

PCA BULLETIN

# ASEAN CUSTOMS

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## From The Country's Coordinator's Desk

**Nirwala Dwi Heryanto**

*Director of Customs and Excise Audit*  
Directorate General of Customs and Excise  
Republic of Indonesia

Welcome to the ninth edition of PCA Bulletin.

It is a great pleasure and honor for me to give a foreword for this edition. As the country coordinator, I am pleased that this bulletin is able to continue to publish, reaching the ninth edition. That is an excellent accomplishment since it is a proof that PCA Bulletin is always welcomed and accepted well by the readers.

In this opportunity, I would like to convey my deepest gratitude and appreciation to Customs Enforcement and Compliance Working Group (CECWG), Coordinating Committee on Customs (CCC), and Customs Directors-General for the support of making this bulletin. Without their support, this bulletin would not have been possible to release.

In this era of globalization, international trade has grown remarkably, both the growth of volume of trade and the growth of value of trading goods. This global competition and high intensity of traffic goods, especially in border line, require customs administrators to conduct effective and efficient customs inspection. But still, PCA is the most effective procedure to measure the level of compliance of companies towards Customs regulations as customs administrators are able to conduct comprehensive examination by accessing all of company data. Therefore, learning more PCA cases is a necessary for all customs administrators.

Through this bulletin, we are trying to share to readers more various PCA Cases and modus operandi that certain parties did, so that we can evaluate and improve the implementation of PCA. Not only PCA cases provided in this bulletin, but it also contains updated survey and PCA-related article as additional information. For every content of this bulletin, I would like to appreciate all ASEAN Member States for their contribution and hardwork in sharing their PCA studies and experiences.

In the end, I hope this bulletin will always be useful for the readers in broaden and deepen their capacity and knowledge regarding PCA. Besides, I look forward for the contribution from other ASEAN Member States in upcoming PCA Bulletins.

*Regards,*



# Foreword by The Chair of ASEAN Directors - General of Customs

**Mr. Heru Pambudi**  
*Director General*

Directorate General of Customs and Excise  
Republic of Indonesia



Balancing Customs role on trade facilitation and regulatory control has been a great challenge for us in the development of trade liberalization. The implementation of risk management and procedures of customs authorities have significantly affected by the increasing complexity, speed and volume of international trade, fueled by technological advances that have caused the global trading shifting its gear in the term of its practices.

The Customs Enforcement and Compliance Working Group (CECWG) has been a fruitful forum in accommodating the necessary adjustments of modern customs processes from physical to post-clearance control which involving audit and other measures focused on addressing transaction. In addition, the regularly published bulletin for sharing the valuable experiences, case studies and best practices in the field of post-clearance audit among ASEAN Member States (AMSS) is a great contribution from CECWG in harmonizing the understanding of PCA mechanism of AMSS.

Hence, on behalf of the ASEAN Directors General of Customs, I would like to convey my utmost appreciation to all of Customs Enforcement and Compliance Working Group (CECWG) Members who has always been doing hard work together on developing the professional capability of Customs officers in charge of the effectivity delivery of PCA and enhancing mutual cooperation between Customs and stakeholders for good compliance and effective enforcement of Customs-related legislations.

Lastly, I also would like to congratulate the publication of the Ninth Volume of Post-Clearance Audit bulletin as the media of promoting the exchange information on international standard as well as sharing best practices in PCA among Member States.

Thank you.

*Best regards,*



## From The Chairman's Desk

**Mr Sazali Mohamad**

*Chairman*

ASEAN Customs Enforcement and Compliance Working Group

Welcome to the 9th Edition of the ASEAN Customs Post-Clearance Audit (PCA) Bulletin in conjunction with the 23rd ASEAN Customs Enforcement & Compliance Working Group (CECWG) meeting.

The CECWG meeting plays an important role by providing assistance in tackling issues and sharing information for the mutual benefit of ASEAN Customs.

Besides facilitating international trade movements of the compliant trade sectors, the objective of PCA is to ensure that Customs declaration is completed in compliance with Customs requirements, as well as to verify the amount of revenue legally due has been paid accordingly.

Furthermore, suspected fraudulent activities may be identified with the implementation of effective PCA regime, which could also result in high compliance environment, while still facilitating cross-border transactions without any loss of border control.

I would like to take this opportunity to congratulate the editorial team and to those who contributed interesting articles of PCA cases in making this bulletin a success. Well done!

I hope that this volume will enable all ASEAN Member States to stay abreast of the latest trends of fraud around our region and gain better understanding of the development of Customs PCA.

Thank you



**PCA CASES**



# BRUNEI DARUSSALAM

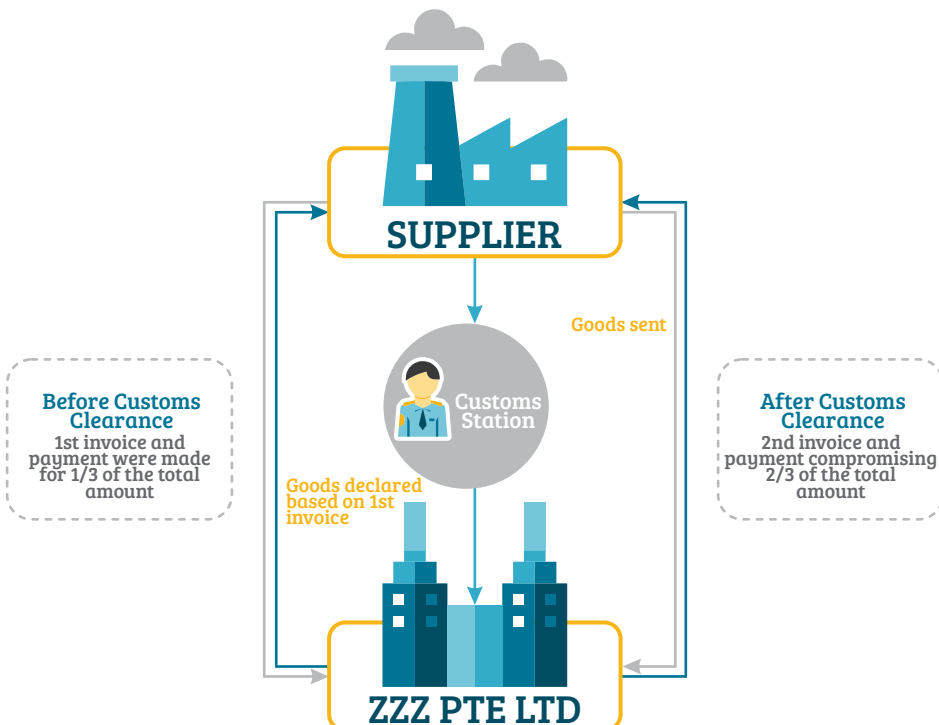
## CASE I

### I. Facts of The Case

1. Early 2017, PCA Unit make an assessment on the importation of coffee machines. The assessment was based on the rising number of coffee shops/cafes being established in Brunei Darussalam.
2. ZZZ Pte. Ltd. is one of the companies being assessed by PCA Unit based on common importation of coffee machines.

### II. Findings

1. Upon assessment on the import documentation, PCA Unit discovered that the amount in the payment voucher did not match with one of the declaration forms being declared to Customs;
2. There were two different invoices and payments being made, before and after customs clearance of goods;
3. The amount in the first invoice and payment was used to declare to Customs, which was only a third of the total amount as deposits. The second invoice and payment was made after goods were cleared from customs station.



### IV. Decision

1. The shortage amount of Import duties was paid.
2. ZZZ Pte Ltd was given a warning letter and reminded to inform the forwarding agent on the real value.



# INDONESIA

## CASE I

### A Bonded Zone Company selling Leftover fabric and declared as scrap

#### I. Facts of The Case

Company A is granted a bonded zone facility that enjoys concessions in the form of exemption to pay import taxes, tax on luxury goods and value added tax. The company produces apparel products and exports them. It imported raw material such as: fabrics and yarns.

#### II. Findings

The audit team found that there was a significant sales of scraps to local company outside bonded zone. When it was further investigated to its stocks card, the audit team found that there were leftover fabrics categorized in various grades of fabrics.

#### III. Modus Operandi

Company A sold its leftover raw materials to another local company outside the bonded zone and declared them as scraps. According to bonded zone rules, the basis for counting the duty of sales of scrap material is transaction value (when they are sold) while for counting the duty of sales scrap material in good condition is custom value (when they are imported). This difference made a significant shortage of duty paid.

#### IV. Decision

Indonesia Customs Audit decided that the selling of the leftover material had to be declared as leftover fabric (good condition) and the company had to pay duty and tax shortage and fines for different classification of the sales IDR 8.001.412.000 (approximately US\$ 597.120)

## CASE II

### Company B had to add royalty fee paid to the customs value

#### I. Facts of The Case

Company B imports and sells branded apparel products in Indonesia. It was appointed by trade mark owner overseas to be a distributor. It means that company B is the only company it can sell those products in Indonesia. However that does not mean that company B is the only company that can import the products.

#### II. Findings

The company B paid royalty to certain trade mark owners abroad for the sale of imported goods of such marks. The royalty that has not been paid entirely can be added to customs value because there were royalty which was not linked with the imported goods but linked to goods bought from local supplier using the same trade mark.

#### III. Modus Operandi

The Company B denied the audit team findings because they thought that all royalty and comission have been declared through voluntary declaration scheme. However, according audit team's verified calculation, the royalty fees that have been paid to trade mark owner has not been declared.

#### IV. Decision

The audit team decided that the royalty payment had to be added to the custom value. Company B should pay duty and tax shortage and fines IDR 6.948.672.000 (approximately US\$ 518.558)

## CASE III

### Royalty Fees paid by Company C for printed cartoon character had to be added to customs value

#### I. Facts of The Case

Company C is one of the companies that produce dairy based nutrition products in Indonesia. The company imported packaging material for milk from company X in Thailand with cartoon characters printed on it.

#### II. Findings

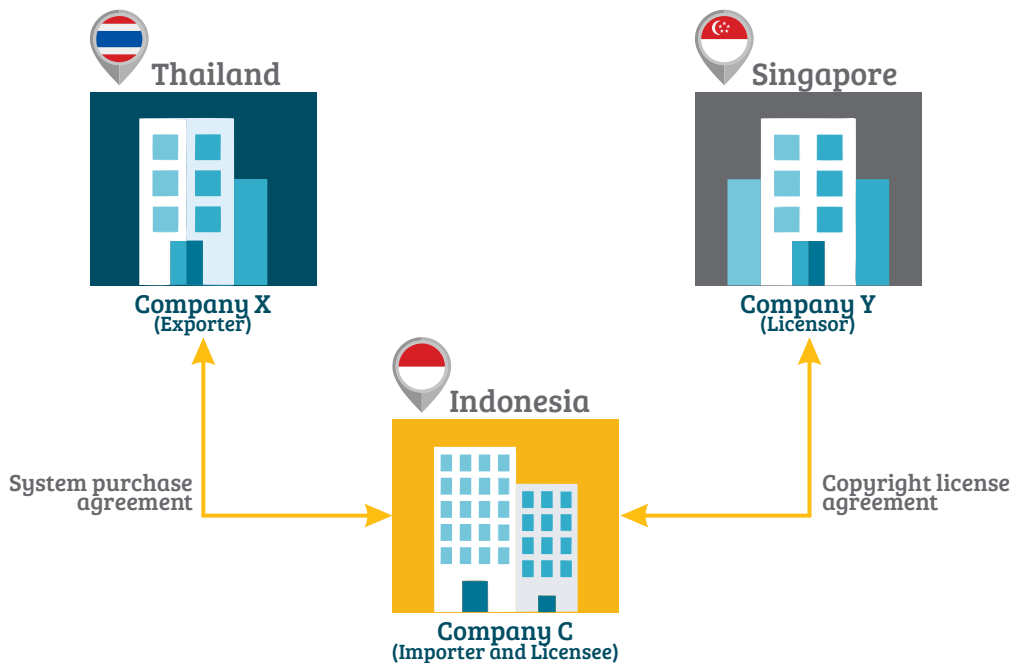
The audit team found that there was royalty expense in the income statement. It was then further investigated and it was proven that Company C made payment to Company Y which is located in Singapore. Company Y's line of business includes owning or leasing franchises, patents, and copyrights which they in turn license others to use of.

#### III. Modus Operandi

Based on Copyright License Agreement between Company C and Company Y, it can be concluded that Company C pays all obligations to Company Y in return of a non-exclusive rights to reproduce the sublicensed material only on or in connection with the articles and to use the trademark.

Based on System Purchase Agreement between Company C and Company X, the audit team concluded that company C as a buyer solely responsible for the labeling of the packaging material and hold the supplier harmless from all claims of any kinds whatsoever that may arise from the use of any drawings, imprints and trade mark that customer caused to be printed on or otherwise applied to the packaging material.

