

Just When You Thought It Was Safe to Go Back in the Water: Trade after the Supreme Court Ruling



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There's a reason that the above tagline from *Jaws* endures - it captures the moment when apparent calm proves temporary. That is exactly what last week's U.S. Supreme Court ruling – and what happened immediately afterwards – did to global trade. The Court struck down the legal basis for many of the U.S. administrations sweeping tariffs under IEEPA. Within hours, the administration announced a new universal 10% tariff under an alternative statutory authority (and subsequently suggested raising it to 15%) - a move that, while time-limited and legally narrower, demonstrated how quickly tariff policy could be reconstituted even after judicial constraint. The sequence of events signalled intent, but also an unmistakable return to whipsaw policy making – the kind that re-prices decisions faster than businesses can adjust.

The Ruling: Constitutional constraint, commercial ambiguity

The Supreme Court's decision is a constitutional marker with immediate commercial consequences. In a 6-3 ruling, the Court constrained the executive's use of the International Emergency Economic Powers Act (IEEPA) for tariff imposition – reinforcing that tariff-setting is fundamentally a congressional taxing power. This removed the administration's broadest route for fast, sweeping duties and, on paper, should have reduced the perceived probability of sudden tariff shocks.

But the ruling also injected a new category of uncertainty: what happens next – legally, operationally and financially. The Court did not resolve refund mechanisms for duties already paid, leaving importers facing a potentially complex, case-specific administrative and legal process.

That combination – legal constraint plus unresolved implementation – is why the ruling doesn't translate neatly into 'stability'. It changes the terrain rather than restoring confidence. Businesses can adopt to a known tariff cost. They struggle when tariff exposure becomes a moving mix of legal contestability, administrative process, and replacement actions under different statutes.

What is the real estate implication of this?

When uncertainty shifts from 'how high?' to 'how imposed, how long, and how reversible?' occupiers become reluctant to make long-lead commitments that can't be unwound. Expect a continued bias towards phased decisions, retrofit over greenfield, and leases structured around breaks, renewal control, and expansion options – the same 'flexibility-first' posture already evident in last year's tariff/trade updates.

Five Key Themes

1. The Supreme Court closed one major tariff pathways (IEEPA), not the tariff playbook.

The ruling curtails a key executive mechanism but does not eliminate tariff use – and the immediate pivot from the Trump administration demonstrated that.

2. The 10% to 15% universal tariff pivot was a dual signal: intent + instability.

It reaffirmed the administrations tariff posture while amplifying uncertainty through speed, escalation, and shifting legal bases.

3. Trading partners responded with caution and delay.

Europe moved to pause parts of trade implementation while seeking clarity; others urged reversal and reassessed exposure.

4. Businesses are redesigning for reversibility.

Not wholesale relocation, but more contingency planning, staged investment, and 'optionality' embedded in networks and contracts.

5. CRE shifts from optimisation to resilience-by-design.

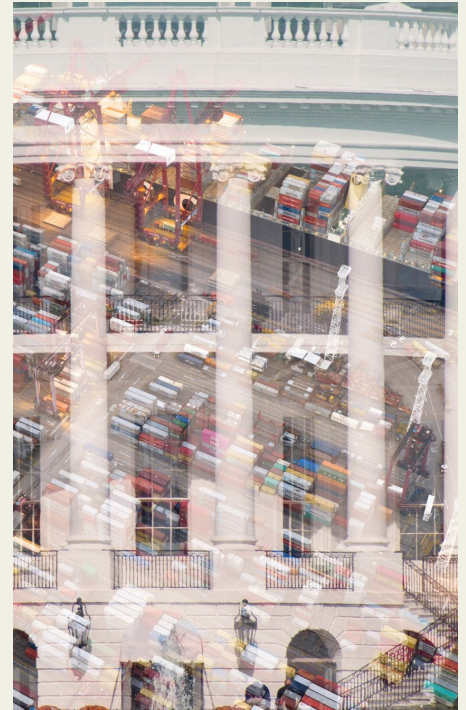
In practice, more distributed networks, more flexible commitments, more 'swing' capacity – consistent with the posture already forming over the last year.

