TradeWatch

EY Global Trade

Issue 1 2025

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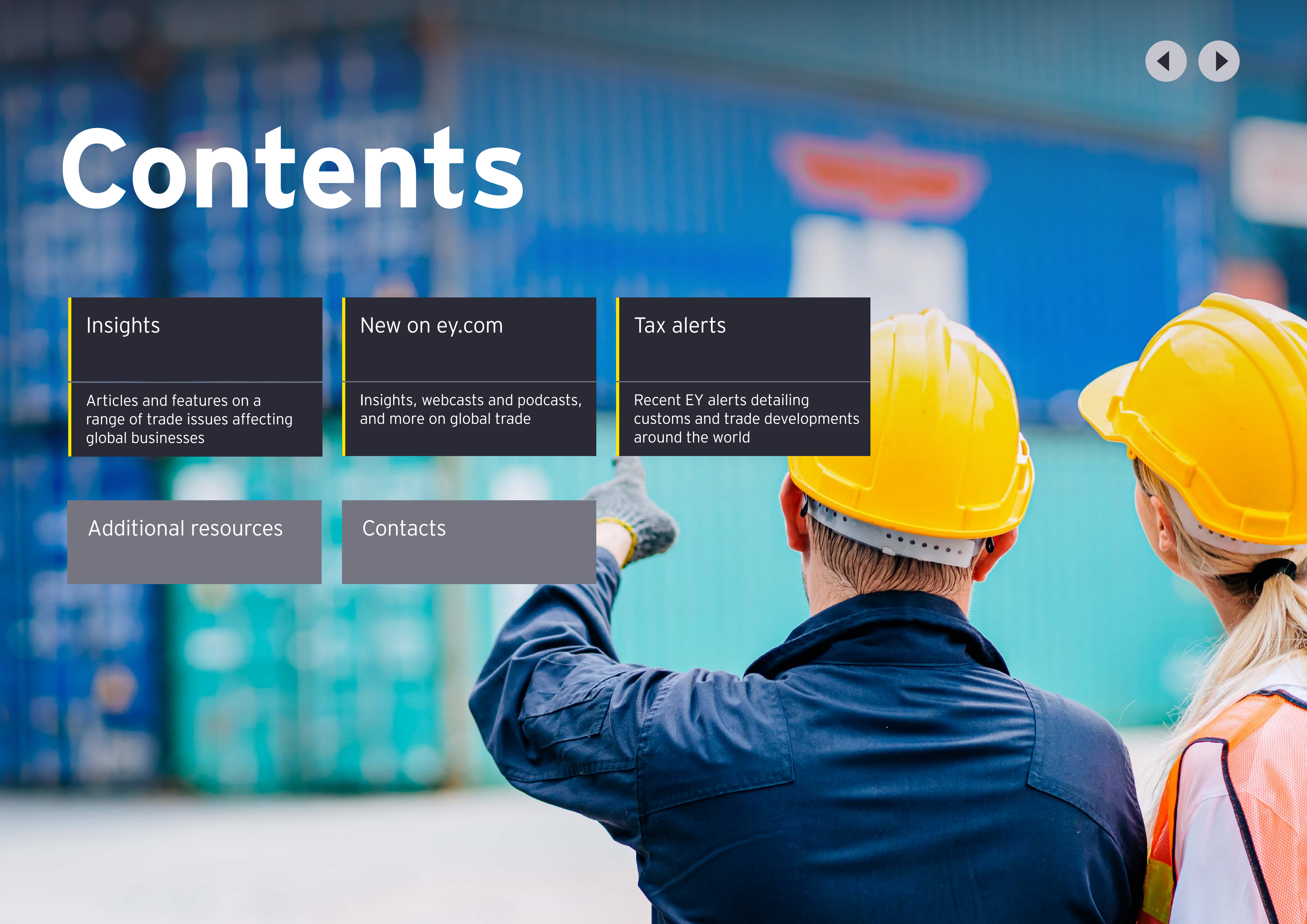

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Insights

Welcome to Issue 1 2025 of *TradeWatch*

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Welcome to Issue 1, 2025 of *TradeWatch*, the global EY organization's global trade magazine.

Even in the first few months of the year, it is evident that trade disruption is rising on the corporate agenda and that trade functions are becoming strategic business partners in many organizations. The ongoing effects of geopolitical upheaval on supply chains are a key driver in increasing the strategic role of trade professionals. But disruption is not the only trend that trade functions must stay abreast of – others that we feature in this issue include tax and customs reforms, customs valuation, managing customs audits and disputes, sustainability measures, and the changing role of the trade function itself.

Trade disruption

Disruption to global trade is coming from multiple sources. They include the rapid adoption of new technologies (such as blockchain, machine learning and artificial intelligence (AI)), global conflicts (such as those in Ukraine and the Middle East), and the actions and reactions resulting from changes in United States (US) trade policies following the inauguration of President Donald Trump on 20 January 2025.

This is not new – we have written about trade disruption frequently in recent years. What is changing is the amount and pace of change, with new measures being announced, modified, reacted to and even repealed within days or sometimes hours. This degree and pace of change is leading to increased uncertainty for businesses in all parts of the world as they try to understand the impact of the new measures and how to navigate them.

Throughout this issue of *TradeWatch*, we explore how these factors may affect trade globally and how multinational businesses may adapt to respond to this new era of disruption and uncertainty. We feature two detailed articles in our Global section: A turning point for global trade – the trade community at a crossroads in 2025 and How trade functions can address trade disruption. We also link to a recent article on this topic on ey.com – How tax and trade leaders can prepare for global tariff disruption. In addition, on page 6, we set out a timeline of the key US measures and responses from trade partners. We also look at some country-specific trade remedy measures in India: Evaluating the trade remedy landscape.

While trade protectionist measures arising from disruption feature heavily in this issue, the situation may be more nuanced. No doubt the exit of the United Kingdom (UK) from the European Union (EU) caused major disruption, but in this issue, we do also consider how using Northern Ireland as part of a global supply chain may provide possible trade benefits, given its unique status following Brexit.

Digital sovereignty

Trade disruption and protectionist policies do not just have an impact on trade in goods. One of the most significant ways in which geopolitical dynamics are accelerating is via digital policies. The rapid development and adoption of AI systems have accelerated the strategic importance of semiconductors, data and network infrastructure. As a result, digital sovereignty has become an increasingly important goal of governments around the world. In The impact of emerging digital sovereignty on global trade flows the authors explore the potential impact of upcoming protectionist measures covering cross-border data transfer on international trade flows.

Customs valuation

Customs valuation is another hot topic that we have dealt with in several recent issues of this magazine.[1] In this issue, we feature the final part of a three-part article looking at customs valuation and the interplay with transfer pricing in Transfer pricing and customs valuation – a conflict for eternity?

As tariffs increase, the importance of customs valuation for imported goods is only likely to increase, which is also likely to lead to customs authorities' increased scrutiny, increased fines and disputes that authorities do not agree with the values used. That customs authorities already consider valuation to be an important topic around the world is highlighted in these articles: Canada: New administrative review policy published for value reviews under the Special Import Measures Act, Japan: Annual report on post-entry customs; Saudi Arabia: Managing compliance – post-clearance audits and Vietnam: 2025 Inspection Program for customs.

Trade and sustainability

Trade professionals are increasingly tasked with responsibility for environmental, social and governance (ESG) compliance and reporting obligations. At the EY Indirect Tax Symposium event in 2024, more than 60% of the indirect tax and trade professionals polled said that ESG reporting is the responsibility of their department.

Carbon Border Adjustment Mechanisms (CBAMs) are among the most prominent ESG measures that affect imported goods.

On 26 February 2025, the European Commission released the first Omnibus simplification package, which aims to eliminate overlapping and disproportionate regulations in the drive toward a sustainable transition, enhanced competitiveness and simplified EU investment programs. It proposed changes to the CBAM, Corporate Sustainability Reporting Directive (CSRD), Corporate Sustainability Due Diligence Directive (CSDDD) and Taxonomy Regulation. The import threshold eliminates CBAM obligations for 90% of importers while covering 99% emissions.[2]

Any reduction in the administrative burden for businesses arising from ESG reporting is welcomed. However, it is important to note that the planned review of CBAM effectiveness measures may bring importers back into scope. Potential changes include increasing product categories (i.e., those covered under the EU Emissions Trading System), covering more downstream products of current product categories and the addition of new product categories. It is also important to remember that the EU's CBAM is not the only one – companies that may no longer have EU CBAM obligations may still be required to report and account for CBAMs imposed by other jurisdictions.

With CBAMs already in the EU and coming to the UK, more jurisdictions are looking to implement similar regimes. In Norway: On the way to implementing CBAM and EUDR the authors outline how Norway may implement a CBAM from January 2026, aligning with the second phase of the EU's CBAM. In Australia: Future border carbon adjustment recommended, the authors discuss the findings of Australia's Carbon Leakage Review that has found that a border carbon adjustment is an appropriate policy measure to address carbon leakage risks, with cement, lime, clinker, ammonia (and derivatives), steel and glass identified for priority inclusion within its initial scope.

Legislative developments impacting trade

We have discussed the implications of the major indirect tax reform happening in Brazil in previous editions of *TradeWatch*. In this issue, in Brazil: Tax reform – impacts and challenges for foreign trade we update our coverage based on the most recent legislative developments. Businesses need to understand and plan now for the impact of these reforms on their operations, not only for the period after the reform measures are in place but, crucially, also for the transitional period for implementation.

1 The earlier articles in this series are available in *TradeWatch* Issue 1 2024, page 14 and *TradeWatch* Issue 2 2024, page 12.

2 European Commission releases Omnibus Package I proposal to simplify EU Carbon Border Adjustment Mechanism regulation, 3 March 2025. Find it here

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We also provide updates on Canada's preferential tariff programs, Japan's revised export control regulations, the adoption of the EU regulation that bans products made with forced labor, and the most important changes proposed as part of the EU customs reform and provide an outlook on the next steps in the legislative process.

Trade function transformation

In the final article in our series "Transforming trade functions," we consider how the trade function can adapt to deal with an increase in trade disruption. This *TradeWatch* series is complemented by our article on ey.com How to future-proof the global trade function. It explores how disruptive forces are transforming the trade function in multinational organizations and how it can adapt to thrive in this volatile environment.

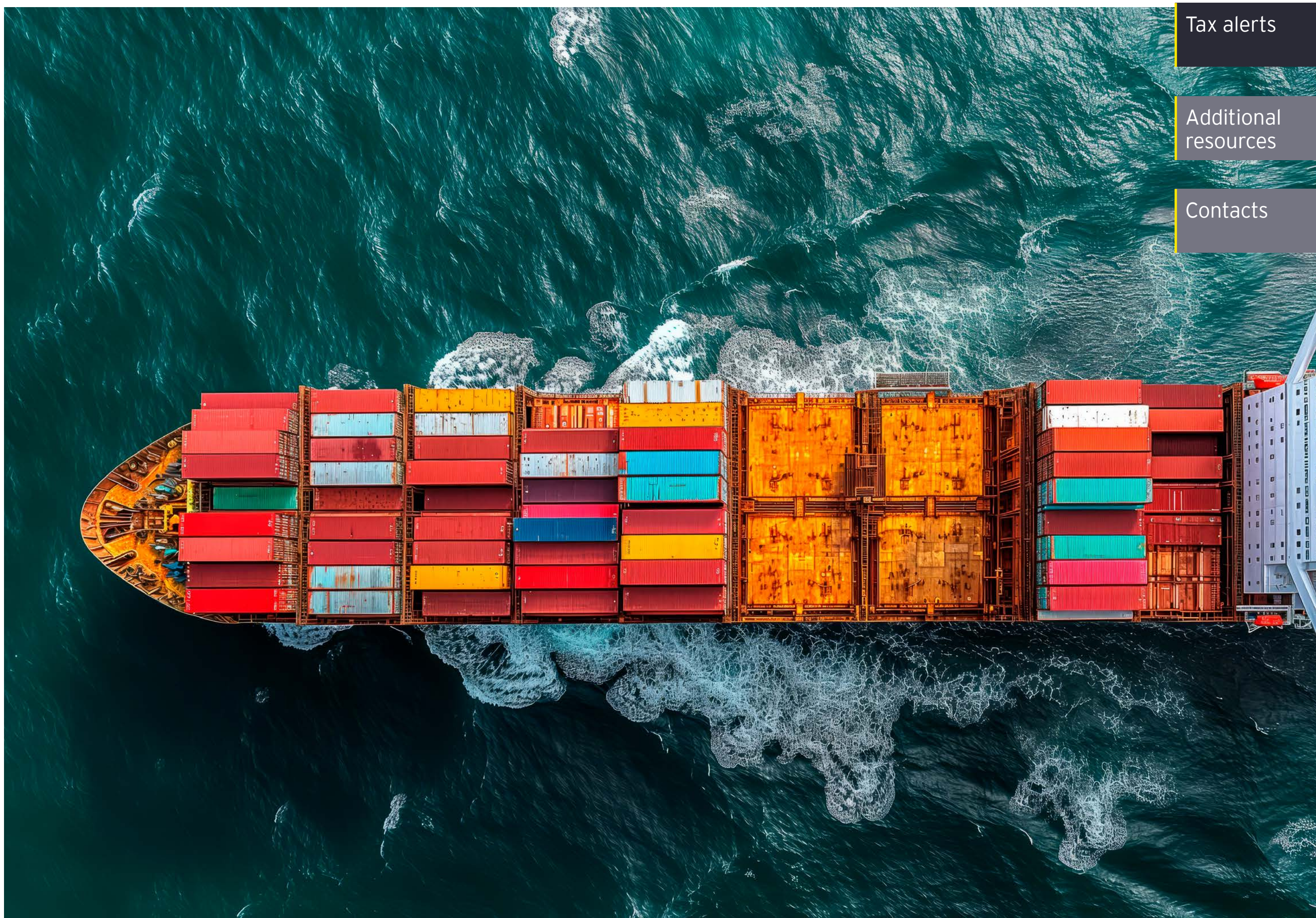
Keeping up to date with developments in trade

We hope you enjoy this edition of *TradeWatch*. We aim to reflect the key trends affecting international businesses and provide news and insights you can use to inform your trade strategy and improve your trade operations.

EY Global Trade and Tax professionals have already conducted webcasts on the new era of supply chain disruption arising from the US tariffs and trade investigations . We will also be exploring many of these topics in depth at the upcoming EY Indirect Tax Symposium in Madrid from 21 to 23 May 2025 and in future webcasts. You can subscribe to future webcasts and access replays of past webcasts via the Global Trade page on ey.com.

You can also keep up-to-date with developments in global trade by subscribing to EY Tax Alerts and to future editions of our TradeWatch and TradeFlash publications by visiting ey.com/global trade.

If you would like more information on any of the topics covered in this issue or how they may impact your business, please reach out to the authors listed with the articles or any of the EY Global Trade professionals listed in the contacts section of the magazine. We also welcome your feedback and suggestions for future editions.



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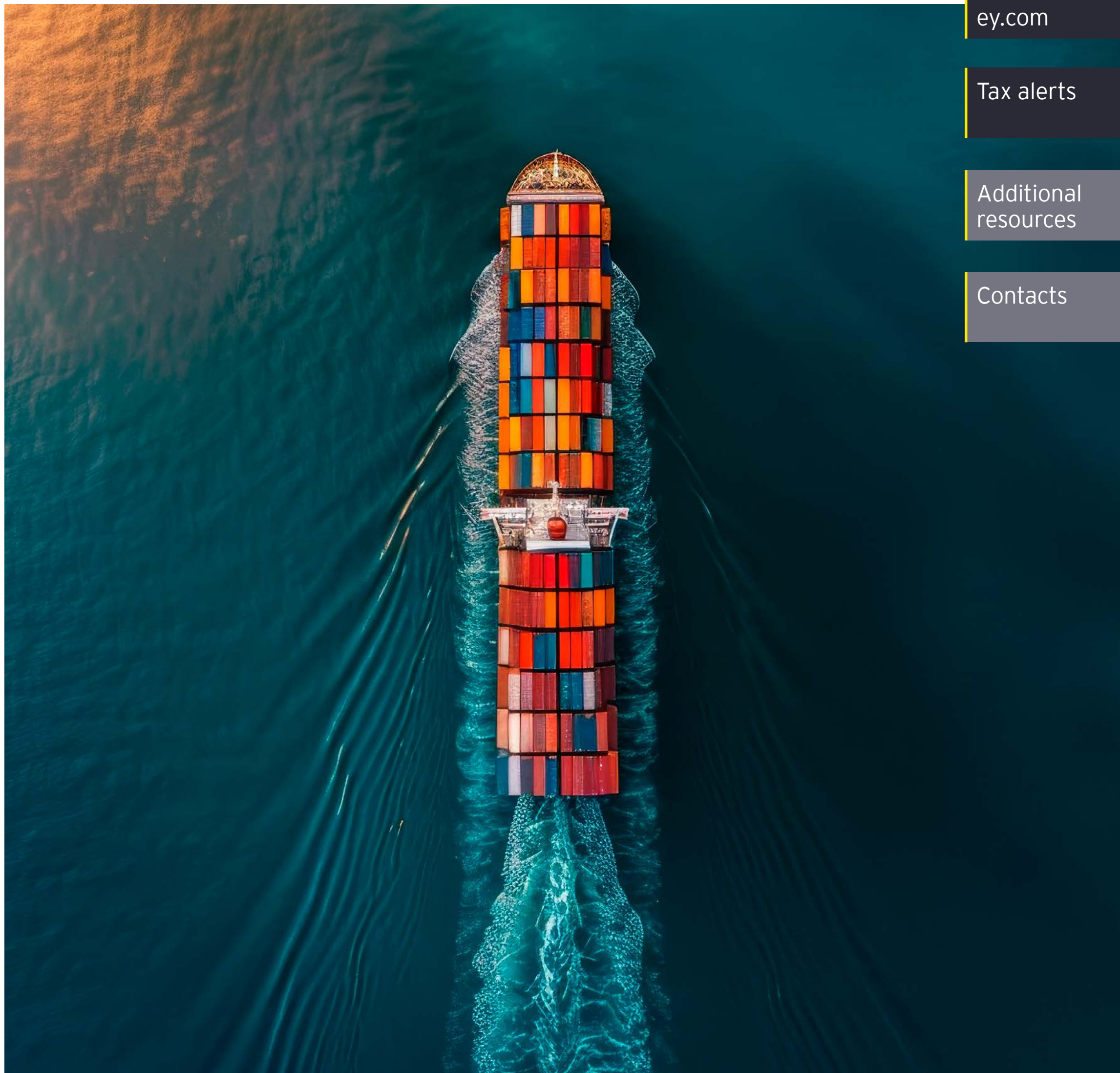
A turning point for global trade – the trade community at a crossroads in 2025

2025 began with a whirlwind of activity for the global trade community, primarily driven by the significant shift in the foreign trade policy of the United States (US). That new policy includes the imposition of new and increased tariffs on imports from long-standing trade partners and on products such as steel and aluminium. Details of the tariffs and the retaliatory measures from the US' trading partners are summarized on 'US tariffs: timeline of major actions as at 15 April 2025' on page 6 of this publication.[1]



Local tensions vs. global shifts

One possible explanation for the current shift in the US' foreign trade policy may be responding to domestic issues, such as the loss of jobs in manufacturing when production of goods has moved from the US to other locations. President Trump has also cited national security concerns and the need to raise government revenues.

But is this the whole picture? While tensions within the US may have driven these policy changes, they may also reflect broader global shifts in trade dynamics. These measures and countermeasures may signal the reconsideration of the current international economic model of free trade. This model has dominated the global economy for decades, but while some nations received many benefits from free trade agreements, others have faced challenges with trade deficits and the erosion of their industrial bases.[2]

The future of free trade

1 The content of this publication may not reflect the most current developments in regulatory changes. As this is a fast-moving situation, the information provided is correct as of 15 April 2025. We encourage readers to consult official sources or seek professional advice for the latest updates and guidance. Read more on our tax alerts.

2 For detailed discussions on the advantages and disadvantages of free trade, see for example, "6 Pros and Cons of Globalization in Business to Consider", *Harvard Business School website*. Find it here and "Trade has been a powerful driver of economic development and poverty reduction", *World Bank Group website*, 12 February 2023. Find it here

As we move forward in 2025, the future of free trade remains uncertain. Will this year be remembered as the beginning of the decline of free trade, or will it mark a revival of these principles on new and different bases? The answer to this question will undoubtedly shape the global economic landscape for years to come.

Case for decline

There are several reasons to believe that 2025 could mark the further decline of free trade. The increasing protectionist measures – not just from the US but also from other nations,[3] suggest a growing disillusionment with the current trade system, which, at times of economic turbulence, is tested more acutely. Will countries begin to prioritize their own economic stability over global trade partnerships, leading to a fragmentation of the international economic order?

The geopolitical tensions could push countries further toward protectionism. As nations strive to maintain their economic sovereignty, the collaborative spirit that once drove free trade agreements may wane, giving way to a more competitive and insular global economy.

Case for revival

On the other hand, this period of turmoil could also be an opportunity for the revival of free trade on new bases that address the challenges economies face when fostering free trade and among unlikely partners. The challenges and criticisms of the current system could drive nations to come together and renegotiate trade agreements that are more equitable and sustainable. By addressing flaws in the existing model, countries could foster a renewed commitment to free trade that better serves the interests of all parties involved.

Technological advancements and innovations in global supply chains could facilitate a more balanced and efficient trade system. Creating a tool through the use of technology whereby trade balances, the impact on industries, and other key trade indicators are constantly monitored to inform a preference dynamic review process, could be a development to avoid inequity in trade. By leveraging these developments, nations could enhance their economic cooperation and more broadly distribute the benefits of free trade.

The last few months have witnessed a surge in talks about new free trade relations that had been long stalled (e.g., EU-Mercosur[4] and ASEAN).

Conclusion

As the trade community navigates the complexities of 2025, only time will tell whether it will be marked as the year of the decline of free trade or the year of its revival on different bases. The new US tariffs have set the stage for a pivotal moment in global trade. The actions taken by jurisdictions in response to these tariffs will not only determine the direction of the international economic order but also shape the future of global commerce.

In the coming months and years, the trade community will undoubtedly face numerous challenges and opportunities. By critically examining the motivations behind these tariffs and exploring potential pathways forward, we can better understand the evolving dynamics of global trade and work toward a more balanced and prosperous economic future for all. ■

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3 Mexico announced an increase in tariffs on textiles and apparel imports, raising the import duties up to 35%. This measure, effective from 20 December 2024 until 23 April 2026, aims to tackle unfair competition affecting Mexico's textile and apparel industry. The increased tariffs apply to 138 tariff lines for garment products and 17 tariff lines for textile products see "Mexico to impose new protective tariff on finished textile imports" *Mexico News Daily website*, 19 December 2024. Find it here

4 For further details, please refer to our article "Mercosur-EU agreement amid global trade tensions," on page 13.

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US tariffs: timeline of major actions as at 15 April 2025

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Read more on our tax alerts.

20 January 2025
United States President signs 'America First Trade Policy' and calls for cross-agency investigation of trade deficits, unfair trading practices, currency manipulation, de minimis exemption for low-value imports, tariff regime/exemptions, with reviews and recommendations due by 1 April 2025.

01 February 2025
25% tariffs on Mexican, Canadian imports (10% for Canada energy resources) announced, then delayed for one month.

04 February 2025
- US enacted 10% tariffs on all imports from China, additive to existing tariffs.
- China imposed retaliatory tariffs on USD14 billion of US exports in addition to non-tariff retaliatory measures.

13 February 2025
US initiated review to determine reciprocal tariffs on all trading partners.

21 February 2025
US initiated review of other jurisdiction's imposition of Digital Services Taxes on US companies and opened comment period on nonreciprocal trade arrangements.

25 February 2025
US initiated investigation into imports of copper, scrap copper and copper derivatives.

01 March 2025
US initiated investigation into the impact of imports of timber, lumber and their derivative products imports.

04 March 2025
- Additional 10% tariffs enacted on all imports from China.
- China retaliated with tariffs on many agricultural products, as well as non-tariff retaliatory measures.

06 March 2025
- US enacted 25% tariffs on imports from Canada and Mexico that do not qualify for preferential treatment under the USMCA agreement.
- Canada retaliated with tariffs on CAD30 billion of U.S. exports including agriculture and consumer goods.

12 March 2025
- US enacted 25% tariffs on steel and aluminum imports.
- Canada imposed retaliatory tariffs.
- EU proposed and then delayed retaliatory action until after 2 April reciprocal tariff start date.

24 March 2025
US President signed an Executive Order opening the door to 25% tariffs on all countries that import oil from Venezuela as soon as 2 April 2025.

02 April 2025
President Trump announces the details of his Reciprocal Tariff Policy, including imposing 10% universal tariffs on imported products from all countries and an additional country-specific ad valorem tariff rate on certain countries.

05 April 2025
The 10% tariffs announced by the US on 2 April 2025 generally apply.

08 April 2025
EU announced 25% duties on a wide range of US goods, effective 15 April 2025 (subsequently delayed by 90 days).

09 April 2025
- US President announced a 90-day pause on much of his Reciprocal Tariff Policy, except for China.
- US President reacted to Chinese countermeasures by increasing US tariffs on China from 34% to 84% and then to 125%.

11 April 2025
US exempted certain electronics, including smartphones, laptops, goods used in semiconductor manufacturing, and other products from the 125% tariff rate applied to imports from China and the 10% broad-based tariff rate recently enacted.

14 April 2025
- US administration unveiled trade investigations into pharmaceutical and semiconductor imports.
- The Brazilian government officially enacted a bill, empowering the government to implement countermeasures against countries imposing retaliatory measures on Brazilian products.

