

February 23, 2026

Supreme Court Tariff Decision: *Learning Resources v. Trump* – Key Implications and What's Next

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Our Speakers



Adam M. Smith

Partner; Co-Chair (International
Trade Advisory and Enforcement;
Sanctions and Export Enforcement)
Washington, D.C.
asmith@gibsondunn.com



Christopher T. Timura

Partner
Washington, D.C.
ctimura@gibsondunn.com



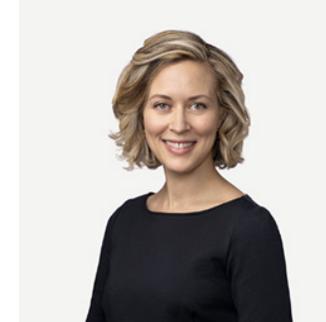
Trenton J. Van Oss

Partner
Washington, D.C.
tvanoss@gibsondunn.com



Ronald Kirk

Senior Of Counsel; Co-Chair
(International Trade Advisory
and Enforcement)
Washington, D.C. / Dallas
rkirk@gibsondunn.com



Samantha Sewall

Of Counsel
Washington, D.C.
ssewall@gibsondunn.com

AGENDA

01 Breaking Down the Decision in *Learning Resources*

02 New Tariffs Announced and Expected

03 Collateral Effects on Other IEEPA Programs

04 Remand Proceedings and Refunds

05 Practical and Strategic Impact on U.S. Trade Policy

On Friday, the U.S. Supreme Court struck down the emergency tariffs

Is everything back to normal?

Trump's tariffs fall to a principled Supreme Court

The decision is a triumph for the separation of powers and individual liberty.

February 20, 2026

Supreme Court Tariff Ruling to Spur Chaotic Refund Process

The Trump administration says it could take years and additional litigation for importers to get their money back.

It's the End of the Beginning of the Tariff War

The Supreme Court rules against Trump, but his administration has been working on Plan B.

Trump says he will increase his new global tariffs to 15%

EU says it will accept no increase in US tariffs after Supreme Court ruling: 'a deal is a deal'

'Murky Waters' for Global Businesses After Trump's Tariff Loss

Breaking Down the Decision in *Learning Resources*

01

**Learning
Resources,
Inc. v. Trump,
No. 24-1287**

**Trump v.
V.O.S.
Selections, N
o. 25-250 –**

**Decided
February 20,
2026**

The International Emergency Economic Powers Act (IEEPA) grants the President the power, upon declaring a national emergency, to “**regulate . . . importation** or exportation of . . . any property in which any foreign country or a national thereof has any interest.” 50 U.S.C. § 1702(a)(1)(B).

From February to April 2025, President Trump invoked IEEPA and issued five executive orders imposing tariffs of up to 125% based on **declared emergencies of fentanyl trafficking and trade imbalances**. In subsequent months, the President amended and altered those tariffs.

Some plaintiffs challenged the tariffs in the U.S. District Court for the District of Columbia, while others challenged the tariffs in the U.S. Court of International Trade. Both courts ruled against President Trump’s tariffs.

The **District Court granted plaintiffs’ motion for a preliminary injunction** on the grounds that **IEEPA does not grant the President the authority to impose any tariffs**. Before the D.C. Circuit ruled on the appeal of the preliminary injunction, the Supreme Court granted certiorari before judgment.

The Court of International Trade granted summary judgment to plaintiffs, holding that IEEPA does not authorize tariffs based on trade imbalances because they are governed by a different statute. On appeal, the en banc **U.S. Court of Appeals for the Federal Circuit affirmed 7-4**, holding that, **while IEEPA may authorize some tariffs, it does not authorize tariffs as broad or large as the challenged tariffs**.

Issue: Are President Trump’s emergency tariffs authorized by IEEPA?

Opinions

- The Justices authored seven opinions spanning nearly 170 pages.
- Every Justice wrote except for Justices Alito and Sotomayor.
- Bottom-line vote: 6-3 to hold IEEPA does not authorize tariffs.

