

Alert | International Trade



November 2025

Navigating Recent US Tariff Changes: Supreme Court Challenge, International Trade Deals, and Duty Mitigation Considerations

Go-To Guide

- The U.S. Supreme Court (SCOTUS) heard oral arguments on Nov. 5 on the appeal of an Aug. 29 decision by the U.S. Court of Appeals for the Federal Circuit holding that the Trump administration (the “Administration”) exceeded its authority under the International Emergency Economic Powers Act (IEEPA) when imposing global reciprocal tariffs.
- The United States has lowered the rate of the fentanyl-related tariff on China from 20% to 10%, effective Nov. 10.
- The Administration has announced framework agreements with El Salvador, Argentina, Ecuador, and Guatemala, as well as a trade agreement with Switzerland and Liechtenstein.
- The Administration also announced tariff exemptions for a number of agricultural products.

The Administration continues to make changes to the tariff regime, including modifications to country-specific tariff rates based on trade deals. The legality of certain tariffs also remains under the Supreme Court’s consideration.

On Sept. 9, SCOTUS agreed to fast track the Administration’s appeal of the Aug. 29 decision by the U.S. Court of Appeals for the Federal Circuit, which held that the Administration exceeded its authority under IEEPA in imposing broad reciprocal tariffs. Oral argument for the appeal took place on Nov. 5 and the Court may issue a decision before the end of 2025. If SCOTUS strikes down the IEEPA tariffs, importers may wish to track entries since March 2025, as there may be a process for businesses to recover refunds.

Following President Donald Trump’s meeting with Chinese President Xi Jinping on Oct. 30, the Administration lowered the fentanyl tariff on products of China from 20% to 10%, effective Nov. 10, per an [executive order](#) issued on Nov. 4.

New framework agreements have been [announced](#) with four Western Hemisphere trading partners – El Salvador, Argentina, Ecuador, and Guatemala. While the framework deals include commitments by each trading partner, the current tariff rates remain in place with tariff reductions (such as most favored nation treatment for certain goods that cannot be grown, mined, or naturally produced in the United States in sufficient quantities) forthcoming.

The Administration also [announced](#) a framework for a future trade agreement with Switzerland and Liechtenstein. Under the framework, Switzerland and Liechtenstein would pay a cumulative reciprocal tariff rate of no higher than 15%, which is the same treatment given to the European Union.

Additionally, a [Nov. 14 executive order](#) exempts a number of agricultural products from the “reciprocal” (country-specific) tariffs, including beef, chocolate, tomatoes, oranges, and coffee.

Considerations for Mitigation Strategies

There are numerous duty-mitigation and sourcing strategies importers might utilize to potentially blunt the impact of the country-specific and sectoral tariffs, including reducing the value of imported goods by taking all possible legal deductions and by using “first sale” in a multi-tier transaction that would shrink the value declared at entry by shaving off middleman profit and administrative expenses. Importers should consider carefully structuring the transaction value of merchandise entering the United States to its lowest possible amount, including reviewing warranty and royalty payments, design fees, and post-importation services.

In addition, importers might consider reducing all qualifying legal deductions, such as international and foreign inland freight, from the invoice value. Bonded warehouses may be a tool for duty deferral as duties are due only when the goods leave the warehouse and enter the commerce of the United States. Importers might also review the origin of imported products, which is based on the product’s essential character and in which country it is substantially transformed. A change in component sourcing or production steps might change the country of origin for U.S. Customs purposes. Finally, importers should review the classification of goods, as well as any applicable exemptions for such classifications.

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