TradeWatch

EY Global Trade

Issue 2 2025

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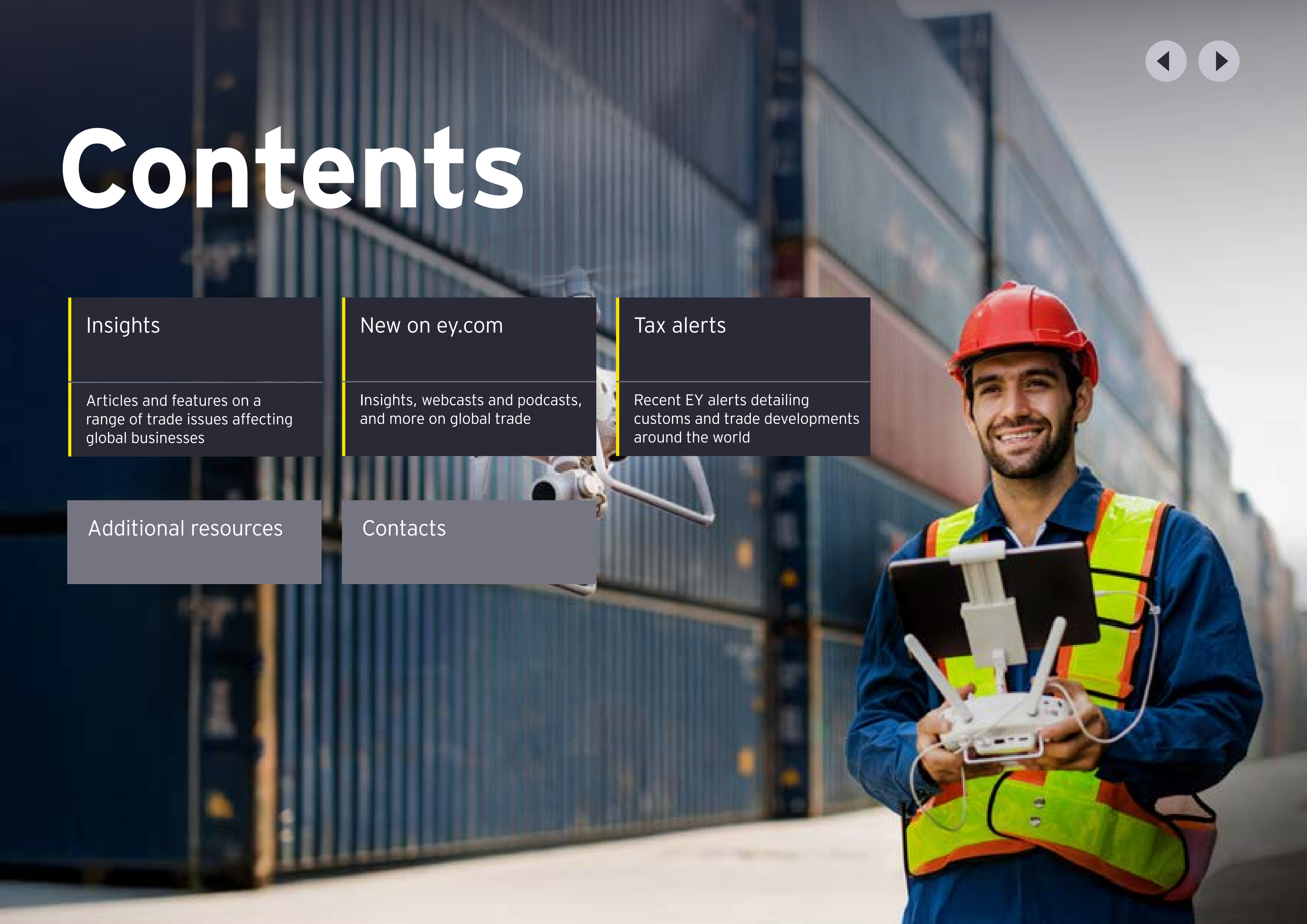

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Welcome to Issue 2 2025 of *TradeWatch*

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As we approach the end of 2025, the pace of change in global trade shows no sign of slowing. Trade professionals are navigating a landscape shaped by ongoing geopolitical shifts, regulatory transformation, and the increasing integration of sustainability and technology into every aspect of trade operations. In this edition of *TradeWatch*, we bring together insights and analysis from around the globe to help you anticipate challenges and seize new opportunities.

This issue features a special focus on the interplay between customs valuation and transfer pricing, with a global article exploring recent case studies and the latest guidance from the World Customs Organization. As transfer pricing and customs valuation become ever more intertwined – especially in the context of related-party transactions – understanding the practical implications is critical for compliance and operational efficiency.

You'll also find practical guidance on customs value declaration reforms and updates on climate-related trade measures, such as carbon taxes and fee proposals. Our contributors examine the impact of new regulations, including the EU's evolving steel safeguard measures, the transformative EU-Singapore Digital Trade Agreement and the European Council's position on EU customs reform – signaling major changes for e-commerce and beyond. We also provide updates on the EU Deforestation Regulation and the latest European Court of Justice ruling on customs valuation treatment of post-entry price adjustments.

Across all regions, a common thread emerges: the need for trade functions to be agile, informed and proactive. Whether it's adapting to new carbon regimes, responding to digitalization in customs or managing the complexities of transfer pricing, trade professionals are increasingly called upon to serve as strategic partners within their organizations.

We hope this issue of *TradeWatch* provides you with timely insights and practical guidance to support your trade strategy and operations. As always, we welcome your feedback and suggestions for future issues.

We wish you continued success in navigating the evolving world of global trade.

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Global: Insights from recent case studies on the interplay between customs valuation and transfer pricing

The Technical Committee on Customs Valuation (TCCV) of the World Customs Organization (WCO) has recently published two significant case studies that delve into the complexities of customs valuation in the context of related-party transactions. While not legally binding, these case studies provide valuable insights into the application of transfer pricing documentation and the implications for customs authorities and businesses alike. They build upon three other instruments the TCCV published over the last year, namely Commentary 23.1 on examining the expression "circumstances surrounding the sale" in relation to the use of transfer pricing studies and Case Studies 14.1 and 14.2 about the use of transfer pricing documentation when examining related-party transactions.

Case Study 14.3: Transfer pricing study based on the OECD's cost-plus method and the flexible application of Article 6 under Article 7 of the Agreement

Case Study 14.3 examines a scenario where company ICO declared the customs value of imported goods based on invoices from company XCO, a related party. During a post-clearance audit, customs raised concerns regarding the integrity of the transaction value due to the relationship between ICO and XCO.

The transfer pricing study prepared for ICO's tax compliance utilized the Organisation for Economic Co-operation and Development (OECD) cost-plus method, where the arm's-length price was determined by adding a markup to the supplier's cost of production. However, it was revealed that XCO's weighted average cost of production per unit, 15.00 currency units (c.u.), exceeded the declared import price of 13.00 c.u., leading to a negative gross profit. This discrepancy raised suspicions about the relationship's impact on pricing.

The respective customs authorities found that the declared value deviated from what would be expected under arm's-length transactions. After a thorough review, customs could not establish an acceptable customs value using one of the alternative customs valuation methods due to the unique characteristics of the goods involved and lack of available data. Instead, it applied a flexible approach of the computed value method under the fall-back method, calculating a new customs value of 21.00 c.u., which significantly surpassed the initially declared

value. This value was based on the weighted average cost of production per unit of 15.00 c.u., an appropriate cost-plus markup of 20% from 15 c.u., and the transport and insurance costs of 3 c.u.

In its conclusion, the TCCV repeats the steps taken by the customs authorities to dispute the declared customs value and how it has come to an alternative customs value. As part of the circumstances surrounding the sale test it used in its audit information contained in the transfer pricing study as well as additional information obtained in the audit, customs concluded that the declared import price for the item of goods under analysis had not been settled in a manner consistent with the normal pricing practices of the industry concerned, and that XCO did not recover the costs of production of those goods. Customs proceeded in sequential order through the alternative valuation methods and concluded that they were inapplicable. The declared customs value was rejected, and the computed value method under the fall-back method was applied to come to a customs value whereby information from the transfer pricing study was used. The use of transfer pricing documentation for examining the surrounding circumstances must be considered on a case-by-case basis, as was already confirmed by Commentary 23.1. This case study does confirm that the use of such a document for determining the customs value under alternative methods should also be considered on a case-by-case basis.

Case Study 14.4: The resale price method

Case Study 14.4 focuses on a luxury bag importer, ICO, which operates as a subsidiary of a multinational company, ACO. ICO exclusively sources its products from its related supplier, XCO. The pricing strategy employed by ICO utilized the OECD's resale price method, which established a targeted gross margin of 40% for 2023. However, upon concluding the financial year, ICO's actual gross margin was found to have reached 64%, significantly exceeding both the target and the arm's-length inter-quartile range of comparable companies, which was between 35% and 46%.

Since ICO made the actual payment for the compensatory adjustment, which was substantiated by its accounting records, the customs authorities determined that this transfer price adjustment effectively increased the total price paid or payable by ICO to XCO for imports in 2023. Following discussions between the customs authorities and the importer, it was concluded that the final prices, inclusive of the transfer price adjustment, were established in alignment with the typical pricing practices of the relevant industry. Consequently, in accordance with Article 1.2(a) of the Customs Valuation Agreement, the transaction value method was found to be applicable.

This case study is instrumental, as it acknowledges that a customs value can be determined on the basis of an initial transfer price and a compensatory transfer price adjustment, which not all import jurisdictions to date have acknowledged. Important, however, in that regard is that in its conclusion the TCCV stresses that the process by which the importer (1) informs the customs authorities, (2) allocates that adjustment to imports and (3) pays the corresponding duties should be made in accordance with national regulations. Likewise, local regulations may impose further requirements on the importer.

What businesses should do

These case studies underscore the critical role of transfer pricing documentation in customs valuation, particularly in related-party transactions. As customs authorities increasingly scrutinize related-party transactions, these insights show how transfer pricing studies and transfer price adjustment may play a decisive role in determining customs values. At the same time, it also serves as a reminder that the impact of transfer pricing studies and adjustments for determining the customs value should be assessed on a case-by-case basis. By understanding the complexities illustrated in these case studies, businesses can better navigate the challenges of customs valuation in related-party transactions, ultimately fostering a more compliant and efficient trading environment.

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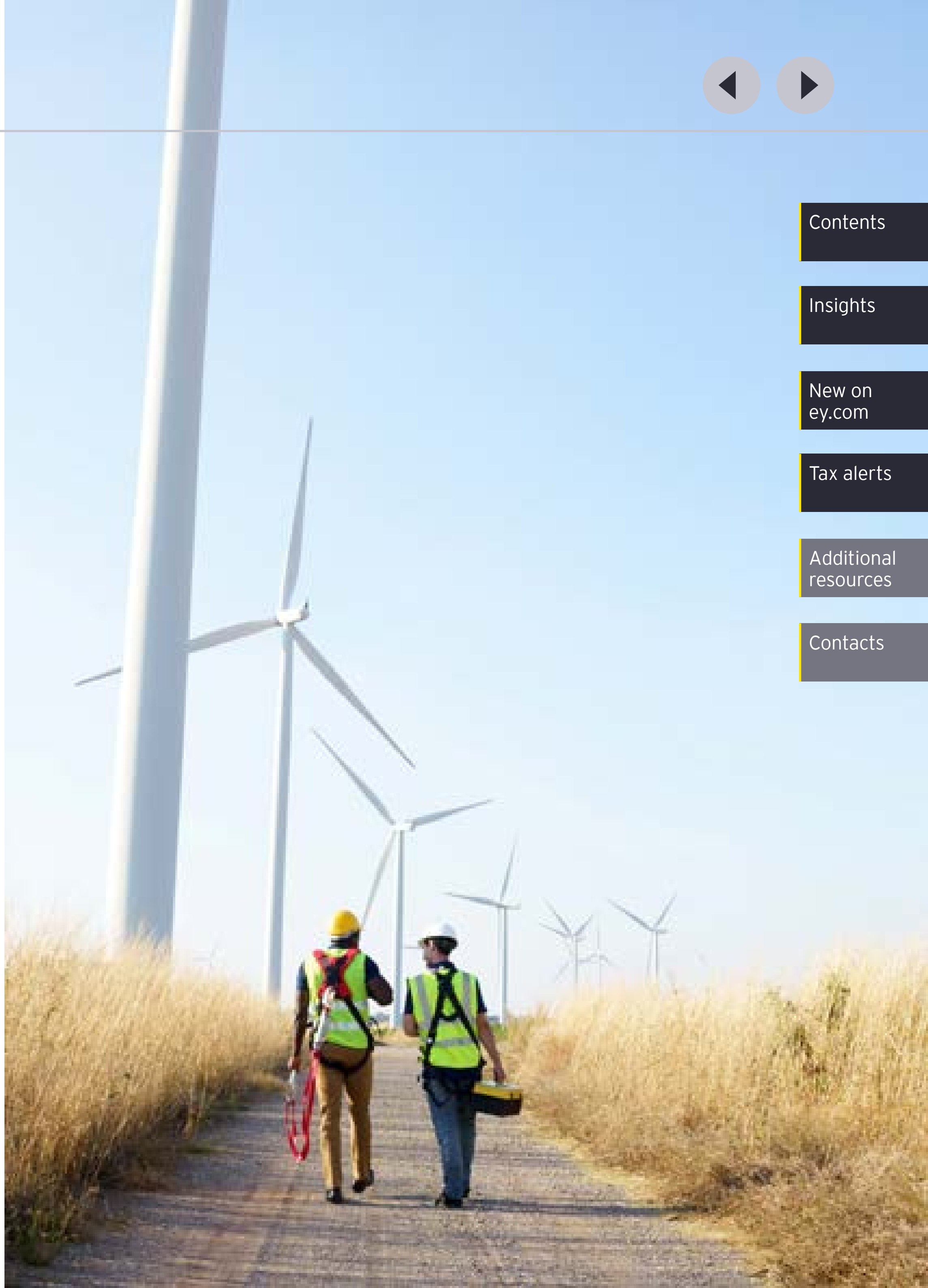
Balancing trade measures with renewable energy development in Canada

The recent antidumping and subsidizing cases brought before the Canadian International Trade Tribunal (CITT) in the Wind Towers Injury Inquiry[1] and the Renewable Diesel Preliminary Injury Inquiry[2] highlight an emerging trend of turning to Canadian trade remedies laws to protect domestic industries in the renewable energy sector. The very different outcomes in these two cases reveal the CITT's propensity to assess factors such as the maturity and competitiveness of Canadian industry in weighing whether anti-dumping or countervailing duties are warranted.

Canada operates a bifurcated trade remedy system. The Canada Border Services Agency (CBSA) is responsible for investigating whether imported goods are being dumped or subsidized. The CITT independently assesses whether the dumping or subsidizing have caused or threaten to cause injury to Canadian industry. Only if the CITT makes a positive injury determination can the CBSA impose anti-dumping or countervailing duties.

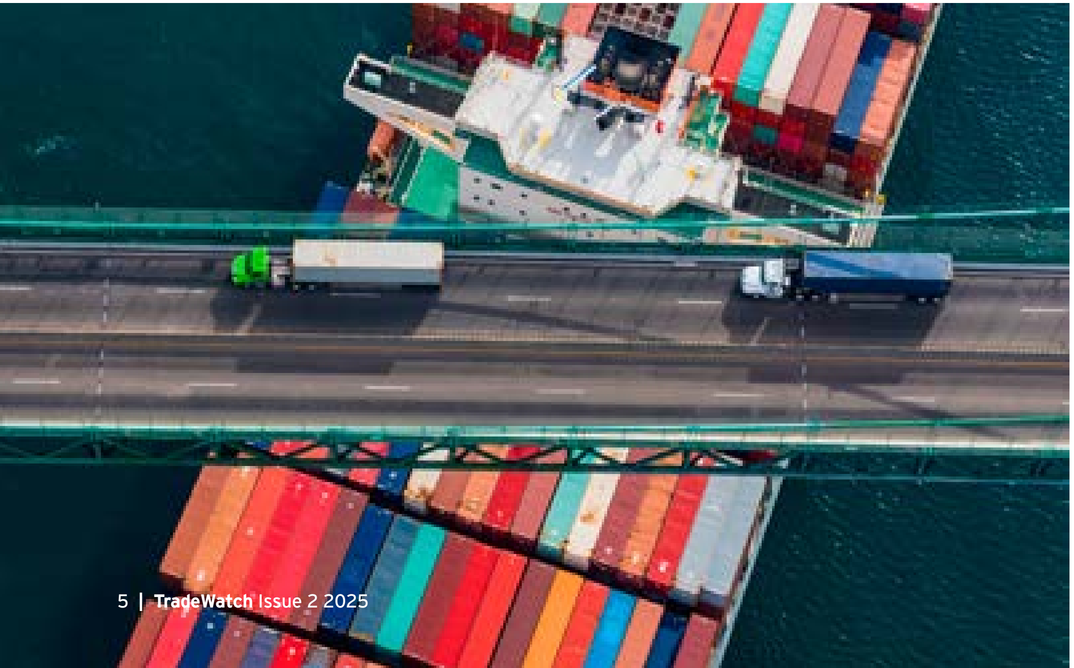


Wind towers

In the injury inquiry NQ-2023-001, a domestic producer of wind towers based in Quebec, argued that lower-priced imports of certain steel utility wind towers from China were undercutting domestic prices, eroding its market share, and harming the profitability of domestic production.