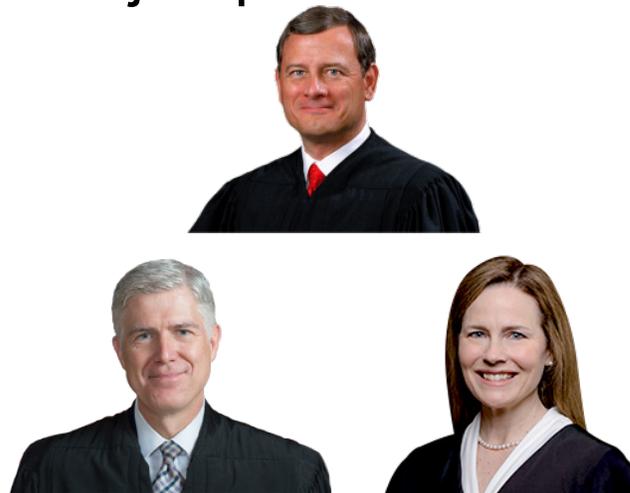
ROBERTS, C. J., announced the judgment of the Court and delivered the opinion of the Court with respect to Parts I, II-A-1, and II-B, in which SOTOMAYOR, KAGAN, GORSUCH, BARRETT, and JACKSON, JJ., joined, and an opinion with respect to Parts II-A-2 and III, in which GORSUCH and BARRETT, JJ., joined. GORSUCH, J., and BARRETT, J., filed concurring opinions. KAGAN, J., filed an opinion concurring in part and concurring in the judgment, in which SOTOMAYOR and JACKSON, JJ., joined. JACKSON, J., filed an opinion concurring in part and concurring in the judgment. THOMAS, J., filed a dissenting opinion. KAVANAUGH, J., filed a dissenting opinion, in which THOMAS and ALITO, JJ., joined.

Principal Opinion

- Holding: “[T]he terms of IEEPA do not authorize tariffs.”



Three Justices apply the major questions doctrine.



Three Justices do not.



Dueling Opinions:

The Major Questions Doctrine

Article I / Nondelegation Doctrine



“The reason for such skepticism must be Article I, a ‘substantive’ source ‘external’ to any statute.”

Textualism



“[T]he major questions doctrine ‘situates text in context’ and is therefore best understood as an ordinary application of textualism.”

No Such Thing



“[T]he proper way to interpret a delegation provision is through the standard rules of statutory construction.”

Dissent

- “The sole legal question here is whether, under IEEPA, tariffs are a means to ‘regulate . . . importation.’ Statutory text, history, and precedent demonstrate that the answer is clearly yes: Like quotas and embargoes, tariffs are a traditional and common tool to regulate importation.”



New Tariffs Announced and Expected

02

Executive Order Terminating IEEPA-Based Tariffs

On February 20, 2026—the same day the Supreme Court invalidated the Administration’s use of IEEPA to impose tariffs—the President issued an executive order, “Ending Certain Tariff Actions.” The order provides that the “additional ad valorem duties imposed pursuant to IEEPA” under specified prior executive orders **“shall no longer be in effect” and “shall no longer be collected,”** formally terminating the IEEPA-based tariffs.

IEEPA Duties Terminated by the Executive Order

- The order terminates the IEEPA-based **“fentanyl / trafficking”** tariffs imposed under Executive Orders 14193, 14194, and 14195, as well as the **“worldwide reciprocal”** tariffs imposed under Executive Order 14257—i.e., the core IEEPA tariff measures expressly challenged and invalidated by the Supreme Court.
- The order also terminates **other IEEPA-based tariff actions** rendered invalid as a result of the ruling, including Executive Order 14245 (“secondary” tariffs targeting countries importing Venezuelan oil), Executive Order 14323 (Brazil), Executive Order 14329 (Russia “secondary” tariffs), Executive Order 14380 (Cuba), and Executive Order 14382 (Iran).

