



BDO Talks Tariffs

YOUR 30-MINUTE MONTHLY BRIEFING

MARCH 27, 2025

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With You Today



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America First Trade Policy

KEY TAKEAWAYS

1

Addressing Trade Deficits: Commerce to investigate the causes and implications of U.S. trade deficits and recommend measures such as tariffs to address them.

2

Creation of External Revenue Service (ERS): Treasury, Commerce, and Homeland Security are to assess the feasibility of establishing an ERS to manage tariff collection.

3

Review of Unfair Trade Practices: The U.S. Trade Representative (USTR) will examine unfair trade practices globally and suggest actions to address them.

4

USMCA & Trade Agreements Review: (a) A public consultation process for the USMCA is set to begin in preparation for review by Congress in 2026, focusing on its impact on U.S. stakeholders; (b) USTR will review existing trade agreements for necessary adjustments to ensure mutual benefits; and (c) Efforts will also be made to identify opportunities for new bilateral or sector-specific trade deals to enhance U.S. export markets.

5

Currency Manipulation: Treasury will investigate currency practices of major trading partners, potentially recommending measures to combat manipulation.

America First Trade Policy

KEY TAKEAWAYS

6

Antidumping and Countervailing Duties: Commerce will review and potentially modify AD/CVD laws and procedures to better enforce trade rules.

7

Export Controls Review: State and Commerce will review export controls to maintain the U.S.' technological edge and address loopholes.

8

Economic Security Reviews: Various departments will conduct reviews on industrial base security, steel and aluminum import measures, and the impact of foreign subsidies on federal procurement.

9

De Minimis Exemption: A review of the \$800 duty-free de minimis threshold is planned to address revenue loss and public health issues like counterfeit goods and drugs.

10

Focus on China Trade: Specific actions are mandated regarding trade with China to cover compliance with existing agreements, assessing technology transfer issues, and potentially adjusting tariffs.

Understanding the Tariff Actions

Country Of Origin	Legal Authority	Proposed/Effective Tariffs
All Countries	TBD TBD TBD	Reciprocal Tariffs Universal Tariffs: 10 to 20% Automotive, Semiconductor Chips, Pharma: 25%
Canada	IEEPA	All Products: 25% Energy products & Potash: 10%
Mexico	IEEPA TBD TBD	All Products: 25% EVs made in Mexico by Chinese-owned companies: 100% U.S. Companies relocating Manufacturing to Mexico: 100%
China & Hong Kong	IEEPA	20%
China	Section 301	7.5%, 25%, 50%, 100%
All Countries	Section 232	25% on steel & aluminum products and certain derivatives
All Countries	Section 232	Currently under investigation: Copper, Lumber, Timber, and certain derivatives
All Countries	TBD	External Agricultural Products
BRICS Countries	TBD	100%

Paused until April 4th for USMCA-Qualifying products

Paused until April 4th for USMCA-Qualifying products

Effective March 4

Effective 2018 - Present

Effective March 12

Canada's Response to New U.S. Steel and Aluminum Tariffs

- ▶ On March 13, 2025, Canada imposed [25% tariffs on a list of U.S. goods](#) totaling C\$29.8 billion, including C\$12.6 billion worth of steel products, C\$3 billion worth of aluminum products, and other U.S. goods worth C\$14.2 billion.
- ▶ Merchandise categories include tools, computers and servers, display monitors, sports equipment, and cast-iron products.
- ▶ The new tariffs will apply to goods of U.S. origin as determined by the United States Mexico Canada Agreement (USMCA) marking rules (formerly NAFTA marking rules found at 19 C.F.R. § 102 et seq.).



Canada's Response to New U.S. Steel and Aluminum Tariffs

- ▶ Canada's retaliatory tariffs announced on March 13 are in addition to those previously announced by Canada on March 4 covering C\$30B worth of other U.S.-originating goods (with no overlap between the two lists).
- ▶ Canada published a proposed list of C\$125B in additional duties on other U.S.-originating products that is open for public comment until April 2.
- ▶ This list includes all items on the March 13 list, meaning there could be multiple tariff measures in place on a specific item as of April 2.



