

# TradeWatch

## EY Global Trade

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# Insights

Insights

## Americas

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# Argentina: RIGI – incentive system for large investments

On 8 July 2024, Law No. 27742<sup>1</sup> was published in the Official Bulletin.<sup>2</sup> Among other matters, it establishes the Incentive System for Large Investments (RIGI, in Spanish) that grants significant benefits, such as for customs and foreign exchange.<sup>3</sup>

## Overview of the RIGI system

The purpose of the RIGI is to give those who commit to executing large investments, within a certain period, a degree of predictability, stability, legal certainty and protection for acquired rights in tax, customs and foreign exchange matters. The system grants significant benefits and applies to large investments in projects within the forestry, tourism, infrastructure, mining, technology, steel, energy, and oil and gas sectors without geographical limitation within the Argentine Republic.

Only single-project vehicles (VPUs, in Spanish) that hold one or more phases of a project qualifying as a “large investment” may be part of the RIGI system. VPUs include stock corporations including single-member corporations, limited liability companies and branches established by companies incorporated abroad.

Projects that involve the acquisition, production, construction and/or development of assets that will be affected by activities that meet a series of conditions established in the regulations will be considered large investments if they involve an investment amount per project in computable assets of at least USD200 million.

<sup>1</sup> “Law 27742,” *Argentina tax authority website*, 8 July 2024. [Find it here.](#)

<sup>2</sup> “Argentina enacts Bases Law and Tax Package,” *EY Tax Alert*, 8 July 2024. [Find it here.](#)

<sup>3</sup> “Argentina enacts new incentive regime for large investments,” *EY Tax Alert*, 12 July 2024. [Find it here.](#)



### Customs benefits

The RIGI benefits from a customs perspective include:

- **Imports of goods:** Exemption from import duties, the statistical rate and destination verification rate, and from any system of additional withholding, collection, prepayment, or withholding of domestic and/or local taxes for imports of new capital goods, spare parts, parts, components, and consumer goods, and temporary imports.
- **Exports of goods:** Exemption from export duties after three years from the date of adherence for exports of goods for consumption obtained under the promoted project, carried out through VPUs adhering to the RIGI. For those exports declared strategic for the purposes of this system, export duties will begin to be exempt after two years from adherence to the system.
- **Valuation:** Official prices or any other official measure altering the value of imported or exported goods, or supply priorities to the domestic market, shall not apply, even if they are provided for under current legislation on the date of adherence, except where expressly included in the approval by the regulatory authority of the application for adherence and the investment plan submitted.

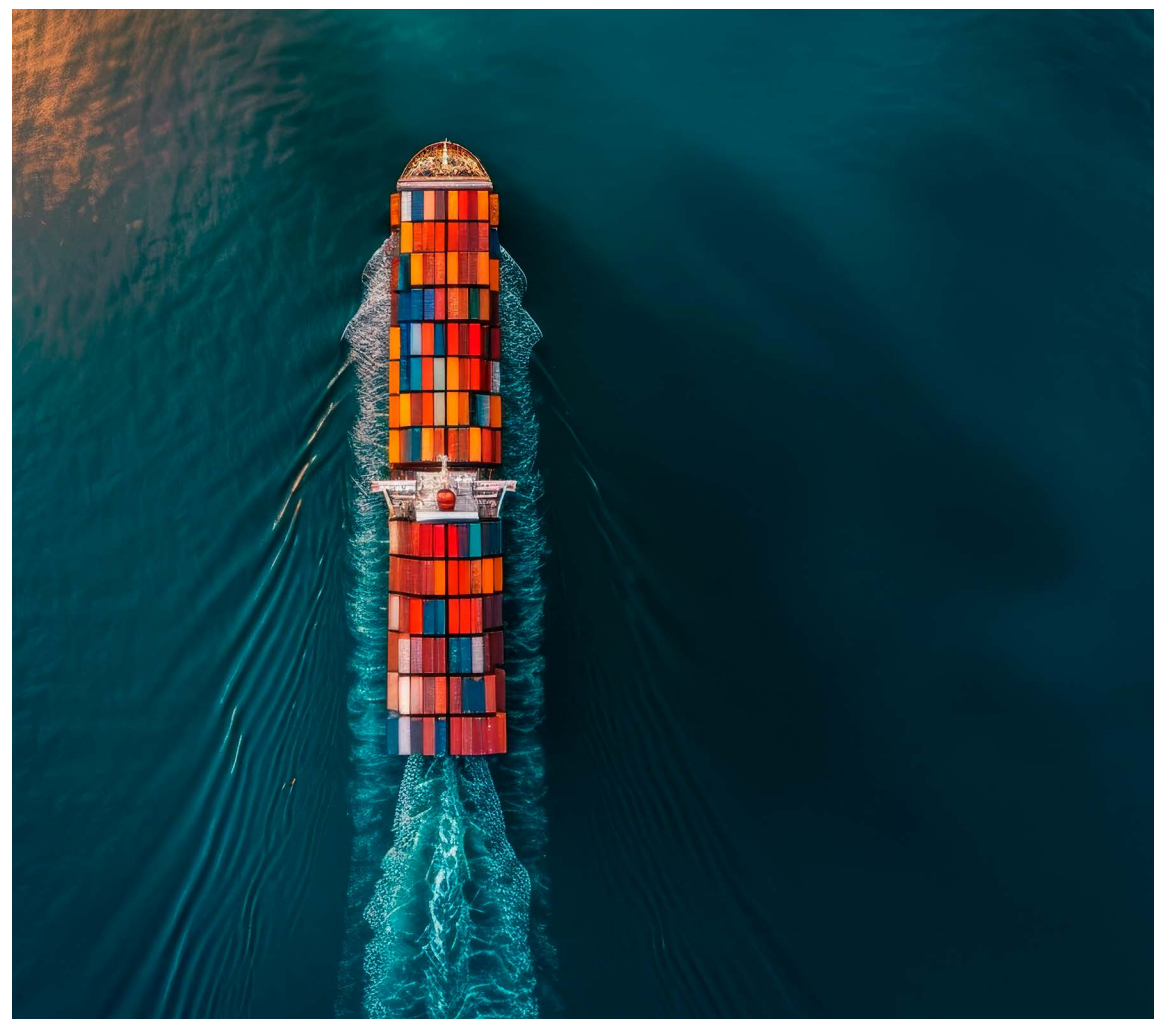
The ownership, possession, holding or use of the benefited goods – except for inputs used in production – cannot be subject to transfer, unless such transfer is made to another VPU adhering to the RIGI, which must be notified to the regulatory authority within 15 calendar days from its occurrence.

Suppliers of goods or services with imported goods may also apply for adherence to the RIGI exclusively for the purpose of obtaining the incentives and rights established in the law regarding imported goods, including inputs. Upon registration, suppliers must comply with certain requirements expressly established in the law, such as billing percentages and submission of sworn statements.

### Foreign exchange benefits

The benefits provided for under the RIGI from a foreign exchange perspective include:

- **Export of goods:** The collections from exports of products from the project under the RIGI made by VPUs are exempt from the obligation to enter and convert foreign currency through the foreign exchange market, subject to the following percentages:



- 20% after one year from the date of commencement of the VPU's operations
- 40% after three years from the date of commencement of the VPU's operations
- 100% after four years from the date of commencement of the VPU's operations

In cases where the VPU is the holder of projects declared as long-term strategic export projects, the exemption to enter and convert foreign currency from product exports will be reduced to two and three years in the second and third points mentioned above, respectively.