Key Caveats:

- The order eliminates the IEEPA-based duties but **leaves the underlying national emergency declarations—and related non-tariff authorities—in place.**
- The order does not address refunds or provide any mechanism for the recovery of duties previously paid under the terminated IEEPA programs.

Section 122 Temporary Import Surcharge Following IEEPA Ruling

On February 20, 2026, the President issued a Proclamation, *“Imposing a Temporary Import Surcharge to Address Fundamental International Payments Problems,”* invoking [Section 122 of the Trade Act of 1974 \(19 U.S.C. § 2132\)](#).

- The Proclamation imposes a global **10 percent** ad valorem surcharge for up to **150 days**, generally in addition to MFN rates and subject to specified Annex exceptions, based on findings of “fundamental international payments problems,” including balance-of-payments deficits.
- The surcharge takes effect at 12:01 a.m. ET on February 24, 2026, and is scheduled to run through July 24, 2026, with a limited goods-in-transit exception for merchandise loaded or in transit before February 24 and entered by February 28.
- The President stated on February 21, 2026, that he intends to **raise the surcharge rate to 15 percent**.

Exemptions: The Proclamation and accompanying fact sheet describe broad exemptions—many tracking prior IEEPA exclusions—so that the temporary surcharge does not apply to, among other items, **USMCA-qualifying goods from Canada or Mexico, articles and derivatives subject to existing or future Section 232 measures**, and select categories such as critical minerals and energy products, certain agricultural products, pharmaceuticals, and civil aircraft.

Section 122 Authority: Section 122 may be invoked upon a finding of “fundamental international payments problems,” including significant balance-of-payments deficits, and authorizes temporary import surcharges (and limited quotas). The authority is capped at **15 percent for up to 150 days** absent congressional extension and is intended to apply broadly, subject to limited economic exceptions.

De Minimis: Continued Suspension and Revised Postal Duty Method

On February 20, 2026, the President issued an Executive Order, “*Continuing the Suspension of Duty-Free De Minimis Treatment for All Countries*,” **maintaining the suspension of the \$800 de minimis exemption** under 19 U.S.C. § 1321(a)(2)(C) and amending E.O. 14324. The changes take effect February 24, 2026, at 12:01 a.m. ET.

- **Continued Suspension Post-Ruling:** The February 20 order maintains that the de minimis exemption “shall not apply” to covered shipments and expressly confirms that the suspension **remains in effect** notwithstanding termination of the IEEPA-based tariffs. The order reiterates that E.O. 14324 anticipated possible invalidation of certain IEEPA duties and provided that the de minimis suspension would **continue under the underlying national emergencies**.
 - Although the Supreme Court held that IEEPA does not authorize tariffs, it did not squarely address whether IEEPA may be used to suspend a statutory customs benefit such as the de minimis exemption.
 - IEEPA language invoked is ““nullify” or “void” “exercising any right . . . or privilege with respect to . . . any property,”
- **Revised International Postal Duty Method:** For international postal items, whereas E.O. 14324 allowed carriers to choose between an ad valorem duty tied to the IEEPA rate or a **fixed per-package charge** (\$80/\$160/\$200), the February 20, 2026, order **eliminates that option** and requires application of the Section 122 surcharge rate to the declared value of each dutiable postal item, with country of origin and value reporting required.

Section 301: Longer-Term Tariffs

During the President's press conference on Feb. 20, USTR Jamieson Greer stated that, in light of limits on IEEPA tariff authority, the Administration will rely on alternative tools—notably **accelerated Section 301 investigations**—and expressed confidence that existing Trump-negotiated trade agreements remain in effect.