European Union's Response to New U.S. Steel and Aluminum Tariffs

- ▶ On March 13, the EU also responded by announcing a [two-part retaliation plan](#) for the U.S. tariffs.
- ▶ The first part restores the EU's "rebalancing" tariff packages (from 2018 and 2020) that will go into effect April 1, 2025.
- ▶ Tariffs as high as 50% will be applied on products ranging from boats to bourbon to motorbikes.
- ▶ The second part of the EU response will eventually impose additional countermeasures on approximately €18 billion worth of U.S. exports targeting agricultural and industrial products produced in the Midwest.



U.S. Counter-Response to EU Retaliatory Tariffs

Mainly in response to the EU retaliatory tariffs on U.S. bourbon, on March 13th, President Trump announced that if the EU did not rescind its retaliatory tariffs, he would impose tariffs of 200% on all imports from the EU of:



Wine

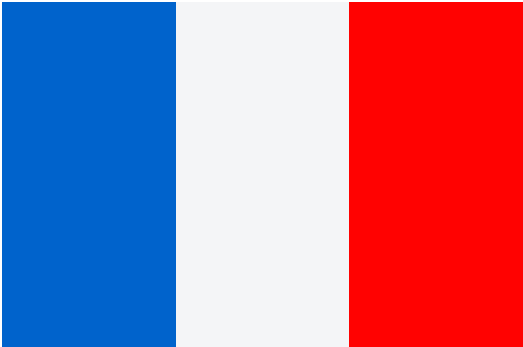


Champagne



All Alcoholic Beverages

According to data from Eurostat, about 20% of all exports of EU wine are destined for the U.S. market and the U.S. is the top market for exports of Champagne from that region of France.



Legal Basis for the New Tariffs



In announcing many of these new tariffs, the President relied on the International Emergency Economic Powers Act (IEEPA) as the legal basis allowing him to take such actions.

This law was enacted in 1977 and cited in 2019 during the first Trump administration as the basis for threatened tariff increases of 25% on all goods exported from Mexico unless Mexico addressed illegal immigration issues at the border.

In the EO, President Trump claimed to have declared such an emergency with respect to “influx of illegal aliens and illicit drugs” on his first day in office.

Legal Basis for the New Tariffs



Many legal scholars question whether IEEPA allows the President to impose tariffs to counter “economic emergencies” that must be declared before any economic measures can be taken.

IEEPA has traditionally been viewed as the heart of the U.S. sanctions regime targeting countries, entities, organizations, and individuals that pose a national security threat to the United States by, e.g., freezing bank accounts and adopting embargoes.

It has never been used to impose tariffs, especially on two of America’s closest trade and security partners (Canada and Mexico).

Universal tariff next?

- ▶ Lurking in the background is another tariff discussed during the presidential campaign: a 10% “universal tariff” that would apply to all imports from all countries.
- ▶ As with the new tariffs on goods from Canada, Mexico, and China, these tariffs would be in addition to the current Normal Trade Relations duties imposed by the HTSUS code and any trade remedy tariffs.
- ▶ Many believe that such sweeping tariffs could only be imposed by Congress (and not by the President via another IEEPA-type declaration of a “national emergency,” which could not plausibly be used to target every nation in the world).



Fair and Reciprocal Plan

A “BACK-DOOR” UNIVERSAL TARIFF?

- ▶ On February 13, 2025, the White House issued a [memorandum](#) introducing a “Fair and Reciprocal Plan” (Plan) aimed at addressing the large and persistent trade deficits the U.S. has with its major trading partners.
- ▶ The Plan includes new “reciprocal” trade actions (both tariffs and non-tariff measures) against U.S. trading partners around the globe that engage in trade practices deemed to be unfair or that result in imbalances; will be announced on April 2nd.
- ▶ The stated goal of the Plan is to determine the “equivalent” of a reciprocal tariff with foreign trading partners by examining foreign duty rates on U.S. goods and “non-reciprocal” trade relationships with all U.S. trading partners.



Fair and Reciprocal Plan

A “BACK-DOOR” UNIVERSAL TARIFF?