- **Other concepts:** The obligation to enter and convert foreign currency through the foreign exchange market will not apply to other items (such as capital contributions, loans or services) related to the project that is the subject matter of the approved investment plan, with full availability thereof.
- **Liquid external assets:** No limitations on the holding of liquid or non-liquid external assets imposed by foreign exchange regulations will apply to VPUs adhering to the RIGI. However, the amount of liquid external assets that VPUs keep abroad may be taken into account by foreign exchange regulations that may establish in the future restrictions or prior authorizations for access to the foreign exchange market.
- **Payments abroad:** Foreign exchange regulations that establish, or may establish in the future, restrictions or prior authorizations for access to the foreign exchange market for the payment of principal on loans and other debts with foreign parties and/or the repatriation of direct investments by nonresident parties will not apply, provided that the amount of foreign currency entered and converted in the foreign exchange market as loans and other debts with foreign parties and/or capital contributions or other direct investments by VPUs is at all times greater than or equal to the amounts in foreign currency intended to be paid abroad.

- **Profits, dividends and interest:** Foreign exchange regulations that establish, or may establish in the future, restrictions or prior authorizations for access to the foreign exchange market for the payment of profits and dividends or interest to nonresident parties will not apply to VPUs, provided that such profits, dividends or interest have been generated by capital contributions or financial loans entered and converted through the foreign exchange market since the adherence to the RIGI.

### Tax, customs and foreign exchange stability

VPUs adhering to the RIGI will enjoy regulatory stability in tax, customs and foreign exchange matters with their qualifying projects for 30 years from the VPU's date of adherence.

The benefits are subject to compliance with the terms and conditions established by the RIGI and the relevant controls, which should be evaluated on a case-by-case basis.

The RIGI was regulated by Decree 749 on 23 August 2024. Further regulations may be issued in due course. ■

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<sup>4</sup> "Argentina publishes decree implementing Incentive Regime for Large Investments," *EY Tax Alert*, 26 September 2024. [Find it here.](#)

# Brazil: Tax reform moves to the next stage

The Brazilian tax system has long been recognized as complex and challenging.<sup>1</sup> However, the much-anticipated tax reform, which signals a decisive shift toward simplification and harmonization, was enacted in the form of Constitutional Amendment No. 132/2023<sup>2</sup> at the close of December 2023.

In a further development, in accordance with the new constitutional rules, the Chamber of Deputies approved the Complementary Law Project (PLP, in Portuguese) No. 68/2024<sup>3</sup> on 10 July 2024, which aims to establish new taxes in Brazil.

According to the PLP, the Tax on Goods and Services (IBS), Contribution on Goods and Services (CBS), and Selective Tax (IS) will substitute several indirect taxes that apply in the current system. The project is now under discussion by the Senate. Any changes, or additional provisions made by the Senate, need to be approved by the Chamber of Deputies before they are enacted and come into force.

## Current vs. future tax system

Currently, the Brazilian tax system includes various indirect taxes such as the Tax on Services (ISS), the Circulation of Goods and Services Tax (ICMS), the Industrialized Product Tax (IPI) and two social contributions, PIS and COFINS. These taxes apply to a wide range of economic activities carried out daily by taxpayers throughout Brazil, including foreign trade operations.



In this article, we focus on the impact, improvements and concerns that the tax reform may bring to foreign trade operations, especially to the import and export of goods and services, including operations preceding exports.

It is worth noting that all legislation related to import duty (II) and export duty (IE) will not be affected by the tax reform, at least for the time being. Therefore, the tax rates, taxable event, tax base, and tariff reductions for these customs duties should remain as they are currently.

**Imports:** Currently, indirect taxes are charged on imports in different ways and in different combinations, with many exceptions and differentiated treatments, culminating in a highly complex system. It is not uncommon for competing companies in the same sector to have different tax obligations. This situation creates a very challenging system for importers, who need to heavily invest in controls and potentially need to manage vast amounts of tax litigation.

**Exports:** Although the Federal Constitution grants exports immunity from these taxes, they still create several effects on the stages prior to export, resulting in problems similar to those mentioned above for importers.

With the tax reform, after the transition period, all current indirect taxes will be replaced by IBS and CBS. However, the bill also proposes the creation of a new

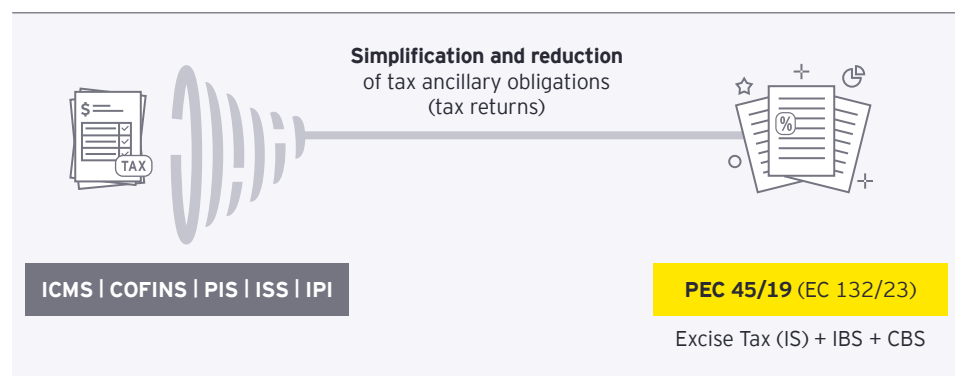
1 "Brazil: Implications of the tax reform on global trade," *TradeWatch* Issue 1 2024, page 31. [Find it here.](#)

2 Presidência da República. Constitutional Amendment No. 132. Accessed on 5 September 2024. [Find it here.](#)

3 Câmara dos Deputados. Complementary Law Project No. 68. Accessed on 11 July 2024. [Find it here.](#)

excise tax, IS, which will be levied in a single phase on the importation of goods and services that may be harmful to human health or the environment. It will apply to items such as tobacco products, alcoholic and sugary beverages, some vehicles, mineral goods, and betting pools and fantasy sports. In these cases, IS will not be eligible for use as a credit in previous transactions or for generating credit for future transactions.

The current and future indirect tax landscape is illustrated below.



### Import and export of services and intangible goods, including rights

The two new taxes, CBS and IBS, will apply to the importation of intangible goods, including rights and services, whenever such operations represent a remunerated transaction. This provision is similar to the current regime, as the payment for imported services marks the time when the taxable event occurs for the ISS and PIS/COFINS taxes.

However, there are significant differences including the following:

- **Tax credits:** ISS does not allow for tax credits and for PIS/COFINS credit is only allowed when certain requirements are met (such as the taxpayer being subject to the non-cumulative regime of these taxes and the expense being essential for the company's economic activity). In contrast, CBS and IBS will allow for credits in a much broader way.

