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Get Ready for 2026

Thursday, March 5, 2026 | Deloitte Legal Webcast: "Legal Update Germany 2026"

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Introduction & Agenda

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Agenda

1. Equal Pay – Current Developments
2. Accessibility Improvement ACT - BFSG
3. AI & Managing Director Liability
4. Supply Chain Due Diligence Act & Corporate Sustainability Due Diligence Directive (CSDDD)
5. Corporate Sustainability Reporting (CSRD) – Implementation & Update
6. Other Current Legal Developments
7. Economic Outlook 2026: What lies ahead for companies?
8. Q&A

Equal Pay – Current Developments

Equal Pay – Current Developments

Gender Pay Gap

- **16% in Germany** (unadjusted) according to the Federal Statistical Office for the year 2024
- The gender pay gap in Germany is very high compared to other European countries

The Pay Transparency Act

(*Entgelttransparenzgesetz*)

- Individual **right to information** for employees in companies with >200 employees
- Contributes little to the enforcement of the equal pay requirement
- **No sanctions** for companies provided for

EU Pay Transparency Directive

- EU Directive 2023/970 of May 10, 2023
- To be implemented into national law **by June 7, 2026**
- German draft act not yet available

→ **Significant tightening** of the current legal situation

Equal Pay – Current Developments

Key elements of the EU Pay Transparency Directive

Remuneration structures

- Employers must **define remuneration structures**
- No gender-specific pay differences (>5%) for the same or equivalent work that are not justified by objective, gender-neutral criteria

Pay transparency prior employment

- **Disclosure of the starting salary** or its range to ensure informed and transparent salary negotiations
- Prohibition of questions about pay development in current or previous employment

Right to information

- **Right of all employees** (regardless of employer/company size) **to request information about individual and average pay levels**
- Employer must provide information about the right to information on an annual basis

Reporting obligations

- **Reporting obligation** for employers with at least 100 employees **regarding gender-specific pay gaps**:
  - From 250 employees: annually from 2027
  - 150 – 249 employees: every three years from 2027
  - 100 – 149 employees: every three years from 2031

Sanctions

- Entitlement to **compensation**; employees can demand back pay for lost wages
- Burden of proof lies with the employer, who must prove that there has been no discrimination
- **Sanctions** possible (e.g., fines)

Accessibility Improvement Act - BFSG

Further Developments in the area of Corporate Social Responsibility

Accessibility Improvement Act (Barrierefreiheitsstärkungsgesetz – BFSG)

Overview

Key data

- The BFSG implements the European Directive on accessibility requirements for products and services (European Accessibility Act, EAA)
- Aim: to enable people with disabilities to participate more equally in social and economic life
- The BFSG stipulates that certain products and services must be manufactured and distributed, offered and provided in a barrier-free manner in the future
- It came into force in Germany on 28 June 2025 and applies to all companies which deal with covered goods or provide covered services in Germany

Scope

- Manufacturers, importers, distributors, and service providers (except micro-entrepreneurs)
- Relevant products include, among others:
  - Hardware systems (including operating systems)
  - Certain self-service terminals (e.g., ATMs)
- Relevant services include, among others:
  - Telecommunications services
  - Elements of passenger transport services (e.g., websites, apps)
  - Consumer banking services (e.g., online banking)

Obligations/Sanctions/ToDo

- Goods and services concerned have to be discoverable, accessible and usable by people with disabilities in the usual way, without particular difficulty and, in principle, without outside assistance
- Sanctions:
  - Distribution bans
  - Fines
  - Warnings
  - Liability under competition law

- ToDos:

- Clarify if the German subsidiaries fall within the scope of the BFSG and if so with which products/services
- Ensure that sufficient measures and processes are in place to ensure (digital) accessibility in the context of customer interaction, in particular check website

AI & Managing Director Liability in Germany

AI & Managing Director Liability in Germany – Key Takeaways

Corporate liability in relation to AI is linked to the fact that AI is used, operated, or offered – risks, challenges and opportunities need to be monitored by the organization‘s Managing Directors.

→ AI creates significant legal and liability exposure for Managing Directors – no special AI liability regime, but existing corporate law standards apply.

Germany / EU view

EU AI Regulation: Risk-based regulation (EU AI Act) with severe sanctions; global relevance if AI impacts EU markets or citizens.

Core areas

Core risks in all legal fields, especially in key areas such as: regulatory compliance, data protection, IP, confidentiality, contracting, and governance.

Managing Director Obligations and Liability

Managing Director duties: follow the law (“duty of legality”) and uphold duties of loyalty, care, confidentiality, and supervision; ensure compliant conduct through adequate organizational and risk-mitigating structures.
General standards for Managing Director liability apply: “due diligence of a prudent businessman/manager”.

Business Judgement Rule

Delegation and use of AI – the use of AI does not exclude the Business Judgement Rule; AI may support, but must not replace human judgment and management decisions:

- If human delegation is possible, transfer to AI is possible, under appropriate conditions (e.g., careful selection, necessary equipment/instruction, careful monitoring);
- establish AI governance, guidelines, control/approval processes; continuous monitoring and intervention;
- perform human plausibility checks (completeness/logical contradictions) and consider hallucinations, bias, and case-specific risks;
- core areas of management cannot be delegated.

Typical Liability Scenarios

- **Organizational Fault:** no AI inventory/register (areas of application, systems, purposes); no responsible contact person and responsibilities (professional, technical, legal); lack of AI guidelines (use cases, limitations, approval process); no AI compliance system and lack of control structures; lack of training for relevant employees; lack of monitoring, no intervention in the case of misdevelopments.
- **Violation of Legal Obligations:** no measures taken to implement AI competence; use of impermissible AI practices and applications; disregard for co-determination rights; disregard for data protection rights; disregard for copyrights.
- **Errors within the scope of the Business Judgement Rule:** blindly trusting AI recommendations without checking the database, logic, or assumptions; no knowledge of the limitations or known errors of the AI tool; no plausibility or risk assessment, especially for management decisions.

Violations may result in liability for damages on the part of managers and fines and damages may lead to recourse against managers

AI & Managing Director Liability in Germany – What Executives Should Do Now

Managing Directors' Opportunity and Responsibility:

AI can enhance decision-making, if used responsibly and legally – by Executives and the whole organization monitored by the Executives.

Possible mitigating measures to be taken

- **Establish AI governance:** inventory of AI use cases, clear responsibilities, approval and monitoring processes.
- **Ensure compliance across jurisdictions:** EU AI Act, GDPR, IP and sector-specific rules – beyond a purely EU view.
- **Roadmap to limit liability** (structural approach):
  - Preparation—AI inventory; involve/inform works council and conclude works agreement; develop internal compliance/ethics guidelines; develop training/education materials.
  - Implementation—implement action plan/guidelines; train employees; implement works agreement.
  - Monitoring—monitor regulatory/technical landscapes; adjust risk classifications/guidelines/use cases; establish automatic controls (e.g., approval workflows); ongoing works council communication.
- **Ensure contractual safeguards** for AI procurement/supply chain regarding data use, liability allocation, exit rights, and vendor lock-in risks: define training data and property rights to outputs; prevent misuse of organizational data; define liability allocation to avoid gaps; agree transparent pricing; contract for term/exit to manage dependency; integrate ESG targets; ensure data protection & cybersecurity; comply with sector-specific and horizontal regulations worldwide; clarify rights to data and outputs.
- **Executives' measures:** plausibility checks, documentation, and risk assessments for management decisions.

