



Tariffs, Trade, and Supply Chains: What In-house Counsel Need to Know

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The new — and rapidly evolving — tariffs announced by the US administration could have a significant impact on businesses reliant on cross-border trade. Here's what in-house counsel should know to keep their supply chain resilient in the months and years to come.

Remind me, what's a tariff?

A **tariff** is a tax or duty imposed by a government on imported goods, typically used to protect domestic industries, generate revenue, or influence foreign trade policies. Tariffs increase the cost of imported goods, making them less competitive compared to domestic products. While tariffs can encourage domestic production, they may also lead to higher consumer prices, supply chain challenges, and trade retaliation from affected countries.

Though the US Congress holds the constitutional authority over tariffs, the laws delegate much of the enforcement power to the executive branch, allowing the president to act unilaterally in certain situations — for example, under statutes like the **Trade Expansion Act of 1962 (Section 232)** for national security concerns, the **Trade Act of 1974 (Section 301)** to address unfair trade practices, and the **International Emergency Economic Powers Act (IEEPA)** for national emergencies related to national security, foreign policy, or the economy.

US President Donald Trump has signaled willingness to do so, such as when he announced tariffs on Canada, Mexico, and China, or when he proposed escalating tariffs on Colombia in response to the country turning back US deportation flights.

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What's the latest?

On February 20, 2026, the US Supreme Court [ruled 6–3](#) that IEEPA does not authorize the president to impose sweeping tariffs. The Court held that Congress must delegate tariff authority explicitly and that IEEPA's grant of authority to "regulate" economic transactions during national emergencies does not include the power to levy duties. The decision invalidates tariffs imposed under IEEPA and opens the door to potential refund claims for companies that paid those duties. The Court's ruling does **not** affect tariffs enacted under other statutory authorities, including Section 232 (national security) and Section 301 (unfair trade practices), which remain in force.

Following the decision, President Trump announced that his administration intends to pursue implementation of a new 10-percent global tariff (which could increase to 15 percent) through alternative legal authorities. He also indicated that any rebate claims resulting from the Court's ruling may be litigated for several years. Companies that paid IEEPA-based tariffs must therefore assess refund procedures under US Customs and Border Protection rules and consider potential litigation in the Court of International Trade, while also preparing for continued trade-policy volatility.

Earlier lower court decisions — including rulings by the US Court of International Trade and the US Court of Appeals for the Federal Circuit — had concluded that IEEPA did not authorize the tariffs. Those decisions have now been affirmed by the Supreme Court, resolving the core legal question. The practical focus now shifts from whether the tariffs were lawful to how refund claims will be processed and whether Congress or the administration will attempt to enact replacement measures.

Meanwhile, other trade measures remain active. Section 232 tariffs on steel and aluminum and Section 301 tariffs on goods from China and other trading partners continue to operate under existing statutory frameworks, and recent negotiations and country-specific tariff adjustments under those authorities remain unaffected by the Court's ruling.

[ACC Members: Download the comprehensive guide to **Managing Import and Tariff Risks During a Trade War**](#)

What steps should in-house counsel consider?

While there is plenty of uncertainty around tariffs and possible trade wars, in-house legal departments can take proactive steps to mitigate risks and protect their businesses' supply chain. Consider asking:

- **What percentage of our raw materials, components, or finished goods are sourced from the affected countries?**
 - Understanding your company's dependency on these countries is critical for

assessing the immediate financial impact of tariffs.

- If a significant portion of materials or components comes from these regions, tariffs could drastically increase costs and disrupt production schedules.
- Monitor how tariffs evolve. Consider the informative trackers listed in the ACC Resource Collection on [Navigating the Current US Administration](#).

- **Can we diversify our supply chain to mitigate tariff exposure, and what would be the cost and timeline of doing so?**

- If a substantial part of the supply chain is impacted, businesses may need to consider identifying alternative suppliers in non-tariffed countries.
- However, switching suppliers can be costly and time-consuming, requiring thorough evaluation of quality, logistics, and contractual obligations.
- Learn more about [Supply Chain Disruption in Europe, UK and US: How Businesses Can Mitigate Risk](#).

- **Can we pass on tariff-related costs to customers without significantly affecting demand?**

- If higher costs are passed down the supply chain, it could lead to reduced consumer demand, particularly in price-sensitive markets.
- Understanding price elasticity and customer expectations is crucial for pricing strategies and market competitiveness — and a crucial way in-house counsel can help guide the business.
- In-house counsel can also drive the conversation about how to frame communications and message any actions taken (e.g., raising prices). Protecting the business's brand should be top of mind.
- Tariffs play a role in the geopolitical risk landscape for the business. Consider how your business's resource allocation and overall strategy to mitigate geopolitical risk. Read the [ACC Brief Guide on Navigating Geopolitical Risk](#).

- **What are the potential long-term strategic implications of these tariffs, and how should we adjust our business strategy?**

- Beyond immediate cost and supply chain concerns, the company must assess the long-term impact on its global competitiveness, investment strategies, and operational footprint.
- This could involve reshoring production, investing in automation, or altering expansion plans.
- If US trading partners retaliate, causing increased costs to export, will the organization need to find new customers in other areas of the world?

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- **Are there mechanisms in existing agreements allowing price adjustments (e.g., in light of how certain price indexes evolve), or allowing the parties to invoke force majeure due to economic conditions such as cost increases or tariffs?**
 - Consider whether force majeure terms may be invoked (whether circumstances qualify as force majeure is usually dependent on the specific wording of the clause and the applicable law). Learn more on force majeure with the insight linked in the new ACC Resource Collection on [Navigating the Current US Administration](#).
 - Consider whether the contract allows certain price adjustments at certain times or under certain conditions.
 - Consider what clauses you negotiate in new contracts (or at the time of renewal of existing contracts) to address the risks related to cost and supply chain pressures.

For more resources and insights selected by the ACC team for global in-house lawyers, check out the new Resource Collection: [Navigating the Current US Administration](#).

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