

WHEN U.S. TARIFFS BITE: HOW MALAYSIAN EMPLOYERS CAN RESPOND STRATEGICALLY

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The global trading landscape shifted dramatically in April 2025, with the United States announcing sweeping new tariffs. For Malaysian businesses, the ripple effect may be felt not just in profit margins, but in employment decisions. This article explores how employers can respond lawfully and strategically.

A. Introduction

On 2 April 2025, the United States announced sweeping tariffs affecting imports from nearly every country worldwide, including Malaysia¹. Beginning 5 April 2025, all Malaysian products shipped to the US became subject to a minimum 10% tariff. From 9 April 2025, most of these products faced an increased tariff rate of 24%, with limited exemptions.

On 9 April 2025, President Trump announced a 90-day suspension of key aspects of his Reciprocal Tariff Policy, originally unveiled on 2 April 2025.² In response to Chinese countermeasures, President Trump escalated tariffs on Chinese goods, raising them from 34% to 84%, and subsequently to 125%³. Additionally, the previously duty-free *de minimis* treatment for certain goods from mainland China and Hong Kong was revoked. These goods are now subject to either a 120% ad valorem duty or a specific duty of US\$100 or US\$200, depending on the item.

Tariffs announced on 8 April 2025 targeting specific countries excluding China have been suspended for 90 days. However, the global base tariff of 10% remains in effect.⁴

¹ The White House, 'Regulating Imports with a Reciprocal Tariff to Rectify Trade Practices that Contribute to Large and Persistent Annual United States Goods Trade Deficits' (2 April 2025)

² The White House, 'Modifying Reciprocal Tariff Rates to Reflect Trading Partner Retaliation and Alignment' (Executive Order, 9 April 2025)

³ Available at <https://apnews.com/article/china-response-us-tariffs-104-d40d497f6e07ee4163d88443cb75ab3f> accessed 16 April 2025

⁴ Available at <https://globaltaxnews.ey.com/news/2025-0868-us-suspends-president-trumps-reciprocal-tariff-policy-for-90-days-except-for-china> accessed 16 April 2025

B. Impact on Malaysian Business

As an open trading nation, Malaysian government views the unilateral imposition of reciprocal tariffs as a serious threat to the global trade and investment system. These actions undermine the core principles of free, non-discriminatory, and predictable trade, as upheld by the World Trade Organization (WTO).⁵

Ironically, the WTO was established through the General Agreement on Tariffs and Trade (GATT) in 1948 by countries including the United States itself. As one of the United States' key trading partners in the region and a significant recipient of US foreign direct investment, Malaysian government foresees considerable mid- to long-term challenges arising from these tariffs.

Although certain sectors - particularly semiconductors, Malaysia's top export to the U.S.—have received limited exemptions, many industries such as textiles, furniture, rubber, and plastics are likely to face heavy setbacks due to the tariffs.⁶

C. Employment Considerations Amid Tariffs

Malaysia's unemployment rate is expected to remain stable despite global market jitters triggered by recent tariff announcements from the United States.⁷ The newly imposed U.S. tariffs may pressure businesses - especially those in the export and supply chain sectors - to consider cost-cutting measures, including restructuring or downsizing. Companies with fixed-price contracts may find their profit margins shrinking significantly.

Businesses may have no choice but to absorb the additional costs, renegotiate contracts, or increase prices - each of which may reduce global competitiveness. Citing tariffs alone as a reason for retrenchment is unlikely to be sufficient in Malaysia. The Industrial Court requires that any retrenchment be genuine, necessary, and fairly executed. Realising that being retrenched and thus terminated from employment can be both traumatic and disruptive, in Malaysia, the Code of Conduct for Industrial Harmony illustrated that there should be prior consultation with the employee concerned and retrenchment should be only as a last resort.

Key employment strategies that Malaysian employers may consider in managing workforce challenges linked to the current tariff landscape.

1. To manage costs while preserving jobs, employers may consider implementing reduced working hours, shorter workweeks, or temporary pay cuts. However, these changes affect fundamental terms of employment and generally require express employee consent, especially if not already permitted under the employment contract.

⁵ YAB Prime Minister, 'YAB Prime Minister's Media Talking Points on the United States Reciprocal Tariffs' (7 April 2025) <<https://www.pmo.gov.my/2025/04/yab-prime-ministers-media-talking-points-on-the-united-states-reciprocal-tariffs/>> accessed 16 April 2025

⁶ Ibid

⁷ Available at https://www.thestar.com.my/business/business-news/2025/04/09/tariffs-unlikely-to-alter-unemployment-rate?fbclid=IwY2xjawJsXSFlHRuA2FibQIxMQABHssMtBVygPolQGHimkoInicn9QHU-dx3V7S-TuUGr79Othpi9oUHwWoYcil_aem_CGdOnTDGBdgNVFPCMP_C2Q accessed 16 April 2025

2. Employers may also consider redeploying employees across departments or business functions. However, significant changes to job scope, reporting lines, or work location without justification or consent may amount to a breach of contract.
3. Where workforce reduction is unavoidable, employers must ensure retrenchments are carried out fairly and in accordance with Malaysian industrial relations principles. Apply the Last-In-First-Out (LIFO) principle unless a better method (e.g., performance-based) can be objectively justified.

In ***Dynacraft Industries Sdn. Bhd. v. Kamaruddin bin Kana Mohd Sharif & Ors*** [2012] 9 CLJ 21, the Federal Court explained the LIFO principle as follows:

"It is an accepted principle of industrial law that in ordering retrenchment ordinarily the management should commence with the latest recruit, and progressively retrench employees higher up in the list of seniority. But the rule is not immutable, and for valid reasons may be departed from."

Employers who fail to follow proper retrenchment procedures risk claims for unfair dismissal, which can lead to costly compensation or even reinstatement by the Industrial Court.

D. Conclusion

While U.S. tariffs are external shocks, they require Malaysian employers to make internal decisions with legal care and strategic foresight. Whether opting for job-sharing, temporary redeployment, or retrenchment, employers must act with transparency, procedural fairness, and legal compliance.

Employers are strongly encouraged to consult legal counsel early in the process. U.S. tariffs should not be used as a blanket justification for termination. The Industrial Court will examine whether all proper procedures and principles of fairness have been adhered to.

Further information

If your business may be affected by the economic fallout of these tariff changes and requires tailored advice on workforce restructuring or industrial relations compliance, please contact the following representative for further assistance: -

Sebastian Lee Sheng Hong

Partner

shlee@tsl-legal.com

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