- **Tax rate:** The reference combined rate of CBS/IBS, expected to be 26.5%, is much higher than the current combined rates of ISS/PIS/COFINS, which add up to about 14.25%. On the other hand, the final tax burden may be lower for businesses, due to the less restrictive credit allowance permitted under the new taxes.
- **Intangible goods and services:** Taxing the importation of intangible goods, including rights, under CBS/IBS will mean innovating and updating the tax legislation as many of these operations are not taxed by ISS as they are not considered to be services under that legislation. Although the new regime will expand the tax base, it should also simplify various matters that have been under discussion. Many companies currently choose to treat some intangible goods as services to avoid the municipal tax authorities potentially reclassifying these operations as services, based on their legal nature. A recent controversial example was the taxation of imported software, which has now been characterized as a service by the Supreme Federal Court (STF), ending a long dispute on the subject.<sup>4</sup>
- **Services supplied with goods:** Another circumstance that may be simplified is the charge for services whose values are embedded in the value of goods, such as the installation of machines and equipment. In the current system, there are many discussions about these situations, as the import of goods and services are subject to different taxes and applied in different ways. In the new system, both services and goods will be taxed by the same taxes, the same calculation and crediting methodology, and at the same rate. Thus, for IBS/CBS purposes, in calculating the tax charge for services, it will make no difference whether they are embedded in the price of the goods or not. Moreover, if it is unclear which portion of the commercial value refers to tangible goods or to services and intangible goods, the total value will be taxed at the higher rate.

<sup>4</sup> STF decide que o imposto incidente sobre licenciamento de software personalizado é o ISS, e não o ICMS – *Supremo Tribunal Federal*. Accessed on 3 October 2024. [Find it here](#).



- **The time of supply:** The reform bill brings an innovation to the taxation of services and intangible goods regarding the time of the taxable event, which allows for the charge to be made (the tax point). Currently, the tax point is at the time of payment. With the reform, the tax point could be on completion of the service or at the time of payment, whichever comes first. This innovation will require the taxpayer to distinguish between the date of payment and the date when the imported service is completed. Certainly, if this wording is maintained, it could lead to the creation of a new obligation for the taxpayer, who will have to exercise strict control of the dates. In the recent past, the now-defunct Siscoserv<sup>5</sup> system performed this function, although it did not have a revenue-raising purpose.
- **Use and enjoyment:** Exports, services and tangible goods will be exempt from the new taxes, as long as the operation is provided to a person who is resident or domiciled abroad and whose consumption occurs abroad. Consumption is defined by the bill as the use, exploitation, enjoyment, fruition, or access to these services. However, taxpayers may still not be clear as to how the new taxes should apply to these transactions, especially regarding whether

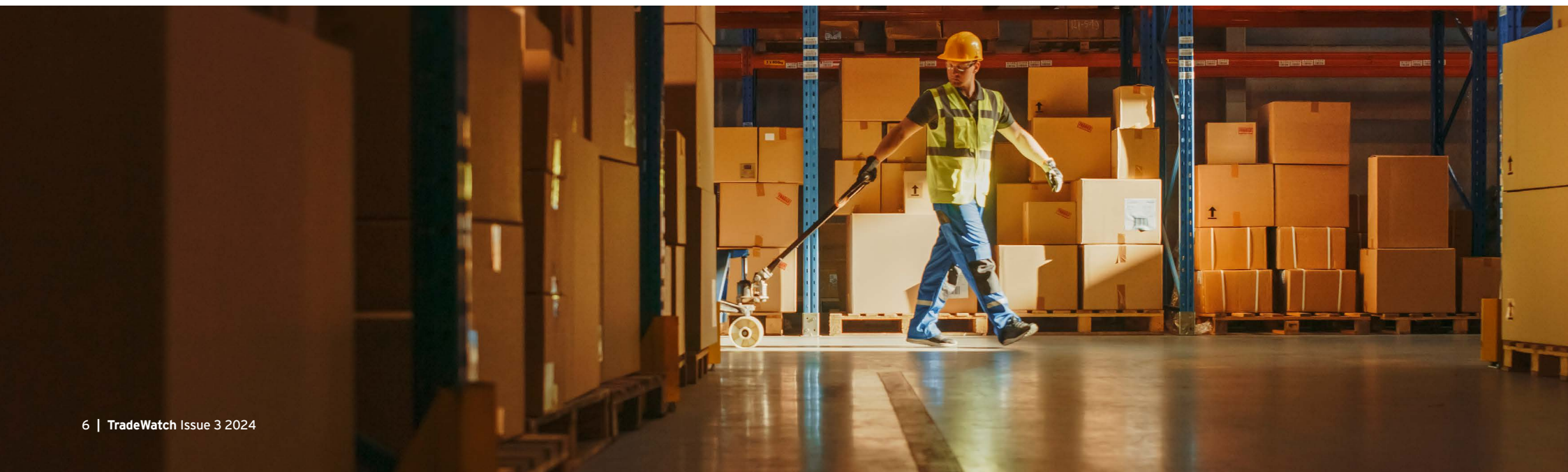
services will be perceived as being used in Brazil or abroad. This confusion is precisely the main reason why the provision that guarantees the immunity of ISS on service exports is so little used in Brazil's current system.

### Import and export of tangible goods

For imports of tangible goods, the bill defines important aspects, such as the import tax rate being the same as that applied to domestic operations and the tax base being the customs value plus import tax, IS (if applicable), Siscomex Fee, AFRMM (additional charge for the renewal of the merchant marine), CIDE (Contribution on Intervention in the Economic Domain), anti-dumping duties, countervailing duties, safeguards, and other customs fees incurred until the goods are released. In other words, the calculation bases for imports and domestic operations will be the same.

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<sup>5</sup> Siscoserv was a computerized system related to services and intangibles as well as business strategies for foreign trade in services and intangibles approved by Legislative Decree nº 30, of 15 December 1994, and promulgated by Decree in 1.355, of 30 December 1994.







PLP also defines that the tax rate to be used is that of the place of import. The IBS taxation (ICMS/ISS) will be defined by the States and Municipalities of Brazil, reinforcing that there will continue to be autonomy for States and Municipalities to define their own tax rates.

#### Regarding the place of import of tangible goods

*Art. 68. For the purposes of IBS and CBS taxes on the imports of tangible goods, the place of import of tangible goods corresponds to:*

- I. *the place of delivery of the goods to the final recipient, as per Art. 11 of this Complementary Law, including in international shipments*
- II. *the main domicile of the purchaser of warehoused merchandise or*
- III. *the place where the loss was characterized*

### Shipment for specific export purposes

Shipments for specific export purposes are operations that precede exports and are treated as “indirect exports.” This happens when a manufacturer or person interested in marketing their products abroad sells their stock to an intermediary in Brazil, who acquires the goods locally and takes care of the export.

Shipments for specific export purposes are guaranteed the suspension of taxes on the local operation, extending the effects of the immunity given to exports and thus stimulating foreign trade in Brazil.

The tax reform includes indirect exports, widely used by the agribusiness sector, among others. However, it brings important innovations in relation to the current format of this relief:

- The requirement for the specific qualification of the commercial export company (the acquirer of the goods to be exported and who is in charge of effectively exporting it).
- The requirement that the commercial exporter be certified in the Brazilian Authorized Economic Operator (AEO) Program.
- The requirement that the commercial exporter has a net worth equal to or greater than BRL1 million and once times the total value of the suspended taxes.
- The reduction of the deadline to export the goods: from 180 days, after the acquisition of the goods in Brazil, to 90 days.