→ Deloitte Legal supports organizations nationally and internationally with AI governance, compliance, and liability mitigation!

Supply Chain Due Diligence Act (*Lieferkettensorgfaltspflichtengesetz*) & Corporate Sustainability Due Diligence Directive (CSDDD)

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Supply Chain Due Diligence Act (*Lieferkettensorgfaltspflichtengesetz-LkSG*)

- Obligation to prepare and publish an **annual report** on the fulfillment of human rights and environmental due diligence obligations in the supply chain
- Report must be **submitted** to and is **reviewed** by the Federal Office for Economic Affairs and Export Control (**BAFA** – *Bundesamt für Wirtschaft und Ausfuhrkontrolle*)

Planned amendment to the LkSG

- Goal: Reduction of bureaucracy & relief for the economy
- **Reporting obligation to be retroactively waived from January 1, 2023**
- BAFA has already suspended the submission and review of reports

Corporate Sustainability Due Diligence Directive (CSDDD)

- EU Directive 2024/1760 of June 13, 2024
- Annual publication of a **statement on the implementation of due diligence obligations**
- Extension of the deadline for implementation into national law until July 26, 2027, application postponed to July 26, 2028, respectively July 26, 2029 („Stop the Clock")

December 8, 2025 – Preliminary agreement in trilogue negotiations

- Increase of thresholds
- Postponement of the implementation deadline until July 26, 2028, application postponed to July 2029

Corporate Sustainability Reporting Directive (CSRD) – Implementation & Update

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Corporate Sustainability Reporting Directive (CSRD)

- EU Directive 2022/2464 of December 14, 2022
- **Reporting on ESG** (environmental, social, governance) as part of the management report
- Scope and content of reporting are determined by the European Sustainability Reporting Standards (ESRS)
- Implementation deadline until July 6, 2024, not yet implemented in Germany

Trilogue negotiations between the EP, Council, and EU Commission on further amendments since November 18, 2025

December 8, 2025: Provisional agreement in trilogue negotiations

Draft law by the German Government of September 2025

So-called "**Quick Fix**" in the ESRS of the EU Commission of July 11, 2025

"Omnibus Package" of the EU Commission of February 26, 2025

Current developments

"Stop the Clock" of April 16, 2025 (EU Directive 2025/794)

Further Current Legal Developments

Further Current Legal Developments

Platform Work Directive (EU Directive 2024/2831)

- Comprehensive regulation of working conditions for people working via digital platforms
- **Rebuttable presumption of an employment relationship**: platform workers are generally considered employees; **companies must prove otherwise**
- To be implemented in national law by December 2, 2026

Employee participation programs

- Particularly start-ups use employee participation programs (VSOP/ESOP)
- Judgment of the Federal Labor Court (*Bundesarbeitsgericht*) of March 19, 2025 (file no. 10 AZR 67/24)
- "Vested" virtual options are to be classified as **return for work performed**
- **Immediate forfeiture of "vested" virtual options upon voluntary resignation is invalid**

Notification obligations to the transparency register

- Ongoing increase of so-called notifications of inconsistency (sec. 23a AMLA *(Geldwäschegesetz – GWG); Unstimmigkeitsmeldung*)
- **Real estate-related notification of inconsistency** from January 1, 2026 (sec. 23b AMLA)
- **From July 10, 2027: New and, for the first time, EU-wide uniform requirements** for the determination of beneficial owners and notifications to the national transparency registers

Changes to public procurement law

- Ensuring **compliance** with **collective agreements** for awarding federal public contracts (draft law)
- Acceleration of public procurement: **increase of the direct award threshold** to EUR 50,000 (draft law)
- Increased **consideration of sustainability aspects**

Further Current Legal Developments

EU AI Act
(EU Regulation 2024/1689)

- Uniform EU legal framework for the development and use of AI systems and models
- **Risk classification** of AI systems (minimal, limited, high, & unacceptable risk)
- Documentation, training, and **compliance obligations**
- Expected to be almost fully and directly applicable across the EU from August 2, 2026
- Various amendments and additions expected as a result of the Digital Omnibus

EU Data Act
(EU Regulation 2023/2854)

- Uniform EU legal framework for access to and use of data generated by connected products and related services
- End users (including consumers) have the **right to access** and transfer generated data; further regulations, e.g., on switching data processing services (Cloud Switching)
- Directly applicable across the EU since September 12, 2025
- Various amendments and additions expected as a result of the Digital Omnibus

EU Digital Identity (EU DI) Wallet
(EU Regulation 2024/1183 - eIDAS 2.0)

- **European digital wallet** for maintaining a legally secure and sovereign digital identity
- Authentication, legitimization, and verification of so-called „*Credentials*," such as name, etc., in the digital environment
- Provision of the Digital Identity Wallet by the end of 2026
- **By the end of 2027**, public authorities and **certain companies must accept the Digital Identity Wallet**

New EU Product Liability Directive
(EU Directive 2024/2853)

- Adaptation of product liability to digitalization
- Applies to all products placed on the market from December 9, 2026
- Extends the definition of product to include **digital products, including software and AI systems**
- To be implemented in national law by December 9, 2026; draft law from the Federal Ministry of Justice and Consumer Protection (*Bundesministerium der Justiz und für Verbraucherschutz – BMJV*) is available

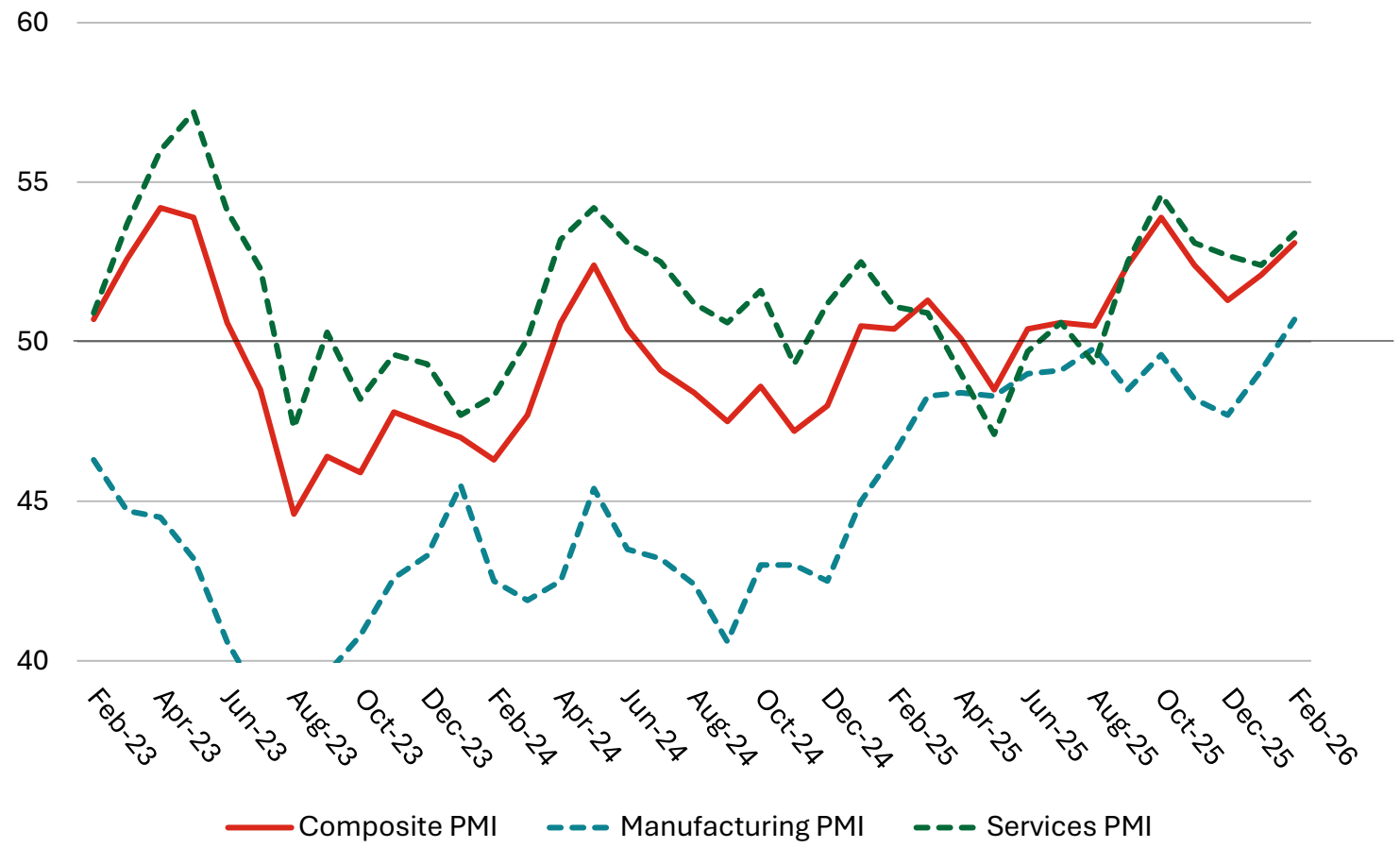
Outlook 26: Navigating a new geoeconomic environment

