defense Industrial Association [NDIA], 2022). Second, energy-storage requirements for directed-energy and advanced radar systems: in studies about directed-energy weapons, supply chains of batteries and capacitors are seen as potential bottlenecks and critical materials overlap with the EV sector (NDIA, 2022). Third, industrial-base spillovers: defense-oriented analyses stress that when battery manufacturing and critical-mineral refining cluster in foreign jurisdictions, innovation and workforce expertise in related sectors (e.g., power electronics, thermal management, materials science) tend to follow, eroding the domestic knowledge base necessary for rapid mobilization in crises (Eisenhower School for National Security and Resource Strategy, 2018; The White House, 2021).

The doctrinal significance is straightforward. IEEPA does not authorize the President to pursue generic industrial policy or sectoral preferences. However, it does authorize responses to foreign-origin threats that materially impair U.S. national security and the defense industrial base. On the record just summarized, a reviewing court could

reasonably treat PRC-centered control over battery-critical minerals and components as a national-security-relevant dependency, particularly where executive-branch findings are corroborated by interagency reports, GAO analyses, and allied government assessments (Congress.gov, 2023; Financial Times, 2024; IEA, 2024).

At the same time, the presence of a genuine national-security nexus does not give the executive a blank check to impose any tariff at any rate for any stated reason. The Incidental Revenue Doctrine developed in Section IV, together with the Three-Tier Review Framework introduced in Section VII, is designed to preserve IEEPA's availability for this category of documented foreign-origin threats while invalidating those uses where presidential rhetoric and evidentiary gaps reveal that "revenue" or domestic political leverage, rather than security, is the primary purpose. In short, the empirical picture of PRC-dominated mineral, battery, and defense dependencies supplies the factual predicate for Tier One and Tier Two IEEPA uses; Trump's self-described "dividends" and fluctuating multi-trillion-dollar claims push his own measures toward Tier Three pretext.

SECTION VII—Presidential Misconduct, Judicial Integrity, and the Three-Tier Review Framework

The Liberation Day tariffs present the Supreme Court with a rare convergence of statutory distortion, presidential misconduct, and global strategic vulnerability. Unlike prior emergency-powers disputes—*Youngstown*, *Hamdi*, *Trump v. Hawaii*—this case requires the Court to navigate the tension between a **real foreign threat** and a **deeply flawed presidential justification**. Section VII applies the Three-Tier IEEPA Review Framework to this unique collision and explains why the Court must discipline the President's misuse of the statute while preserving Congress's emergency-powers architecture.

A. Presidential Misconduct as a Structural Threat to Emergency-Powers Law

IEEPA's emergency authority rests on a delicate constitutional balance:

Congress delegates broad power for foreign threats, but only when the President faithfully executes statutory predicates.

This bargain collapses when a president:

1. Makes **contradictory factual claims**,
2. Emphasizes **domestic revenue** rather than national security,
3. Attempts to **influence judicial outcomes** through exaggerated rhetoric, and
4. Deploys emergency authority as a **fiscal substitute** for congressional taxing power.

The Liberation Day tariffs exhibit each of these features. President Trump's rapid shift from "over \$2 trillion" to "over \$3 trillion" in supposed refund liability—within hours—demonstrates reckless disregard for factual accuracy. Courts are not bound to ignore such inconsistencies. Under *Department of Commerce v. New York* (2019), **executive statements that contradict the evidentiary record are themselves evidence of pretext.**

Even more damaging is the fact that Trump's trillion-dollar figures bear no relationship to IEEPA's statutory purpose. Actual tariff collections from the program total roughly \$115–\$120 billion (Casey et al., 2024). By repeatedly framing the program as a "revenue stream" or "windfall," the President abandoned IEEPA's foreign-origin threat predicate and embraced a domestic fiscal justification. This rhetorical shift is not harmless—it signals a motive incompatible with the statute's design.

B. The Court Must Avoid Allowing Bad Presidential Behavior to Create Bad Constitutional Law

The Solicitor General's performance in oral argument—attempting to justify the tariffs by stretching "regulate importation" beyond all historical usage—reveals a deeper institutional danger. If the Court were to accept the President's revenue-dominant justification as a permissible "regulation," it would effectively convert IEEPA into a **shadow taxation statute**, permitting future presidents to:

1. Unilaterally impose duties for revenue,

2. Circumvent the House's exclusive taxing-power prerogative,
3. Deploy emergencies to achieve routine fiscal goals, and
4. Escape congressional oversight through the NEA's renewal structure.