The basis of royalty payments and imported goods being valued is the same, i.e. packaging material that has printed cartoon character.



#### IV. Decision

The audit team decided that the royalty fee paid to Company Y as a payment of using the cartoon character had to be added to custom value. It was based on royalty value on each packaging material. Company C should pay duty and tax shortage and fines IDR 5.139.756.000 (approximately US\$ 383.564). Company C appealed to the Tax court for these cases and Tax court decided that Indonesia Customs won the case.

## CASE IV

### I. Facts of The Case

Company ANI made a payment of running royalty which based on License, Technical assistance, and Service agreement (LTAS) between Company ANI and AIS Co., Ltd. According to the LTAS, Company ANI would make a payment of running royalty to AISAN on every Technical Assistance given by AIS Co., Ltd in producing all products that will be sold by Company ANI. Scope of AIS Co., Ltd Technical Assistance are as follows:

#### a. Providing Technical Materials

Technical materials is a written form of Technical Assistance given by AIS Co., Ltd. It consists of image of products, list of product component, image of product component, product manual, etc (based on appendix A). Most of imported products are appropriate with drawing component in technical materials. In audit process, audit team did not get the copy of the drawing component, but they found the existence of assisst which strengthen their conviction that most of products imported by Company ANI was appropriate with drawing component in technical material, which means, Company ANI was obligated to make a payment of

royalty to AIS Co., Ltd.

b. Technical Training

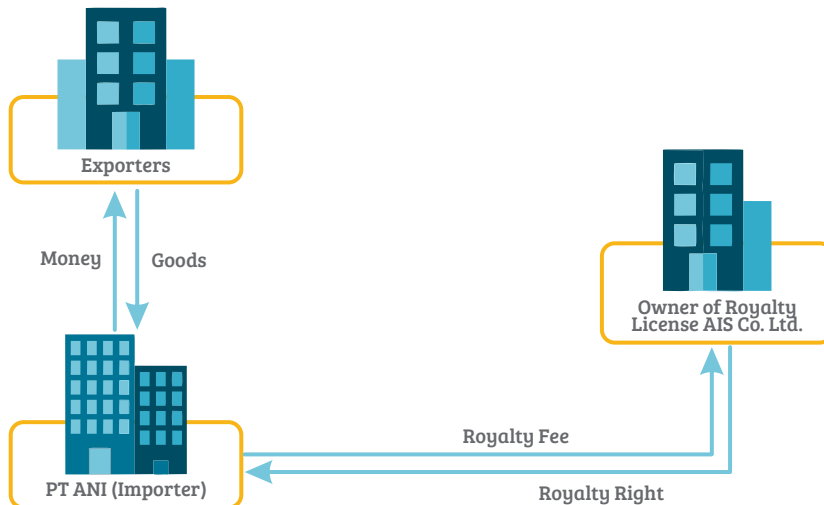
c. Dispatch of instructor

### II. Findings

According to article 8 LTAS (changed by memorandum III) stated that the amount of running royalty paid by Company ANI to AIS Co., Ltd was 5% net sales of products (that use technical assistance from AIS Co., Ltd) minus price of raw material (provided by AIS Co., Ltd).

Audit Team believed that not all of running royalty added to customs value of imported products, but it was only running royalty related to imported products that added to it. Consequently, the amount of running royalty added to customs value of imported products was as big as the amount of percentage of imported products except from AIS Co., Ltd and TTC on net sales.

### III. Modus Operandi



### IV. Result

Audit team believed that there was running royalty that must be added to the customs value of the products imported by Company ANI. From audit findings, the company had to pay IDR 2.109.470.000 (approximately \$ 156.257) as billing. Company ANI appealed to tax court and audit team won the case.

# CASE V

## I. Facts of The Case

Company A imported PVDC (Polivinyldene Chloride) Plastic Film Roll with HS Code 39191090 (tariff of import duty for MFN is 5%, and for ACFTA is 0%). According to decree made by our Documents Analyst officer at Clearance Stage (PFPD), determined that PVDC is more appropriate to be classified into HS 39204900 (tariff of import duty for MFN 10% and for ACFTA 15%)

Afterwards, Company A proposes Classification Prior to Import/Classification Ruling (PKSI) on PVDC to Directorate of Technical Customs. The result of PKSI defined that PVDC is classified into HS 49119990 (Tariff of import duty for MFN is 10%, and for ACFTA is 7.5%).

Based on the result of targetting auditee towards companies that import PVDC, Directorate of Audit Customs and Excise issued Letter of Assignment of Audit of Customs and Excise to Company A, B, and C (companies that import PVDC). While doing audit field work, audit team took sample goods to conduct

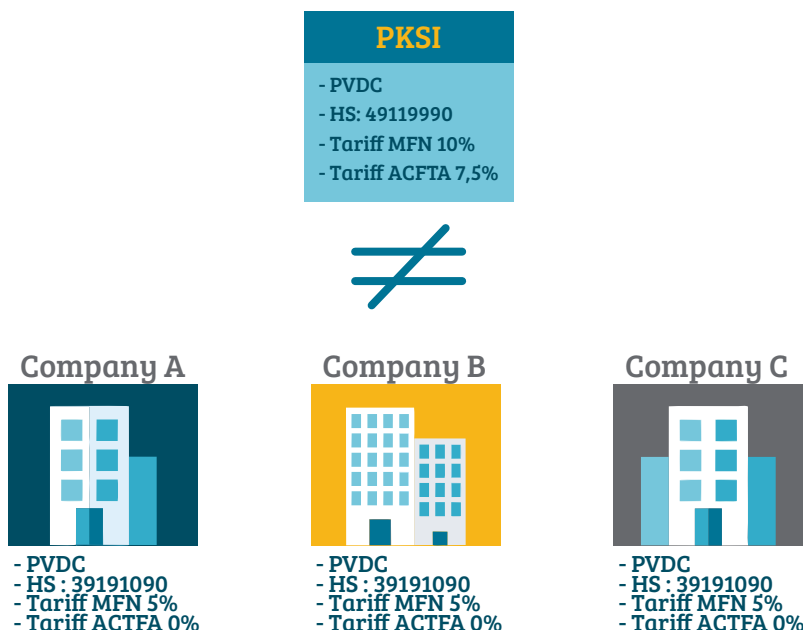
laboratory test. The result of laboratory test showed that the taken sample good is another printed item made of non-cellular plastic PVDC, unreinforced PVDC plastic, uncombined with other material, and laminated with printing surface with motif.

## II. Findings

According to the result of meeting conducted between audit team, sub-directorate of implementation audit II, directorate of technical customs and customs laboratory unit defined that PVDC Plastic Film is classified into HS 49119990 (Tariff of import duty for MFN is 10%, and for ACFTA is 7.5%) according PKSI.

## III. Modus Operandi

There are different perspectives of HS PVDC classifications between companies (A, B, C) and determined result gained from Proposal of Classification Prior to Import (PKSI)



## IV. Result

23rd Meeting of the Customs Enforcement and Compliance Working Group (CECWG)  
Kuala Lumpur, Malaysia

Audit team decided that PVDC Plastic Film must be classified into HS 49119990 (Tariff of import duty for MFN is 10%, and for ACFTA is 7.5%), in accordance with PKSI. Based on audit findings, the amount of billing that Company A had to pay was IDR 2.961.617.000 (approximately \$219.379), while Company B had to pay IDR 856.400.000 (approximately \$63.437) and Company C had to pay IDR 4.003.939.000 (approximately \$296.588).





# MALAYSIA

## CASE I

### AX Fruits Co. : Under Declare

#### I. Facts of The Case

- 1.1. AX Fruits Co. actively imports a wide range of fresh fruits from Australia, Hong Kong, South Africa and China.
- 1.2. AX Fruits Co. was earlier audited by PCA on 14.12.2015 with total claims amounting to RM320,000.00.
- 1.3. Risk Management Unit targeted Buah Trading Co. for an audit in Year 2017.
- 1.4. AX Fruits Co. was using another company by the name of Buah Trading to import fruits on its behalf from 30.01.2015 until 26.02.2017.

#### II. Findings

- 2.1. The auditors could not locate Buah Trading Co. and had suspicion on the value that was declared. Further verification indicated Buah Trading Co. had declared lower value in the Customs Form 1. The invoice, which had higher price value, was obtained from the bank in stages as Buah Trading Co. could not be located. (Fly By Night).
- 2.2. On further investigations with the port authority and forwarding agent it was discovered that the consignments were delivered to AX Fruits Co. premises. Auditor managed to get further proof of payments made

by AX Fruits to overseas supplier for the good imported by Buah Trading Co.

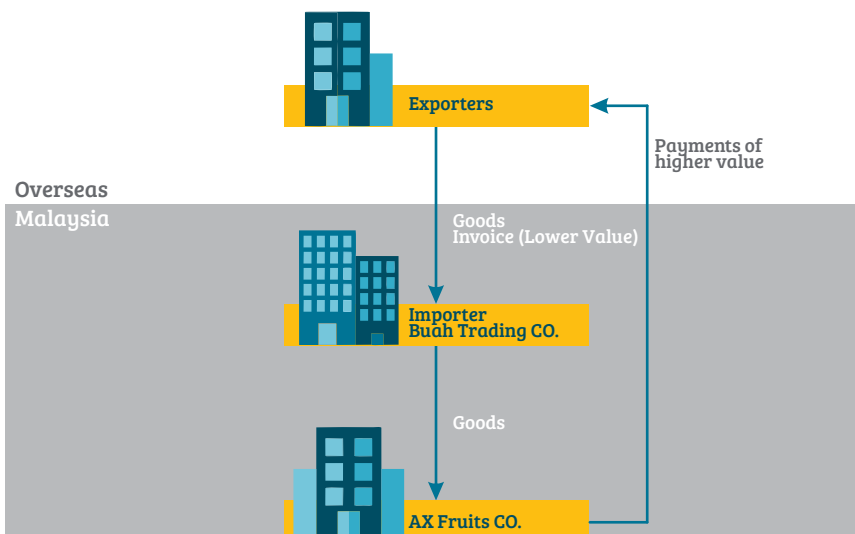
- 2.3. From the documentation obtained it proved that customs value at the time declared in Customs Form 1 is not the value of the transaction is the price paid or payable for the goods when sold for export to Malaysia. Cross-checked the documents from banks and Customs Information System resulted in shortage of Import Duty/Sales Tax and GST.

#### III. Modus Operandi

- 3.1. AX Fruits Co. uses unrelated proxies i.e Buah Trading Co. to import fresh fruits to avoid import duties/ sales taxes and GST that should be paid to Custom's Department.

#### IV. Decision

- 4.1. The AX Fruits Co. and Buah Trading Co. committed an offense under Section 133 (1) (c) of the Customs Act 1967. They audit detected underpayment of Import Duties/ Sales tax and GST a total of RM619,000.00.
- 4.2. The claim bill and a Compound of RM10,000.00 for the offence was issued on 28.02.2017 to AX Fruits Co.
- 4.3. AX Fruits Co. paid the Bill and Compound.



## CASE II

### S Tyres Co. (Under Declare and Smuggling)

#### I. Facts of The Case

- 1.1.S Tyres Co. an Importer and trader of new and used tyres.
- 1.2.Initial pre-audit survey was done through the Customs Information Systems which indicated that S Tyres Co. was not active in importation but the company profile indicated otherwise.

#### II. Findings

- 2.1.Stage 1.
  - 2.1.1.Audit visit and investigation discovered that Importation was done by T Tyres Co. and B Tyres Co. But payments to overseas suppliers were made by S Tyres Co. by way telegraphic transfer (T.T) method and invoices from suppliers were also in the name of S Tyres Co..
  - 2.1.2.Value declared was less than the actual value paid to the supplier.
- 2.2.Stage 2.
  - 2.2.1.Upon inspection, PCA officers stumbled on goods (imported tyres) that were not declared to custom's authority. These tyres are believed to be smuggled in the country and delivered to the premises of S Tyres Co.

2.2.2.The Custom Information System verification through the container numbers found that the containers were used for the declaration of general goods by the importer. However, the actual original invoices were found indicating the trading description was tyres.

2.2.3.There were 16 invoices that did not have any Customs Form 1 and were believed to have been smuggled out of the private jetty in the Port Klang area.