- **Bridge from §122 to §301:** Because the Section 122 surcharge is temporary (currently scheduled to expire July 24, 2026, absent congressional action), Section 301 is positioned as the **longer-duration tariff mechanism to preserve negotiating leverage** once the §122 window closes.
- **New Investigations Forthcoming:** USTR is expected to initiate multiple accelerated Section 301 investigations covering most major trading partners, targeting issues such as industrial excess capacity, forced labor, pharmaceutical pricing policies, discrimination against U.S. technology and digital services, digital services taxes, ocean pollution, and certain seafood and rice trade practices.
- **Ongoing Cases Continue:** USTR will proceed with existing Section 301 investigations, including those involving **Brazil and China**.
- **Tariff Authority Under §301:** If USTR determines that a foreign act, policy, or practice is unjustifiable—or unreasonable or discriminatory—and burdens U.S. commerce, Section 301 authorizes responsive measures, **including the imposition of tariffs**, subject to presidential direction.
- **Parallel Authorities Remain Active:** Industry-specific Section 232 tariffs and related investigations continue independently and are not affected by the IEEPA ruling.

Collateral Effects on Other IEEPA Programs

03

Are other federal regulatory schemes based on IEEPA vulnerable?

Outbound Investment Security Program

- E.O. 14105 (Aug. 9, 2023) directs the Secretary of the Treasury to establish a program to prohibit or require notification of certain types of outbound investment by U.S. persons into a “country of concern” that involve sensitive technologies, such as semiconductors, quantum computing, and AI.
- The order [relies on IEEPA](#). The NDAA 2026 provided [statutory authorization](#) via the COINS Act, but rules are not expected until 2027.

DOJ Bulk Sensitive Personal Data

- E.O. 14117 (Feb. 28, 2024) directs the Attorney General to issue regulations that prohibit or restrict U.S. persons from providing U.S. sensitive personal data or U.S. government-related data to a foreign country of concern.
- [The order relies solely upon IEEPA.](#)

Connected Vehicles Rule

- E.O. 13873 (May 15, 2019) directs the Secretary of Commerce to issue rules to review and impose mitigation measures on transactions that involve information and communications technology or services (ICTS) that are provided by a “foreign adversary.”
- A January 2025 rule imposed restrictive measures on vehicle connectivity systems supplied by China, Hong Kong, or Russia.
- [The rules rely solely upon IEEPA.](#)

Remand Proceedings and Refunds

04

What's Next at the Court of International Trade

The CIT already determined that it has the power to issue refunds and order reliquidation for parties that have filed a lawsuit.

- In **AGS Co. v. CBP** (Dec. 15, 2025), the U.S. Court of International Trade held that it clearly has **authority to order reliquidation** of entries in cases involving constitutional challenges to duties “where jurisdiction has attached.”
- The Department of Justice in multiple cases involving challenges to the tariffs has entered stipulations **agreeing that it will not oppose the court’s authority to order reliquidation** of entries subject to the IEEPA duties and that the U.S. government will refund any IEEPA duties found to have been unlawfully collected, after a final decision on the merits.
- These holdings apply most clearly to any party that has filed a lawsuit at the CIT.

Procedurally...

- The IEEPA tariff cases are **currently stayed by the CIT**, though this stay **could be lifted** now that the Supreme Court has issued its decision.
- The CIT “expects to determine appropriate next steps for resolution” of IEEPA tariff refunds and may establish **case management procedures**.
- Importers filing under the CIT’s residual jurisdiction have **two years** after the unlawful duties were imposed **to commence action requesting relief**.

Importers may have the option to seek refunds through CBP's administrative procedures.

For entries that **have not yet been liquidated** (i.e., the final sum owed has not yet been determined), importers may generally file **post-summary corrections** (“PSCs”) with CBP.

- Since most entries liquidate 314 days after the date of entry (~December 15, 2025), this option may not be available for early entries that were subject to the IEEPA tariffs but may still be open for many entries.

Importers with entries that have liquidated within the past 180 days are eligible to submit protests with CBP (~June 2026).

- If the protest is denied, or if CBP fails to issue a decision within the required time period, importers may seek relief by **filing suit in the CIT**.
 - Importers may request an “**accelerated disposition**” requiring CBP to issue a decision regarding the protest within 30 days. Otherwise, CBP has two years to take action.
- Whether and what form of **administrative action** may be required for a refund is yet unclear.
- Importers of record should ensure they have **access to their import entry data via CBP's Automated Commercial Environment (ACE)**.
- Get updates from your customs **broker, CBP's Cargo Messaging System**, and **Federal Register**.
- If you are not an IOR, consider your **contractual rights**.