The Immediate Response: Intent Confirmed, Uncertainty Amplified

The U.S. administration's response is the single clearest reason this moment is being read as a return to volatility rather than a return to order. Following the Court's decision, Trump announced a new universal 10% tariff, then suggested raising it to 15% within roughly a day, citing a different legal authority (Reportedly relying on Section 122 of the Trade Act of 1974 – a narrow, time-limited authority originally designed for balance-of-payments pressures rather than sustained tariff regimes). The rapid escalation reinforced that tariffs remain central to strategy even after judicial constraint – but it also demonstrated how quickly policy can re-form through alternative routes.

This is where 'intent' and 'instability' become inseparable. A single replacement tariff might have been interpreted as a bridging measure, offering a temporary baseline while legal and political pathways were clarified. Two announcements in quick succession – with a higher rate and limited runway for adjustment – instead reinforced the sense of whipsaw policy making, where costs and assumptions can move faster than procurement cycles, pricing models, or capital committees. Reporting after the ruling highlights exactly that: companies face 'new unknowns' as the administration seeks to replace struck-down tariffs and as partners consider renegotiation and refunds.

Economists quoted in post-ruling coverage underlined the macro consequence: uncertainty dampens investment and expansion because businesses 'don't know what's going to happen next.' That is a direct channel into corporate real estate decisions, which are inherently long-lead and hard to reverse.



Real estate implications:

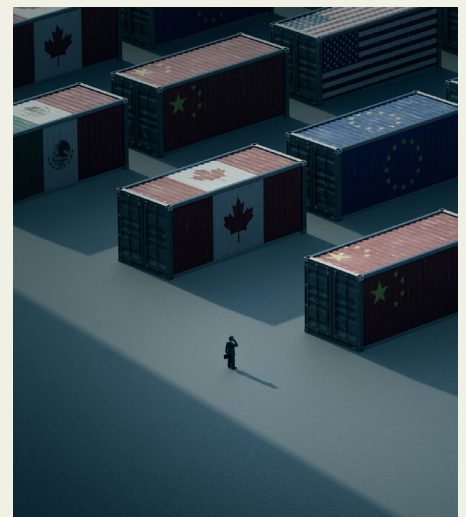
Whipsaw policymaking penalises inflexibility. The practical CRE response is to buy option value: shorter commitments where possible, staged build-to-suit, modular site strategies, and the retention of 'swing space' (warehouse capacity, secondary sites, and optioned expansion land) that can be activated if trade conditions flip again. This is consistent with the 'reprieve, not resolution' logic and the normalisation of trade-contingent leasing described in our previous Talking Points paper exploring tariffs.

How Countries Have Responded: Delay, Reassessment & Pressure for Clarity

International reaction has been defined less by relief than by recalibration. European policy makers signalled caution, pausing elements of trade engagement and implementation while assessing the durability of the post-ruling U.S. tariff framework. The pause is instructive: it indicates that partners are treating the U.S. framework as procedurally unstable – even if officials insist existing deals remain in force.

The U.S. Trade Representative publicly maintained that trade deals with major partners remain in force despite the ruling. That reassurance, however, is itself a signal that counterparties are not assuming continuity by default, and that credibility is now being actively defended rather than passively enjoyed.

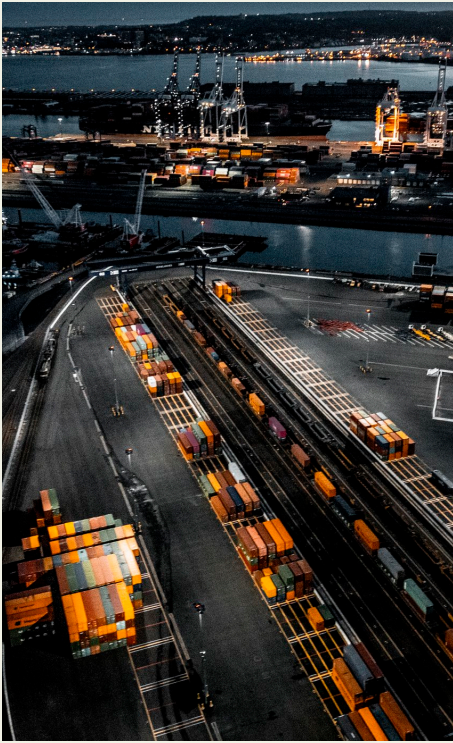
China publicly urged the U.S. to cancel unilateral tariffs, while multiple countries were reported to be studying the ruling and subsequent tariff announcements. This matters because 'study' often translates into delayed investment decisions, delayed ratification, or a renewed push for exemptions and side-letters. In other words: a slower, more conditional trading environment – precisely the kind that prolongs corporate caution.