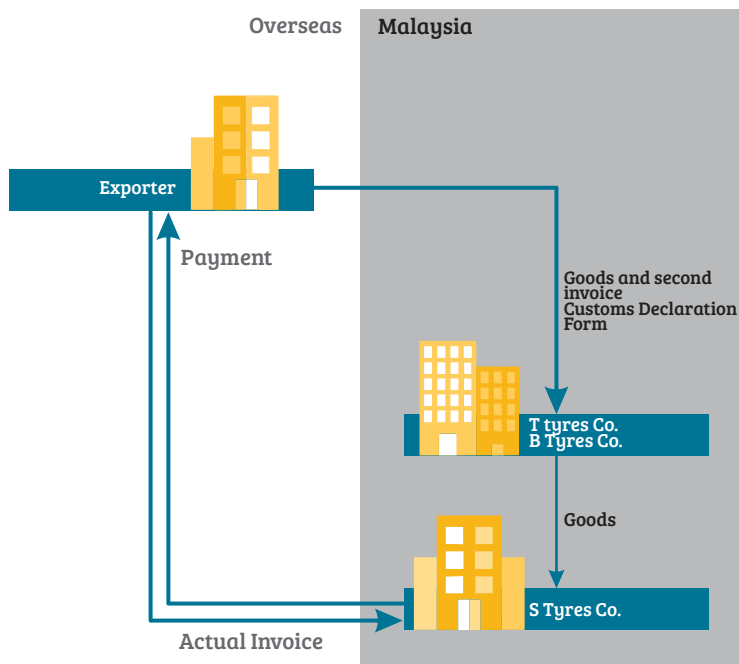
#### III. Modus operandi

##### 3.1. Stage I

The declaration of imported merchandise at a lower value compared to the actual value paid to the supplier.

##### 3.2. Stage 2

The goods that were declared in Custom Form 1 was not imported, it was a scheme for a fraudulent activity.



#### IV. Decision on Stage 1 and 2

- 4.1. S Tyres Co. committed an offense under Section 133 (1) (a) of the Customs Act 1967 by making false and incorrect declaration. Offence was also committed under section 135 (1) (g) of the Customs Act 1967 for non-declaration.
- 4.2. S Tyres Co paid the under declaration claim amounting to RM2.3 million and was issued a compound.

## CASE III

### ABC Automotive co. (Under Declare)

#### I. Facts of The Case

1.1.ABC Automotive Co. actively imports heavy machinery from Enterprise Co. in Country X. The audit was conducted based on findings during an audit on a related company.

2.3.Auditors managed to get the original invoices and found that the value declared was lesser than the actual value paid to the both parties (exporter and supplier).

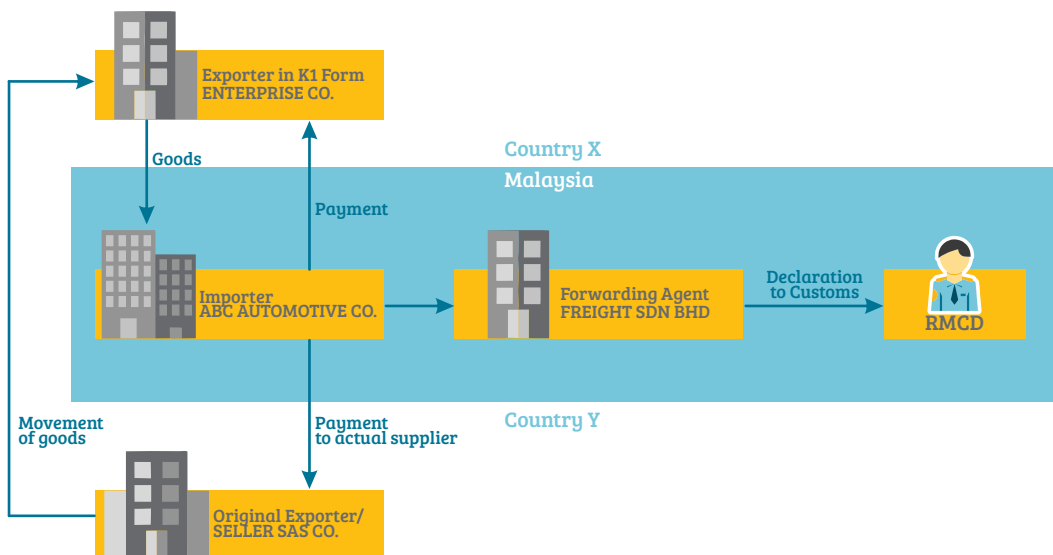
#### II. Findings

2.1.The auditors noticed that the declared value was very low. Ledgers were scrutinized against bank statement and the auditors suspected additional payments were being made to SAS Company (Country Y). Correspondences between ABC Automotive Co. and the SAS Company (Country Y) were examined.

2.2.Upon further investigations, the auditors managed to get additional proof of payments made by ABC Automotive Co. to SAS Company for the goods imported from Country X. The payments were made in the form of bankers' acceptance and telegraphic transfer.

#### III. Modus operandi

3.1.ABC Automotive Co. uses proxies' i.e. from Country X to import heavy machinery to evade import duties/ sales taxes that should be paid to Custom's Department. The actual exporters/sellers were from Country Y.



#### IV. Decision on Stage 1 and 2

4.1. The ABC Automotive Co. has committed an offence under Section 133 (1) (c) of the Customs Act 1967. The audit detected underpayment of import duties/ sales tax a total of c. u. 840,000.00.

## CASE IV

### JCB co. (Double Invoices and Freight charges not included)

#### I. Facts of The Case

- 1.1. The main activities of JCB Co. are importing and re-selling used backhoe loaders and used excavators. JCB Co. also does repairs for tractors and excavators.

#### II. Findings

##### 2.1. Double invoicing

- 2.1.1. An inspection of the accounting records showed that the total payment made is of higher value than the value of declared invoice value. The auditor discovered two different invoices for the same consignment; namely invoice for the purpose of Customs declaration, and actual invoice for the purpose of making payments

- 2.1.2. Further inspection on the above-mentioned invoices found that value in the invoice used for declaration to Customs is lower than the value in the invoice for payment purposes.

##### 2.2. Freight charges

It was also discovered that several separate freight invoices for the cost of ocean freight were not declared in the Customs declaration. As such, the Customs value at the time of

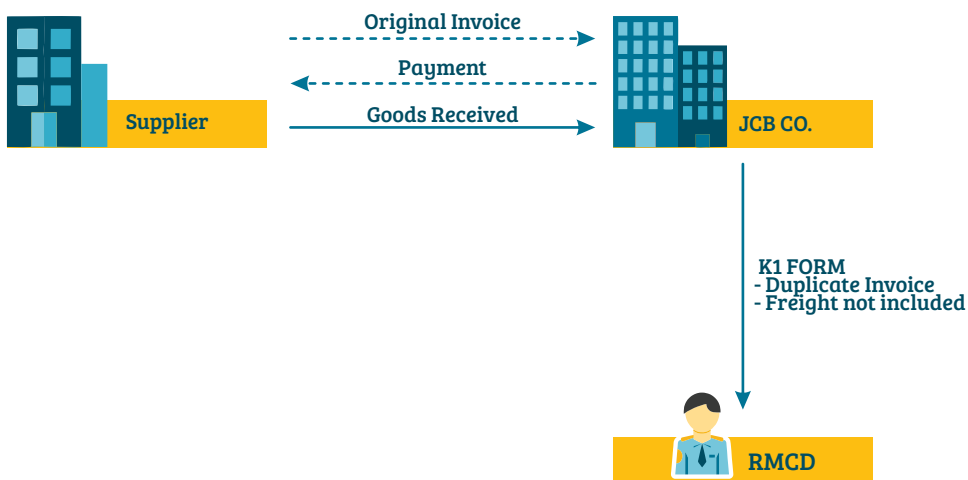
declared in Customs Declaration Form is not the value of the transaction, that is the price paid or payable for the goods when sold for export to Malaysia.

##### 2.3. Failed to produce documents on demand

Company did not keep all the documents as required by the Customs Act 1967, and therefore, failed to produce documents pertaining to importation and accounting for auditing purposes.

#### III. Modus operandi

- 3.1. Purchase order will be made directly to the exporter.
- 3.2. JCB Co. received the commercial invoice from the exporter.
- 3.3. For the purpose of the declaration and the clearance of goods from customs, the company uses invoice value that has been lowered. Invoice number used is the same as the actual invoice.
- 3.4. Payments to exporters using actual invoice via telegraphic transfer.



#### IV. Decision

- 4.1. Bill of demand was issued for c.u.1,200,000.00 and the company was penalised for c.u.15,000.00 for committing offences of evading Customs duties under Sections 133(1)(a), 133(1)(c) and 133(1)(f) of the Customs Act 1967.



# MYANMAR

## CASE Under Declare

### I. Facts of The Case

1. Importer A Co., Ltd imports B/N Machine Spare Parts in Myanmar..
  2. PCA Unit received an information from Head of Customs Valuation Branch in April 2017 with regard to a declaration made by A Co., Ltd whereby Customs officers at the Seaport Branch have reason to doubt the declared value.
  3. The importer was audited by PCA unit starting in October 2017.
  2. PCA Unit discovered that the declared value was lower than the actual payment to the supplier.
  3. Interview with the importer revealed that the importer purposely lowered the declared value so that less Customs duty would be paid.
- PCA Unit calculated that short paid duties were amounted to 730,000,000.00 MMK.

### II. Findings

1. PCA Unit audited at the premises of the importer. They collected and compiled relevant supporting import documentation of A Co., Ltd starting with the import documents from November 2016 to September 2017.

### III. Modus Operandi

The importer used falsified invoices for the undervalued declarations.

### IV. Decision

Claims for shortage customs duties amounted to 730,000,000.00 MMK was made and promptly paid by A Co., Ltd.



# SINGAPORE

## CASE I

Company director fined \$1.4 million for importing duty-unpaid soju

### I. Facts/Findings

A company director was sentenced by the State Courts on 20 January 2017 to a fine of \$1,400,000 or in default 18 months' imprisonment for importing duty-unpaid soju<sup>(1)</sup>.

The offender, a 48-year-old director from So Fei International Trading Pte Ltd, pleaded guilty to four charges of importing duty-unpaid soju under the Customs Act. Another 16 charges were taken into consideration in the sentencing.

The total duty and Goods and Services Tax (GST) evaded amounted to about \$625,190 and \$49,230 respectively.

### II. Modus Operandi

Singapore Customs was first alerted to the declaration of suspicious non-alcoholic rice beverage into Singapore and the importer of this beverage was established to be So Fei International Trading Pte Ltd.

Investigation into the company's past imports

revealed that between October 2013 and September 2015, the company had imported 118,000 bottles of soju from South Korea with the intention to evade the payment of duty and GST on them. To avoid payment of duty, the importer had intentionally misled his declaring agent to indicate the soju as non-alcoholic rice beverage in the import declarations submitted to Singapore Customs. The total duty and Goods and Services Tax (GST) evaded amounted to about \$625,190 and \$49,230 respectively.

### III. Decisions/Opinions

For importing dutiable goods with the intention to defraud the Government of duty and GST, the offender was sentenced to a fine of \$1.4 million or in default 18 months' imprisonment. Another 16 charges were taken into consideration in the sentencing.

(1).Alcoholic distilled beverage of Korea origin

Photos of seizures:



## CASE II

### Parallel Car Importer Fined SGD 1.965 million (USD 1.48 million) for Evading Taxes on Imported Cars

#### I. Facts/Findings

A parallel car importer was sentenced by the State Courts on 21 September 2017 to a fine of SGD 1.965 million (USD1.48 million) for the fraudulent evasion of excise duty and Goods and Services Tax (GST) on cars imported into Singapore from Japan, Britain and Hong Kong.

The offender Teng Autosports Trading, pleaded guilty to 104 charges of fraudulent evasion of excise duty and of GST under the Customs Act.

#### II. Modus Operandi

In July 2015, Teng Autosports Trading was investigated for fraudulent evasion of excise duty and GST on cars imported into Singapore from Japan, Britain and Hong Kong. Teng Autosports Trading stated values that were significantly lower than the actual transaction values of the cars to pay less import excise duty and GST. Teng Autosports Trading instructed her suppliers to create invoices with the suppressed values and masked the transaction values of the cars by making split and/or excess payments to the Japanese suppliers. The

"excess" payments would be used to partially pay for subsequent orders of cars from the Japanese suppliers. For cars imported from Britain and Hong Kong, Teng Autosports Trading would use a remittance service and make split payments based on the fake values.

For the 104 charges proceeded, Teng Autosports Trading paid an excise duty of SGD 642,062 (USD 488,853) and GST of SGD269,666 (USD 205,240), when the actual amount payable was SGD777,463 (USD591,719) and SGD326,534 (USD248,521) respectively. As a result of the under-declaration, Teng Autosports Trading fraudulently evaded duty and GST totalling about SGD371,592. (USD281,443).

#### III. Decisions/Opinions

For importing dutiable goods with the intention to defraud the Government of duty and GST, Teng Autosports Trading was sentenced to a fine of SGD1.965 million (USD1.48 million).



