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# IEEPA & Trade Actions: Sudden Trade Shifts



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# OUR SPEAKERS



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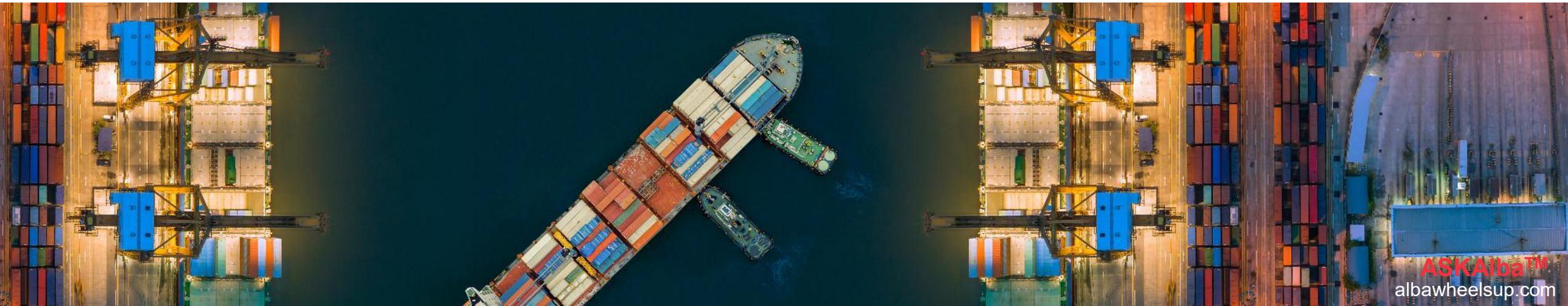


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# TODAY WE WILL COVER



- ◆ Termination of all IEEPA-based tariffs
- ◆ Effective dates and what CBP has confirmed
- ◆ The new 10% global tariff under Section 122
- ◆ Status of the Section 321 / de minimis entry ban
- ◆ Expected Section 301 & Section 232 actions



# Supreme Court decision in *Learning Resources, Inc. v. Trump*, 607 U.S. \_\_\_\_\_ (2026)



- The Supreme Court ruled 6-3 that the International Emergency Economic Powers Act (“IEEPA”) does not authorize the President to impose tariffs and ruled that all of the IEEPA tariffs are unlawful
- Refunds?
  - Govt’s current position – EO terminated tariffs on 2/24/2026. CBP CSMS 67834313 states IEEPA duties only terminated for entries on and after 2/24/2026, but not retroactively
  - Plaintiff VOS filed motions at CAFC and Court of International Trade to compel duty refund
  - Companies should file cases in CIT to protect refund rights.
  - Protests -- uncertain whether administrative protests will be an available procedure for refunds but recommend filing within 180 days of liquidation
  - Post Summary Corrections – CBP unlikely to approve without WH permission.a



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# The Tariff Regimes



- MFN (ordinary) customs duties. Rates tied to HTS code
- China tariffs under Section 301 of Trade Act (initiated 2018)
  - 25% ad valorem for List 1, 2 and 3. 7.5% ad valorem for List 4a
- IEEPA – terminated effective 2/24/2026
- Section 122 tariff. Effective 2/24/26. 10% all countries. Certain products or content exempt:
  - USMCA qualifying goods
  - Goods subject to 232 tariffs, or metal content subject to Section 232 tariffs
  - Specified goods listed on Annex II
- Section 232 tariffs (national security)
  - 25% autos and certain auto parts
  - 50% steel, aluminum, copper and their “derivatives”
  - Numerous other products
- Elimination of “de minimis” exemption for goods under \$800 continues



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# Current Section 232 Tariffs



- Iron and Steel, Aluminum, Copper, and their Derivative Products
  - No exemption for USMCA goods
- Automobiles and certain parts thereof
  - Exemption for USMCA auto parts
- Medium and Heavy-Duty Vehicles and certain parts thereof
  - Exemptions for USMCA goods
- Lumber, Timber, and their Derivative Products
  - Softwood lumber, upholstered seating, kitchen cabinets and vanities
  - No exemption for USMCA goods
- Advanced Semiconductors
  - No exemption for USMCA goods



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# Pending 232 Investigations