The Beginnings of a Cyclical Recovery

Economic situation | Business activity

Business activity is increasing – manufacturing in the process of recovering

German Purchasing Managers‘ Index – PMI (50 = no change)



Source: LSEG Data & Analytics (2026)

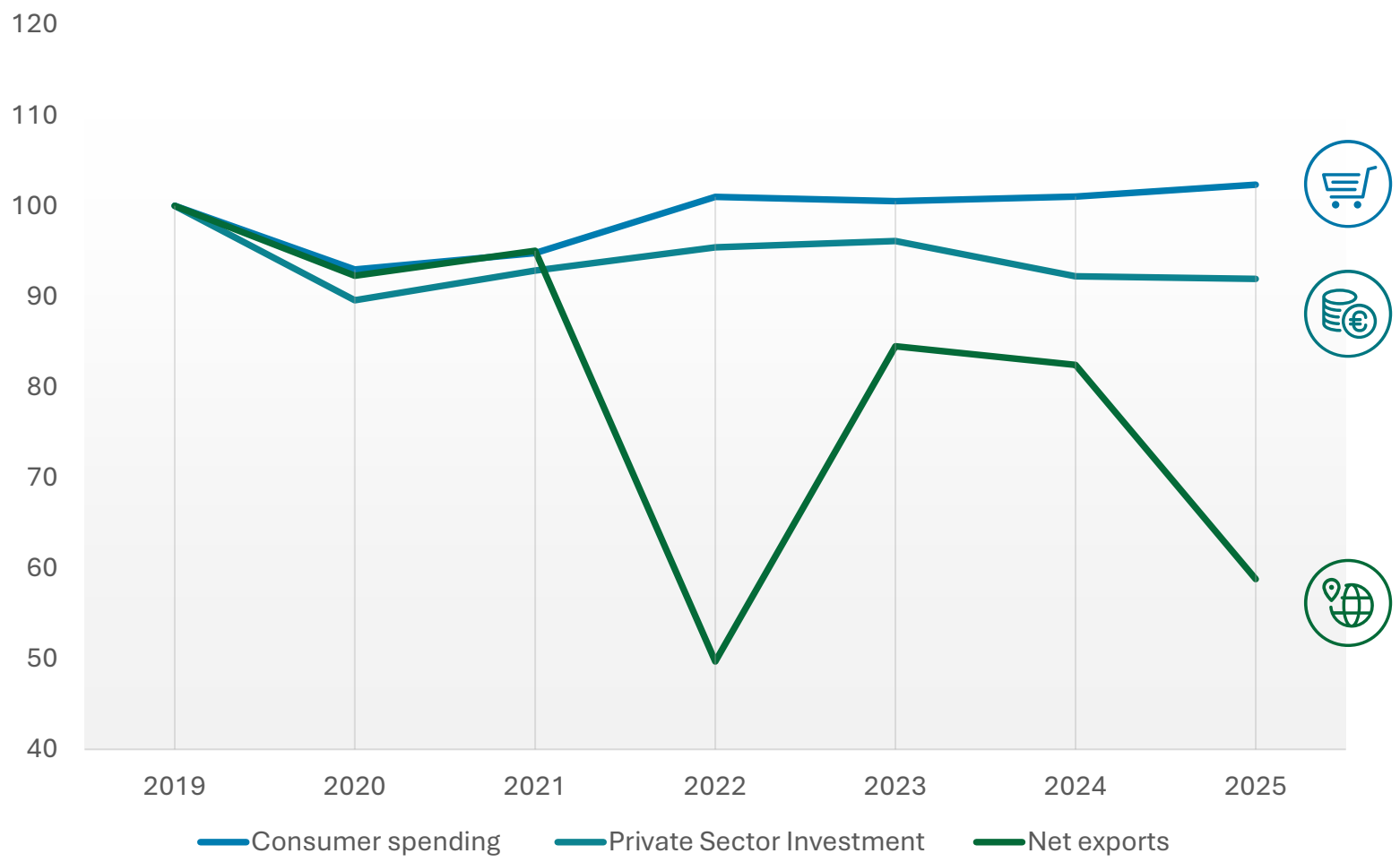
Other early indicators

- **Ifo-Geschäftsklimaindex** leicht gestiegen
- **New industrial orders** increased four months in a row
- **Consumer climate**: small improvement on low level

Economic situation | Consumption, investment, exports

Consumers and companies continue to be cautious – while exports are seriously struggling