In its analysis, the CITT found that the subject imports caused material injury to the domestic industry. It concluded that the price undercutting and increase in the volume of imports had a significant negative impact on the Canadian producer's operations and performance.

The CITT also found that other factors, i.e., not the dumping and subsidizing of imports, contributed to the domestic producer's injury during the period reviewed. The CITT noted that the domestic producer's geographic location in Canada, and the associated logistical issues of supplying Western Canada, contributed to its financial performance. As a result, the CITT expressly excluded wind towers destined for projects in Western Canada from its finding and acknowledged the existence of regional supply limitations.



Renewable diesel

During the preliminary phase of the renewable diesel case (preliminary injury inquiry PI-2024-004), the CITT assessed allegations from a domestic producer that the dumping and subsidizing of renewable diesel imports from the United States (U.S.) were causing injury to the domestic industry. In particular, the domestic producer claimed that the increasing volumes of U.S. imports undercut and depressed domestic prices resulting in lost sales which adversely impacted its financial performance including its return on investments.

The CBSA estimated that for the 1-year period reviewed, renewable diesel imports were dumped at a margin of 6.9% and subsidized at a margin of 21% when expressed as a percentage of their export price.

However, the CITT ultimately found that there was insufficient injury to the domestic industry as a whole. In making this finding, the CITT considered the impact of U.S. imports on the other larger Canadian producer, which exports its entire production outside of Canada. Given that the majority of the goods produced in Canada were exported, they were insulated from any alleged injury as they were not in competition with U.S. imports of renewable diesel in the Canadian market. The injury would therefore not meet the materiality threshold required for an injury finding under the Special Import Measures Act.

This decision emphasizes that the CITT will consider the domestic industry in its entirety in assessing injury and focus on establishing a causal link between dumped and subsidized imports and any alleged material harm to the domestic industry.

1 https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/521185/1/document.do

2 https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/521378/1/document.do

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A trade remedy contrast

The Wind Towers and Renewable Diesel inquiries highlight the evolving relationship between Canada's trade remedy system and domestic producers of renewable energy and infrastructure. In the Wind Towers case, the CITT imposed duties supporting a regionally concentrated domestic manufacturing base. In contrast, the Renewable Diesel case was terminated at the preliminary investigation phase, reflecting the limited scale of domestic production and the current reliance on imports to meet domestic demand. Notably though, the Renewable Diesel case represents the first fuel-related proceeding brought before the CITT, signaling the growing commercial relevance of renewable diesel in Canada.

These decisions reveal that Canada's trade remedy system adapts its reasoning to the realities of each sector, supporting established industries while allowing flexibility for emerging ones. We expect that balancing trade measures with Canada's continued advancements in renewable energy will remain an important consideration.

Actions for businesses to consider

As global protectionism continues to rise along with economic uncertainty, use of Canada's trade remedies framework is expected to increase in 2025-2026. To safeguard commercial interests, affected stakeholders should actively engage with Canada's authorities and participate in ongoing investigations or seek appropriate remedies.

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Declaring customs value in Mexico: Key considerations for maquiladoras, manufacturers and distributors

In recent years, customs valuation has become one of the most sensitive, and underestimated, compliance areas for companies operating in Mexico. While businesses often invest heavily in tax, transfer pricing and supply chain management, the way import values are declared at the border can determine not only duty and value-added tax (VAT) exposure but also the company's reputation with Mexican authorities.

The stakes are rising. With digitalization, authorities now receive electronic data and documents for every import and export transaction, giving them unprecedented visibility into company operations.

While enforcement has not yet reached the levels observed in other jurisdictions, the growing availability of data means audits are poised to become increasingly data-driven and frequent. Companies that fail to adapt risk unexpected assessments, fines or delays that directly disrupt business continuity.

What many executives underestimate is that customs valuation is not simply a matter of declaring a number on a form. It requires aligning financial, legal and operational realities in a way that stands up to scrutiny. For maquiladoras, (Mexican entities operating under the IMMEX program as contract or toll manufacturers for a foreign principal), as well as for manufacturers and distributors, this is particularly complex: different business models carry different risks, and what works in one context may fail in another.

This article explores the practical considerations that companies in Mexico must take into account when declaring customs value. Rather than restating legal provisions, the focus is on real-world practices, current trends and the behaviors authorities are beginning to expect.

The goal is to equip decision-makers with insights that go beyond compliance checklists and help them anticipate the next wave of regulatory oversight.

Why customs value matters

In global trade, almost everything begins with customs value. It is the number that determines how much duty and tax an importer will pay, how authorities assess compliance and even how transfer pricing policies align with cross-border flows. Therefore, a mistake in customs value can mean

overpaying duties or, more often, facing severe penalties when underpayment is detected.

For Mexico, customs value is especially critical. The country follows the World Trade Organization (WTO) Valuation Agreement, but its application is influenced by strict local rules and by how the Mexican tax authority (SAT) interprets and audits transactions. What might be acceptable in another WTO member country can trigger adjustments or disputes in Mexico.

Beyond duties and taxes, customs value affects strategic areas: access to preferential treatment under trade agreements, such as the US-Mexico-Canada Agreement (USMCA); the ability to recover VAT efficiently; and even the deductibility of import purchases for income tax purposes. If the value declared in customs is not consistent or properly supported, SAT can deny income tax deductions, creating a double exposure on both indirect and direct taxes.

In a context where digital audits are increasingly the norm, any weakness in valuation can quickly escalate into a significant financial and reputational risk.

In short, customs value is not just a number on an import declaration. It is a cornerstone of trade compliance in Mexico, with implications that extend from tax implications to corporate reputation and supply chain management.

Documentation requirements

In Mexico, documentation continues to be a formalistic area of customs compliance, despite the fact that many requirements are now transmitted electronically and companies are expected to maintain an electronic archive. Authorities still require that companies keep certain supporting documents in paper form.

Specifically, to support the customs value declared at importation, companies must not only rely on the customs entry (pedimento) and the physical invoice. They are also required to transmit a "value acknowledgment" (acuse de valor) into the customs system for each invoice, prepare a worksheet for the customs value calculation and execute a "value manifest". These documents must be preserved in both electronic and physical files for a minimum of five years.

As of 1 August 2025, the value manifest must also be transmitted electronically (previously it was required only in paper form and typically requested during audits). This change reflects that the Mexican Customs Authority is increasingly focused on validating the customs value.

It is common for the authorities, when exercising their audit powers, to request the full set of documentation supporting import operations. The absence of any of these documents may result in administrative fines, which can accumulate depending on how many are missing. In addition, in some cases the absence of specific documents may also trigger other penalties related to noncompliance with customs valuation or trade regulations.

Additions to customs value ('incrementables')

One of the most heavily audited aspects of customs valuation in Mexico today relates to additions to the declared customs value, commonly referred to as "incrementables". These include all amounts that must be added to the invoice price to determine the correct customs value in accordance with WTO rules and Mexican law (e.g., freight, insurance, assists, royalties, packaging, commissions).

What makes this area particularly sensitive is that it is relatively straightforward for the Mexican authorities to identify omissions. Customs and tax auditors can easily contrast declared customs values with supporting documents, such as freight invoices, insurance policies or service agreements.

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Any mismatch between the invoice price declared at importation and the actual amounts paid or payable can trigger adjustments, penalties and interest.

To illustrate, if an importer declares an Ex-Works purchase, the authorities will expect that additional costs for transporting the goods to Mexico (international freight, insurance, handling charges) have been included in the customs value. If those additions were not reported, the tax authority may reassess duties, VAT and merchandise processing fees, plus impose penalties.

Given that the statute of limitations for customs audits is five years, companies may face reassessments on transactions that go back several years. This means that even relatively small discrepancies in the declaration of incrementables can accumulate significant amounts of omitted taxes and penalties.

Because of the simplicity with which these discrepancies can be detected, this area has become one of the most frequent triggers for customs audits in Mexico. For this reason, companies are expected to maintain robust procedures to capture and support all incrementable concepts consistently and correctly.

Practical risks in related-party imports

When importing goods from related parties, customs valuation requires a higher level of scrutiny. Although Mexican customs law allows the transaction value method if the relationship has not influenced the price, authorities are increasingly cross-checking customs values against transfer pricing and accounting records.

Key risk scenarios include:

- Declared values lower than comparable imports from unrelated parties
- Lack of evidence that the price was set at arm's length
- Inconsistencies between declared customs values and figures reported in transfer pricing studies or tax filings

Companies should proactively align customs and transfer pricing positions, ensuring that documentation (Local Files, comparability analyses) can support the declared customs value if challenged.

Methodological considerations: when transfer pricing meets customs valuation

Beyond identifying risks, companies must carefully consider the valuation method applied to related-party imports. Mexican customs law and WTO valuation rules empower authorities to question the transaction value and instead apply alternatives, such as:

- Comparisons with identical or similar goods
- Deductive methods based on resale prices
- Computed value methods

Relying on the transaction value without sufficient proof that the relationship did not influence the price exposes companies to challenges.

A dedicated customs valuation study, or in some cases the adoption of alternative methods, may provide a stronger defense. The objective is to demonstrate a fair market value that holds up under both customs audits and transfer pricing reviews.

Imports by maquiladoras/toll manufacturers

In the maquiladora (or toll manufacturing) model, companies generally do not purchase the goods they import into Mexico. Instead, most of the goods remain the property of a foreign principal that contracts the manufacturing services in Mexico. For this reason, the customs value of imports should not normally be determined using methods based on the price paid or payable (transaction value, identical or similar goods). Since maquiladoras typically do not sell the products domestically, the deductive method is also not usually applicable.

In practice, maquiladoras often declare customs value under the "fall-back" method. However, there is frequently little attention paid to maintaining the necessary data and documentation to support both the selection of this method and the declared customs value.

Although customs valuation tends to receive less focus, given that maquiladoras usually operate with deferred duties and, in many cases, also benefit from VAT credits (through bonds, letters of credit or VAT/excise tax certification), the valuation issue becomes significant in certain scenarios.

Examples include cases where duties are ultimately payable (e.g., under Article 2.5 of the USMCA for non-originating materials incorporated into finished goods exported to the USMCA region), when goods are nationalized or when VAT is due because it was not guaranteed. Even where VAT is guaranteed, the declared customs value directly impacts the determination of the input VAT credit.

In practice, many maquiladoras rely on standard costs, often averaged by SKU and over given periods, for internal accounting or operational purposes. However, from a legal standpoint, this approach is not directly aligned with Mexican customs valuation rules, which require strict adherence to the hierarchy of valuation methods, proper consideration of required additions, and sufficient supporting documentation to demonstrate that the customs value declared reflects the actual transaction value or an alternative WTO valuation method, as applicable.

Therefore, maquiladoras should periodically review their customs valuation practices, maintain the supporting documentation, and ensure that the method applied is defendable under Mexican customs rules, to manage exposure in the case of audits or duty/VAT adjustments.

Exports by maquiladoras/toll manufacturers

Another sensitive area in customs valuation under the maquiladora model is the determination of the commercial value of exported goods. Mexican regulations do not provide clear guidance on how this value should be calculated in the case of toll manufacturing arrangements.

In practice, companies often follow administrative criteria derived from foreign trade rules, declaring as export value only the "value added in Mexico". This generally includes the value of national or nationalized components, direct and indirect manufacturing costs, and a profit margin associated with the service.

While this approach has been widely accepted in Mexico, it diverges from the principle established in Article 79 of the Mexican Customs Law and international valuation standards under the WTO, which require that exports be declared at their commercial value in the international market.

This inconsistency becomes more evident when the exported products enter other jurisdictions, such as the US, where the customs authority requires a full commercial value and applies valuation mechanisms, such as reconciliation programs. In many cases, companies are compelled to rely on alternative methods, such as the computed value method, to determine a defensible customs value for the exported goods.

Absence of a first sale rule in Mexico

Mexican customs law does not recognize the "first sale" rule as a valid basis for customs valuation. Instead, the authorities typically require the use of the "last sale for export to Mexico" as the starting point for determining the transaction value. This approach limits the possibility of relying on an earlier sale in the supply chain to establish a lower dutiable value, which is sometimes permissible in other jurisdictions.

In practice, this means that importers must ensure that the declared customs value reflects the last transaction that directly results in the exportation of the goods to Mexico. Failure to do so may expose companies to challenges from customs authorities, adjustments to declared values, and potential penalties.

For companies operating under complex supply chains, particularly those involving multiple related-party transactions, this requirement can significantly increase the customs value, impacting both duty and VAT obligations.

As a result, multinational groups need to carefully review their pricing structures and documentation to confirm that the declared customs value in Mexico is based on the appropriate transaction, supported with evidence and aligned with Mexican regulatory requirements.

Opportunities to review deductions from customs value

Another area worth reviewing involves potential deductions (so-called "decrementables") from customs value. Mexican law allows certain costs incurred after importation to be excluded from the customs value, provided they are clearly identified and invoiced separately.

Typical examples include:

- Post-importation services, such as construction, assembly, installation, maintenance or technical assistance performed in Mexico in relation to the imported goods
- Domestic logistics costs, including transportation, insurance, handling, loading and unloading expenses incurred after the goods reach Mexican territory

These items, if properly documented and separated from the import invoice, may help reduce the dutiable base. For companies with significant post-importation costs or domestic logistics expenses, a structured review of these elements often reveals incentives to achieve efficiency and ensure compliance.

Price adjustments and reflection in customs declarations

Mexican customs legislation recognizes that retroactive pricing adjustment changes must be properly reflected in customs declarations under certain circumstances. The approach differs depending on whether the adjustment results in additional duties payable or in a refund.

- **Adjustments that generate additional duties (underpayment):** These are typically easier to implement. Companies may file a complementary global customs return (pedimento global complementario) covering the entire fiscal year. There is no strict statutory time limit for such corrections from a customs perspective, as long as the underpayment is identified and settled.
- **Adjustments that generate a refund (overpayment):** These are significantly more complex. Each individual customs entry (pedimento) must be amended separately to reflect the adjusted value. This process can be burdensome both administratively and in terms of securing the recovery of overpaid duties and taxes, since the compensation or refund must be linked to the amended entries.

For these reasons, it is critical that companies carefully monitor any pricing changes and ensure that they are reflected in customs declarations. Failure to do so can result in fines and penalties for noncompliance.

Conclusion

In summary, while Mexican customs law provides specific mechanisms to address importations, exportations, valuation and transfer pricing interactions, the framework tends to be strict in its interpretation and enforcement.

Companies operating under IMMEX (a special Mexican regime that allows manufacturers to temporarily import goods for processing, assembly, or repair, deferring duties and VAT as long as the finished products are exported) or other special customs regimes should ensure that any valuation methods, pricing adjustments and compliance obligations are properly reflected in customs declarations.

Failure to do so may result in penalties, fines or challenges from the authorities. A proactive and well-documented approach remains the most effective way to manage risk and maintain compliance in Mexico.

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South Korea: Reform to Customs Value Declaration System (effective from September 1, 2025)

1. Purpose and background of the reform

Customs valuation documents are usually submitted during a customs audit, making it difficult for companies to predict potential negative consequences before the audit begins. Documentation has been a recurring issue for both companies and Korea Customs Service (KCS), e.g,. a company may believe it has submitted sufficient documents whereas KCS may deem the documentation insufficient to verify proper customs valuation.

KCS has now clarified procedures and a specific range of documentation to ensure that a minimum set of data and documents relating to transactions is submitted at once at the point of the entry declaration, not at a later point of time, i.e., the customs audit phase. If objectives are met, customs can perform quick and efficient customs audits, while companies can be better prepared and less burdened with future customs audits due to advance resource-intensive documentary work.

The reform provides privileged exemptions for compliant, cooperative companies; participants in AEO or Advance Customs Valuation Arrangement (ACVA) programs and companies with annual tax payments under KRW500 million are exempted from the obligation to hand in customs valuation documents at point of entry filing, so they can enjoy a more streamlined customs clearance procedure. This new system is a clear embodiment of KCS policy fine-tuning to encourage voluntary, cooperative compliance from companies.

