LEGAL UPDATES

Should Your Business Be Worried About Tariffs?

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What Is a Tariff?

A tariff is a tax or duty imposed on goods when they cross national borders. Most commonly, tariffs apply to imports, raising the cost of foreign-made products in the domestic market. Governments levy tariffs to either raise revenue or protect domestic industries by making imported products more expensive compared to local alternatives.

Tariffs are often calculated as a percentage of the item's value (an *ad valorem* tariff), though tariffs may also be specific fees per unit of goods. In practice, tariffs increase the price of imported goods and can influence consumer choices and business supply chains by incentivizing local sourcing. The use of tariffs influences trade flow and is a key tool in shaping foreign trade policy. Tariffs have been a central component of trade policy and at the forefront of recent U.S. trade actions.

Who Pays the Tariff?

Although tariffs are applied to foreign goods, it is importing businesses, not foreign exporters or governments, that directly pay these "taxes." When a shipment enters the U.S., the importer of record must pay the tariff to U.S. Customs and Border Protection. For example, if a U.S. big-box retailer imports televisions from China, any U.S. tariff on those products is paid at the border by the retailer (or its broker), not by the Chinese manufacturer. Who ultimately bears the cost of a tariff, however, can vary. Importers often try to pass the added cost downstream through higher prices to customers.

If market competition prevents raising prices, the U.S. importer might absorb the cost, impacting its profit margins, or seek concessions from the foreign suppliers. In some cases, companies can redesign supply chains to avoid the tariff, but if not, the financial burden of the tariff usually falls on some combination of the U.S. importer, its customers or its suppliers, but NOT the foreign government.

It is important to note that the ownership structure of an importer or exporter, whether foreign-owned or U.S.-owned, does not impact the obligation to pay or not pay tariffs. Tariff liability is based on the country of origin of the goods and

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the point of entry, not the ownership of the business entity. However, foreign ownership or affiliation may draw additional scrutiny from U.S. Customs and Border Protection or the U.S. Department of Commerce, particularly where there is a perceived risk of tariff circumvention.

For example, companies with overseas affiliates may be subject to enhanced audits or verification procedures to ensure that goods are not being routed through third countries or restructured in form solely to avoid tariffs.

Businesses should be proactive in documenting country-of-origin determinations and maintaining clear, compliant supply chain records to reduce audit risk.

What Do Tariffs Mean for Business Transactions and M&A Activity?

New tariffs inject uncertainty and risk into business transactions, particularly mergers and acquisitions (M&A). Sudden increases in import costs can alter a target company's financial profile overnight, affecting valuation and deal modeling. During the 2018 to 2019 trade wars, acquirers grew hesitant, and some deals were delayed, as tariffs created macroeconomic uncertainty, threatened once-stable supply chains and put downward pressure on earnings. In today's economic environment, buyers and sellers are responding by proactively addressing tariff risks in dealmaking.

Tariffs increase cost uncertainty and can affect a target company's valuation, cash flow and supply chain related risk, leading to deal delays.

Due diligence should include routinely evaluating a target's supply chain exposure to tariffs, including where components are sourced and whether alternative suppliers are available.

In M&A deals, buyers may demand representations, indemnities or pricing adjustments to account for tariff risk. Additionally, purchase agreements may include specific material adverse effect clauses or tariff-specific covenants to address changes between signing and closing.

Are There Unexpected Areas of Exposure?

Yes. Tariffs can have indirect ripple effects on business areas not traditionally seen as trade-dependent. Intellectual property licensing and franchising agreements are good examples. A company licensing its technology or brand to an overseas manufacturer might suddenly find that the products made under that license face new import tariffs coming back into the U.S., undermining the economics of the deal. For instance, a U.S. franchisor in the restaurant industry could be caught off guard if key ingredients or equipment that franchisees must import now carry a hefty duty. In such cases, the cost increase may squeeze profit margins for both licensor and licensee, potentially requiring renegotiation of royalty rates or pricing terms.