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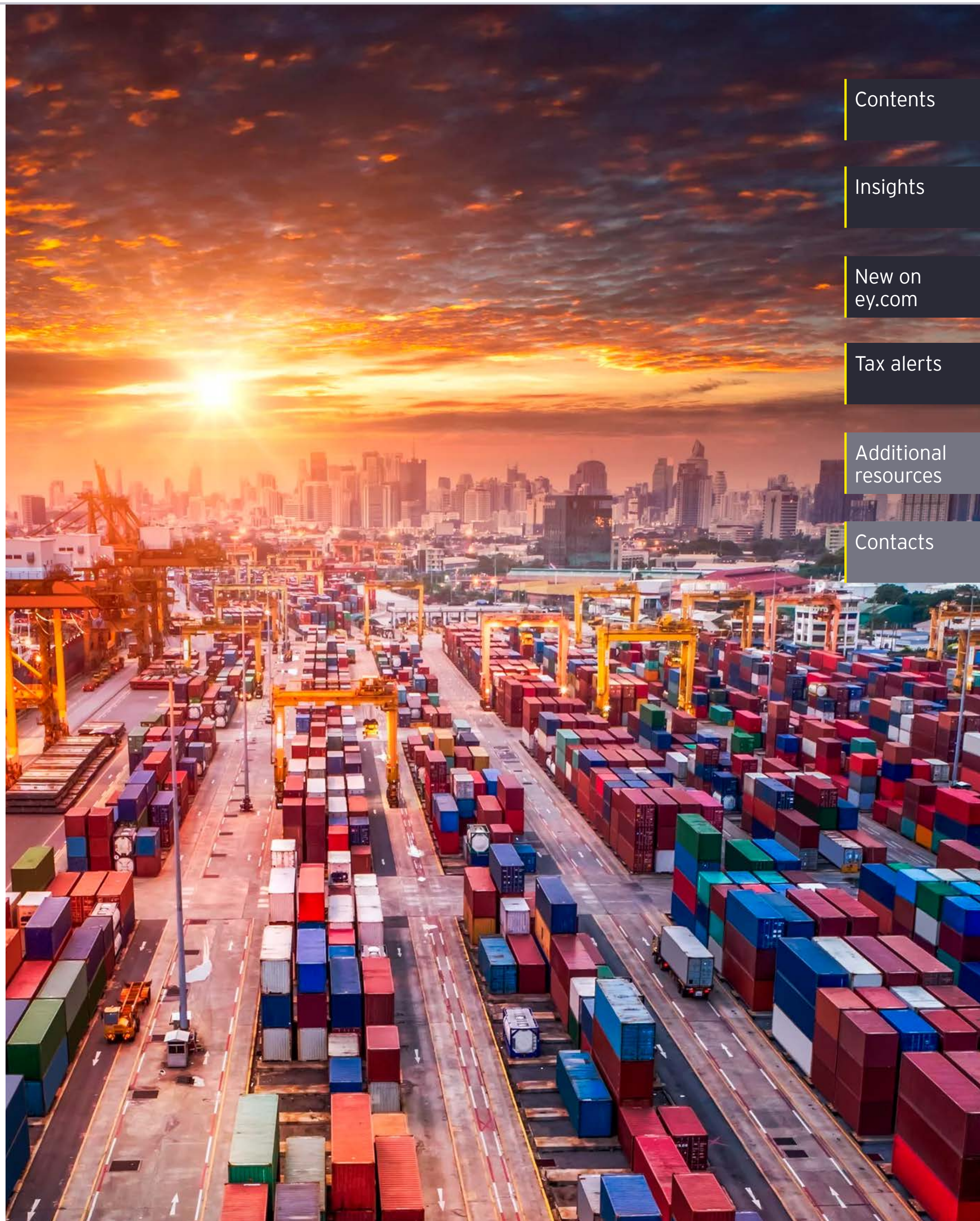
How tax and trade leaders can prepare for global tariff disruption

US tariffs could reshape cross-border trade, driving tax teams to adapt strategies for lasting resilience and opportunity.

In brief

- Fresh US tariffs raise geopolitical risk, pushing tax teams to adopt agile, cross-functional trade planning for resilience.
- No-regret actions like scenario modeling, nearshoring and tech integration help leaders control costs and meet evolving regulatory demands.
- Aligning ESG goals with strategic sourcing fosters compliance, reduces exposure and unlocks new growth in a fast-shifting global environment.

Click here to find out more.



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How trade functions can address trade disruption

In previous editions of *TradeWatch*, we have discussed the changing role of the trade function. We have covered trade automation, the importance of businesses with physical supply chains to think strategically about the future of their trade functions, how to re-evaluate and transform the trade function to better cope with the challenges posed both by external and internal factors, and more.[1]

In recent months, the world of trade has seen a further shake-up from tariffs imposed by US President Trump's administration (US tariffs) via a series of executive orders and presidential memos, as well as reactions from the targeted jurisdictions with retaliatory measures. Details of the tariffs and the retaliatory measures from the US' trading partners are summarized on 'US tariffs: timeline of major actions as at 15 April 2025' on page 6 of this publication.[2]

It is impossible to predict the scope of future tariffs, their longevity, and the nature and degree of countermeasures. Despite the inherent uncertainty, one thing is certain: The recent events around US tariffs have already pushed the topic of trade to the forefront of politics, media and business realities.

Many trade function executives have already heard from their C-suite, "What does this mean for us? What can we do?" The impact on organizations could be significant. While many trade executives are playing a vital role in responding to the new tariffs, they cannot ignore their business-as-usual tasks while dealing with this change. Therefore, in many ways, the US tariffs have demonstrated the importance of having a well-organized strategic trade function.

In this final article in our series "Transforming trade functions," we consider how the trade function may be affected by trade disruption and how it can adapt to deal with an increase in trade disruption.

1 "'Future-proofing' the customs and trade function," *TradeWatch* Issue 2 2023, page 5; "Effective outsourcing for global trade functions – strategies and considerations," *TradeWatch* Issue 2 2024, page 4; "Transforming customs and trade functions: how trade technologies and automation can release potential," *TradeWatch* Issue 1 2024, page 6.

2 The content of this publication may not reflect the most current developments in regulatory changes. As this is a fast-moving situation, the information provided is correct as of 15 April 2025. We encourage readers to consult official sources or seek professional advice for the latest updates and guidance. Read more on our tax alerts.

Have US tariffs changed our recommendations to executives of trade functions?

Absolutely not. In fact, the recent US tariffs were preceded by several geopolitical events that had already created widespread trade disruption –the United Kingdom (UK) leaving the European Union (EU) (Brexit), the COVID-19 pandemic, the trade disputes arising from measures taken during President Trump's first administration, the Russia-Ukraine conflict and other global conflicts. Each of these events created complex customs and trade implications and led to increased complication of trade regulations and technicalities. They also contributed to the evolution of the roles that trade functions play in their organizations. Brexit made many businesses aware that each customs declaration is similar to a tax return, and they are submitting hundreds or even thousands of them every day. The Russia-Ukraine conflict showed that trade restrictions can be put in place overnight, and there could be criminal consequences because of an incorrect shipment.

Expectations from senior stakeholders have also evolved. Trade functions have moved from being a compliance back office to receiving questions directly from the C-suite on US tariffs and participating in strategic business decisions.

We have previously discussed that the objectives of trade functions can cover one or more of these responsibilities:

- Operational compliance
- Tactical planning
- Strategic business partnering

These geopolitical events are accelerating the need for trade functions to address tactical considerations, and especially strategic business partnering, while keeping operational compliance under control.

What challenges and opportunities do the new US tariffs present to trade functions?

From talking to our clients, we see that businesses can be anywhere on a spectrum of readiness at this point: from starting to assess the impact of the new tariffs, to considering short-, medium- and long-term management actions.

Data is crucial for identifying and analyzing the trade impact of disruptive events. Established and mature trade functions should be getting regular data from customs authorities and/or customs brokers for post-entry analysis. That data is useful for compliance checks or identification of missed reliefs, as well as for impact assessment and scenario planning.

For example, with the new US trade policies, the official customs data for imports into the US can be used to analyze the potential US tariff impact from a US perspective. Similarly, Canada and Mexico and a number of other customs authorities also provide data that can enable trade functions to conduct calculations and modeling for potential retaliatory measures for imports into these countries from the US.

Because the US tariff measures are specific to countries trading with the US, the key determining factor is country of origin (COO) and, more precisely, non-preferential origin. For many companies, non-preferential origin is not officially managed by the trade teams. Instead, we see this information assigned by the rest of the business, often without technical analysis or diligence. This is understandable – after all, preferential origin is what drives savings and benefits under free trade agreements. Unless the business is subject to measures such as anti-dumping duties, historically there has been less risk and need to get the non-preferential origin right – until events like the US tariffs hit. To prepare for this impact, we are seeing proactive trade leaders conducting analysis on the integrity of their non-preferential origin, and those even further ahead are planning with business operations (e.g., procurement) to make feasible operational changes to influence the outcome of COO.

The issue of data integrity is further amplified by gaps in non-trade departments in understanding the customs and commercial implications. For example, when considering who bears the increase of tariff costs, international commercial terms (Incoterms) may come up, with unintended consequences arising from certain choices. The trade team will need input to help the business understand the Incoterms being used and what they mean so the team can include that information in strategic business planning with suppliers and customers.

The US tariffs have also exposed some gaps in how well the trade function is integrated with the rest of the organization. We have seen situations where supply chain and tax teams are planning for managing the impact without the knowledge or involvement of each other. This approach may be exacerbated by the fact that the trade function may be sitting in either – or even neither – of these departments.

Challenges may go hand in hand with opportunities. This is a great moment for leaders of trade functions to elevate their profiles by showcasing the strategic value-add that their teams and work can bring to the organization. For example, we have seen in recent mergers and acquisitions that the US tariff impact is a high-priority consideration for the seller or buyer in a transaction, so the work done by the trade function could make or break a potential deal.

This is also a great opportunity for Trade professionals to be more connected with other non-trade departments. It allows them to witness and understand how commercial decisions are made, such as procurement, foreign exchange, manufacturing and locations. By learning the 'languages' of other functions, it becomes easier for the Trade team in the future to communicate and promote common objectives, making business partnership far more efficient and effective.

For the trade function to rise to these challenges and opportunities, it is critical for trade function leaders to stay on top of their objectives and be clear to the business about what can be done and what the dependencies and timelines are.

What more can and should trade function leaders do to deal with the foreseeable and the unforeseeable?

Trade function leaders want to know what they can do right now. Particularly if businesses are only just starting on the transformation journey of their trade function, how do they balance the multiple priorities?

In response to the additional pressure, trade functions are going to need to adapt. Mass recruitment of trade specialists is next to impossible, so managing fast-moving, complex trade dynamics and playing a strategic business partner role is inherently unachievable if the foundation of the trade function (i.e., operational compliance) is not there. It is imperative to transform the function and its operating model to create efficiencies and allow for trade executives to devote more time to strategic activities. If the head of an organization's trade function is occupied with operational issues, they will not have the time to participate in cross-functional working groups, such as planning supply chain options to manage the impact of the new US tariffs.

Short term:

- Trade functions need to be aware of the US tariffs and understand the possible impact on their operations in a range of possible scenarios. We recommend that businesses review the proposed tariffs and retaliation measures from other jurisdictions. This would provide a look at the impact on the trade function, for example, how much input is required from the trade team to fix identified gaps? What would be the resource impact on the trade team if certain management strategies were put in place? This needs to be assessed from the perspectives of people, processes and technology. Where necessary, a review should be undertaken of the current priorities in the function and consideration given to alternative delivery plans (e.g., the need for internal or external support).
- Make sure the trade function is involved in considering the impact of US tariffs and that key stakeholders are aware of its role in the organization. Be clear with senior stakeholders and counterparts in other parts of the business about what support the trade function can provide and what support the trade team requires. Key dependencies, such as master data managed outside the trade team or changes to IT systems, need to be highlighted as soon as possible to build in lead time for the change.

Midterm:

- Stay up-to-date with developments and likely responses. Conduct horizon scanning to manage the risks to the business and supply chain continuity. By participating in such exercises, the trade function can keep more abreast of the company's direction and provide more timely input to set the company up for success.
- Review the makeup and operating model of the trade function and start a transformation plan. Work related to US tariffs can support a business case to fuel the function's transformation journey. As knowledge and awareness of trade accumulates in the rest of the business, other important and helpful stakeholders may be identified who can sponsor critical parts of the transformation.
- Address the vulnerability or gaps in operational compliance by centralizing and standardizing targeted processes, such as key customs attributes (classification, value and origin). Doing so can free up specialists to participate in tactical and strategic activities.

Long term:

- The transformation of the trade function can be a multiyear journey. Over the longer term, demonstrating the added value and benefits to the business of transformation should help to keep the project on track and maintain the support of the wider organization.

Conclusion

Our past articles have discussed the need for transforming the trade function to become a better strategic business partner within the organization. The recently announced US tariffs have only pushed the need for transforming the function further to the fore. If you haven't started your transformation journey, now is as good a time as any to do so. If you have already embarked on the journey, now is an opportunity to revisit your plans and make sure that they suit the new trade policy environment.

Major events, like the introduction of new tariffs, offer both challenges and opportunities. Getting the buy-in from senior stakeholders in the organization is the first step toward building a future-proof trade function. This is also an opportunity for trade executives to demonstrate their value to the business from a strategic perspective by collaborating with leaders of other departments.

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How to future-proof the global trade function

Discover how tax leaders can transform trade functions to navigate volatility, seize opportunities and foster resilience.

In brief

- Geopolitical shifts, ESG mandates and evolving tariffs require a proactive, integrated approach to trade and tax functions for resilience and growth.
- Leveraging advanced technologies, scenario planning and cross-functional collaboration empowers leaders to navigate regulatory complexities effectively.
- Organizations can optimize supply chains and meet future challenges by aligning sustainability with trade strategy and addressing talent gaps positions.

Click here to find out more.

Mercosur-EU agreement amid global trade tensions

On 6 December 2024 the negotiations for the Mercosur-EU free trade agreement (FTA) concluded, with implementation now dependent on ratification by the Member States.[1] The agreement aims to enhance integration between two major economic blocs, with a focus on growth and sustainability, and it is expected to have transformative economic and political implications.[2]

The deal connects four economies in Latin America – Argentina, Brazil, Paraguay and Uruguay – with the 27 Member States of the EU.[3] It covers approximately 718 million people and GDP of around US$22 trillion.[4] The EU, currently Mercosur's second-largest trading partner, could become its primary partner post-agreement. The agreement aims to diversify Mercosur's trade partnerships and modernize its industrial sector, potentially lowering production costs and increasing investment flows.

Mercosur's offer to the EU covers 91% of goods and 85% of EU preferential imports, with tariff reductions spanning four to 15 years, with longer periods for the automotive sector. The EU's offer includes approximately 95% of goods and 92% of the value of

1 "Mercosur-European Union trade agreement negotiations conclude," *EY website*, 13 December 2024. Read it here

2 "EU-Mercosur: Text of the agreement," *European Commission website*. Find it here

3 The EU Member States are Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

4 "FACTSHEET Mercosur-European Union Partnership Agreement – December 6, 2024," *Brazil government website*. Find it here

Mercosur imports, with minimal restrictions primarily on agricultural items.

The conclusion of negotiations does not mean the agreement will automatically enter into force. The agreement is now undergoing legal review and will then be submitted for translation into all EU official languages, followed by signing, ratification and internalization. The European Commission will submit it to the European Council, where it will be decided whether ratification will be partial (only by the European Parliament) or total (including national parliaments).

Fast-evolving economic and geopolitical developments since US President Trump took office may play a role in expediting the agreement. Its ratification would send a signal to the global trade community in favor of rules-based free trade and against protectionism.[5]

As part of his plans for widescale tariffs, on 13 February 2025, President Trump signed a Presidential Memorandum ordering the development of a comprehensive plan to restore fairness in US trade relationships and counter nonreciprocal trading arrangements.[6] The plan aims to apply equal tariffs for exporters above the universal baseline. Both Mercosur (more specifically, Brazil) and EU exporters are affected by the review, considering the Trump administration's examples given of nonreciprocal trade, which include trade in crucial products for the maintenance of cross-sector manufacturing activities such as fuel, steel and aluminum. Details of the tariffs and the retaliatory measures from the US' trading partners are summarized on 'US tariffs: timeline of major actions as at 15 April 2025' on page 6 of this publication.[7] Other products and measures are likely to be announced as the plan develops.

Implications for businesses

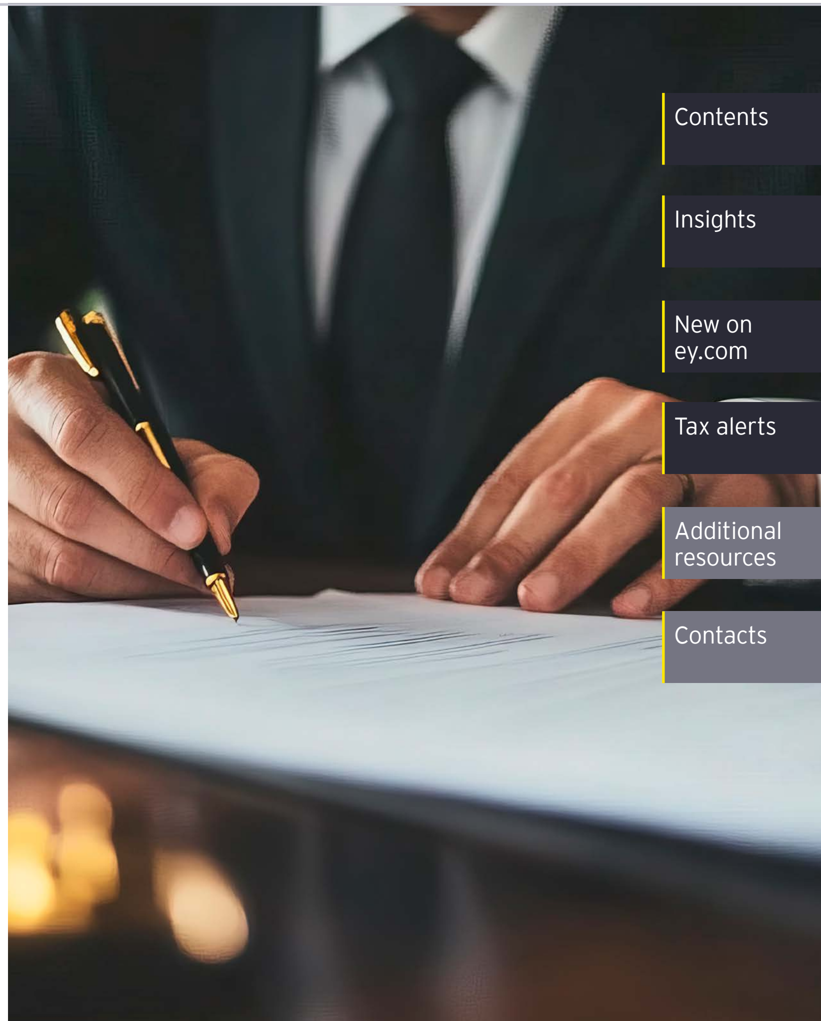
Companies should continue to assess the agreement's potential impact for their specific situation and export portfolio and take the appropriate steps to prepare themselves for the application of the agreement.

Additionally, global businesses can take specific short-, medium- and long-term measures to evaluate both the current supply chain model and manufacturing structures, considering alternative sourcing and manufacturing locations, taking into account a broad range of elements, such as origin, valuation, transfer pricing and income corporate taxes. ■

5 A turning point for global trade – the trade community at a crossroads in 2025

6 United States initiates review to determine reciprocal tariffs on all trading partners," *EY website*, 14 February 2025. Find it here

7 The content of this publication may not reflect the most current developments in regulatory changes. As this is a fast-moving situation, the information provided is correct as of 15 April 2025. We encourage readers to consult official sources or seek professional advice for the latest updates and guidance. Read more on our tax alerts.



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Transfer pricing and customs valuation — a conflict for eternity?

An attempt to view this conflict on a global scale — Part III

This final instalment of our three-part series "Transfer pricing and customs valuation" aims to enhance understanding of the intricate and often unclear nature of retrospective transfer pricing (TP) adjustments in relation to customs valuation.

Our initial article, published in *TradeWatch* Issue 1 2024,[1] explored developments in Germany regarding uplift adjustments and provided insights into the customs administration's perspective following the decision by the Court of Justice of the European Union (CJEU) in the Hamamatsu case.[2]

The article in *TradeWatch* Issue 2 2024[3] offered a detailed examination of our EY Global comparability analysis, focusing on the assessment of retrospective TP adjustments for customs valuation purposes in different jurisdictions.

In this concluding segment, we aim to underscore the potential breadth of the divide between TP and customs valuation. This extends to new initiatives rolled out by the Organisation for Economic Co-operation and Development (OECD)[4] to tackle emerging challenges in an evolving economic landscape, including regulations governing profit allocation rules undergoing continuous revisions.

New profit allocation rules with Amount B of the BEPS 2.0 proposal

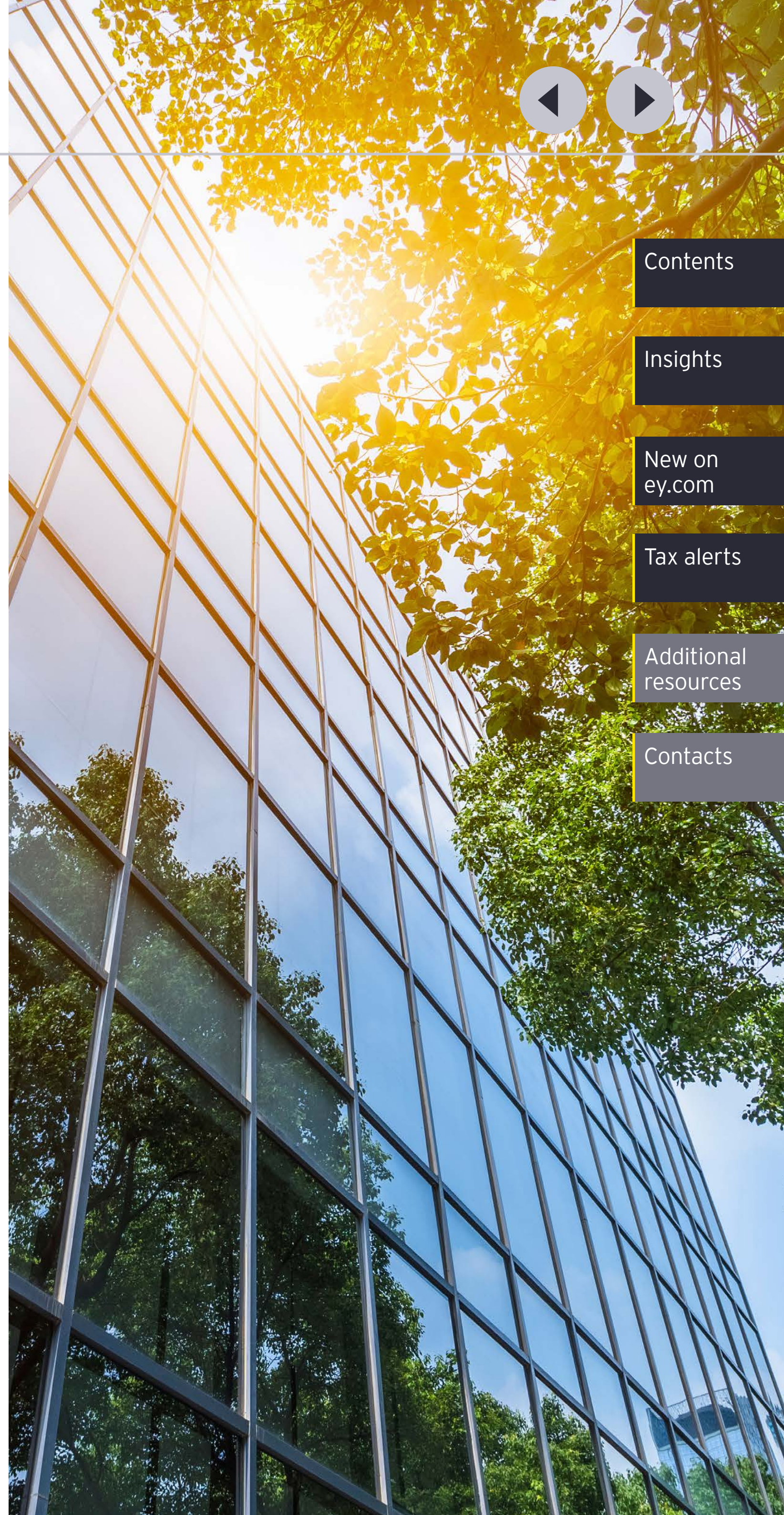
Aiming to address tax challenges arising from the digitalization of the economy, the OECD's Base Erosion Profit Shifting 2.0 (BEPS 2.0) proposal includes measures that will have a significant impact on the international tax landscape of multinational enterprises (MNEs) across most jurisdictions worldwide. With two pillars, the proposal introduces measures to reallocate certain amounts of taxable income to market jurisdictions (Pillar One) and

1 "Transfer pricing and customs valuation – a conflict for eternity? An attempt to view this conflict at a global scale," *TradeWatch* Issue 1 2024, page 14.

2 CJEU 15 December 2016, C-529/16 (Hamamatsu Photonics), ECLI:EU:C:2017:984.

3 "Transfer pricing and customs valuation – a conflict for eternity? An attempt to view this conflict on a global scale. Part II," *TradeWatch* Issue 2 2024, page 12.

4 "Base erosion and profit shifting (BEPS)," *OECD website*. Find it here.



establish a global minimum tax rate at 15% (Pillar Two). Pillar One consists of Amount A and Amount B, of which we will only consider Amount B in this article.

Pillar One Amount B specifically focuses on simplifying and standardizing the rules for attributing profits to baseline marketing and distribution activities conducted in different jurisdictions. It aims to create a fixed return for baseline marketing and distribution activities, providing greater tax certainty and reducing the likelihood of disputes between tax authorities and businesses (expected to address between 30% and 70% of all current TP disputes in some covered jurisdictions).[5] By establishing a fixed return for these activities, Amount B aims to reduce the need for detailed TP documentation (including benchmarking studies) and lengthy audits, which can be resource-intensive for both tax administrations and businesses.

In summary, Amount B is part of the OECD's efforts to modernize international tax rules and create a more stable and predictable tax environment for businesses operating across borders. From the standpoint of customs, these developments may be interesting to assess in closer detail. As enterprises navigate the landscape of emerging regulations and their impact on TP and corporate tax outcomes, MNEs are prompted to consider whether adjustments in profit allocation also necessitate a re-evaluation and meticulous coordination of the customs valuation of the goods. This consideration arises from the recognition that transfer prices may be referenced to determine whether the intercompany price is affected by the relationship between related parties, thereby influencing the customs value of the goods in question. Consequently, the significance of newly arising profit allocation rules driven by direct taxation must be acknowledged as important in the context of customs valuation.