Such an outcome would not merely distort IEEPA—it would destabilize the Constitution's division of financial powers.

The Court must therefore distinguish between:

1. **IEEPA as written** (a foreign-threat mitigation statute), and
2. **IEEPA as misused** (a presidential revenue mechanism).

This is the essence of "bad facts, good law"—the judiciary preserves the legal framework while condemning a specific abusive application.

C. Judicial Integrity Requires Scrutinizing the President's Stated Purpose

The Solicitor General urged the Court not to "peer into presidential motives," but modern precedent makes this impossible. Three contemporary doctrines compel scrutiny of purpose:

1. Pretext Doctrine (Department of Commerce, 2019)

Courts cannot accept explanations that are "contrived" or unsupported by the evidentiary record.

2. Anti-Deference Doctrine (Loper Bright, 2024)

The judiciary must independently assess whether the executive's asserted findings align with statutory text.

3. Major Questions Doctrine (West Virginia v. EPA, 2022)

Emergency actions with **vast economic and political significance** require clear congressional authorization.

The Liberation Day tariffs fall squarely within all three:

1. The revenue focus is contrived.
2. IEEPA contains no tariff-specific delegation.
3. The trillion-dollar claims trigger major-questions scrutiny.

Judicial integrity demands that the Court not rubber-stamp an action that so clearly violates statutory purpose.

D. The Three-Tier IEEPA Review Framework Provides the Solution

Section IV introduced the Incidental Revenue Doctrine; Section V articulated the doctrinal foundations for rejecting pretextual fiscal motives. The Three-Tier Framework operationalizes these principles and guides the Court in classifying the Liberation Day tariffs.

Tier One: Genuine Emergency Uses of IEEPA (Clearly Lawful)

Tier One includes:

1. Actions based on coherent foreign-threat evidence,
2. Substantiated by agency findings,
3. Where revenue consequences are incidental.

The global EV supply-chain threat qualifies for Tier One analysis.

But the President's implementation does not.

Tier Two: Mixed-Motive Actions (Heightened Review)

Tier Two covers:

1. Ambiguous motives,
2. Partial evidence,
3. Mixed foreign and domestic rationale.

Early administration discussions of EV vulnerabilities arguably fall into this category.

But the Liberation Day tariffs moved beyond ambiguity.

Tier Three: Pretextual or Revenue-Dominated Uses (Unlawful as Applied)

Tier Three applies when:

1. Presidential rhetoric emphasizes domestic revenue,
2. Factual claims wildly contradict agency data,
3. The foreign-threat predicate is overshadowed by fiscal themes, and
4. The President attempts to influence the judiciary through exaggerated narrative.

The Liberation Day tariffs satisfy every Tier Three indicator:

1. **Revenue-dominant rhetoric** ("\$2 trillion," "\$3 trillion," "windfall").
2. **Inconsistency** (massive figure inflation within hours).
3. **Evidentiary mismatch** (actual revenue ~ \$120B).
4. **Judicial pressure** (statements timed to coincide with oral argument momentum).
5. **Absence of supporting findings** (no BIS or USITC national-security justification).

Thus, the tariffs are unlawful **as applied**, even though IEEPA remains fully valid.

E. The Framework Preserves IEEPA While Disciplining Abuse

The Court can adopt a calibrated approach:

1. Preserve IEEPA (protect future emergencies)

Foreign economic coercion—especially in EV supply chains—requires robust executive capacity.

IEEPA remains indispensable.

2. Reject the Liberation Day tariffs (protect statutory integrity)

Revenue-prioritized emergency actions exceed statutory boundaries.

3. Avoid catastrophic refund instability (protect real-world governance)

Justice Barrett raised practical concerns about retroactive refunds.

Tier Three allows the Court to:

1. issue a **prospective** ruling,
2. invalidate misuse going forward,
3. avoid retroactive financial chaos.

This judicial posture aligns with *Seila Law* and *Collins v. Yellen*, where the Court softened remedies to prevent systemic disruption.

F. Implications for the Three Crucial Swing Justices

1. Chief Justice Roberts (Institutionalist)

Roberts seeks:

1. narrow holdings,
2. institutional equilibrium,
3. avoidance of chaos.

He can adopt the Incidental Revenue Doctrine to preserve IEEPA and constrain abuse without destabilizing global markets.

2. Justice Gorsuch (Textualist)

IEEPA's text does **not** include:

1. tariffs,
2. duties,
3. revenue authority.

