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Supreme Court tariff ruling and implications for Canada

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As widely expected, the Supreme Court has ruled that tariffs that the Trump administration imposed under a novel interpretation of an emergency powers act were unconstitutional. Those include the reciprocal tariffs announced on "Liberation Day" as well as, for Canada, Mexico and China, the tariffs applied in response to fentanyl imports into the US. For Canada, this ruling doesn't eliminate the most significant tariffs currently in pace, which are on autos, steel, aluminum, lumber and some copper products, which were imposed on other grounds (national security, or countervailing duties against purported subsidies). The vast majority of Canada's other exports, particularly those with significant domestic content, are entering the US duty free by qualifying for the USMCA exemption from the 35% fentanyl tariff.

But it does remove the threat of that 35% tariff being applied if the US opts to withdraw from the USMCA. The Trump administration could opt to test its powers to impose other tariffs, possibly by declaring a "balance of payments emergency" and invoking a 15% tariff that another obscure piece of legislation seems to allow, which perhaps not coincidentally matched the reciprocal tariffs on many countries that have been struck down today. That too, however, could be tested in the courts, and Congress would have to approve an extension of it after 150 days. Recent votes in Congress suggest that might not be possible. He could also seek to launch investigations of other imports and follow up with further national security tariffs or countervailing duties. So while this isn't a cure for tariffs facing Canada in targeted sectors (and actually provides more immediate relief to Canada's competitors in the US that face reciprocal tariffs on all of their exports) it is nevertheless an improvement in Canada's negotiating position in the upcoming USMCA talks, by removing the leverage the US had with its threatened 35% fentanyl tariff.

As they say in the news business, this is a developing story. We'll have more to say on this topic as we learn about the While House response in terms of alternatives it is likely to seek to the tariffs just overruled by the courts. Stay tuned.