# THAILAND

## CASE I Undervalued by Misrepresentation

### I. Facts of Transactions

1. Company K is a SME metalworking manufacturer in Thailand.
2. Company N is a SME die casting manufacturer in country X.
3. Company K and Company N are partners of contract on technical assistance; Company K needs to purchase equipment from Company N for finished products manufacturing and in case of additional income from exceed products made with the equipment than guaranteed amount of finished products, some of the income must be provided to Company N. This condition is not appeared on the contract.
4. In the same time, technical assistance fee and royalty fee are mentioned in the contract but found no evidence of payment or related documents than the contract.

but many papers on payment for suspicious fee (the addition income) were found during investigation.

Accounting Manager of Company K explained that they never declared this fee to customs since they already paid VAT to revenue department (receipts from revenue department were provided later). About the technical assistance fee and the royalty fee mentioned in the contract, they assumed that all the fees in contract have the same or nearly the same meaning as the income they paid to Company N because they never paid for such fees. All evidence supports the claim.

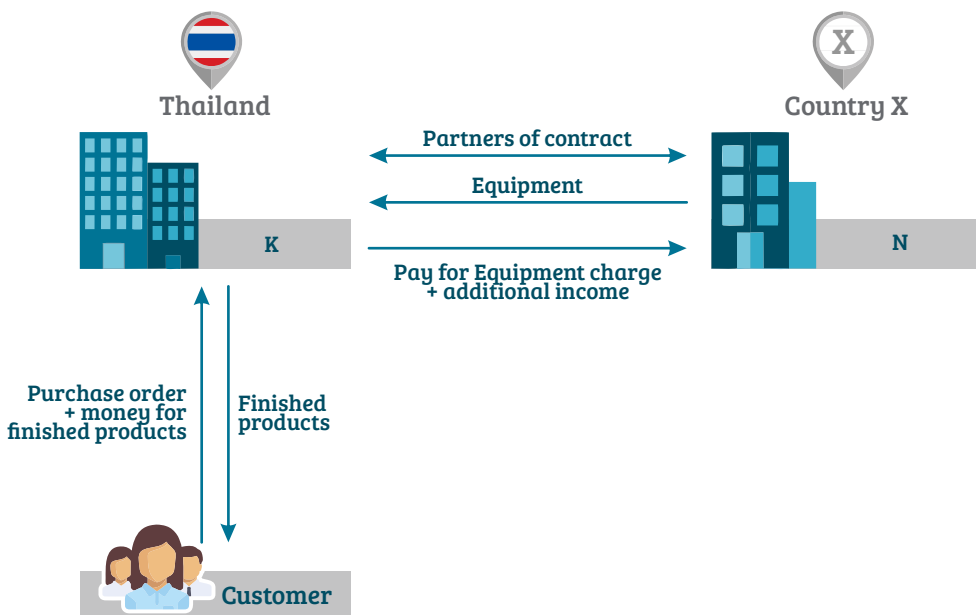
Note: In this case, misinterpretation of transaction's name may cause confusion for buyers to pay tax or import duty; they may not able to classify which one should be declared to customs department or revenue department.

### II. Findings

During inspecting at its premise, suspicious documents from Company N, the contract and invoices from Company N, were found. The name of transactions in the documents has no consistency; no payment for the fee mentioned in the contract

### III. Modus Operandi

As interview with import/export officer related this case, the modus operandi of the company can be summarized by reference to the diagram;





IV. Decision/Opinion

According to the Agreement on Implementation of Article VII of GATT 1994 and the ministerial regulations of Ministry of Finance Vol.132 (Year 2000 or B.E.2543), the transferred additional income must be a part of price actually paid since the additional income is occurred by usage of imported equipment and transferring the profit to the seller is condition of sale, even not defined in the contract.

Finally, Company K decided to pay underpaid duty and VAT to settle the case. Double of underpaid duty penalty, VAT penalty, monthly duty surcharge and VAT surcharge are also imposed. However, PCA Unit gave advise the company to claim refund of paid VAT previously.

CASE II  
Double invoices (Decision 4.1 by the Committee on Customs Valuation)

I. Facts of Transactions

- 1.Buyer Company and Seller Company have no joint-venture relationship.
- 2.Seller Company is an industrial software vendor locates in USA; a country officially adopts Decision 4.1 of the Committee on Customs Valuation.
- 3.Seller Co. sold software to Buyer Co., a machine dealer located in Thailand, with price of software, while the price in declaration is the price of carrier media (USB and CD-ROM).

II. Findings

During conducting PCA, PCA Unit found 2 invoices in same shipment; one appears payment for software and the other is for carrier media. The documents on telegraphic transfer remittance showed the price of software while copy of shipment waybill by express shipper was found with the price of carrier media which is lower than the price of software.

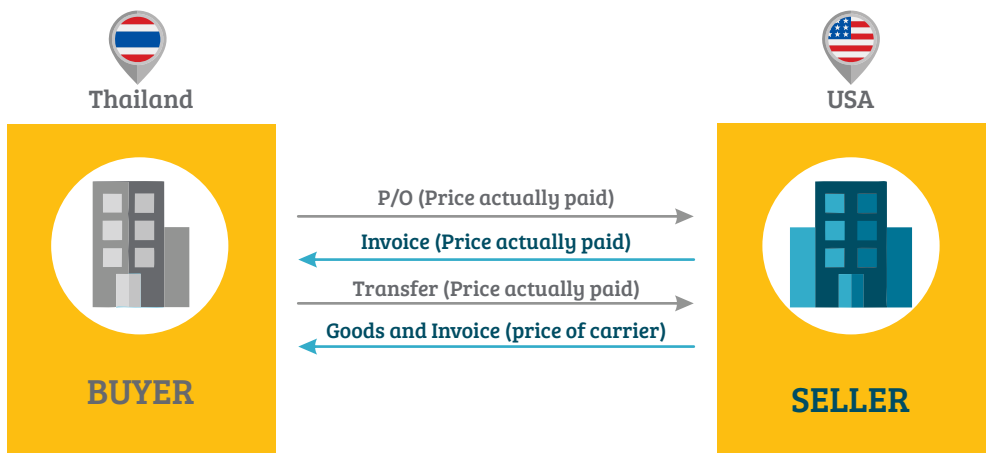
Relevant agent from Buyer Co. revealed that the price on shipment waybill is from the price of

carrier media. Even both invoices were issued by vendor but the invoice for the price of software was submitted separately after import and the invoice for the price of carrier media was attached with shipment waybill instead.

The cooperate lawyer, as company's attorney, claimed about the Decision 4.1 of the Committee on Customs Valuation on valuation of carrier media bearing software for data processing equipment and the invoices were provided by Seller Co., that is the reason Buyer Co. has no intention and no guilty.

III. Modus operandi

As interview with import/export officer related this case, the modus operandi of the company can be summarized by reference to the diagram;



#### IV. Decision/Opinion

1. The Customs Tariff Bureau of Thai Customs mentioned in their official memorandum that if it is found that the software in carrier media is for data processing equipment and for imported goods, the value of the software is included when valuing the carrier media since Thailand never adopted the Decision 4.1.
2. Since the license was imported in form of carrier media to support and develop imported machines, then double invoices were found in more than one shipment, PCA Unit found intention of undervalued declaration by Buyer Co.
3. Buyer Co. decided to pay underpaid duty and VAT to settle the case but appeal to customs against the penalty charges by claiming they never had any intention for this case.

#### DECISION 4.1

#### VALUATION OF CARRIER MEDIA BEARING SOFTWARE FOR DATA PROCESSING EQUIPMENT

During its Tenth Meeting held on 24 September 1984, the Committee on Customs Valuation adopted the following decision:

The Committee on Customs Valuation DECIDES as follows:

1. Its is reaffirmed that transaction value is the primary basis of valuation under the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (the Agreement) and that its application with regard to data or instructions (software) recorded on carrier media for data processing equipment is fully consistent with the Agreement.
2. Given the unique situation \* with regard to data or instructions (software) recorded on carrier media for data processing equipment, and that some Parties have sought a different approach, it would also be consistent with the Agreement for those Parties which wish to do so to adopt the following practice:

In determining the Customs Value of importer carrier media bearing data or instructions, only the cost or value of the carrier medium itself shall be taken into account. The Customs value shall not, therefore, include the cost or value of the data or instructions, provided that this is distinguished from the cost or the value of the carrier medium.

For the purpose of the Decision, the expression "carrier medium" shall not be taken to include integrated circuits, semiconductors and similar devices or articles incorporating such circuits or devices; the expression "data or instructions" shall not be taken to include sound, cinematic or video recordings.

3. Those Parties adopting the practice referred to in paragraph 2 of this Decision shall notify the Committee of the date of its application.

4. Those Parties adopting the practice in paragraph 2 of this Decision will do so on a most-favoured-nation (m.f.n) basis, without prejudice to the continued use by any Party of the transaction value practice.

#### **\* Statement Made by the Chairman at the Meeting of the Committee on Customs Valuation of 24 September 1984 Prior to the Adoption of the Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment.**

In the case of imported carrier media bearing data or instructions for use in data processing equipment (software), it is essentially the carrier media itself, e.g. the tape or the magnetic disc, which is liable to duty under the Customs tariff. However, the importer is, in fact, interested in using the instructions or data; the carrier medium is incidental. Indeed, if the technical facilities are available to the Parties to the transaction, the software can be transmitted by wire or satellite, in which case the question of Customs duties does not arise. In addition, the carrier medium is usually a temporary means of storing the instructions or data; in order to use it, the buyer has to transfer or reproduce the data or instructions into the memory or data – base of his own system.

Under the international Customs valuation practices which were superseded by the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (the Agreement), the value of the software was not, as a general rule, included when valuing the carrier medium. Following their adoption of the Agreement, those countries which followed the previous international practice have changed their rules for valuing carrier media bearing computer software or have maintained their previous practice.

The proposed decision of the Committee on Customs Valuation on the valuation of carrier media bearing software for data processing equipment indicates that transaction value is the primary basis of valuation under the Agreement and that its application with regard to software recorded on carrier media for data processing equipment is fully consistent with the Agreement. It also would provide that given the "unique situation" regarding software just described and the fact that some Parties sought a different approach, it would also be consistent with the Agreement for those Parties which wish to do so to only take account of the cost or value of the carrier medium itself in determining the Customs value of imported carrier media bearing data or instructions.

In taking this decision on the valuation of carrier media bearing software for data processing equipment, it is understood that should any difficulties arise in the implementation and application of the decision, it would be useful for those difficulties to be considered by the Parties to the Agreement."

# CASE III

## Failure to declare additional cost

### I. Facts of transactions

Buyer Co.Ltd., imported a spare part from a repair specialist company, Seller Com., in 2012. The performance warranty charge was included as condition of sale.

### II. Findings

During conducting audit at buyer's premise in 2017, PCA Unit found a telegraphic transfer remittance with 2 invoices; a Performa invoice from seller shown USD 1,500 for a motor and USD 1,000 for 12 month performance warranty charge. Then, the other (commercial invoice) shown only price for a motor was used for customs declaration; the declared price of good was lower than the price actually paid.

Since 12 month warranty service exchange; additional cost must be charged as deposit and would be refunded to the buyer if the part works improperly or any failure is found within one year performance, or the deposit would be not returned if no fault found.

However, there is no evidence found that Seller and buyer have relationship which influences price.

### III. Modus operandi

Buyer Co.Ltd., failed to declare the additional cost and used falsified invoice for undervalued declaration.

### IV. Decision/Opinion

The price of goods on declarations, according to the price on commercial invoice, is not the price actually paid or payable; it should be the transaction value via telegraphic transfer remittance.

Finally, the shortage amount of import duties and double-of-import-duties compound must be paid by the buyer. Also, every declarations from and parcels to Buyer Co.Ltd., would be required physical inspection, assigned by the Risk Management Unit, at the port of entry for the next 6 months. Then, PCA unit will conduct audit at its premise again 3 years later.



# VIETNAM

## CASE I

### I. Facts of the case

Importer HB. Ltd imports medical equipments by FOB value in Vietnam.

PCA Unit received an information from the declaration Unit made by HB. Ltd whereby Customs officers at the Seaport Branch have reason to doubt the declared value.

amounted to 800,000,000.00 VND.

Note: In this case, misinterpretation of transaction's name may cause confusion for buyers to pay tax or import duty; they may not able to classify which one should be declared to customs department or revenue department.

### II. Findings

PCA Unit audited at the premises of the importer. They collected and compiled relevant supporting import documentation of HB Ltd. starting with the import documents from Jan 2016 to June 2017.

PCA Unit discovered that the declared value without the Adjustment (CIC - Container Imbalance Charge), a part of the Freight.

Interview with the importer revealed that the importer purposely lowered the declared value so that less customs duties would be paid.

PCA Unit calculated that short paid duties were

### III. Modus Operandi

The importer did not submit the CIC invoice issued by shipper for the declaration Unit.

### IV. Decision

Claims for shortage customs duties amounted to 800,000,000.00 VND was made and promptly paid by HB Ltd.

## CASE II

### I. Facts of the case

Company A specializes in importing and trading electrical household products of Chinese origin.