Practical and Strategic Impact on U.S. Trade Policy

05

Practical and strategic impact on U.S. trade policy

Approximately **\$160 billion of estimated revenue** has been collected by the U.S. government from IEEPA duties. IEEPA duties are estimated to constitute over half of all Trump Administration duties imposed during the past year.

As of December, CBP estimated that IEEPA tariffs affected **over 34 million entries** made by **over 300,000 importers**.

The Trump Administration has announced **framework agreements with 19 countries**, negotiating tariff rates and other forms of cooperation on trade and national security (non-tariff barriers, digital trade, labor/environmental standards, economic security, among other matters).

Trading partners have promised **significant investment**: European Union (\$600 billion), Japan (\$550 billion), Taiwan (\$500 billion), South Korea (\$350 billion), Switzerland and Lichtenstein (\$200 billion).

New tariffs of at least 10% (maybe 15%) are already planned to take effect on February 24, 2026, partially replacing the IEEPA duties. More are planned.

White House statements indicate that the Administration **intends to “honor its legally binding Agreements”** and expects its trading partners to do the same.

Questions?



Adam M. Smith

Partner / Washington, D.C.

1700 M Street, N.W., Washington, D.C. 20036-4504

+1 202.887.3547

asmith@gibsondunn.com

Adam M. Smith is a partner in the Washington, D.C. office of Gibson Dunn and serves as co-chair of the firm's International Trade Advisory and Enforcement, as well as the Sanctions and Export Enforcement Practice Groups. He is an experienced international lawyer with a focus on international trade compliance and white collar investigations, including federal and state economic sanctions enforcement, tariffs, CFIUS, embargoes, export and import controls, and anti-bribery/anti-corruption regulations.

Chambers USA and *Chambers Global* consistently rank Adam as a leading attorney in International Trade: Export Controls & Economic Sanctions. In those publications, clients describe Adam as “a terrific resource for clients” and a “reassuring lawyer in a complex area of law.” Most recently, *Legal 500 US 2025* named Adam a "Leading Lawyer" in International trade: Customs, export controls and economic sanctions. *Global Investigations Review* has named him to its “25 Most Respected Sanctions Lawyers in Washington, D.C.” list, which features individuals who work on the most significant cases. *The Best Lawyers in America®* recognizes him for International Trade and Finance Law. *Who's Who Legal* regularly recognizes him as a Thought Leader for Trade & Customs, International Sanctions, and in its Global Elite Guide.

Clients benefit from Adam's experience in the Obama Administration, where he was Senior Advisor to the Director of the U.S. Treasury Department's Office of Foreign Assets Control (OFAC) and Director for Multilateral Affairs on the National Security Council. At OFAC, he was instrumental in shaping and enforcing sanctions policies, briefing Congressional and private sector leaders, conducting extensive international outreach, and negotiating complex agreements. On the National Security Council, he advised the President on international sanctions, coordinated inter-agency efforts, and developed strategies to counter corruption and promote asset recovery.

Clients, governments, academia, and other law firms regularly seek Adam's advice. He is a prominent thought leader, and his analysis regularly appears in print and broadcast media, including in *The Economist*, *The Wall Street Journal*, *The New York Times*, *The Washington Post*, and on BBC and NPR. He is the author of three legal texts and dozens of articles and book chapters, has testified before the U.S. Congress and the U.K. Parliament, and is a frequent presenter at industry, governmental, and academic conferences globally.

Adam's full biography can be viewed [here](#).

EDUCATION

Harvard University
Juris Doctor

University of Oxford
Master of Philosophy

Brown University
Bachelor of Arts

CLERKSHIPS

U.S. Court of Appeals, Armed Forces

Christopher T. Timura

Partner / Washington, D.C.

