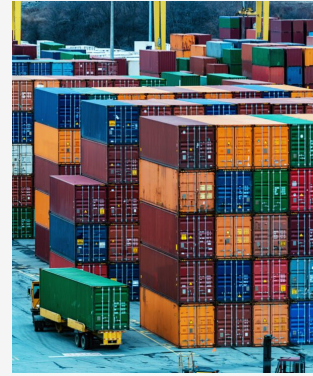


U.S. court overturns President Trump's IEEPA tariffs: implications for Canada-U.S. trade

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On May 28, 2025, the United States Court of International Trade (CIT) overturned all of the tariffs imposed by President Trump under the *International Emergency Economic Powers Act* (IEEPA). The CIT's decision covers the so-called "fentanyl" tariffs imposed March 4 on Canada (10% on energy and potash, 25% on all other products) and on Mexico and China, from which CUSMA-compliant goods were later excluded. It also covers the global so-called "reciprocal" tariffs announced April 2, which currently apply at a 10% rate to all countries other than Canada and Mexico.

On May 29, the Court of Appeals for the Federal Circuit (CAFC) granted a temporary stay of the CIT's decision given the U.S. government's impending appeal. As a result, the IEEPA tariffs remain in effect for now.

Importantly, the CIT's decision does not affect tariffs issued under other instruments, including the steel and aluminum tariffs and the automotive tariffs which were imposed under section 232 of the *Trade Expansion Act of 1962* (section 232). These tariffs remain in force, as do Canada's retaliatory tariffs on U.S. goods. This Update explains the implications of the CIT's decision for Canada-U.S. trade and what businesses should expect next.

Note that also on May 29, a second federal court — the U.S. District Court of the District of Columbia (the D.C. District Court) — similarly determined that the so-called "reciprocal" tariffs are unlawful. However, the D.C. District Court's decision is much narrower in scope, granting an injunction only to the named plaintiffs in the case. The D.C. District Court's decision has been temporarily stayed for two weeks to give the government a chance to apply for a stay pending appeal. Given the limited scope of the D.C. District Court's decision, this Update focuses on analysis of the CIT's decision.

The Court's decision

The CIT's decision turns on its reasoning that "[b]ecause of the Constitution's express allocation of the tariff power to Congress [...] we do not read IEEPA to delegate an unbounded tariff authority to the President. We instead read IEEPA's provisions to impose meaningful limits on any such authority it confers."

In particular, the IEEPA's delegated power to "regulate...importation" does not give the

President “unbounded” power to impose tariffs, and that power “may be exercised only to ‘deal with an unusual and extraordinary threat with respect to which a national emergency has been declared...and may not be exercised for any other purpose.’”

The Court found that the “fentanyl” tariffs are inconsistent with the IEEPA’s delegated authority because they do not “deal with” the claimed national security threat, while the global tariffs were “unbounded” and lacking “any identifiable limits”.

While the CIT gave the Trump administration 10 days to comply with its decision, the [temporary stay granted](#) [PDF] by the CAFC means that the CIT’s decision will not be enforced for the time being.

Implications for Canada-U.S. trade

Given the temporary stay, the tariffs remain in place for now. The U.S. government has already appealed the CIT decision, and the CAFC is considering whether to stay the decision pending conclusion of the appeal. In the meantime, we do not expect any changes to Canada’s retaliatory tariffs in response to the CIT’s decision.

The tables below summarize the status of the CIT decision and its effect on the U.S.’ various tariffs previously levied against Canada:

U.S. tariffs on Canadian imports into the U.S.

Measure	Entered into force	Exemptions	Status
<u>25% tariffs on products of Canada and 10% tariffs on energy resources and critical minerals</u> (so-called “fentanyl tariffs”)	March 4, 2025	CUSMA-compliant goods from Canada	Overtaken by CIT decision, subject to stay. Tariffs remain in force until further notice.
<u>25% tariffs on steel and aluminum from Canada</u>	March 13, 2025	Steel melted and poured, or aluminum smelted and cast, in the U.S.	Unaffected by CIT decision
<u>Canadian auto imports</u>	April 9, 2025	Only non-U.S. content levied for CUSMA-compliant vehicles	Unaffected by CIT decision

10%+ reciprocal tariffs (note:

Canada was not subject to reciprocal tariffs, though if the fentanyl tariffs are lifted, Canada will face reciprocal tariffs at a 12% rate)

April 5, 2025

Canada not subject

Overtaken by CIT decision, subject to stay. Tariffs remain in force until further notice.