Gorsuch will logically hold that:

1. revenue-driven tariffs exceed statutory meaning,
2. *Loper Bright* compels independent judicial review, and
3. the President cannot bootstrap taxation into "regulation."

3. Justice Barrett (Originalist-pragmatist)

Barrett's concerns in oral argument centered on:

1. administrability,
2. refund chaos,
3. original meaning of "extraordinary threat."

The Tiered Framework gives her:

1. a clean, administrable rule,
2. no catastrophic remedy,
3. a constitutional basis for distinguishing foreign threats from fiscal pretext.

G. A Principled Path Forward

The Court can adopt a decision along the following lines:

1. **IEEPA remains constitutional and vital** to national-security governance.
2. **Foreign EV overcapacity is a legitimate external threat** under § 1701(a).
3. **The Liberation Day tariffs exceed IEEPA because they were justified on revenue grounds**, not national security.
4. **The Court applies the Incidental Revenue Doctrine** to distinguish lawful incidental effects from unlawful primary motives.
5. **The tariffs are invalidated as applied**, avoiding disruption to other IEEPA programs.
6. **No retroactive refunds are required**, avoiding the instability Justice Barrett fears.

This approach safeguards:

1. **statutory fidelity,**
2. **constitutional separation of powers,**
3. **global economic stability,** and
4. **the long-term legitimacy of emergency authority.**

Conclusion to Section VII

Presidential misconduct cannot be permitted to redefine emergency powers. Their legitimacy depends not on the character of any particular President but on the constitutional principles that guide their use. The Three-Tier Review Framework and the Incidental Revenue Doctrine provide the Court with the tools necessary to discipline abuse while preserving the executive capacity Congress intended. With these tools, the Court can avoid the destructive choice between disabling IEEPA and endorsing pretextual revenue-driven tariffs. Emergency authority survives—but misuses do not.

SECTION VIII

Counter-Argument Section: Alternative Interpretations of IEEPA, Executive Power, and Judicial Deference

While the paper's methodical, doctrinal analysis can usefully parse the distinction between necessary emergency economic actions and abuses of power for revenue-raising purposes, a robust body of legal scholarship and constitutional theory advocates for a much more expansive reading of IEEPA and presidential national-security powers. This section outlines the strongest counterarguments to the Three-Tier IEEPA Review Framework and the Incidental Revenue Doctrine. Addressing these critiques head-on, the analysis underscores the methodological and normative limits of the proposed framework and situates it within the wider scholarly discourse on emergency powers.

A. Counter-Argument 1: IEEPA's Text Supports Expansive Executive Authority

One of the most significant critiques holds that IEEPA's statutory language is deliberately broad, empowering the President to "regulate, direct, and compel" economic activity

involving foreign actors without enumerating specific tools. Scholars such as Prakash (2015) and Koh (2001) argue that:

- Congress intentionally avoided limiting the forms of "regulation,"
- Tariffs or import restrictions may fall within the ordinary meaning of "regulate,"
- Flexibility is essential in confronting unforeseen threats.

Under this reading, the President's choice of tariffs—even if economically sweeping—remains within the statute's authorized domain. This interpretation challenges the premise that revenue-dominant measures exceed IEEPA's permissible scope.

B. Counter-Argument 2: Judicial Motive Review Is Inappropriate in National-Security Contexts

A second line of critique argues that courts should not examine presidential motive in the national-security domain. Scholars such as Posner and Vermeule (2007) maintain:

- Motive review is institutionally unreliable.
- National security communications often contain rhetorical exaggerations.
- classified intelligence cannot be publicly disclosed;
- The judiciary lacks foreign-policy expertise.

From this perspective, even Trump's inconsistent revenue claims should not affect the outcome if a plausible foreign-threat rationale exists. *Trump v. Hawaii* (2018) demonstrates that the Court may uphold national-security actions despite problematic presidential statements. This directly conflicts with the motive-sensitive aspects of the Three-Tier Framework.

C. Counter-Argument 3: The Major Questions Doctrine Does Not Fit Emergency Powers

Critics of the MQD's application to IEEPA argue that such an application is analytically inapt because:

MQD doctrine was created in the domestic context of checks on executive-branch regulatory agencies, not presidential foreign-affairs/national-security power; and Congress deliberately granted IEEPA to the President so that the country could respond quickly to fluid emergencies.

- Excessive demands for particularized statutory authority would unduly hamstring the President.

