

INTERNATIONAL TRADE TOPICS

NEW ITALIAN CUSTOMS CODE APPROVED

On 7 August 2024, the Council of Ministers definitively **approved** the delegated decree containing the new 'National Provisions complementary to the Union Customs Code'. The publication of the decree in the Official Journal is now awaited. The text discussed by the **Council of Ministers** implements the principles expressed by the enabling act for tax reform (Law No. 111 of 9 August 2023), repealing the old Consolidated Text of Customs Law (Presidential Decree No. 43/1973). A **complete rewriting** of national customs legislation was a long overdue goal for over fifty years. Since then, foreign trade has undergone epochal transformations: the birth of the European single market and the overcoming of borders between **EU Member States**, globalisation and the increase in foreign trade, the telematisation of customs procedures and geopolitical tensions have made it necessary to thoroughly overhaul customs institutions and procedures. Among the main changes: a profound revision of the administrative and **penal sanctions** system, with a drastic reduction in penalties, the introduction of **VAT on importation** as a border duty and the implement of the Single Window. Important changes also in the area of customs representation.



CUSTOMS, TIGHTENING UP ON VIOLATIONS

The European Public Prosecutor's Office (**EPPO**) has been included among the authorities competent to assess the criminal relevance of customs objections. The EPPO, which from the end of 2024 will be present in 24 Member States, is the criminal prosecution authority entrusted with the fight against offences under the **European PIF Directive**. It is highly specialised for financial crimes against the interests of the Union, with specific experience in international operations. With the entry into force of the Italian customs reform, Eppo becomes a body competent to investigate, prosecute and bring to trial offences damaging the Union's financial interests and

is responsible for prosecution when evasion involves customs duties and other own resources of the European budget.

BATTERY ELECTRIC VEHICLES (BEVS): THE POSSIBLE EFFECTS OF EU DUTIES

As of 5 July, new provisional countervailing duties on **Chinese electric cars** are in force. This is a measure taken by the European Union to counter competition from companies subsidised by the Chinese government, in addition to the normal 10% duty. The new duties were introduced following an investigation initiated, for the first time, ex officio by the **Commission**, without any complaint from a European business association. The extent of the planned duties, initially on a provisional basis for a period of four months, varies according to the level of subsidies received from the Chinese government. The final tariffs, on the other hand, are scheduled to be **adopted in November**. In response to the European tariffs, the Chinese government has applied to the WTO Dispute Settlement

Body (**DSB**), asking it to open a consultation procedure to ascertain whether the new tariffs were adopted in accordance with international law. In addition, China has also started new investigations against EU exported products, which could result in the introduction of new tariff barriers.

OLAF INVESTIGATIONS: AUSTRIAN COURTS TRANSPOSE EU GUIDELINE

The customs authority cannot base its investigations on generic **OLAF investigations** without **concrete** references to the supply chain of the imported products. It must assess, on a case-by-case basis, whether measures have been taken to circumvent the application of anti-dumping duties. The Bundesfinanzgericht (Federal Finance Court) in **Vienna** and **Graz** also conform to the well-established orientation of the European Tax Courts, declaring the customs origin adjustment made by the Austrian Tax Authority for pipe imports from India to be unlawful (Bundesfinanzgericht



Graz, 19 July 2024, GZ. RV/7200061/2020 and Bundesfinanzgericht Wien, 19 June 2024, GZ. RV/7200025/2022). The Federal Tax Court in Graz, moreover, acknowledges an important Italian ruling on the probative value of Olaf reports, which deals with similar imports from India (Tax Court of second Instance of Veneto, 23 November 2022, no. 1361).

CASE LAW: REFUNDS CLAIMED FROM CUSTOMS IN THE CASE OF UNDULY PAID EXCISE DUTY ADDITIONS

The customer of an electricity supply service may **directly** request the Customs Agency to reimburse the provincial surtaxes unduly paid. This is the new and important principle affirmed by the Court of Cassation in its judgment No. 21154 of 29 July 2024, which puts an end to a restrictive orientation and conforms to the principles established by the European Court of Justice. According to the Court of Cassation, regardless of the subjective position of the supplier (in this case, subject to bankruptcy), the end user may always have recourse against the tax authorities, by virtue of the principle of effectiveness, in order to obtain **reimbursement** of the additional taxes unduly paid. The Supreme Court, moreover, observe that the request for reimbursement is activatable within the ordinary limitation period of **ten years**,

rejecting the thesis according to which such an action would be subject to the short period of two years from the payment of the tax.

INTERNATIONAL TRADE: THE NEW CRITICAL RAW MATERIALS ACT

Decree-Law No. 84/2024, converted into **Law No. 115/2024**, establishes an important programme to protect and develop the processing of **critical** and **strategic raw materials**, confirming the economic importance of these products and their fundamental role in achieving a green and digital transition. This legislation aims to align the national legal framework with the objectives set by the European Union with the **EU Regulation 2024/1252** (Critical Raw Materials Act), which introduces a harmonised discipline on the trade and production of critical raw materials, promoting a new approach aimed at ensuring security and sustainability in the supply of these goods. The aim is to stimulate self-sufficient production by promoting the extraction, processing and recycling of products such as metals, minerals and natural materials that present a high risk in terms of supply.



ARCOM FORMAZIONE: UPCOMING EVENTS

On November 15th, ARcom will organize the second edition of the **Forum del Commercio Internazionale** in Milan, at the Excelsior Gallia Hotel.

The aim is to create a top-tier event that brings together businesses, institutions, opinion makers, and media for an extraordinary opportunity to engage with leading global experts on recent developments in international trade, new geopolitical balances, and customs sector innovations, particularly in light of the national tax reform law and the project to rewrite the European customs code.

This year, we will welcome from the institutional world Hon. Deputy Minister of Finance **Maurizio Leo**, the Director of the Italian Customs Agency **Roberto Alesse**, and the Director of European Customs **Matthias Petschke**.

Among the innovations this year will be the Young International Trade Specialist Award for the best analysis on international trade, dedicated to young generations to involve them in these topics, creating a connection between young talents and leading companies in the sector.

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In this year's edition, particular attention will be given to the reform of national customs law, which is at the center of attention for trade associations, scholars, and businesses, especially in light of the national tax reform law and the project to rewrite the European customs code.

After the success of the first edition, updates on operational working groups will be central to this unique opportunity for in-depth **discussion** and **dissemination**, fully dedicated to companies operating in international markets.

Genoa

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