2. Previous system vs. new system for customs value declaration

Category	Previous system	Reformed system
Target Entities	All importers are subject to submission of customs valuation documents	Importers, except customs-complaint or small businesses, are required to submit customs valuation documents
Frequency of Document filing	At every importation	Once annually for identically conditioned transactions
Exemption	Limited importation, such as by government, local government, public institution, etc.	Expanded to AEO/ACVA participants and those with annual tax payments under 500M KRW
Relevant Regulations	Vague, general language of regulations (such as invoice, contracts, various sets of cost supporting documents, etc.)	Specific detailed regulations that outline documentation lists for 8 categories – one document per category at the minimum

3. Details of how to submit documentation

Category	Details
Submission method	Customs valuation data and documents to be submitted only for initial importation, and subsequent importations use initial entry filing number
Documentation specification	Specific documentation lists for 8 categories
Late submission	Permitted within 30 days of import declaration approval
Customs value declaration	Removed data field prone to subjective judgement, added data field for import price determination methods for related-party transactions

Specific set of documentation (minimum one per category where applicable)

Category	Details
Royalties and license fees	Patent or trademark contracts, royalty calculation breakdown, payment statements
Assists	Assist contracts, goods and service supply statements
Commissions	Commission or brokerage contracts, calculation breakdown, payment statements
Freight and insurance	Transportation-related contracts, cost calculation breakdown, payment statements
Packaging and container costs	Overseas packaging service contracts, cost calculation breakdown, payment statements
Subsequent proceeds	Contracts on attributable profit, calculation breakdown, payment statements
Indirect payments	Off-set or reimbursement settlement or other indirect payment documentation, calculation breakdown, payment statements
Related party transactions	Price determination documentation, Transfer Pricing Study, relevant explanatory materials

4. Previous penalties vs. new penalties for noncompliance

Category	Previous system	Reformed system
Customs request procedures	No clear regulations	Two or more requests, with submission time at least 20 days per request
Duty payment related penalties	Exclusion from monthly periodic payment	Exclusion from monthly periodic payment and from privileged exemption of customs securities/bonds
Customs audit related penalties	Penalties apply where documents are not submitted by the end of customs audit	Selected for non-period customs audit due to failure to submit customs valuation documents
Other penalties	Selected for submission of supporting documents and/or Increased cargo inspection rate	Eliminated previous other penalties, as shown to the left, because it was not effective

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5. Conclusion – EY perspective

The reform does not constitute a complete reformation of the documentation system. Rather, it is an adjustment that requires companies to submit in advance at the time of import declaration the documents that were previously mandatory during customs audits or tax assessments. In other words, it could be sufficient action at the time of the import declaration to present documents which had been requested during previous customs audits.

Where your company's transactions fall under one of the eight transaction types, it is advised to submit publicly available data prepared in advance, legally reviewed contracts or documents submitted during a previous customs audit, with no need to present a detailed calculation breakdown. In the case of related-party transactions, transfer pricing is treated as a core, controversial issue in customs audit, and related documents are quite sensitive materials. Therefore, it is advisable to submit an excerpt taken from the TP study, Master File or Local File Report prepared for corporate tax purposes.

Furthermore, if your company prepares a Customs Valuation Report for TP Appropriateness suited for customs purposes, separate from corporate tax purposes, a consistent interpretation can be obtained between the National Tax Service's transfer pricing audit and the KCS customs audit, as well as a greater predictability in future customs audits.

For companies with related-party transactions to become agile in a changing customs regulation, the ACVA program is a recommended solution in the sense that the program effectively addresses uncertainties that may arise during customs audits by settling the customs valuation determination method in advance between the taxpayer and customs authorities. ■

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Thailand implements carbon tax on petroleum products as part of broader climate strategy

Effective 29 March 2025, Thailand took a significant step towards its climate goals by introducing a carbon tax on oil and petroleum products. Rather than imposing a new levy, the Ministry of Finance (MOF) has restructured the existing excise tax to include a carbon pricing component. Notably, the overall excise tax rates remain unchanged, ensuring that the new measure does not affect retail fuel prices or increase industrial energy costs.

The key aim of this policy is to promote environmentally responsible behavior and reduce greenhouse gas (GHG) emissions without disrupting economic activity. The MOF has confirmed that this reallocation will not result in a shortfall in state revenue. Instead, it signals Thailand's broader commitment to sustainable development, while paving the way for more robust climate-related regulations in the near future.

Carbon price and policy mechanism

Under the new framework, a carbon price of THB200 per metric ton of CO equivalent has been set. This cost is embedded in the excise tax rate based on each product's emissions profile, as determined by Thailand's Greenhouse Gas Emission Factors. For example:

Product	Excise Tax Rate (inclusive of Carbon Pricing Mechanism)
Gasohol E20	THB5.200/liter (including THB0.358/liter of carbon cost)
Kerosene	THB4.726/liter (including THB0.498/liter of carbon cost)
Jet fuel	THB4.726/liter (including THB0.498/liter of carbon cost)
Diesel	THB6.440/liter (including THB0.548/liter of carbon cost)
LPG	THB2.170/liter (including THB0.623/liter of carbon cost)
Furnace oil	THB0.640/liter (including THB0.618/liter of carbon cost)

Any future adjustment to the carbon price above THB200 per tonne must be approved by the Thai Cabinet. The MOF will work in consultation with key ministries – the Ministry of Energy, the Ministry of Natural Resources and Environment, and the Ministry of Industry – so that future pricing remains aligned with national climate targets and the evolving international carbon pricing landscape.

Forward-looking framework: Climate Change Act and CBAM

This carbon tax initiative also sets the stage for Thailand's forthcoming Climate Change Act, currently in draft form and under review following a second public consultation held in November 2024. The latest draft introduces several key mechanisms, including a domestic emissions trading scheme (ETS) and a carbon border adjustment mechanism (CBAM) modeled after the EU framework. These instruments aim to address carbon leakage and preserve the competitiveness of Thai exporters in carbon-regulated markets.

Once enacted, the Climate Change Act is expected to establish a more comprehensive legal foundation for Thailand's climate policy and is anticipated to serve as a key instrument in supporting Thailand's long-term objective of reaching carbon neutrality by 2050 and net-zero emissions by 2065. ■

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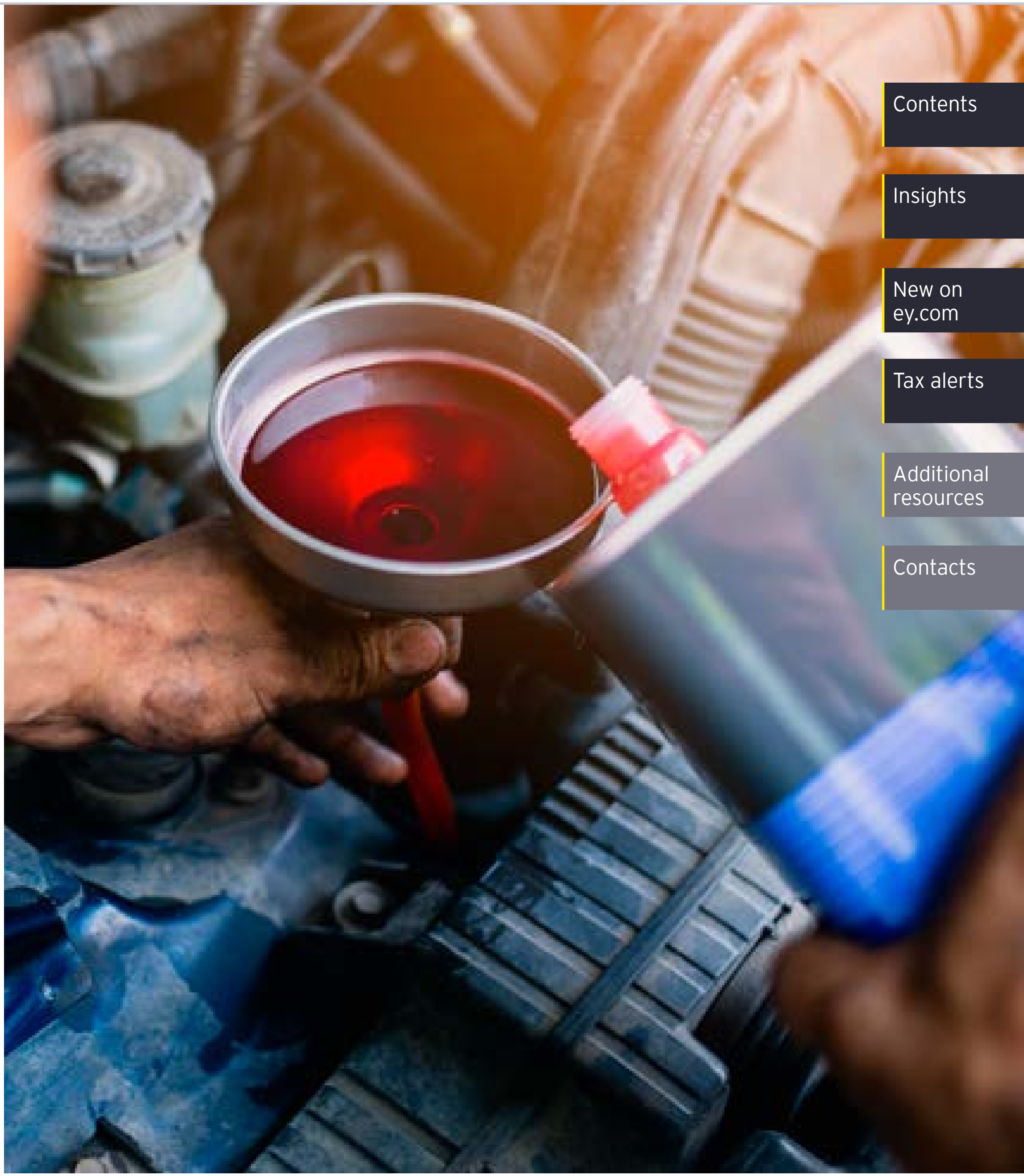

Taiwan: Carbon fee proposal with expected 2027 launch date

Taiwan has taken a decisive step toward implementing a Carbon Fee Mechanism, with its launch now expected in 2027. In a move signaling the nation's commitment to climate action and alignment with global sustainability trends, the Taiwanese Climate Change Administration under the Ministry of Environment published a press release on 24 July 2025, detailing the latest developments in the Carbon Fee Mechanism proposal. This closely follows a press conference at which officials outlined the trajectory for regulatory finalization, industry consultation and phased implementation.

This article explores the key features of Taiwan's Carbon Fee Mechanism, its regulatory timeline, and the ongoing engagement with domestic industries and international counterparts. With the Carbon Fee Mechanism poised to impact specified industries, the Taiwanese approach echoes the EU Carbon Border Adjustment Mechanism (CBAM) but introduces targeted simplifications and local adaptations.

Background: the global rise of CBAMs

The concept of a CBAM has gained rapid global traction, driven by the need to level the competitive playing field for domestic industries operating under robust carbon pricing regimes. The EU's implementation of CBAM, setting a precedent for addressing "carbon leakage" — where production shifts to jurisdictions with laxer climate policies — has prompted other economies, including the UK and now Taiwan, to consider similar frameworks. Taiwan's Carbon Fee Mechanism is designed not only to safeguard its own industries but also to promote coherence with global climate ambitions.

Timeline for implementation

2024:
Issued regulations governing the collection of carbon fees, the fee-charging rates of carbon fees and other relevant regulations.

By end of 2025:
Proposed finalization of key Carbon Fee Mechanism components for consultation, including reporting entities, products, methods and expected release of trial reporting templates and guidance documents..

First half of 2026:
Targeted deadline for finalizing Carbon Fee Mechanism regulations following comprehensive industry consultations.

First quarter 2027:
Launch of mandatory reporting for embedded carbon emissions of regulated products.

Scope and industry consultations

Industry engagement is at the heart of Taiwan's Carbon Fee Mechanism design. The Climate Change Administration has conducted, and is planning further, extensive consultations with relevant industry associations — most notably those representing the steel and cement sectors. These dialogues focus on:

- Defining the scope of regulated products
- Establishing carbon emissions values
- Developing methodologies for calculating carbon borders

The consultative process is aimed at ensuring that the regulatory framework is robust and reflects the realities of Taiwan's industrial landscape. Initial phases will prioritize industries with significant GHG emissions, particularly those whose value chains carry substantial carbon footprints.

Key components of Taiwan's Carbon Fee Mechanism proposal

Entities levied with the carbon fee

Under the current proposal, the carbon fee would be levied to power and gas supply industries as well as manufacturing industries that have regulated emission sources and whose total annual emissions exceed 25,000 metric tons of carbon dioxide equivalents, comprising both direct emissions from the entire factory (site) and emissions from electricity use.

Reporting products

The selection of reporting products is intended to be phased in, beginning with those from large-emission industries. The Climate Change Administration is considering a focus on those whose entire value chains contribute materially to Taiwan's carbon emissions profile. The approach provides flexibility for regulators and industries to address practical and sector-specific challenges during the implementation phase.

Calculation and reporting methods

Taiwan's Carbon Fee Mechanism calculation methods are proposed to be based on the EU CBAM framework, albeit with strategic simplifications to reflect local circumstances. These may include tailored reporting templates, streamlined documentation requirements and pragmatic approaches to carbon accounting, all designed to reduce administrative burdens while preserving environmental integrity.

The trial templates and guidance, expected by December 2025, will provide clarity for reporting entities and encourage early familiarization with compliance mechanics. These resources are intended to facilitate smooth transition and reduce disruptions when mandatory reporting goes live in 2027.

Offsetting and avoiding double counting

A crucial issue for industry stakeholders has been the potential for double counting of carbon fees. The Deputy Minister of Environment has mentioned that carbon fees already paid under Taiwan's domestic regime will be eligible for offsetting against CBAM liabilities, but the extent of such offsets will depend on the final regulatory alignment with evolving EU CBAM standards, which are still subject to revision. This assurance addresses industry concerns and underlines Taiwan's intent to harmonize its system with international best practices.

International coordination

Taiwanese authorities are actively engaging with counterparts in the UK and the EU, voicing their opinions and advocating for the interests of Taiwanese industries affected by CBAM regulations abroad. This international dialogue is essential for ensuring that Taiwan's exporters are treated fairly and that any cross-border regulatory inconsistencies are addressed.

Regulatory challenges and industry readiness

As Taiwan moves closer to finalizing its Carbon Fee Mechanism rules, several regulatory and operational challenges remain:

- **Alignment with international standards:** ensuring the calculation methods and reporting requirements are consistent with those in key export markets
- **Data collection and reporting capacity:** building the necessary systems and expertise for accurate carbon tracking along complex value chains
- **Communication and support:** providing timely guidance and support to affected companies to ease the transition and foster compliance
- **Legal and trade implications:** addressing concerns over potential trade frictions, competitiveness and the compatibility of the Carbon Fee Mechanism with WTO rules

The Climate Change Administration's commitment to ongoing consultation and phased rollout reflects an understanding of these challenges. The expected December 2025 release of trial templates and guidance will be a key milestone for industry readiness.

Strategic implications for businesses

Companies operating in, or trading with, Taiwan should begin preparing for the Carbon Fee Mechanism's arrival by:

- Reviewing existing carbon emissions data and reporting capabilities
- Engaging with industry associations and regulatory consultations
- Assessing the impact of Carbon Fee Mechanism-related costs on supply chain and pricing strategies
- Monitoring developments in EU and UK CBAM regulations for cross-jurisdictional alignment

Those in the steel, cement and other high-emission sectors will be among the first to encounter Carbon Fee Mechanism obligations and should consider investing in emissions reduction technologies and reporting infrastructure.

Conclusion

Taiwan's proposed Carbon Fee Mechanism, set for a 2027 launch, represents a landmark in the jurisdiction's climate policy evolution. Through transparent consultation, phased implementation and active international engagement, the Climate Change Administration aims to build a Carbon Fee Mechanism regime that balances environmental integrity with regulatory practicality. As the details of the measure are finalized, manufacturers and other stakeholders will need to stay closely informed and proactively prepare for the evolving carbon regulatory landscape.

EY teams will continue to asses developments, supporting clients as they navigate the complexities of carbon border adjustments in Taiwan and beyond. For more information or advisory support, contact your local EY global trade professionals. ■

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Forging the frontiers of digital trade – the EU-Singapore Digital Trade Agreement

The EU–Singapore Digital Trade Agreement (EUSDTA), signed on 7 May 2025, marks a pivotal advancement in global digital trade. As the EU's first bilateral digital trade agreement with an Association of South East Asian Nations (ASEAN) member and Singapore's fifth such accord, the EUSDTA addresses over 20 digital trade areas covering cross-border digital commerce, data flows and regulatory cooperation.

The EUSDTA is expected to bring benefits to a wide range of service providers and e-commerce companies. Specifically, digital banks, FinTechs, e-payments and cloud service providers will benefit from the EU–Singapore commitment to open data flows with personal data and source code protection. AI and security solution companies will also thrive under the EUSDTA framework of clear digital trade rules and high standards of cybersecurity protection. E-commerce and digital marketplace platforms will enjoy cost and efficiency dividends with the increased cooperation on interoperable e-payments, e-invoicing and paperless trade of digitalized goods. There is also specific focus on small and medium enterprises (SMEs).