This perspective is reinforced by the implementation objectives of Amount B, which fundamentally seeks to set profit margins that approximate an arm's-length outcome within the respective jurisdiction. As highlighted in our earlier articles of this series, the principal obstacle for retrospective TP adjustments in terms of customs valuation hinges on the verification that the established transfer price is not influenced by the relationship of the parties.

The following sections of this article seek to examine the potential ramifications that the novel profit allocation guidelines, as outlined in the OECD's BEPS 2.0 proposal, may have on the customs valuation of goods imported into jurisdictions covered by the proposal. This analysis is exclusively concentrated on Amount B of Pillar One within the BEPS 2.0 initiative and does not encompass any deliberations pertaining to Amount A of Pillar One or any aspect of Pillar Two.

5 "Pillar One Update from the Co-Chairs of the Inclusive Framework on BEPS," 13 January 2025. Find it here

6 "Taxing Virtual Currencies," *OECD website*, 12 October 2020. Find it here

7 "Pillar One - Amount B," *OECD website*, 19 February 2024. Find it here

Amount B of BEPS 2.0 Pillar One: timeline, scope, covered industries and jurisdictions

Timeline

The OECD's journey toward refining the BEPS initiative, with a particular focus on Amount B, has been marked by a series of critical developments:

- The process commenced with an initial report addressing the challenges of digital taxation on 12 October 2020.[6]
- Subsequent milestones included two rounds of public consultation in December 2022 and July 2023, paving the way for the publication of the Amount B report in February 2024,[7] which was then incorporated in the OECD Transfer Pricing Guidelines (Annex to Chapter IV).
- Subsequent guidance was released in June 2024 regarding jurisdictions applying certain pricing adjustments (i.e., qualifying jurisdictions), as well as jurisdictions for which members of the Inclusive Framework (IF) make a political commitment to respect the outcome of Amount B under certain conditions (i.e., covered jurisdictions).
- In December 2024, the OECD also released a fact sheet that explains, step-by-step, the application of Amount B and an automated tool for pricing the return on sales for baseline distribution activities under Amount B.
- This sets the stage for the initial application of these guidelines in fiscal years commencing on or after 1 January 2025.

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A list of jurisdictions that have confirmed the adoption of Amount B has not yet been published on the OECD website and is not available at the time of this article's publication.

Transactions in scope of Amount B.

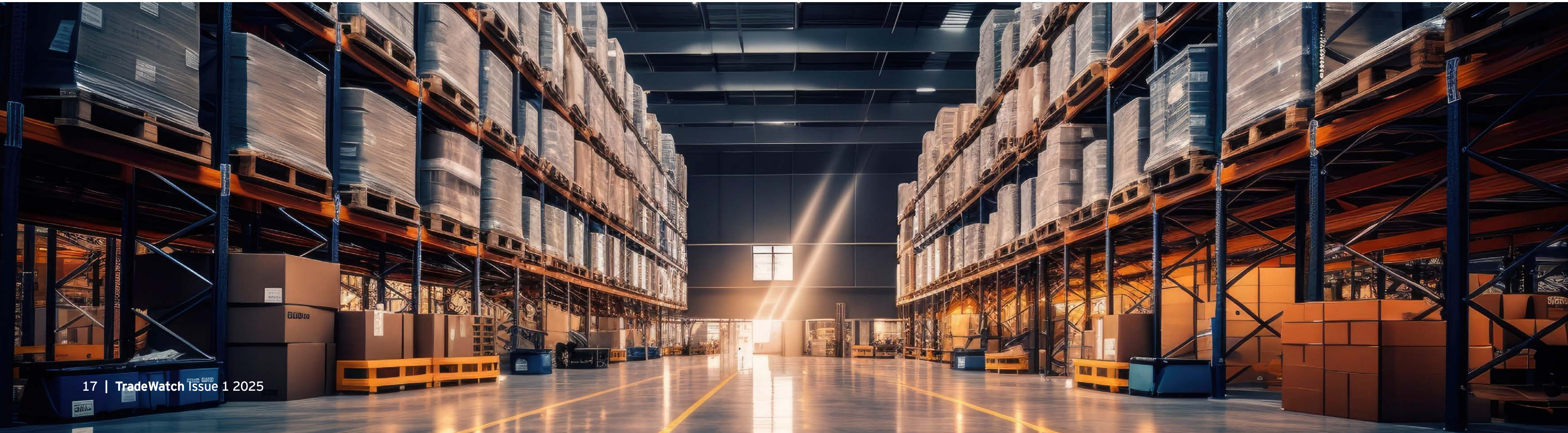
Amount B differs from both Pillar One Amount A and Pillar Two in that it does not impose a revenue threshold, making it broadly applicable. It is important to note that only selected transactions qualify for Amount B. The high-level transactional scope is outlined below:

- The Amount B qualifying transactions primarily focus on buy-sell marketing and distribution transactions, where physical goods are purchased from associated enterprises for wholesale distribution to unrelated parties, as well as sales agency and commissionaire transactions that aid in wholesale distribution. Consequently, Amount B regulations are pertinent solely to wholesale distribution activities, while other operations, including manufacturing and research and development, fall outside the scope of these regulations.
- To qualify for Amount B, a transaction must further meet certain criteria, demonstrating characteristics that allow for reliable pricing using a one-sided transfer pricing method with the distributor, sales agent or commissionaire as the tested party. This implies that the distributor operates at limited risk, i.e., not owning unique and valuable intangibles nor assuming economically significant risks.[8]
- Finally, the scope of Amount B explicitly excludes transactions involving the distribution of non-tangible goods and services, as well as the marketing, trading or distribution of commodities, for which a specific definition is provided to clarify this exclusion.

8 Additional quantitative scoping criteria covering the operational expenses to revenues ratio also apply to ensure that the distributor can effectively qualify as an in-scope tested party

Covered industry groupings

The arm's-length range, as determined by the pricing matrix, is categorized into three industry groupings and five levels of operating asset and operating expense intensities, resulting in 15 subcategories and distinct potential return on sales. These arm's-length outcomes range from a 1.50% to 5.50% return on sales. Should a taxpayer's reported return on sales fall outside the range of 0.5% above or below the specific data point relevant to their circumstances, an adjustment to the return will be required to align with the established arm's-length standard.



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The three industry groupings are as follows:

- **Group 1** – perishable food; grocery; household consumables; construction materials and supplies; plumbing supplies; and metal.
- **Group 2** – IT hardware and components; electrical components and consumables; animal feeds; agricultural supplies; alcohol and tobacco; pet foods; clothing, footwear and other apparel; plastics and chemicals; lubricants; dyes; pharmaceuticals; cosmetics; health and wellbeing products; home appliances; consumer electronics; furniture; home and office supplies; printed matter; paper and packaging; jewelry; textiles; hides and furs; new and used domestic vehicles; vehicle parts and supplies; mixed products; and products and components not listed in Group 1 or 3.
- **Group 3** – medical machinery; industrial machinery, including industrial and agricultural vehicles; industrial tools; industrial components; and miscellaneous supplies.

Build-up of the price

To understand the calculations behind the targeted return on sales (and transfer price used as the basis for customs valuation purposes in this respect), the steps that Amount B follows to price in-scope transactions are summarized here:

1. First, the pricing matrix should be utilized to assess the applicable industry subcategory and ascertain the appropriate return on sales, considering the distributor's specific industry sector, and the intensity of its operating expenses and operating assets.
2. As a next step, the operating expense cross-check manages anomalous results and adjusts the distributor's EBIT to the pre-defined cap or collar rate based on the intensity of its assets, if needed.
3. Eventually, an upward adjustment using the data availability mechanism for qualifying jurisdictions should be applied. Where there is no data or there is insufficient data in the global data set for a particular qualifying jurisdiction, the adjustment is based on the sovereign credit rating of the jurisdiction.

Jurisdictions in scope

Jurisdictions may opt to apply Amount B to qualifying transactions of their in-scope tested parties as a rule or as a taxpayer safe harbor, in which case the taxpayer would decide on whether they would apply Amount B.

Multiple jurisdictions have formally expressed their political support for the implementation of Amount B. However, we have seen that many OECD member jurisdictions and other industrialized regions, such as Australia, Canada and New Zealand, have significant reservations regarding the adoption of Amount B for their taxpayers.

In addition, while Denmark, Germany, Ireland, the Netherlands and the UK[9] recently validated the political commitment made by the IF members for respecting the outcome of Amount B and issued legislation or guidance in this respect, none of them expressed an intention to adopt Amount B for their taxpayers.

Nevertheless, an effective implementation of Amount B remains critical for jurisdictions that would benefit from a reduction in controversy cases in this area, such as Mexico.

Similar to other elective approaches in the OECD Transfer Pricing Guidelines, the outcome determined under this approach is non-binding on the counterparty jurisdiction where the associated enterprise is located. As a consequence, and for the purpose of Amount B, members of the IF, subject to their domestic laws and administrative practices, commit to respecting outcomes determined under this approach when applied by a so-called "covered jurisdiction" by taking reasonable steps to relieve potential double taxation that may arise from the application of Amount B where there is a bilateral tax treaty in effect between the relevant jurisdictions.

9 The United States went further – the US Internal Revenue Service announced, in addition to the political commitment as IF member, its intention to apply the simplified and streamlined approach (SSA) of Amount B as a safe harbor approach for tax years 2025 and beyond for its own taxpayers. However, this signal should be monitored in light of the geopolitical developments.

Below is the list of jurisdictions that will benefit from the political commitment of IF members as covered jurisdictions to eliminate potential double taxation, should they effectively apply Amount B.[10]

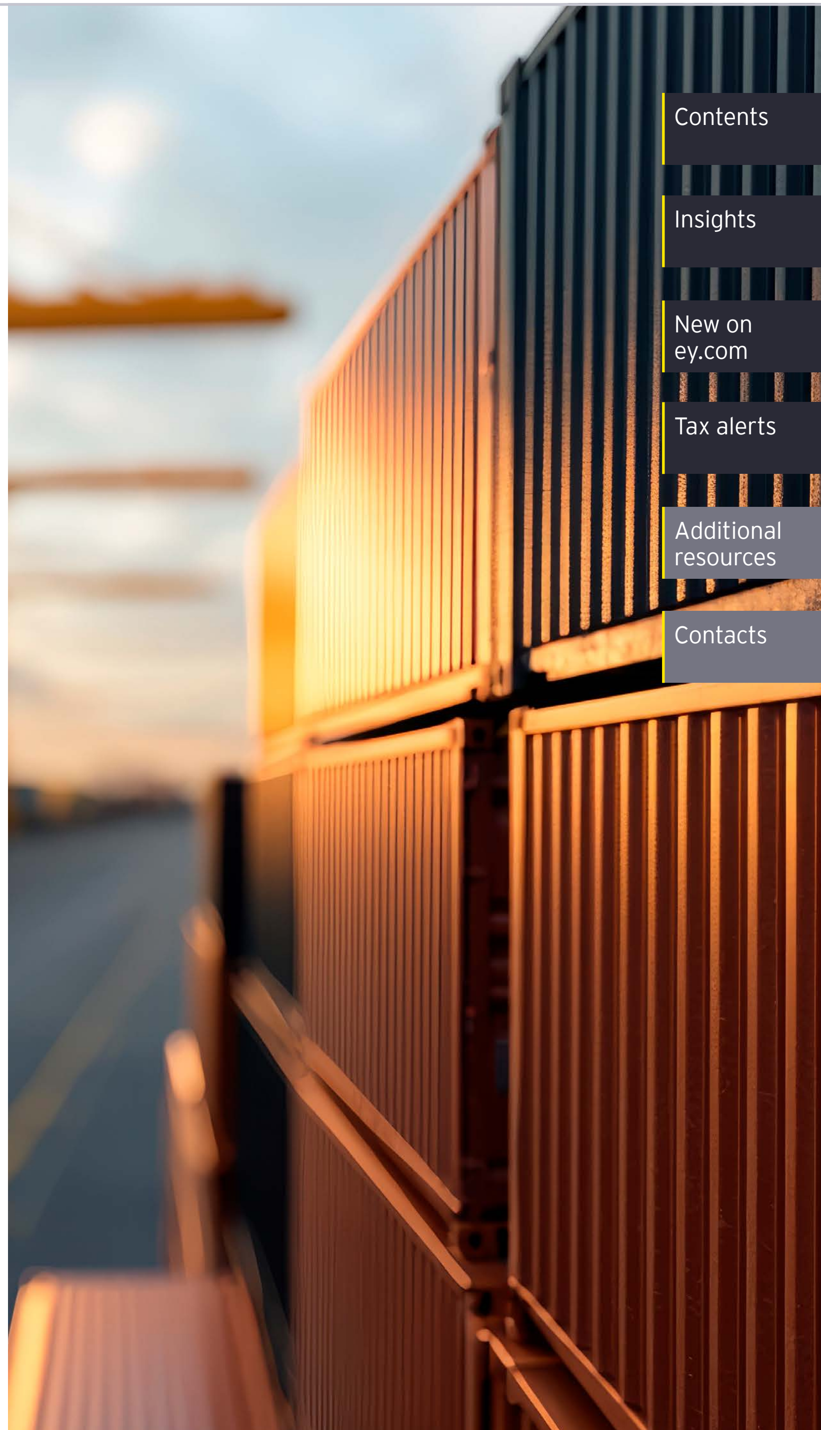
List of cover jurisdictions for the IF political commitment on Amount B – June 2025

- Albania
- Angola
- Argentina
- Armenia
- Azerbaijan
- Belarus
- Belize
- Benin
- Bosnia and Herzegovina
- Botswana
- Brazil
- Burkino Faso
- Cabo Verde
- Cameroon
- Congo
- Costa Rica
- Cote d'Ivoire
- Democratic Republic of the Congo
- Djibouti
- Dominica
- Dominican Republic
- Egypt
- Eswatini
- Fiji
- Gabon
- Georgia
- Grenada
- Haiti
- Honduras
- Jamaica
- Jordan
- Kazakhstan
- Kenya
- Liberia
- Malaysia
- Maldives
- Mauritania
- Mauritius
- Mexico
- Moldova
- Mongolia
- Montenegro
- Morocco
- Nambia
- Nigeria
- North Macedonia
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Saint Lucia
- Saint Vincent and the Grenadines
- Samoa
- Senegal
- Serbia
- Sierra Leone
- South Africa
- Sri Lanka
- Thailand
- Togo
- Tunisia
- Ukraine
- Uzbekistan
- Vietnam
- Zambia

Relevance for the customs value of goods imported into covered jurisdictions

As the Amount B regulations pertain to the rules for profit allocation as outlined in the OECD framework for TP methodologies, they may also have consequences for the customs value of goods imported into jurisdictions covered by these regulations. Unfortunately, the list does not comprise jurisdictions such as China and the US. However, the markets listed are typically ones where challenges arise around customs values between related parties, so Amount B might serve as another source of argument to defend the declared customs values.

10 "Statement on the definition of covered jurisdiction for the Inclusive Framework political commitment on Amount B," *OECD report*, 2024. Find it here



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While the practical application and interpretation by the respective customs authorities remain to be seen, we believe it is prudent to commence investigation into this matter for two main reasons:

- **In-scope transactions:** By its nature, Amount B appears to specifically encompass transactions that are significant for customs valuation, namely the supply of goods that may be part of import transactions and thus require valuation from a customs perspective.
- **Covered jurisdictions:** Regarding the customs valuation of imported goods into specified jurisdictions, Amount B holds particular relevance for those areas, which are predominantly situated in developing regions, such as South America (notably Brazil), Africa (specifically Egypt and Morocco), and Southeast Asia (particularly Thailand and Vietnam), benefitting from favorable treatment in relation to the avoidance of double taxation by the IF. We recognize these countries are of strategic importance to businesses due to their substantial import volumes, for their strategic ambitions to grow and the role they play in serving their respective markets. However, at the same time, it is acknowledged that these jurisdictions present more complexities in accurately reflecting intercompany transactions within the customs value. We discussed this in our article in *TradeWatch* Issue 2 2024[11] and further elaborated for the Asia-Pacific region in *TradeWatch* Issue 3 2023.[12]

When examining the relationship between Amount B and the conventional calculations used to determine margin figures in margin-based transfer pricing methodologies it becomes pertinent to consider the implications of Amount B for customs valuation disputes in related-party transactions.

Businesses operating within the scope of Amount B regulations will receive guidance on establishing their operating margins by categorization into one of 15 subcategories, arrived at by classifying the business under the three industry groupings with further classification based on levels of operating assets and operating expenses. The assignment of a predetermined return on sales (ROS), reflective of the transactions and activities conducted by the business, aims to minimize disputes between businesses and tax administrations. This will lead to a foundation for the customs value that is streamlined for industry-specific and more standardized structures regarding the relevant operating margin (targeted ROS), provided that the goods are sourced from one location.

While it is understood that retrospective TP adjustments may still occur to achieve the desired ROS as specified in the relevant subcategories, the objective is to provide greater legal certainty at the time the price is established. This aligns with the OECD's broader tax certainty agenda. As a result, this could also influence how companies defend their pricing strategies from a customs valuation perspective, so that the prices are not affected by the relationship between the parties involved.

In essence, the predominant challenge of calculating the customs value based on transfer prices persists for Amount B transactions. Since there is a mechanism for adjusting prices at the end of the reporting period, the price at the time of import continues to be of a preliminary nature. Therefore, it does not qualify as the transaction value from a formal perspective, as the price at the time of import is not fixed and may still be amended.

However, it could be argued that Amount B provides a further developed basis for calculating the intercompany (IC) price and ROS due to its calculation methodology being based on an industry-specific defined profit range. This formula allows an independent third party to calculate the IC price, including potential subsequent TP adjustments. In turn, this could further support the view that Amount B can be used to determine the transfer price as the customs value (regardless of the method) based on a predefined rationale accepted by local legislation. It is hoped that this approach will drive changes to simplify the application of transfer prices for customs valuation purposes in terms that customs authorities' find acceptable.

11 *TradeWatch* Issue 2 2024, page 12.

12 "Asia-Pacific: Interplay between transfer pricing and customs valuation," *TradeWatch* Issue 3 2023, page 18.

Summary

After focusing on the interplay of the transfer price and the customs value via three articles over the last year, it remains evident that there is no global single solution to pragmatically and simply align transfer pricing and customs valuation.

As part of this last article, we aimed to demonstrate that international efforts impacting intercompany pricing, including those by the OECD, are also important to monitor from a customs valuation perspective. In our opinion, this seems particularly crucial for the Pillar One Amount B provisions, given the high relevance for customs valuation purposes of the transactions and jurisdictions potentially covered by the provisions. In our experience, importers worldwide are looking forward to an integrated, bulletproof solution to combine TP and customs value.

Referring to the composition of the transfer price, the new provisions serve as the basis for calculating the customs value in intercompany transactions. This provides room to expand the debate about whether the price has been influenced by the relationship between the parties. It could be hoped that the business segment categorization used in calculating the operating margin component of the transfer price of Amount B may support the argument that the price is not influenced by the relationship between the parties. However, the main challenge persists arising from the preliminary nature of the TP with the potential for retrospective adjustments, which may conflict with the relevant point in time for assessing the customs value. The interpretation of this point by customs authorities remains to be seen.

This topic seems likely to only become more crucial to address in the coming months and years. The increasing importance of customs tariffs[13] will also raise the importance of customs valuation, hence the interplay between TP and valuation will likely increase customs authorities' interest in this topic around the globe. Expecting regional and local interests to drive the next four to five years, customs authorities should aim even more for an aligned approach of customs valuation and transfer pricing, with full application of the TP methodology by customs, accepting retroactive adjustment upward and downward to result in fair competition and an equal tax and duty bill for all importers.

In summary, the landscape of global customs valuation approaches in intercompany transactions remain unclear. Complexities arise from the differing treatment of upward and downward TP adjustments in recent controversial cases, individual jurisdictions' varying approaches and interpretations from a customs valuation perspective, and new global initiatives on transfer pricing. Businesses need to be aware of these factors and adopt a proactive and interdisciplinary approach to dealing with transfer prices and customs valuation. The development of Amount B seems further proof that the customs valuation for goods traded between related parties is inherently intertwined with transfer pricing. This close relationship supports the concept of integrating customs departments, at least on a strategic and tactical level, into tax teams within the organization.

This integration may be enabled by transfer pricing and customs valuation, governed by global principles, which favors the adoption of a structured approach to TP and customs. ■

13 "How tax and trade leaders can prepare for global tariff disruption." *EY website.* Find it here

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The impact of emerging digital sovereignty on global trade flows

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The impact of emerging digital sovereignty on global trade flows

One of the core themes identified in the EY Geostrategic Outlook[1] that is expected to drive transformation agendas in 2025 is the likely shift of policies from recently elected governments toward enhanced economic competitiveness and sovereignty, adoption of increased trade protectionism, and targeted industrial policies. One such policy area is digital sovereignty.

In today's global economy, growth in services, especially digitally delivered services, is outpacing growth in goods trading exponentially. In parallel, in a world where 70% of new value is expected to be delivered by digital technology adoption,[2] the imperative to foster cross-border data flows – with appropriate protection measures – is clear. However, the outlook predicts the opposite trend is unfolding: a 1-point increase in data restrictiveness can cut a country's gross trade output by 7%.[3]

This article explores the potential impact of upcoming protectionist measures covering cross-border data transfer on international trade flows.

Digitally delivered services growth dominates

Cross-border data flows represent the movement of data across international boundaries, enabled by digital technologies and communications networks, and fueled by e-commerce, digitization of personal and business processes, and new business models. The rise of artificial intelligence (AI) is expected to exponentially increase cross-border data flows.

Research indicates that between 2005 and 2016, the volume of data flows (measured in terabits per second) has surged dramatically, increasing by 45 times.[4] In contrast, traditional value flows from physical goods and services have not kept pace with global nominal GDP growth. According to United Nations Trade and Development (UNCTAD), in 2023, the global export value of goods decreased by 4.3%, with total exports reaching USD23.8t, while global services exports increased strongly at 8.3%, reaching USD7.9t.[5] The biggest exporters of services were the US, the UK and Germany, followed closely by China, India and Singapore.

1 "Top 10 geopolitical developments for 2025," *EY website*, 12 December 2024.

2 "For inclusive growth, leaders must embrace a global and open economic future," *World Economic Forum*, 18 January 2023. Find it here

3 "Restrictions on International Data Flows Have Doubled in Four Years, With Measurable Economic Consequences, ITIF Reports," *Information Technology and Innovation Foundation*, 19 July 2021. Find it here

4 "Data flows across the world. This is the impact on GDP," *World Economic Forum*, 12 January 2017. Find it here

5 "Handbook of Statistics 2024," *UNCTAD*, 2025. Find it here

Also according to UNCTAD, the highest growth in services exports can be seen in telecommunication, computer and information services across all geographies, followed by financial services, intellectual property and other services. This data points toward a clear trend: significantly faster growth in digitally delivered services, which relies more heavily on cross-border data flows.

In 2023, growth in these categories overshadowed growth in transport and tourism services, with USD4.5t from global export of digitally deliverable services.[6] While these statistics do not measure the value of the cross-border data itself, 2017 World Economic Forum (WEF) research found that the value of data flows was already closely matching that of global trade in physical goods, indicating its significance and contribution to the global economy.[7]

Troubling trends

According to the World Bank's 2020 World Development Report, eliminating restrictive data policies could enhance productivity by an average of 4.5% across countries.[8] Conversely, other studies indicate that a 1% rise in data flow restrictions may lead to a 7% reduction in a country's gross trade output and a 2.9% decline in productivity.[9] There is a clear upside potential for effective cross-border data flows that can contribute to global GDP and development, innovation and social welfare through enhancing innovation, productivity, and international trade. However, concerns remain, primarily among governments, regarding privacy, security, sovereignty and data protection.

Numerous initiatives aim to address these issues, increasingly connected to governance of AI;[10] however, there is a divergence of regulations, which may impede rather than facilitate data sharing, for example:

- **Data localization requirements:** Some regulations require data to be stored in the country of origin, while other regulations allow transfers under strict conditions (e.g., the General Data Protection Regulation (GDPR)).
- **Data protection standards:** Some regulations, including the EU GDPR, set high standards, whereas other regions may have less stringent rules.
- **Government access to data:** Concerns about surveillance influence data flow regulations.
- **Exemptions and special provisions:** Certain sectors may receive exemptions for data flows.
- **Economic and trade considerations:** Economic goals can shape data flow regulations, highlighting the need for harmonized standards.

Current G20 regulatory landscape for international data flows

G20 members currently have a number of unilateral, bilateral and multilateral policies in place that regulate cross-border data flows. Unilateral measures are the dominating approach in G20 countries, potentially creating restrictions to cross-border data flows and collaboration. They cover requirements for government approval for data transfers, consent requirements and, increasingly, data localization requirements, focusing predominantly on health and financial services sectors. There are far fewer bilateral approaches, which aim to remediate restrictions, especially regarding personal data protection, and a very limited number of multilateral approaches in place.

Examples of these measures include the US regulators likely enforcing the 2024 law that bans data brokers from sharing personally identifiable sensitive information with China and Russia.[11] The EU will maintain its comprehensive data regulatory agenda, while regulatory activity in the Middle East, South America and Africa is expected to grow.

Anticipated impact on businesses

There are many areas that are likely to have an impact on businesses, some of which are still emerging, including:

Cross-border data flows concerning climate change and supply chain derisking

Cross-border data sharing is imperative for the scientific community to identify optimal climate and other environmental solutions. For businesses,

6 "Developing economies surpass $1 trillion mark in digitally deliverable services exports," *UNCTAD*, 6 December 2024. Find it here

7 "Data flows across the world. This is the impact on GDP," *WEF*, 12 January 2017. Find it here

8 "World Development Report 2020: Trading for Development in the Age of Global Value Chains," *World Bank*, 2020. Find it here

9 "How Barriers to Cross-Border Data Flows Are Spreading Globally, What They Cost, and How to Address Them," *Information Technology and Innovation Foundation*, 19 July 2021. Find it here

10 "Regulating Cross-Border Data Flows: Harnessing Safe Data Sharing for Global and Inclusive Artificial Intelligence," *United Nations University Technology Brief*, October 2023. Read it here

11 "2025 Geostrategic Outlook: how geopolitics is driving transformation," *EY-Parthenon*, December 2024. Find it here

it is essential to integrate information on climate and environmental aspects of supply chains and climate competitiveness data into their supply chain strategies. Companies also face regulatory requirements to report environmental and climate data under the EU end-to-end value chains, for example, the EU Carbon Border Adjustment Mechanism (CBAM)[12] and EU Deforestation Regulation (EUDR),[13] the EU Ecodesign for Sustainable Products Regulation,[14] and the Digital Product Passport. Domestic legislation that hinders sharing certain data categories (e.g., geospatial or operational data) may pose noncompliance risks for multinationals or their ecosystem partners.