Real estate implications:

When counterpart governments pause or delay, corporate location decisions also slow – particularly in trade-exposed sectors. The result is rarely a collapse in activity: it is a shift toward incremental and reversible commitments: shorter leases, plug-in logistics capacity, and distributed networks that reduce dependence on any single corridor or jurisdiction.

How Businesses Have Responded: Contingency Activation & Shorter Horizons



Businesses do not respond to policy volatility with a single dramatic relocation. They respond with a cascade of smaller, faster actions designed to preserve continuity. Post-ruling reporting emphasised that companies now face an ‘avalanche of unknowns’ as the administration attempts to rebuild tariff policy using different authorities and as questions persist around refunds, renegotiation, and further litigation.

This uncertainty changes behaviour in predictable ways. Firms defer capex that cannot be reversed, shorten approval horizons, and focus on tactical resilience shipment timing, supplier renegotiation, inventory buffering, and alternative routing. Economists cited after the ruling described a broader ‘climate of caution’ in which businesses invest less and become less aggressive in expansion and hiring.

In other words: the post-ruling environment doesn’t need higher tariffs to change behaviour. Volatility alone is sufficient. And when volatility is procedural – driven by statute-switching, legal uncertainty, and rapid rate changes – it is harder for businesses to treat it as a one-off shock. It becomes a persistent operating condition.

This is why logistics demand often stays resilient when sentiment weakens. Inventory buffering and contingency routing require space. In practice, that supports demand for short-term warehousing, multi-client space, and well-connected regional nodes, even when long-lead manufacturing decisions slow. This aligns with the dynamics highlighted previously: flexibility repeatedly trumps efficiency when policy becomes fluid.

From Differentiation to Universality – and Back Again: How the Ruling Reshapes Winners & Losers



Before the Supreme Court ruling, global trade operated – unevenly – through differentiation. Tariffs were shaped by bilateral deals, sector carve-outs, exemptions, and proximity. That structure created identifiable winners: countries with preferential access, nearshoring advantages, or the ability to arbitrage exposure through selective relocation.

The ruling, and the administration’s immediate response, disrupted that logic. The move to a universal tariff –first 10%, then 15% - replaced selective exposure with a broad baseline. What mattered most was not the tariff level, but the signal: relative insulative had been, at least temporarily, removed.

However, the universal regime should be understood as an opening position, not a settled outcome. As new legal routes are explored and utilised, the likely trajectory is a return to differentiation by other means – with more punitive, targeted measures emerging on a country-by-country or sector-by-sector basis over time. In effect, universality flattens advantage first: subsequent action is likely to reintroduce it more selectively.

In the near-term, export-dependent economies with high U.S. exposure lose relative ground as prior preferences are neutralised. Nearshoring markets see momentum diluted as proximity no longer guarantees protection. By contrast, large domestic markets and diversification destinations retain relative resilience during the universal phase.

What matters is not the tariff level, but the shift from selective exposure to broad-based application. Universal tariffs compress relative advantage and dilute the value of prior positioning.

Under the pre-ruling system, countries with negotiated access (notably parts of Europe), nearshoring destinations (such as Mexico), and China-plus-one markets benefited from relative insulation. Firms could still optimise around marginal advantage.

Under a universal regime, those advantages narrow (at least for now). Export-dependent economies with high U.S. exposure lose ground as differentiation disappears. Nearshoring momentum weakens as proximity no longer guarantees insulation. Growth strategies reliant on preferential access become harder to justify.