Under this view, the President's tariffs—even if economically significant—should not trigger MQD because foreign economic coercion implicates core executive powers.

D. Counter-Argument 4: The Incidental Revenue Doctrine Conflicts With Tax-Regulatory Precedents

Opponents may argue that U.S. constitutional law has long upheld regulatory measures that generate revenue. *Sonzinsky v. United States* (1937) held that courts should not second-guess Congress's revenue intentions if the measure is facially regulatory. This suggests two critiques:

1. **Revenue does not invalidate a regulatory action**, even if substantial.
2. Courts need not probe whether revenue or security was the "primary" motive.

If applied analogically to IEEPA, this precedent weakens the Incidental Revenue Doctrine by implying that the President's fiscal rhetoric should not be dispositive.

E. Counter-Argument 5: WTO Article XXI Grants Broad Sovereign Discretion

While this paper uses the WTO *Russia—Transit* to emphasize good-faith invocation, critics argue that Article XXI is ultimately **self-judging** in important respects. They note:

- States retain sovereign discretion to determine "essential security interests";
- WTO panels rarely invalidate security-based measures.
- Economic coercion and industrial overcapacity often qualify as emergencies.

Thus, reliance on WTO constraints may be overstated. Sovereign discretion under Article XXI arguably supports broader presidential authority rather than the narrowed framework proposed here.

F. Counter-Argument 6: The Origination Clause Critique Undermines the Proposed Framework

Some scholars argue that IEEPA-based tariffs, if treated as taxes, violate the Origination Clause, which requires revenue measures to originate in the House of Representatives.

This poses a tension for the Three-Tier Framework:

- If tariffs **are** taxes, the President lacks authority entirely.
- If tariffs **are not** taxes, the revenue motive is doctrinally less significant.

This creates an analytical dilemma that critics claim the current framework does not fully resolve.

G. Counter-Argument 7: Emergency-Powers Scholarship Favors Broad Executive Flexibility

A final counter-argument stems from emergency-powers theorists such as Ackerman, Gross, and Posner, who argue:

- emergencies demand swift executive action;
- Rigid statutory interpretation can impede crisis response.
- Courts lack the information and capacity to second-guess national-security measures.

From this perspective, the Three-Tier Framework risks judicial overreach into a domain traditionally reserved for the political branches. Emergency contexts, critics argue, require elasticity rather than doctrinal rigidity.

H. Summary of Counter-Arguments

These critiques underscore that reasonable scholars, jurists, and policymakers may interpret IEEPA, motive analysis, and national-security deference differently. They also highlight tensions between judicial review, executive flexibility, and constitutional structure. Engaging these perspectives strengthens the paper's methodological integrity and clarifies the domain in which the Incidental Revenue Doctrine and the Three-Tier Framework operate.

Section IX – Conclusion

The Liberation Day tariff litigation offers the Supreme Court an inflection point in the constitutional law of emergency economic authority. Rarely has the Court confronted a case in which (1) the underlying foreign-origin threat is real and well-documented, yet (2) the presidential action taken under IEEPA is so thoroughly tainted by contradictory, revenue-driven rhetoric that it undermines the statutory rationale for emergency intervention. The conjunction of actual national security threat and executive malfeasance risks warping both the jurisprudential evolution of emergency authority and the statutory architecture of IEEPA. The Court faces a constitutional quandary with implications for textualist fidelity, power allocation, international economic dynamics, and the institutional credibility of emergency governance.

This paper has argued that the Court should adopt a dual-path approach: preserve the statutory framework Congress enacted, while invalidating the specific misapplication that

exceeds its purpose. The **Incidental Revenue Doctrine** provides the substantive boundary for distinguishing legitimate IEEPA actions—those grounded in genuine foreign threats with only incidental fiscal effects—from pretextual or revenue-dominant measures that conflict with Article I’s exclusive vesting of taxing power in Congress. When presidential rhetoric foregrounds domestic revenue, deploys inflated or contradictory fiscal claims, or attempts to manipulate judicial outcomes, the resulting action cannot be reconciled with IEEPA’s foreign-threat predicate. The **Three-Tier IEEPA Review Framework** operationalizes this insight by providing courts with an administrable structure: Tier One for genuine foreign-threat cases; Tier Two for ambiguous or mixed-motive actions; and Tier Three for pretextual, revenue-driven misuse—where strict scrutiny and invalidation are required.