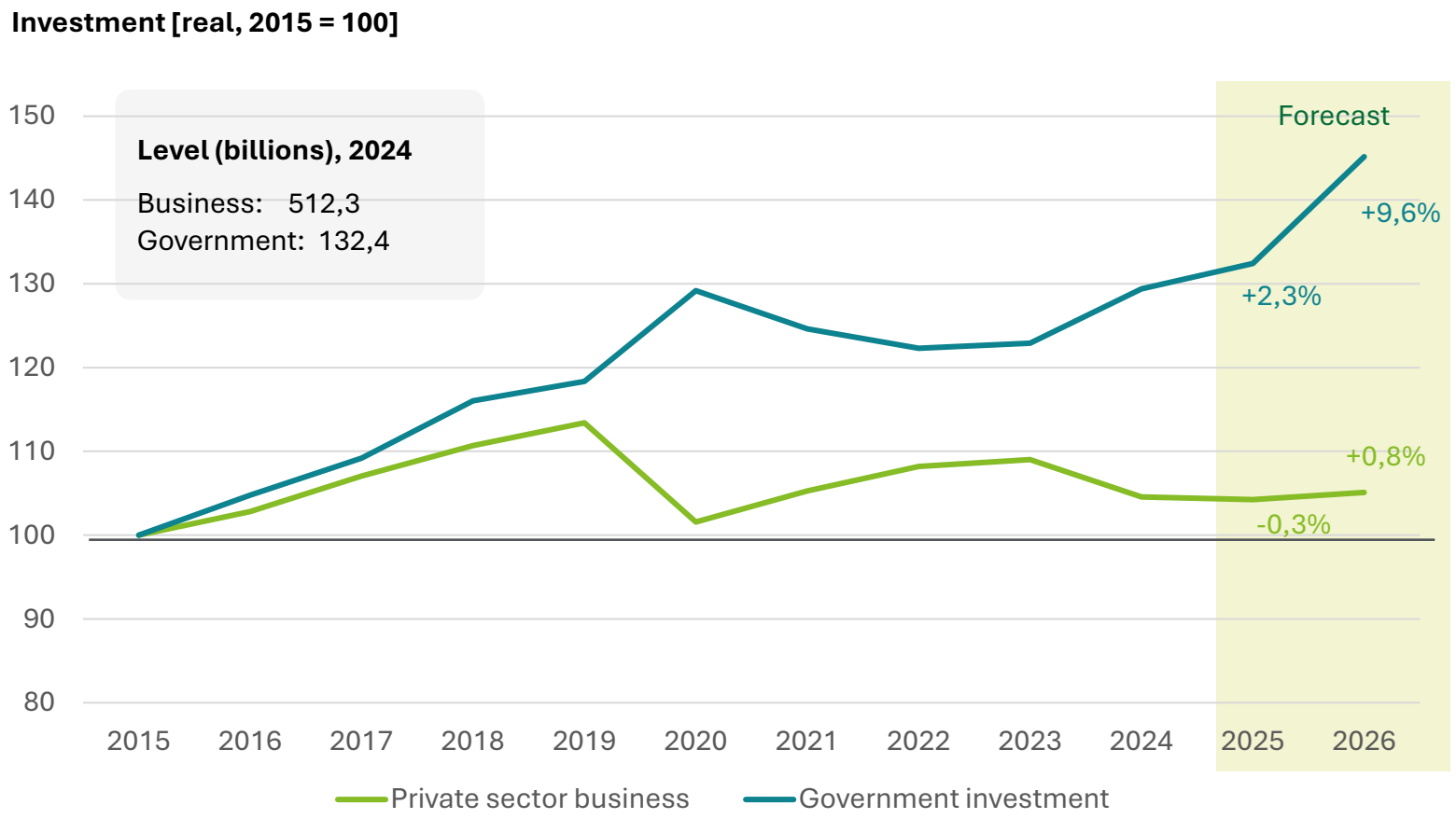
Consumer spending, investment, private sector, and net exports trends (2019 = 100)



Sources: Oxford Economics; Statistisches Bundesamt (2026)

Economic outlook | Public investment key driver

Public investment is expected to expand strongly due to fiscal packages



Source: Deloitte Research, Oxford Global Economic Model

- **Infrastructure package** and **defense spending** will boost public investment
- Private investment is likely to start to recover owing to public incentives
- Yet, **structural challenges** still drag on willingness to invest
  - **Simplification of bureaucratic requirements** would be key incentive for three-quarters of companies to invest more (CFO survey)
  - Continuing **cost pressures** for German industry (energy, labor costs) and stronger competition from China

Economic outlook | A much more defence-driven economy

Huge defense packages on the way

NATO Plan

- Commitment to boost defense spending to 5% of GDP by 2035, prioritizing capabilities, infrastructure, innovation & cooperation
- Progress will be reviewed in 2029

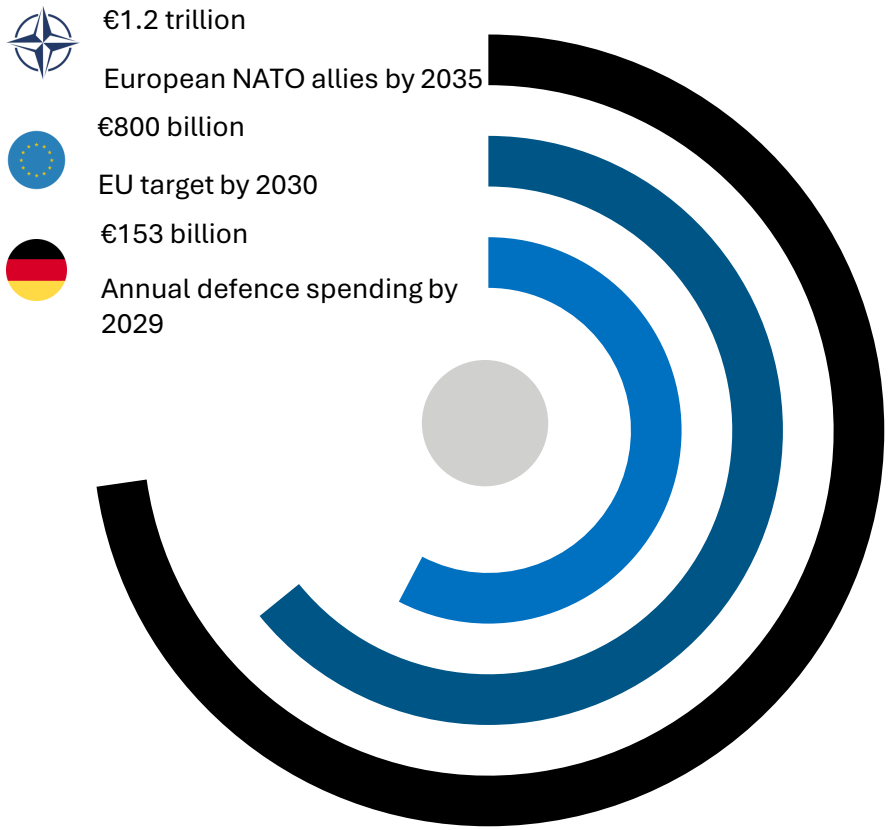
EU Defence Push

- Goal: strengthen the EU defense industry by reducing fragmentation
- Focus on key priorities: air defense, drones, and cyber
- Coordination by new EU Defence Commissioner

German Defence

- Exemption of defense spending above ~1% of GDP from the debt brake
- €100 billion special defense fund (2022) to be spent by 2027