The post-clearance audit retrieved the information from the customs IT system and chose to inspect Company A.

distinctions:

- invalid seal
- false signatures (38/40) of the authorized person
- wrong reference numbers on 2 C/O.

### II. Modus Operandi

During the inspection, PCA team found 40 fake copies of C/O Form E of Company A with

### III. Decision

The PCA team rejected the C/O and recovered the tax of VND 8,181,700,000 (approximately USD 409,000)

## CASE III

### I. Facts of the case

Company B is assigned by the Vietnam National Oil and Gas Corporation as a unit to carry out customs procedures and to assist registering the category of duty-free items to oil and gas contractors engaged in import or temporary import – re-export, temporarily exporting and re-importing materials, equipment and means used in the process of deploying petroleum activities within Vietnam territory.

Through the process of gathering and analyzing information, the PCA team found that there was sign of wrongdoing of company B, and conducted the PCA.

The audit process mainly focused on the import and export data, conducted documents examination to the suspicious cases.

### II. Modus Operandi

Company B's misconduct was determined:

- Falsification of import tax and VAT exemption
- Incorrect classification of goods.

### III. Decision

The PCA team recovered the tax of VND 33,866,068,482 (approximately USD 1.6 million)



# SURVEY I

## SURVEY ON LEGISLATION AND REGULATION REGARDING PCA

### COUNTRY : BRUNEI DARUSSALAM

1.The legal framework regarding the application of PCA (List all of the respective regulation and legislation regarding PCA)

#### Section 93 - Customs Order, 2006

##### Documents to be produced on demand.

On demand of the proper officer of customs, the importer or exporter of any goods, or his agent, shall produce to such officer all invoices, bill of lading, certificates of origin or of analysis and any other documents, which such officer may require to test the accuracy of any declaration made by such importer to any officer of customs.

#### Section 94 - Customs Order, 2006

##### Keeping of business records.

Every importer and exporter must keep or cause to be kept in Brunei Darussalam business records for a period of at least 7 years.

Any person who fails to comply with this section shall be guilty of an offence and liable on conviction to a fine not exceeding \$50,000.

#### Section 96 - Customs Order, 2006

##### Audit or examination of business records.

An officer of customs may at all reasonable times enter any premises or place where business records are kept pursuant to section 94 and audit or examine those records either in relation to specific

transactions or to the adequacy and integrity of the manual or electronic system or systems by which such records are created and stored.

#### Section 110 - Customs Order, 2006

##### Access to places or premises.

Any senior officers of customs shall, for the purposes of this Order, at all times have access to any places or premises where an importer carries on his business or where any person who has dealings with such importer carries on his business.

#### Section 116 - Customs Order, 2006

##### Retention of documents obtained during search.

Where an officer of customs or any person authorized under this Order carries out any lawful search, inspection, audit or examination under this Order and has reasonable cause to believe that any document coming into his possession during such search, inspection, audit or examination is evidence of the commission of an offence against this Order or is intended to be used for the purpose of committing any offence against this Order, such officer or authorized person may take possession of and retain the document.

### 2.The process of PCA

(Please explain the process of PCA starting from the planning, conducting and reporting)

#### Planning

1. PCA Division conduct assessment through reports received from Valuation Division, Declaration Processing Division and Branch Division.
2. PCA Officers will gather information and documentation of the company/companies.
3. The management of the assessed company will be notified and invited to the headquarters to discuss the importation and any other business activities conducted by the company.

#### Conducting the audit

4. The company will be requested for relevant importation documentation, if early assessment by the PCA officers required those information and documentation.
5. The company will be given a timeframe of two weeks to give PCA officers the required documentation.
6. After receiving all the required information, PCA officers will analyse them, and make report to Head

of PCA Division on the result of their initial audit.

7. If no discrepancies are found, the company will be given a briefing on Customs procedures, laws and regulations (especially on penalties).
8. If discrepancies are found, the company will be asked to pay the short paid duty, and will be blacklisted for a timeframe of one (1) year. Every importation of the company will be scrutinized. Audit visit will also be conducted.

#### Reporting

9. PCA Division will inform the relevant Customs Divisions on the outcome of the audited company/companies.
10. For blacklisted companies, the relevant Customs Divisions will be requested to scrutinize their importation activities. Those companies will also be given a written warning.

### 3. The follow-up of PCA

#### (Please explain of the follow-up action after the report of PCA)

PCA Division are focusing more on blacklisted companies whether, within the timeframe of one (1) year, those companies are improving and making good progress on complying with Customs procedures, rules and regulations.

### ADDITIONAL QUESTIONS

4. a. The legal framework regarding maximum period after importation that Customs (PCA) could legally demand underpaid duty and the maximum period itself
- b. The differences in maximum period after importation that Customs (PCA) could legally demand underpaid duty, if any, for example due to the differences in PCA's scope of examination

**a. Section 16(a) – Customs Order, 2006 / Section 17(a) - Excise Order, 2006**

**Payment of duty etc. short paid.**

Whenever through inadvertence, error, collusion, misconstruction on the part of any officer of Customs, or through misstatement as to value, quantity or description by any person, or for any other reason, the whole or any part of customs/excise duties or other moneys payable under this Order have not been paid; the person liable to pay such customs duties or other moneys or the person to whom such refund has erroneously been made, as the case may be, shall

pay the deficiency or repay the amount paid to him in excess, on demand being made within one year from the date on which customs duty was payable or deficient customs duty was paid or refund was made, as the case may be, and without prejudice to any other remedy for the recovery of the amount due, any dutiable goods belonging to such person which may be in any customs warehouse or licensed warehouse may be detained until such customs duty or deficiency be paid or the refund be paid, as the case may be.

**b. Not applicable**

### 5. The period of of auditees' keeping books, records and documents, including electronic data based on customs laws and regulations

**Section 94 - Customs Order, 2006 / Section 100 - Excise Order, 2006**

**Keeping of business records.**

Every importer and exporter must keep or cause to be kept in Brunei Darussalam business records for a period of at least 7 years.

Any person who fails to comply with this section shall be guilty of an offence and liable on conviction to a fine not exceeding \$50,000.

**Section 96 - Customs Order, 2006 / Section 102 - Excise Order, 2006**

**Audit or examination of business records.**

An officer of customs may at all reasonable times enter any premises or place where business records are kept pursuant to section 94 (Customs Order) / section 100 (Excise Order) and audit or examine those records either in relation to specific transactions or to the adequacy and integrity of the manual or electronic system or systems by which such records are created and stored.



## COUNTRY : CAMBODIA

### 1.The legal framework regarding the application of PCA (List all of the respective regulation and legislation regarding PCA)

#### a) LAW on Customs:

Base on law on Customs article 18, 19, 20, 21, 24, 26, 51, 52, 74, and 75.

#### b) Ministerial Regulations:

- Ministry of Economic and Finance Prakas No. 388 on Post Clearance Audit by Customs and Excise Department
- Guidance No. 583 on Initial Post Clearance Audit Manual

- Ministry of Economic and Finance Prakas No. 387 on Customs Valuation of Imported Good
- Ministry of Economic and Finance Prakas No. 113 on Management of Documents, Books, Records, and Other Information on Import and Export
- Ministry of Economic and Finance Prakas No. 105 on Management of Good that Exempt Duties and Taxes

### 2.The process of PCA

#### (Please explain the process of PCA starting from the planning, conducting and reporting)

*(Cambodia at the current PCA just starting with Factory Audit)*

#### Planning:

- Data/Statistic of Import and Export of Raw material comparison.
- Listing the priority factory discrepancy by selecting the top discrepancy to be audit first and following from the big to small discrepancy.
- Issuing the notification letter to the selected Factory.

#### Conducting:

- Brief related Law and regulation of PCA to the Owner/GM of Factory
- Documentary Check
- Issue Primary Audit result
- Final Meeting for acceptance Audit result.

#### Reporting:

- Report the result Audit to DG of Customs
- Process to pay duty and Tax affected

### 3. The follow-up of PCA

#### (Please explain of the follow-up action after the report of PCA)

- Send result PCA Audit to Risk Management Section for further action.

## ADDITIONAL QUESTIONS

#### 4. a.The legal framework regarding maximum period after importation that Customs (PCA) could legally demand underpaid duty and the maximum period itself

#### b.The differences in maximum period after importation that Customs (PCA) could legally demand underpaid duty, if any, for example due to the differences in PCA's scope of examination

a. Based on Article 18 of Law on Customs of the Kingdom of Cambodia dated 27 July 2007 stated: The maximum period after importation that Customs (PCA) could legally demand underpaid duty and the maximum period is one year from the Customs declaration.

b. If later one year period is subject to PCA but traders still can adjust their declared by additional small amount of penalty.

### 5.The period of of auditees' keeping books, records and documents, including electronic data based on customs laws and regulations

a. Based on Article 51 of Law on Customs of the Kingdom of Cambodia dated 27 July 2007 stated: The period of auditee keeping books, records and other related documents shall be kept for 10 years at their business premises.

b. Ministry of Economic and Finance Prakas No. 113 on Management of Documents, Books, Records, and Other Information on Import and Export.



## COUNTRY : INDONESIA

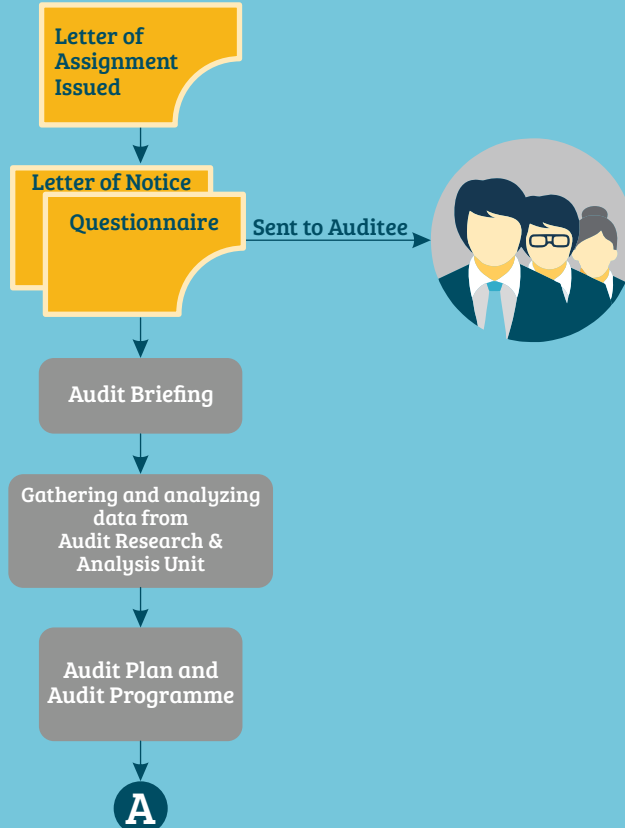
### 1.The legal framework regarding the application of PCA (List all of the respective regulation and legislation regarding PCA)

- a. Law No. 10 Year 1995 on Customs (State Gazette of the Republic of Indonesia Year 1995 Number 75, Supplement to State Gazette of the Republic of Indonesia Number 3612) as amended by Act No. 17 Year 2006 (State Gazette of the Republic of Indonesia Year 2006 Number 93, Supplement Republic of Indonesia Number 4661)
- b. Law No. 11 Year 1995 on Excise (State Gazette of the Republic of Indonesia Year 1995 Number 76, Supplement to State Gazette of the Republic of Indonesia Number 3613) as amended by Act No. 39 Year 2007 (State Gazette of the Republic of Indonesia Year 2007 Number 105, Supplement Republic of Indonesia Number 4755)
- c. Ministry of Finance Regulation No. 234/PMK.01/2015 concerning Organization and Working Procedures of Ministry of Finance
- d. Ministry of Finance Regulation No. 200/PMK.04/2011 concerning Customs and Excise Audit, as amended by Regulation of the Minister of Finance No. 258/PMK.04/2016
- e. Director General of Customs and Excise Regulation No. 31 Year 2017 concerning Customs and Excise Audit Standard
- f. Director General of Customs and Excise Regulation No. 32 Year 2017 concerning Certification and Job Description of Auditor, Audit Team Leader, Audit Technical Controller and Audit Quality Supervisor
- g. Director General of Customs and Excise Regulation No. 33 Year 2017 concerning Guidance of Implementation on Monitoring of Audit Report Follow Up
- h. Director General of Customs and Excise Regulation No. 34 Year 2017 concerning Quality Assurance of Planning, Implementing, Monitoring and Evaluating Customs and Excise Audit Report
- i. Director General of Customs and Excise Regulation No. 35 Year 2017 concerning Customs and Excise Audit Procedures
- j. Director General of Customs and Excise Regulation No. 08 Year 2017 concerning Re-examination on Tariff and Customs Value Guidance