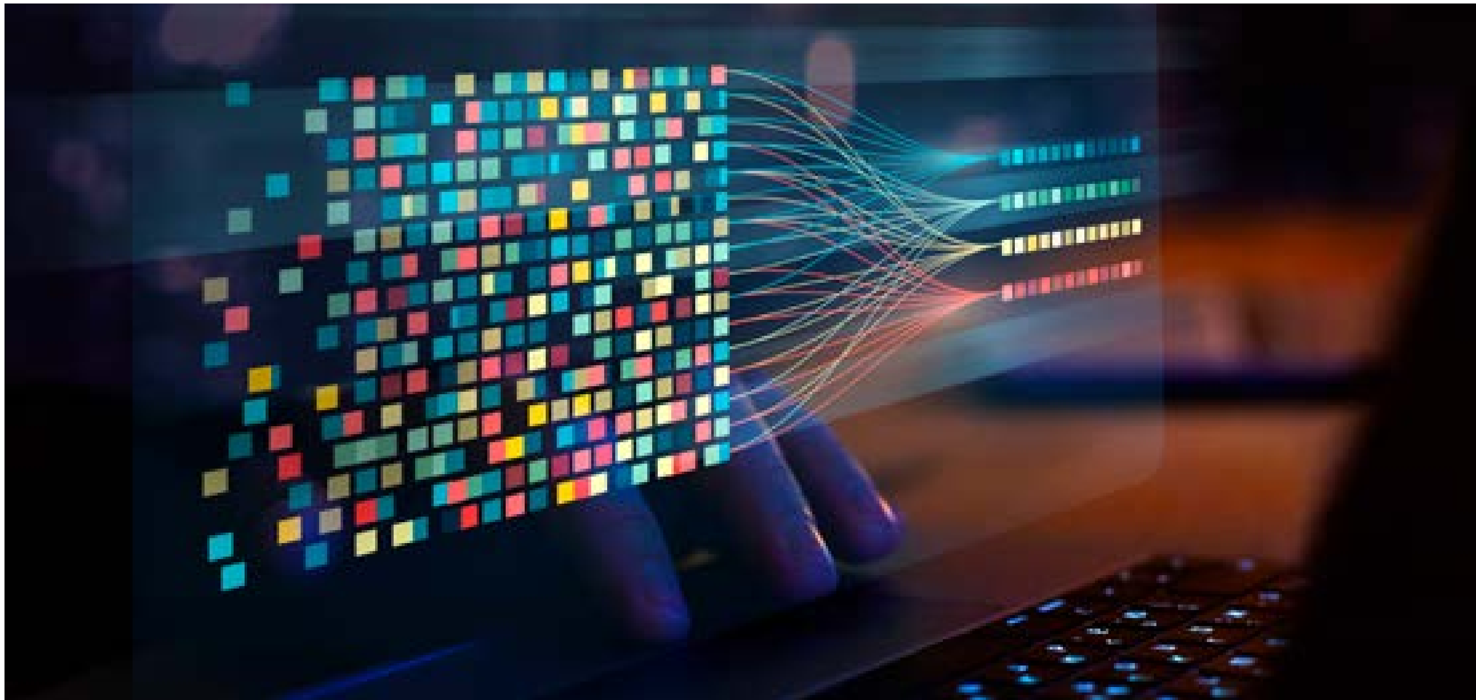
With bilateral trade in goods and services exceeding SGD210 billion in recent years – over half of which is digitally delivered – the EUSDTA is expected to lower transaction costs, enhance legal certainty and unlock new market opportunities for businesses in both regions. Companies that act early to align with the EUSDTA will be well-positioned to gain a competitive edge in the rapidly evolving digital economy.

Background of the EUSDTA

On 7 May 2025, the EU and Singapore signed the EUSDTA, which builds on the foundations of the EU–Singapore Free Trade Agreement (EUSFTA) and the EU–Singapore Digital Partnership (EUSDP).

For the EU, this is the first bilateral digital trade agreement with an ASEAN Member State. For Singapore, this is its fifth digital agreement after the Singapore–Australia Digital Economy Agreement (SADEA), the UK–Singapore Digital Economy Agreement (UKSDEA), the Korea–Singapore Digital Partnership Agreement (KSDPA) and the Digital Economy Partnership Agreement (DEPA).[1]

1 "Digital Economy Agreements", *Singapore Ministry of Trade and Industry website*, accessed 25 July 2025. Find it here.



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The strategic importance of digital trade

Digital trade refers to the exchange of goods and services that are enabled or facilitated by digital technologies. It encompasses a broad range of activities that go beyond traditional e-commerce, involving not only the sale and delivery of products online but also the movement of data, digital services and the infrastructure that supports these transactions.

Digital trade matters because it is a key driver of global economic growth. According to the WTO[2] digitally delivered services accounted for over 54% of global services exports in 2022. However, digital trade faces several challenges, which have been called out in the "Digital Trade for Development"[3] document co-published in 2023 by International Monetary Fund (IMF), Organisation for Economic Co-operation and Development (OECD), UN Conference on Trade and Development (UNCTAD), World Bank and WTO. While WTO rules cover digital trade, the evolving nature of digital trade requires updating of these rules. This is in view of the difficulty in fully implementing the WTO Trade Facilitation Agreement on digitally ordered goods trade, and the challenges in cross-border data flows, competition policy and enhanced online consumer protection.

The EUSDTA and other digital trade agreements are responding to these challenges by setting up the building blocks of a secure, interoperable and inclusive digital trade environment through international cooperation.

EUSDTA objectives and key provisions

The EUSDTA addresses over 20 digital trade topics, structured around four core objectives[4]:

1. Enable open and secure data flows

A cornerstone of the agreement is the commitment to allow cross-border data transfers without requiring data localization. This is addressed under provisions on cross-border data flows (Article 5). This provision will be reviewed after three years, making ongoing monitoring essential for data-intensive firms, such as software-as-a-service (SaaS), FinTech, and financial services and cloud service providers, whose extensive needs for data hosting and processing and data exchanges are integral to application performance and user experience.

Articles 6 and 16 further reinforce this objective by mandating robust personal data protection frameworks and promoting open access to government data. These measures aim to balance privacy with innovation and cost savings, enabling businesses – particularly SMEs – to leverage data efficiently and smoothly for market insights and product development.

2. Facilitate end-to-end digital trade

The EUSDTA promotes seamless digital transactions through provisions on electronic payments (Article 21), e-invoicing (Article 17), paperless trading (Article 18) and customs duties (Article 7).

In these provisions, the EU and Singapore commit to promotion of interoperable cross-border e-payments and to design e-invoicing measures to support interoperability between the two regions. Singapore and the EU also commit to maintaining a moratorium on customs duties for electronic transmissions, even if the WTO moratorium lapses. The two regions will endeavor to make available trade documents in electronic format and accept electronic document versions.

2 "Digital trade is key to boosting growth in developing economies", *World Trade Organization Blog*, 15 December 2023. Find it here.

3 "Digital Trade For Development", *WTO. 2023*, Find it here.

4 "Digital Economy Agreements", *Singapore Ministry of Trade and Industry website*, accessed 25 July 2025. Find it here.

These measures are expected to enhance efficiency of cross-border trade, reduce transaction costs and increase consumer confidence, especially in digital commerce companies and marketplaces.

3. Establish trusted digital systems

Trust is fundamental to digital trade. The agreement includes commitments to cybersecurity cooperation (Article 22), protection of source code (Article 11) and online consumer protection (Article 12). Notably, the EU and Singapore pledge not to require access to source code as a condition for market entry and to collaborate on cybersecurity threat mitigation. This is particularly attractive to companies ranging from cognitive AI application to security solutions firms that serve international clients and require uninterrupted and secure data flows for application performance and user experience.

4. Promote digital trade inclusivity

Inclusivity is a defining feature of the EUSDTA. Articles 24 and 25 focus on enhancing the participation of SMEs and underrepresented groups in digital trade. The agreement encourages the sharing of best practices and cooperation on digital inclusion, including active engagement in international forums, such as the WTO.

Possibility of further evolution of EUSDTA

The EUSDTA shares many similarities with the other digital agreements signed by Singapore. For example, all five of its agreements include provisions on cross-border data flows, personal data protection, e-invoicing, open government data, supporting SMEs and paperless trade.

However, the EUSDTA lacks the supplementary Memoranda of Understanding (MOUs) and side letters that have enhanced previous agreements. Notable examples include the UKSDEA side letter exploring single-window interoperability and MOU on the UK-Singapore Fintech Bridge, and the SADEA MOUs on mutual recognition of digital ID systems and e-certification exchange for agricultural products.

Encouragingly, Article 14 of the EUSDTA outlines future cooperation in areas such as AI, digital identities and data innovation. This opens the door for further bilateral initiatives that could deepen the agreement's impact.

Implications for business

The EU and Singapore are already significant trading partners, with bilateral trade in goods exceeding SGD$100 billion in 2024 and services trade surpassing SGD$110 billion in 2023. Over half of this services trade was digitally delivered . With the EUSDTA, direct benefits to existing businesses would include lowering transaction costs and enhancing legal certainty. In turn, this is likely to lead to a strengthening of investment flows and market access for businesses in both regions.

The agreement thus presents a timely opportunity to reassess digital strategies and operations. Key actions for companies to consider include:

- Conducting a digital readiness assessment: Identify opportunities to improve data practices and infrastructure under the new EUSDTA framework.
- Aligning with new digital trade rules: Update contracts and compliance frameworks for data protection and cybersecurity.
- Expanding digital sales channels: Leverage increased consumer trust and potential interoperability frameworks to enter new markets.
- Exploring partnerships: Collaborate with relevant EU or Singaporean firms to codevelop digital solutions.
- Tapping into government initiatives: Monitor for support programs under the EUSDTA in areas of cooperation, such as AI and FinTech, and for SMEs.
- Staying engaged: Participate in industry dialogues and policy discussions to stay ahead of regulatory developments.

Conclusion

The EUSDTA is a landmark in international digital trade policy, balancing innovation with trust and legal certainty. For businesses, it offers a strategic platform to scale digital operations, access new markets and shape the future of global trade. Companies that act early to align with the EUSDTA will be well-positioned to gain a competitive edge in the rapidly evolving digital economy.

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Australia: New net zero plan sets path for Australian economy but delays consideration of border carbon adjustment

In September 2025, the Australian government adopted a new interim emissions target: a 62%–70% reduction in greenhouse gas emissions below 2005 levels by 2035.[1] This target has now been lodged as Australia's updated Nationally Determined Contribution (NDC) under the Paris Agreement and announced to the United Nations (UN) General Assembly by the Prime Minister.

This target is positioned not only as a domestic climate milestone, but also as a potential pivot point for the future of trade with Australia. Importantly, a Border Carbon Adjustment (BCA) – previously recommended by the government's Carbon Leakage Review – is now set to be further considered in 2026-27.

Background on Australia's target and the Net Zero Plan

Alongside the new interim emissions target, the Australian government has released an accompanying Net Zero Plan (NZP). Setting a pathway to reach net zero by 2050, the NZP is anchored in five decarbonization priorities: clean electricity; electrification and efficiency; clean fuels; new technologies; and scaling carbon removals.[2]

These priorities are explicitly tied to Australia's role in international trade and investment. In particular, the NZP stresses that securing a comparative advantage in renewable energy and critical minerals will be central to maintaining Australia's relevance as other global markets decarbonize.[3]

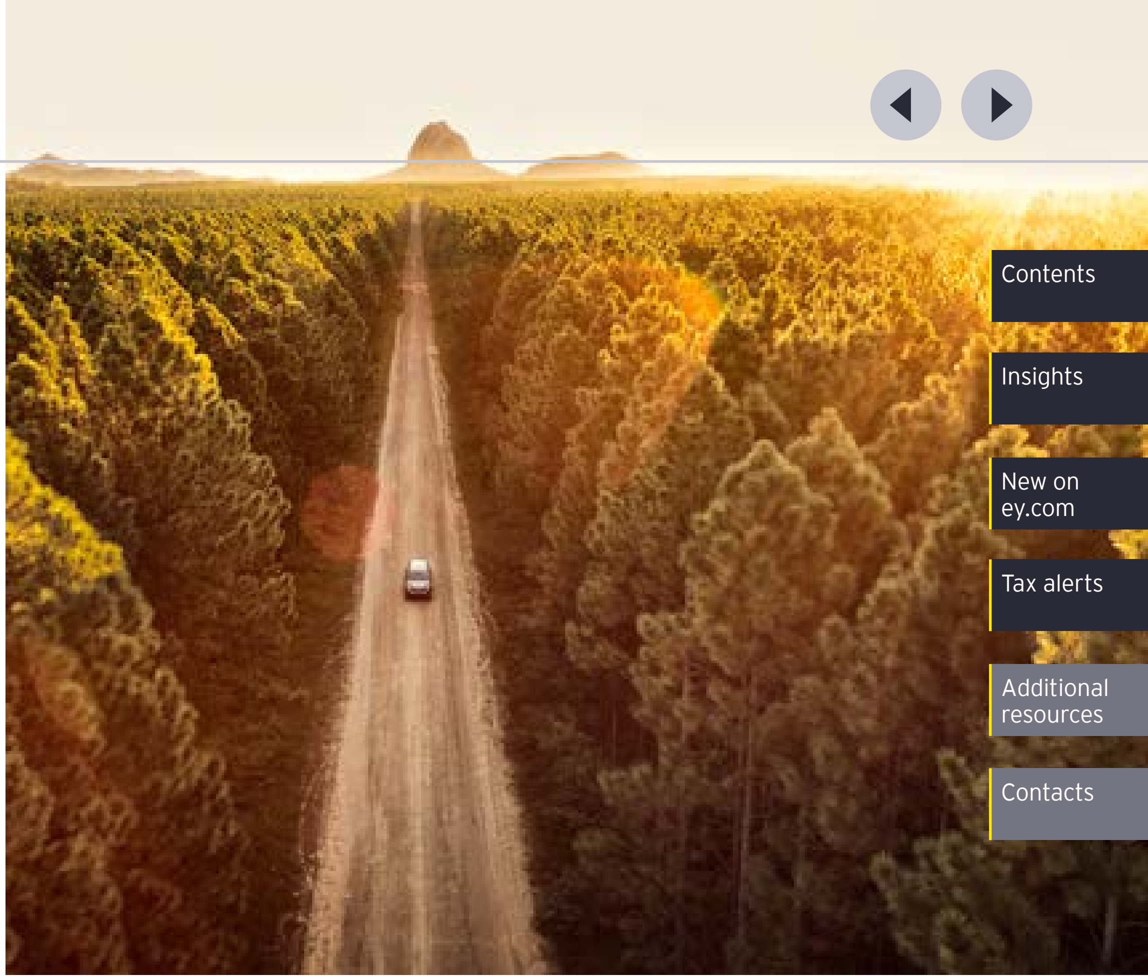
The NZP's institutional reforms will also impact trade with Australia. The Net Zero Economy Authority (NZEA) was established in 2024 and is tasked with supporting policy certainty and access to new opportunities.[4] This reflects Australia's strategic ambitions to be a trusted supplier of clean inputs to international partners with efforts to support and protect domestic industries from competitiveness risks.

1 Department of Climate Change, Energy, the Environment and Water (DCCEEW) (2025a) *Setting a 2035 target: Path to net zero*. Find it here.

2 Department of Climate Change, Energy, the Environment and Water (DCCEEW) (2025b) *Net Zero Plan*. Find it here.

3 Treasury (2025) *Net Zero Transformation modelling*. Find it here.

4 Net Zero Economy Authority (NZEA) (2025) *Role supporting an orderly economic transition*. Find it here.



The Net Zero Plan's implications for trade

The new target and the NZP signal a structural rebalancing of Australia's export profile. Historically, fossil fuel exports have underpinned the economy, but Treasury modeling suggests the value of coal and gas exports could fall by more than 50% within a decade as demand erodes.[5]

Conversely, the NZP highlights Australia's strengths in renewable energy generation, hydrogen and critical minerals, with the government aiming to capture value not only from extraction but also from processing and manufacturing.[6] The internationalization of these clean supply chains is expected to create opportunities for Australian exports and domestic industries, particularly for certified low-emissions goods. The government has also flagged new tax incentives and concessional finance to support this opportunity.

To underpin the credibility of Australian goods, the government has legislated a Guarantee of Origin (GO) scheme. This certifies the emissions profile of products such as renewable electricity, hydrogen and, in future, metals and fuels. This framework is intended to give Australian exporters an edge in carbon-constrained markets while also shaping the conditions under which goods enter Australia.

Border carbon adjustment in the 2026–27 Safeguard Mechanism review

The NZP also foreshadows a major policy development for trade: a potential BCA. The previously completed Carbon Leakage Review recommended a BCA in late 2024, with priority in-scope products including cement, ammonia, steel and glass, and alumina, aluminium and petroleum flagged for reassessment.[9,10] In the NZP, the government has confirmed that a BCA will be further considered in the 2026–27 review of the Safeguard Mechanism.[11]

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. Given that Australia now has a new 2035 emissions reduction target, material changes may fall out of the next legislated review in 2026–27, including the introduction of a BCA on key products at risk of carbon leakage.

If introduced, an Australian BCA would apply carbon costs to imports where comparable domestic obligations exist under the Safeguard Mechanism and any other related schemes implemented out of the 2026–27 review.

5 Treasury (2025) *Net Zero Transformation modelling*. Find it here.
6 Department of Industry (2025) *Resources Sector Plan*. Find it here.
7 Austrade (2025) *Australia accelerates investment in net zero transformation*. Find it here.
8 Clean Energy Regulator (2024) *Guarantee of Origin legislation passed*. Find it here.
9 Verdict on how to prevent carbon leakage, save jobs, Australian Associated Press (December 2024). Find it here.
10 Australia's Carbon Leakage Review: Consultation Paper 2, DCCEEW (November 2024). Find it here.
11 Department of Climate Change, Energy, the Environment and Water (DCCEEW) (2025b) *Net Zero Plan*. Find it here.