Projected defense spending

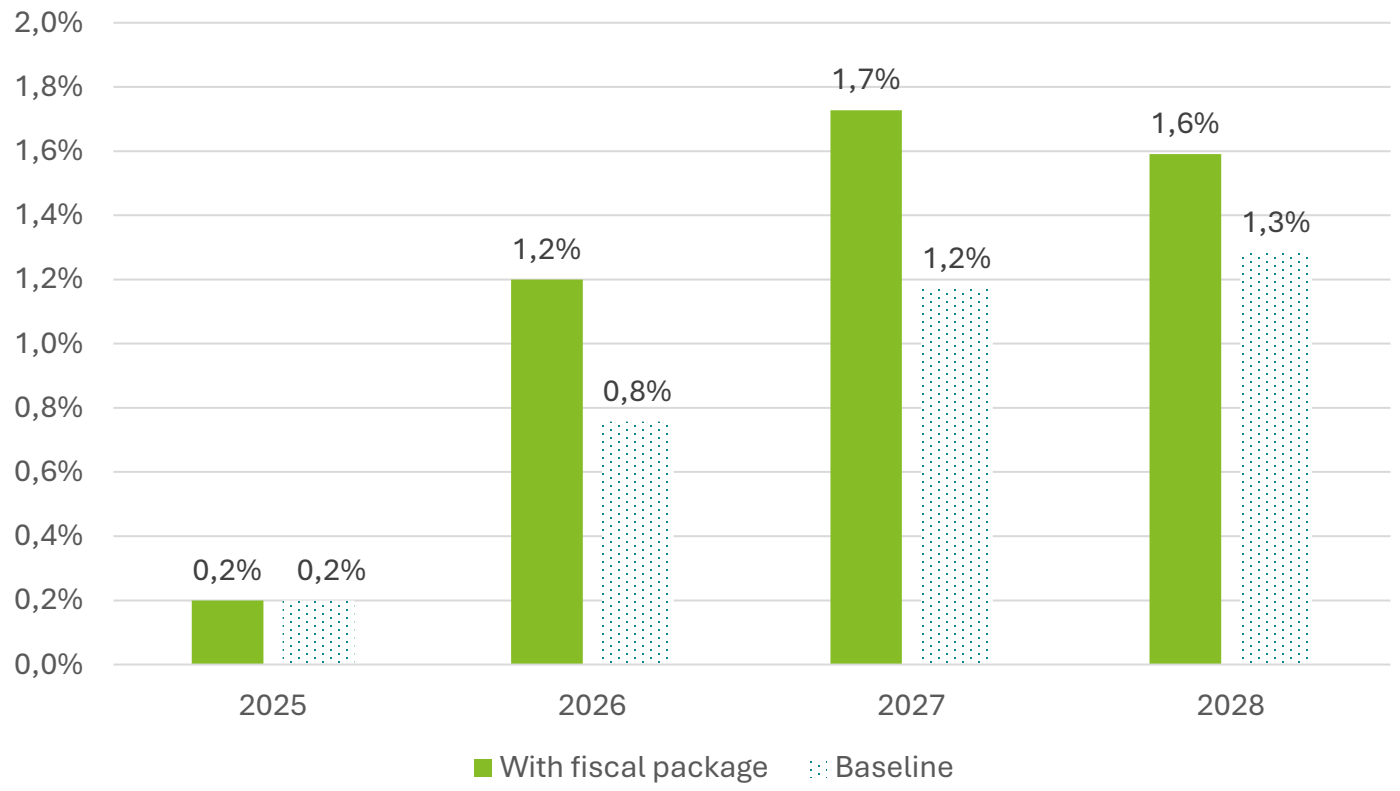


Figures represent policy targets: €2.3 trillion is NATO's projected annual defence spending by 2035 if 5% of GDP is achieved (Hague Summit pledge). The EU NATO 2035 target is €1.23T annually, comprising 3.5% core defense and 1.5% resilience. €800 billion is the EU's indicative mobilization capacity under ReArm Europe/Readiness 2030 by 2030. Germany is covered by the Hague Summit's 5%-of-GDP defence-and-security spending pledge for 2035 (3.5% "core defence" + up to 1.5% for resilience/infra), with a review in 2029. Separately, Berlin has already committed to reach 3.5% of GDP for core defence by 2029, and is planning an annual defence budget of roughly €153 billion in 2029.

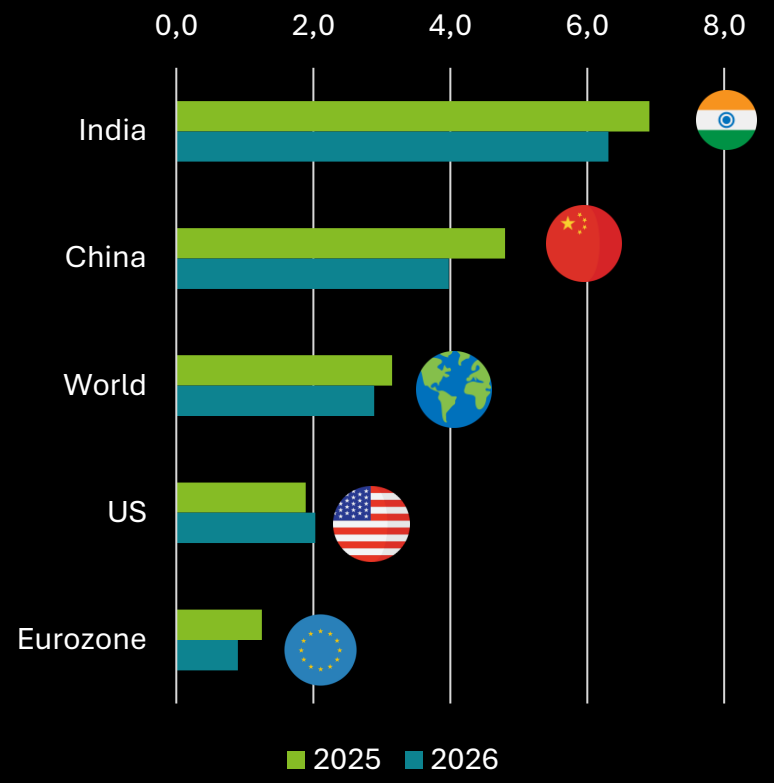
Economic outlook | Growth forecast

Economy should return to growth next year, mainly driven by fiscal packages – long-term effects depend on how the money will be spent

Forecast GDP Growth Germany [%]



GDP growth for 2025 & 2026 (in %)



