



US Tariffs: The EU Perspective

Turning tensions into business opportunities

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Following his inauguration on January 20, President Donald Trump signaled his intentions regarding trade policy by stating, “I always say ‘tariffs’ is the most beautiful word to me in the dictionary.”¹ The Trump administration promptly took action with executive orders, leading to significant tariff measures between, among others, the United States and the European Union (EU).

In a nutshell, the US imposed tariffs on aluminum, steel, cars, and car parts followed by the announcement on April 2 of a twenty percent reciprocal tariff on all products originating in the EU. The latter duty was suspended for ninety days pending negotiations, even as the ten percent universal baseline tariff for goods originating in the EU remained in place. Meanwhile, the EU introduced countermeasures and reinstated previously suspended tariffs. Also, the EU subsequently suspended all measures on US products until July 14.² In the meantime the EU launched consultations within the EU regarding a potential additional €95 billion in duties to be collected on US imports. The EU and US struck a deal on July 27 and then solidified that deal on August 21, with the nonbinding ‘Framework on an Agreement

on Reciprocal, Fair, and Balanced Trade.’ The deal sets, among others, a new US baseline tariff of 15% for goods originating in the EU with exemptions for certain products such as aircraft parts, with the provision that the EU would provide certain goods originating in the US with duty exemptions.³ With this deal, it is said that further escalation of the trade tensions between the EU and US has been prevented. However, the deal is a political statement, the details are not fully clear, and the deal still needs further approval in the EU. Moreover, the EU has adopted a regulation on commercial rebalancing measures,⁴ the application of which is currently suspended. This suspension, however, can be lifted rather quickly in case the EU considers retaliation against the US necessary.⁵

The United States and the EU are major trade partners, and the tariff measures could have a strong impact on trade between them. Tariffs are disrupting supply chains and business operations across the United States and the EU, creating an uncertain trade environment. However, with strategic planning, businesses may be able to navigate some or all of these challenges. The next sections outline key considerations for business from the perspective of EU customs law. However, since European customs principles align with globally recognized standards set by the World Customs Organization and the World Trade Organization, the following considerations can also be relevant in a broader international context.

Map Your Business’ Supply Chain

Businesses can map their supply chains to gain an overview of where their key customers and suppliers are located to assess the impact of proposed or imposed tariff measures. It is important to consider the country from which parts and materials are sourced, the production or assembly location, and the location where the product is ultimately sold. Businesses can review contracts to clarify cost burdens and potentially revise Incoterms. While tariff measures are suspended, strategic stockpiling could be a viable option to consider.

Identify Products Subject to Tariffs Using Commodity Codes

Tariff measures are applied to products through the use of commodity codes (such as HS codes and CN codes). The purpose of commodity codes is to classify products for customs and taxation purposes. This commodity code must be mentioned on the customs declaration upon import and export. In practice, tariff

classification can be a rather subjective undertaking, with different interpretations possibly resulting in misclassification and litigation.

For instance, case law of the Court of Justice of the European Union (CJEU) has determined that a product qualifies as a part of another product only if it is crucial to the (mechanical or electrical) functioning of the whole product.⁶ Thus the CJEU does not consider nets for making pockets mounted behind car seats and car seat protectors as seat parts for motor vehicles, since they are not essential for the seat to fulfill its function.⁷

Businesses should assess whether products in their supply chain fall under commodity codes impacted by increased tariff rates, product-specific exemptions, and/or non-application of duties and then confirm the correctness of these codes. The potential exists that products are currently misclassified, but if classified correctly they may no longer fall within the scope of the relevant measure.

Impact of Origin of Products

The additional tariff measures, exemptions, and potential retaliation measures apply only to goods originating in the EU or US.

The main rule for determining non-preferential origin in the EU is that a product whose production involves more than one country originates in the country where it underwent its last substantial, economically justified processing or work in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture.⁸ Generally speaking, this means that for a product to originate in a certain country, for example the United States, certain value must be added in the United States and/or production in the United States leads to a change in the four-digit tariff heading code, such as when bamboo (heading 1401) is used to make a bamboo seat (heading 9401). The recent CJEU case *Harley Davidson Europe Ltd.* established that if production is relocated primarily to avoid tariff measures, it does not qualify as economically justified.⁹ Should the EU adopt retaliation measures, businesses are responsible for demonstrating that the primary and dominant objective of relocating production was driven by factors other than the tariff measures. In such cases the major portion rule is applied, which means in essence that the origin of the product is assigned to the country where the materials with the highest value were sourced.

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EU Special Procedures

Unlike the United States, the EU does not use a duty drawback system; rather, the EU has special procedures to suspend customs duties. A customs (bonded) warehouse allows products from outside the EU to be stored in the EU while the customs duties and taxes are suspended. Inward processing relief, one of these special procedures, allows for the manufacturing of products in the EU using products from outside the EU under the suspension of duties. If the manufactured products are reexported from the EU under such a special procedure, no customs duties and taxes are due in the EU. Businesses need a license to use this special procedure and must meet certain administrative and internal control standards. Businesses can also use third-party logistics service providers.

These special procedures present strategic opportunities. However, businesses must be aware that placing products under a suspension scheme, such as a customs warehouse, does not necessarily change their country of origin, but doing so can mitigate businesses' having to pay customs duties in multiple countries.