All Canadian retaliatory measures against the United States remain in force:

Canadian tariffs on U.S. imports into Canada

Measure	In-force date	Exemptions and remissions
<u>25% retaliatory “Phase One” tariffs</u>	March 4, 2025	<p>Subject to <u>six-month remission order</u> for certain goods imported into Canada before October 16, 2025. The remission order covers the following categories of goods:</p> <ul style="list-style-type: none">• Goods imported for the manufacture or processing of any good, or packaging of a food or beverage: “Manufacturing and processing” means the adjustment, assembly, or modification of the goods. The remission is generally intended for use by importers that are in the North American Industrial Classification System (NAICS) chapters 31–33 (manufacturing, including food manufacturing or processing activities such as grain milling), and only captures manufacturing machinery and direct inputs which become an integral part of the finished product. Remission order does not cover indirect inputs, supporting materials, or other items used for the general upkeep of a manufacturing or processing facility.• Public health and safety: includes any goods imported by or on behalf of certain enumerated bodies or organizations related to health, emergency response or national security (e.g., health research organizations, organizations that produce or store medical countermeasures including pharmaceuticals or medical devices, emergency response services, and the Canadian military)• Healthcare products: includes goods imported “for use” in the provision of medically necessary healthcare services, including for services provided by certain enumerated health care facilities; entities that provide products or

25% steel and aluminum tariffs March 13, 2025

25% auto tariffs on non-CUSMA-compliant vehicles, and non-Canadian and non-Mexican content of CUSMA-compliant vehicles April 9, 2025 Auto Remission Order: available to businesses identified in a confidential schedule to the Order

What next?

While the CIT’s decision is significant, it is certainly not the end of the Trump tariff saga. The U.S. government has already filed notices of appeal from the CIT’s decision to the U.S. Court of Appeals for the Federal Circuit. That Court’s decision could then further be appealed to the Supreme Court. The IEEPA tariffs could remain in effect while these appeals proceed.

Given the central role tariffs have played in President Trump’s international trade and policy strategy, regardless of how the IEEPA tariff appeals play out, the Trump administration will likely continue to use legal instruments to levy further tariffs on countries and sectors that fall into its crosshairs.

These include section 232 and section 301 (of the *Trade Act of 1974*) unfair trade practices investigations. Section 232 and section 301 have been used extensively by both the current and previous administrations to levy tariffs, and the use of section 232 in particular has withstood several court challenges to the President’s legal authority to determine the scope of and response to a national emergency. Most recently, on May 30, President Trump announced that he would increase the existing steel and aluminum section 232 tariffs from 25% to 50%. While the White House has not yet released any executive orders effecting the increased rate, the announcement gives credence to the Trump administration continuing to impose new tariffs and manipulating existing tariffs using the various other tools at its disposal.

The Trump administration also has initiated many new section 232 investigations that will likely lead to additional tariffs being imposed in the coming weeks and months. These include the following:

Ongoing section 232 investigations

Affected goods	Investigation commenced
<u>Copper</u>	March 10, 2025
<u>Timber and lumber</u>	March 10, 2025
<u>Semiconductors and semiconductor manufacturing equipment</u>	April 1, 2025
<u>Pharmaceuticals and pharmaceutical ingredients</u>	April 1, 2025
<u>Medium-duty and heavy-duty trucks</u>	April 1, 2025
<u>Processed critical minerals and derivative products</u>	April 22, 2025
<u>Commercial aircraft and jet engines</u>	May 1, 2025

Section 232 investigations must conclude within 270 days of commencement. However, it is likely that the ongoing investigations will result in new tariffs well before then, given the Trump administration's emphasis on tariffs in its trade policy and negotiation strategy.

The administration also could invoke other relatively unused measures to impose further tariffs, including section 122 of the *Trade Act of 1974*, which allows the imposition of tariffs of 15% for 150 days (or longer if extended by Congress), or section 338 of the *Tariff Act of 1930*, which allows for tariffs of up to 50%.