Source: Deloitte Research, Oxford Global Economic Model

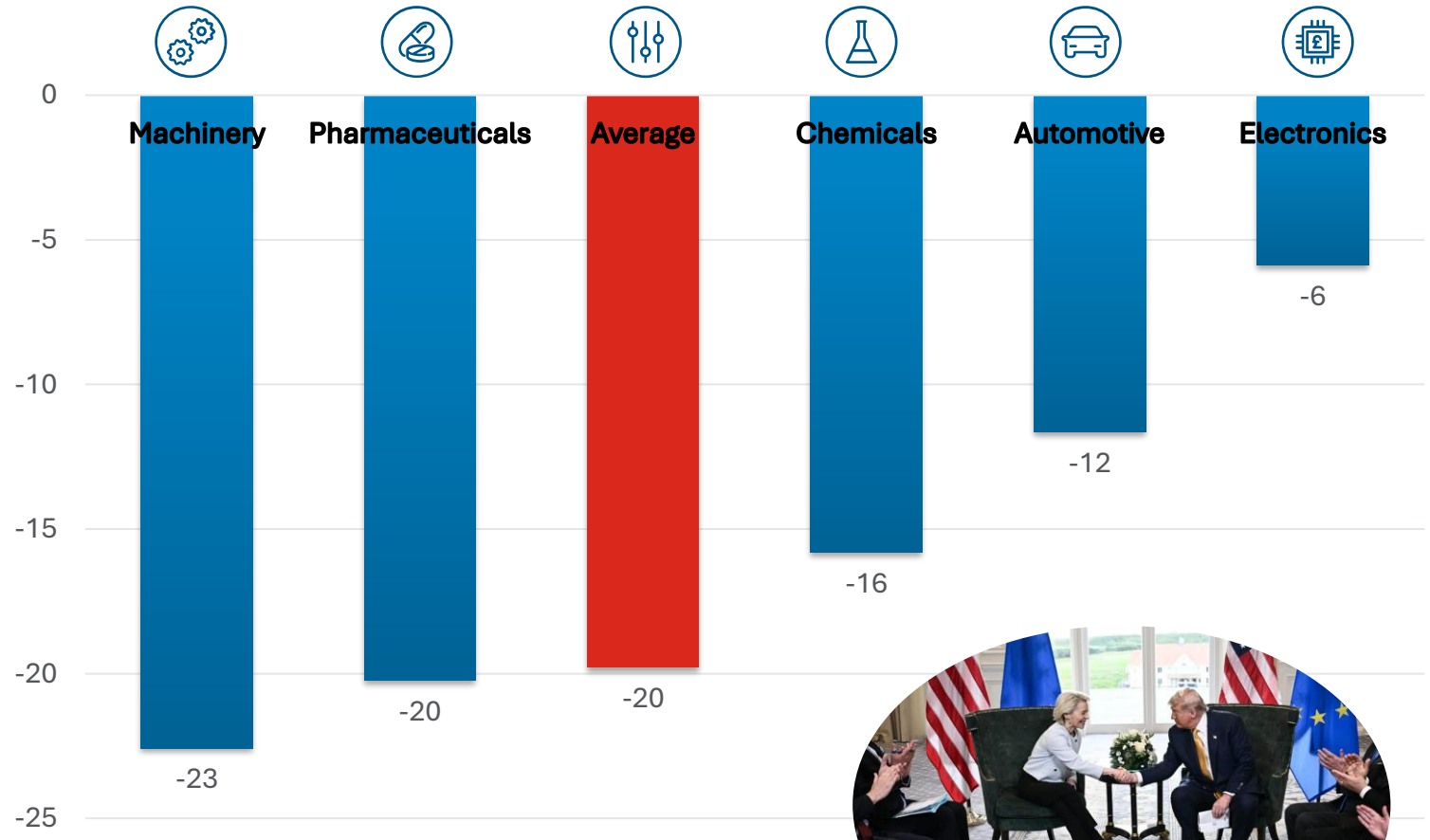
Trade: A new Geometry

Trade | Impact of US tariffs on German sectors

Impact on German and European exports will be significant

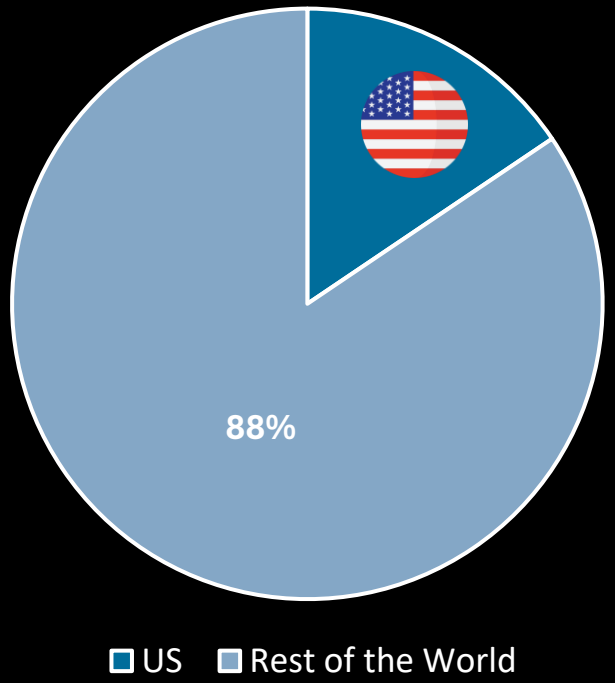
Outlook for German exports to the US under the new tariff regulations

Export change in % Medium-term (2-3 years)



Source: Deloitte Trade Foresight (2026)

World merchandise imports

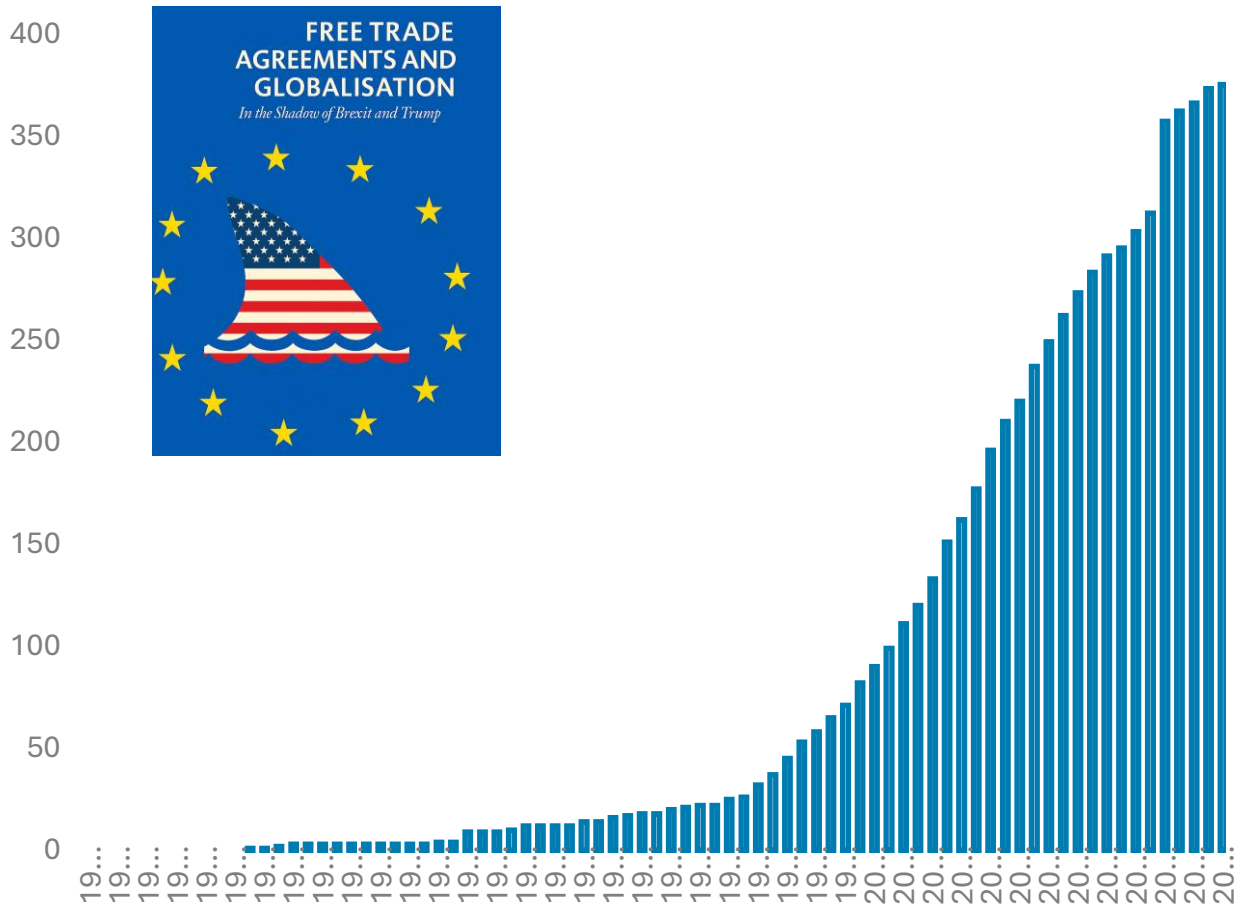


Source: WTO, World Bank (2025)

Trade | Free trade agreements

Trade agreements are flourishing – on a bilateral and regional level

Cumulative Number of FTAs in force



Recent major FTAs

- **CPTTP (2019)**
- **RCEP** (2022)
- **EU–Chile** (2025)
- **India–UK** (2025)
- **India–EFTA** (2025)
- **EU – Mercosur (2026)**