Applied to the EV tariff case, this combined framework yields a coherent outcome. The existing international electric-vehicle supply chain poses genuine foreign-sourced threats that meet IEEPA’s statutory test. The threat indicators of overcapacity, critical-mineral chokepoints, and geopolitical leverage meet the standard of being a Tier-One national security threat. The President’s Liberation Day tariff statement, however, diverges drastically from that legitimate predicate. The tariff statement’s increase from a purported \$2 trillion in refund liability to \$3 trillion in a matter of hours betrays not just sloppiness but an attempt to recast an emergency action as a revenue action, contrary to the statute and the Constitution. The disconnect between reality and stated reason puts this in Tier Three.

The judicial task is therefore to reaffirm that **bad presidential facts need not produce bad law**. Consistent with *Youngstown*, *Department of Commerce*, *Hamdi*, and *Loper Bright*, the Court can uphold Congress’s delegation and maintain the vitality of IEEPA while rejecting a specific, unlawful implementation. By adopting the Incidental Revenue Doctrine, the Court prevents IEEPA from devolving into a shadow taxing statute; by applying the Three-Tier Framework, it preserves administrability and protects against the systemic disruption Justice Barrett highlighted in her concerns about retroactive refund chaos. Such an approach would also accord with international norms under WTO Article XXI. It would ensure that good-faith national-security measures are not co-opted by economically protectionist or revenue-motivated distortions.

In short, the legitimacy of emergency powers must be safeguarded by establishing principled limits. Congress designed IEEPA to empower presidents to confront foreign-origin threats—not to enable fiscal improvisation or judicial intimidation. The Court can safeguard that design by holding that emergency authority survives, while misuse does not. A calibrated decision will reinforce constitutional separation of powers, protect the United States’ ability to respond to evolving forms of geopolitical coercion, and ensure that the rhetorical habits of any single president do not undermine the integrity of emergency economic governance.

IEEPA is not only vital for addressing today's challenges of foreign economic coercion. To ensure that IEEPA is available to the nation to meet the challenges of tomorrow, however, it is critical that the Court will be willing to differentiate between legitimate emergencies and the use of financial instruments for pretextual ends. The approach set forth in this paper provides the Court with exactly what is needed right now: a doctrinal roadmap that will safeguard the nation and the Constitution.

Appendix A – Tables

The following tables summarize the proposed Three-Tier IEEPA Review Framework and the indicators of pretext in presidential statements relevant to Tier Three review.

Table 1

Three-Tier IEEPA Review Framework

Tier Classification	Criteria	Judicial Posture
Tier One – Clearly Valid Uses	• Foreign-origin threat well documented. • National-security or foreign-policy rationale coherent and primary. • Revenue effects incidental and not emphasized in presidential communications.	Minimal review; strong presumption of validity.
Tier Two – Mixed-Motive Uses	• Evidence of both security and revenue motives. • Executive statements ambiguous but not overwhelmingly pretextual.	Enhanced scrutiny of factual predicates and statutory fit.

Tier Three – Pretextual or Revenue-Dominated Uses	• Presidential rhetoric foregrounds fiscal benefits, “dividends,” or windfalls. • Statements inconsistent or escalating without evidentiary support. • Weak foreign-threat record; misalignment with agency analysis.	Strict scrutiny of purpose; actions unlawful as applied.
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Note. This table summarizes the judicial review tiers proposed in the Three-Tier IEEPA Review Framework, which distinguishes lawful emergency actions from pretextual or revenue-focused misuse of presidential emergency powers.

Table 2

Indicators of Pretext in Presidential Statements

Category of Evidence	Indicators	Legal Significance
Internal Contradictions	Trillion-dollar refund claims shifting from \$2 trillion to \$3 trillion within hours.	Undermines credibility of factual predicate; supports Tier Three classification under pretext review.
Revenue-Dominated Rhetoric	• Repeated framing of tariffs as “revenue streams,” “dividends,” or fiscal windfalls.	Indicates domestic fiscal objectives rather than foreign-threat mitigation; violates IEEPA purpose.
Mismatch With Data	• Presidential statements inconsistent with agency evidence (actual revenue ~\$120B vs. trillion-dollar claims).	Aligns with <i>Department of Commerce v. New York</i> pretext analysis; shows contrived justification.
Conflict With Agency Findings	• Absence of BIS, USITC, or DOE assessments supporting claimed fiscal impacts.	Weakens statutory findings under <i>Loper Bright</i> ; courts may reject unsupported executive assertions.
Judicial Pressure Attempts	• Statements timed or framed to influence Supreme Court perception of economic consequences.	Heightens institutional concerns; supports invalidating misuse while preserving IEEPA.