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The BCA would aim to help address carbon leakage, level the playing field for Australian producers, and align Australia with similar measures in the European Union and the United Kingdom. However, its design will need to balance World Trade Organization (WTO) compliance, interoperability with partner BCAs, the impact on domestic costs in key Australian sectors, and the risk to relationships with key international partners.

When considered in the 2026-27 Safeguard Mechanism Review, the government will likely pay close attention to the success of BCAs like the EU Carbon Border Adjustment Mechanism (CBAM) and the UK CBAM. The views of key trade and security partners like the US and the potential impact of an Australian BCA on their economies will also likely be considered, including if the current US Administration continues to openly reject decarbonization efforts.

What businesses need to know

For large firms, exporters and investors, the implications of the NZP and its trade levers are significant. Proactive businesses will also be able to take advantage of a range of new and enhanced opportunities, now that Australia has set a renewed pathway to net zero by 2050. This could include the voluntary GO scheme for low-carbon products and renewable electricity, and investment and financing opportunities.

Crucially, businesses should be assessing their potential exposure to a future Australian BCA.

In a future Australian BCA, specific products are likely to be in-scope:

- **Cement, lime and clinker:** The Carbon Leakage Review has found that these commodities are at highest risk of carbon leakage and are most appropriate for inclusion in a future Australian BCA's scope.
- **Ammonia (and derivatives), steel and glass:** These commodities have been 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 aluminium, refined petroleum, and pulp and paper:** The Carbon Leakage Review has highlighted these commodities for inclusion in a BCA, which may be considered further 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 Carbon Leakage Review has recommended no further action for carbon leakage mitigation where products are not widely exposed to the Safeguard Mechanism.

Next steps

The 2035 emissions reduction target and NZP are set to reshape the foundations of Australia's trade environment. As fossil fuel exports decline, comparative advantage is shifting to renewable energy, hydrogen and critical minerals. These will be supported by government-backed certification, investment incentives and trade diplomacy.

After being recommended by Australia's Carbon Leakage Review in late 2024, the NZP has now deferred further consideration of an Australian BCA to the 2026-27 Safeguard Mechanism Review. If a BCA is ultimately implemented, it could have significant implications for exporters and importers alike. Businesses should assess the potential impact of such a BCA on their operations. In addition, early engagement with government – including during the 2026-27 Safeguard Mechanism Review – will be crucial to understanding and contributing to its development.

The direction of the Australian economy is clear under the current government, and businesses should be rapidly preparing for carbon-aligned trade and supply chains. Success will rest on credible emissions accounting, strategic investment in Australia's clean economy and proactive engagement with the evolving trade-climate framework.

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EU customs reform: Council's position signals transformative change for e-commerce and beyond

The EU stands on the brink of its most comprehensive customs overhaul since the union's inception in 1968. The EU Customs reform, proposed by the European Commission on 17 May 2023, comes as a response to the exponential rise of e-commerce, shifting geopolitical realities and the ever-growing complexity of EU standards enforced at its borders. At the heart of this reform lies a vision to modernize and digitalize customs through the introduction of a central EU Customs Data Hub and a newly established European Customs Authority.

Yet, as the reform journey accelerates, the adopted position of the European Council (the Council) in June 2025 is carving the path forward – most notably with its approach to e-commerce, including the proposal to introduce a handling fee. This article unpacks the Council's stance and explores the next legislative steps that will shape the future of EU customs legislation.

A brief recap: modernization and digitalization at the core

The proposed customs reform aims to unify and streamline the customs landscape across the EU. The cornerstone is the EU Customs Data Hub – a centralized digital platform that promises to bring consistency, efficiency and greater oversight to customs processes. The European Customs Authority will guide this transition, overseeing the development and operation of the hub and ensuring that data provision, risk management and coordination among Member States meet 21st-century standards.

Further reading:

1. EU: Update on the proposals to reform the Customs Union, *TradeWatch* Issue 1 2025, page 47.
2. European Union: First vote on EU customs reform, *TradeWatch* Issue 1 2024, page 47.
3. EU: Proposed customs reform – a modern approach to e-commerce, *TradeWatch* Issue 3 2023, page 31.
4. EU: Customs legislation reform, *TradeWatch* Issue 2 2023, page 24.

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The Council's position: toward a modern and efficient customs system

On 27 June 2025, the Council adopted its negotiating mandate on a crucial element of the reform: strengthening the customs union to better supervise and control the flow of goods, particularly those entering through e-commerce channels. This move is a decisive step that not only reaffirms the need for modernization but also emphasizes the urgency of adapting customs to contemporary commercial realities.

Handling fee for e-commerce shipments: rationale and impact

A central proposal from the Council is the introduction of a handling fee for e-commerce shipments. Conceived in response to the dramatic increase in low-value parcels entering the EU, this fee seeks to address two main objectives:

- **Cost recovery:** The fee is designed to cover the operational costs incurred by customs authorities in processing a high volume of individual shipments, which has grown substantially due to online shopping trends.
- **Process efficiency:** By encouraging businesses to consolidate shipments, the fee aims to reduce the sheer number of individual customs declarations. This, in turn, is expected to ease administrative burdens, allowing customs authorities to focus resources on higher-risk consignments and complex controls.

The Council views this measure as a pragmatic response to the realities of global e-commerce, anticipating that it will incentivize bulk shipments, improve targeting and reduce bottlenecks at border crossings.

Pending the introduction of an EU-wide handling fee, several EU Member States – including France and the Netherlands – have announced plans to implement their own national handling fees.

Other key aspects of the Council's mandate

While the handling fee has drawn particular attention, the Council's position also encompasses other amendments:

- It clarifies in more detail certain customs processes, making them easier to implement by EU customs authorities and officials on the ground.
- It retains the existing Accredited Economic Operator (AEO) scheme thousands of SMEs already use to simplify their customs obligations. It also provides for tailored measures to support SMEs' compliance with the new rules.
- It removes the provisions on establishing a common framework of a minimum core of customs infringements and of non-criminal sanctions.

Next steps in the legislative process

The adoption of the Council's negotiating mandate marks a pivotal moment in the EU legislative process. The reform now advances to the trilogue phase, where the Council, European Parliament and European Commission will negotiate the final contours of the new regulations.

These negotiations are expected to unfold over the coming months. Although originally the stakeholders aimed to reach consensus by the end of 2025, it is more likely that the final text will be agreed on by June 2026. If they come to an agreement and the texts are not further amended, the phased implementation will begin, with the first operational phase of the reform commencing in 2028.

What businesses should do

The EU Customs reform, steered by the Council's forward-looking position, heralds significant transformation for customs authorities, businesses and all participants in cross-border trade. The introduction of the e-commerce handling fee and broader digitalization efforts signal a new era of efficiency, security and adaptability within the Customs Union.

As trilogue negotiations proceed and new requirements take shape, businesses should pay close attention to the evolving regulatory landscape and proactively prepare for the transition. The months ahead will be critical in defining not only how goods move across EU borders but also the future of global trade engagement. ■

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EUDR update: Key developments and simplifications for businesses

The EU Deforestation Regulation (EUDR) has been a focal point of compliance and sustainability discussions across industries dependent on commodities linked with deforestation. As regulatory clarity evolves, so do the implications for businesses navigating this ambitious legislative landscape. In this article, we provide a recap on what the EUDR is, highlight recent updates – including the postponement of the application date and the introduction of simplifications in updated guidance and FAQs – and examine expectations for further changes in an upcoming omnibus package.

What is the EUDR?

The EUDR is a landmark piece of legislation adopted by the EU to address the global challenge of deforestation and forest degradation. Its primary aim is to ensure that products placed on or exported from the EU market do not contribute to deforestation or forest degradation anywhere in the world. The regulation targets several key commodities with known links to deforestation: cattle, cocoa, coffee, oil palm, rubber, soy and wood, as well as certain derived products, such as leather, chocolate and furniture.

The EUDR requires companies to conduct due diligence on their supply chains, ensuring that products are deforestation-free and produced in accordance with relevant legislation in the country of origin. The regulation establishes a strict framework for traceability, risk assessment and reporting, with a focus on transparency and accountability. Companies must collect precise information about the origin of commodities, assess and manage risks, and submit detailed due diligence statements to a centralized EU information system.

Further reading.

Date of application postponed

Originally, the EUDR was set to apply from 30 December 2024. However, in recognition of the significant implementation challenges faced by both businesses and competent authorities, the European Commission (the Commission) announced a postponement of the enforcement date. The new date of application is now set for 30 December 2025, providing an additional year for businesses to align their supply chain operations, enhance traceability systems and adapt to the new due diligence requirements.

Simplifications in updated guidance and FAQs

In response to stakeholder concerns and the need for practical clarity around the EUDR's obligations, the Commission has released a series of updated guidance documents and frequently asked questions (FAQs). These resources introduce several important simplifications aimed at easing the compliance burden for businesses, particularly small and medium-sized enterprises (SMEs).

Key simplifications

- Large companies can reuse existing due diligence statements when goods, previously on the EU market, are reimported. This means that less information needs to be submitted in the IT system.
- An authorized representative can now submit a due diligence statement on behalf of members of company groups.
- Companies will be allowed to submit due diligence statements annually instead of for every shipment or batch placed on the EU market.
- Clarification of "ascertaining" that due diligence has been carried out, so that large companies downstream benefit from simplified obligations. A minimal legal obligation of collecting reference numbers of due diligence statements (DDSs) from their suppliers and using those references for their own DDS submissions now applies.

These adjustments reflect the Commission's commitment to balancing robust environmental protection with the practical realities of international supply chains. Stakeholders are encouraged to routinely consult the latest guidance documents, as clarifications and additional simplifications may be announced in response to ongoing implementation feedback.

Other developments and looking ahead

European Parliament votes to amend EUDR

The ongoing evolution of the EUDR has been marked by both technical refinement and intensifying political debate. Most notably, the European Parliament (EP) voted in July to adopt an objection to the Commission's approach to the country benchmarking system — a core pillar of the EUDR. Tabled by MEP (Member of the European Parliament) Alexander Bernhuber, the objection challenged the current risk classification methodology, advocating for the introduction of an "insignificant or negligible risk" category. This notion, however, is absent from the legal text of the EUDR. Should such an amendment proceed, it would necessitate a formal revision of the regulation itself, which may result in further delays to its application.

The EUDR's benchmarking system and recent list

The country benchmarking system, which entered into force in 2023 and is set to apply as of December 2025 (following a one-year postponement), is designed to classify countries as low, standard or high risk. This system determines the level of scrutiny, reporting obligations and frequency of checks (ranging between 1% and 9%) for products entering the EU market. Importantly, the benchmarking system is not intended to create "green lanes" or exemptions; rather, it guides due diligence expectations while maintaining that companies remain fully responsible for ensuring their products are deforestation-free, regardless of the risk category of their country of origin.

In May 2025, the Commission published the inaugural country risk classification (benchmarking) list after extensive consultation with EU Member States. Russia, Belarus, Myanmar and North Korea have been designated as high risk. Most countries, including all EU Member States, have been placed in the "low risk" category. However, this does not absolve operators of their obligations under the EUDR; it simply modulates the intensity of regulatory oversight.

Timing and further simplification efforts

These developments unfold just months before the EUDR becomes applicable in December 2025 and ahead of the first planned update to country risk benchmarking in 2026. Meanwhile, political pressure continues to mount. Recently, 18 EU agriculture ministers jointly called for further simplification of the EUDR in a letter to the Commission. While such appeals underscore the operational challenges many stakeholders face, environmental groups argue that the scheduled 2028 revision of the EUDR will provide the most appropriate opportunity to adjust the regulation based on data and experience from its actual implementation.

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Commission proposes measures for timely implementation and simplifications

Against the backdrop of recent developments, the European Commission on 21 October 2025 proposed targeted simplifications to support the smooth and effective implementation of the EUDR. At the same time, it reaffirmed its intention to still introduce EUDR obligations for large and medium-sized enterprises starting 30 December 2025.

Key highlights of the proposal include:

- **Streamlined due diligence requirements:** Downstream operators and traders would no longer be required to submit individual due diligence statements. Instead, a single submission in the EUDR IT system at the market entry point would suffice for the entire supply chain.
- **Extended timeline for smaller businesses:** The Commission proposes postponing the application date to 30 December 2026 for micro and small enterprises. For large and medium-sized companies, the original date of 30 December 2025 remains unchanged. However, to facilitate a gradual phase-in, these companies will benefit from a six-month grace period for checks and enforcement.

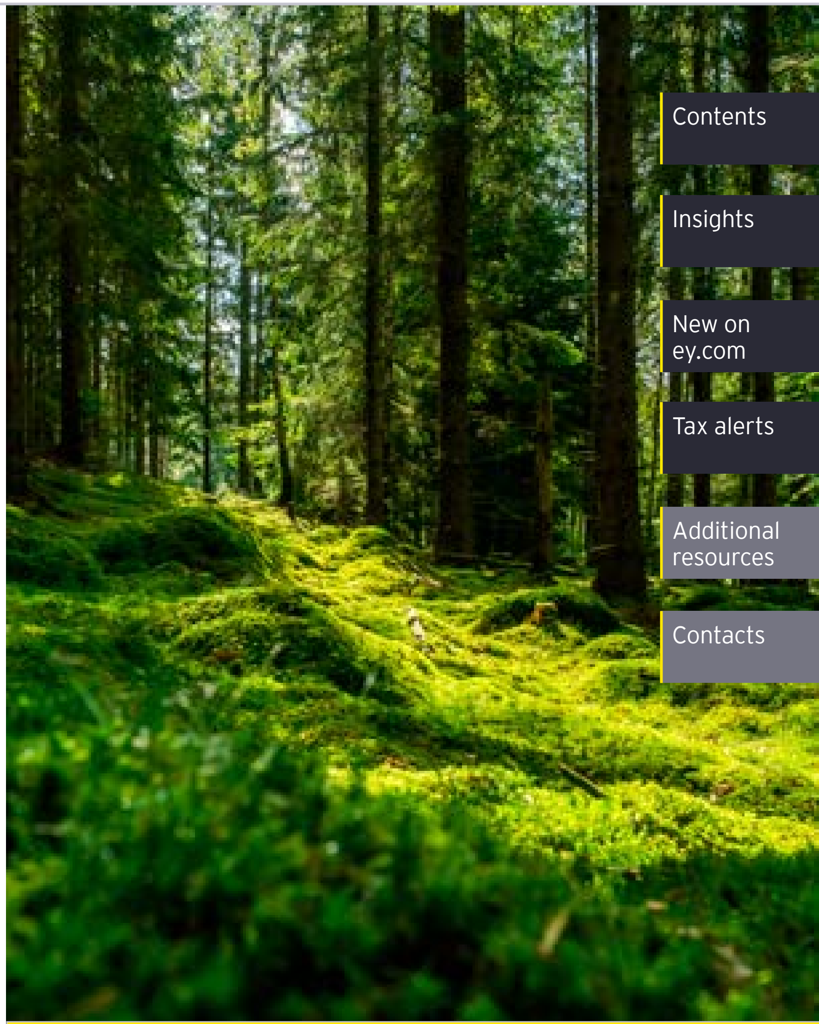
The proposal will now be reviewed by the European Parliament and the Council. The Commission urges swift adoption by the end of 2025 to ensure a smooth transition.

Practical implications for businesses

In summary, while the EUDR framework is advancing with additional guidance, simplifications and a clear timeline for application, the regulatory landscape remains fluid. Businesses should remain alert to both technical updates and the broader political context, ensuring their compliance strategies are robust yet adaptable as the EU's approach to deforestation-free supply chains continues to be refined.

Companies operating within the scope of the EUDR are, despite the evolving regulatory landscape, recommended to proactively adapt the EUDR. Key steps for businesses include:

- **Mapping the supply chain:** Begin by identifying all relevant suppliers and commodities affected by the EUDR. Collect geolocation data and validate compliance with both the EUDR and local laws in the country of origin.
- **Implementing due diligence processes:** Establish or update due diligence frameworks, including risk assessment protocols, supplier engagement and documentation of mitigation measures.
- **Engaging with technology:** Invest in digital solutions that facilitate data collection, traceability and reporting. Seek out platforms that are compatible with the EU's centralized system and meet security standards.
- **Staying informed:** Regularly monitor updates from the Commission, including guidance notes, FAQs and drafts of the omnibus package. Participation in public consultations can ensure your business's needs are considered.
- **Training and capacity building:** Provide training for staff involved in sourcing, procurement and compliance to ensure awareness of new obligations and best practices.



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European Court of Justice rules on customs valuation treatment of post-entry price adjustments

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On 15 May 2025, the European Court of Justice (ECJ) issued its ruling in the preliminary court proceeding between Tauritus UAB and the Lithuanian Customs Department (ECJ 15 May 2025, C-782/23 (*Tauritus*), ECLI:EU:C:2025:353).