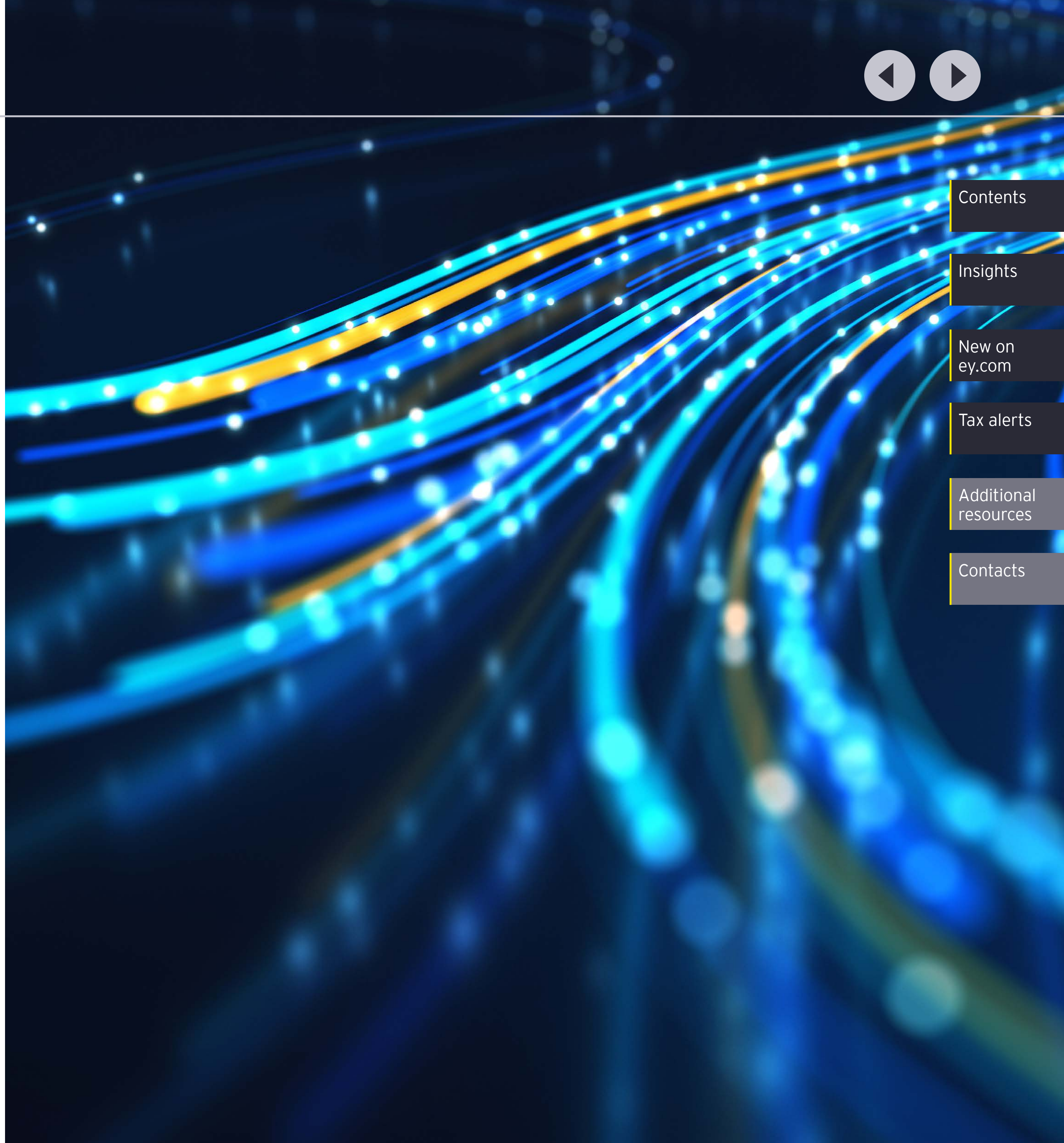
Cross-border data flows and new developments in AI

Cross-border data flows are crucial for the global development and application of AI. To make best use of AI's societal benefits, a harmonized regulatory approach is necessary, prioritizing ethical AI use, individual data rights and equity. However, the merging digital sovereignty trend coupled with existing regulatory patchworks may hinder global AI deployment and limit data access.

12 For more information on the EU CBAM, please refer to recent editions of *TradeWatch*.

13 For further information on the EUDR, please refer to "EU: Deforestation Regulation: an underestimated challenge," *TradeWatch* Issue 3 2024, page 72, and "EU: Fight against global deforestation," *TradeWatch* Issue 2 2023, page 33.

14 For more information, see our article "EU: Ecodesign and Sustainable Product Regulation," *TradeWatch* Issue 3 2024, page 76.



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Anticipated impact of cross-border data flow restrictions on different sectors

Most sectors will be impacted by digital sovereignty, in particular, localization of data requirements or restriction of sharing data – operational, personal and other data categories.[15] While all sectors will be impacted, technology, telecommunication and financial services will be significantly impacted due to high services growth. Impact on the health care and life sciences sectors has the largest potential for social welfare loss. Industrial manufacturing and consumer goods sectors will also be increasingly impacted due to growing reliance on digitization production, product delivery, ongoing maintenance and customer experience.

Health care and life sciences

Cross-border data flow is crucial for sustainable development in health care, enabling the exchange of medical information, research data and improvement of patient care. Health care organizations aim to leverage AI to transform health care delivery while ensuring patient safety.

However, as governments emphasize digital sovereignty, they are likely to regulate AI use in health care due to potential risks associated with flawed algorithms and misuse of personal health data. New localization requirements could limit access to cross-border data for research and restrict market opportunities, particularly in countries with less favorable political or economic relations.

Technology and telecommunications

As the sector with the highest cross-border exports growth globally, according to UNCTAD, and also a critical sector for many governments, technology and telecommunications are firmly at the center of geopolitical developments. In 2025, companies will need to navigate a complex landscape requiring de-risking and dependency policies, as well as policies emphasizing digital sovereignty, and establishing localization requirements and national privacy laws. It is expected that companies will collaborate more with international and multilateral organizations to promote international collaboration and prevent fragmented digital sovereignty regulations that could hinder AI advancements.

Financial services

In banking and capital markets, protectionist policies may lead to a more fragmented regulatory landscape for international banks. Compliance across different regions will become increasingly complex and costly, affecting core compliance and risk management areas, as well as emerging issues like AI and data privacy. Wealth and asset managers will increasingly focus on geopolitics in their capital allocation decisions, as geopolitical rivalries and regulations may restrict investments in specific markets. While some firms adopt de-risking strategies and divest from certain countries to enhance operational and portfolio resilience, firms appropriately optimizing technologies like AI may fare better overall.

Next steps for businesses

- Keep abreast of legislative proposals and developments for new laws and regulations relating to data, AI and international trade, and any intersection thereof.
- Establish and review on an ongoing basis governance for data and technology. Proliferation of data localization and data protection laws will continue to complicate cross-border data sharing, both within and across companies, at least in the short term.
- Include anticipated developments concerning cross-border data flows in future strategy and investment scenario planning, alongside other emerging trends, such as tariffs on goods.
- Include cross-border data trends and plans in supply chain restructuring considerations involving onshoring, nearshoring and friendshoring digital and technology supply chains and the associated impact on operating models and clustering of country collaboration. ■

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15 "Top 10 geopolitical developments for 2025," *EY website*, 12 December 2024. Find it here

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Brazil: Tax reform – impacts and challenges for foreign trade

In previous editions of *TradeWatch*, we have discussed the implications of tax reform in Brazil,[1] and since then, the legislation has advanced significantly. With the approval of Complementary Law 214/2025, the Brazilian tax scenario is about to undergo profound transformations.[2] This article outlines the main aspects of the reform, focusing on the changes that will impact foreign trade operations.

The current schedule of the tax reform implies that a transitional and gradual period will be established, and it will take until 2033 for the tax reform to be fully implemented. The reform consists of replacing three federal taxes that are levied on imports of goods: the two social contributions PIS/COFINS and Industrialized Product Tax (IPI) will be replaced by the Contribution on Goods and Services (CBS). At the state and municipal levels, the Circulation of Goods and Services Tax (ICMS) and the Tax on Services (ISS) will be replaced by the Tax on Goods and Services (IBS).

Details of the transition period

	2026 (a)	2027 (b)	2028	2029 (c)	2030	2031	2032	2033
ICMS	Semi alt			90%	80%	70%	60%	Extinction
ISS	Semi alt			90%	80%	70%	60%	Extinction
IPI	No changes	Zero tax rate + IPI ZFM	IPI ZFM					
PIS	No changes	Extinction						
COFINS	No changes	Extinction						
IBS	0.1%			Rate to be defined by the TCU and Senate				
IS		Rate to be defined by the TCU and Senate						
CBS	0.9%	Rate to be defined by the TCU and Senate						

(a) In the year 2026, the amount collected from IBS and CBS may be deducted from the amounts due from PIS/COFINS. In the absence of debts, it can be offset against other federal taxes or refunded within 60 days.

(b) In 2027, the percentage of 0.1% of IBS shall be subtracted from the reference rate defined for the CBS by the TCU. The IPI is reduced to zero, with the exception of products that are also industrialized in the Manaus Free Trade Zone.

(c) As of 2029, the gradual reduction will also be applied to ICMS and IPI tax benefits (PEC 45, article 19, caput and article 127, sole p.).

1 "Brazil: Tax reform moves to the next stage," *TradeWatch* Issue 3 2024, page 25, and "Brazil: Implications of the tax reform on global trade," *TradeWatch* Issue 1 2024, page 31.

2 "Brazil enacts indirect tax reform establishing new consumption taxes," *EY website*, 17 January 2025. Find it here

Transition period

CBS will go through a test period in 2026, with a test rate of 0.9%, where there will be no effective collection, only the calculation and submission of information to test whether companies are implementing their controls properly.

As of January 2027, PIS/COFINS will be completely removed, IPI will have a rate reduced to 0% on most products, and CBS will be implemented with a rate currently estimated at 8.8%.

IBS will have a test rate of 0.1% implemented from 2026, but this test will last longer, until December 2028. IBS will be implemented in 2029, where IBS' replacement of ICMS and ISS will occur gradually in contrast to the other federal taxes. In 2029, only 10% of the total IBS that would be due will be charged, while 90% of the total ICMS and ISS that would be due will be charged. This percentage increases to 20% of IBS and 80% of ICMS and ISS in 2030. This process will continue with a gradual increase by 10% each year until January 2033, when ICMS and ISS will be completely phased out and IBS will be fully in force. The current estimated IBS rate will be 17.7% – or 26.5% if CBS and IBS are considered together.

This substitution will also occur for imports, since all these taxes are, and will be, due on the importation of goods. However, there are particularities related to international trade in goods, including:

Maintenance of customs duties

Customs duties, such as import tax, export tax, AFRMM[3] and Siscomex Tax,[4] will not change with the new tax reform. All the rules that applied to these taxes will remain intact, for example, the existence of ex-tariffs to reduce the import tax on capital goods, free trade agreements and rules of origin, in addition to other tariff reduction mechanisms.

Tariff classification and customs control

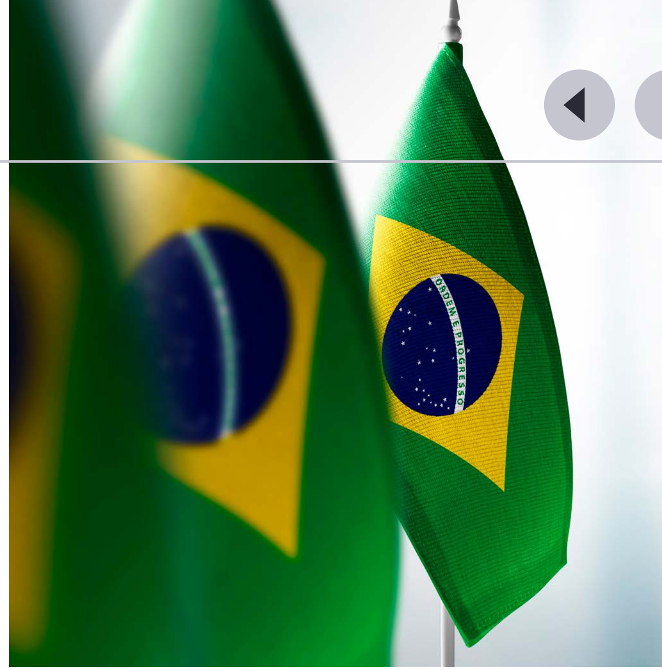
The need for tariff classification of goods remains, which means that debates about the correct classification will continue. The classification given to a product directly impacts the applicable customs duties and customs control, in addition to being fundamental for the preparation of statistical studies that support the country's economic policy.

Tax classification is also relevant for determining the amount and impact of current taxes in several situations (IPI, PIS/COFINS and ICMS). As the current taxes will be replaced by IBS and CBS, there was confusion about whether the obligation to determine tariff classifications of goods would also be impacted, but that is not the case, as explained above.

3 The Brazilian tax on goods imported by sea – in Portuguese, Adicional ao Frete para Renovação da Marinha Mercante (AFRMM) – is a social contribution, charged by the shipowner of any vessel operating in a Brazilian port, and it's administered by Federal Revenue Services in Brazil.

4 Tax due for the use of the Computer System of Foreign Trade.

5 Regime Aduaneiro Especial de Entreposto Industrial sob Controle Informatizado (RECOF) can be translated to English as "Special Customs Regime for Industrial Warehouse under Computerized Control."



Special customs regimes

The vast majority of the special customs regimes will be maintained, including deposit, temporary stay and improvement regimes, such as drawback and RECOF.[5] Drawback services are a significant addition, allowing services related to imports and exports to also benefit from a special customs regime. This continuity and expansion of the regimes provide a more favorable environment for companies to manage their costs and processes.

There was apprehension in the market about whether special customs regimes would be maintained, given that the reform promised to standardize the tax payable on transactions and consequently, eliminate tax incentives. Although this has occurred at some levels, special customs regimes were seen as an exception, as they have a fundamental role in promoting foreign trade activities and keeping the country more competitive in the international market, since such regimes are also widely used globally.

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Expansion of the scope of the regimes

The new regimes now include CBS and IBS in an unrestricted manner, which represents an important change, since currently ICMS and ISS are not covered by several special customs regimes.

This expansion will allow more operations to benefit from tax incentives, promoting a more competitive business environment. An example is RECOF, which, because it does not provide incentives for ICMS, is often a regime that is currently passed over by foreign trade operators. Another example is the drawback regime, which grants the suspension of ICMS on imported raw materials, but the local supply of raw materials is not covered by the regime with regard to ICMS.

The same occurs with the drawback in the exemption modality, widely used to replace the stock of a company that has made an export in the past without the use of any special customs regime.

After the complete implementation of the tax reform, such customs regimes will be enhanced in relation to the current scenario, boosting the Brazilian market in foreign trade and expanding the elimination of tax residues in the production chain.

Impacts for exporters

Although the tax reform expressly maintained a large number of special customs regimes, other regimes were not maintained, and their repeal is expected from 2027. Exporters may face challenges with the elimination of programs such as Reintegra,[6] RECAP[7] and the Regime for Preponderant Exporters. These schemes are widely used by exporters, especially in the mining sector.

The absence of these incentives can increase the tax cost on exports, making them less competitive in the international market. Companies will need to evaluate their export strategies and consider alternatives to manage these impacts.

Indirect exports

For exporters, the possibility of carrying out indirect exports was maintained, where the owner of the goods sells the goods that are still in Brazil to a commercial export company that will be in charge of carrying out the export. This regime already exists in the current legal system, but in the future, there will be additional requirements, such as the need for accreditation of the company as a commercial export company. Currently, any company can act as a commercial export company, without the need for official accreditation.

In addition, the exporting trading company must:

1. Be certified in the Authorized Economic Operator (AEO) program
2. Have capital equity equal to or greater than Brazilian Real (BRL) 1 million or the total of taxes suspended in the operation, whichever is greater

Excise tax

The new Selective Tax (Imposto Seletivo or IS) will be levied on imports, and there are still discussions about its application to exports. This new taxation can further complicate the tax landscape for companies, requiring careful consideration to avoid additional unexpected costs.

6 Reintegra is a tax incentive that returns PIS/COFINS (i.e., social contributions) tax credits to exporting companies to eliminate remaining tax liabilities in the production chain and preserve the competitiveness of Brazilian export prices.

7 Regime Especial de Aquisição de Bens de Capital para Empresas Exportadoras (RECAP) is a special customs regime that exempts COFINS and PIS/Pasep on the purchase of capital goods on imports or purchases and sales in the domestic market.

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Similar to the "sin taxes"[8] that already exist in several countries, the IS will be a single-phase tax levied on a single stage of the supply chain, which is the first sale of the product or manufacturer, whether this sale is an export or import. The tax will be due on goods already listed that are considered by Congress to have negative effects on human health and the environment.

In addition to the products of the tobacco and alcoholic beverages sectors, four-wheeled vehicles (including electric vehicles), crude petroleum oil and some ores with varying rates were included in the list of covered goods.

CBS and IBS calculation base

The calculation of CBS and IBS will be levied on the customs value of the goods with the addition of a wide range of other expenses due on importation, including import duty, IS, Siscomex fee, AFRMM and other customs expenses.

Despite applying to a broad base, the advantage of the reform is that the tax is calculated on a single base. The current system provides different calculation bases for each tax on import, generating complexity.

Another advantage is that the so-called "internal calculation" or grossed-up method does not apply, whereby the CBS and IBS portions are not part of their own calculation basis. This grossed-up method generates a cascade effect in the current taxation system, and this has created several judicial debates over the years. We do not expect this to happen in the new system as the cascading effect should be eliminated.

Exclusion of ICMS, ISS and IPI

With regard to the calculation basis, a new bill filed in February 2025[9] seeks to promote the first amendment to Complementary Law 214/2025, which was recently approved. The amendment aims to make it clear that during the transition period, the new taxes (CBS and IBS) and the old taxes (ICMS, ISS, PIS/COFINS and IPI) will not be included in their respective calculation bases. The intention is to perpetuate the principle of neutrality, one of the main aspects of the tax reform.

Deferral of taxes for AEO-certified operators

Complementary Law 214/2025 also covers the possibility of applying tax deferral (for CBS and IBS) on imports carried out by AEO-certified operators. However, supplemental regulations are expected for the implementation of this deferral, which means that companies should prepare for future guidance.

There is also the possibility that this deferral will extend to other taxes that may be due on importation, such as import duty, IS, IPI and AFRMM.

Future expectations

With the implementation of the new legislation, companies should be aware of the changes that may occur in tax and customs practices. The need to adapt and comply with the new rules will be crucial for competitiveness in the global market. Companies that prepare adequately for these changes will be in a stronger position to take advantage of the opportunities that arise.

The publication of Complementary Law 214/2025 was an important step toward the implementation of the tax reform. However, many other steps are expected later this year. Several regulations regarding operational aspects of compliance control are pending. All of these pieces are equally important to companies' smooth operation in Brazil. For example, all the regulations of special customs regimes must be adapted to receive the CBS and IBS both in the transition period and in the period after 2033.

We will continue to monitor these changes and report updates in future editions of *TradeWatch*. ■

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8 A sin tax is an excise tax on specific goods and services due to their ability, or perception, to be harmful or costly to society. Some items that often have a sin tax include tobacco products, alcohol and gambling.

9 Project Bill # 16/2025. Find it here

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Canada: New administrative review policy published for value reviews under the Special Import Measures Act

On 13 January 2025, the Canada Border Services Agency (CBSA) published Memorandum D14-1-8, *Administrative Review Policy – Special Import Measures Act (SIMA)*,[1] which outlines the agency's policy regarding annual administrative reviews to update SIMA values applicable to imported goods subject to Canadian International Trade Tribunal (CITT) orders. To promote more effective enforcement of the SIMA measures, the new policy aims to keep SIMA values current to market dynamics, which the CBSA will monitor on a more frequent basis using a tiered review process.

Background

Normal value reviews (i.e., SIMA values) are conducted by the CBSA to update normal values, export prices or amounts of subsidy to confirm that these values accurately reflect current market conditions. Each review is conducted with respect to a single exporter.

The CBSA may use normal values, export prices and amounts of subsidy when determining an importer's liability for anti-dumping and/or countervailing duties:

- The export price is the amount an importer has paid to an exporter for goods.
- The normal value is the price at which the goods in question are sold in their domestic market.

An importer may be liable for anti-dumping duties in the amount by which the normal value of the goods exceeds the export price.

Detailed discussion

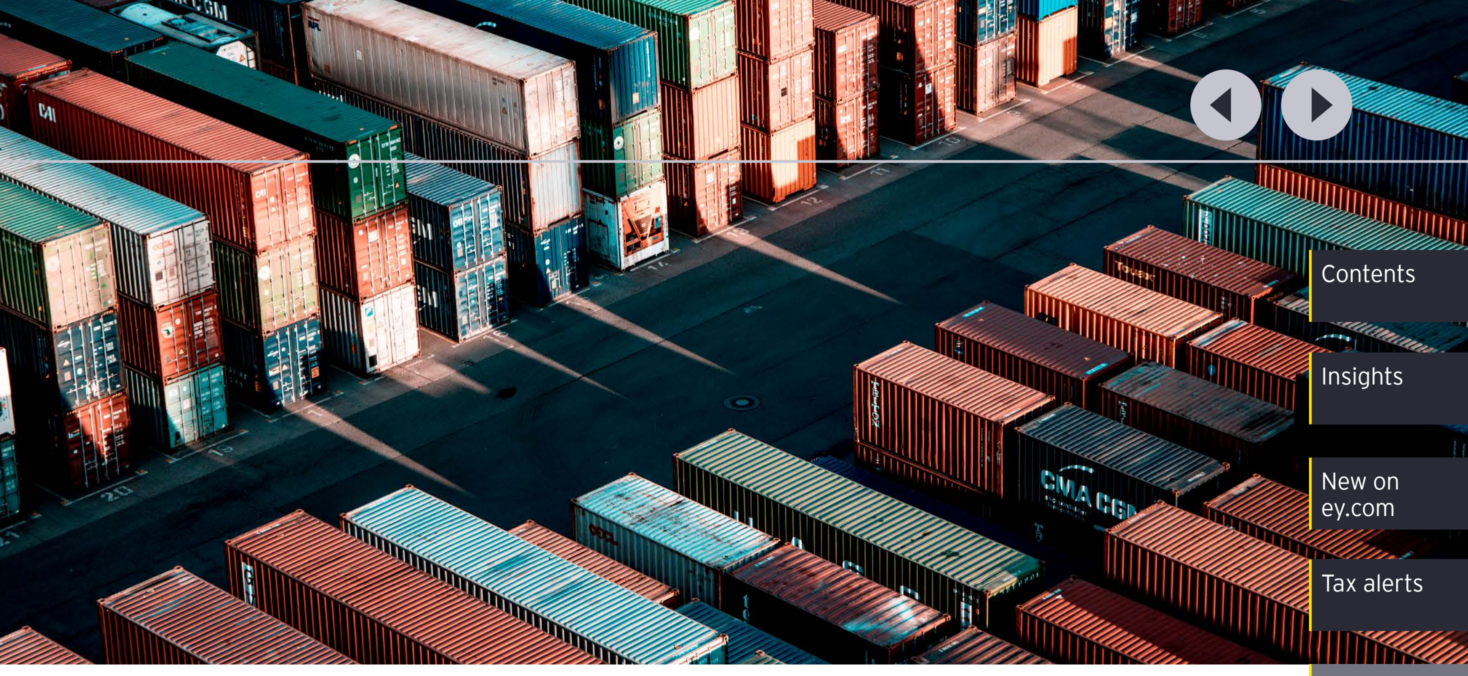
Previously, SIMA values were updated on an ad hoc basis. Several years could elapse before a review was launched and concluded. Going forward, CBSA will review SIMA values annually, monitoring market dynamics to identify changes that may require updates and enforce CITT orders accordingly.

When determining whether updates to SIMA values are required via administrative review, CBSA will consider the following factors, among others:

- Volume of imports
- Changes affecting ministerial specifications
- Changes in market conditions and/or the provision of subsidies

Should CBSA determine that an update is necessary, the agency will issue a Request for Information (RFI) from all interested parties, which may include domestic producers, unions, trade associations, importers, exporters and foreign governments. Responses to the RFI must be provided within a time

1 "Memorandum D14-1-8: Administrative Review Policy – Special Import Measures Act (SIMA)," *Government of Canada website*. Find it here



frame specified by CBSA and must be complete and verifiable. It is important to note that CBSA will set an anticipated date for closing the administrative record related to the review, after which no new or unsolicited information will be accepted.

Each administrative review will examine anti-dumping and subsidy issues separately. In an administrative review, the CBSA is not bound by the methodologies used in previous proceedings to determine normal values and export prices. For subsidy updates, the CBSA will determine whether existing programs have ended or whether amounts of subsidy have changed. Supplemental questionnaires may be issued on any relevant matter arising during the review.

All notified parties will be informed of a review's results. The CBSA will publish a public notice of the conclusion on its website. Generally, new SIMA values will apply to goods released from customs on or after the administrative review's conclusion date or the date of the exporter's decision letter, whichever comes first.

To manage different case complexities, the CBSA will conduct reviews through a tiered process. Each tier considers factors such as the novelty of the information, as well as the completeness and reliability of received information. The tiers are:

- **Tier 1:** CBSA conducts and concludes the review without further input when:
  - Information received aligns among interested parties.
  - Limited models from a cooperative exporter require SIMA values, or new product models need values.

  Or

  - Insufficient information is received from necessary parties (should this occur, the proceeding will cease for the deficient exporters).
- **Tier 2:** CBSA conducts further analysis and seeks additional input where necessary, for example, to address discrepancies or to clarify certain information.
- **Tier 3:** CBSA conducts further analysis, comprehensive verification and seeks additional input to resolve complex issues, which may include consideration of new information on non-market economic conditions and/or particular market situations.