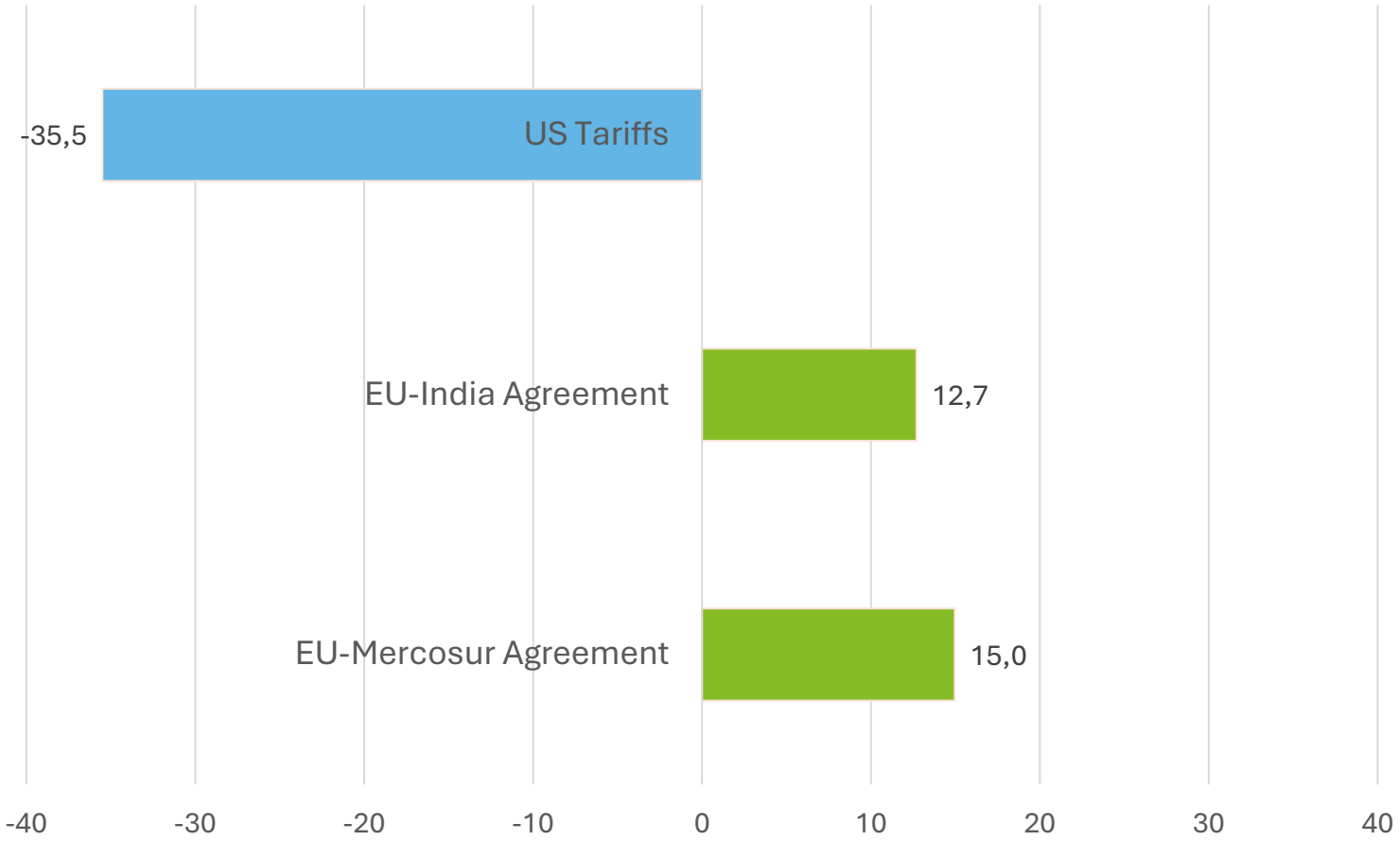
FTAs under negotiation:

- **EU–Australia**
- **EU–India**
- **UK–GCC / UK–South Korea / UK–Canada**
- **CPTPP Expansion**: China, Taiwan, Costa Rica (interest expressed)

Trade | The potential of free trade with India and Mercosur

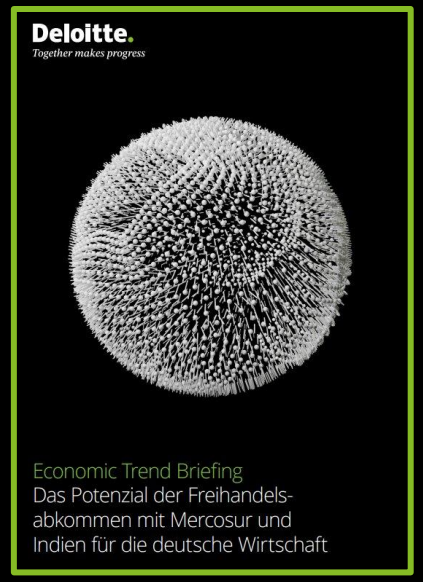
New agreements could offset losses in transatlantic trade

Changes in German exports in the medium-term (in bn. Euro)



Geopolitical Significance

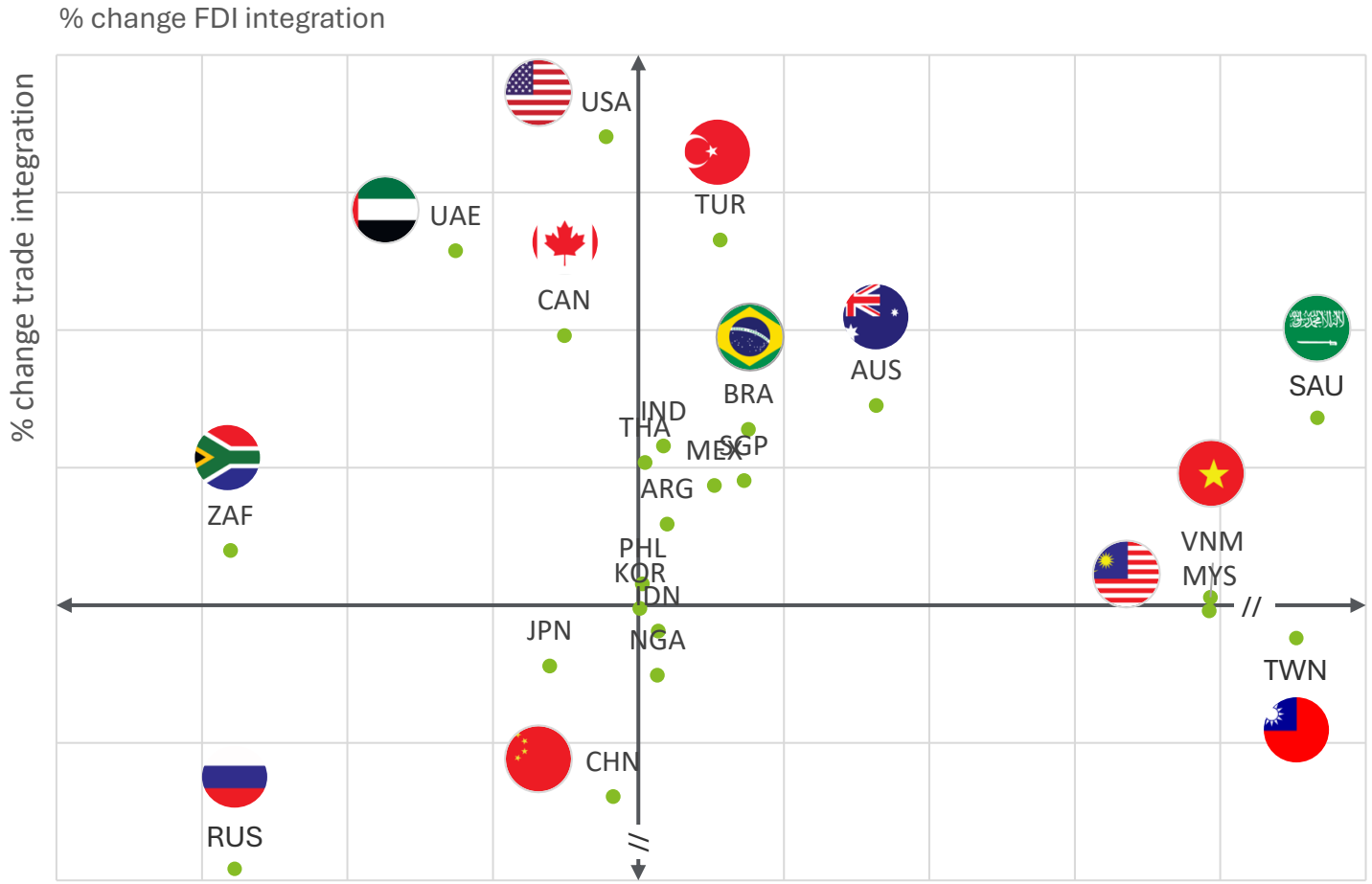
- Exports to the USA and China declined sharply in 2025, including a 25% drop to China since 2022.
- Mercosur deal creates a major free trade zone (26 years of negotiations).
- EU-India deal reduces tariffs by 90-95% with opportunities in the fastest-growing G20 economy.