Christopher T. Timura is a partner in the Washington D.C. office of Gibson, Dunn & Crutcher LLP and a member of the firm's International Trade, White Collar Defense and Investigations, and ESG Practice Groups.

Chris helps clients solve problems that arise at the intersection of U.S. national security, foreign policy, and international trade regulation. His clients span sectors and range from start-ups to Global 500 companies. He is regularly ranked in *Chambers Global* and *U.S.A. guides* for his work and is a regular speaker and writer on the policy drivers, trends, and impacts of evolving international trade policy and regulation. Chris has also been recommended by *The Legal 500 US* for his work in customs, export controls and economic sanctions.

Chris advises clients on compliance with U.S. export controls (ITAR and EAR), import controls, and economic sanctions, and advocates for clients before the departments of State (DDTC), Treasury (OFAC and CFIUS), Commerce (BIS), Homeland Security (Customs & Border Protection), and Justice in civil and criminal enforcement actions, UFLPA and other forced labor-related detentions, and investment reviews. Chris works with in-house counsel, boards, and other business leads to investigate compliance concerns, and leverage new and existing business processes to advance international trade and human rights-related policy compliance in their companies and organizations, supply chains, and customer sales and distribution networks. He also helps clients who are working with advanced technologies design efficient compliance systems and to win difficult-to-obtain export control and sanctions authorizations to support global R&D, supply chains, and varying types of sales channels. In M&A and other transactions, he conducts expedited diligence on international trade compliance and ESG issues and supports management and compliance teams as they work to spin off or integrate business operations.

On a *pro bono* basis, Chris assists NGOs with their efforts to strengthen the enforcement of anti-human trafficking and forced labor laws and controls on technologies used in human rights violations. He serves on the ABA's Export Controls and Economic Sanctions Committee and on the Department of Commerce's Regulations and Procedures Technical Advisory Committee.

Chris' full biography can be viewed [here](#).



EDUCATION

University of Michigan
Ph.D.

University of Michigan
Juris Doctor

University College London
Master of Science

Denison University
Bachelor of Arts



Trenton J. Van Oss

Partner / Washington, D.C.

1700 M Street, N.W., Washington, D.C. 20036-4504

+1 202.887.3716

tvanoss@gibsondunn.com

Trenton Van Oss is a partner in the Washington, D.C. office of Gibson Dunn.

He has experience across a range of complex litigation areas, including class actions, state and federal government investigations, and appellate litigation. He has also assisted clients with internal investigations and reviews, as well as managed document review teams and overseen witness preparation.

Trenton clerked for Justice Brett Kavanaugh on the Supreme Court of the United States, Judge Britt Grant on the U.S. Court of Appeals for the Eleventh Circuit, and Judge Dabney Friedrich on the U.S. District Court for the District of Columbia. Prior to clerking, he was a litigation associate in Gibson Dunn's Denver office. He graduated *magna cum laude* from Harvard Law School, where he was the Supreme Court Co-Chair of the *Harvard Law Review* and published two scholarly pieces with the *Review*. Trenton was a member of the winning team of the 2016 Ames Moot Court Competition, the President of the Harvard Federalist Society, and a student attorney and supervisor in the Harvard Prison Legal Assistance Project. While at Harvard, he also received the Dean's Award for Community Leadership.

He graduated *summa cum laude* from Wheaton College (IL) with a Bachelor of Arts in Political Science and Spanish. Prior to law school, he spent time working in Illinois politics, for the Investment Promotion Agency of Kosovo, and at a civil rights law firm outside Chicago.

Trenton is admitted to practice law in the District of Columbia. His full biography can be viewed [here](#).