The Plan’s approach will be comprehensive in scope and will cover:

1

Tariffs imposed on U.S. products (by tariff code under the Harmonized Commodity & Description Coding System (HS))

2

Unfair, discriminatory, or extraterritorial taxes imposed by trading partners on U.S. businesses, workers, and consumers, including digital services taxes and VAT

3

Costs to U.S. businesses, workers, and consumers arising from nontariff barriers or measures and unfair or harmful acts, policies, or practices, including subsidies (and import bans, license requirements, or quotas), and burdensome regulatory requirements on U.S. businesses operating in other countries

Fair and Reciprocal Plan

A “BACK-DOOR” UNIVERSAL TARIFF?

The Plan’s approach will be comprehensive in scope and will cover:

4

Policies and practices that cause exchange rates to deviate from their market value to the detriment of Americans, as well as wage suppression and other mercantilist policies that make U.S. businesses and workers less competitive

5

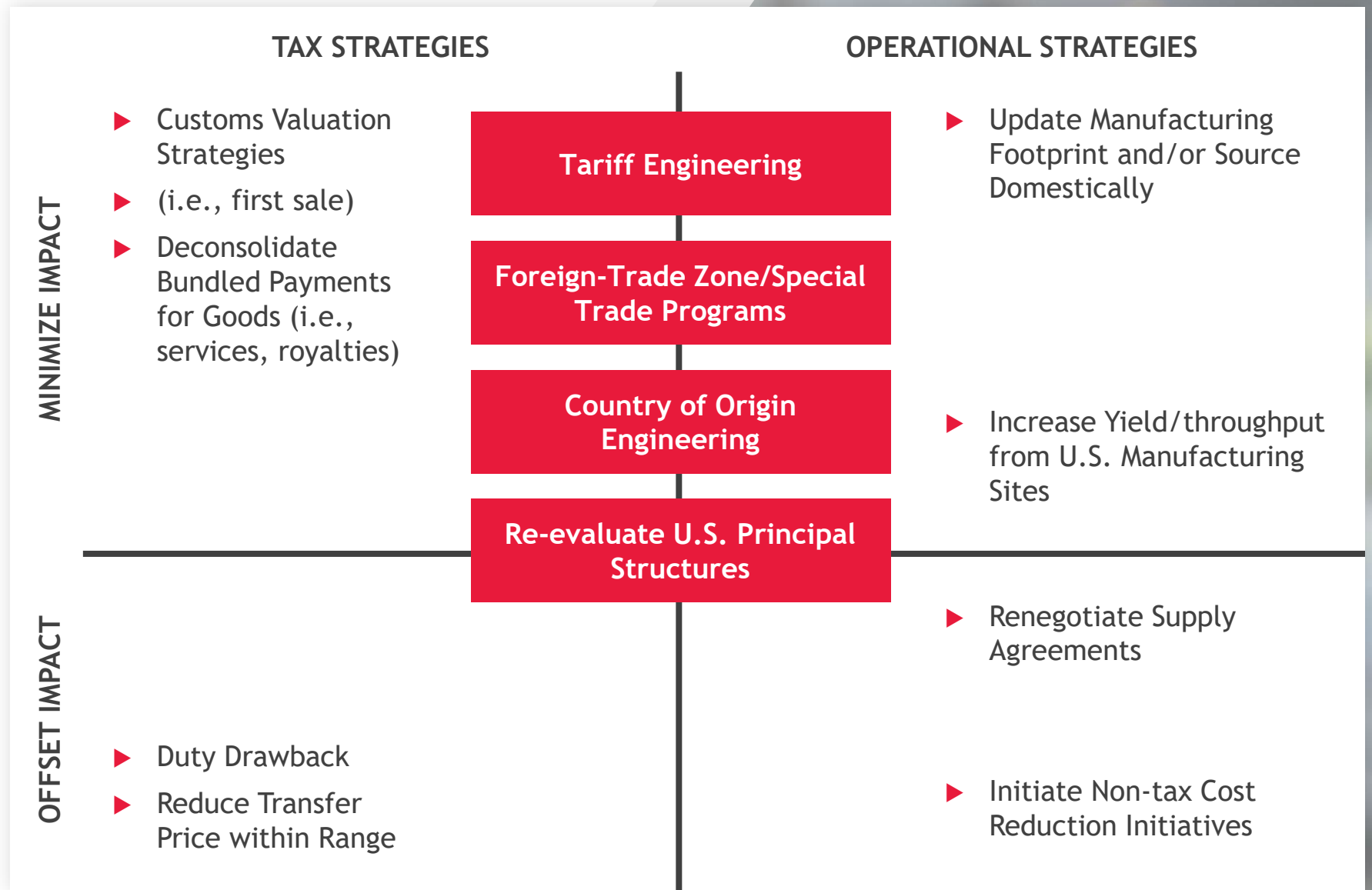
Any other practice that, in the judgment of the United States Trade Representative, in consultation with the Secretary of the Treasury, the Secretary of Commerce, and the Senior Counselor to the President for Trade and Manufacturing, imposes an unfair limitation on market access or structural impediment to fair competition with the U.S. market economy