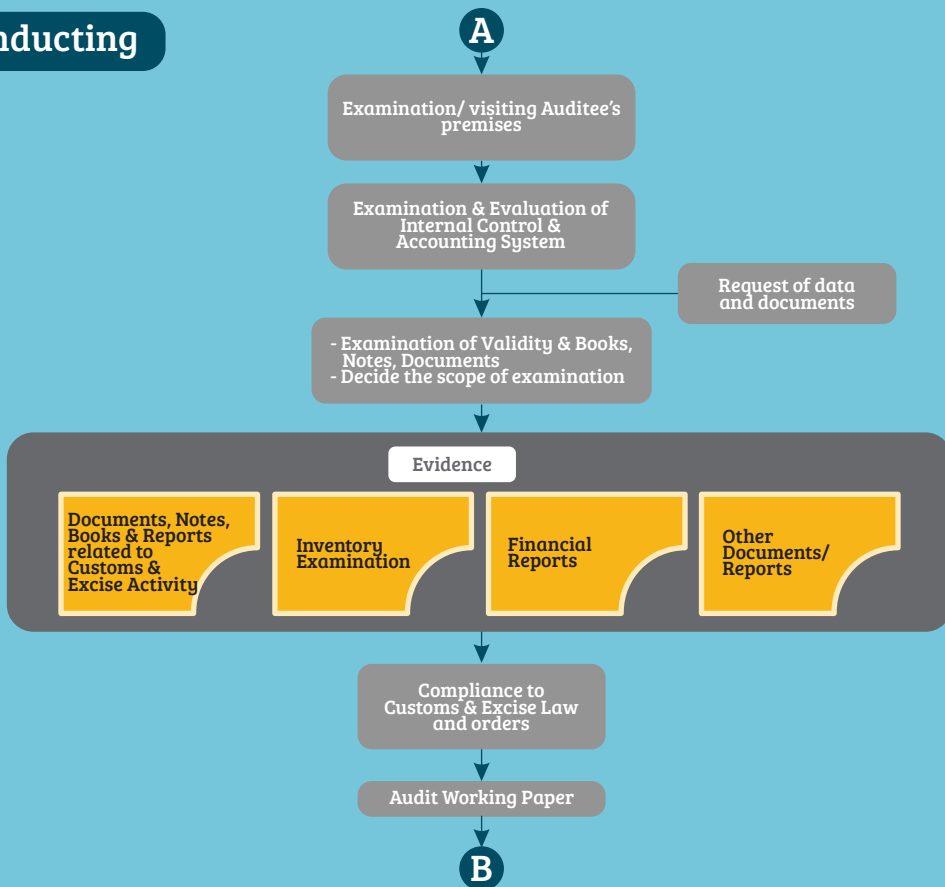
### 2.The process of PCA

(Please explain the process of PCA starting from the planning, conducting and reporting)

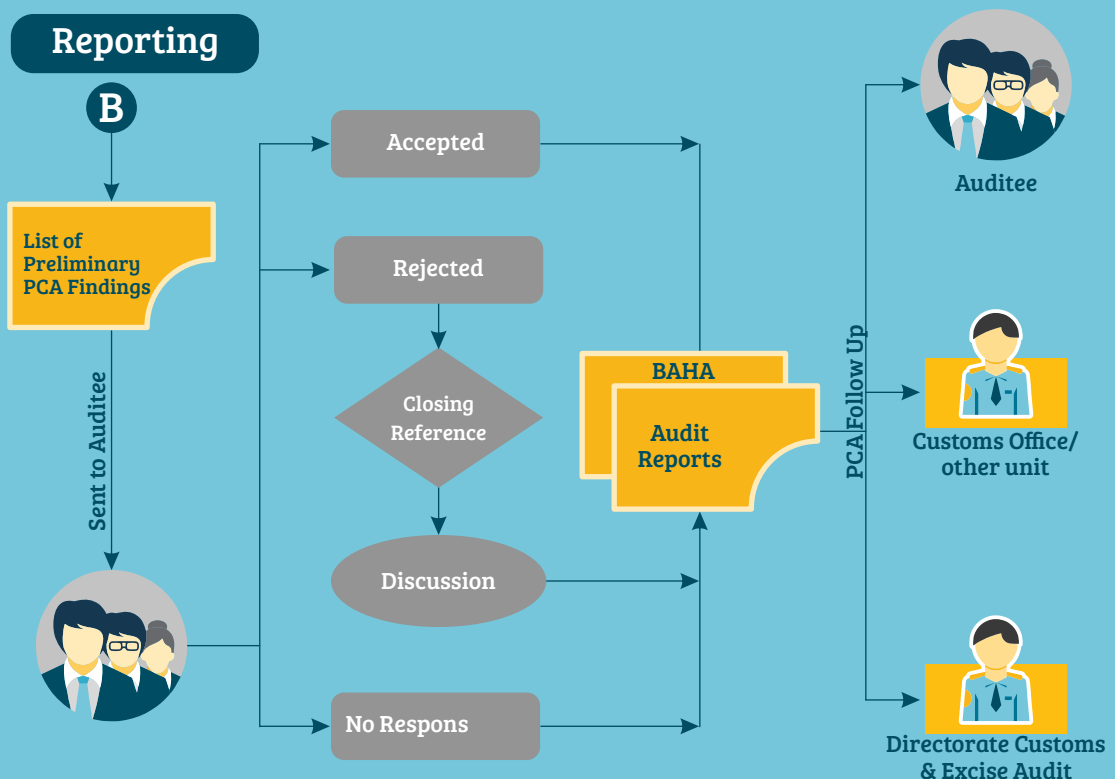
#### Planning



## Conducting



## Reporting



### 3. The follow-up of PCA

#### (Please explain of the follow-up action after the report of PCA)

##### a. Evaluation of Audit Reports

The evaluation of audit report consists of series of activities to assess the audit reports, in the areas as follows:

- Fulfilment of audit programs and procedures
- Compliance to audit standards
- The accuracy of legal frameworks on audit findings

##### b. Monitoring of Audit Reports

The audit reports deliver some recommendations at least to three stakeholders as follows:

- (i) Audit processes give feedbacks to other government units on the improvement of regulations, system and service procedures, and the supervision of such regulations and procedures;
- (ii) Audit may state under or overpayment of duty and the need to improve auditees' internal control structure, thus requires auditees to pay or claim some amounts to the government and repair the weaknesses of their Internal Control Structure.
- (iii) Audit reports may internally act as grounds for the next audit processes and re-examinations.

## ADDITIONAL QUESTIONS

### 4. a. The legal framework regarding maximum period after importation that Customs (PCA) could legally demand underpaid duty and the maximum period itself

### b. The differences in maximum period after importation that Customs (PCA) could legally demand underpaid duty, if any, for example due to the differences in PCA's scope of examination

- a. Based on Regulation of Minister of Finance No. 200/PMK.04/2011 concerning Customs and Excise Audit, as amended by Regulation of the Minister of Finance No. 258/PMK.04/2016 article 12, PCA's scope of examination is 2-year period prior to the issue of assignment letter and can be extended up until 10-year period.

#### Article 12

- (1) General Audit Period set for 2 (two) years up to the end of the month prior to the issuance of the assignment letter.
- (2) Period of Special Audit and Investigation Audit determined as needed..
- (3) In the case of the General Audit period is less than 2 (two) years, it begins since the Auditees' first customs and/or excise activities until the end of the month prior to the issuance of the assignment letter.

Particularly in the case of rate and customs value, based on Law No. 17 Year 2006, Article 17 point (1), Customs (PCA) could only legally demand underpaid duty for 2 years.

"The Director General of Customs and Excise may redetermine the customs tariff and value due to import duty calculation in the period of 2 (two) years since the date of customs clearance."

- b. Referred to a, the Article 12 point (4), the Director General of Customs and Excise Officers or the appointed officers may extend the period of the General Audit referred to in paragraph (1) a maximum of 10 (ten) years.

## 5. The period of of auditees' keeping books, records and documents, including electronic data based on customs laws and regulations

- a. Law No. 10 Year 1995 on Customs as amended by Act No. 17 Year 2006, article 51, point 3:

"(3) Financial Statements, books, notes and documents which is a base evidence of books keeping, letter which related to business process

including electronic data, and also papers related to customs activity shall be saved for minimum of 10 (ten) years in the business premises in Indonesia."

## COUNTRY : MALAYSIA

### 1.The legal framework regarding the application of PCA (List all of the respective regulation and legislation regarding PCA)

#### *Records of imported goods*

##### **SECTION 100A.**

- (1) Every person who has possession of documents and records pertaining to valuation of goods imported shall preserve for a period of six years following the importation of the goods all records that relate to the purchase of, cost of, value of, payment for and disposal of the goods.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and—
  - (a) where the value of the goods can be ascertained, shall be liable to a fine of not less than two times and not more than ten times the value of the goods; or
  - (b) where the value of the goods cannot be ascertained, shall be liable to a fine of not less than one hundred thousand ringgit and not more than five hundred thousand ringgit

#### *Access to place or premises*

##### **SECTION 106A.**

- (1) Any senior officer of customs shall for the purposes of this Act at all times have access to any place or premises where an importer carries on his business or where any person who has dealings with such importer carries on his business.
- (2) Where any senior officer of customs enters upon any premises in accordance with the provisions of this section, then—
  - (a) he may require the importer or the person who has dealings with such importer, as the case may be, to produce any book, data, document or other record, or thing which such importer or person is required to keep under the

provisions of this Act, or which relate to any imported goods;

- (b) he may examine any book, data, document or other record, or thing and make copies of or take extracts from any such book or document;
- © he may seize and detain any book, data, document or other record, or thing if in his opinion it may afford evidence of the commission of any offence under this Act;
- (d) he may require the importer or the person who has dealings with such importer or any person employed by such importer or person to answer questions relating to—
  - (i) any book, data, document or other record, or thing;
  - (ii) any entry in any book, data, document or other record; or
  - (iii) any imported goods;
- (e) he may require any container, envelope or other receptacle in any such premises to be opened;
- (f) he may at the risk and expense of the importer or the person who has dealings with such importer open and examine any package, or any goods or materials, in any such premises.

#### *Power of Investigation*

##### **SECTION 106B.**

A proper officer of customs shall have all the powers necessary to carry out an inspection and to investigate the commission of any offence under this Act.

## 2.The process of PCA

### (Please explain the process of PCA starting from the planning, conducting and reporting)

#### *Planning*

Risk Assessment Units within PCA will profile and select companies for post clearance audit. PCA at respective states will prepare the schedule of companies to be audited every quarterly and submits the list to PCA Headquarters for monitoring and record purposes.

The audit team comprising minimum two senior officers will analyse information regarding past importation before conducting the audit.

#### *Conducting the audit*

- . Notice of visit
- . Audit visit
- . Initial discussion with company's personnel regarding companies business, organization structure, custodian of relevant documents.
- . Check accuracy of Customs declarations

- . Inspect invoices, payment records, importation documents, accounting records and other relevant documents
- . Gather evidence of non-compliance
- . Look out for incorrect declarations, non-declaration and any other non-compliance and incriminating evidence
- . Seizure of documents/exhibits, if necessary
- . Seizure notice
- . Search warrant (if necessary) and make a police report
- . Recording statements from Company Directors (non-compliance cases)

#### *Report Findings*

- . Prepare audit report

### 3. The follow-up of PCA

#### (Please explain of the follow-up action after the report of PCA)

- . If there is short collection, to issue notice of claim
- . If there is non-compliance, then issue compound notice or prepare to initiate criminal action.
- . For non-compliance cases to revisit the company within 1-3 years (depending on the extent of non-compliance)

### ADDITIONAL QUESTIONS

4. a. The legal framework regarding maximum period after importation that Customs (PCA) could legally demand underpaid duty and the maximum period itself
- b. The differences in maximum period after importation that Customs (PCA) could legally demand underpaid duty, if any, for example due to the differences in PCA's scope of examination

a. Customs Act 1967, Section 17(1)

- Person liable to pay customs duties or other moneys shall pay the deficiency on demand being made within three years from the date on which customs duty was payable or deficient customs duty was paid.

b. Not applicable.

### 5. The period of of auditees' keeping books, records and documents, including electronic data based on customs laws and regulations

Customs Act 1967. Records of Imported goods.  
Section 100A.

- (1) Every person who has possession of documents and records pertaining to valuation of goods imported shall preserve for a period of six years following the importation of the goods all records that relate to the purchase of, cost of, value of, payment for and disposal of the goods.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and—

- (a) where the value of the goods can be ascertained, shall be liable to a fine of not less than two times and not more than ten times the value of the goods; or
- (b) where the value of the goods cannot be ascertained, shall be liable to a fine of not less than one hundred thousand ringgit and not more than five hundred thousand ringgit.