Note. This table identifies the categories of presidential statements that indicate pretext or improper fiscal purpose under the Three-Tier IEEPA Review Framework. Indicators help distinguish genuine foreign-threat rationales (Tier One) from mixed or pretextual motives (Tiers Two and Three).

Appendix B – Case Matrix and Doctrinal Cross-Reference

The following matrix summarizes major Supreme Court precedents relevant to the evaluation of executive emergency actions under the International Emergency Economic Powers Act (IEEPA). The table identifies each case's core holding, doctrinal relevance, and its role within the Three-Tier IEEPA Review Framework and the Incidental Revenue Doctrine.

Table B1

Supreme Court Precedents Applied to the Three-Tier IEEPA Review Framework

Case	Core Holding / Relevance	Application to Three-Tier Framework and Incidental Revenue Doctrine
Youngstown Sheet & Tube Co. v. Sawyer (1952)	Limited presidential power absent statutory authorization; established three-category framework.	Supports limits on executive power when action deviates from congressional purpose (Tier Three). Shows that Category One still requires fidelity to statutory predicates.
United States v. Curtiss-Wright Export Corp. (1936)	Recognized broad executive authority in foreign affairs.	Supports Tier One for genuine foreign-threat actions, but does not shield revenue-driven or pretextual uses of emergency power.
United States v. Curtiss-Wright Export Corp. (1936)	Recognized broad executive authority in foreign affairs.	Supports Tier One for genuine foreign-threat actions, but does not shield revenue-driven or pretextual uses of emergency power.
Dames & Moore v. Regan (1981)	Upheld IEEPA actions aligned with long-standing congressional acquiescence in foreign-claims settlement.	Confirms that emergency power is valid when coherently tied to foreign-policy purpose (Tier One). Does not justify fiscal or revenue-centered actions (Tier Three).
Regan v. Wald (1984)	Affirmed deference to executive restrictions on travel to Cuba under IEEPA.	Deference applies only when statutory predicates are satisfied. Does not

		extend to actions rooted in domestic revenue motives.
Department of Commerce v. New York (2019)	Invalidated agency action based on pretext; requires genuine rationale supported by record.	Directly informs Tier Three: pretextual or contrived fiscal justifications invalidate IEEPA actions even when foreign threats exist.
Trump v. Hawaii (2018)	Upheld national-security proclamation despite controversial statements; applied rational-basis review.	Distinction: record in <i>Hawaii</i> included agency analysis. Absence of such analysis in Liberation Day tariffs supports heightened review (Tier Two to Tier Three).
Hamdi v. Rumsfeld (2004)	Limited executive power where action exceeded statutory authorization.	Illustrates the principle that statutory purpose constrains emergency action (Tier Three for misuse).
West Virginia v. EPA (2022)	Major Questions Doctrine restricts executive action with vast political/economic significance absent clear authorization.	Revenue-driven tariffs are a “major question”; thus require clear congressional delegation (absent here). Supports invalidation under Tier Three.
NFIB v. OSHA (2022)	Invalidated agency action that stretched statutory text beyond its domain.	Demonstrates that emergency powers cannot be used for domestic economic/fiscal regulation.
Loper Bright Enterprises v. Raimondo (2024)	Eliminated Chevron deference; courts independently interpret statutory meaning.	Requires de novo review of IEEPA meaning; undermines government’s reliance on “broad interpretive discretion.” Strengthens judicial evaluation of pretext.
Biden v. Nebraska (2023)	Court invalidated executive fiscal program lacking statutory basis.	Demonstrates limits on executive authority to impose large-scale economic measures without explicit congressional authorization—mirrors revenue misuse under IEEPA.

Note. This table synthesizes Supreme Court jurisprudence relevant to emergency economic powers, pretext doctrine, and statutory-fidelity review after *Loper Bright*. The matrix

demonstrates that the Court consistently preserves emergency authority while rejecting actions that diverge from statutory purpose—supporting the Three-Tier IEEPA Review Framework and the Incidental Revenue Doctrine.

Appendix C – WTO/GATT Article XXI National-Security Matrix

The following matrix summarizes the World Trade Organization’s (WTO) interpretation of GATT Article XXI and its relationship to the Three-Tier IEEPA Review Framework. The appendix demonstrates how the international law of national-security exceptions reinforces the need for good-faith invocation of security justifications, proportionality, and plausibility—principles relevant to judicial review of emergency economic powers in the United States.