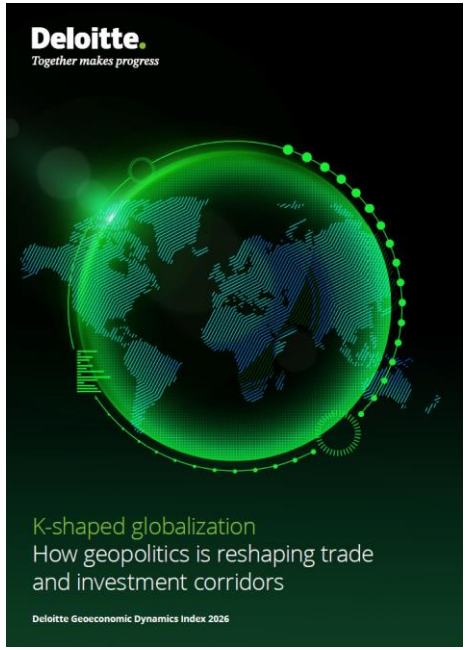
Trade | New partnerships

The shifting geoeconomic landscape forces Europe to diversify and seek out new international partners

Change in *trade* and *FDI* integration for Europe by country
(change from 2021 to 2025, selected countries)



- **Rising trade intensity:** USA, Türkiye, UAE, Canada, Australia, Brazil
- **Growing FDI integration:** Saudi Arabia, Taiwan, Vietnam, and Malaysia.



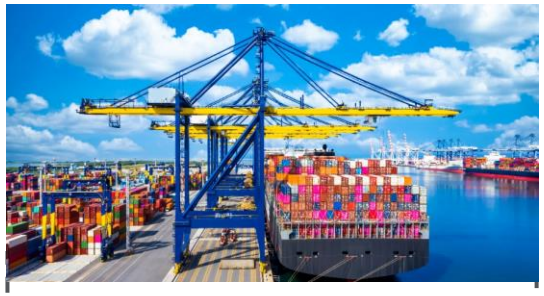
Challenges

Revive growth dynamics

- **Economic policy reforms** to stimulate investments
- **Implement Draghi plan** with a focus on deepening Single Market

Mobilize capital

- Move towards EU **Investment and Saving union**
- **Encourage capital formation** in the pension system



Diversify

- More **Free Trade agreements** needed
- **Diversification** of **supply chains** and **development** of **new markets**

Q&A

Thank you very much
for your attention.

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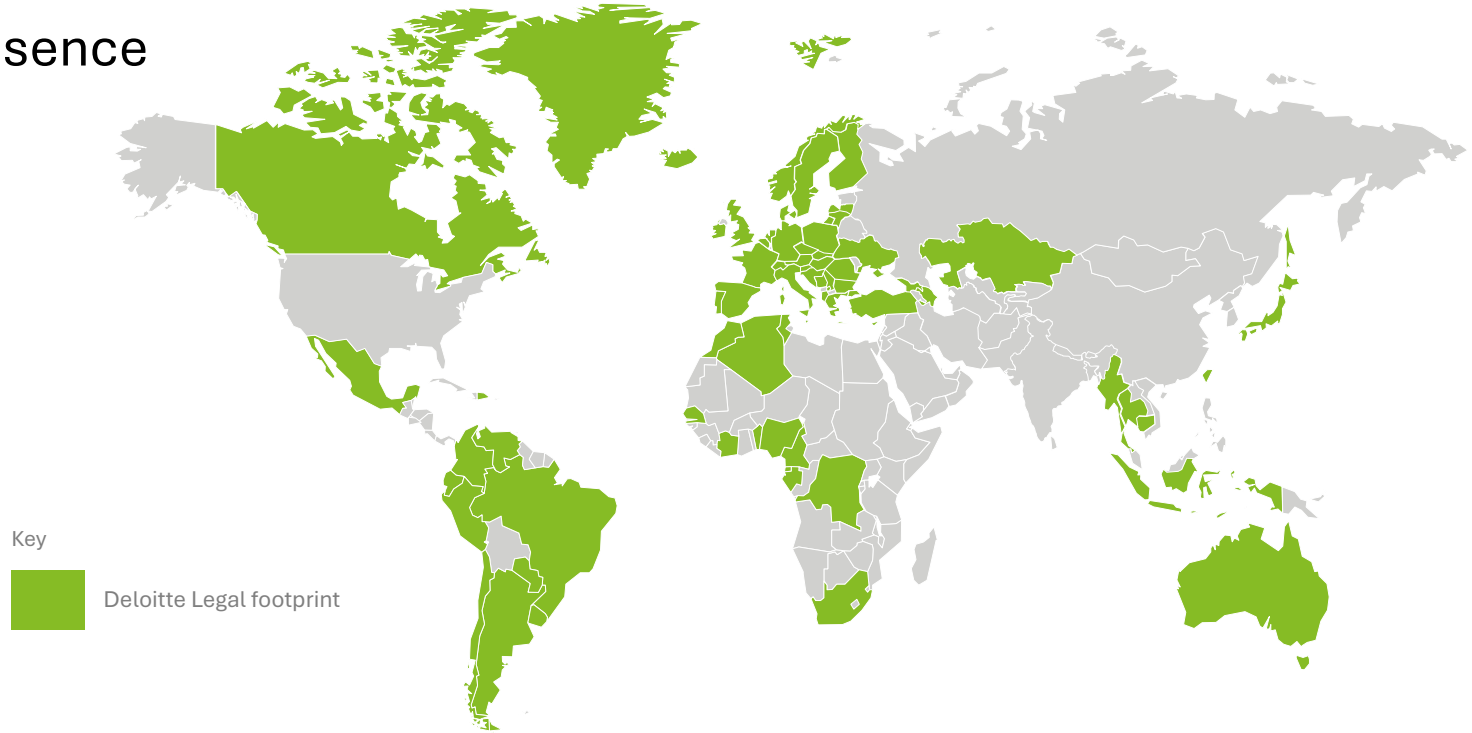

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