This article provides background information about the case, why it may also have an impact on the interplay between transfer pricing and determining customs values for imports into the EU, and actions for businesses to consider.

Background

Tauritus imported diesel and jet fuel into Lithuania from 1 October 2015 to 30 April 2017. Contracts concluded with the suppliers, and their pro forma invoices mentioned a provisional price for the purchase of these goods. These contracts also provided that the provisional price would be adjusted according to the average market price of the fuel concerned during a given period and the average exchange rate during that period. Therefore, the final price could be higher or lower than the provisional price.

In the customs declaration of the goods, Tauritus utilized the provisional price as the customs value, based on the fallback method, using all data available in the EU customs territory. Once in possession of the final invoices, Tauritus generally submitted requests for rectification of the value of the goods as indicated in its customs declarations.

However, Tauritus had lodged 13 customs declarations in respect of which it did not subsequently request an adjustment of the customs value of the goods, despite that the available final invoices indicated a higher value than initially reported in their declaration. Consequently, Tauritus did not pay any additional import value-added tax (VAT).

During the post-clearance inspection, the Lithuanian customs authorities noted that the customs declarations had not been adjusted to the final value. In their decision, they applied the transaction value method and requested payment for the additional sums of import VAT, together with default interest counting from the period of the acceptance of the customs declaration to the date on which the inspection report was drawn up.

The Supreme Administrative Court of Lithuania stayed the appeal proceedings that followed to ask preliminary questions to the ECJ regarding how to determine the customs value if, at the time the customs declaration is lodged, only a provisional price is known and the final price is fixed post-importation.

Decision of the ECJ

The ECJ held that the transaction value of the goods constitutes the primary basis to determine the customs value of the goods imported into the EU. One of the conditions that should be met to apply the transaction method is that the sale or the price is not subject to a condition or consideration for which a value cannot be determined with respect to the goods being valued.

In the case at hand, the ECJ found that the final sale price of the goods at issue in the main proceedings could have been determined as soon as the contracts for the sale of those goods were concluded, as the way the final price would be determined was laid down in the contractual arrangements. The revaluation of the provisional price of the imported goods depended on objective factors that were predetermined and beyond the control of the parties to those contracts, and parties were required to carry out that price revaluation.

The mere fact that the price was not determined at the time of lodging the import declaration is, according to the ECJ, not sufficient to preclude the customs value of those goods from being fixed on the basis of their transaction value. If, however, only a provisional price is known at the time the customs declaration is lodged, the importer should file a simplified (i.e., incomplete) declaration and supplement this declaration at the time the final price is fixed. The regular use of a simplified declaration is, however, subject to authorization from the customs authorities.

Interplay between transfer pricing and customs valuation

The transaction value method can also be utilized if the sale is concluded between related parties, provided that the price has not been influenced by the relationship between the parties. The approach for dealing with transfer price adjustments to determine a customs value varies per EU country. The approach for dealing with transfer price adjustments to determine a customs value varies per EU country as, unfortunately, the single relevant ECJ ruling on this matter has not led to uniformity. In that case, the ECJ ruled in 2018 that EU customs law does not permit an agreed transaction value, composed of an amount initially invoiced and declared and a retroactive adjustment made after the end of the accounting period, to form the basis for the customs value, when it is unknown at the time of import whether that adjustment would be made up or down at the end of the accounting period. (For background, see our EY Global Tax Alert "CJEU issues ruling on determining transaction value for customs valuation", dated 18 January 2018.)

While the *Tauritus* case also addresses the question of how to deal with post-entry price adjustments, the ECJ considers that the conclusions in the *Tauritus* case are not called into question by the judgment in the 2018 case. The primary reason seems to be that the 2018 case concerned the revision of transfer prices concluded between companies belonging to the same group, which was based on an a posteriori allocation of residual profits between the entities of that group, initiated based on criteria set by the parent company. The real economic value of a product, which the customs value must reflect, cannot, according to the ECJ, stem from an a posteriori allocation of profits between the parties to the sale based on a decision by one of those parties. In the ECJ's view, the conclusion is different in the *Tauritus* case because the adjustment was dependent on objective factors that were predetermined and beyond the control of the parties to those contracts. It is unclear whether the application of transfer pricing methods that base remuneration on predetermined policies and ratios, stemming from benchmarked third-party data, qualifies as objective criteria agreed pre importation.

Implications

The ECJ's ruling could have major impact on businesses with international supply chains involving the EU and currently using transfer prices with possible retroactive adjustments to determine the customs value of their imported goods into the EU. Considering the ECJ's ruling, multinational enterprise groups should consider the following actions:

- Closely monitor the relevant court practice as well as legislative and other developments for tackling the challenges related to the interplay between transfer pricing and customs valuation; for example, consider the World Customs Organization's Guidance to Customs Valuation and Transfer Pricing and various nonbinding instruments, including the new instrument adopted during the 60th meeting of the Technical Committee on Customs Valuation.
- Take note of how local authorities in the EU jurisdictions interpret and apply the ECJ's ruling in the *Tauritus* case.
- Assess how EU local authorities' existing transfer pricing policies and documentation affect customs implications in light of this ruling.
- Consider working arrangements with the customs and/or tax authorities and evaluate standing agreements with the authorities on the impact of both ECJ cases (*Tauritus* and the 2018 case).

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EU: A look at steel safeguard measures

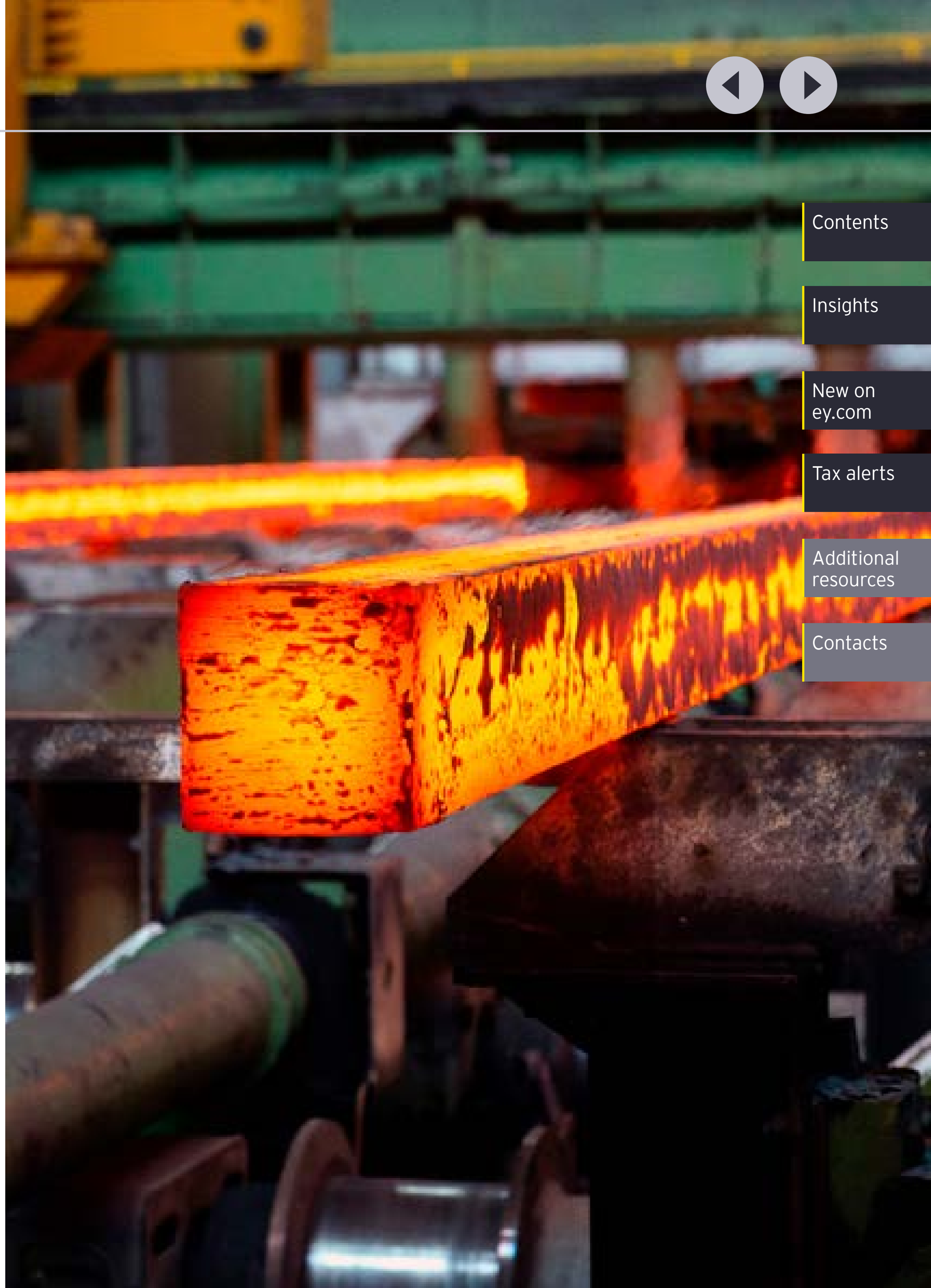
Introduction

In the last issue of *TradeWatch*, we shared insights on anti-dumping (AD) measures,[1] with a focus on their implementation within the EU. AD measures are one of the three trade defense measures designed to protect a domestic industry against unfair trade or disadvantageous global developments: AD measures, anti-subsidy (AS) measures and safeguard measures.

In this article, we will look at safeguard measures, with a focus on their implementation within the EU. As the safeguard measures on steel in the EU have been reviewed in March 2025 in light of global developments, including the generally applicable measures on steel and aluminum imposed by the US under Section 232, we will zoom in on how these measures protect the EU market and how the measure may develop over time.

While AD and AS measures are similar in nature, safeguard measures are distinct both in nature and in when they can be applied. In essence, there are three points by which trade defense measures can be distinguished: the nature of the distortion, the conditions to apply the measure and the form the measure can take. Whereas AD and AS measures are imposed to address unfair trading practices, safeguard measures are imposed regardless of any practice by an exporting country. Safeguard measures allow countries to protect their markets from general outside market developments without violating the World Trade Organization (WTO) law. Hence, the AD and AS measures are specific to the country of origin, whereas safeguard measures are generally applicable.

1 "EU: Antidumping measures as trade remedies," *TradeWatch* Issue 3 2024, page 53. Find it here.



The measures on a global level

Safeguard measures, under WTO law, are emergency measures that can be implemented to protect a country's market from injury or threat thereof as a result of increased levels of import of a given product or products. The legal basis for this was laid down in Article XIX of the General Agreement on Tariffs and Trade (GATT). Building further on that article, the WTO established the Agreement on Safeguards, in which the concepts around "Emergency Action on Imports of Particular Products" were further reinforced, clarified and controlled. Within the WTO legislation, three conditions must be met to implement a safeguard measure. First, there must be an unforeseen, sudden and sharp increase in the (share of) imports of a certain good. Second, there must be a serious injury or threat thereof to the domestic industry. And third, the measure must be applied on a most favored nation (MFN) basis.

Specific rules apply regarding when safeguard measures are applicable to developing countries. More specifically, the measure cannot be applied against imports of products originating in a developing country, as long as the share of the imports into the importing country from the developing country is less than 3% of total imports of the product concerned. Moreover, the total quantity being imported into that country from all developing countries with a share of the imports lower than 3% may not exceed 9% of total imports. If it does, the measure will be applicable to all developing countries.

Additionally, two key elements apply when implementing a safeguard measure:

1. The measure must be temporary. The WTO says a safeguard measure may not exceed four years, unless the injury or threat thereof to the market remains, in which case the measure may be extended by a maximum of four more years. On top of the normally maximum permitted applicability of four years, developing countries may extend the measure by another two years. If the injury to their market remains, the measure may then again be extended by four years. Therefore, developing countries can have a safeguard measure in place for 10 years.
2. The measure must progressively liberalize. Measures in place for over one year should be liberalized at a non-specified regular interval. Measures in place for three years or more are to be reviewed, at the latest, halfway through the measure. The concept of liberalization refers to the fact that safeguard measures must become less strict over time. This indicates that the measure is an instrument that allows the domestic market to adjust, rather than an instrument to punish the countries exporting to the country concerned. This reinforces the temporary nature and the idea that increased amounts of the products should be allowed to enter the market over time. In practice, this can either mean that the tariff quota's volumes are to be increased or that the duties to be paid outside the quota volumes should be reduced. In some cases, both the quota levels increase and the duty amounts decrease.

The WTO Safeguards Agreement does not specify what measures can be implemented as safeguard measures: "Members should choose measures most suitable for the achievement of these objectives".[2] The same article also sets some limitations for the adoption of measures implying quantitative restrictions.

Safeguard measures in figures

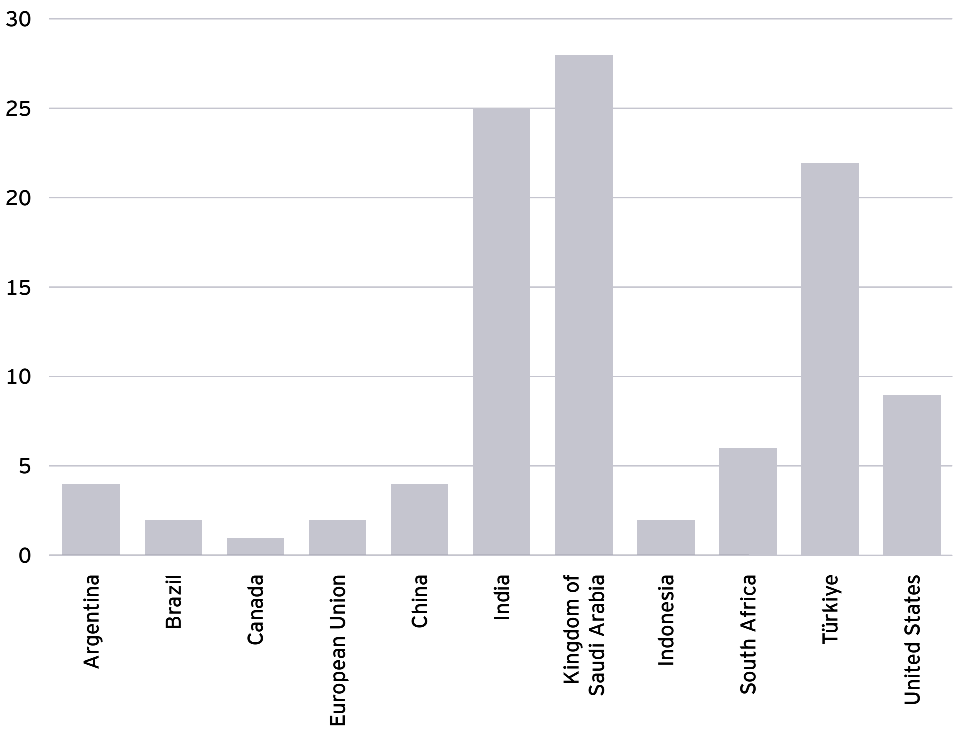
Compared to AD and AS measures, safeguard measures are not a widely used instrument. For example, since the WTO's establishment in 1995, some G20 countries have still never imposed any safeguard measures. Theoretically, this is also the case for the UK, but in practice it implemented EU safeguard measures before Brexit. Among the G20 countries that have used safeguard measures, there is wide variety in the number of implemented safeguards, with Indonesia, India and Türkiye leading the pack.

In our graph of measures used between 1995 and 2024, only the safeguard measures notified to the WTO by EU Member States are counted. This does not cover all measures taken by Member States, as there are disagreements about whether a measure is considered a safeguard measure or an alternative measure possibly not foreseen by WTO law. The most relevant case of such disagreement is the Section 232 measures imposed by the US. According to the Trump administration, the measure is not considered a safeguard measure but rather a measure "ensuring national security and economic resilience".

2 Art. 5 (1), last sentence of the WTO Safeguards Agreement.

Hence, this measure was not communicated to the WTO as a safeguard measure, and therefore, it is not included in our graph. On the contrary, the EU has publicly communicated that it considers the US tariffs on steel and other products safeguard measures within the meaning of the WTO Agreement on Safeguards.[3]

Total imposed safeguard measures between 1995 and 2024



3 "EU countermeasures on US steel and aluminium tariffs explained", *European Commission*, 12 March 2025. Find it here.

The EU's use of the measure

The base of the EU's safeguard measure lies in the rules set out by the WTO. These are subsequently implemented into EU law under Regulation (EU) 2015/478, which adds on to the WTO articles as needed. To impose a safeguard measure in the EU, a key requirement is to demonstrate that the measure is in the interest of the EU. Thus, a Member State may request an investigation, but ultimately it is the interest of the EU product users and EU producers that is taken into account in the investigation. Furthermore, while WTO legislation does not specify which form a safeguard measure may take, EU legislation does dictate the allowed restrictions the measure may impose. On the one hand, the EU may impose surveillance, in case there is a threat of injury to the EU market. In this case, the products can enter the market freely but are subject to automatic import licensing. On the other hand, the investigation may lead to quantitative restrictions, better known as tariff quota restrictions.