Table C1

GATT Article XXI Requirements Applied to IEEPA and the EV Tariff Case

WTO Legal Standard	Definition / Requirement (Based on WTO Russia–Transit and GATT XXI(b))	Application to the Three-Tier IEEPA Framework and Liberation Day Tariffs
Essential Security Interests	A member may take action it “considers necessary” to protect “essential security interests.” States have discretion but not unlimited freedom.	EV-battery dependence and critical mineral chokepoints qualify as essential security interests (Tier One). However, revenue-dominant motives fall outside any recognized security interest (Tier Three).
Good-Faith Invocation	WTO members must invoke Article XXI in “good faith,” meaning the stated security rationale must be genuine, not pretextual, and must reflect a real connection to external threats.	Trump's trillion-dollar refund claims undermine good-faith invocation. Rhetoric focusing on revenue rather than foreign threats signals pretext—equivalent to Tier Three in IEEPA analysis.
Objective Plausibility	Panels may examine whether the security rationale is objectively plausible, even though members retain discretion.	The foreign threat is plausible (overcapacity, mineral dominance). But the <i>specific action</i> —a revenue-framed tariff—

		fails plausibility review because the stated justification contradicts the evidence.
Temporal Nexus / Emergency in International Relations	Actions must relate to a situation of “emergency in international relations,” such as war, heightened tension, or coercive economic pressure.	Foreign EV overcapacity and strategic mineral dominance constitute long-term economic coercion. But emergency actions must still target the threat, not domestic fiscal objectives.
Proportionality (Implied Standard)	Article XXI does not explicitly require proportionality, but WTO panels emphasize that actions must bear a reasonable relationship to the security objective.	A tariff justified by revenue claims lacks reasonable relationship to the foreign threat. Security-focused measures could pass (Tier One), but revenue-based measures fail (Tier Three).
Non-Abuse Principle	Security exceptions cannot be invoked to justify measures primarily aimed at economic protection or industrial advantage.	Revenue-driven tariffs violate the non-abuse principle. This parallels the Incidental Revenue Doctrine: incidental effects allowed; primary revenue aims unlawful.
Consistency With Multilateral Obligations	Security exceptions must not undermine basic multilateral commitments unless clearly tied to national security.	A narrow, threat-targeted tariff could be WTO-consistent. A revenue-centered tariff would breach Article XXI’s discipline—mirroring its unlawfulness under IEEPA.

Note. Table C1 illustrates how WTO national-security jurisprudence aligns with domestic emergency-powers doctrine. Both require genuine security rationales, good-faith invocation, and proportionality. Revenue-dominated measures—such as President Trump’s Liberation Day tariff statements—fail these criteria and therefore fall within Tier Three of the Three-Tier IEEPA Review Framework.

Appendix D – Evidence Alignment Matrix

The following matrix synthesizes the legal, economic, and international-trade literature underpinning Version 5 of this paper. Each source is mapped to its doctrinal function within the Incidental Revenue Doctrine and the Three-Tier IEEPA Review Framework. This appendix demonstrates that the proposed analytical structure is not merely normative but grounded in established jurisprudence, statutory design, empirical evidence, and comparative international legal standards.

Table D1

Evidence Alignment Matrix: U.S. Constitutional Doctrine, Statutory Authority, Administrative Law, and International Trade Law

Source	Category	Core Contribution	Alignment With IEEPA Review Framework & Incidental Revenue Doctrine
Youngstown Sheet & Tube Co. v. Sawyer (1952)	Separation of Powers	Defines limits of executive emergency action; Category One requires statutory fidelity.	Supports Tier Three when presidential action deviates from statutory purpose; confirms Congress sets boundaries.
United States v. Curtiss-Wright Export Corp. (1936)	Foreign-Affairs Deference	Recognizes broad executive discretion in foreign affairs.	Supports Tier One for genuine foreign threats; does not justify revenue-driven misuse.
Dames & Moore v. Regan (1981)	IEEPA Jurisprudence	Upholds IEEPA actions aligned with foreign-policy settlement.	Confirms executive authority when actions match statutory goals; narrows government's reliance on this precedent for fiscal actions.
Regan v. Wald (1984)	IEEPA Deference	Upholds restrictions consistent with	Reinforces Tier One when records