EDUCATION

Harvard University
Juris Doctor

Wheaton College - Illinois
Bachelor of Arts

CLERKSHIPS

U.S. Supreme Court, Hon. Brett Kavanaugh

U.S. Court of Appeals, 11th Circuit

U.S.D.C., District of Columbia



EDUCATION

University of Texas
Juris Doctor

Austin College
Bachelor of Arts

Ronald Kirk

Senior Of Counsel / Dallas

2001 Ross Avenue Suite 2100, Dallas, TX 75201-2923

1700 M Street, N.W., Washington, D.C. 20036-4504

+1 214.698.3295

rkirk@gibsondunn.com

Ron Kirk is Senior Of Counsel in Gibson, Dunn & Crutcher's Dallas and Washington, D.C. offices. He is Leader of the International Trade Advisory and Enforcement Practice Group and a member of the Sports Law, Public Policy, Crisis Management and Private Equity Practice Groups.

Ambassador Kirk focuses on providing strategic advice to companies with global interests.

Ambassador Kirk has had an extensive career in Public Service. Prior to joining Gibson Dunn in April 2013, Ambassador Kirk served as United States Trade Representative (USTR) and was a member of President Obama's Cabinet, serving as the President's principal trade advisor, negotiator and spokesperson on trade issues. He also served as Mayor of Dallas from 1995 – 2001, and as Texas Secretary of State in 1994 appointed by Gov. Ann W. Richards.

Prior to joining USTR, Ambassador Kirk was a partner at Vinson & Elkins LLP, where his principal area of practice was public finance and public policy.

Ambassador Kirk serves as a Corporate Director for Texas Instruments, and Macquarie Infrastructure Corp, and previously as a Director for Brinker International, Dean Foods, and PetSmart. He serves as a Trustee for Austin College, the LBJ Presidential Library Foundation, and on the Board of the Dallas Citizens Council. Ron also is a Board Member of the NAACP Legal Defense and Education Fund.

Ambassador Kirk was born and raised in Austin, Texas, and received his Bachelor of Arts degree in political science and sociology from Austin College in Sherman, Texas. He received his law degree from the University of Texas School of Law in 1979. He is married to Matrice Ellis-Kirk, and they have two adult daughters. Ambassador Kirk is admitted to practice in Texas and the District of Columbia.

Ambassador Kirk's full biography can be viewed [here](#).



Samantha Sewall

Of Counsel / Washington, D.C.

1700 M Street, N.W., Washington, D.C. 20036-4504

+1 202.887.3509

ssewall@gibsondunn.com

Samantha Sewall is of counsel in the Washington, D.C. office of Gibson, Dunn & Crutcher and a member of the firm's International Trade Practice Group.

She advises clients on compliance with U.S. legal obligations at the intersection of global trade, foreign policy, and national security, focusing her practice on compliance with U.S. economic sanctions, export controls, national security reviews of foreign direct investment (CFIUS), and anti-boycott laws. Samantha has experience advising companies across a wide range of sectors including aerospace, banking and financial institutions, defense, energy, medical devices and pharmaceuticals, shipping, retail, telecommunications, and travel.

On a *pro bono* basis, Samantha has assisted clients with understanding U.S. trade controls and immigration issues, and she has worked with an international rule of law NGO to support law enforcement training efforts to combat transnational human trafficking and forced labor.

Prior to joining Gibson Dunn, she served as a Political-Economic Program Assistant supporting the U.S. Embassy in Côte d'Ivoire. During her time there she was responsible for programs and research related to private sector engagement and bilateral political and economic issues. Samantha was previously an associate with a large international law firm where she was a member of the international trade and investment practice group.

Samantha graduated *magna cum laude* from Georgetown University Law Center in 2012, where she was elected to the Order of the Coif and was a member of the Georgetown Law Journal. She is admitted to practice in the Commonwealth of Virginia, the District of Columbia, and the U.S. Court of International Trade.

Samantha's full biography can be viewed [here](#).

EDUCATION

Georgetown University
Juris Doctor

Patrick Henry College
Bachelor of Arts

An aerial photograph of three large container ships docked at a port. The ships are filled with colorful shipping containers. The water is dark blue, and the port infrastructure, including cranes and walkways, is visible on the right side. The text 'GIBSON DUNN' is overlaid in the center of the image in a white, sans-serif font.

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