Let’s consider these aspects in more detail:

- **Commercial export company:** The specific qualification as a commercial export company is not new, as this certification already exists, regulated by SECEX Ordinance No. 23/2011<sup>6</sup> and brought into the legal system by Decree-Law No. 1,248/1972.<sup>7</sup> However, the requirement that the shipment operation be carried out only by companies qualified as commercial exporters is new.

<sup>6</sup> Ministério do Desenvolvimento, Indústria e Comércio Exterior. Secretaria de Comércio Exterior. SECEX Ordinante No. 23/2011. Available at: Portaria SECEX n 23 de 14 07 2011 – Alterada pela 159\_160\_161 de 2021 e 163 de 2022. Accessed on 5 September 2024. [Find it here.](#)

<sup>7</sup> Presidência da República. Decree-Law No. 1,248. Accessed on 5 September 2024. [Find it here.](#)

This requirement may place an additional restriction on the use of operations that suspend taxes on the first sale of indirect exports.

- **AEO authorization:** The need for certification in Brazil's AEO Program aims to ensure that companies have adequate security and compliance procedures, aligned with the best market practices and requirements of Brazilian customs. Commercial operators that carry out these activities should pay particular attention to the need to be certified with AEO status for shipments for specific export purposes.
- **Net worth requirement:** The required net worth value of BRL1 million is relatively aligned with the requirements of companies that operate as qualified commercial exporters, as this registration already carries minimum net worth requirements and seems to be in line with the requirement of the first item mentioned above.

By limiting the net worth qualification to once times the value of the suspended taxes, the legislation does not clarify how this comparison should be made. This is because the volume of operations carried out by the sectors that use this type of operation is significant, as in the case of the agribusiness sector. Thus, there are doubts about how this measure should be handled: should it be a comparison with the value suspended in each operation individually or in relation to the sum of all suspended taxes? Depending on the values involved, it is possible that using the shipment for specific export purposes provision may prove to be unfeasible in practice.

- **Export deadline:** Finally, the reduction of the deadline to export is a significant restriction. If the deadline is not met, the suspended taxes must be collected immediately, without prejudice to the penalties applicable for the delay in collection. However, there is a provision for the extension of the deadline, depending on the characteristics of the products. Once again, the legislation is vague regarding the definition of which characteristics would be criteria for the authorization of the extension.

The new legislation maintains the regime of allowing shipment for specific export purposes, as it is a mechanism that stimulates and enables Brazilian exports, boosting the country's trade balance and attracting investment and so it seems

positive for businesses. However, in maintaining this regime, the reform proposes potentially significant new restrictions, which must be debated in the next stages of the implementation of the tax reform.

### Special customs regimes

Another important aspect of the tax reform is the maintenance of most of the special customs regimes. There was much speculation about this issue and about how it would impact Brazilian foreign trade if the special regimes were abolished, since, initially, the tax reform was widely advertised as broadening the tax base and putting an end to fiscal incentives. However, the likelihood that most of the current special customs regimes will be retained in the reform seems to be a positive move for businesses.

Special customs regimes are used worldwide, and many of them are based on treaties and international agreements to which Brazil is a signatory, which cannot be ignored by constitutional force. Thus, many businesses were very apprehensive about the possible abolition of these regimes; but Constitutional Amendment No. 132/2023 ensures that a complementary law should address the application of special customs regimes.

The bill presents (in Title II) several chapters on special customs regimes and export processing zones. The new legislation categorizes special customs regimes, differentiating between deposit regimes, temporary stay regimes, improvement regimes applicable to the oil and gas sector (REPETRO), and those concerning capital goods. The bill briefly addresses these regimes, delegating the operational details and their definitions to specific legislation.

Although the law does not contain a definition of improvement regimes, the term is understood to mean the regimes aimed at encouraging operations that promote some industrial activity in imported or exported goods, or both simultaneously. This would apply, for example to duty drawback and the Special Customs Regime for Industrial Warehouse under Computerized Control (RECOF).

Some sub modalities of the duty drawback regime, (such as intermediary, vessel, international bidding, without currency coverage, or drawback for services) were not mentioned in the bill. However, specific legislation should address the maintenance, modification, or revocation of these sub modalities.

On the other hand, RECOF, which had not been expressly mentioned in the original text of the bill, was included in the amendment that was approved by the Chamber of Deputies, responding to requests by Brazilian traders that were troubled by the lack of explicit mention of RECOF, since there were mentions of drawback.

REPETRO, in turn, was mentioned in a specific section but the bill lacks detail. However, the project does cite all the sub modalities of REPETRO (such as temporary, LNG-temporary, industrialization, permanent, national, and warehouse), at least recognizing their existence.

As for the regimes concerning capital goods, the only ones mentioned in the reform are REPORTO and REIDI, covering investments in port areas and infrastructure projects. However, investments made by predominantly exporting companies, which currently benefit from RECAP, seem likely to lose their incentives, as this regime has not been secured for IBS and CBS.

By choosing to be brief, the legislation proposes, by omission, not to revolutionize the current system of special customs regimes. From this perspective, the signal for traders is positive, as it sends a message to the market that the regimes will be adapted to the new taxes, ensuring that continue to operate as they do today.

Another advantage is that many regimes, which were federal, when applied to state taxes needed a piece of legislation called an “ICMS Agreement” issued by the Council of Fiscal Policy (CONFAZ). Under the reform, special customs regimes should cover both federal and state taxes, providing more equity and fewer distortions.

Thus, RECOF, for example, should act as an improvement regime for both CBS and IBS (state tax). This change could make this regime attractive to more companies in the future. Currently, RECOF is often overlooked in companies’ feasibility projects because it does not suspend the state tax portion of the indirect taxes due, unlike drawback (at least in relation to imports).

The same comment applies to the Special Incentives Regime for Infrastructure Development (REIDI) and to REPORTO, which currently only affect federal taxes (REIDI, in this case, suspends only PIS/COFINS, leaving IPI, in the case of goods, and ISS, in the case of services, outside the scope of the regime). In the intended future scenario, there will be an extension of the application of these incentives.

### Timing

Although the Senate intends to approve the reform bill within the second half of 2024, there is already speculation that this approval will be postponed to the following year. This is because there are still municipal, Senate and Chamber of Deputies elections in 2024, and, in addition, the reform bill may need to compete for time on the Congress’s agenda with the approval of the Budget Law for 2025. We will continue to report on these developments and their implications for business in the coming months. ■

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# Canada: Surtaxes on Chinese-origin EVs and steel and aluminum products



Effective 1 October 2024, the government of Canada (the government) implemented a 100% surtax on all Chinese-made electric vehicles (EVs). In addition, as of 22 October 2024, a 25% surtax applies on Chinese-origin imports of steel and aluminum products. The government is also considering the application of surtaxes on a range of critical goods and minerals as well as additional trade-related measures to address Canada's overall economic security interests.