When tariff quota restrictions are implemented, a limited amount of the products can enter the market without any additional measures on top of the normally applicable MFN/preferential import duty rate. Once this tariff quota has been exhausted, the products will be subject to a set additional duty rate. Quantities may differ per country of origin of the imported products. Thus, even though safeguard measures are not origin specific, the size of the tariff quota can differ for the various countries of origin of the imported goods. Moreover, it is also possible that some countries of origin are allocated a country-specific tariff quota, while all other remaining countries of origin are then allocated to the "other countries" tariff quota.

As the graph indicates, the EU has only rarely used safeguard measures to protect its domestic industry. The first time the EU used the measure was in 2002, when the EU imposed a safeguard measure on a number of steel products. One year later, the measure was terminated in its entirety; however, AD and AS measures remained in place on some steel products. In 2004, the European Commission (the Commission) imposed a safeguard measure on citrus fruits that it terminated in 2007. In 2005, the Commission imposed a safeguard measure on salmon that it terminated two months later. But the EU imposed a safeguard measure on steel products again in 2019 that remains in place today.

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EU steel safeguard measures adopted in 2019

The current steel safeguard measures were introduced in 2019, primarily to address President Trump's US Section 232 measures imposing tariffs on steel and aluminum on all countries, which resulted in a diversion of steel to EU countries and other countries. The EU steel safeguard measure impose a 25% out-of-quota duty on steel imports.

These EU measures have been prolonged twice, each time after three years, and have undergone four reviews, with the most recent occurring in March 2025. During each review and prolongation, factors such as quota usage, union consumption, market share of imports and union capacity were considered, along with global developments in the steel industry.

In the latest review (which concluded only after President Trump had terminated exclusions and exemptions related to the US Section 232 additional tariffs on the import of steel products), some key elements of the steel safeguard measures were amended. The liberalization rate has been slowed down, indicating a more cautious approach to market access. Additionally, the access to residual quotas has been revoked for the product categories that are most at risk of injury. This relates to the carry-over of quota volumes in case they are not exhausted in a given quarter. The last major amendment is the expansion to more product categories of capped percentages of quantities per country of origin.

The EU steel safeguard measures are currently set to remain in force until 2026 – the longest any EU safeguard measure has been in place to date. However, the maximum time limit to have safeguard measures in place is eight years, so the latest date for the measure to legally be in place is January 2027.

These measures remain significant in light of global – and especially US – developments. Because the safeguard measure cannot be extended beyond the eight-year limit, the EU may need to explore alternative approaches, such as reviewing existing AD measures, implementing additional AD measures or even considering re-initiating a safeguard investigation from scratch.

If both a safeguard measure and an AD or AS measure are applicable to the import of a certain product, it is important to consider how they relate to each other. Historically, the EU has taken steps to avoid double or triple duty payment when more than one trade defense measure was in place on a given product or products. One of the actions the EU has taken in this regard is to review the measures in relation to each other and adjust the levels accordingly, or withdraw one of the measures.

This is done on a case-by-case basis. In the context of the steel safeguard measures, the EU has issued an Implementing Regulation[4] saying that any applicable AD or AS measure must be levied on top of the MFN import duty rate as long as the tariff quota is not exhausted. As soon as the tariff quota is exhausted, the safeguard additional duty will be levied when higher than the AD or AS measure, which will not be applied. If the AD or AS measure is higher than the safeguard additional duty, only the former will be levied.

Approaches for global companies

What can companies do to reduce the duty they must pay upon imports if products are subject to a safeguard measure?

- **Closely monitor quota volumes:** This approach can only be used when a level of flexibility is possible within a company's operations. Monitoring quota volumes is especially effective at the start of a new quarter, when new quota amounts are allocated. When using this approach, it is important to work across departments, to ensure that stocks do not run low and/or operations are not disrupted.
- **Making use of customs warehousing:** If the flexibility in the previous point is a viable option, consider making use of customs warehousing, whereby products can be shipped to a given country but are only import cleared once quota volumes are available.
- **Consider whether the goods must be imported:** Suspension regimes can be used to avoid payment of additional duties when importing goods that will eventually be re-exported (after processing or not).
- **Carefully consider the classification of your goods:** The basis of most regulations related to customs is the classification of goods. This is no different in the case of safeguard measures, and thus it is essential to verify that your portfolio is correctly classified. Wrong classification can result in a product being subject to a safeguard measure that it should not be. In the opposite case, the risk of using the wrong classification increases if the product is subject to trade defense measures. When in doubt, consider requesting a Binding Tariff Information to obtain certainty with regard to a product's classification.
- **Carefully consider the origin of your goods:** Despite the fact that safeguard measures are applicable regardless of origin, there may be differences in application. First, the origin of your product may determine a different quota for your product. For some countries, the quota volumes may be exhausted at a faster pace than for other countries. Second, under specified conditions, developing countries are exempt from the safeguard measure. Thus, if you import products from an exempt country, you may be relieved from the safeguard duty.
- **Assess possibilities to source within the domestic market:** Investigate whether there are commercially viable solutions to procure your goods on the EU's internal market.
- **Assess the financial impact of safeguard measures:** When safeguard measures cannot be avoided, estimate the financial impact of the measures as well as you can allow your business to reconsider pricing strategies and to assess whether part of the impact could be passed on to the downstream supply chain.

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4 Art. 1 Implementing Regulation 2019/1382

Gabon: The statute of limitations on actions for tax penalties for customs offenses

In customs-related matters, tax penalties refer to the reassessment of customs duties and taxes by the customs administration, accompanied by a regulatory fine, imposed as a result of an infraction documented in an official report during a post-clearance inspection.

In accordance with the provisions of Article 190 of the CEMAC Customs Code, Edition 2020, the customs administration has the right to carry out administrative investigations within any company.

For the customs administration, this means checking all of a company's management documents, declarations and other commercial records, with the aim ensuring the compliance of customs regulations and sanctioning companies that have contravened them.

The procedures for exercising this right, which is granted to the customs administration, to inspect customs operations carried out by companies after they have cleared goods through customs, are set out in Order No. 0015/MDDEPIP/CAB/DGDDI of 11 March 2016 regulating customs inspections in the Gabonese Republic.

Customs Statute of Limitations and Tax Penalties

The Customs administration has a limited timeframe to act on customs offenses and impose tax penalties. Once this period—known as the extinctive statute of limitations —expires, they lose the legal right to take enforcement action.

This means that customs authorities can no longer exercise control or demand payment after the expiry of this period.

According to Article 398 of the CEMAC Customs Code, 2020 Edition, customs authorities have three years from the date duties should have been paid to initiate action.

Inspections and claims for unpaid or evaded duties must occur within this period. After three years, any enforcement action becomes time-barred and inadmissible.

In practice, the customs administration will still be able to bring enforcement action, but the person or company being prosecuted will be able to invoke the statute of limitations as a defense.

This principle of three years is reinforced by the provisions of Article 79 relating to the conservation of customs documents and also by the provisions of Article 105, paragraph 2, relating to the particular right of communication vested in the customs administration.

Justification of the principle of the limitation period

The requirement for companies to retain customs files for the purposes of a possible inspection is three years, i.e. it is aligned with the statute of limitations. Similarly, the special right of communication only applies to documents that are no more than three years old.

Retention of documents:

Article 79 of the CEMAC Customs Code, 2020 Edition, states, "The person concerned shall keep, for customs control purposes, for at least three (3) years, the documents and information that may be subject to the right of communication".

In other words, all persons are obliged to keep, for a minimum of three years, the papers and documents relating to the customs operations they have carried out and that the customs authorities may require to carry out an inspection of their business.

These documents (e.g., transit files, declarations) are essential for the customs authorities to carry out their inspection after the goods have been cleared through customs.

At the end of the legal retention period of three years, the documents may be archived or discarded, and the customs administration will not be able to hold this against companies, since they have been kept for the legal period of three years.

In absolute terms, companies could even say that they have been discarded and not communicate them, invoking as a defense the statute of limitations on their retention in accordance with the provisions of Article 79 of the CEMAC Customs Code, 2020 Edition.

The special right of communication granted to customs authorities

The provisions of Article 105, paragraph 2, of the CEMAC Customs Code, 2020 Edition, stipulate, "Heads of offices, customs collectors and category A or B customs officers may demand the disclosure of papers and documents of any kind relating to operations of interest to their department. ... The various documents referred to above must be kept by the interested parties for a period of three (3) years".

Post-clearance inspection of goods is carried out on the basis of customs documents (all declarations, commercial entries, registers, accounting documents and any other documents likely to shed light on the inspection).

However, under the terms of Article 105, paragraph 2, only documents that have been kept and, therefore, dated for a maximum of three years may be disclosed.

In other words, the customs authorities cannot ask the person being audited to disclose documents that are four years old.

The particular right of communication granted to the customs administration to carry out its action against customs offenses for tax penalties is, therefore, limited to the communication of documents kept for three years.

How do you calculate the limitation period for taking action against customs offenses for tax penalties?

To calculate the limitation period, determine the "dies a quo," i.e., the starting point of the three-year limitation period, which is the point at which the three-year period begins.

This period is expressed in whole days, i.e., from 00 hours to 24 hours.

The duration is calculated as follows:

1. **For goods released for consumption or declared for export**, the three-year period begins at the end of the calendar year in which the declarations for release for consumption or export were accepted.
2. **For goods released for consumption duty-free or at a reduced rate of duty on account of their end use**, the three-year period begins at the end of the calendar year during which they cease to be subject to customs formalities.
3. **For goods placed under another customs procedure or goods placed in warehouses or customs clearance areas**, the three-year period begins at the end of the calendar year during which the customs procedure in question was discharged or during which the stay in a warehouse or customs clearance area ended.

Is there any way of stopping or extending the three-year statutory limitation period before it runs out?

For all actions against customs offenses involving tax penalties, it is possible to stop the three-year limitation period by carrying out certain actions that will reset the counter to zero, i.e., extend the limitation period – this is known as "interrupting the limitation period".

Indeed, in accordance with the combined provisions of Article 399, paragraphs 1 and 2, of the CEMAC Customs Code, 2020 Edition, and No. 657 (b) of the CEMAC Customs Regulations, the duration of the limitation period of three years shall be interrupted and extended to 30 years if during the three-year period, i.e., before its expiry, the customs administration has taken a positive action, i.e., it has acted by demanding the payment of duties and taxes by means of a constraint, a court order to pay, a condemnation, or a specific and special obligation.

The limitation period may also be interrupted and extended to 30 years if it is proven that the person being audited committed fraud that made the customs authorities unable to take action against tax offenses.

In this case, the customs authorities will have to refer the matter to the court and provide proof of the fraud.

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Gabon: The status of the Accredited Economic Operator (AEO)

The World Customs Organization (WCO) created the status of the accredited economic operator (AEO) to secure the incoming and outgoing flows of goods, facilitate trade and expedite customs clearance procedures for goods.

All economic operators, including small and medium-sized enterprises (SMEs), regardless of their role in the international supply chain, can qualify for AEO status, if they are deemed trustworthy in the customs operations they carry out.

The status of CEMAC (Economic and Monetary Community of Central Africa) authorized economic operator is established by the provisions of Article 76 of Regulation No. 05/19-UEAC-010 A-CM-33 revising the CEMAC Customs Code 2020 Edition (CEMAC Customs Code 2020 Edition).

This status is voluntary and signals a partnership approach between the operator and the customs authority in the country within the CEMAC region in which they reside.

This approval issued by customs allows the economic operator to benefit from advantages throughout the CEMAC territory.

Eligibility for AEO status

The provisions of Article 76 of the CEMAC Customs Code Edition 2020 provide that 'any economic operator established in the CEMAC customs territory may submit an application to benefit from the status of accredited economic operator'. As previously mentioned above, all economic operators are eligible to apply for AEO status.

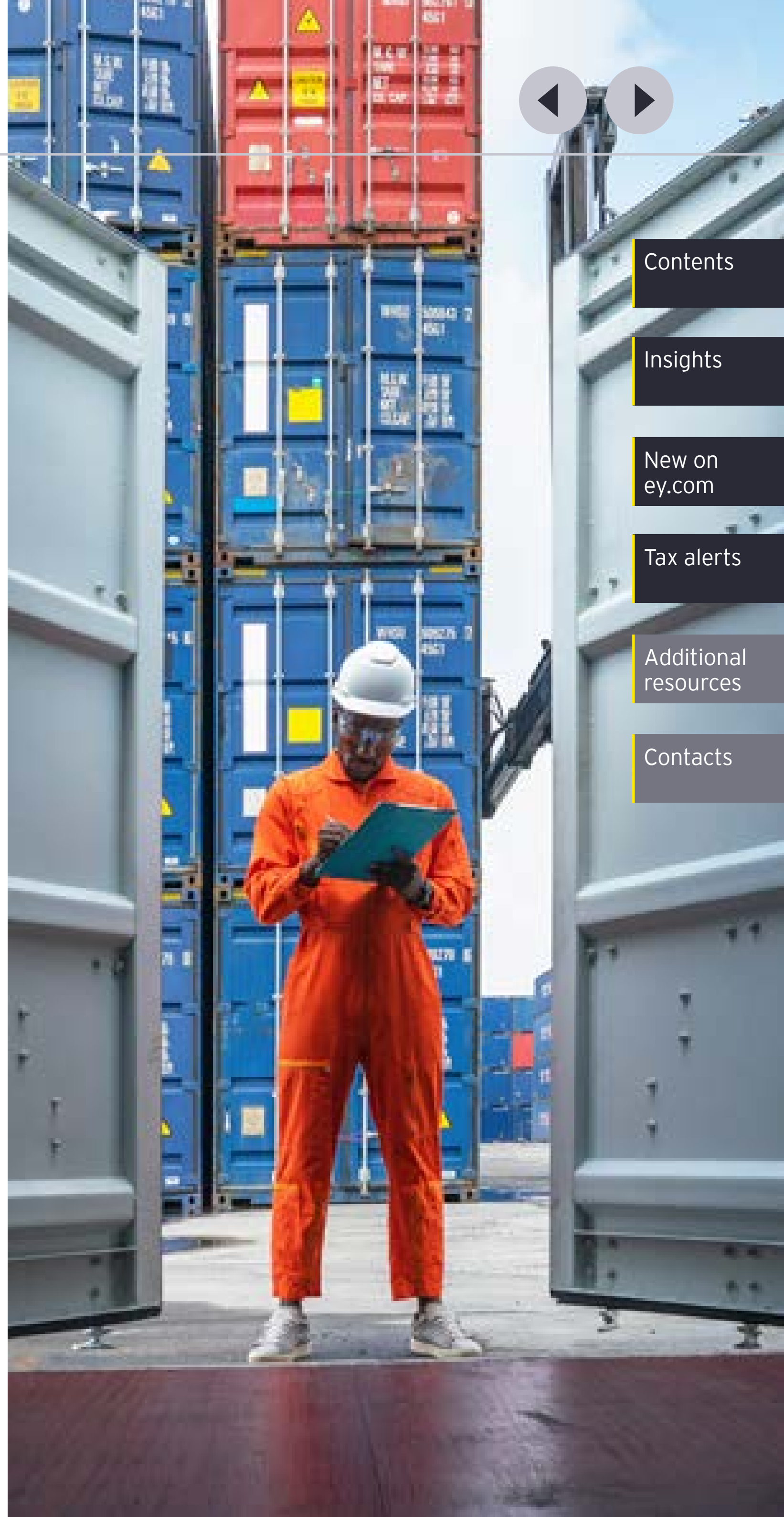
Authorizations linked to the benefit of the AEO status

The AEO status grants the economic operator two types of authorization:

1. The status of accredited economic operator for customs simplifications
2. The status of accredited economic operator for safety and security

In accordance with the provisions of Article 76, paragraph 4, of the new CEMAC Customs Code Edition 2020, these two authorizations may be held simultaneously by one economic operator. This is called a combined authorization.

These two types of authorization relating to customs simplifications and security and safety offer holders the following advantages:



- Streamlined document checks
- A low rate of material inspections and examinations
- Prompt release
- Deferred payment of duties, taxes and charges
- Use of comprehensive guarantee or reduced guarantee
- A single customs declaration for all imports or exports during a given period
- Customs clearance of goods at the premises of the AEO or at another place approved by customs

Application procedure and criteria for AEO status

Any economic operator who wishes to benefit from the AEO status must apply to the National Director of Customs of the CEMAC state where they reside. In the case of Gabon, an application will have to be submitted to the Directorate-General of Customs and Indirect Taxes (DGDDI).

Their application must include all the relevant information on the economic activity they have carried out and all supporting documents.

Upon receipt of the application, the customs administration verify that AEO candidates meet the following criteria:

- Absence of serious or repeated infringements of customs legislation and tax provisions, including the absence of serious criminal offenses related to the applicant's economic activity.
- Demonstration by the applicant that they exercise a high level of control over their operations and the movement of goods by means of a system for the management of commercial records and, where applicable, transport documents, allowing the necessary customs controls.
- Financial solvency, which is considered to be proven when the applicant presents a satisfactory financial situation enabling them to meet their commitments, taking into account the characteristics of the type of activity concerned.
- Compliance with practical standards of competence or professional qualification directly related to the activity carried out.
- The existence of appropriate safety and security standards, which are met when the applicant demonstrates that they have taken appropriate measures to verify the security and safety of the international supply chain, including physical integrity and access controls; logistics processes; and handling of specific types of goods, their staff and business partners.