## COUNTRY : MYANMAR

### 1.The legal framework regarding the application of PCA (List all of the respective regulation and legislation regarding PCA)

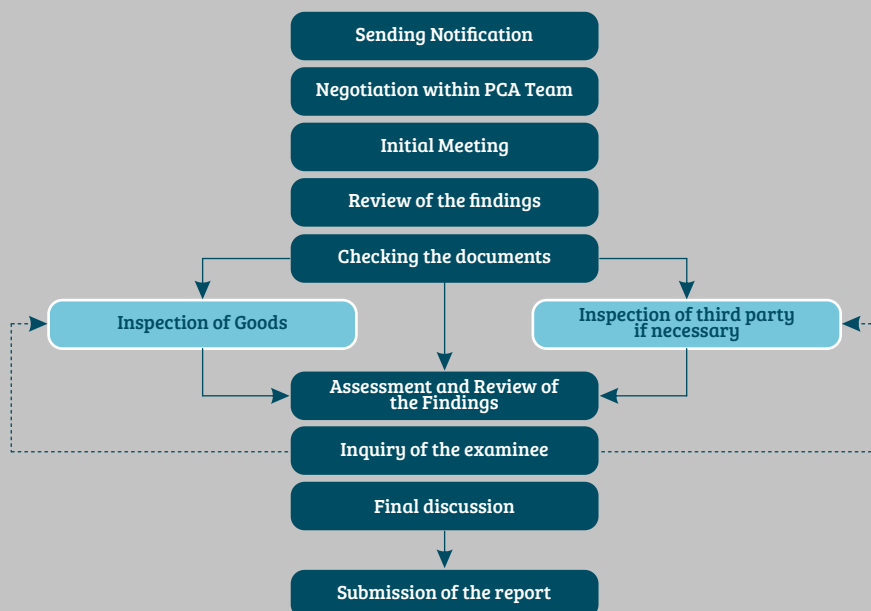
Already enacted for PCA on 17-3-2015 as follow Sea Customs Law(Amended)

- (a) Para:194-A(1) (2) (3) (4)
- (b) Para:167 (78-A,78-B,78-C,78-D)

### 2.The process of PCA

(Please explain the process of PCA starting from the planning, conducting and reporting)

According to our strategic plans of our department, developing PCA procedure is expected to complete at the time from August to December, 2016, conducting awareness within the period of January – March, 2017 and Applying it in April, 2017.



### 3. The follow-up of PCA

(Please explain of the follow-up action after the report of PCA)

Myanmar Customs Department monitor compliance status of auditees after audit report. Always encourage the auditees to comply with the customs law and regulation.

## ADDITIONAL QUESTIONS

- 4. a.The legal framework regarding maximum period after importation that Customs (PCA) could legally demand underpaid duty and the maximum period itself
- b.The differences in maximum period after importation that Customs (PCA) could legally demand underpaid duty, if any, for example due to the differences in PCA's scope of examination

- (a) Seven years
- (b) Between one year to seven years

### 5.The period of of auditees' keeping books, records and documents, including electronic data based on customs laws and regulations

Under Sea Customs amended law Para

## COUNTRY : SINGAPORE

### 1.The legal framework regarding the application of PCA (List all of the respective regulation and legislation regarding PCA)

Section 88 of the Customs Act empowers the Director-General or any officer of customs authorized by him to have full and free access to all buildings, places, books, documents and other records for any of the purposes of this Act, and may inspect, copy or make extracts from any such books, documents or records.

Section 90 of the Customs Act requires every importer/exporter of dutiable goods or their agent to keep the documents and records relating to invoices, books of accounts, bills of lading, packing lists, et cetera for 5 years. Our officers are empowered to require the company to submit these documents for verification and investigation purposes.

### 2.The process of PCA (Please explain the process of PCA starting from the planning, conducting and reporting)

Risk Assessment Branch and Intelligence Branch will profile and select companies for post clearance audit. If the company is high risk, it will be referred to Trade Investigation Branch for planned operations to search for evidence of evasion of duty/GST payable and non-compliance of Customs rules and regulations by traders. Else, the company will be referred to Company Compliance Branch to conduct informed/ surprised field audit. Upon receiving the target, Company Compliance Branch will check on the import/export/transshipment history of the target and plan for a suitable day to visit the company. If the approach is informed audit, the target will be notified.

#### *Preparing the Audit and Investigation*

- Company profile
- Past records of Customs offences
- Past shipments
- Establish a prima facie case of fraud

#### *Conducting the audit*

- Audit visit
- Notice of visit or search warrant
- Gather evidence of non-compliance

- Seizure of documents/exhibits, if necessary
- Identify computer and electronic storage devices for imaging
- Detention receipt
- Police report
- Consult other Branches
- Valuation, classification
- Permit requirements
- Strategic Goods control matters.
- Reconcile trade documents
- Invoices
- Bills of Lading/AWBs
- Accounting records
- And other relevant documents
- Check accuracy of Customs declarations
- Look out for incorrect declarations, non-declaration and any other non-compliance and incriminating evidence
- Interview employees and declaring agents

#### *Report Findings*

Prepare audit report

### 3. The follow-up of PCA (Please explain of the follow-up action after the report of PCA)

If discrepancies are found, the company will be referred for further investigation. Else, the company will be informed of the close of the audit.

## ADDITIONAL QUESTIONS

- a.The legal framework regarding maximum period after importation that Customs (PCA) could legally demand underpaid duty and the maximum period itself
- b.The differences in maximum period after importation that Customs (PCA) could legally demand underpaid duty, if any, for example due to the differences in PCA's scope of examination

- a. There is no maximum period under the law for the recovery of duties owing to the government if the trader is found to have made an incorrect declaration.
- b. Not applicable.

## 5.The period of of auditees' keeping books, records and documents, including electronic data based on customs laws and regulations

The law requires every importer, exporter or his agent keep all documents relating to the goods for period of not less than 5 years. The means of record-keeping can be by hard copy or by electronic means.

Customs Act, Chapter 70

Preservation of records

87.

- (1) Any duty under this Act to keep or preserve any books of account, register, stock book or other records may, after the goods to which such records relate have been removed from customs control, be discharged by the preservation of the information contained therein by such means as the Director-General may approve.
- (2) Where the information referred to in subsection (1) is so preserved, a copy of any document forming part of the records shall, subject to subsections (3) and (4), be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.
- (3) The Director-General may, as a condition of approving under subsection (1) any means of preserving information contained in any books of account, register, stock book or other records, impose such reasonable requirements as appear to him necessary for securing that the information will be as readily available to him as if the books of account, register, stock book or records themselves had been preserved.
- (4) A statement contained in a document produced by a computer shall not by virtue of subsection (2) be admissible in evidence whether in civil or criminal proceedings except in accordance with the Evidence Act (Cap. 97).

Retention of trade documents

90.

- (1) Every importer or exporter of dutiable goods or his agent shall keep the following documents and records relating to the goods:
  - (a) invoices;

- (b) books of accounts;
  - (c) bills of lading;
  - (d) packing lists;
  - (e) certificates of origin;
  - (f) certificates of analysis;
  - (g) certificates of insurance;
  - (h) any document or record on the terms of trade relating to the purchase, importation, sale or exportation of the goods by the importer or exporter or his agent; and
  - (i) such other documents or records as may be prescribed.
- (2) The documents and records referred to in subsection (1) shall be retained —
    - (a) in relation to goods in a Government warehouse or licensed warehouse, for a period of not less than 5 years from the date those goods are removed from the Government warehouse or licensed warehouse, as the case may be; or
    - (b) in any other case, for a period of not less than 5 years from the date on which the goods are released by the proper officer of customs.
  - (2A) The duty under this section to retain documents and records may be discharged by the keeping, or preservation of the information contained therein, in accordance with section 87.
  - (2B) Subsection (2A) is without prejudice to any obligation relating to the retention of any document or record under such treaty, memorandum of understanding or other agreement between Singapore and the government of a country or territory outside Singapore, as may be prescribed.
  - (3) Any person who fails, without reasonable excuse, to comply with this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.



## COUNTRY : THAILAND

### 1.The legal framework regarding the application of PCA (List all of the respective regulation and legislation regarding PCA)

#### - Customs Act (B.E.2560) Section 157

In the case where there are reasonable grounds to suspect that there has been a violation or non-compliance with any provisions of this Act or other laws relating to the customs, the Director-General or a person authorized by the Director-General, or a competent official authorized by the Director-General or a person authorized by the Director-General by a written order, shall have the duties of inspection with the following powers:

- (1) To enter the place of business of an importer, exporter, agent of a vessel, agent of such persons or a relevant person or other places relevant with such person, in the period between sunrise and sunset or during official working hour. In such case there shall also be the power to order such person or other persons in such place to perform any act necessary for the inspection;
- (2) To arrest an alleged offender under this Act without a warrant when a flagrant offence is committed or there are other grounds under the Criminal Procedure Code in order to

deliver the alleged offender to an inquiry officer;

- (3) To seize or attach accounts, documents, evidences or data in any form or other things that may be used to prove an offence under this Act or other laws relating to the customs
- (4) To issue a summons to an importer, an exporter, a transporter, an agent of such person or a person related to an importation or an exportation of goods to provide an oral or a written statement, or submit an account, a document, evidences or other necessary articles for a benefit of an examination. A period of time of not less than seven days from the date of receiving such summons shall be given to the said persons.

#### - Customs Act (B.E.2560) Section 239

Any person who obstructs or fails to comply with the order of a customs officer entrusted by the Director-General under Section 157 shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding one hundred thousand Bath, or to both.

### 2.The process of PCA

#### (Please explain the process of PCA starting from the planning, conducting and reporting)

1. Assess potential risk and request for approval on POST CLEARANCE AUDIT. Prepare audit plan by gathering data/necessary document.
2. Notify trader at least 10 days in advance from the date of notification issued. Date, time and place of audit should be specified in the written notification.
3. At least 3 persons are required for conducting audit (Head of the group must not be lower than Professional Level). The officers must show ID card issued by the Thai Customs Department and provide "Official Introductory Letter".
4. The audit must be finished within 10 working days (Extension of audit procedure is allowed NOT more than 3 times. Each time will not exceed 10 days).
5. If there is no inquiry/no offence, the officer shall provide "Note on Post Clearance Audit at Premise" with "no offence was found".
6. If offence is found or there are provable suspect that there has been a deficiency on tax payment, auditees ought to certify such matter by signing/stamping with company's seal then official will bring back the document bearing offence and related document to the Customs Department for further audit.
7. If there are inquiry/suspicion/inconvenience to the extent to be believable that truth is being concealed/document evidence are being hidden, official will seek an approval on search by filing for search warrant. Keep records as historical data of trades on their past offenses for up-dating risk assessment data base.

### 3. The follow-up of PCA

#### (Please explain of the follow-up action after the report of PCA)

The results of PCA should be followed up to check whether necessary improvements have been made, for example, after the case was settled, physical inspection would be required by the Risk Management Unit at the port of entry for the next 3, 6 or 12 months. Then, PCA unit will conduct audit at its premise again 3 years later.

## ADDITIONAL QUESTIONS

4. a. The legal framework regarding maximum period after importation that Customs (PCA) could legally demand underpaid duty and the maximum period itself
- b. The differences in maximum period after importation that Customs (PCA) could legally demand underpaid duty, if any, for example due to the differences in PCA's scope of examination

a. The duty assessment in case of underpaid duty shall be conducted within three years from the date of declaration issuing according to the Customs Act (B.E.2560) Section 19 paragraph two.

b. In case of period extension by the Director-General due to the insufficient period, the duty reassessment could be extend not exceed two years, and then five years more if intention of tax and duty defraud was verifiable.

## 5. The period of of auditees' keeping books, records and documents, including electronic data based on customs laws and regulations

### *Customs Act (B.E.2560) Section 63*

An importer, an exporter, a transporter and a person concerned as specified by the Director-General shall have a duty to keep an account, a document, an evidence and any other information related to goods being passed or have been passed through a customs formality for a period of not less than five years from the date of an importation or an exportation.

In case the persons under paragraph one cease operations, such persons or their liquidators shall keep the account, the document, the evidence and the information for another two years from the date of ceasing operation.

The keeping of the account, the document, the evidence and the information under paragraph one and two shall be in accordance with the rules, procedures and conditions specified by the Director-General

### *Customs Act (B.E.2560) Section 213*

Any person who fails to comply or violates with Section 63, shall be liable to an imprisonment for a term not exceeding six months or a fine of not exceeding fifty thousand Bath or both.

Announcement of Customs Department  
No.36/2561 (Documents to be kept)

## COUNTRY : VIETNAM

### 1.The legal framework regarding the application of PCA (List all of the respective regulation and legislation regarding PCA)

- Customs Law No 42/2005/QH11 dated 14/6/2005:

*“Article 32 Post-customs clearance inspection*

1. Post-customs clearance inspection means the conduct of an inspection by Customs aimed at:

(a) Evaluation of the accuracy and truthfulness of the contents of documents which any goods owner, person authorized by a goods owner, organization or individual having directly imported or exported goods has declared, paid or presented to the customs office in respect of imported or exported goods which have cleared customs;

(b) Evaluation of observance of law on customs during the process of conducting customs clearance procedures for imported or exported goods.