## Background

On 24 June 2024, the Department of Finance Canada announced a 30-day consultation, from 2 July 2024 to 1 August 2024, on potential policy responses, including the potential imposition of surtaxes on imports of Chinese EVs, to protect Canada's auto workers and its growing EV industry from what it states are China's alleged unfair trade policies and practices and to prevent potential trade diversion of Chinese EVs in response to recent action taken by Canada's trading partners.<sup>1</sup>

The Canadian government is concerned that the growth of Canada's EV industry is at risk of being undermined by the recent increase in imports of Chinese EVs in Canada and other markets. The government contends that the increase in exports of Chinese EVs is due to unfair support through China's use of non-market policies and practices that artificially reduce production costs and lead to significant overcapacity in Chinese EV production. The government believes that China's continued

<sup>1</sup> "Consultations on potential policy responses to unfair Chinese trade practices in electric vehicles," Government of Canada website, 2 August 2024. [Find it here.](#)

use of non-market policies and practices for EV production may adversely affect planned EV investment in Canada and the transformation of the Canadian automotive sector.<sup>2</sup>

### Surtax on EVs

The 100% surtax on all Chinese-made EVs applies to electric and certain hybrid passenger automobiles, trucks, buses and delivery vans. The surtax will apply in addition to the 6.1% most-favored nation import tariff that is already levied on Chinese-origin EVs.<sup>3</sup>

### Surtaxes on steel and aluminum

Effective 22 October 2024, a 25% surtax is levied on steel and aluminum products from China.<sup>4</sup> The final list of steel and aluminum goods subject to surtax is available on the Department of Finance Canada website.<sup>5</sup>

For the purposes of the surtaxes on steel and aluminum products, goods originating from China will be considered goods eligible to be marked as a good of China in accordance with the Determination of Country of Origin for the Purpose of Marking Goods (Non-CUSMA Countries) Regulations.<sup>6</sup>

#### The surtax applies to:

- Both commercial and personal importations, including goods shipped to Canada from a country other than China.
- Goods released from a customs bonded warehouse or sufferance warehouse on or after 22 October 2024, regardless of the date of importation.
- Goods eligible for classification in the tariff items of chapter 99 of the Schedule to Canada's Customs Tariff – except for goods that are temporarily imported for repair in Canada or re-imported into Canada after being exported for repair – even though they are entitled to the Most-Favoured-Nation zero customs duty rate under that chapter.

#### The surtax will not apply to:

- Goods eligible for classification in the tariff items of chapter 98 of the Schedule to the Customs Tariff, other than the prohibited importation tariff items of 9897.00.00, 9898.00.00 and 9899.00.00.
- Chinese goods that are in transit to Canada on the day that these surtaxes come into force.

The Duties Relief and Duty Drawback Programs will be available to importers for surtax paid or owed by Canadian businesses, subject to the provisions of the Canada-United States-Mexico Agreement (CUSMA).

The government intends to review these measures within one year from their entry into force, and they may be extended and supplemented by additional measures.

### Remission of surtax

Canadian businesses may seek a refund or relief from the payment of surtaxes applicable to Chinese steel and aluminum.<sup>7</sup> Remissions may be applied retroactively to the effective date of the surtaxes.

Remission requests are limited to the following instances:

- Situations where goods used as inputs, or substitutes for those goods, cannot be sourced either domestically or reasonably from non-Chinese sources.
- Where there are contractual requirements, existing prior to 26 August 2024, requiring Canadian businesses to purchase Chinese inputs in their products or projects for a specified period of time.
- Other exceptional circumstances, on a case-by-case basis, that could have significant adverse impacts on the Canadian economy.
- Priority will be given to remission requests submitted to the Department of Finance Canada before 8 November 2024.<sup>8</sup>

2 Ibid.

3 For a full list of the subject goods, see "Surtax on Chinese-made Electric Vehicles," *Government of Canada website*. [Find it here](#).

4 For a full list of the initial subject goods, see "Surtax on imports of steel and aluminum products from China," *Government of Canada website*. [Find it here](#).

5 "Final list of steel and aluminum products from China that will be subject to a 25 per cent surtax," *Government of Canada website*. [Find it here](#).

6 "Notice of intent to impose surtaxes on Chinese steel and aluminum in response to unfair Chinese trade practices," *Government of Canada website*, 2 October 2024. [Find it here](#).

7 "Process for requesting remission of surtaxes that apply on certain goods from China," *Government of Canada website*. [Find it here](#).

8 "Canada announces tariff remission process for Canadian businesses importing certain Chinese goods," *Government of Canada website*. [Find it here](#).



### Potential further measures and policy changes

The government is also considering the potential application of a surtax on batteries and battery parts, solar products, semiconductors, and critical mineral products that originate in China.<sup>9</sup> It is not clear what rate of surtax would apply or the timing of such a measure; at the time of writing, the government has only indicated that a surtax on the abovementioned items would build upon the surtaxes already announced.

Also, it is noteworthy that the government is exploring whether to adopt potential measures with respect to advancing and defending Canada's economic security interests. Such measures would be separate from current measures applied with respect to Chinese-origin imports of EVs, metals, and critical components and minerals. According to a government notice, the following measures are being considered:<sup>10</sup>

- **Suspension of benefits (non-surtax):** Explore options such as suspending non-tariff-related benefits under a free trade agreement in response to trade actions that harm Canada.
- **Trade remedies:** Consider enhanced trade remedies authorities (e.g., anti-circumvention and enforcement) that could further protect against unfairly dumped or subsidized imports that harm Canadian industry.
- **Investigative powers:** Consider whether new forms of administrative or quasi-judicial investigations or reviews may be needed to achieve economic resilience objectives.
- **Strengthening supply chains:** Exploring potential policy measures (e.g., restricting eligibility to incentives or other trade and investment benefits) to strengthen Canada's supply chains in relation to certain products, for instance in critical or strategic sectors, to limit the sourcing of these products from entities that pose risks related to Canada's essential security interests.
- **Expanding Canadian incentives and tax credits:** Consider expanding incentives for targeted sectors to improve competitive standing (e.g., Canadian critical minerals projects).



<sup>9</sup> "Consultations on potential surtaxes in response to unfair Chinese trade practices in critical manufacturing sectors," *Government of Canada website*, 10 September 2024. [Find it here.](#)

<sup>10</sup> "Background information: Public consultations on potential new measures to advance and defend Canada's economic security interests," *Government of Canada website*, 9 August 2024. [Find it here.](#)



- **Trade controls:** Ensure the export controls regime under the Export and Import Permits Act (R.S.C., 1985, c. E-19)<sup>11</sup> continues to address risks to national security posed by exports of advanced dual-use technologies. Consider additional critical or strategic items to be added to the Export Control List or Import Control List as well as where enhanced monitoring may be required.
- **Export duties:** Consider amended or additional authorities to impose export duties or restrictions on specified products in critical or strategic sectors in response to the trade actions of other countries or for Canada's economic security (e.g., through amendments to the Special Economic Measures Act or the Export Act) or through the creation of new, targeted legislation to cover specific sectors, such as critical minerals. Consider specific criteria related to when export duties may be required or products to focus on to protect Canada's economic security.
- **Investing in critical minerals supply chain resilience:** Consider financing options or measures to address price volatility and to support diversification of critical minerals supply chains, including through financing from federal Crown Corporations (e.g., Export Development Canada and the Business Development Bank of Canada), or through other mechanisms to support targeted Canadian direct investment domestically and abroad in strategic projects. Consider public-private strategic holdings of specific critical minerals and/or associated materials to bolster Canada's economic and national security and prevent material shortages.