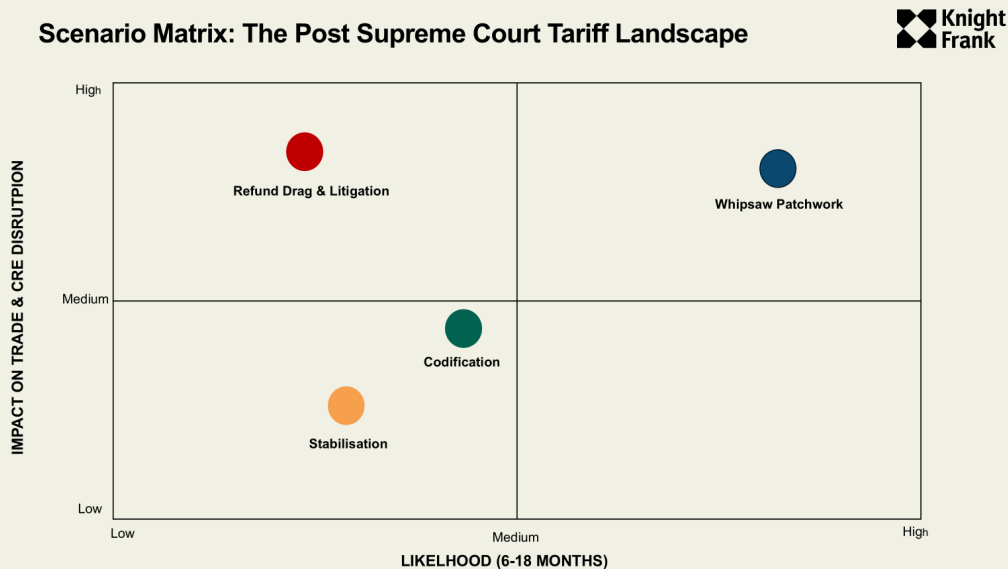
By contrast, relative advantage shifts to markets less dependent on selective treatment: large domestic economies, diversification destinations in Southeast and South Asia, and institutionally stable jurisdictions where predictability offsets higher baseline costs.

The net effect is not a new set of clear winners, but the removal of old ones. Universal tariffs flatten the trade landscape, turning relative positioning into shared exposure – and reshaping outcomes around resilience rather than preference.

The key point is that the universal tariff should be seen as a temporary baseline, not a destination. It removes differentiation initially, but it does not prevent differentiation from returning. As alternative legal routes are tested, trade policy is likely to evolve toward more targeted, country-specific measures, recreating winners and losers over time. For now, advantage is flattened; next, it will be redistributed again.

Scenario Matrix: The Operating Environments that will shape CRE decisions

The most significant error now is to treat the next phase of global trade as a single-track forecast – ‘tariffs up’ or ‘tariffs down’. The more realistic framing is a set of operating environments defined by (a) how likely they are and (b) how disruptive they become for trade flows and investment timing. The post-ruling sequence – ruling, replacement tariff, rapid escalation – is precisely what makes volatility the primary variable, even before we debate the long-run tariff level.



Scenario 1: Whipsaw Patchwork (base case): Tariffs persist, the mechanism rotates

This is the most plausible near-term environment: IEEPA remains closed, but tariffs persist through rotating tools and time-limited measures, with scope for escalation and de-escalation by route rather than by a single coherent framework. The 10% then 15% sequence is a clear signal that policy can move quickly even after legal constraint.

CRE Implications: demand remains, but it becomes more distributed and more cautious. Occupiers favour phased commitments, multi-node logistics, and leases structured around optionality.

Scenario 2: Codification: Stability through legislation (not necessarily lower tariffs)

Codification would not automatically reduce tariffs – but it would reduce procedural volatility by clarifying authority and lengthening time horizons. Businesses can plan around stable (even elevated) tariffs; they struggle to plan around fast-changing tariffs. The value here is not ‘cheaper trade’ but more bankable assumptions.

CRE Implications: longer-date commitments re-enter selectively – particularly build-to-suit and strategic-sector investments – because confidence returns that the framework will still exist when projects deliver.

Scenario 3: Stabilisation: Predictability via deals and reaffirmed commitments

In this scenario, partners push to preserve predictability through reaffirmed agreements and clearer commitments. The existence of pauses and demands for clarity suggests this pathway is possible but fragile – dependent on political alignment and credible enforcement.

CRE Implications: optimisation gradually returns, but redundancy does not disappear. Networks become more efficient, yet contingency capacity remains embedded as insurance.

Scenario 4: Refund Drag: Legal and administrative uncertainty becomes the disruption

Refund and enforcement ambiguity can become disruptive in its own right. The Court left refund pathways unresolved, and legal analysis warns of complex processes for importers. That administrative uncertainty can suppress capex even if headline tariffs don't rise further.

