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POSTMEDIA



Prime Minister Mark Carney spent much of his time in office last year navigating a string of tariffs issued by U.S. President Donald Trump’s administration as the White House looks to bolster stateside manufacturing. The levies could soon be quashed by the U.S. Supreme Court. *GAVIN YOUNG*

WILL TOP U.S. COURT END THE TARIFF TURMOIL?

Experts see little reason for justices to support Trump’s emergency levies

TRACY MORAN

WASHINGTON ’Tis the season for re-naming — everything from a cultural hub dedicated to a beloved slain president to new destroyers to 2025 itself. No, U.S. President Donald Trump hasn’t labelled the year with his name, but his trade representative, in a new op-ed, just dubbed it “the year of the tariff.”

“The year 2025 will be remembered as the year of the tariff, regardless of one’s economic ideology,” Jamieson Greer wrote. “International trade is neither good nor bad — it just is. The real question is whether trade patterns serve the national interest. For President Donald Trump and his administration, that means a trade policy that accelerates re-industrialization.”

Last year, Trump declared national emergencies related to fentanyl trafficking and the trade deficit as justification for his tariffs under the International Emergency Economic Powers Act (IEEPA), and litigants — and businesses and consumers around the globe — are awaiting a U.S. Supreme Court ruling over whether these tariffs are constitutional.

The top court fast-tracked litigation to hear oral arguments last fall, and a verdict is now expected early this year. So will 2026 be the year the IEEPA tariffs die, and if

so, what will it mean for Trump’s trade war and Canada?

READING THE SIGNALS

While the administration has said it expects the court to rule in the president’s favour, most trade experts do not.

Clark Packard, a research fellow in the Cato Institute’s Herbert A. Stiefel Center for Trade Policy Studies, said he believes there are indications the Supreme Court will rule against the president.

“I think there’s a skepticism on separation-of-powers grounds — that the president shouldn’t have this much (power),” Packard said, noting how the justices have referred to a tariff as a tax.

“If it’s a tax, then that power resides with Congress to set those rates.”

Packard noted that the betting markets see the decision going this way, but he acknowledged the court might rule in favour of Trump.

Andrew Hale, a senior policy fellow at Heritage Foundation in Washington, D.C., doesn’t see any chance of a win for the White House. “It’s a foregone conclusion,” he said. “They’re going to vote down IEEPA.”

Hale noted the economy has begun to feel the effects of the tariffs and that it will only get worse. Republicans, no matter how loyal they are to Trump, are

getting burned by tariffs, he said, adding that he’s even heard from a Heritage Foundation donor and Republican fundraiser about having to lay off people because of the costs of the tariffs.

When asked to consider the court ruling for the president, Hale said he couldn’t even try.

“I can’t even envision that,” he said. “It’s so fundamentally illegal, and I think that the way the justices of the Supreme Court were questioning the lawyers for the administration, (suggests opposition to it).”

Packard, on the other hand, could, and he suggested that it would be bad news for U.S. trading partners, particularly Canada and Mexico.

WINNING AND LOSING

“If the administration wins this case, my general sense is that these will serve as a baseline for tariffs,” Packard said, suggesting that today’s rates would increase.

With the renegotiation of the Canada-U.S.-Mexico Agreement (CUSMA) getting underway this summer, Packard also said that continued IEEPA tariffs would be bad news for Canadian and Mexican negotiators.

“It sort of poisons the well in terms of those negotiations,” he said, because “the president could pivot pretty quickly to announce more national security tariffs.”

“If the IEEPA tariffs remain in

place, I think it makes those negotiations way more difficult.”

Trump and Greer have both publicly suggested that the United States could undermine or end CUSMA, which has left stakeholders in all three countries on edge.

But CUSMA was deemed the “gold standard” of trade deals under the first Trump administration, Hale pointed out.

“He’ll make the threat, but ... (CUSMA is) going to get passed in some form,” Hale said, noting how Canada is already ramping up Canadian military spending in response to the United States’ demands.

Those demands, however, are likely to continue.

“That’s going to be a recurring theme throughout this process. They’re going to weaponize it in other ways,” he warned, pointing to likely requests for more defence expenditures and pipelines.

But even a loss for the administration wouldn’t necessarily mean relief for businesses or consumers hit by the tariffs.

BEYOND IEEPA

Kevin Hassett, director of the National Economic Council, has said that a verdict against the president, which would make the administration liable for repaying roughly US\$100 billion, is unlikely to lead to widespread refunds.

SEE TARIFFS ON **A2**