Interested persons may make representations regarding the need to update SIMA values for specific measures. CBSA will acknowledge all representations and responses, factoring them into the decision-making process for the administrative review's tier. Submissions should identify the applicable measure and provide relevant evidence to demonstrate the need for an update, for example:

- Changes in domestic selling prices
- Increase in import volumes
- Changes in cost of production
- Changes in distribution channels, including the involvement of related parties in sales to Canada
- Changes in market conditions
- Changes in amounts of subsidy received
- Changes in business names or corporate addresses
- New or expanded production facilities
- Mergers and acquisitions

Impact on businesses

The move to an annual basis for SIMA value reviews means that both exporters and importers that import SIMA-subject goods may experience more frequent changes to any applicable anti-dumping and countervailing duty rates that affect their goods.

The tiered review system appears to be designed to expedite SIMA value reviews. For instance, CBSA will conclude reviews without further input if exporters or other interested parties fail to provide complete information by the required deadline. In such cases, the resulting anti-dumping and countervailing duty rates are typically more punitive compared to scenarios where an exporter provides complete and timely information in response to CBSA requests. Therefore, under this new policy, exporters should be incentivized to provide CBSA with required information and evidence to support a review and the establishment of SIMA values that properly reflect commercial facts.

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Canada: Preferential tariff programs update

Effective 1 January 2025, Canada introduced several updates to the General Preferential Tariff (GPT), the Least Developed Country Tariff (LDCT) and the Commonwealth Caribbean Countries Tariff (CCCT). These updates are intended to enhance accessibility and usability of these preferential tariff programs for Canadian importers and developing country partners.

Background

Canada maintains nonreciprocal tariff preference programs for goods imported from developing countries under the Customs Tariff,[1] including the GPT and LDCT, for which legislative authority was renewed to 31 December 2034, through the Budget Implementation Act, 2023, No. 1 (BIA 2023, No. 1).[2] The CCCT is Canada's regional program that does not expire in legislation.[3]

Summary of changes to GPT and LDCT programs

- Armenia, Belize, British Virgin Islands, Fiji, Georgia, Guatemala, Guyana, Iraq, Marshall Islands, Moldova, Nauru, Paraguay, Tonga, Turkmenistan, Tuvalu and Vietnam will no longer be eligible for GPT treatment.
  - Goods in transit to Canada that originate from these countries and claim GPT treatment before 1 January 2025 will remain eligible for the GPT.
- Lebanon and Tunisia will be re-instated and eligible for the GPT program.
- Cape Verde, Samoa, Tuvalu and Vanuatu will no longer be eligible for LDCT treatment.
  - Goods in transit to Canada before 1 January 2025 that originate from these countries will remain eligible for the LDCT.

1 "Canadian customs tariff," *Government of Canada website*. Find it here
2 "Budget Implementation Act, 2023, No. 1 (S.C. 2023, c. 26)," *Government of Canada website*. Find it here
3 "General Preferential Tariff Withdrawal and Extension (2023 GPT Review) Order: SOR/2023-207," *Government of Canada website*. Find it here

Expansion of duty-free treatment under CCCT program

- Duty-free treatment under the CCCT program will be expanded to cover all textiles, apparel and made-up textile articles in Chapters 50–63 of the Harmonized System.

Rules of origin changes

For GPT, LDCT and CCCT programs, the rules of origin for apparel products have been liberalized and harmonized to allow for the cutting and sewing of fabrics in developing and least developed countries. This is to confer origin on the final apparel product, regardless of the origin of the yarn and fabric. This change aims to reduce compliance issues identified by apparel importers and stakeholders, thereby helping to leverage the benefits across Canada's programs, including potential future benefits under the GPT. The changes will also increase policy consistency for beneficiaries by aligning with the rules of origin for apparel under similar programs of the EU and Japan.[4]

Updated shipping requirements

The direct shipment and transshipment requirements set out in sections 17 and 18 of the Customs Tariff have been removed. In their place, regulations have been made that establish that, for the purposes of the Customs Tariff, goods are shipped directly to Canada from another country when the goods are shipped to Canada from that other country in accordance with the regulations.[5] The regulations expand acceptable proof of direct shipment documents beyond a through bill of lading and remove the six-month storage limit in intermediary countries. These changes should allow for easier access to Canada's trade programs.[6]

Impact on business

Canadian importers and stakeholders should review these changes and assess their impact on operations. The changes to CCCT and the rules of origin with respect to apparel products will create possibilities for importers to benefit from duty savings on goods traditionally subject to relatively significant duty rates under the Most-Favoured Nation (MFN) tariff treatment. ■

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4 "Canada's unilateral tariff preference programs for imports from developing countries," *Government of Canada website*. Find it here

5 "Canada Gazette, Part 2, Volume 157, Number 22: Direct Shipment (Most-Favoured-Nation Tariff, General Preferential Tariff, General Preferential Tariff Plus, Least Developed Country Tariff, Commonwealth Caribbean Countries Tariff, Australia Tariff and New Zealand Tariff) Regulations," *Government of Canada website*. Find it here

6 "Canada Gazette, Part 2, Volume 157, Number 22: Order Fixing January 1, 2025 as the Day on Which Section 229 of the Budget Implementation Act, 2023, No. 1 Comes into Force," *Government of Canada website*. Find it here

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Australia: Future border carbon adjustment recommended

Australia's Carbon Leakage Review (the Review) has found that a border carbon adjustment (BCA) is an appropriate policy measure to address carbon leakage risks under Australia's Safeguard Mechanism.[1, 2] With cement, lime, clinker, ammonia (and derivatives), steel and glass identified for priority inclusion within its initial scope, the Review envisions a future Australian BCA that operates similarly to the EU's Carbon Border Adjustment Mechanism (EU CBAM).[3] This approach would effectively seek to apply a price on imports at the Australian border if those imports have not been exposed to the carbon-pricing equivalent to Australia's Safeguard Mechanism.

Background to Australia's Carbon Leakage Review

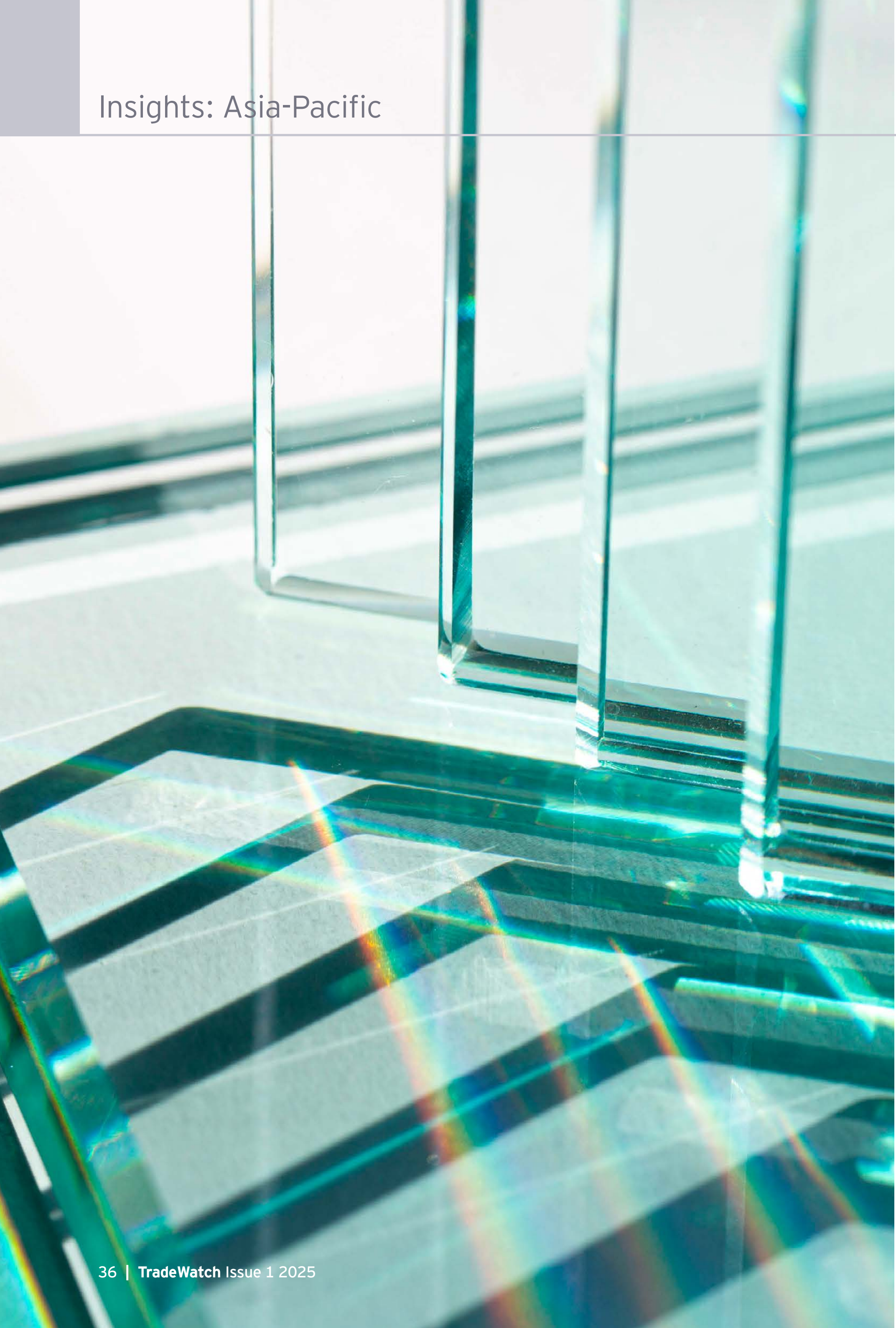
Led by Professor Frank Jotzo and the Department of Climate Change, Energy, the Environment and Water (DCCEEW), the Review was announced in March 2023 following reforms to the Safeguard Mechanism and industry concerns over potential carbon leakage.[4, 5]

Unlike other jurisdictions with economy-wide emissions trading systems, the Safeguard Mechanism commenced in 2016 with the aim of reducing emissions at Australia's largest industrial facilities. It does so by setting legislated limits – known as baselines – on the greenhouse gas emissions of these facilities. These limits are intended to gradually decline in line with Australia's national emission reduction targets of 43% below 2005 levels by 2030 and net zero by 2050. More than 200 facilities are covered by the Safeguard Mechanism and account for approximately 30% of Australia's annual national emissions. The next formal review of the Safeguard Mechanism is set for 2026-27.[6, 7]

Drawing on the scope of the Safeguard Mechanism, the Review considered carbon leakage risks for specific commodities:

- The extent of the carbon leakage risk
- The practical feasibility of a BCA
- The share of domestic production subject to the Safeguard Mechanism
- Other policies that may affect carbon leakage

1 "Australia's Carbon Leakage Review: Consultation Paper 2," *DCCEEW*, November 2024. Find it here
2 "Verdict on how to prevent carbon leakage, save jobs," *Australian Associated Press*, 28 December 2024. Find it here
3 For more information on the EU CBAM, please refer to recent editions of *TradeWatch*.
4 "Australia considers CBAM to address carbon leakage," *EY website*, 21 August 2023. Find it here
5 "Australia's Carbon Leakage Review," *DCCEEW*. Find it here
6 "Australia's Carbon Leakage Review: Consultation Paper 2," *DCCEEW*, November 2024. Find it here
7 "Reforming Australia's safeguard mechanism: an update," *Parliament of Australia*, 5 November 2024. Find it here



Noting the impending federal election set to be held by 17 May 2025, the timeline for the government to consider the Review's recommendations is unclear. However, businesses should proactively assess the potential impact of the Review's recommended BCA, as a new government could move fast following the next election.

What businesses need to know

For Australian producers of select commodities captured by the Safeguard Mechanism, any future Australian BCA would seek to ensure imports are subject to equivalent carbon costs in product pricing. The supply chains of foreign producers may be impacted as the cost of importing these materials into Australia rises, and importers may be impacted as higher costs may be attached to the import of covered products.

Specific products have been found appropriate for inclusion in a future Australian BCA:

- **Cement, lime and clinker:** The Review found these commodities at the highest risk of carbon leakage and the most appropriate for inclusion in a future Australian BCA's scope.
- **Ammonia (and derivatives), steel and glass:** These commodities were identified as potentially warranting inclusion in a future Australian BCA's scope, given material risks of carbon and investment leakage in the absence of long-term solutions.
- **Alumina and aluminum, refined petroleum, pulp and paper:** The Review highlighted these commodities for reassessment during the 2026–27 Safeguard Mechanism Review. For these products, the risk of carbon leakage is mixed, and the cost of carbon as a share of product prices is currently relatively modest.
- **All other products:** The Review recommended no further action for carbon leakage mitigation where products are not widely exposed to the Safeguard Mechanism.

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A future Australian BCA would expose foreign producers to the same liabilities as domestic producers under the Safeguard Mechanism: A liability would apply only to imports exceeding the Safeguard Mechanism's baseline emission limit at the time of import.

The Review found a future Australian BCA should not provide rebates for exports: The Review noted that a BCA that provides rebates for exports would be inconsistent with Australia's emissions reduction targets and could raise considerable international trade law concerns.

The Review suggested additional policies and initiatives to support producers: The Review recognized domestic and international stakeholder consensus that a BCA must not become a barrier to trade. It noted the importance of providing developing countries with support, simplification of trade processes, and consideration of default values and interoperability with other countries.

Action for businesses

While the ultimate decision on whether to implement a future Australian BCA will sit with the Australian government, now is the time for businesses to assess the potential exposure on their operations, to be adaptable and to set themselves up for successful compliance.

Assess your exposure to a future Australian BCA: In-scope products sourced from countries with weaker carbon reduction measures could be exposed to a future Australian BCA. Both domestic and foreign companies should seek to understand the scale of potentially covered goods passing over the Australian border.

Assess carbon costs in your supply chains: Identifying which of your in-scope products being imported into Australia are currently subject to carbon pricing will allow you to identify the scale of carbon leakage (if any) that may be addressed by a future Australian BCA.

Assess operating model effectiveness: Businesses should assess their day-to-day operations to understand opportunities to revise sourcing arrangements with countries with an Emissions Trading System in the short-to-medium term and explore opportunities in the medium-to-long term that reduce emissions in current production processes. Broader supply chain transformation elements, such as supplier reviews, customs process and procurement optimization, or changing product logics, should all be considered.

Next steps for the Review

The Review's findings have not yet been considered by the government and do not reflect government policy. However, now is the time for businesses to assess their exposure and consider their operating model effectiveness to ensure preparedness.

Looking beyond a future Australian BCA's compliance and reporting obligations, businesses should consider mitigation in the context of wider decarbonization efforts and the policies of other jurisdictions, including the EU CBAM and UK CBAM.[8]

8 For more information on the UK CBAM, please refer to our article "UK government consultation on the CBAM introduction: the current EY thinking," *TradeWatch Issue 2 2024, page 58* and our alert "UK Government responds to consultation on introducing UK CBAM," *EY website*, 31 October 2024. Find it here

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Japan: Annual report on post-entry customs

Japan's Ministry of Finance has released a report on post-entry customs audits conducted between July 2023 and June 2024.[1] The report highlights the focus area of Japan Customs' audits and where compliance errors tend to occur. The cases highlighted in the report provide useful information on where companies often overlook compliance obligations and where companies can address matters proactively.

In this latest report, Japan Customs contends that the customs value of imports was underdeclared by more than JPY120 billion (approximately USD800 million), which is an approximately 35% increase compared to the previous year.[2] The COVID-19 pandemic has caused a significant drop in the number of post-clearance audits carried out in Japan. However, the average penalties and additional duties assessed per misdeclaration are now on an upward trend, following a rise in the number of audits conducted over the past two years.

In total, Japan Customs assessed JPY13.4 billion (approximately USD90 million) in underpaid duties, taxes and administrative penalties, including JPY40 million (approximately USD 300 thousand) in penalties for fraud or gross negligence. The top five imports with the largest underpayment of customs duty and import consumption tax are listed, by Harmonized System (HS) chapters, in the table opposite:

Imports (HS chapter)	Duty and tax shortfall (JPY billions)
Optical instruments and apparatus (Chapter 90)	2.6
Electrical equipment (Chapter 85)	1.7
Machinery and mechanical appliances (Chapter 84)	1.4
Pharmaceutical products (Chapter 30)	1.4
Vehicles other than railway or tramway rolling stock, and parts and accessories thereof (Chapter 87)	1.2

Together, these five chapters account for about 67% of the total duty and tax underpaid. Four of the top five imports have been on the list for the last three years: optical instruments and apparatus; electrical equipment; machinery and mechanical appliances; and vehicles other than railway or tramway rolling stock, and parts and accessories thereof. In particular, electrical equipment and optical instruments and apparatus have been repeatedly listed in the top five.

1 "Results of the post customs audit of customs declarations for the 2023 fiscal year," *Japanese Ministry of Finance website*, 13 November 2024. Find it here

2 ibid

Major examples of customs violations

The report also highlighted some specific cases where importers were subject to additional duties. These cases concern two types of violation: cases that do not involve fraud or gross negligence and cases that do involve fraud or gross negligence.

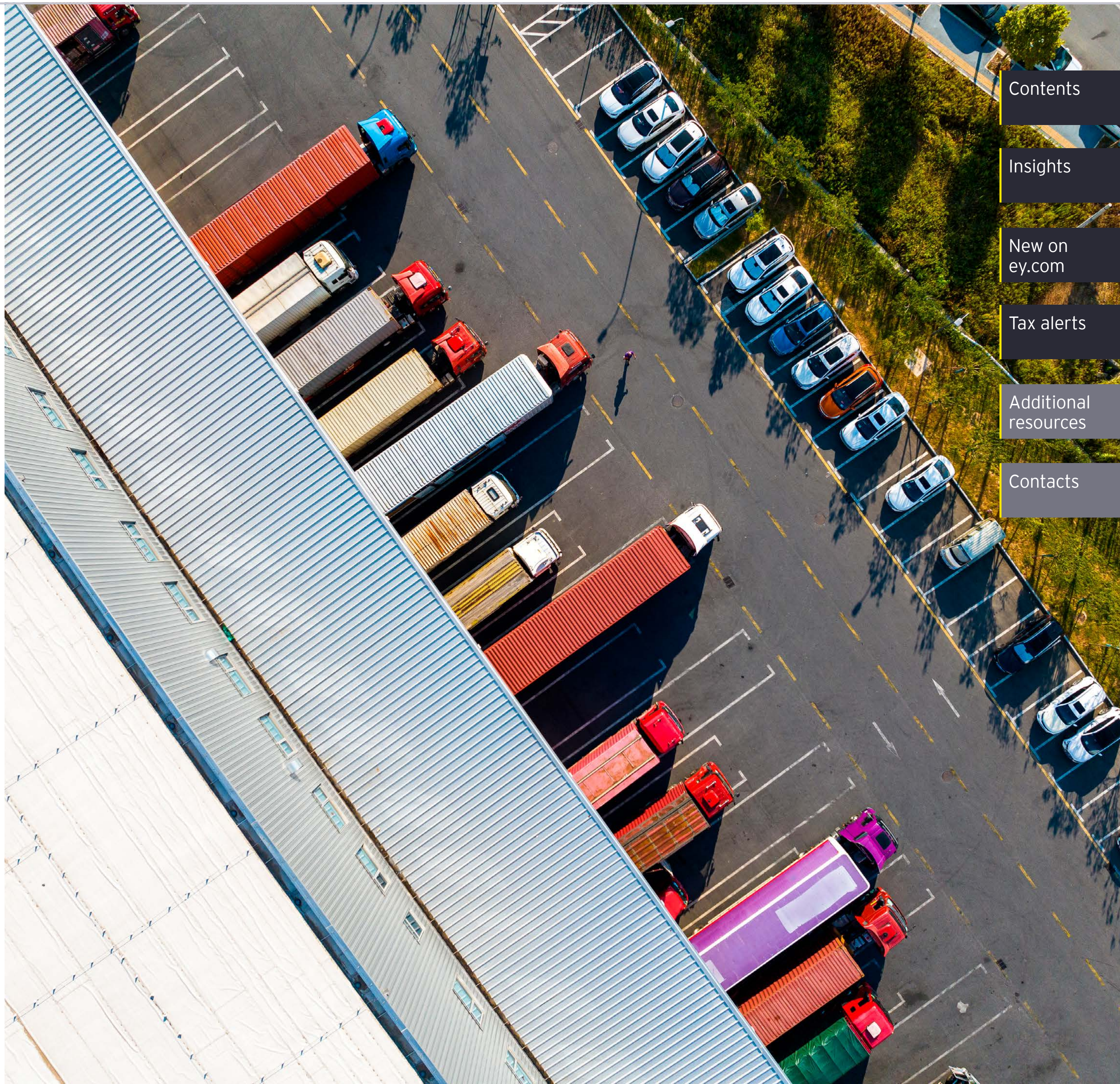
Cases not involving fraud or gross negligence

In cases not involving fraud or gross negligence, importers are required to pay the underpaid duties and taxes, as well as administrative penalties, which are generally imposed at 5% to 15% of the underpaid duties and taxes[3] and overdue taxes (interest for late payment).

Case 1: Failure to report additional payments (made after import) of imported goods

An importer of solar panels made payments for the imported goods to the exporter. Due to unit price issues identified after the import clearance, the importer later made an additional payment for the goods imported. This additional payment should have been included in the customs value for the import, but the importer did not file amended declarations. Due to this oversight, the importer was found to have underdeclared the value of the goods

3 In addition, in the case of deficient declaration, if an incremental tax after the correction of the customs declaration exceeds the amount of the principal tax or JPY0.5 million (whichever is greater), an additional tax for a deficient declaration shall be collected at the rate of 5% of the excessive amount. On the other hand, in the case of no declaration, if the tax amount payable under the decision exceeds JPY0.5 million, an additional tax for no declaration shall be collected at the rate of 5% of the excessive amount.



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by JPY935 million (approximately USD7 million) and was assessed JPY127 million (approximately USD850 thousand) in underpaid taxes and administrative penalties.

Case 2: Failure to report costs of raw materials provided free of charge and processing fees of the imported goods

An importer of pharmaceuticals provided raw materials used in production of the imported goods free of charge to the exporter and bore the manufacturing costs. Although these costs should have been included in the customs value, the importer failed to include them in the declared customs value. As a result, the importer was found to have underdeclared the value at import by JPY641 million (approximately USD4.5 million) and was assessed JPY67 million (approximately USD450 thousand) in underpaid taxes and administrative penalties.

Cases involving fraud or gross negligence

In cases involving fraud or gross negligence, importers are required to pay increased penalties that are generally imposed at a rate of 35% to 40% of the underpaid duties and taxes.

Case 3: Declaration of a falsified invoice created by the importer

An importer of clothing created purchase orders based on invoices created by the exporter indicating lower prices, despite being aware of the appropriate prices of the imported goods. The importer did not take any corrective action and declared the lower prices indicated on the invoices and purchase orders as the customs value. This resulted in JPY400 million (approximately USD3 million) in underdeclared customs value and JPY84.1 million (approximately USD600 thousand) assessed for underpaid taxes and administrative penalties, of which JPY3.1 million (approximately USD21 thousand) was the penalty for fraud or gross negligence.

Case 4: Declaration of a falsified invoice created by the importer in collusion with the exporter

An importer of woven labels created invoices with lower prices for declaration purposes in collusion with the exporter and declared these as the customs value, despite being aware of the appropriate prices of the imported goods prior to filing declarations. As a result, the importer was found to have underdeclared the value at import by JPY44.3 million (approximately USD300 thousand) and was assessed JPY8.3 million *approximately USD60 thousand) in underpaid taxes and administrative penalties, of which JPY1.6 million (approximately USD11 thousand) was the penalty for fraud or gross negligence.

Implications for importers

The failure to declare payments made separately from invoice prices as part of the customs value has been reported continuously in past years. In Case 1, the importer should have included the additional payments for the imported goods made after the import clearance in the declared customs value. In Case 2, the importer should have included the costs of raw materials provided free of charge as well as manufacturing costs in the declared customs value.