The proposed measures related to economic security appear to build upon Canada's recent commitments to multilateral and bilateral agreements and initiatives launched since 2023 that deal with economic security and supply chain resilience:<sup>12</sup>

- Canada, along with the US, UK, New Zealand, Japan and Australia, endorsed the June 2023 Joint Declaration Against Trade-Related Economic Coercion and Non-Market Policies and Practices.<sup>13</sup>
- Canada is a participant, along with the US, in the Energy Transformation Task Force, which deals with cooperation on critical clean energy opportunities and strengthening of Canada-US supply chains.
- Canada and South Korea signed an agreement in May 2023 for cooperation on critical mineral supply chains, clean energy transition and energy security.

### Next steps

Businesses in the automotive, steel, aluminum, metal stamping, export manufacturing, oil and gas, and construction sectors that source Chinese-origin products will be significantly impacted by the surtax

measures. Businesses affected by the surtaxes should review their supply chains and determine whether alternative sourcing options exist.

Notwithstanding the surtaxes, businesses should closely monitor government actions in the coming weeks and months, if they are not already doing so. While surtaxes are not a new phenomenon in Canada, their scope and the geopolitical context in which they are being applied suggests that further measures, whether tariff or non-tariff based, are likely to materialize and further disrupt Canadian and international trade networks. Canada's recent trade actions align with steps taken by the US and the European Union targeting imports of Chinese EVs and Chinese critical manufactures and minerals.

In addition, Canadian businesses must consider the impacts of possible retaliatory measures from trade partners. Of recent note, in response to Canada's imposition of surtaxes on Chinese EVs, the Chinese government has initiated an anti-dumping investigation into Canadian canola seed exports.<sup>14</sup> Should Canada extend the scope of surtaxes or apply other trade measures, further retaliatory responses by the Chinese government may follow. ■

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11 "Export and Import Permits Act," *Canada Justice Laws Website*, 1 October 2024. [Find it here.](#)

12 "Background information: Public consultations on potential new measures to advance and defend Canada's economic security interests," *Government of Canada website*, 9 August 2024. [Find it here.](#)

13 "Joint Declaration Against Trade-Related Economic Coercion and Non-Market Policies and Practices," *Government of Canada website*, 9 June 2024. [Find it here.](#)

14 "Statement from Minister MacAulay on China's anti-dumping investigation," *Government of Canada website*, 9 September 2024. [Find it here.](#)

# Mexico: Strategic preparation for enhanced customs audits

In recent years, Mexico's Tax Administration Service (SAT) has significantly increased its focus on modernizing and optimizing customs audit processes, creating a profound shift in how global trade businesses interact with the authorities.

The unveiling of the Master Plan 2024: Taxpayer Services, Collection, and Auditing<sup>1</sup> marked the start of a new era in tax administration, with SAT leveraging digital advancements to improve tax collection, auditing efficiency and compliance.

Central to this shift is the incorporation of artificial intelligence (AI), poised to enhance customs audits' effectiveness in Mexico.

## Role of AI in tax administration

The introduction of AI represents a major transformation in SAT's auditing strategies. By implementing machine learning and graph analytics, SAT aims to more accurately detect high-risk taxpayers, unravel complex tax evasion schemes and identify inconsistencies in fiscal documentation. These tools are expected to be particularly effective in combating smuggling and fraudulent activities through shell companies.

For businesses engaged in global trade, SAT's increased technological capabilities have significant implications. With the Mexican Automated Customs System providing SAT with direct access to comprehensive import and export data, companies must ensure meticulous compliance with their tax obligations.

## Expanding audit activity: federal, local and state-level scrutiny

Beyond the technological advancements, SAT has also ramped up its audit activity at both federal and local levels. SAT is not only conducting customs audits at the national level but also through its local offices in various states. Additionally, state governments have become more active in conducting their own audits to ensure compliance with tax and customs obligations within their jurisdictions.

This increased scrutiny, both from federal and local entities, means that businesses must be more prepared than ever to demonstrate compliance. Each audit – whether federal, local or state – can delve into various aspects of a company's operations, from customs valuation and tariff classification to compliance with incentive programs like IMMEX<sup>2</sup>

<sup>1</sup> "Plan Maestro 2024," Mexico Tax Administration Service website. [Find it here.](#)

<sup>2</sup> For further information on IMMEX, please refer to our article "Mexico: IMMEX Program – the competitive edge for global trade and nearshoring dynamics," TradeWatch Issue 1 2024, page 36. [Find it here.](#)

and value-added tax (VAT) certification. A lack of preparation could result in significant financial and operational risks.

### **Surge in customs audits and VAT certification cancellations**

In addition to embracing technology, SAT has notably increased the number of customs audits. This heightened scrutiny has led to a substantial rise in the cancellation of VAT certifications for businesses failing to meet compliance obligations. The consequences of losing VAT certification under the IMMEX program are severe. Companies are not only required to pay the 16% VAT on temporary imports, significantly increasing their financial burden, but they are also obligated to settle the outstanding 16% VAT on inventory – including both components and fixed assets – that remain temporarily imported at the time of certification cancellation.

Moreover, the cancellation forces importers to either regularize the inventory by paying the VAT or reconcile the amount of the VAT credit balance registered in the federal government's systems at the time of cancellation. For IMMEX companies, this situation represents a considerable financial risk, as it affects cash flow and operational costs, making strategic audit preparation all the more critical.

### **Evolution of customs audits in Mexico**

To fully understand the importance of these changes, it's essential to reflect on how customs audits have evolved in Mexico. Historically, audits were manual, time-consuming and less frequent. However, over the last decade, SAT has transformed its processes, shifting toward a more proactive, data-driven approach.

This shift is not only due to technological advancements but also a growing global trend in customs administration. By adopting a robust digital infrastructure, SAT can now conduct more frequent audits with enhanced precision, ensuring that global trade businesses adhere to their tax obligations.

### **Impact on specific industries**

The ripple effect of increased audit activity and VAT certification cancellations extends across several industries. Sectors such as manufacturing, automotive, technology and pharmaceuticals – many of which rely heavily on the IMMEX program – are particularly vulnerable. A sudden financial strain from paying the 16% VAT on temporary imports could lead to higher operating costs, reduced competitiveness and delays in production.

Moreover, industries that manage large inventories of components and fixed assets under temporary importation schemes must prepare for the potential cost of regularizing these goods if their VAT certification is revoked.

### **Tools for strategic audit preparation: leveraging technology**

As SAT continues to integrate AI into its audit processes, businesses must adopt a proactive stance by leveraging technology to manage risks. A key element in this process is the use of advanced data analytics to conduct internal reviews and ensure alignment with SAT's audit criteria.

One critical tool available to global trade companies in Mexico is the Data Stage format. Provided monthly by SAT, this data offers businesses a unique opportunity to compare their own operational data with the information in the Mexican Automated Customs System. This allows for early detection of discrepancies and provides a strategic advantage in preparing for audits.