CRE Implications: Greenfield hesitation persists; flexible warehousing and buffer capacity remain in demand as firms keep inventory and routing options on standby.

What CRE Leaders Should Do Now



The lesson of the past few weeks is not that tariffs are back – they never really left – but that policy volatility has accelerated again. The Supreme Court ruling briefly suggested a calmer operating environment; the rapid 10% then 15% tariff reset demonstrated how quickly that calm can be punctured. In this context, the role of corporate real estate shifts decisively: from optimising space for a single forecast to designing portfolios that can keep operating across several plausible futures. The actions below reflect this shift.

- **Treat trade volatility as a portfolio design input, not a macro backdrop**

Trade policy can no longer sit outside CRE decision-making as a ‘macro assumption’. Tariff mechanisms, legal pathways, and enforcement timelines now directly shape the risk profile of locations, lease lengths, and capital commitments. CRE leaders should ensure that trade exposure is explicitly referenced in investment papers, site selection frameworks, and approval thresholds – alongside labour, cost, and demand fundamentals. When volatility is structural, ignoring it is no longer neutral; it is a design choice.

- **Identify and stress-test single points of failure in the footprint**

Many portfolios still carry hidden concentration risk: a single country for a critical input, one dominant gateway, or one oversized hub serving multiple regions. Whipsaw policy environments expose these vulnerabilities quickly. CRE leaders should work with supply chain and procurement teams to map where the physical footprint is overly dependent on one corridor or jurisdiction – and, critically, what it would cost (in time and money) to reroute if conditions changed again.

- **Buy option value deliberately – and price it consciously**

In volatile environments, flexibility is not a concession, it is an asset. Expansion rights, contraction options, break clauses, renewal control, and phased delivery structures all create option value that allows portfolios to adjust without wholesale disruption. The key is intentionality: understanding where optionality genuinely reduces risk, and where it may be unnecessarily expensive. The question is no longer ‘can we commit for longer?’ but ‘what is the cost of being wrong if we do?’.

Where trade exposure is meaningful, phased strategies consistently outperform one-shot decisions. Modular buildings, staged build-to-suit, and sites with adjacent expansion capacity allow occupiers to respond to policy shifts without rewriting the entire footprint. This is particularly relevant for manufacturing-adjacent real estate, where long-lead investments are hardest to unwind once conditions change.

- **Strengthen redundancy through network design, not excess space**

Resilience does not require carrying large amounts of idle space everywhere. It requires choice. More nodes – not just bigger nodes – reduce dependence on any single trade route or policy outcome. CRE leaders should prioritise locations that offer routing flexibility (multiple gateways, intermodal access, alternative corridors), even if that means slightly higher operating costs. In volatile systems, choice consistently outperforms efficiency.

- **Bias location strategy toward infrastructure certainty**

When policy is unstable, execution risk rises. Locations with dependable power, data capacity, transport redundancy, and predictable permitting timelines become disproportionately valuable because they shorten time-to-operate if plans need to shift. Infrastructure certainty is longer just an engineering consideration; it is a strategic hedge against policy disruption.

- **Build a rolling scenario cadence tied to real decisions**

Scenario planning only adds value if it is connected to action. CRE leaders should maintain a small number of live scenarios – refreshed quarterly – that explicitly define what triggers a pause, a relocation, a lease release, or the activation of swing capacity. The objective is not to predict outcomes, but to reduce decision latency when conditions change.

- **Maintain an activation list of swing capacity**

Short-term warehousing, flexible industrial space, and secondary sites are no longer tactical conveniences; they are operational insurance. Having pre-approved locations, landlords, and terms for swing capacity allows organisations to respond quickly to policy spikes without scrambling in the market. The value lies as much in preparedness as in the space itself.

- **Align CRE, supply chain, and procurement governance**

The most resilient organisations treat real estate, supply chain, and procurement as a single system. CRE decisions made in isolation risk locking in exposure that other functions are actively trying to unwind. Alignment ensures that location strategy reflects real trade risk, not just market availability or historical precedent.

We like questions; if you've got one about our research,
or would like some property advice, we would love to hear from you.



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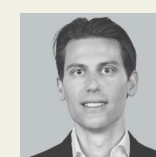
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