To correctly declare the customs value, companies are required to be fully aware of transaction details, such as the payments made separately from invoice prices. These separate payments can be identified by Japan Customs during audits based on the submitted accounting books and remittance details. Importers should be aware that Japan Customs continues to rigorously and regularly check and enforce compliance, and any noncompliance uncovered is penalized. Therefore, maintaining appropriate internal compliance mechanisms and processes to ensure compliance with import and export legislation should be a top priority for all companies importing into Japan. ■

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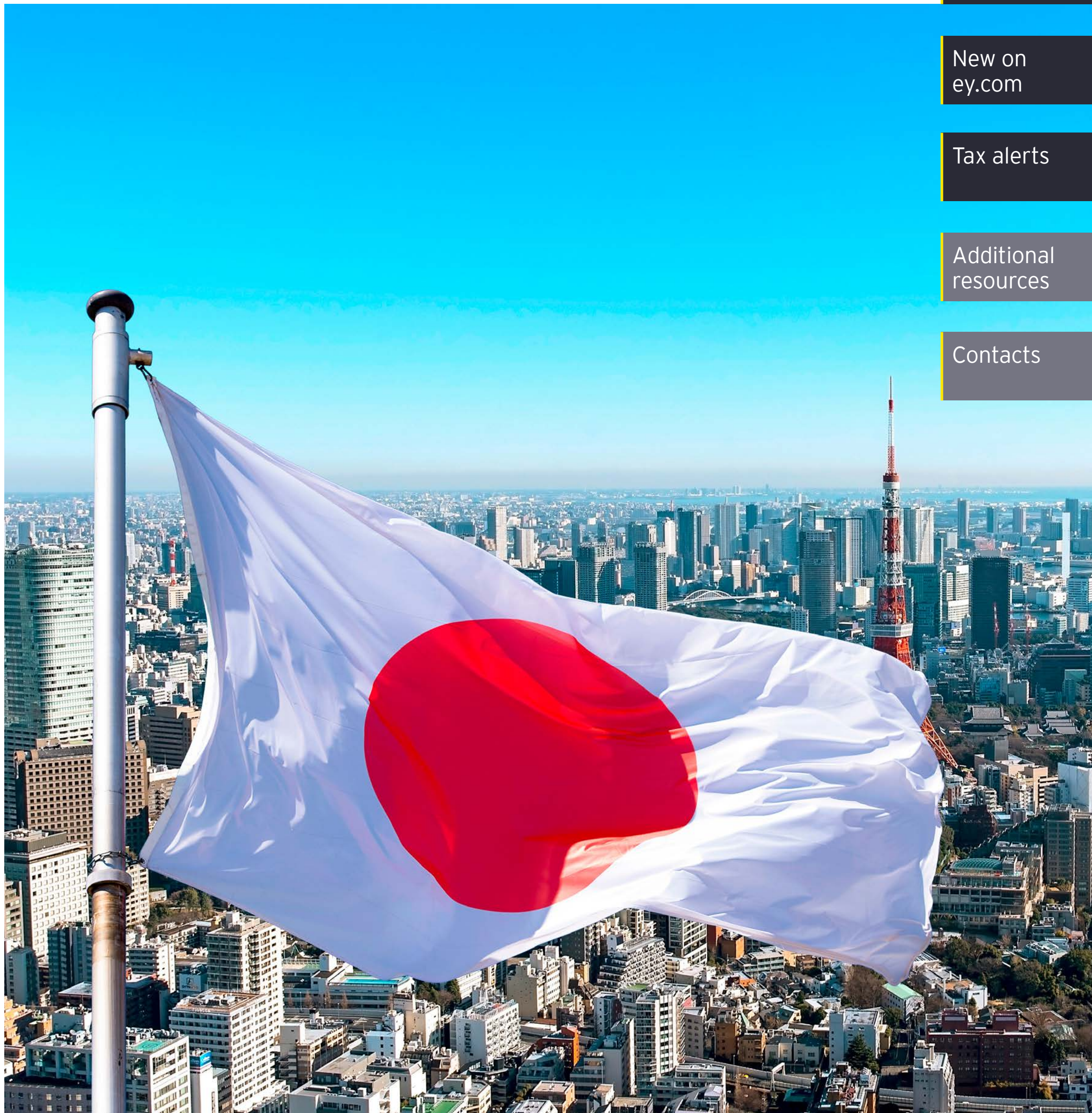
Japan: METI releases revised export control regulations

On 31 January 2025, the Ministry of Economy, Trade and Industry (METI) issued a draft of the revised Cabinet Orders of the Foreign Exchange and Foreign Trade Act (FEFTA).[1] This draft included potential revisions outlined in the Interim Report[2] published by the Subcommittee on Security Trade Control Policy under the Trade Committee (Subcommittee) of the Industrial Structure Council on 24 April 2024. The revisions have notably reinforced the existing catch-all controls (CA Controls) by requiring verifications of end-use and end-user requirements when exporting goods to non-restricted countries,[3] based on the HS codes.[4]

The draft of the revised Cabinet Orders is now available for public comment, and the implementation of these revisions is expected to be around the end of September 2025, following the Cabinet's approval and official promulgation at the end of March 2025.

Summary of the revisions

Revisions were made to the items stipulated in the Appended Table of the Export Control Order. The main discussion points regarding the CA Controls for conventional weapons are:



1 "Interim Report of the Security Trade Control Subcommittee, Trade and Trade Subcommittee, Industrial Structure Council," *Japanese Ministry of Economy, Trade and Industry website*. Find it here

2 For further details, see our article "Japan: Interim report on the revision of export control regulations," *TradeWatch* Issue 3 2024, page 45.

3 A general country is defined as all countries other than Group A and countries or regions under the United Nations Security Council (UNSC) Arms Embargo. Group A comprises countries that participate in each multilateral export control regime and strictly enforce export controls (Appended Table 3 of the Export Trade Control Order (ETCO)). Countries or regions under the UNSC Arms Embargo are countries to which the export of arms and their related goods are prohibited by the resolution of the UNSC (Appended Table 3-2 of the ETCO).

4 HS code: A common code established by the HS Convention to define the types of goods uniformly across the world. The HS code is required when declaring exports and imports to Customs.

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- **Items listed based on HS codes:** Items that may pose high security risks for military use will be listed with their HS codes. Companies are required to classify the items under the appropriate HS codes and continuously review them for updates.
- **Verification of end-user requirements:** End-user requirements must be verified even for the goods exported to non-restricted countries, requiring a broad review of stakeholders when exporting to non-restricted countries.
- **Addition to the foreign user list[5]:** Information on organizations concerned with the development of conventional weapons will be added to the foreign user list. Therefore, it is necessary to establish an efficient review process.
- **"Apparent" Guideline Sheet:** The "Apparent" Guideline Sheet is a guideline to judge whether it is apparent that an item's end use is for the purpose of developing weapons of mass destruction (WMDs). It will include specific examples based on the red flags specified in US export control regulations.[6] According to the added examples, all the items will be treated as high risk unless details and information are disclosed by the transaction partner; therefore, it is essential for companies to conduct stricter and more thorough review on end users.

These newly added legal verification requirements, including the license that may be required for exports to Group A countries, will have significant impact on many companies. Therefore, companies will need to be vigilant in transactions regarding the end destination and end users, as well as their intended use.

5 METI has published a list of entities involved in the development of WMDs. The latest revision will include additional entities that are involved in the development and conversion of conventional weapons.

6 "Supplement No. 3 to Part 732–BIS's "Know Your Customer" Guidance and Red Flags," *US Bureau of Industry and Security website*. Find it here

In addition to these factors, the items subject to the revisions announced this time are:

Revisions to the Foreign Exchange Order

- Reinforce current complementary export controls
  - Strengthen CA Controls for conventional weapons
  - Prevent circumvention via Group A countries
- Rationalize and simplify operations
  - Perform checklist for self-assessment
  - Implement return procedure for defense equipment
- Add targeted technologies for a dialogue scheme developed for technology management purposes

Revisions to the Foreign Exchange Order and the Export Trade Control Order

- Update of the List Control to include critical and emerging technologies
  - Relax the scope of a special bulk license
- Strengthen export control management for specific items
- Relax the obligations for return goods

Next steps

The Interim Report highlighted that Japan's current nonproliferation export control policy requires upgrading. It calls for the adoption of new measures that could start regulating exports for the concerned end uses and end users, given the expanding risk of military conversion of dual-use technologies. The revisions include the strengthening of the CA Controls and requiring companies to properly manage exported goods and technology against the existing regulations for high-specification cargo as well as the end-use and end-user requirements. Companies should consider the following points to confirm compliance with the updated export control regulations:

- Implement thorough due diligence (DD) on stakeholders involved in export transactions to non-restricted countries. As the scope of DD expands and the number of parties under scrutiny increases, consider leveraging external databases and IT solutions to automate the process and manage the additional workload efficiently.
- It is crucial to conduct more meticulous transaction reviews in line with the "Apparent" Guideline Sheet for concerned end users. For certain transactions, establish procedures that involve focused assessments and decision-making by in-house professionals and those in charge. Simultaneously, manage the level of risk in a way that is sustainable for the company, considering the potential increase in workload and resource allocation.
- To prevent circumvention via concerned parties, companies may need to address risks related to domestic sales and exports by overseas group companies. To this end, strengthening transaction review processes at overseas subsidiaries and creating a robust export control governance system are considered vital steps.

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Vietnam: 2025 Inspection Program for customs

In a continuing effort to uphold administrative discipline, the government of Vietnam has issued its official orientation (Official Document No. 2220/TTCP-KHTH dated 23 October 2024) for the 2025 Inspection Program, under which customs inspections are included.[1] This program, formulated under the guiding principles of the 2022 Law on Inspection and in accordance with key resolutions from the 13th Party Congress, the National Assembly and the government, aims to further enhance the integrity, efficiency and transparency of state management at all levels.

Recent years have included the implementation of a number of policies and reform measures. Those initiatives have been driving Vietnam's economic growth while maintaining macroeconomic stability, controlling inflation, and enhancing both productivity and competitiveness amid a complex, turbulent global environment. 2025 is especially significant because it marks the final year of the socio-economic development plan (2021–2025)[2] and coincides with several key national events. These include the upcoming Party Congress at various levels, the 14th National Congress of the Communist Party, the anniversaries of National Day and the traditional Inspection Day in Vietnam. The inspection authorities are committed to consolidating past achievements, addressing identified shortcomings and implementing a focused set of inspection priorities for the 2025 Inspection Program.

Purpose of the 2025 Inspection Program

The program is designed with the following key objectives:

- Uniform and effective implementation
- Adherence to legal procedures
- Innovation and modernization
- Combatting corruption and misconduct

1 "Orientation for tax inspection program in 2025," *EY Vietnam website*, 6 December 2024. Find it here
2 "Socio-economic plan for 20212025," *Vietnam Government website*. Find it here

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Focused areas for customs inspection 2025

The General Department of Customs (the GDC) will play a key role in the 2025 Inspection Program for customs, conducting both administrative and specialized (or technical) inspections. The following from the official orientation outlines the major points:

Administrative inspections (applicable for customs authorities and customs officials)	
Public service and discipline	■ Examine public administrative procedures and performance within high-risk units and operational sectors susceptible to corruption or irregularities ■ Conduct targeted inspections into the execution of responsibilities by public officials, including the adherence to administrative discipline and conduct
Customs procedures and policies	■ Review administrative handling related to duty-exempt imports for fixed asset creation, including the submission and finalization of import duty exemption reports ■ Inspect processes related to import duty and tax refunds, post-refund procedures, debt resolution, goods classification, and the application of value-added tax (VAT) policies – especially for items subject to anti-dumping, countervailing and safeguard duties
Cargo management	■ Audit customs procedures for both independent and supervised cargo transportation; transit goods; and the management of bonded warehouses, Container Freight Station (CFS) warehouses, and previously used machinery and equipment
Risk management and information analysis	■ Verify the implementation of risk management protocols, including cargo classification, pre-clearance information gathering and post-clearance oversight ■ Assess compliance with policies governing key goods and the accuracy of data in customs declarations ■ Evaluate the use of electronic seals and the management of onscreen declarations, including procedures for amending, supplementing or canceling customs declarations, as well as the handling of goods under specialized regulatory oversight ■ Assess the implementation of the management processes for those enterprises engaged in the importation of goods for export toll and contract manufacturing
Citizen-related activities	■ Monitor the efficiency of citizen services, focusing on the resolution of complaints, official correspondence and anti-corruption practices, including measures to ensure cost-saving and prevent wasteful expenditure

Specialized inspections (mainly and directly relevant to businesses)	
High-risk import transactions	■ Focus on enterprises importing goods with high import duty rates or substantial import values, with special attention to sectors experiencing sudden increase in import volumes ■ Examine cases where there are potential irregularities regarding customs classification, valuation, country of origin and adherence to specialized product management policies ■ Key covered sectors include textiles (raw materials in apparel), electronic components, machinery, consumer electronics, automotive tires, steel, wood products, consumer goods, medical devices, pharmaceuticals, chemicals, alcoholic beverages, tobacco products, scrap and minerals
Quality and safety oversight	■ Investigate imports with signs of noncompliance related to quality or food safety standards, such as beverages, tobacco, functional foods and cosmetics
Export compliance and fraud prevention	■ Conduct inspections of export enterprises suspected of fraudulent practices in declared customs value, export duty rates or adherence to state management policies ■ Scrutinize export activities in sectors such as wood and mineral-based products, particularly where there is a marked disparity between export volumes and the enterprise's registered capital or historical performance or where there are extraordinary claims for duty refunds
Incentivized investment import activities	■ Evaluate enterprises involved in investment projects or those benefiting from customs duty exemptions/non-dutiable statuses, with an eye toward the thoroughness and clarity of supporting documentation ■ Special emphasis is placed on enterprises importing components for automotive assembly or production, as stipulated by Decree No. 125/2017/ND-CP[3] and its subsequent amendments

3 "No. 125/2017/ND-CP," *THƯ VIỆN PHÁP LUẬT website*, 16 November 2017. Find it here

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Implications and recommendations for businesses

The inspection actions under the 2025 Inspection Program will have broad implications for businesses involved in import and export activities. To navigate effectively through this evolving regulatory environment, companies should consider:

- **Strengthening the internal trade compliance system and human resource capabilities**
  With an increased focus on administrative discipline and rigorous customs inspections and audits, it is essential for businesses to review this area. It should include ensuring all transaction documentation, supporting documentation, reporting, timelines, customs procedures, and consistency between customs documentation and others, such as tax and accounting records, are satisfactory and in accordance with the prevailing customs regulations and practices.
- **Performing an internal customs compliance health check**
  Businesses in high-risk sectors, as mentioned in the 2025 Inspection Program, and others in general should regularly undertake internal rapid mock audits and/or full-scope customs compliance health checks. Identifying risks and underlying exposures and conducting voluntary disclosures and amendments with customs authorities before an audit happens may help significantly reduce administrative penalties and exposure consequences – often calculated as a percentage of the customs duty shortfalls (10%–20%, or one to three times the customs duty shortfalls), avoid accusation of tax fraud or evasion and possibly criminal accusations, and maintain a good image in the eyes of the authorities in general.
- **Focusing on traditional customs compliance areas**
  This includes customs classification, customs valuation, origin application and valid proof of origin under different free trade agreements, management of duty-exempt materials imported for export toll and contract manufacturing, management of duty-exempt goods whose use-purpose was changed after import and import license and other non-tariff import measures of sensitive-prescribed goods.
- **Keeping up to date**
  Actively requesting trade compliance personnel to update themselves on the latest common pitfalls in customs audit and have good preparation accordingly.
- **Maintaining collaborative liaison with the authorities**
  Establishing robust channels with the customs authorities through the business's regulatory, corporate affairs or trade compliance teams for continuing communication and dialogue with the customs authorities can facilitate prompt resolution of any issues that may arise during inspections or even during your usual course of daily business.
- **Long-term compliance and sustainability**
  The evolving regulatory environment in Vietnam now calls for a forward-thinking approach. For example, with the proposed change in on-the-spot export and import transactions, many businesses and their supply chain will be impacted, so advance preparation and flexibility are advisable to manage manufacturing disruption.

By adopting these measures, businesses can not only meet the enhanced requirements of the 2025 Inspection Program but also improve their operational resilience and maintain a competitive edge.

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EU: Update on the proposals to reform the Customs Union

On 17 May 2023, the European Commission published its proposals to reform the EU Customs Union.[1] The negotiations within the European Council are currently taking place, and the Commission aims to reach consensus on the proposals between all three EU institutions by the end of 2025, whereafter the first operational phase of the reform would take place in 2026. This article presents a recap of the most important changes proposed as part of the reform and provides an outlook on the next steps in the legislative process.

Objectives and key changes proposed by the Commission

The European Commission's May 2023 proposals mark the most ambitious and extensive reform of the European Customs Union since its establishment in 1968. In pursuing this initiative, the Commission has placed special emphasis on three primary objectives:

- A new partnership with business
- A smarter approach to customs checks
- A more modern approach to e-commerce

To reach these objectives, several structural and legal changes are proposed, with the key changes summarized below. For a more detailed discussion, we refer to earlier *TradeWatch* articles.[2]

Centralization of the EU's customs function and improved uniformity in rule application

To enhance the consistency of the trading experience, the reform encompasses the establishment of a central EU Customs Authority tasked with centralized risk management, which will provide control recommendations to national customs authorities for implementation. Additionally, it promotes greater uniformity in EU customs regulations, including the introduction of a minimum EU-wide penalty framework, rather than permitting Member States to set and enforce penalties completely independently.

Thorough overhaul of customs legislation for streamlined e-commerce management

This reform seeks to simplify e-commerce operations by removing the EUR150 low-value consignment customs duty relief and implementing new, simplified bucket tariffs for the importation of distance sales goods. It also introduces new definitions for "importer" and "deemed importer" to align customs regulations with VAT rules related to distance sales.

1 "EU Customs Reform," *European Commission website*. Find it here

2 "European Union: First vote on EU customs reform," *TradeWatch* Issue 1 2024, page 47; "EU: Proposed customs reform – a modern approach to e-commerce," *TradeWatch* Issue 3 2023, page 31; and "EU: Customs legislation reform," *TradeWatch* Issue 2 2023, page 24.

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Streamlining customs processes and launching the EU Customs Data Hub

The establishment of the EU Customs Data Hub (Data Hub) will create a centralized IT framework, replacing the current 27 separate systems and offering a unified interface for traders engaging with customs. The Data Hub will consolidate data from the Single Window, Import Control System 2 (ICS2) and Digital Product Passports to ensure comprehensive oversight of EU customs information. The emphasis will be on empowering traders and stakeholders to provide firsthand, reusable customs data, thereby facilitating a more efficient clearance process.

Status of the legislative process

During the Economic and Financial Affairs Council configuration (Ecofin) meeting on 10 December 2024, the reform of the EU Customs Union was discussed. EU ministers intensified their calls for the rapid advancement of a long-awaited customs reform, designed to tackle the evolving challenges of e-commerce while protecting businesses from excessive bureaucratic burdens. In 2024, 4.6 billion low-value goods were imported into the EU, which is twice as in 2023 and three times as in 2022,[3] resulting in enforcement challenges for national customs authorities.

The focus of the legislative process has shifted in the first half of 2025 to the European Council, which is tasked with establishing a unified negotiating position on the reform. EU Trade Commissioner Maroš Šefčovič has urged Member States, represented by the Council, to finalize their stance in the first half of 2025 to sustain momentum. Šefčovič expressed optimism that the Polish presidency of the EU Council, which will oversee negotiations among Member States in early 2025, would provide a mandate for engagement with the European Parliament. He emphasized, "A timely resolution is crucial for maintaining the EU's competitive edge and ensuring fair market conditions for all players."[4]

Hungary, the outgoing holder of the Council presidency, presented a progress report[5] on the reform. However, this report faced criticism from Member State representatives for its lack of ambition, with many calling for a stronger commitment to achieving consensus. Representatives from Austria, Bulgaria, Croatia and Denmark urged the incoming presidency to accelerate efforts toward compromise. In contrast, Finland, France and Germany highlighted the need to enhance the Customs Union's capacity to address noncompliant goods entering the bloc, especially in light of the surge in e-commerce.

Discussions surrounding e-commerce regulations are ongoing and are expected to be particularly challenging. Germany, along with other Member States, is advocating for stricter oversight of platforms proposing the introduction of a "deemed importer" category. This would hold e-commerce platforms accountable for providing customs authorities with detailed information about goods sold into the EU. Another proposed change includes the elimination of the customs duty exemption for goods valued under EUR150, which many believe fosters unfair competition from non-EU sellers. However, several Member States remain sceptical about the effectiveness of these measures, particularly given the high volume of parcels entering the EU daily.

The Council is now tasked with taking decisive action to align Member States on a unified position. Once an agreement is reached, negotiations with the European Parliament can begin. Stakeholders have emphasized the importance of balancing the reform's objectives of strengthening the Customs Union and maintaining its competitiveness while minimizing administrative burdens for businesses.

3 "Commission announces actions for safe and sustainable e-commerce imports," *European Commission website*. Find it here
4 "Economic and Financial Affairs Council: Public Session," *European Council website*, 9 December 2024. Find it here
5 ibid

Actions for businesses

While the negotiations proceed, businesses should:

- **Stay informed and engage in dialogue:** Businesses should actively track and assess the developments in the EU customs reform process. This will help them stay informed about changes that may impact their operations.
- **Prepare for changes in e-commerce regulations:** With the proposed removal of the EUR150 low-value consignment customs duty relief and the introduction of new customs definitions, businesses engaged in e-commerce should assess their pricing strategies and compliance processes. They may need to adapt their logistics and customs procedures to align with the upcoming regulations, including understanding the implications of the "deemed importer" category.
- **Invest in data management systems:** As the Data Hub will centralize customs information and require detailed product and supply chain data, businesses should consider investing in robust data management systems. This will enable them to efficiently submit customs information through the new portal and ensure compliance with the evolving customs requirements.
- **Evaluate supply chain transparency:** Businesses should enhance the transparency of their supply chains to meet the expected demands of the new customs framework. By ensuring that they can provide firsthand, reusable customs data, companies can position themselves as "Trust & Check" traders, potentially benefiting from streamlined customs processes and reduced intervention from customs authorities.

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EU: Regulation that bans products made with forced labor adopted and published

In a significant move toward ethical trade practices, the EU published a regulation[1] in its Official Journal on 12 December 2024 that prohibits the import, export and making available of products on the EU market that have been made using forced labor. This regulation marks a pivotal step in the EU's commitment to combatting human rights abuses and ensuring that the products available to consumers are not tainted by exploitation. The regulation will apply as of 14 December 2027.[2]

1 "Regulation (EU) 2024/3015 of the European Parliament and of the Council of 27 November 2024 on prohibiting products made with forced labor on the Union market and amending Directive (EU) 2019/1937," *EUR-Lex website*. Find it here

2 For further information on the EU's decision to ban forced labor products, please refer to our article "EU: European Parliament approves legislation to ban forced labor products," *TradeWatch* Issue 2 2024, page 47.

Framework for action against forced labor

The regulation establishes a robust framework for legal action against products associated with forced labor. It mandates the creation of a comprehensive database by the European Commission, which will identify areas and products at risk of forced labor. This database will serve as a critical tool for competent authorities in assessing potential violations of the regulation. Investigations may be initiated based on risk assessments conducted by the Commission or Member State authorities, depending on whether the forced labor occurs within the EU or in third countries.

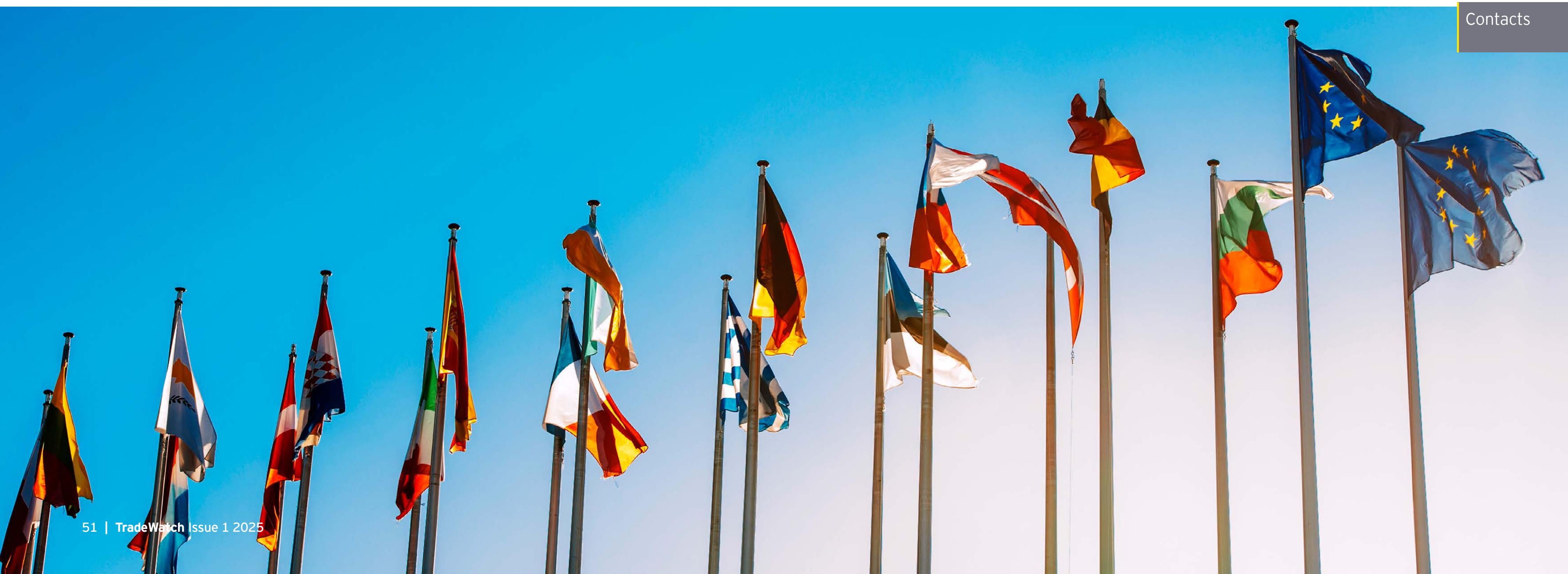
Member State authorities are required to collaborate and share information regarding suspected violations across the EU. The authority that leads the investigation will have the final say on whether to ban, withdraw or dispose of any product found to be made using forced labor. This decision will be recognized across all Member States, reflecting the principle of mutual recognition.

Comprehensive scope of the regulation

The regulation applies universally to all economic operators, prohibiting the placement or making available of products made with forced labor across the EU market. This includes both imported goods and those produced domestically, extending also to online sales. Notably, the regulation does not allow for any de minimis exceptions, emphasizing a zero-tolerance approach to forced labor in all sectors and stages of the supply chain.

Under the regulation, a product is deemed to be made with forced labor if any part of its extraction, harvest, production or manufacture involves forced labor, including child labor. This broad definition underscores the EU's commitment to eradicating forced labor from all facets of the market. With this definition, the regulation adopts the broad definition of "forced labor" as outlined in International Labor Organization Convention 29,[3] encompassing all work or service exacted from individuals under threat of penalty and without voluntary consent. This alignment with international standards reinforces the EU's commitment to human rights.

3 As an example please refer to our article "US: Uyghur Forced Labor Prevention Act in action: updated guidance and trends," TradeWatch Issue 3 2023, page 60.



Risk database, compliance guidelines and investigative framework

A pivotal aspect of the regulation is the requirement for the European Commission to establish a database identifying forced labor risk areas and products. This database will serve as a vital resource for competent authorities in assessing potential violations and will aid economic operators in identifying risks within their supply chains. Scheduled for public availability by 14 June 2026, the database will be regularly updated to reflect the latest information.

The European Commission is tasked with issuing compliance guidelines by 14 June 2026, which will include due diligence guidance for economic operators. Each EU Member State must designate a competent authority responsible for enforcing the regulation by 14 December 2025. Investigations will follow a two-phase approach, beginning with a preliminary assessment based on risk criteria, followed by a more in-depth investigation, if warranted.

What business should do

While the regulation is set to take effect on 14 December 2027, businesses should not underestimate the urgency of compliance preparations. The three-year implementation period provides a window for companies to enhance their compliance frameworks, but proactive measures should begin immediately. One factor that makes immediate action important is the fact that the scope of the regulation is wider than other forced labor bans,[3] applying to all products and supply chain levels, regardless of origin. It also treats all regions equally, which may influence enforcement practices once the risk database is operational.