### **Practical steps for using technology:**

- **Implement data analytics platforms:** By using data analytics platforms, businesses can visualize their import and export data, identifying trends and potential areas of risk.
- **Integrate ERP and inventory control systems with Data Stage data:** Ensure that enterprise systems reflect accurate information, avoiding discrepancies between internal operations and SAT's records.
- **Predictive compliance audits:** Use machine learning models to predict which areas of your business are most likely to attract attention during an audit, enabling a targeted approach to risk management.



### International comparison

Mexico is not the only country moving toward a technology-driven audit system. Around the world, other countries are adopting similar strategies. The United States and Brazil, for instance, have also begun implementing AI and machine learning to enhance customs audits.

However, Mexico's SAT has distinguished itself by focusing on the use of graph analytics to track complex networks of transactions and tax evasion schemes.

For multinational corporations, this means that operating in Mexico requires a more tailored compliance approach. Unlike other countries where audits might focus more on financial reporting, Mexico's enhanced customs audits emphasize the importance of accurate data in global trade operations.

### Legal implications of Mexico's judicial reform on customs compliance

The recent judicial reform approved by the Mexican government introduces significant changes to the legal landscape, which could have implications for businesses involved in global trade and customs compliance.

Key elements of the reform, such as the election of Supreme Court justices and judges, salary caps, and the creation of a Tribunal for Judicial Discipline, may influence how legal disputes, particularly those involving audits and tax obligations, are handled.



### Impact on customs compliance:

- **Uncertainty in legal decisions:** Popularly elected judges could bring new dynamics to how customs cases are resolved, potentially making rulings less predictable.
- **Potential delays:** Reducing the number of Supreme Court justices and introducing public plenary sessions may lead to longer case resolution times, particularly for technical matters like customs compliance.
- **Conservative rulings:** Judges may adopt more cautious positions to avoid scrutiny from the new Tribunal for Judicial Discipline, potentially making it more difficult to challenge SAT decisions.

While the full impact of these changes remains uncertain, businesses should prepare for a more challenging legal environment by strengthening compliance processes and seeking expert legal counsel when necessary.

### Contingency planning

Given the increasing complexity and frequency of audits, businesses must not only focus on compliance but also establish robust contingency plans. These plans should prepare companies to respond quickly and effectively to any audit request, whether from federal, local or state authorities.

A solid contingency plan would involve:

- **Ensuring immediate access to documentation:** Have all required documents readily available and organized in a manner that meets SAT's standards.
- **Regular compliance audits:** Conduct internal audits frequently to ensure ongoing compliance with customs regulations.
- **Training and preparation for key personnel:** Ensure that staff responsible for customs compliance are well-trained and equipped to manage any audit process.

### Future of customs audits: emerging trends and technologies

Looking ahead, the future of customs audits in Mexico is digital. As technologies like blockchain become more integrated into global trade, businesses can expect SAT to continue adopting cutting-edge solutions to ensure compliance. Blockchain, in particular, has the potential to revolutionize the traceability of goods, making it easier for SAT to verify the origins and journey of products throughout the supply chain.

This emerging technology, combined with AI, could lead to fully automated customs audits in the coming years. Businesses will need to adapt by integrating blockchain into their own systems, ensuring that their records are transparent and traceable in real time.

### Long-term strategies: turning compliance into opportunity

The strategic preparation for customs audits is not just about avoiding penalties – it's also an opportunity for businesses to optimize their internal processes. By adopting a proactive approach to compliance, companies can streamline operations, reduce inefficiencies and ultimately improve profitability.

A culture of transparency and accountability is essential to achieving long-term success in this new environment. Companies that prioritize compliance will not only be better prepared for audits but will also be able to foster stronger relationships with authorities, customers and stakeholders. ■

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## United States: Election outcome – potential impact on global trade

The implications of the United States (US) presidential election on global trade and tariffs are now at the forefront of economic discussions around the world.

The Republican candidate, former President Donald Trump, has secured the electoral votes needed to become the 47th president of the US. Trump will officially take office on 20 January 2025.

The US plays a pivotal role in shaping international trade dynamics, and the outcome of this election is set to have a significant impact on trade policies, global partnerships, tariff structures and the overall economic landscape, both domestically and abroad.

### **The election's influence on trade and tariffs**

The executive branch of the US government has wide-ranging authority to modify tariff rates and impose trade remedies on the basis of national security or economic injury, including under Section 232 of the Trade Expansion Act of 1962, Section 201 and Section 301 of the Trade Act of 1974, and the International Emergency Economic Powers Act.





Although legislation has previously been introduced to reassert greater congressional authority over trade policy, it is unlikely that Congress will meaningfully roll back presidential powers related to trade and tariffs. As a result, Trump is likely to have sweeping authority to implement significant trade and tariff policy priorities.

During Trump's first term as president (20 January 2017 to 20 January 2021), his administration's trade policy and use of tariffs marked a significant shift in the US approach to international trade. Trump continued to make tariffs a critical part of his

presidential campaign in 2024. During his campaign, Trump stated the desire to impose tariff of at least 10% on all goods imported into the US and plans to target additional tariffs on countries like China and Mexico.<sup>1</sup> Trump also has criticized the multilateral trading system and discussed a potential withdrawal from the World Trade Organization.<sup>2</sup>

Trump's forthcoming presidential term also offers him a chance to reshape the US-Mexico-Canada Agreement (USMCA). The USMCA was signed in 2020 during Trump's first presidential term and is set to expire in 2036, unless extended through a review process beginning in 2026. The USMCA introduces a sunset clause mechanism, mandating a review every six years to decide on an extension. If not extended, annual reviews continue until the expiration date. Trump has expressed a desire to invoke the six-year renegotiation provision.<sup>3</sup> Ongoing disputes are likely to be discussed during the potential review process, including disagreements over automobile rules of origin, Mexico's energy policies and the treatment of genetically modified agricultural products. Moreover, Trump will likely seek to raise concerns about indirect market access for Chinese goods flowing through Mexico and benefitting from the USMCA agreement.<sup>4</sup>

<sup>1</sup> "Trump's latest tariff plan aims at multiple countries. What does it mean for the US?" *Associated Press website*, 26 November 2024. [Find it here.](#)

<sup>2</sup> "Trump administration blocks selection of Ngozi Okonjo-Iweala as WTO leader." *Associated Press website*, 16 February 2024. [Find it here.](#)

<sup>3</sup> "Trump's latest tariff plan aims at multiple countries. What does it mean for the US?" *Associated Press website*, 26 November 2024. [Find it here.](#)

<sup>4</sup> Ibid.

