

## 10 questions on the US Supreme Court's tariff ruling

### 1. What decision has been taken?

By a majority of 6 to 3, the Supreme Court has ruled that the use of the International Emergency Economic Powers Act (IEEPA) is not the appropriate legal basis for the introduction of general tariffs and that, as a fiscal measure, the power to do so lies with Congress.

### 2. Which tariffs are affected?

The ruling invalidates both the tariffs imposed on Canada, Mexico and China, linked to drug trafficking, and those announced on «Liberation Day» and its subsequent amendments (as well as those used for geopolitical purposes based on the IEEPA, such as the recent 25% levy on countries maintaining economic relations with Iran, as well as earlier precedents linked to Brazil, Russia or Venezuela).

### 3. Which ones are not?

The ruling does not affect the sectoral tariffs approved on national security grounds under Section 232 of the Trade Expansion Act (S.232), such as those imposed on cars and components, aluminium, steel, copper, certain furniture products and commercial vehicles.

### 4. What has the government's response been?

On the same day as the ruling, a presidential proclamation activated Section 122 of the Trade Act (S.122), which allows for a temporary general tariff of up to 15% for 150 days to address fundamental international payment problems. A 10% general tariff entered into force on Tuesday, 24 February.

### 5. Which countries and products are affected by the new measures?

The application of the tariff under S.122 is non-discriminatory, i.e. it applies uniformly to all countries. The proclamation states that the tariff does not accumulate on top of existing sectoral tariffs, nor those imposed on imports from Canada and Mexico that meet the conditions of the trade agreement they maintain with the US (USMCA, formerly NAFTA). A list of exemptions has also been defined, including, among others, certain critical minerals, agricultural products, pharmaceuticals and electronics.

### 6. What other measures could the government adopt?

Following the approval of the new 10% general tariff, Trump threatened to raise it to the maximum level of 15% permitted under S.122. In addition, the presidential proclamation included the mandate to initiate investigations into countries for unfair practices under Section 301 of the Trade Act (S.301), while the extension

of sectoral tariffs under S.232 is also expected, potentially focusing on pharmaceutical and electronic products. Unlike the tariffs approved under the IEEPA and S.122, these alternatives require a greater procedural burden and have precedents, such as the use of S.301 for China during Trump's first term and its continuation under Biden.

### 7. What are the main uncertainties following the ruling?

The main concerns focus on: (i) the legal battle over the revenues collected under the IEEPA, which we estimate to be in the range of 125-150 billion dollars (equivalent to 0.4%-0.5% of US GDP), and potential new claims for the use of S.122; (ii) the validity of the bilateral agreements reached since the summer and the more favourable tariffs agreed (EU, Japan, United Kingdom, among others); (iii) the stability of the truce on trade and technology with China reached last November (Trump will visit Beijing at the end of March); and (iv) the impact on the reconfiguration of trade that occurred in 2025 affecting Chinese exports to Vietnam (textiles, footwear, household goods) and Taiwan (machinery and equipment).

### 8. What does the tariff scenario look like following the response to the ruling?

Overall, the Supreme Court ruling initially reduced the average tariff on US imports by around 7 pps, considering the policies announced. Subsequently, and following the activation of S.122, it returned to around 11% (compared to the previously estimated 14%).

### 9. Which countries have seen a reduction or an increase in their tariffs in relative terms?

The main immediate beneficiaries are China, India, and Brazil, which have seen a significant drop in their tariffs, while those adversely affected include the EU and the UK, which had previously secured specific reductions through bilateral agreements that now in question. For instance, a European car might now be subject to a tariff of 27.5% (the 25% established under S.232 plus the initial most-favoured-nation rate of 2.5%) compared to the 15% cap previously agreed.

### 10. Does the Supreme Court's ruling change Trump's tariff strategy?

No, there has been a change of instruments, with a firmer legal basis. Tariffs will remain a central axis of the US' trade, fiscal and foreign policy. In fact, during his State of the Union address, Trump reaffirmed his vision that tariff revenues could substantially replace federal income taxes in the long term.

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