Business should:

- Assess the entire supply chain to identify potential risks of forced labor. This includes evaluating suppliers, subcontractors and all levels of production.
- Establish robust due diligence procedures to identify, prevent and manage forced labor risks. This should include regular assessments and monitoring of suppliers and their practices.
- Develop or update compliance policies and procedures to align with the new regulation. Ensure that these frameworks are integrated into overall corporate governance and risk management approaches.
- Provide training for employees, particularly those in procurement, compliance and supply chain management, on the implications of the regulation and how to identify and address forced labor risks.
- Communicate the importance of compliance with the regulation to suppliers. Encourage them to adopt similar practices and provide support for improving their own compliance measures.
- Stay informed about the regulation's implementation timeline, guidelines from the European Commission and any updates to the risk database. This will help businesses adapt to any changes in requirements.
- Develop a plan for how to respond to potential investigations by competent authorities. This should include gathering documentation and evidence of compliance efforts.
- Ensure that contracts with suppliers include clauses that require compliance with the regulation and outline consequences for violations.

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India: Evaluating the trade remedy landscape

With protectionism on the rise globally, India has also intensified its trade remedial measures and enforcement of quality control orders, often acting as non-tariff barriers.

In India, the Directorate General of Trade Remedies (DGTR),[1] a quasi-judicial body under the Department of Commerce, Ministry of Commerce and Industry, is the nodal agency for administering trade remedial measures, including anti-dumping, countervailing and safeguard duties. The process begins with the initiation of an investigation, typically triggered by a domestic industry's petition alleging unfair trade practices, such as dumping or subsidies. Following a prima facie assessment, the DGTR initiates the investigation, notifies stakeholders and collects data from interested parties, conducting a detailed examination of injury, causal links and market impact. The investigation, which generally spans 12 months (extendable to 18 months), results in the issuance of final findings, recommending appropriate remedial measures (if any) to the Ministry of Finance, which ultimately imposes duties through a customs notification.

In 2024, the DGTR witnessed a marked increase in investigations and implementation. This trend was largely driven by record merchandise imports, which grew by 4.5% to an estimated USD704 billion, up from USD674 billion in 2023.[2] Meanwhile, exports saw a 2.4% rise, reaching USD442 billion.[3]

1 India enforces the trade measures through two branches of the Indian government:

(a) The DGTR (under the Ministry of Commerce and Industry) is entrusted with the determination and recommendation of the trade remedial measures.

(b) The Ministry of Finance imposes and enforces the recommendations of the DGTR by issuing a customs notification.

2 The export and import statistics are taken from the Ministry of Commerce and Industry, available here.

3 Ibid.

Against this backdrop, India has actively pursued anti-dumping, countervailing and safeguard measures to protect domestic industries from unfair trade practices.

The following provides a detailed overview of the investigations initiated, findings issued and measures enforced, along with an analysis of the countries most affected.

Trade remedies in 2024

Initiations

In 2024, the DGTR initiated 57 investigations (including review and circumvention cases), marking a 54% increase from 2023. Anti-dumping investigations remained the primary trade remedial tool, accounting for 87% of total cases, while countervailing measures made up 9%.

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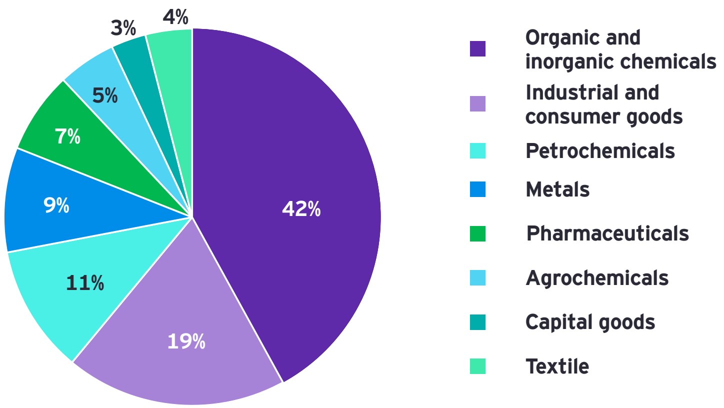
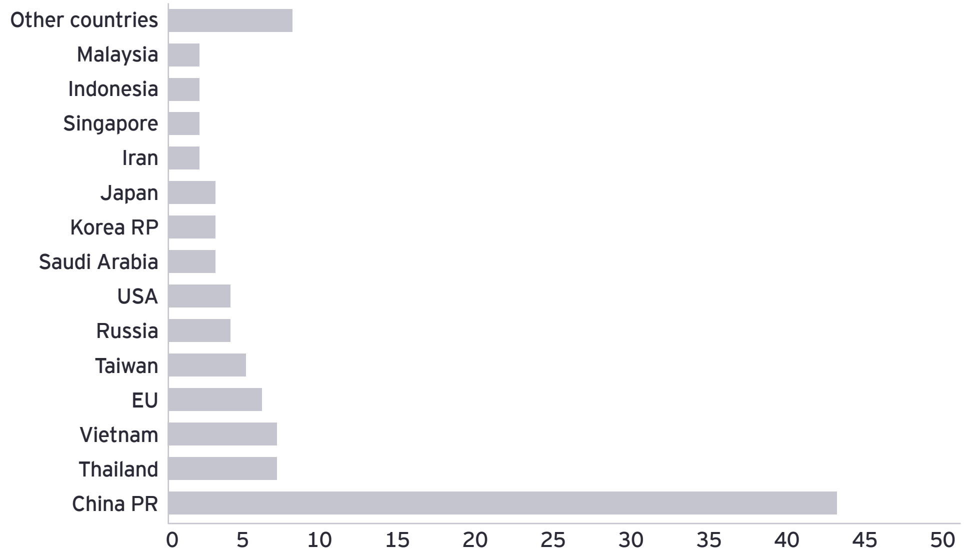
Among industries, the organic and inorganic chemicals sector was the largest user of these measures, representing 42% of total initiations. Other affected sectors included industrial and consumer products (19%), petrochemicals (11%), and metals and allied products (9%).

Percentage of initiations by sector



The details of the investigations in this chart have been gathered from the data available here

Number of investigations



The details of the investigations in this chart have been gathered from the data available here

Key target countries in trade remedial actions

China remained the primary focus of India's remedial trade measures in 2024, with 75% of all DGTR investigations involving China as one of the subject countries. Thailand and Vietnam followed, with seven investigations initiated against them during the year.[4] This trend highlights India's continued efforts to address concerns over unfair trade practices and safeguard domestic industries from import surges.

Trade remedial findings and implementations in 2024

In 2024, the DGTR concluded 32 investigations, all of which resulted in affirmative recommendations. Of the 24 recommendations where the deadline for customs notification had expired, 21 were accepted by the Ministry of Finance, while three were not implemented. This high acceptance rate underscores the Indian government's proactive approach to enforcing trade remedial measures and protecting domestic industries.

Outlook for 2025

The sharp rise in trade remedial investigations in 2024 was driven by multiple factors, including surging imports, higher implementation of DGTR recommendations by the Ministry of Finance, rising global protectionism and a muted economic outlook. As these trends persist, the momentum in new investigations is expected to continue in 2025.

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While trade measures have largely been pursued in the past for intermediate goods, such as chemicals and industrial and consumer products, 2025 could see a shift toward finished and capital goods. This aligns with India's broader push to climb up the manufacturing value chain, supported by the government's continued emphasis on domestic investment and industrial growth.

The DGTR's recent trade remedial actions

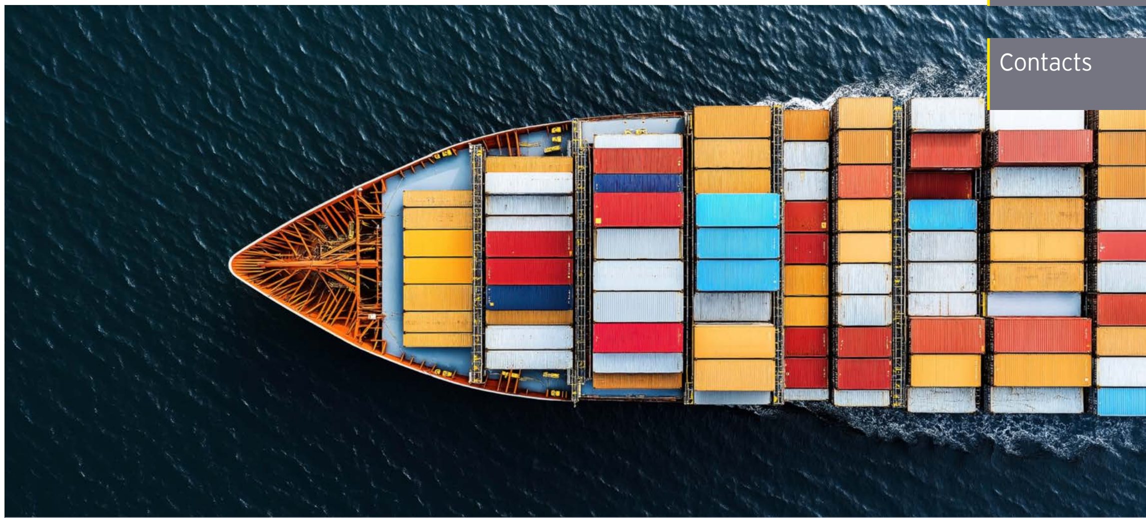
In the last quarter of 2024 (i.e., October 2024 to December 2024), the DGTR has initiated several investigations:

Sr. no.	Product	Subject countries	Type of investigation
1	Non-alloy and alloy steel flat products	All countries	Safeguard duty measures
2	Liquified natural gas fuel tank	China	Anti-dumping measures
3	Nylon filament yarn	China and Vietnam	Anti-dumping measures
4	4,4 Diamino stilbene 2,2 disulphonic acid (DASDA)	China	Anti-dumping measures
5	2,2,4-Trimethyl-1,2-dihydroquinoline (TDQ)	China	Anti-dumping measures
6	Calcium carbonate filler masterbatch	Vietnam	Countervailing duty measures
7	Monoisopropylamine (MIPA)	China	Anti-dumping measures
8	Toluene diisocyanate (TDI)	European Union and Saudi Arabia	Anti-dumping measures
9	Sulphonamides accelerators	China, European Union and United States	Anti-dumping measures
10	Untreated fumed silica	China	Anti-absorption measures

The affected parties concerning these products may participate in the investigations and make their views available to the DGTR to assist it in arriving at a fair and balanced conclusion.

Actions for business

India's proactive stance in enforcing trade remedial measures in 2024 underscores its commitment to protecting domestic industries from unfair trade practices. As global protectionism continues to rise and economic uncertainties persist, India's trade remedial landscape is expected to remain dynamic in 2025. To safeguard commercial interests, affected stakeholders should actively engage with the authorities and participate in ongoing investigations or seek appropriate remedies. ■



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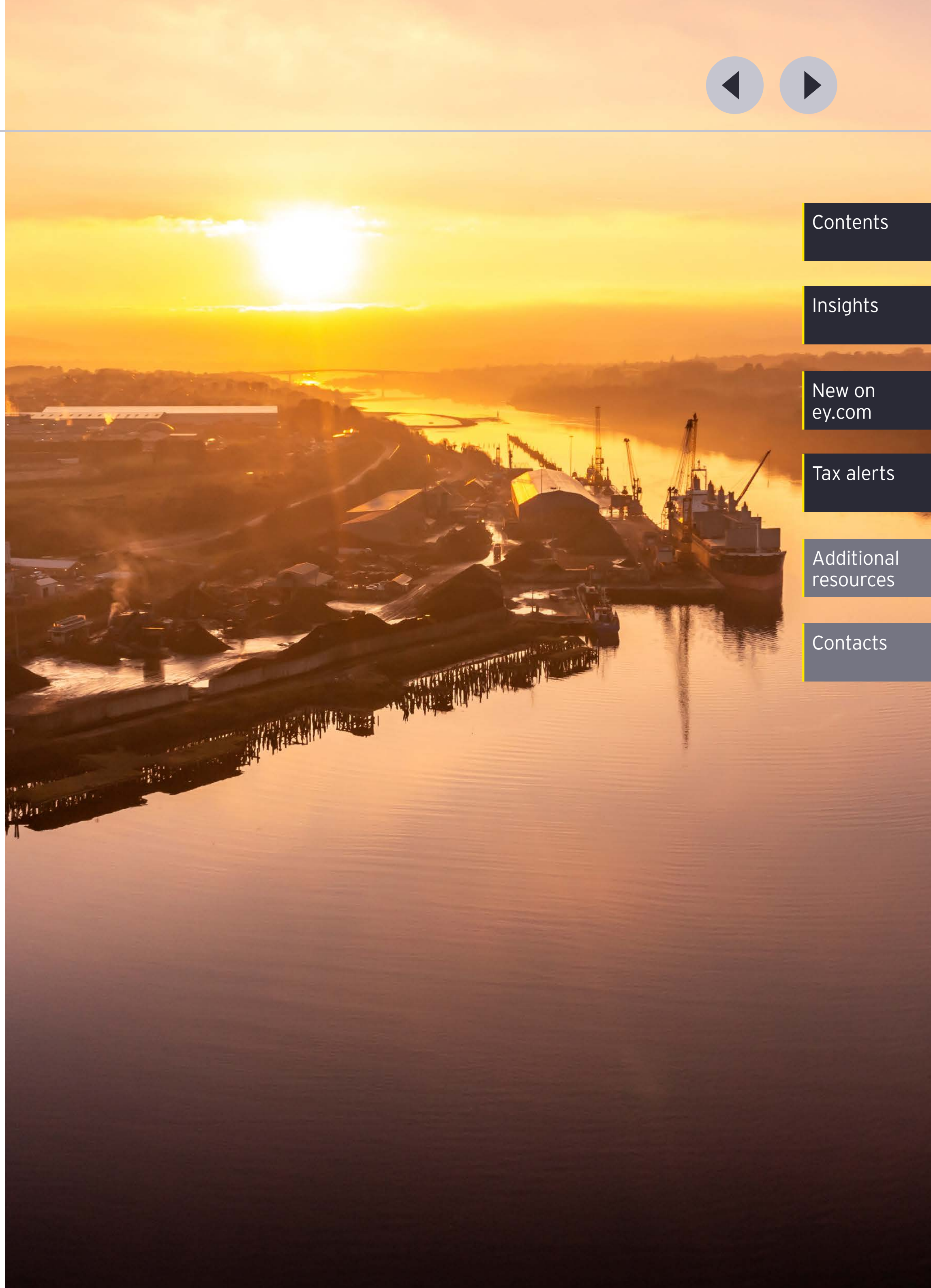

Northern Ireland: Possible trade benefits

It has been five years since the UK left the EU single market for goods, otherwise known as "Brexit." This seismic shift governing how the UK trades with the EU has been widely discussed, but one aspect that has remained in the spotlight is the trading relationship governing Northern Ireland (NI) – the NI Protocol, which gives NI dual market access to the UK and the EU.

However, even with the vote in December 2024 in which NI politicians voted to extend the functioning of these rules for four more years, there remains both skepticism and caution when it comes to NI and how it interacts in terms of goods trading with Great Britain (GB)[1] and the EU.

The introduction of the Windsor Framework in 2023 provided some certainty regarding the practical trade and tax implications of goods flowing to and from NI. How NI is viewed in terms of its unique position with dual UK-EU market can make it appear to businesses that complying with the regimes is too complex, which can be a barrier to trade. While challenges remain, practical real-life experiences in the years since Brexit indicate that there are also tangible benefits to business in trading in this unique environment.

This article is an attempt to cut through some of the noise and confusion still present around trade in goods in NI and indicate the possible opportunity with NI, particularly with the recent extension of these rules.

1 Great Britain consists of the three nations of England, Scotland and Wales.

Dual market access

What does "dual market access" mean? In simple terms, it is the ability for certain goods to move and be traded freely, without the need for customs paperwork, between NI and the EU, and NI and GB.

Goods traded between NI and the EU: At a high level, goods traded between NI and the EU can move freely across borders, with each business recipient accounting for local VAT on receipt of the goods in the destination territory, just like they did before Brexit when the whole of the UK traded on these terms as an EU Member State.

Goods traded between NI and GB: Goods traded from NI to GB are mostly afforded the same benefit – free movement with no customs paperwork – but to simplify the VAT consequences, the sale and/or movement is treated as if it were a UK domestic one, with the owner/seller accounting for UK VAT at the applicable rate.

Goods traded between the EU and GB: In contrast, GB goods moving to the EU are subject to full customs requirements, which can be costly in terms of resources and fulfilling the compliance obligations, and can also delay supply chains, which may cause issues in certain sectors that trade in finite shelf-life goods. It is worth noting that the EU accounted for 49% of the UK's goods exports in 2023.[2]

Trade simplification measures

The GB-to-NI trade flow is perhaps the one that has created the most headlines since Brexit, and this may have contributed to the view that trading with or from NI is too complex to engage in. For the GB-to-NI trade flow, it is true that customs paperwork is required, but unlike the GB-to-EU route, the requirements are not as onerous. This is due to various simplifications and aids introduced under the NI Protocol and Windsor Framework, such as the free Trader Support Service (TSS), essentially an online portal to allow businesses to complete their own customs paperwork; the Internal Market Scheme (UKIMS); and the NI Retail Movement Scheme (NIRMS).

The main additional consideration for business on this GB-to-NI trade route is whether the goods will be "at risk" of moving into the EU. If they are deemed to be at risk, EU duties may be payable, depending on various factors including, but not limited to, the classification and origin of the goods being imported into NI. Where the goods are not deemed to be at risk of onward movement into the EU, no additional duties should be payable upon entry into NI. Provided the importer is registered correctly under UKIMS, a simplified data set will only be required for compliance purposes.

Where goods are initially deemed at risk but subsequently remain within the UK market, the NI Duty Reimbursement Scheme (NIDRS) is a mechanism available to allow businesses to claim any difference in EU duties payable in comparison to the UK tariff. Where goods are brought from outside the EU into NI, depending upon whether the goods are deemed at risk, the NIDRS allows for a claim to be made for any difference between the UK and EU tariff rates.

Less commonly known for businesses that import consignments of at-risk and not-at-risk goods into NI is the ability to use historic trading data to estimate quantities of goods at risk, therefore allowing for a more accurate payment of EU duties and better cash flow position vs. having to pay EU duties on all goods and making a claim via the NIDRS.

Even for the most complex trade flow involving NI after Brexit, the legal mechanisms in place are there to simplify the position as much as possible for businesses. Along with NI's dual market access ability, NI could, for certain businesses, become a more attractive place to do business.

As with any new legal regime, there are some challenges that NI trade can bring. There have been various delayed rule implementations, such as for parcel movements, and most recently, some members of the NI devolved government requested the application of the Stormont Brake (a mechanism that gives the NI assembly the power to object to changes to EU rules that apply in NI) on the packaging and labeling of chemical products. This request was subsequently rejected by the UK government. However, it is hoped that these issues will be short-lived, with the long-term benefits of dual market access far outweighing the short-term pain.

2 "Statistics on UK-EU trade," *House of Commons Library website*, 23 August 2024. Find it here

Benefits of dual market access

The main benefit of trading from NI is the ability to access both the GB and EU market with relative ease and without the need for additional duties, compared to a trade flow of goods from GB, which can be costly in terms of these duties and the compliance obligations. To bring this to life, let's consider these contrasting scenarios:

Netherlands (NL)-to-GB-to-Ireland (IE) trade flow of goods

- Potential duties in GB and IE.
- The party responsible for the duties will be driven by Incoterms agreed by all parties.
- Depending on the Incoterms and ownership of goods at various stages in the supply chain, the GB trader could trigger both NL and IE VAT obligations.
- Customs compliance obligations exist in NL, GB and IE, the responsibility for which depends on the Incoterms.

NL-to-NI-to-IE trade flow of goods

- No duties or customs compliance obligations.
- Generally, no overseas VAT obligations for the NI trader.

This is a simplistic example, but it indicates some of the potential benefits available with NI trade.

These potential benefits are not necessarily restricted to businesses established in NI. Currently, trade in goods, transport and storge within the UK market is heavily reliant on having facilities in GB. Therefore, the benefits of using NI's dual status for sales to and from the UK may not be widely accessed. However, dual market access is potentially still available to traders that are required to make use of GB's infrastructure so long as the goods flow via NI. As noted above, while this route (GB to NI) requires a determination of whether the goods are at risk, depending on the specific activities of the business and the fact pattern, it could be the case that no additional EU duties are payable or that customs procedures are simplified.

Businesses that would like to use this route should seek specialist advice to ascertain whether any potential savings could be made through the mechanisms presented via the NI Protocol and Windsor Framework.

At a high level, having some form of NI establishment could unlock the various indirect tax benefits and dual market access, regardless of trade routes. To access certain benefits of being established in NI, businesses are only required to be acknowledged by HM Revenue & Customs (HMRC) as trading under the NI Protocol and eligible for an XI VAT number.[3] This applies to EU VAT simplifications, such as distance sales (a scheme that negates needing multiple EU VAT registrations for sales of online goods from the EU, including NI by a business to an EU consumer) and triangulation (a scheme involving three parties in a chain, where goods flow from the first supplier in one EU territory, including NI, direct to the end customer in another EU Member State, including NI).

Traders will be regarded as trading under the NI Protocol, if any of the following apply:

- Goods are located in NI at the time of sale.
- Goods are received in NI from VAT-registered EU businesses for business purposes.
- Goods are sold or moved from NI to an EU Member State.

Implications and actions for business

Business will, of course, have a wide range of factors in addition to trade considerations that they should take into account when deciding how and where to do business. However, in considering the trade landscape in NI, one key factor is that the rules under the NI Protocol and Windsor Framework allow for dual UK-EU market access and its simplifications, some of which have been discussed in this article. In addition, even for the most complex trade routes in terms of GB-to-NI trade, the legislation affords many solutions compared to those available to businesses that trade from GB with the EU and others further afield.

For businesses that currently trade with NI, given that the landscape in regard to NI movement of goods is now somewhat settled, this is a good time to review supply chains in detail with a view to adopting procedures and reliefs to ease friction and realize potential cost savings.

For those businesses that currently do not trade within NI, or do not even have a UK presence, the message is that the potential opportunities are not restricted to the NI market. The legislation can unlock further growth and efficiencies in both the EU and UK.

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3 To trade under the Northern Ireland Protocol, NI businesses need an XI VAT number. Most businesses with an NI postcode will have been allocated an XI prefix to their VAT number.

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Norway: On the way to implementing CBAM and EUDR

Norwegian climate policy is intricately linked to European climate initiatives. Norway occupies a unique position as a jurisdiction that is outside the EU and the EU Customs Union but is a member of the European Economic Area (EEA).

Since 2008, Norway has participated in the EU Emissions Trading System (ETS) through the EEA Agreement.[1] In 2019, Norway entered into a climate agreement with the EU,[2] committing to meet the targets set forth in the Paris Agreement, which aims for a minimum 40% reduction in greenhouse gas emissions from 1990 levels by 2030. Both Norway and the EU later escalated their ambitions, now targeting a 55% reduction in emissions by that date.[3]

Norway's implementation of the CBAM

The EU Carbon Border Adjustment Mechanism (CBAM) came into effect on 1 October 2023, marking the beginning of a phase centered on reporting requirements for EU Member States.[4] Because Norway is not an EU Member State, it is not subject to this regulation. During the EU CBAM's transition period, Norway is excluded from the mechanism, so imports into Norway are unaffected by CBAM measures. Additionally, goods originating from Norway are exempt from CBAM obligations upon importation into the EU.

While the CBAM regulation is framed as relevant for the EEA, it is currently under review by the EEA European Free Trade Association (EFTA) and has not yet been adopted by the EEA Committee. During the national budget discussions for 2025, the Norwegian government expressed a favorable interest in potentially implementing a CBAM at the national level, allocating a budget of NOK50 million (approximately EUR5 million) to prepare for the introduction of the mechanism. The mechanism may be implemented from January 2026, aligning with the second phase of the EU's CBAM. However, the Ministry of Finance has noted that further clarifications from other EEA states are required, leading to uncertainty regarding the mechanism's implementation under Norwegian law.

Coordination with the EU on CBAM

Since Norway is not part of the EU customs area, goods first imported into the EU, where CBAM fees have been paid, need to be exempted when imported into Norway. This necessitates effective coordination between the EU and Norwegian systems to prevent double payments for importers.

A major challenge for Norwegian businesses under the current EU CBAM is the requirement for companies to be established within the EU customs area to import goods into the customs territory. Norway does not impose any similar requirements for appointing representatives for non-Norwegian entities when importing goods to Norway, which is not anticipated to pose challenges with the introduction of the Norwegian CBAM.

1 "European Economic Area (EEA) Agreement," *European Commission website.* Find it here

2 "The European Union, Iceland and Norway agree to deepen their cooperation in climate action," *European Commission website*, 5 October 2019. Find it here

3 "Norway's new climate target: emissions to be cut by at least 55%," *Norwegian Ministry of Affairs website*, 7 November 2022. Find it here

4 For more information on the EU CBAM, please refer to recent editions of *TradeWatch*

Implementation of the European Union Deforestation Regulation (EUDR)

The EUDR[5] is another key regulation of the EU's Green Deal,[6] designed to combat global deforestation while aligning with climate and biodiversity goals. Similarly to CBAM, Norway is classified as a third country in relation to the EUDR, as the regulation has not yet been integrated into national law. The relevance of the EUDR to the EEA is presently under review in Norway. However, the Norwegian Environment Agency has advised that tentative implementation is in 2025.[7]

In 2022, the regulation underwent consultations involving the Norwegian Environment Agency and the Norwegian Agricultural Agency, both of which are monitoring its implementation. The supervisory authority for the regulation has yet to be determined, and discussions are ongoing regarding whether it should be fully or partially incorporated into Norwegian legislation, especially since some relevant raw materials and products fall outside the EEA Agreement.

The EUDR mandates the establishment of a monitoring and traceability system for various products. According to the European Commission's preliminary impact assessment, the costs for businesses to implement a due diligence system are estimated to range from EUR5,000 to EUR90,000 (approximately NOK50,000 to NOK900,000), depending on the complexity and risk associated with each company's supply chain.[8]

Expected impact on imports of EUDR-covered goods

As of December 2024, Norway's import value for meat and meat products reached NOK185 million (approximately EUR17 million). In comparison, rubber and wood products each exceeded NOK500 million (approximately EUR50 million), while cereal products were valued at NOK810 million (approximately EUR75 million) and fruits and vegetables accounted for a total of NOK1.4 billion (approximately EUR125 million) in imports. In contrast, the export value of meat and meat products was only NOK32 million (approximately EUR3 million), with rubber products and wood products at NOK96 million (approximately EUR 9 million) and NOK153 million (approximately EUR15 million) respectively. Cereal products were exported for NOK59 million (approximately EUR5 million), while fruits and vegetables represented a modest NOK16 million (approximately EUR1.5 million) in exports.[9] This data clearly indicates that the import of EUDR-covered goods constitutes a significant component of supply chains and procurement processes in Norway. The implementation of the EUDR will introduce new risks and require enhanced due diligence processes to maintain operational continuity. This will lead to increased costs for Norwegian businesses, including establishing an IT system that ensures the necessary controls. Furthermore, the regulations will create additional risk and compliance considerations in the areas of procurement, sustainability and legal affairs.