### Actions for businesses

For companies that import into the US, actions to consider include the following:

- Gain a comprehensive understanding of both financial and physical flows, as well as the import duties spent, to assess the potential duty impact in case new tariffs are implemented.
- Assess current domestic or alternative sourcing, first sale for export, duty drawback and restructuring operations.
- Develop a proactive strategy based on a thorough understanding of customs regulations to navigate the complexities of tariffs and manage their impact effectively.
- Keep up with the latest news and developments in trade policies and stay adaptable to quickly respond to changes in trade regulations and tariff rates. ■

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# Tax alerts

Tax alerts

Tax alerts

# Americas

## Argentina

- Argentina eliminates payments on account of Impuesto PAIS for imports of goods (04 December 2024)
- Argentina reduces payment term for imports (21 October 2024)
- Argentina reduces Impuesto PAIS tax rate (03 September 2024)
- Argentina implements withholding-tax exemption for electronic payments (27 August 2024)

## Brazil

- Brazil moves major VAT reform bill to Senate for consideration (05 August 2024)

## Canada

- Canada Border Services Agency initiates anti-circumvention investigation into dumping/subsidizing of certain container chassis from China (04 December 2024)
- Canadian International Trade Tribunal continues its finding on corrosion-resistant flat-rolled steel sheet products from China (04 December 2024)

- United States President-elect discusses tariffs on Canada and Mexico, and additional tariffs on China (27 November 2024)
- Canadian International Trade Tribunal issues finding on pea protein imports from People's Republic of China (25 November 2024)
- Canada begins to levy surtaxes on Chinese steel and aluminum imports and announces remission order process (31 October 2024)
- Canada imposes surtaxes on imports of Chinese EVs, steel and aluminum products, considers surtaxes on critical manufacturing goods (19 September 2024)
- Canada Border Services Agency announces transition period and new process for certain customs adjustments (22 August 2024)
- Canada Department of Finance releases draft legislation for 2024 budget and other measures (21 August 2024)

## Colombia

- Colombian 2024 Tax reform bill submitted to Congress, would affect corporate and capital gains rates, among others (13 September 2024)
- Colombia prohibits coal exports to Israel (26 August 2024)

## El Salvador

- Salvadoran Congress approves tax amnesty program (09 September 2024)

## Global

- Trade Talking Points – latest insights from EY's Trade Strategy team (November 2024) (04 December 2024)
- G20 meeting highlights continued support for BEPS 2.0 and international tax cooperation (31 October 2024)
- Digital services tax jurisdiction activity summary now available (as at 25 September 2024) (02 October 2024)
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- G20 Finance Ministers affirm commitment to BEPS 2.0 and enhanced global tax cooperation (02 August 2024)

## Mexico

- United States President-elect discusses tariffs on Canada and Mexico, and additional tariffs on China (27 November 2024)

## Peru

- Peru enacts 1% Excise Tax on online gaming and online sports betting (24 September 2024)
- Peru enacts Special Installment Payment regime for tax debts due by 31 December 2023 (20 September 2024)

## United States

- United States President-elect discusses tariffs on Canada and Mexico, and additional tariffs on China (27 November 2024)
- United States election outcome – potential impact on global trade (06 November 2024)
- US White House publishes Fact Sheet outlining proposed changes to de minimis shipments exemption (19 September 2024)
- USTR publishes final Notice of modification of actions on impacted Chinese origin products subject to increase in additional Section 301 tariffs and applicable exclusions (17 September 2024)



# Asia-Pacific

## China

- United States President-elect discusses tariffs on Canada and Mexico, and additional tariffs on China  
(27 November 2024)
- Canadian International Trade Tribunal issues finding on pea protein imports from People's Republic of China  
(25 November 2024)
- Reform decisions from Third Plenary Session seek to modernize China's tax system  
(07 August 2024)

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- Trade Talking Points – latest insights from EY's Trade Strategy team (November 2024)  
(04 December 2024)
- G20 meeting highlights continued support for BEPS 2.0 and international tax cooperation  
(31 October 2024)
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- Trade Talking Points – latest insights from EY's Trade Strategy team (August 2024)  
(13 August 2024)
- G20 Finance Ministers affirm commitment to BEPS 2.0 and enhanced global tax cooperation  
(02 August 2024)

## New Zealand

- Initial Digital Platform Information reporting due in early 2025  
(14 November 2024)

# Europe, Middle East, India and Africa

## Denmark

- Danish Government plans to introduce a new agriculture CO2 tax (06 August 2024)
- Danish Parliament introduces CO2 tax on fuels and CO2-emission tax on industry from 2025 (06 August 2024)

## EU

- European Court of Justice holds relocating production won't enable company to escape additional duties unless relocation is economically justified (03 December 2024)
- EU Council adopts trade, import and export ban on products made using forced labor (21 November 2024)
- EU details on VAT in the Digital Age (ViDA) package (07 November 2024)
- EU CBAM – new consultations on authorizing CBAM Declarants and establishing a CBAM Registry (06 November 2024)
- EU has finally reached agreement on VAT in the digital age (ViDA) proposal (05 November 2024)

- EU Court of Justice rules on deemed supply for EV charging (29 October 2024)
- EU Deforestation Regulation; Insights into 12-month delay and recent updates (09 October 2024)

## France

- Latest information on electronic invoicing reform (17 October 2024)

## Germany

- Germany finalizes e-invoicing administrative guidance (22 October 2024)

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- Trade Talking Points – latest insights from EY's Trade Strategy team (August 2024) (13 August 2024)
- G20 Finance Ministers affirm commitment to BEPS 2.0 and enhanced global tax cooperation (02 August 2024)

## Kenya

- Supreme Court declares the Finance Act 2023 constitutional (01 November 2024)
- Kenya Tax Appeals Tribunal rules on excise duty relief for packaging preforms (24 September 2024)

## Latvia

- Latvia to require business-to-government e-invoicing as of 1 January 2025 (18 November 2024)

## Poland

- Poland releases draft amendments to e-invoicing rules (08 November 2024)
- Poland presents framework for National e-Invoicing System (05 November 2024)

## Saudi Arabia

- Saudi Arabia announces 18th wave of Phase 2 e-invoicing integration (03 December 2024)

- Saudi Arabia announces 17th wave of Phase 2 e-invoicing integration (04 November 2024)
- Saudi Arabia announces 16th wave of Phase 2 e-invoicing integration (30 September 2024)
- Saudi Arabia announces new fee rules on customs services (10 September 2024)
- Saudi Arabia announces 15th wave of Phase 2 e-invoicing integration (03 September 2024)
- Saudi Arabia announces 14th wave of Phase 2 e-invoicing integration (05 August 2024)

## Slovakia

- Slovakia introduces tax on sweetened nonalcoholic beverages (20 September 2024)

## South Africa

- South Africa publishes amendments to customs duties on lead-acid batteries (13 August 2024)

## Spain

- Spain approves invoicing software specifications for taxpayers not using electronic VAT system (19 November 2024)

## Turkiye

- Turkiye reduces allowed value limits on and increases duties applicable to B2C e-commerce shipments (07 August 2024)

## Uganda

- Uganda issues Tax Amendment Acts for 2024 (18 September 2024)

## United Arab Emirates

- UAE formally announces introduction of e-invoicing, launches e-invoicing portal and amends VAT Law provisions (06 November 2024)
- Dubai Customs announces implementation of the updated customs declaration (17 October 2024)

## United Kingdom

- UK to publish e-invoicing consultation in early 2025 (05 November 2024)
- UK Government responds to consultation on introducing UK CBAM (31 October 2024)
- UK Autumn Budget delivers significant tax increases but seeks to plan for the future (31 October 2024)
- UK to launch a consultation on e-invoicing (23 September 2024)

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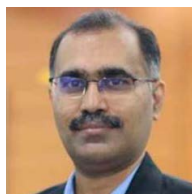
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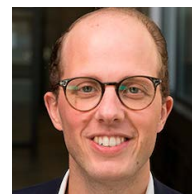
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