The Plan allows the U.S. to factor “in losses as a result of measures that disadvantage the United States as applied, regardless of what they are called or whether they are written or unwritten.” Essentially, the U.S. can increase the “equivalent” reciprocal tariff for any trade practice by a foreign trading partner that it deems to operate counter to U.S. national interests, however the U.S. wishes to define those interests.

Critical Minerals and National Security/Tax Policy

- ▶ To further the Administration's foreign policy goals, a focus on critical minerals is playing a leading role.
- ▶ An Executive Order (EO) was issued on March 20, 2025, concerning critical minerals needed for many U.S. defense and weapons systems.
- ▶ Critical minerals include uranium, copper, potash, gold, and any others as determined by the National Energy Dominance Council (NEDC).
- ▶ The EO focuses on four areas:
 - expediting priority domestic mineral production projects;
 - clarifying the Mining Act of 1872;
 - recognizing land use for mineral projects; and
 - accelerating private and public capital investment.
- ▶ Critical minerals are also central to the IRS' electric vehicle tax credit.
- ▶ To qualify for the \$7,500 per vehicle tax credit, automakers must be able to trace the origin of all battery components and critical minerals to meet the domestic content thresholds.
- ▶ Sourcing either from Foreign Entities of Concern (FEOC) is prohibited; the new EO will avoid this issue altogether and raise the level of domestic content needed to meet the required threshold.

Strategies to Navigate Trade Policy Changes

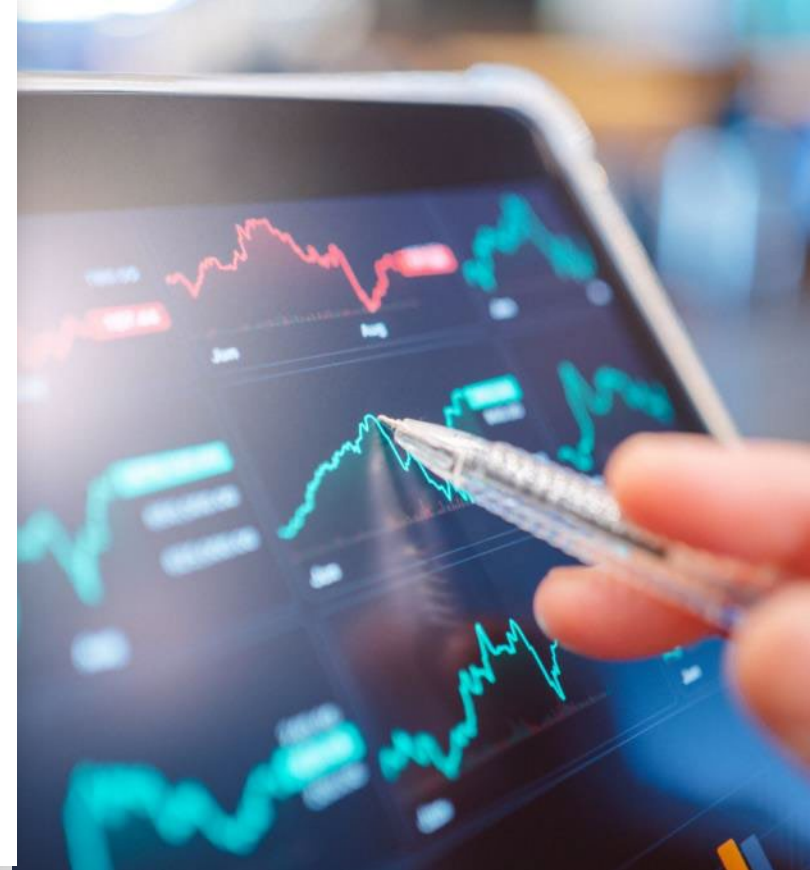


1

Recommended Strategies to Evaluate Based Potential Exposure

Consider **operational transfer pricing** changes to reduce the Customs impact of physical product flows but remain compliant with the arm's length principle, including:

- ▶ Revisiting transfer pricing characterization of foreign affiliates to ensure intercompany remuneration aligns with supply chain value creation
- ▶ Evaluate intercompany product price components to ensure pricing accounts only for the contributions made by the foreign affiliates; any remaining value (e.g., sourcing and strategy activities, intangible property) is encapsulated in sale price to customers

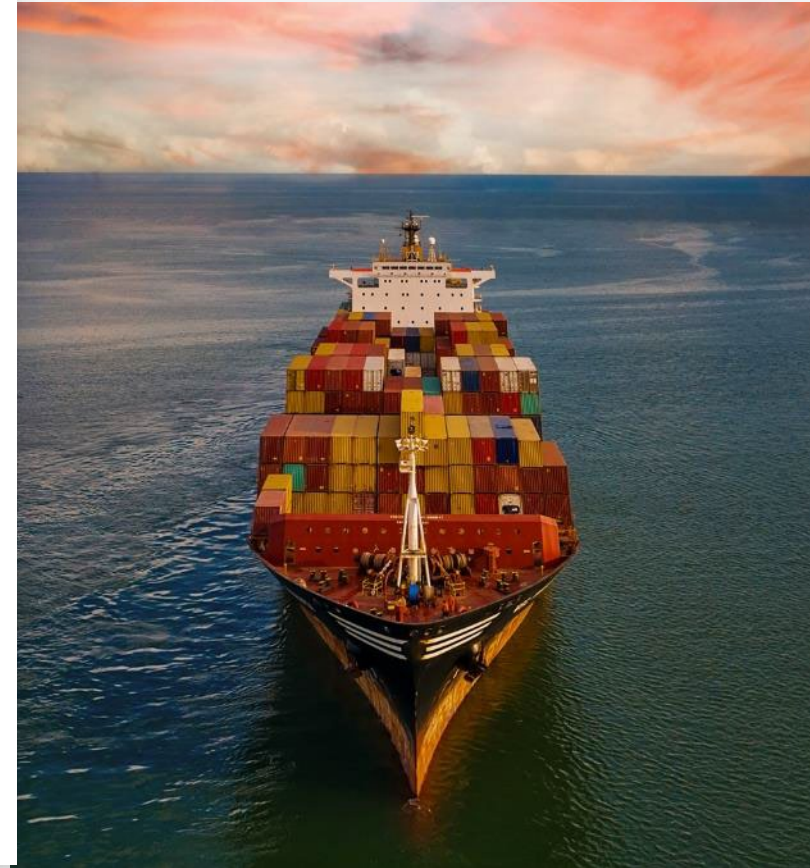


2

Recommended Strategies to Evaluate Based Potential Exposure

Review product flows to customers (including purchased-from legal entity) to identify **options to reduce dutiable costs on imported finished goods** by:

- ▶ Duty Drawback: Recover duties paid on imported goods or components that are subsequently exported or destroyed
- ▶ First Sale: Reduce the dutiable value of goods by basing it on the price paid by the first buyer in a series of sales.
- ▶ Review Tariff Classification and Country of Origin
- ▶ Use of Foreign-Trade Zones or Bonded Warehouses



3

Recommended Strategies to Evaluate Based Potential Exposure

Conduct **cost/profitability assessment** on most impacted areas of the business to identify the total revenue loss should customers change buying habits if tariff changes are passed on by way of price increases, and/or identify portions of the business (SKUs, customer types) for which an exit should be considered to maximize overall profitability of business sectors, if more drastic changes are needed to offset the impact of tariffs.



Thank You!





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Experience

Damon founded the Customs and International Trade Services (CITS) group within the firm's International Tax practice in 2019. With 36 years of experience helping multinational companies navigate the complex rules governing the cross-border movement of goods and services, he now serves as the Technical Practice Leader for the firm's CITS team to support their mission of providing end-to-end global consulting services for all aspects of import/export planning and compliance.

