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Supply Chain Contract Renewals – An Opportunity Missed?

Your supply chain contract is up for renewal—either automatically or because you’ve been given a renewal notice or not received a termination notice. Typically, without much thought, many manufacturers, suppliers and their customers allow the contract renewal to occur without giving any consideration to its provisions and their operation vis-à-vis today’s economic conditions. What was a satisfactory contract three to five years ago may not (probably does not) provide adequate protections today. Therefore, the contract renewal provides parties with the opportunity to renegotiate/fine-tune the contract to address today’s market conditions.

Chances are that when your contract was originally entered, it did not specifically address the adverse supply chain issues caused by events like Covid-19 or the recent tariff hikes and supply uncertainty—which can cause performance delays, increased costs and possibly make performance of the contract impossible. With hindsight, you may think that the “force majeure” section of your supply chain contract and the legal doctrines of “impossibility/impracticability” provide you with protections against the foregoing adverse consequences. However, that is not always the case, and whether you are protected will depend on the specific provisions in your contract. Economic hardship and decreased profitability alone will not excuse you from performing the contract.

For this reason, when your supply chain contract is up for renewal, you should review and renegotiate the following provisions, among others:

- **Force majeure:** To the list of acts that trigger a force majeure event, you should add specific references to tariff impositions, trade restrictions (by governmental action or otherwise), increased duties, port closures, cyberattacks and any other specific events that might cause you supply chain disruptions.

- **Pricing:** Build in price adjustments to be triggered by tariff cost increases, increased transportation costs, raw material increases and inflation. Specifically state how the cost adjustments will be allocated between the parties and have a collar (thresholds and caps) beyond which adjustments will be made. Determine how frequently the pricing should be adjusted.
- **Termination:** Make certain that the above revisions and any other agreed-upon events cause the parties to renegotiate the contract so that an equitable adjustment is reached and the supply chain arrangement can continue rather than triggering a termination of the contract.

Taking the time now to review and renegotiate provisions of your supply chain contract is time well spent. The parties will have an understanding regarding future events and how they will be handled should they arise. This will allow the continuation of a strong and mutually beneficial relationship. Don't miss this opportunity to ensure your supply chain contract provides adequate protections that will help your business stay resilient and able to adapt quickly to changing conditions in the global marketplace.

If you would like your supply chain contract reviewed, please contact the authors or any attorney with Frost Brown Todd's [Manufacturing Industry Team](#).

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