Actions for businesses

- Stay informed about the incorporation of the EUDR and CBAM into Norwegian law, as well as guidance from Norwegian authorities.
- Review supply chains and familiarize yourself with the upcoming EUDR and CBAM requirements.
- Conduct a supply chain analysis to evaluate the potential impact of the EUDR and CBAM, assessing complexity and risks.
- Depending on the potential impact, implementing due diligence processes will be crucial for businesses. ■

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5 For further information on the EUDR please refer to "EU: Deforestation Regulation: an underestimated challenge," *TradeWatch* Issue 3 2024, page 72, and "EU: Fight against global deforestation," *TradeWatch* Issue 2 2023, page 33.

6 "The European Green Deal," *European Commission website*. Find it here

7 "Deforestation Ordinance," *Norwegian Environment Agency website*. Find it here

8 "Deforestation-free raw materials and products," *Norwegian government website*. Find it here

9 "External trade in goods," *Statistics Norway website*. Find it here

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Saudi Arabia: Managing compliance – post-clearance audits

The Zakat, Tax and Customs Authority (ZATCA) of Saudi Arabia introduced its post-clearance audit (PCA) program in 2018 as a strategic initiative aligned with the ambitious Vision 2030 framework.[1] The program was designed to enhance the efficiency and effectiveness of customs procedures, thereby facilitating a smoother and more streamlined process for import and export activities.

By implementing the PCA program, the ZATCA aims to not only bolster the integrity and transparency of customs inspections but also to significantly elevate Saudi Arabia's standing in the global trade arena.[2] The program helps manage risks associated with noncompliance and accelerates the clearance process, reducing delays and enhancing the overall efficiency of trade operations.

Navigating PCA complexities and ensuring compliance with ZATCA regulations

In Saudi Arabia, the ZATCA initiates customs audits on taxpayers. If the ZATCA identifies, at any point during the customs clearance process or after the release of the shipment, any discrepancies or errors in a particular shipment related to any customs regulation, such as classification, valuation, country of origin determination or free trade agreement (FTA) claims, this could lead to a comprehensive audit of the taxpayer's customs activities to assess compliance with the import regulations.

1 "Saudi Arabia Customs Authority introduces audit initiative," *EY website*, 9 January 2019. Find it here

2 "Economic/Asharqia Chamber organizes a workshop to introduce the post-customs audit initiative," *Saudi Press Agency website*, 12 February 2025. Find it here

Moreover, there are several other factors that could prompt the ZATCA to conduct a PCA on taxpayers, including, but not limited to:

- **Inconsistent valuation or classification:** If there are discrepancies or errors identified by the ZATCA at the customs clearance stage, this may raise red flags and trigger a customs audit.
- **High import and export volume and high-value shipments:** Taxpayers engaged in substantial import and export activities may attract the ZATCA's attention, especially if the imported goods are of high-value nature.
- **Suspicious trade patterns:** Unusual trade patterns, such as sudden spikes in imports or exports, or trading with high-risk jurisdictions, can prompt the ZATCA to conduct a detailed customs audit.
- **Importation under special regimes:** Imports that are under duty exemption, subject to special regimes are an area of interest to the ZATCA, whereby regular audits are conducted to ensure the duty exemption claims are legitimate and the importer has the necessary documentation to support eligibility claim.
- **Payment of royalties and fees:** This area has been receiving more attention from the ZATCA in recent years whereby the authorities are evaluating those payments and requesting importers to prove whether those payments are dutiable and consequently should have been included in the valuation of the imported goods.

Taxpayers must comply with all tax regulations to avoid fines and additional payments, should they be subject to a PCA.

Recommendations for managing potential risk

We strongly recommend that all taxpayers in Saudi Arabia adhere to the ZATCA regulations concerning the record-keeping of importation documents. This includes maintaining comprehensive records of all importation and clearing supporting documents as well as retaining this data for at least five years. This practice will significantly aid taxpayers in demonstrating compliance with the ZATCA's rules and regulations and reduce error to facilitate timely and accurate submissions to the ZATCA.

In addition to diligent record-keeping, there are several other potential actions risk management considerations that traders in Saudi Arabia should be aware of to facilitate compliance and reduce the risk of any potential negative outcome of customs audits:

- **Regular internal audits:** Conduct periodic internal audits to ensure that all financial and customs-related records are accurate and up to date. This proactive approach can help identify and rectify discrepancies before they attract regulatory scrutiny.
- **Training and awareness:** Ensure all employees involved in customs and tax processes are well-trained and aware of the latest ZATCA regulations. Regular training sessions can help keep the team informed about compliance requirements and leading practices.
- **Accurate valuation of goods:** Verify that all imported goods are accurately valued and declared. Misevaluation can lead to significant penalties and trigger customs audits. It is essential to follow the correct valuation methods as prescribed by ZATCA.
- **Voluntary disclosure:** While taxpayers under a PCA are not eligible for this process, they can proactively engage with the ZATCA to rectify any errors they discovered in customs declarations during an internal audit or a health check.

By implementing this approach to risk management, traders in Saudi Arabia can enhance their compliance with ZATCA regulations, minimize the risk of severe findings and penalties during a PCA, and ensure smooth and efficient customs operations. Accurate and transparent reporting, coupled with diligent record-keeping, is key to expediting the audit process and managing the financial impact of the PCA.

Audit and dispute resolution process

The initial communication that taxpayers receive from the ZATCA's PCA team is generally an email notification informing them of the audit and requesting the submission of relevant customs documentation, along with accounting and financial information. This notification includes a deadline by which the required information must be provided.

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Taxpayers should respond within the stated deadline and submit the necessary documentation for review by the customs audit team. The results of the customs audit team's review are shared with the taxpayer. If the taxpayer does not agree with the audit results, they may engage in further discussions with the customs audit team.

Regardless of whether the taxpayer agrees with the audit results, the taxpayer must sign and return the customs results to the ZATCA within the given deadline. Following this, the ZATCA issues an initial assessment report, and the taxpayer is given a deadline within which to respond by signing and returning the initial assessment report to the ZATCA, indicating whether they agree with it. The ZATCA then issues a final report and subsequently a collection order. The taxpayer may choose to pay or dispute the collection order by following the objection and appeals process before the ZATCA and subsequently the General Secretariat of Zakat, Tax and Customs Committees, as appropriate.

3 Saudi Vision 2023," *Saudi government website*. Find it here

Impact on business

The adoption and the constant refinement of the PCA program by the ZATCA carries important implications for businesses engaged in trade. To navigate this regulatory landscape effectively, companies must prioritize compliance by maintaining accurate records, understanding customs regulations and implementing a robust risk management framework. Adherence to these practices not only safeguards against potential fines and delays but also positions businesses to capitalize on the efficiencies and reputational benefits that come with a transparent and streamlined customs process. As Saudi Arabia progresses toward its Vision 2030 goals, businesses' compliance with the ZATCA's standards will be critical in ensuring their competitive edge in the global market. ■

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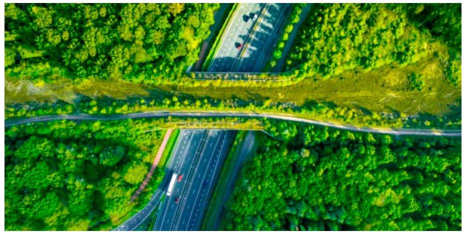

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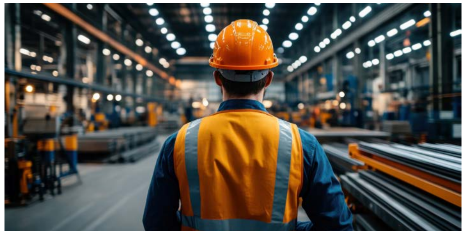

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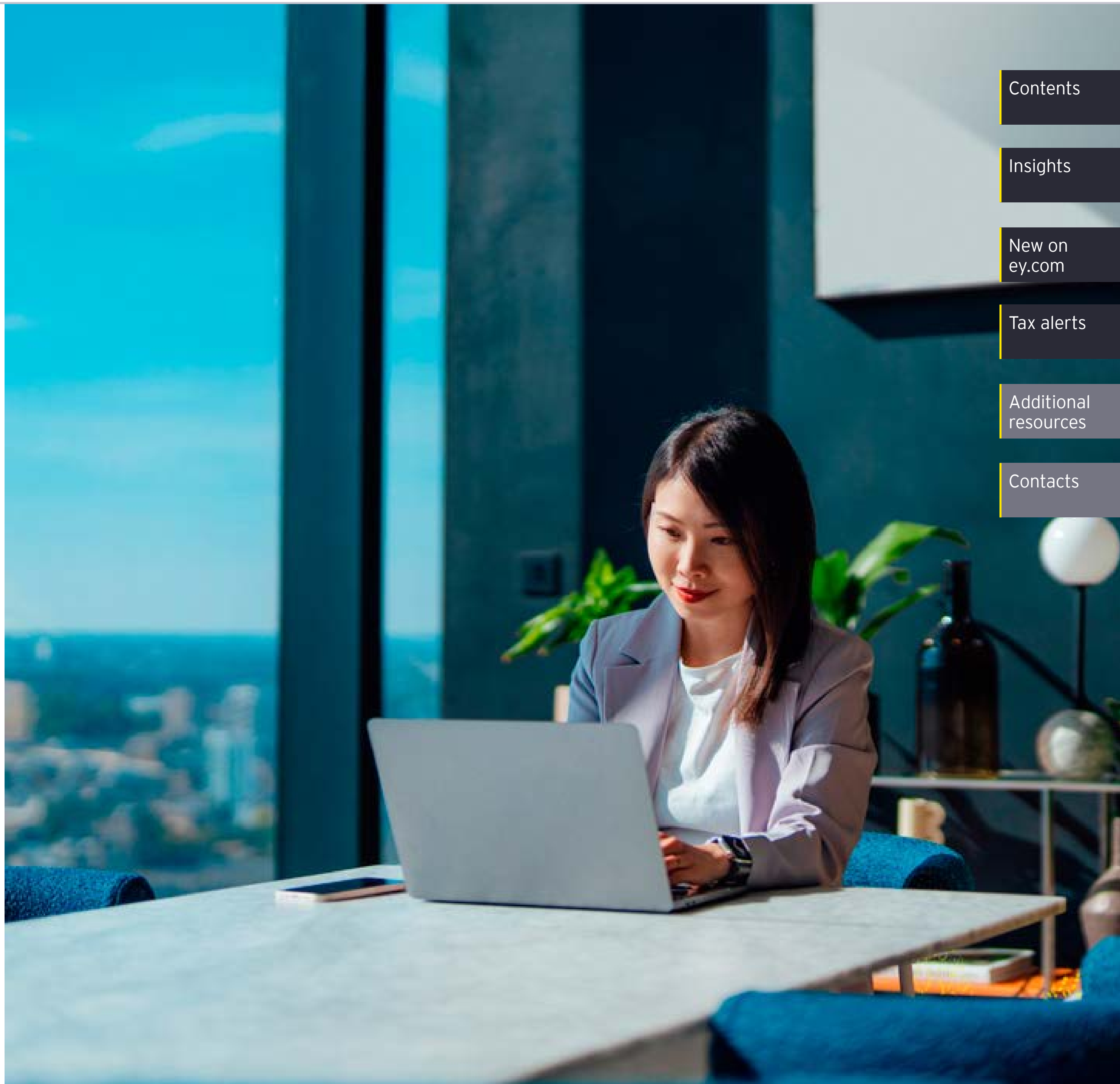

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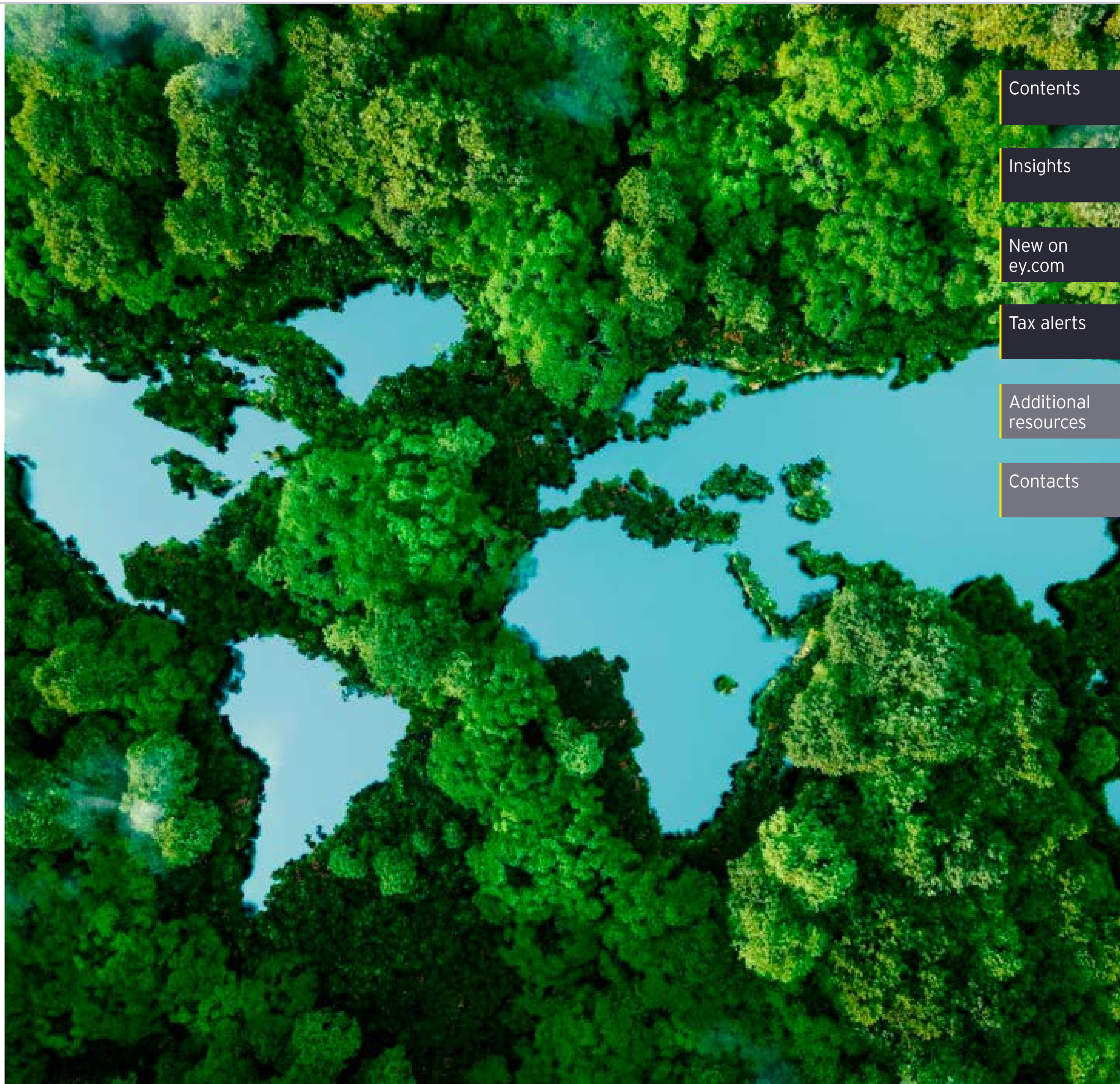


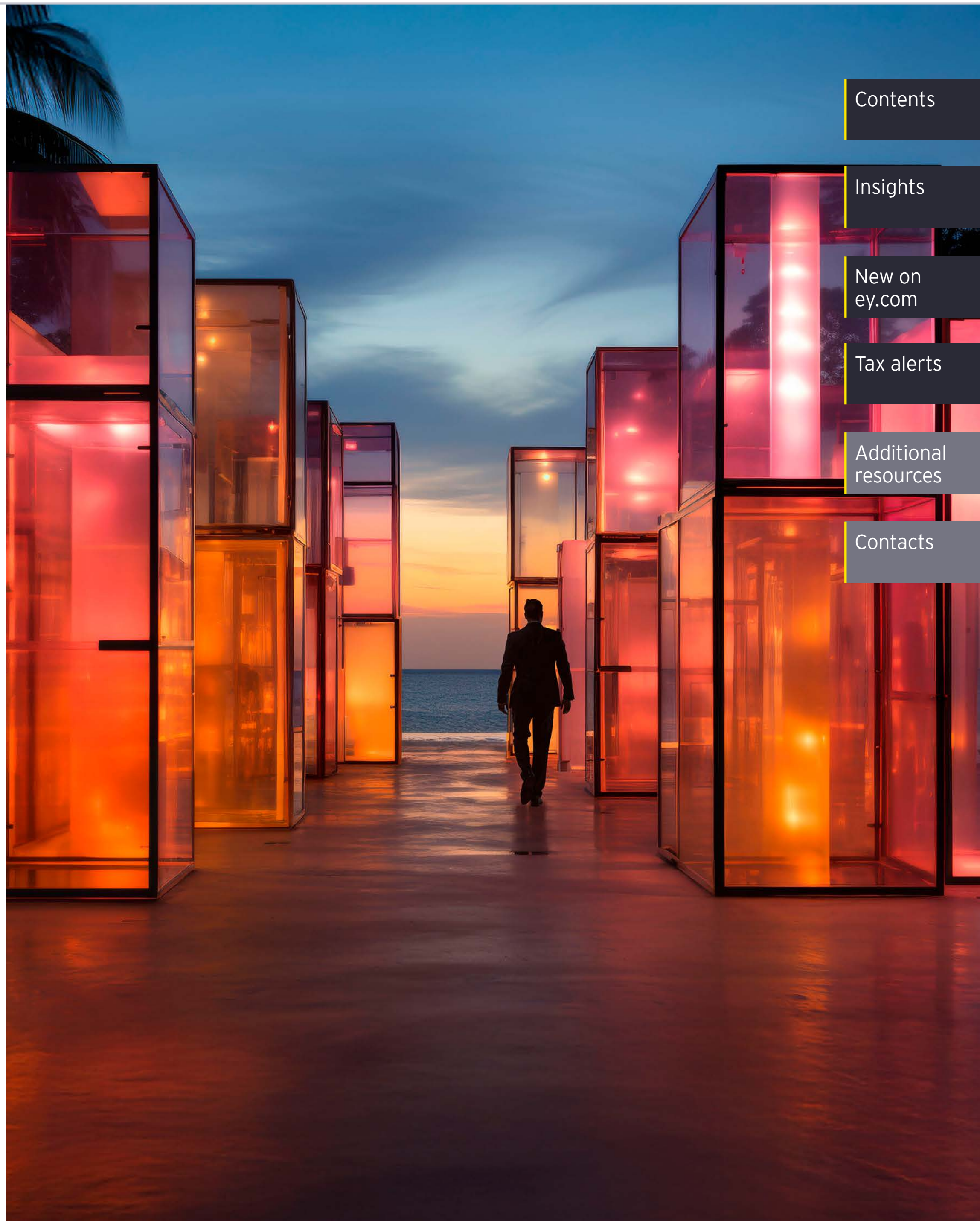
Worldwide VAT, GST and Sales Tax Guide 2025

Outlining value-added tax (VAT), goods and services tax (GST) and sales tax systems in 150 jurisdictions, the 2025 edition of our annual reference book is now available to download as a pdf. The content is current as of 1 January 2025.

This Guide covers a wide range of topics related to taxes on consumption, including information about the scope of the tax in each jurisdiction, who is liable, rates, time of supply, recovery of input tax by taxable persons and non-established businesses, invoicing, returns and payment and penalties. Where applicable, chapters detail the VAT or GST provisions related to the digital economy (including online platforms), e-invoicing and digital tax administration measures. Extended content for 2025 includes a fully revised chapter for Myanmar and outlines of future indirect tax reforms in Brazil, China and Vietnam.

At the back of the Guide, you will find lists of the names and codes for the national currencies and the VAT, GST and Sales Tax rates for the jurisdictions covered.

Click here to find out more. ■



Tax alerts

Americas

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Europe, Middle East, India and Africa

Americas

Brazil

- Brazil enacts bill of law allowing for retaliatory taxation
  (15 April 2025)
- Brazil close to enacting bill of law allowing for retaliatory taxation
  (03 April 2025)
- Brazilian Senate approves bill of law allowing for retaliatory taxation
  (02 April 2025)

Canada

- Latest Canada-US trade developments – as of 10 April 2025
  (16 April 2025)
- Canada-China trade relations – March 2025 key developments
  (31 March 2025)
- Quebec budget 2025-2026
  (28 March 2025)
- Canada is eliminating consumer carbon tax
  (21 March 2025)
- Canada imposes new tariffs on US-origin products in response to US tariffs on Canadian steel and aluminum products
  (17 March 2025)
- European Union and Canada counter US steel and aluminum tariffs with retaliatory measures
  (13 March 2025)
- Canada responds to US Executive Orders imposing tariffs on imports originating in Canada
  (11 March 2025)
- US adjusts tariffs on Canada and Mexico in response to automotive industry concerns
  (07 March 2025)
- United States imposes additional tariffs on Canada and Mexico, raises additional tariffs on China
  (05 March 2025)
- Canada | Nunavut budget 2025-26
  (27 February 2025)

Global

- Trade Talking Points | Latest insights from EY's Trade Strategy team – March 2025
  (28 March 2025)
- Trade Talking Points | Latest insights from EY's Trade Strategy team – February 2025
  (21 February 2025)

Mexico

- US adjusts tariffs on Canada and Mexico in response to automotive industry concerns
  (07 March 2025)
- United States imposes additional tariffs on Canada and Mexico, raises additional tariffs on China
  (05 March 2025)

Peru

- Likely impact from US tariffs
  (16 April 2025)

United States

- EU publishes countermeasures against US tariffs while suspending implementation
  (16 April 2025)
- Latest Canada-US trade developments – as of 10 April 2025
  (16 April 2025)
- US launches investigation into pharmaceuticals and semiconductors
  (15 April 2025)
- US exempts certain electronic products from tariffs under President Trump's Reciprocal Tariff Policy
  (14 April 2025)
- US suspends President Trump's Reciprocal Tariff Policy for 90 days, except for China
  (11 April 2025)
- EU | United States to impose Reciprocal Tariffs on goods originating from the European Union
  (03 April 2025)
- US imposes reciprocal tariffs against trading partners and ends duty-free treatment for low-value shipments from China
  (03 April 2025)
- US President Trump announces 25% additional tariff on imported automobiles and automobile parts
  (27 March 2025)
- EU postpones countermeasures to US tariffs to mid-April 2025
  (24 March 2025)
- Canada imposes new tariffs on US-origin products in response to US tariffs on Canadian steel and aluminum products
  (17 March 2025)
- EU responds to US tariffs on steel and aluminum
  (14 March 2025)
- European Union and Canada counter US steel and aluminum tariffs with retaliatory measures
  (13 March 2025)
- Canada responds to US Executive Orders imposing tariffs on imports originating in Canada
  (11 March 2025)
- US adjusts tariffs on Canada and Mexico in response to automotive industry concerns
  (07 March 2025)
- United States imposes additional tariffs on Canada and Mexico, raises additional tariffs on China
  (05 March 2025)
- US initiates investigation into imports of timber, lumber and their derivative products
  (04 March 2025)
- US initiates investigation into imports of copper, scrap copper and copper derivatives
  (26 February 2025)
- US initiates review of other countries' imposition of Digital Services Taxes on US companies and opens comment period on nonreciprocal trade arrangements
  (25 February 2025)
- US modifies and expands tariffs on steel and aluminum imports, citing national security
  (18 February 2025)
- United States initiates review to determine reciprocal tariffs on all trading partners
  (14 February 2025)

Asia-Pacific

Australia

- Australia's 2025-26 Federal Budget – two year freeze on beer excise
  (27 March 2025)

China

- US suspends President Trump's Reciprocal Tariff Policy for 90 days, except for China
  (11 April 2025)
- US imposes reciprocal tariffs against trading partners and ends duty-free treatment for low-value shipments from China
  (03 April 2025)
- Canada-China trade relations – March 2025 key developments
  (31 March 2025)
- United States imposes additional tariffs on Canada and Mexico, raises additional tariffs on China
  (05 March 2025)

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Europe, Middle East, India and Africa

EU

- EU publishes countermeasures against US tariffs while suspending implementation
  (16 April 2025)
- EU | United States to impose Reciprocal Tariffs on goods originating from the European Union
  (03 April 2025)
- EU postpones countermeasures to US tariffs to mid-April 2025
  (24 March 2025)
- European Commission sets conditions and procedures for authorized CBAM declarants
  (20 March 2025)
- EU responds to US tariffs on steel and aluminum
  (14 March 2025)
- European Union and Canada counter US steel and aluminum tariffs with retaliatory measures
  (13 March 2025)
- European Commission releases Omnibus Package I proposal to simplify EU Carbon Border Adjustment Mechanism regulation
  (03 March 2025)
- European Commission announces initiatives to improve competitiveness and adopts 2025 Work Programme
  (25 February 2025)

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  (28 March 2025)
- Trade Talking Points | Latest insights from EY's Trade Strategy team – February 2025
  (21 February 2025)

Kenya

- Kenya Tax Appeals Tribunal rules that packaging materials can qualify for excise duty relief under certain circumstances
  (26 February 2025)

Saudi Arabia

- Saudi Arabia announces 21st wave of Phase 2 e-invoicing integration
  (03 March 2025)

Uganda

- Uganda issues Tax Amendment Bills for 2025
  (07 April 2025)

United Kingdom

- UK e-invoicing consultation published
  (17 February 2025)

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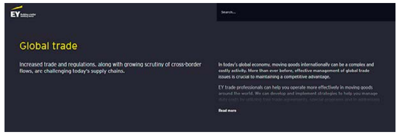

Global trade on ey.com

While indirect tax is a part of everyday life in most countries, the rise of new technologies and expanding global trade adds additional layers of complexity. Learn what EY can do for you, connect with us or read our latest thinking.

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