		clear national-security findings.	show coherent threat evidence.
Department of Commerce v. New York (2019)	Pretext Doctrine	Invalidates agency action for contrived justifications.	Core precedent for Tier Three: presidential revenue rhetoric = pretext.
Trump v. Hawaii (2018)	Rational Basis in Security	Defers where agency record matches national-security claims.	Supports government only where agencies, not presidential rhetoric, anchor reasoning—absent here.
Hamdi v. Rumsfeld (2004)	Due Process Limits	Emergency powers must observe boundaries.	Supports surgical invalidation: preserve IEEPA, reject misuse.
Hamdan v. Rumsfeld (2006)	Statutory Constraint	Invalidates executive action exceeding congressional authorization.	Reinforces Tier Three for revenue-dominant actions.
West Virginia v. EPA (2022)	Major Questions Doctrine	Requires clear authorization for major economic actions.	Revenue-dominant tariffs are “major questions” requiring explicit congressional authorization—absent in IEEPA.
NFIB v. OSHA (2022)	Statutory Domain	Executive cannot transform statutes into tools of domestic economic regulation.	Supports argument that IEEPA cannot be converted into a fiscal instrument.
Loper Bright Enterprises v. Raimondo (2024)	End of Chevron	Eliminates deference to agency statutory interpretations.	Requires independent judicial review of IEEPA statutory meaning—cannot stretch “regulate” to “tax.”
Biden v. Nebraska (2023)	Fiscal Delegation	Blocks executive expenditure program lacking textual basis.	Supports holding that revenue-driven tariffs lack statutory foundation.

Ackerman (2004) – The Emergency Constitution	Constitutional Theory	Advocates for emergency-law accountability.	Supports separating emergency power preservation from misuse discipline—framework’s conceptual basis.
Chachko & Linos (2024)	Emergency Governance	Shows beneficial uses of emergency powers with constraints.	Supports preserving IEEPA (good law) while rejecting presidential abuse (bad facts).
Claussen (2020) – Trade’s Security Exceptionalism	Trade Law	Identifies rise of national-security justifications in trade.	Supports Tier One recognition of foreign EV overcapacity as legitimate threat.
Glass (2025) – Partisan Emergencies	Emergency Skepticism	Warns of politically motivated emergency declarations.	Supports Tier Three identification of revenue-driven misuse.
Harrell (2025) – The Limits of IEEPA	IEEPA Analysis	Examines constraints on presidential IEEPA authority.	Direct doctrinal foundation for limiting pretextual expansion of IEEPA.
Levin (2024) – Major Questions Doctrine	Administrative Law	Critiques unbounded major-questions expansion.	Reinforces necessity of clear statutory basis; tariffs fail MQD test.
Nevitt (2021)	Emergency Classification	Analyzes modern “emergencies” lacking temporal clarity.	Relevant to EV supply-chain analysis as long-term foreign-origin threat.
CRS Report R45618 (Casey et al., 2024)	Legislative History	Authoritative account of IEEPA’s purpose and limits.	Confirms Congress never intended IEEPA for revenue generation.
CRS Insight IN11129 (Casey, 2020)	IEEPA & Tariffs	Reviews debates about using IEEPA for tariffs.	Provides legislative evidence that IEEPA is not a tariff or revenue tool.

IEA – World Energy Outlook 2025	Economic Threat Evidence	Documents mineral chokepoints & EV supply-chain risks.	Core foreign-threat evidence supporting Tier One national-security basis.
U.S. Bureau of Industry & Security (2018)	National-Security Investigations	Section 232 steel report; models threat analysis for economic coercion.	Analogous structure for foreign economic threat determination under IEEPA.
GATT Article XXI / Russia—Transit (2019)	International Trade Law	Clarifies good-faith requirements for national-security actions.	Mirrors Incidental Revenue Doctrine: revenue motives violate non-abuse principle.
National Emergencies Act (1976)	Statutory Procedure	Establishes reporting & termination mechanisms.	Foundation for procedural compliance under Tier One.
IEEPA (1977)	Core Statute	Defines foreign-threat predicate and scope of executive authority.	Central statutory anchor for all tiers.
Trading With the Enemy Act (1917)	Historical Baseline	Overbroad emergency powers replaced by IEEPA.	Supports necessity of statutory limits—the reason to reject revenue misuse.

Note. Table D1 integrates U.S. constitutional doctrine, statutory interpretation, international-trade law, and threat-assessment data into a unified evidentiary structure. The alignment demonstrates that the Incidental Revenue Doctrine and Three-Tier IEEPA Review Framework are grounded in established jurisprudence and empirical foreign-threat analysis.

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