- **Pharmaceuticals** – Initiated April 1, 2025
- **Critical Minerals and Derivatives** – Initiated April 22, 2025
- **Commercial Aircraft and Jet Engines** – Initiated May 1, 2025
- **Polysilicon and its Derivatives** – Initiated July 1, 2025
- **Unmanned Aircraft Systems (UAS) and Their Parts and Components** – Initiated July 1, 2025
- **Wind Turbines** – Initiated August 13, 2025
- **Personal Protective Equipment, Medical Consumables, and Medical Equipment** – Initiated September 2, 2025
- **Robotics and Industrial Machinery** – Initiated September 2, 2025



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# Section 232 Investigation Process



- **Legal Basis:** Section 232 of the Trade Expansion Act of 1962
- **Trigger:** Commerce Department investigates if imports **threaten U.S. national security**
- **Initiation:** Can be requested by federal agencies, Congress, industry, or by Commerce itself
- **Public Input:** Commerce publishes a notice in the Federal Register and invites public comments
- **Data Collection:** Includes economic impact, import trends, domestic production capacity, and defense needs
- **Analysis:** Commerce evaluates whether import levels impair national security
- **Report Submission:** Findings are submitted to the President within 270 days, but can be sooner than 270 days.
- **Presidential Action:** President must decide whether to impose tariffs, quotas, or other trade remedies, or enter trade negotiations, within 90 days of the Commerce Report, and such action must be implemented within 15 days thereafter.
- **Exclusion Requests:** Only if authorized in the Proclamation implementing the tariff (currently no exclusion process for any existing 232 tariff regimes)
- **Additional Notes:**
  - President has imposed limits on FTZ status and drawback for 232 duties
  - CBP implements and enforces
  - Section 301 generally is country specific whereas 232 is commodity focused



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# Valuation of metal content for goods subject to 232 duties on declared value of metal content:



- 232 FAQs (“*Section 232 Tariffs on Steel and Aluminum: Frequently Asked Questions*”); CSMS messages #64348411 (Steel) and #65236645 (Aluminum). CSMS message #65794272 (Copper)
- FAQ - If product contains steel and non-steel content:
  - Cost of steel is the total payment made/to be made for the steel content by the buyer to, or for the benefit of, the seller of the steel content. Normally, this would be based on the invoice paid by the buyer of the steel content to, or for the benefit of the seller of the steel content.
- CSMS - Non-steel content is “Total entered value of the article less the value of steel content”



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# Valuation of Steel content



- Base Metals CEE advice: Value of steel content should be determined based on total customs value of product minus cost of non-metal components.
- Conflicts with FAQ and CSMS?
- Recently, a lawsuit was filed challenging CBP's valuation methodology. *Challenge Express Fasteners, Ltd. v. United States*, 1:26-CV-00853 (CIT, 2026).
  - How to protect potential refund rights if US importer overpaid 232 duties on metal content.
    - Protests within 180 days of liquidation
    - CIT case if protests denied



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# Current and Pending Section 301 Tariffs



- Current 301 Tariffs
  - China (Technology Transfer & IP): Lists 1, 2, 3 and 4a
- Pending 301 Investigations
  - China (Shipbuilding) – Suspended for one year beginning on November 10, 2025
  - EU (Aircraft) – Suspended for five years beginning July 11, 2021
  - Brazil (Various trade practices) – Initiated July 15, 2025
  - Nicaragua (Labor Rights) – 10% starting January 1, 2027



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# Section 301 Investigation Process



- **Legal Basis:** Section 301 of the Trade Act of 1974
- **Trigger:** USTR investigates whether a foreign country's acts, policies, or practices unjustifiably burdens US commerce
- **Initiation:** Can be requested by any interested party or initiated by the USTR himself
- **Public Input:** Section 301 Committee reviews petitions, conducts public hearings, and makes recommendations to the USTR
- **Data Collection:** Discussions with foreign government, review of foreign laws, and the economic impact of the practices on the US
- **Analysis:** USTR, subject to the directions of the President, evaluates whether the alleged conduct is unfair and harms US trade and whether retaliatory action is necessary
- **USTR Action:** Generally, the USTR must make a determination within 12 months after the date of initiation when the investigation does not involve a free trade agreement. However, this can be sooner.
- **Exclusion Requests:** Section 301 does not specify an exclusion process. However, USTR excluded typically provides exemptions after considering requests.
- **Additional Notes:**
  - Section 301 actions terminate after four years, unless USTR receives a request for continuation and conducts a review
  - The USTR may reinstate a previously terminated Section 301 action
  - Section 301 generally is country specific whereas 232 is commodity focused



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THANK YOU

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