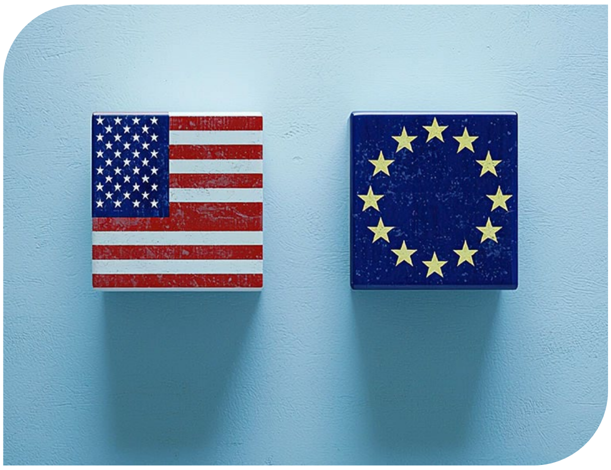
U.S. Tariffs and Transfer Pricing – Impacts and Required Actions for German Companies

Recent U.S. tariff increases pose new challenges for German companies, particularly for existing transfer pricing systems, which require critical review and potential adjustment.



U.S. Tightens Import Conditions
On April 3, 2025, the U.S. government announced the introduction of a base tariff of 10 % and a supplementary tariff of 20 % on all imports, including those from Europe and Germany. For EU exporters, this means a 10 % base tariff on all imports from April 5, 2025, and a 20 % supplementary tariff on all EU imports from April 9, 2025. These tariffs were suspended on the same day for a period of 90 days.

European Union's Response
The European Union reacted to the new U.S. import tariffs with countermeasures. From mid-April 2025, new tariffs on industrial goods such as steel and aluminum were to be introduced.

However, in response to the U.S. postponement of its countertariffs by 90 days, the EU also suspended its measures, effective April 15, 2025, to help resolve the dispute.

General Impacts
The tariffs may have both direct and indirect tax, business, and strategic consequences.

Since both the U.S. and the EU have tightened import regulations, not only German companies but also domestic distribution entities with U.S. parent companies are affected.

Potential Impacts on Transfer Pricing Structures
The implementation of U.S. import tariffs and the EU's countermeasures significantly impact the transfer pricing structures of multinational companies – especially German companies with intragroup transactions between Germany and the U.S.:

- **Changes in Transaction Costs:**
  Increased import costs due to tariffs change the cost structure of cross-border transactions. For cost-based transfer pricing models (e.g., cost-plus method), transfer prices automatically increase, which can impact the arm's length justification.

- **Adjustment of Profit Margins:**
  Tariffs may reduce profit margins or result in losses – particularly for routine entities in the U.S. or Germany. A sales channel that must achieve a specific target margin may fail to do so due to higher transfer prices (including tariffs). Likewise, a German company may be affected if it cannot pass on the additional costs.
- **Adjustment of Functional and Risk Profiles:**
  Companies may need to shift risks or functions to better align with new conditions, directly impacting the functional and risk analysis in transfer pricing documentation. Function relocations could also trigger significant tax consequences.

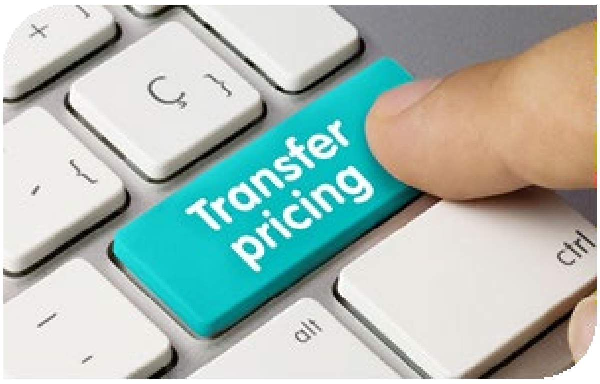
Further indirect effects may include:

- **Changes in the Value Chain:**
  Tariffs may lead to supply chain reorganization, affecting the allocation of functions, risks, and assets. This may require a reevaluation of transaction comparability.
- **Increased Complexity in Benchmarking Analyses:**
  Benchmarking studies may need to be adjusted or refined to account for tariff-related costs, potentially requiring new segmentations or refinements.
- **Risk of Double Taxation:**
  Discrepancies between customs valuation and transfer pricing can increase audit risks in both jurisdictions, raising the threat of additional customs duties or tax payments.

Impacts on Advance Pricing Agreements (APAs):
Existing APAs must be reviewed for validity under the new economic conditions. Renegotiations may be required.

Advisory Solutions to Avoid or Minimize Transfer Pricing Impacts
We recommend strategic transfer pricing adjustments, including a health check of the transfer pricing methods used to better control external cost influences (like tariffs). Margins should also be reviewed to isolate tariff-induced distortions.

Additionally, transfer pricing documentation should be updated accordingly, and the exceptional transaction must be documented in line with Section 90 (4) of the German Fiscal Code (AO) within the required deadlines.



Conclusion and Recommendations
Internationally active companies with intra-group business involving the U.S. should prioritize:

- **Comprehensive Risk Analysis:**
  Tariffs, taxes, transfer pricing, and supply chain considerations should be assessed together.
- **Adjustment of Transfer Pricing Logic:**
  Methods, margins, and benchmarks should be examined for tariff-induced distortions.
- **Operational Flexibility:**
  Opportunities to bypass or reduce tariffs through supply chain management should be explored.
- **Enhanced Documentation Compliance:**
  Customs and tax documentation should be reviewed and harmonized where necessary.
- **Early Engagement and Dialogue with Authorities**:
  Proactive discussions with authorities can help prevent conflicts and double taxation.

Do you have any questions on this topic?

Do you need support? Please contact our customs and transfer pricing experts Henning Straeter and Hartmut-Wolfgang Strecka. They will be pleased to explain our services to you.

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