

The Impact of US Tariffs on International Sales Contracts

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The recent US tariff announcements have triggered significant uncertainty in global trade. This article examines the impact of such tariffs on international sales contracts, addressing in particular the contractual risk allocation and the respective role of the Incoterms 2020, and analysing the question whether newly imposed tariffs may justify invoking force majeure or hardship defences under the United Nations Convention on Contracts for the International Sale of Goods (CISG) or under Swiss substantive law. As will be discussed, while tariffs typically do not meet the high threshold of force majeure under the CISG or the Swiss Code of Obligations, they may qualify as a hardship situation if they were truly unforeseeable and render performance excessively burdensome for a party. The article concludes that hardship may be invoked only in exceptional cases. Parties are advised to include clear contractual provisions allocating the potential risks and addressing potential changes in trade regulations to mitigate legal uncertainty.

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