Over his lengthy career, Damon has assisted clients with all aspects of customs and international trade issues. He is especially renowned for his insights in harmonizing transfer pricing policies and customs valuation requirements as part of designing in-house customs and trade compliance programs. Damon's other areas of focus include country of origin determinations, free trade agreements qualification, and customs controversy matters (audits, Prior Disclosures, Protests, etc.)

In addition, Damon advises clients on export compliance and exports controls, often in the context of government contracts under the Trade Agreements Act. He has worked with many companies in filing Voluntary Self Disclosures with, e.g., the Bureau of Industry & Security (Commerce Dept.), the Directorate of Defense Trade Controls (State Dept.), and the Office of Foreign Assets Control (Treasury Dept.).

Prior to running his own firm from 2006-2018, Damon spent 13 years with a Big Four firm as the National Director of the firm's customs consulting practice. He has experience in the legislative and judicial branches of the federal government, beginning his career as a law clerk to the Hon. R. Kenton Musgrave at the U.S. Court of International Trade. Damon was also an associate in the Washington, D.C. office of the Atlanta-based law firm of Kilpatrick & Cody (now Kilpatrick).

Damon is a former Federal Judge-designate of the United States (having been nominated to the U.S. Court of International Trade in 2005). He is an adjunct professor at Emory University School of Law where he teaches "Customs Law" based on the book he co-authored -- the only U.S. law school casebook ever published in this field. He has written countless articles over his career and is an accomplished public speaker on the topic of international trade policy and customs planning. Damon was the keynote speaker at the 50th anniversary of the Denver World Trade Center in 2023 and the first World Customs Organization summit in Brussels on transfer pricing and customs valuation in 2007.

Education

- ▶ Law Degree, Wake Forest University
- ▶ Postgraduate Fellowship, University of Regensburg, Germany
- ▶ Undergraduate with Honors, Duke University
- ▶ International Business, University of Copenhagen, Denmark

Professional Affiliations

- ▶ Admitted to the Bars of the U.S. Supreme Court, the U.S. Court of Appeals for the Federal Circuit, the U.S. Court of International Trade, and the District of Columbia
- ▶ Licensed U.S. Customhouse broker
- ▶ Customs & International Trade Bar Association (Board of Directors)
- ▶ American Bar Association, Section of International Law – Customs Law Committee (Vice Chair for Policy)
- ▶ International Compliance Professionals Association
- ▶ National Customs Brokers and Forwarders Association of America



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Experience

Mathew leads BDO's Customs and International Trade Services (CITS) group. He has more than 25 years of experience advising U.S. and multinational companies on customs and international trade regulatory matters involving classification, customs valuation (including first sale), country-of-origin, foreign-trade zones, and the use of trade preference programs (i.e., drawback) and free trade agreements. He is committed to his clients' long-term success, and he adds value by bringing an international perspective as well as ability to tap into a broad and deep network having personally worked in more than 20 countries on customs matters.

Over his lengthy career, Mathew assisted companies in developing and implementing trade compliance programs and developing solutions to minimize trade compliance risk and realizing duty savings opportunities. He works closely with other BDO practices including international tax, transfer pricing, and supply chain to ensure that clients are given the most comprehensive approach to implementing their international business operations and business transformation projects. He has led global teams on developing and enhancing client global trade compliance strategies and implementing process improvements. He assists companies in developing and assessing their trade compliance programs including trade automation, designing internal audit programs, and conducting due diligence reviews for potential acquisitions.

Education

- ▶ Law Degree, Brooklyn Law School
- ▶ Undergraduate with Honors, St. John's University

Professional Affiliations

- ▶ New York State Bar
- ▶ Admitted to the Bars of the U.S. Court of International Trade and U.S. District Court (Southern District)
- ▶ Licensed U.S. Customhouse Broker
- ▶ Accredited Foreign-Trade Zone (FTZ) Specialist
- ▶ National Customs Brokers and Forwarders Association of America
- ▶ National Association of Foreign-Trade Zones
- ▶ Instructor for the Automotive Industry Action Group's USMCA/NAFTA Content Reporting Training (2006-2023)



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