Customs Value Considerations

Customs duties are calculated by applying the tariff to the customs value. Therefore, businesses could check whether their customs value is correct and whether there may be ways to reduce it. The main rule to determine the customs value is the transaction valuation method. In the United States, the customs value can be based on the "first sale for export" rule, whereas in the EU the

customs value is based on the so-called "last sale for export" rule. This means that in case of multiple sales, the transaction value of goods sold for export to the EU shall be determined at the time of acceptance of the customs declaration based on the sale occurring immediately before the products were brought into the EU. The transaction value must be adjusted by certain elements for customs valuation purposes. For example, transport costs to the EU border should be added if they are not included in the transaction value, whereas intra-EU transport costs can be omitted if they are included in the transaction value.

Though administratively complex, strategic adjustments can help reduce tariff impact by managing the customs value. If the buyer and seller are related, the transaction value of products used in intercompany trade is allowed only if it can be demonstrated that the relationship did not influence the price. Transfer pricing studies can be used to make that assessment.

Transfer Pricing

Transfer pricing (TP) plays a central role in allocating income among related entities for tax purposes and frequently serves as the basis for customs valuation in cross-border transactions. As global tariff regimes evolve, it is increasingly important for businesses to evaluate the interplay between TP and customs.

Managing the TP implications of tariffs is essential to mitigating the risks of double taxation and maintaining a defensible arm's-length profit allocation. A critical consideration is determining the appropriate party—whether the end customer or an entity within the multinational group—that should bear the burden of tariff costs. This determination must align with the underlying TP model and, in some cases, may require modifications to the applied TP.

To address these challenges, businesses can consider both short- and long-term strategies:

- *Short-term.* Review intercompany pricing to ensure it reflects arm's-length standards—also accounting for the impact of tariffs—and provides a reliable basis for customs valuation. Misalignment can lead to customs disputes or TP adjustments. This review should include an analysis to determine whether bundled transactions involving goods, services, intellectual property, and logistics warrant a separate TP analysis for each component. That said, pricing these components separately may not lead to a reduction in the customs value of

imported goods, since related payments may still be subject to inclusion under applicable customs regulations; and

- *Long-term.* Assess the group's supply chain and operating model, including the location of key functions, assets, and risks, to identify mitigation options. This may involve reevaluating principal structures, limited-risk distributors, or (local) ownership of intellectual property. Any material restructuring—such as the relocation of functions or assets—should be carefully assessed to manage potential exit tax liabilities and ensure compliance with applicable TP requirements.

By aligning TP policies with customs and trade considerations, businesses can make their global TP and supply chain strategies more resilient in an effort to mitigate the financial and operational impact of tariff developments.

Conclusion

Dealing with the customs authorities of EU member states involves significant risks, because EU customs legislation is very formal, making enforcement strict. Even minor actions can have serious consequences, as shown in the *Harley Davidson Europe Ltd.* case, where the CJEU found that relocating production to avoid tariffs was not economically justified, triggering liability for increased duties. To mitigate risks and strategically position themselves, businesses must carefully consider manufacturing decisions and supply chain strategies. Doing so will help them manage tariff costs and preserve trade efficiency. These decisions and strategies may also involve changes to, or have an impact on, the underlying TP framework, which necessitates careful consideration of the related TP consequences. Before implementing any proposed strategies, businesses should consult with tax advisors with a deep understanding of the relevant regulations, potential risks, and financial implications in cross-border trade. ♦

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Endnotes

- 1 Donald J. Trump, "Donald Trump Holds a Post-Inaugural Rally at Capitol One Arena" (speech, Washington, D.C., January 20, 2025), Roll Call, <https://rollcall.com/factbase/trump/transcript/donald-trump-speech-inauguration-executive-orders-capitol-one-arena-january-20-2025/>.
- 2 Commission Implementing Regulation (EU) No. 2025/786 of the European Commission of April 14, 2025, on suspending commercial rebalancing measures concerning certain products originating in the United States imposed by Implementing Regulation (EU) 2025/778 and amending Implementing Regulation (EU) 2023/2882, *Official Journal of the European Union*, EUR-Lex 14 April 2025.
- 3 See European Commission proposals COM(2025) 471 final and COM(2025) 472 final.
- 4 Commission Implementing Regulation (EU) 2025/1564 of July 24, 2025, on commercial rebalancing measures concerning certain products originating in the United States of America and certain products exported from the Union to the United States of America, and repealing Implementing Regulations (EU) 2018/724, (EU) 2018/886, (EU) 2020/502, and (EU) 2025/778.
- 5 This article was submitted for publication on September 10, 2025, and reflects the information available at that time. Please consult the Loyens & Loeff customs and international trade team for the latest updates on the trade and tariff measures.
- 6 C-600/15, *Staatssecretaris van Financiën v. Lemnis Lighting BV* [December 8, 2016], ECLI:EU:C:2016:937.
- 7 C-725/21, *Someo S.A., formerly Pearl Stream S.A. v. Republika Slovenija* [March 9, 2023], ECLI:EU:C:2023:194.
- 8 Also in the case of the non-application of duties and exemptions for certain products originating in the US via tariff rate quotas, the origin is (for now) established through non-preferential origin. See the proposals of the European Commission COM(2025) 471 final and COM(2025) 472 final.
- 9 C-297/23 P, *Harley-Davidson Europe Ltd. and Neovia Logistics Services International v. European Commission* [November 21, 2024], ECLI:EU:C:2024:971.