The customs administration verify that AEO applicants meet the above criteria by carrying out audits at their premises.

Application circuit to the Directorate-General of Customs and Indirect Taxes (DGDDI)

- An application is addressed to the Director of the DGDDI, who is competent to grant, by decision, the AEO status.
- The application is deposited to the mail department of the DGDDI with acknowledgment of receipt and forwarded to the Director's office.
- The application will then be transmitted to the Department of Legislation, Trade and International Relations (DLERI).
- The DLERI will give their opinion (favorable or not) to the DGDDI.
- DGDDI decides to approve or refuse according to DLERI's opinion.

Advantages of AEO status

Once obtained, AEO status allows any company carrying out an activity related to international trade (SMEs or large companies) to acquire:

- A quality label on the customs and safety-security processes it implements
- A significant commercial and competitive advantage

This status also makes it possible for holders to benefit from several advantages that simplify foreign trade procedures, including the immediate removal of goods, the attachment of customs operations to a customs office, the designation of a single interlocutor and the filing of customs declarations before the arrival of goods.

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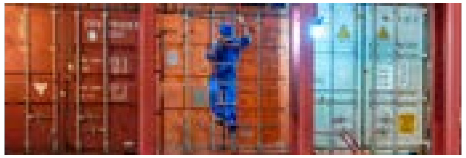

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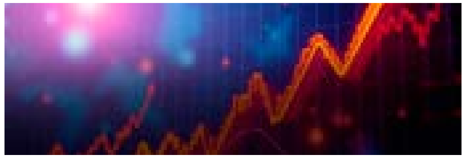

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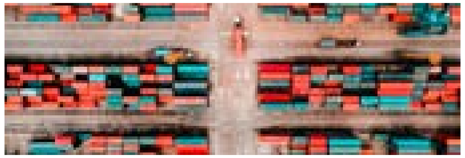

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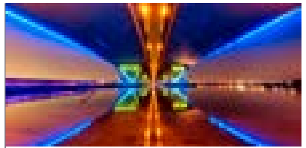

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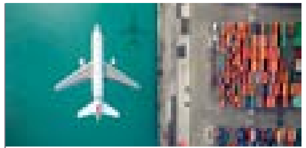

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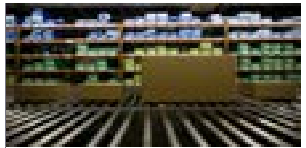

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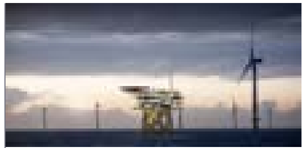

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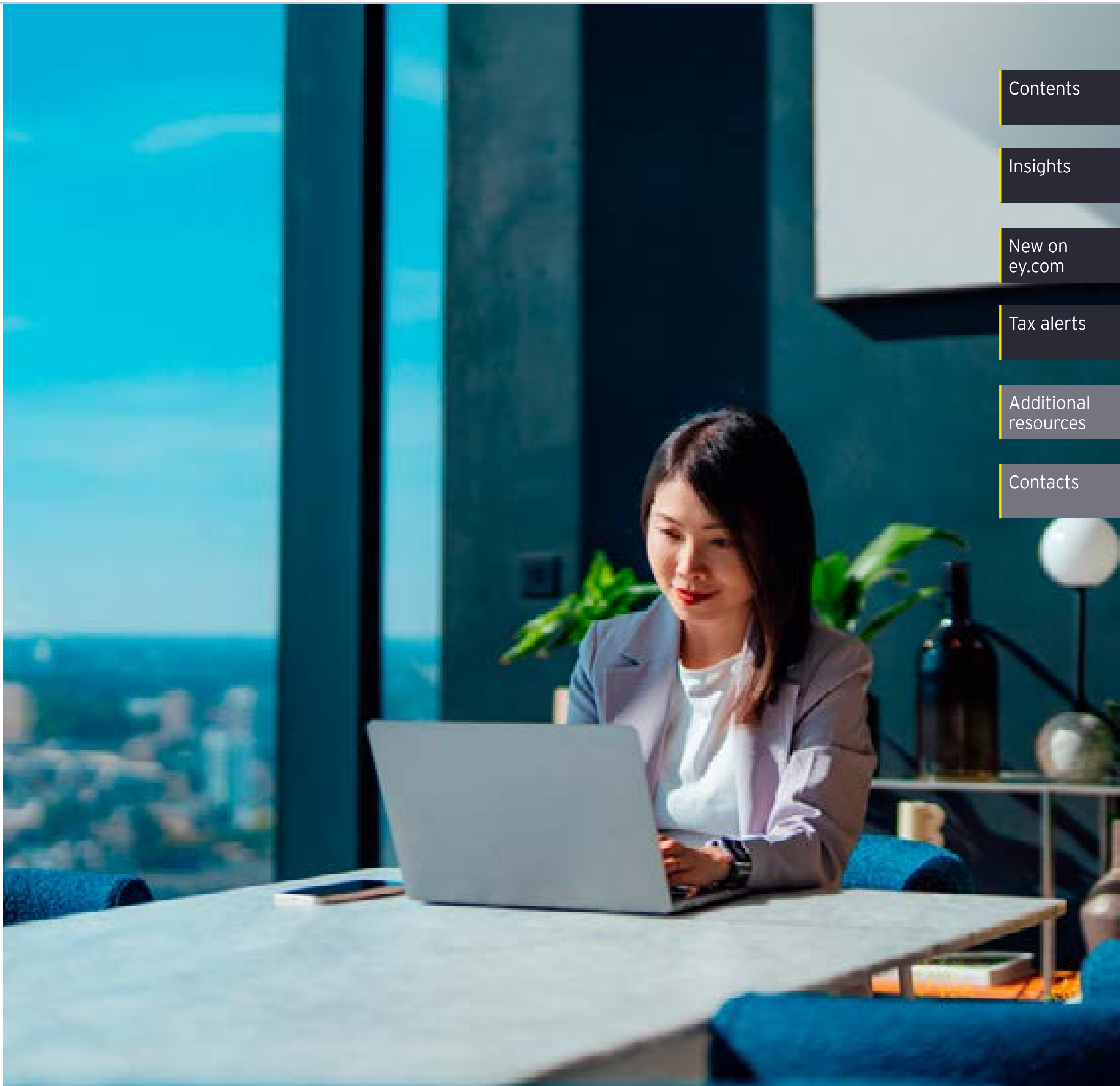

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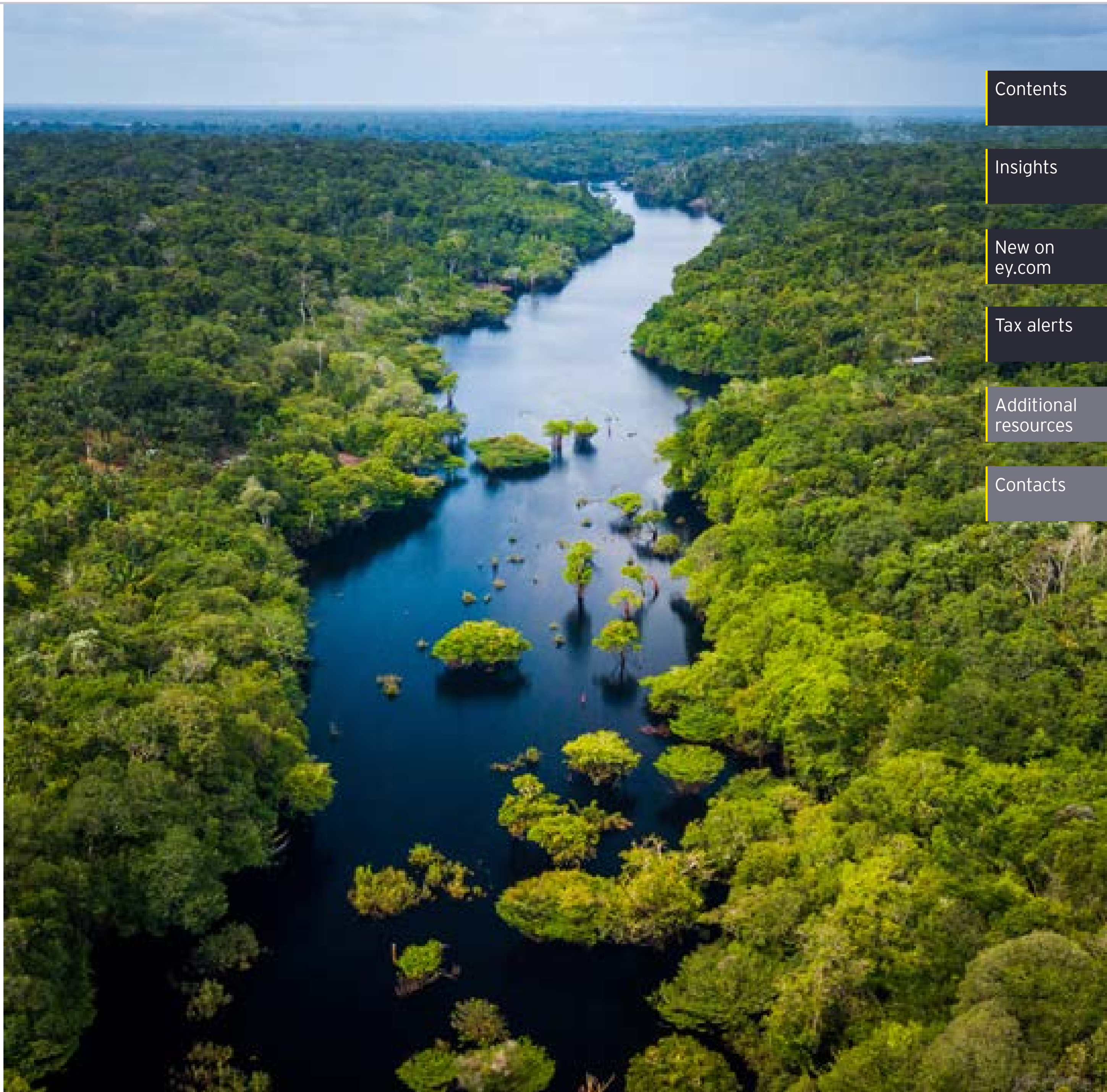

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Outlining value-added tax (VAT), goods and services tax (GST) and sales tax systems in 150 jurisdictions, the 2025 edition of our annual reference book is now available to download as a pdf. The content is current as of 1 January 2025.

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.

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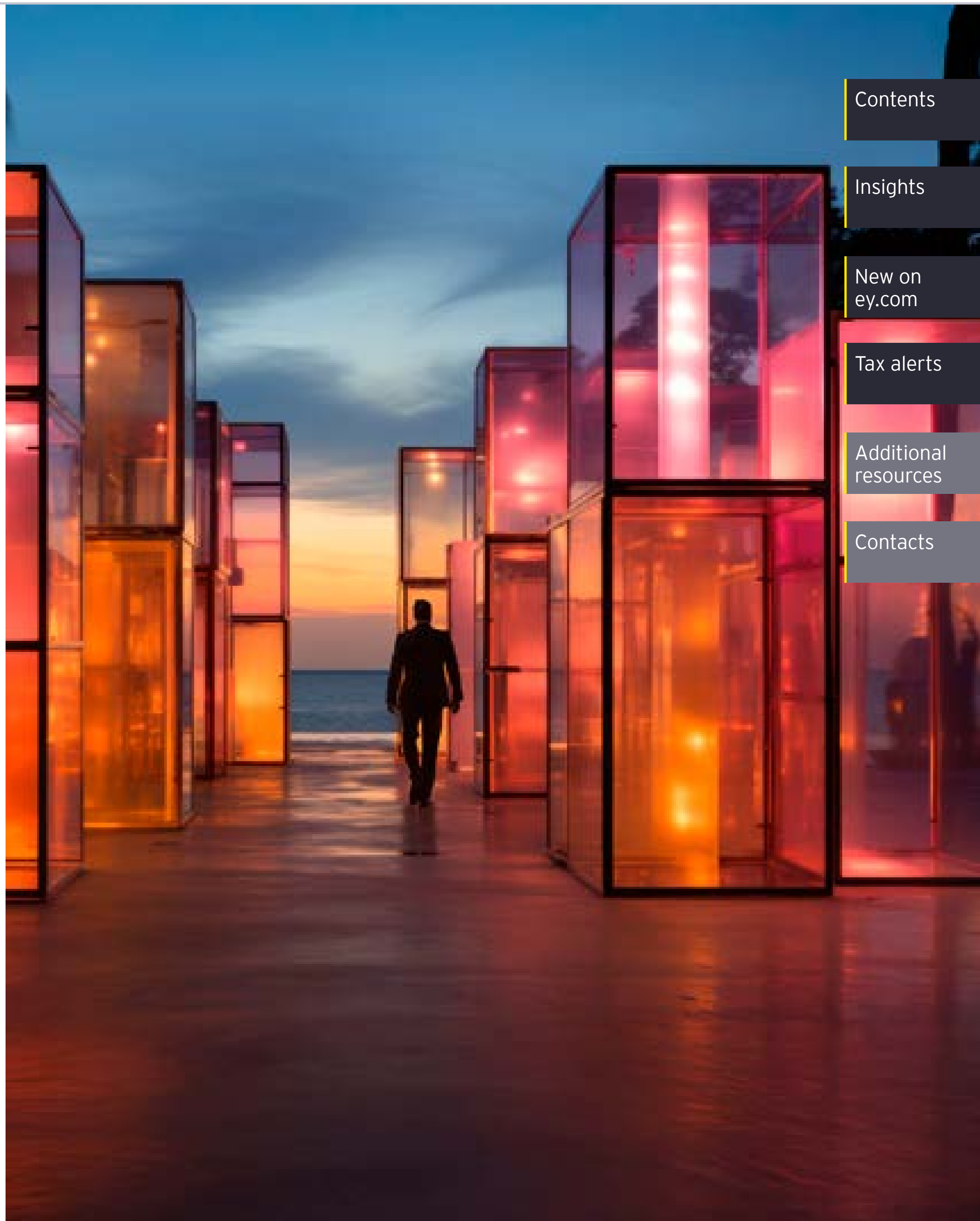

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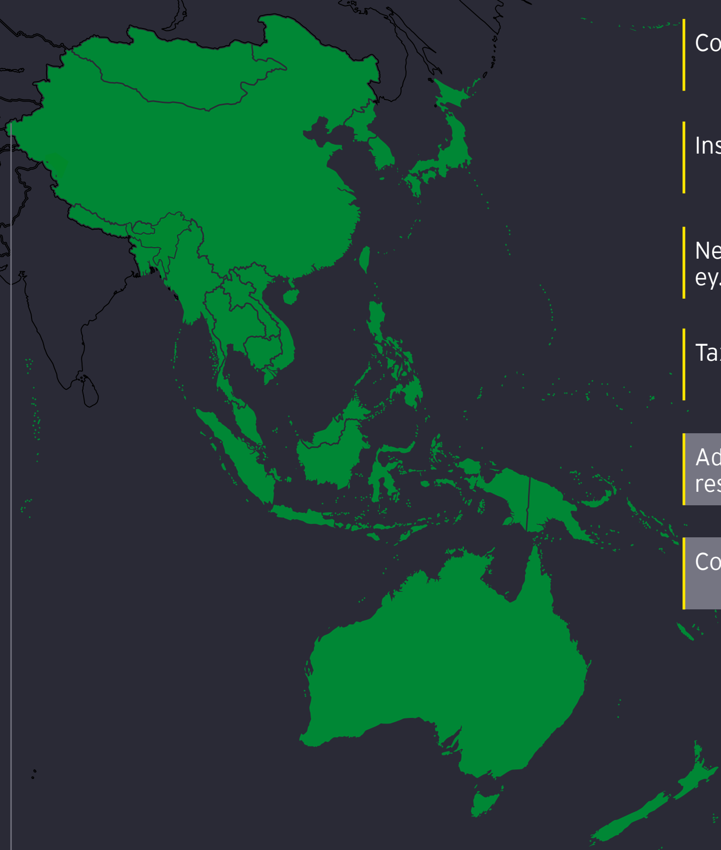

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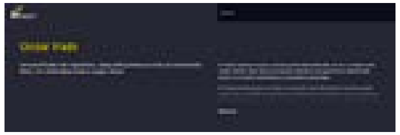

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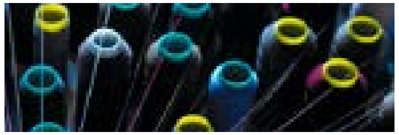

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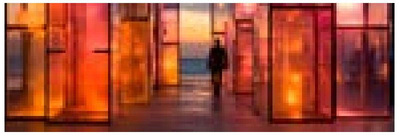

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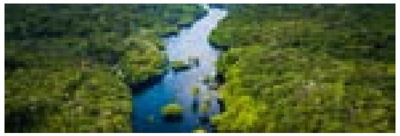

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