

# U.S. Supreme Court strikes down IEEPA tariffs, but global tariff introduced

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Authors: [Jesse Goldman](#), [Matthew Kronby](#), [Danielle Chu](#), [Chelsea Rubin](#), [Sarah Firestone](#)

On February 20, the U.S. Supreme Court determined that the *International Emergency Economic Powers Act* (IEEPA) does not authorize the President to impose tariffs. The 6-3 decision in *Learning Resources Inc., et al. v. Trump, President of the United States, et al.* [PDF] means that all tariffs imposed by the Trump administration under IEEPA are unlawful. This includes the 35% “fentanyl” tariffs against Canada, and the so-called “reciprocal” tariffs of various rates on other U.S. trading partners. However, the decision provides limited relief for Canadian exporters for two reasons:

- The IEEPA tariffs on Canada already excepted goods originating in CUSMA countries: an exception for which approximately 90% of Canadian exports qualified;
- The decision does not affect the Section 232 tariffs that the Trump administration has imposed on major Canadian exports, including steel and aluminum, automotive goods, and lumber and other wood products. Those tariffs remain in place.

President Trump has already imposed under another legal instrument (Section 122 of the *Trade Act of 1974*), a global tariff on imports, effective February 24, 2026. Exceptions under the new global tariffs include CUSMA-compliant goods, goods already subject to Section 232 tariffs, and certain goods in specific industries, such as energy, automotive goods, critical minerals and pharmaceuticals, and goods in transit on February 24. While President Trump has announced the Section 122 tariff will be increased to 15%, this increase has not yet been implemented.

This Osler Update provides key takeaways for Canadian businesses.

### Key takeaways

**1. The decision affects IEEPA tariffs only.** The decision impacts only the U.S.’ IEEPA tariffs, which for Canada currently are:

- a 10% tariff on non-CUSMA compliant energy and energy resources; and
- a 35% tariff on all imports of non-CUSMA compliant goods.

The IEEPA tariffs are distinct from tariffs imposed under other U.S. statutes. The Trump administration has also imposed or maintained tariffs under Sections 232 and 301 of the *Trade Act of 1974*, including sectoral Section 232 tariffs that apply to major Canadian exports,

including steel and aluminum products, automobiles, and lumber. The decision does not affect these other tariffs.

**2. The U.S. administration has and will reimpose tariffs in other ways.** Various statutes do specifically authorize the President to impose tariffs. Section 122 allows a President to impose a tariff of up to 15% on any country for up to 150 days to address balance of payment deficits. After 150 days, the tariff would have to be reauthorized by Congress.

President Trump also indicated that his administration will continue to use Section 232, which enables him to impose sectoral tariffs for national security purposes, and is initiating investigations into countries' "unfair" trade practices under Section 301. It appears the Section 122 tariffs are a temporary measure to buy time for the administration to fulfil the investigative and other requirements to impose Section 301 tariffs, which can be maintained indefinitely, and would avoid a politically fraught reauthorization vote by Congress on Section 122 tariffs in July. Other tariff instruments may be available too, though their availability is uncertain.

**3. No refund process yet.** The decision does not address any refund processes for IEEPA tariffs already paid by importers, though it should open the door for refund claims. We will provide updates when more information is available.

**4. Strong incentive for Canadian exporters to claim CUSMA preferences.** Under both the previous IEEPA tariffs, and the new Section 122 tariffs, goods that qualify as CUSMA-originating continue to be imported into the U.S. duty-free. While the administrative burden under the CUSMA product-specific rules of origin can be significant, CUSMA continues to provide Canadian businesses protection for now, and Canadian exporters should continue to claim CUSMA preferences where available.

**5. Uncertain implications for CUSMA review.** The exception from the IEEPA tariffs for CUSMA-originating goods was a significant benefit for Canadian exporters. Because of it, the actual duties paid on U.S. imports from Canada dropped from approximately 3.9% in September 2025 to approximately 3.1% by December 2025, reflecting the increased use of CUSMA preferences by Canadian exporters. The exception under the Section 122 tariffs offers similar benefits. With the CUSMA up for review — and effectively, renegotiation — this year, the other avenues by which the U.S. could impose additional tariffs makes it likely that tariff threats will remain part of the negotiating environment. For example, a Section 301 investigation of Canada could be completed before the scheduled July 1, 2026 deadline for the CUSMA review.

**6. Unlikely to change Canadian retaliatory tariffs.** Canada's various retaliatory tariffs in force are primarily in response to U.S. Section 232 tariffs. Because those Section 232 tariffs remain in place, we do not expect the decision to result in any reductions to the Canadian retaliatory tariffs. Canada might even increase those tariffs if the Trump administration's replacements for the IEEPA tariffs affect additional Canadian exports.

For more information on the implications of the decision, questions on how it may affect your business, or risk mitigation strategies, please contact a member of Osler's International Trade practice.