We saw hints of this in early 2025, when many restaurant chains openly warned that tariffs on Mexican produce (e.g., avocados) would modestly increase their input costs. If inputs become tariffed, costs rise and the input's implicated supply chains and cost mechanisms governing those supply chains may need re-evaluation.

The key lesson is that even businesses focused on IP or services should map their supply chains and have a deep understanding of the risk additional tariffs introduce to their businesses.

Who Is Most Affected by Tariffs and Counter-Tariffs?

Industries with heavy exposure to global trade are bearing the brunt of the new tariffs (and retaliatory counter-tariffs by U.S. trading partners). Among these are U.S. manufacturers that rely on imported inputs or sell into export markets. For example, the automotive sector now faces a 25% U.S. import tariff on finished cars and parts, on top of earlier steel/aluminum duties, creating a one-two punch that disrupts supply chains and raises production costs. Similarly, U.S. electronics and machinery makers that source components from China, Vietnam or Europe are suddenly paying 10 to 34% more for those parts.

Agriculture is another hard-hit sector, as U.S. farm goods have been prime targets for retaliation. In March 2025, China and Canada responded to U.S. tariffs with new duties on American agricultural exports like pork, soybeans, and grain. This mirrors the 2018 trade war response, when U.S. soy exports to China plummeted after retaliatory tariffs, harming farmers. Retailers and e-commerce businesses that import consumer goods (apparel, electronics or toys, for example) will likely experience compressed margins as many rely on China and Vietnam for inventory, and they now face sharply higher import costs.

Even IP-centric and professional services companies are indirectly affected. For instance, a tech firm might see the cost of imported hardware rise, and consulting firms may see clients delay projects due to economic uncertainty. Finally, franchising and food service sectors are experiencing challenges: franchise operators often import fixtures, equipment or ingredients (from Italian pizza ovens to Mexican avocados) – tariffs on those items can erode store profitability.

In summary, businesses most affected include manufacturing and industrial firms, farmers and food processors, import-reliant retailers and any company that relies on cross-border supply chains. These groups should be especially vigilant, as both U.S. tariffs and foreign counter-tariffs are raising costs and reshuffling competitive dynamics across agriculture, autos, tech, consumer goods and beyond.

When Do the Latest Tariffs Go Into Effect, and What Are the Key Uncertainties?

The implementation timeline for the April 2025 tariffs is extremely rapid. President Trump's "Liberation Day" tariff proclamation was issued on April 2 ("Regulating Imports with a Reciprocal Tariff to Rectify Trade Practices that Contribute to Large and Persistent Annual United States Goods Trade Deficits"), and the first stage of tariffs took effect just days later. Specifically, the baseline 10% tariff on all imports becomes effective April 5 at 12:01 a.m. EDT.This implementation may catchmany importers mid-shipment. The higher country-specific tariffs – the so-called "reciprocal" tariffs – are planned to be implemented next week, on April 9.

One uncertainty is how long these tariffs will remain in effect. The White House has indicated they are indefinite, to be lifted only if and when foreign trading partners meet U.S. demands (such as closing the trade deficit or altering policies). This means the situation is fluid – tariffs could escalate further on short notice or be dialed back, depending on diplomatic developments. There is also procedural uncertainty abroad. U.S. trade partners are rolling out counter-tariffs on different schedules. For example, the EU implemented an initial set of retaliatory tariffs on U.S. goods as of April 1, and is considering an expanded list by mid-April after a short comment period.

Navigating Tariff Challenges

The 2025 tariff surge presents complex challenges to U.S. businesses that rely on partners overseas. In this evolving trade environment, proactive planning and informed counsel are essential. Our lawyers are monitoring ongoing legal developments (in the U.S. and globally) and will promptly provide updates on any changes.

If you have questions about navigating the new tariffs, including adjustments to business strategies, analysis of the impacts on existing contracts or implementing tariff safeguards in deal terms, please contact Cody Niess, Brittany Riehm, Allie Itami, Mark Williamson, or your regular Lathrop GPM attorney to discuss strategies tailored for your situation.