2. Post-customs clearance inspection shall be conducted in the following cases:

(a) Upon discovery of indications of tax fraud, commercial fraud or a breach of the provisions on administration of import and export;

(b) With respect to cases not in the category stipulated in Clause 2(a) of this Article, a decision on post-customs clearance inspection shall be based on the results of an analysis of information from the database processing system; from a reconnaissance by Customs; and on information from bodies, organizations, individuals and Customs in other countries.

3. Within five years from the date of registration of the customs declaration in respect of imported or exported goods which have cleared customs, the director of a Customs Department of a province, inter-province or city under central authority shall be entitled to make a decision on post-customs clearance inspection. Where necessary, the General Director of the General Department of Customs shall make a decision on post-customs clearance inspection.

4. Based on the decision on post-customs clearance inspection, State employees of Customs shall inspect directly books of account, accounting vouchers and other documents relating to the consignment of imported or exported goods which has cleared customs at the enterprise concerned and compare them against the customs declaration and documents included in the customs file; and where necessary and possible, shall carry out inspection of actual goods.

*and supervision (Article from 64 to 71):*

5. During an inspection, the concerned bodies, organizations and individuals shall facilitate and make available any accounting vouchers, information and documents necessary for the inspection at the request of the customs office.

The Government shall provide specific regulations

on post-customs clearance inspection.”

- Decree No 154/2005/ND-CP dated 15/12/2005 detailing the implementation of a number of articles of the Customs Law Regarding Customs procedures, inspection and supervision (Article from 64 to 71):

Article 64.- Cases of post-customs clearance inspection

Article 65.- Contents of post-customs clearance inspection

Article 66.- Inspection methods

Article 67.- Competence to decide on inspection

Article 68.- Inspection duration

Article 69.- Processing of inspection results

Article 70.- Rights and obligations of inspectors

Article 71.- Rights and obligations of inspected units

- Circular No 128/2013/TT-BTC dated 10/9/2013 On customs procedures, customs supervision and inspection; export tax, import tax, and administration of tax on exported goods and imported goods (Section 1: from Article 139 to 147):

Article 139. Objects of post-clearance inspection

Article 140. Principles, purposes, and time limit for post-clearance inspection

Article 141. Scope of post-clearance inspection

Article 142. Contents of post-clearance inspection

Article 143. Verification during post-clearance inspection

Article 144. Post-clearance inspection at the customs authority

Article 145. Post-clearance inspection on company premises

Article 146. Tasks and entitlements of the chief of the inspectorate

Article 147. Management and work allocation of during post-clearance inspection on company premises

- Customs Law No 54/2014/QH13 dated 23/6/2014 (shall be valid from 1/1/2015): from Article 77 from 82.

The new Customs Law define more detail of Cases of post-customs clearance inspection; Rights and obligations of inspector; Rights and obligations of inspected units; The maximum period of inspection at customs authority is increased from 02 to 05 working days; the maximum period of planned inspection at the company premises is reduced from 15 to 10 working day.

## 2.The process of PCA

### (Please explain the process of PCA starting from the planning, conducting and reporting)

The process of PCA is attached to Decision No 3550/QĐ-TCHQ dated 1/11/2013 of Director general of General Department of Vietnam.

The process of PCA including 2 period: Post-clearance inspection at the customs authority and Post-clearance inspection on company premises. They can be connected or independent.

#### 2.1.Post-clearance inspection at the customs authority:

Post-clearance inspection at the customs authority inspects the customs dossiers, exported and imported goods that are granted clearance within 60 days from the clearance date.

- To select a the company/good and the scope of post-clearance inspection;
- To collect, analyse the information about the objects of inspection; after that issuing a decision of inspection;
- To request the company to provide documents related to the customs dossier, exported or imported goods being inspected, provide relevant explanation, and physically inspect the goods that are granted clearance where necessary. The maximum inspection period is 02 working days.
- After inspection is finished, the customs officer shall report the contents, and result of the inspection, suggest contents of the notification of inspection result, and necessary measures. in particular:
  - + If the company provides explanation, information and documents proving that the export, import, the tax stated and paid are proper, the customs dossier is accepted.
  - + If the company fails to prove that the tax stated is correct and agree with the inspection result given by the customs authority, the company shall make additional tax statement and tax payment within 10 days from the day on which the inspection result is notified. If the company fails to make additional statement and tax payment as prescribed the customs authority shall make a decision to carry out an inspection on company premises.
  - + If the company fails to prove that the tax stated is correct but does not concur with the inspection result given by the customs authority, the customs authority shall make a decision to carry out an inspection on company premises.
  - + If the company fails to provide explanation and documents, or refuses to provide, or delay providing documents at the request of the customs authority, the customs authority shall impose penalties for administrative violations as prescribed by law and update them on the database of the customs to inspect the next imported or exported shipment of the company, consider making a decision to impose tax as prescribed by law, or make a

decision to carry out inspection on company premises if the basis for tax imposition is not ample.

The head of the units that carries out the inspection shall sign and issue the notification of inspection result to the company or make a decision to carry out the inspection on company premises.

#### 2.2.Post-clearance inspection on company premises:

- Perform preparatory tasks before issuing the decision under the procedure established by the General Department of Customs. The customs authority shall carry out a survey at the company before deciding the inspection where necessary.
- Making and announcing the decision on post-clearance inspection on company premises. In case of inspection (a) that transferred by inspection at customs authority, finding signs of violations of the company, be a Thematic post-clearance inspection under the guidance of the head of a superior customs authority, the maximum period of inspection is 05 working day. In case of planned inspection to assess the observance of customs law by customs declarants (b), the maximum period of inspection is 15 working day. Where necessary, the inspection shall extend this period once. The extended period shall not exceed the length in this case a and case b. The reasons for extension and length of extension shall be written on the decision on extension.

If the company fails to comply with the decision on inspection, the customs authority shall impose administrative penalties, update information on the risk management system to take measures for inspecting the next exported and imported shipments of the company, and impose tax as prescribed.
- Carrying out post-clearance inspection on company premises: announce the decision on inspection; carry out the inspection in accordance with scope, contents, and time on the decision; record in writing the contents during the inspection; report the inspection result with the head of the inspecting unit and the person that decides the inspection.
- Conclusion about post-clearance inspection on company premises: Examine the explanation of the company; sign and issue the official conclusion; If the case is complicated and beyond the competence of the customs authority, the conclusion shall be issued after having opinions of specialized agencies.

### 3. The follow-up of PCA

#### (Please explain of the follow-up action after the report of PCA)

After the inspection finish, the following tasks must be done:

- Issue a decision on tax imposition (if any).
- Issue a decision on administrative penalties (if any);
- If tax evasion that constitutes a criminal offence is discovered, Clause 2 Article 75 of the Law on Tax administration and legislation on criminal proceedings shall apply.
- Update information about tax inspection result on the database system to serve further management.

- Request competent authorities to make amendments or promulgate legislative documents to prevent violations.
- Collect tax and urge companies to pay tax and late payment interest (if any) under decision on tax imposition in accordance with law.
- Monitor and update data on accounting programs; make decision and compel companies to pay tax in accordance with law.
- Report tax collection result to the person that issues the decision on tax imposition.

### ADDITIONAL QUESTIONS

#### 4. a. The legal framework regarding maximum period after importation that Customs (PCA) could legally demand underpaid duty and the maximum period itself

#### b. The differences in maximum period after importation that Customs (PCA) could legally demand underpaid duty, if any, for example due to the differences in PCA's scope of examination

a. The legal framework regarding maximum period after importation that Customs (PCA) could legally demand underpaid duty and the maximum period itself:

“Article 110 Limitation period for applying penalties for breach of the law on tax (Law no 21/2012/QH13 dated on 20 november 2013, amending and supplementing a number of articles of the law on tax administration:

1. In the case of a breach of tax procedures, the limitation period for applying penalties shall be two years from the date on which the breach was committed.

2. In the case of acts of tax evasion or tax fraud not

serious enough to warrant prosecution for criminal liability, declaration of lower amount of tax payable or increasing of tax refundable, the limitation period for applying penalties shall be five years from the date on which the breach was committed

3. Upon expiration of the limitation period for applying penalties for a breach of the law on tax, a taxpayer shall not be penalized but must still pay in full the shortfall of tax, or evaded or defrauded amount of tax into the State budget within ten years from the date on which the breach was committed”

### 5. The period of of auditees' keeping books, records and documents, including electronic data based on customs laws and regulations

The period of of auditees keeping books, records and documents, including electronic data based on customs laws and regulations shall be within 5 years from the registration date of the customs declaration. If the company commits a similar violation beyond the time limit, the company shall make additional statement and tax payment as prescribed.

The laws and regulations related:

- The Law on Customs No. 29/2001/QH10 dated June 29, 2011 and the Law on the amendments to The Law on Customs No. 42/2005/QH11 dated June 14, 2005:

“Article 32 Post-customs clearance inspection:

2. Within five years from the date of registration of the customs declaration in respect of imported or exported goods which have cleared customs, the director of a Customs Department of a province, inter-province or city under central authority shall be entitled to make a decision on post-customs clearance inspection. Where necessary, the General Director of the General Department of Customs shall make a decision on post-customs clearance inspection.”

- Decree No 154/2005/ND-CP dated 15/12/2005 detailing the implementation of a number of articles of the Customs Law Regarding Customs procedures, inspection, and supervision:

“Article 68.- Inspection duration”

- Circular No 128/2013/TT-BTC dated 10/9/2013 On customs procedures, customs supervision and inspection; export tax, import tax, and administration of tax on exported goods and imported goods

“Article 140. Principles, purposes, and time limit for post-clearance inspection”

- Customs Law No 54/2014/QH13 dated 23/6/2014 (shall be valid from 1/1/2015)

“Article 77: Post-customs clearance inspection”

- Decree No 08/2015/ND-CP dated 21/01/2015 (valid from 15/03/15) detailing the implementation of a number of articles of the Customs Law Regarding Customs procedures, inspection and supervision:

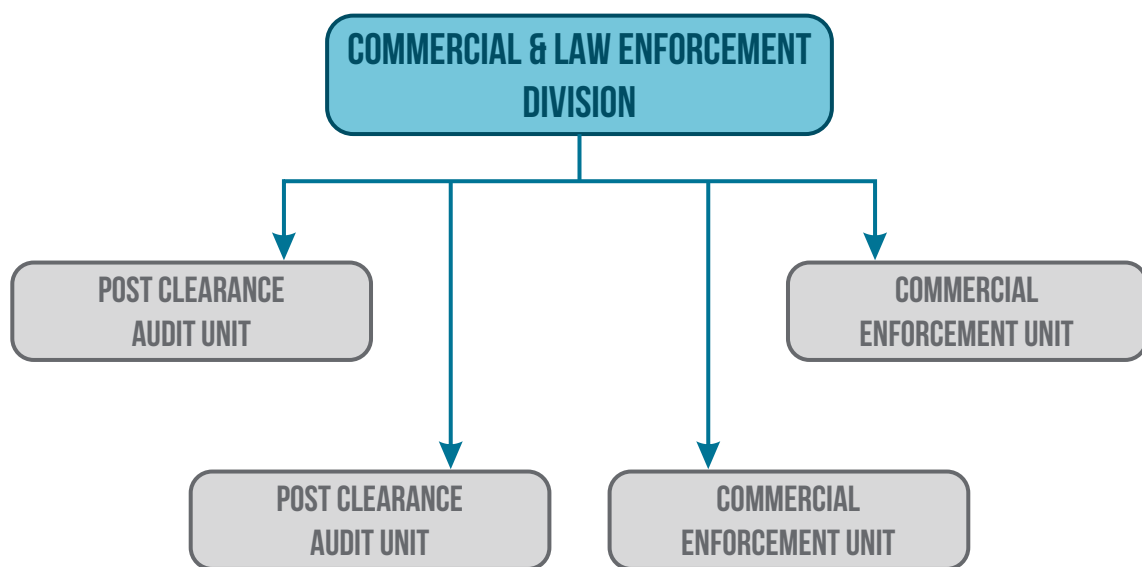
“Article from 97 to 100 in Chapter VI PCA”

# SURVEY II

## SURVEY ON THE ORGANIZATIONAL AND ADMINISTRATIVE STRUCTURES FOR THE POST CLEARANCE AUDIT

### COUNTRY : BRUNEI DARUSSALAM

1.The organizational and administrative structures for the Post Clearance Audit  
(Put the diagram for the Post Clearance Audit)



*\*effective 1st July 2017*

### 2. Brief description about the function of each part in the diagram above

#### PCA Unit:

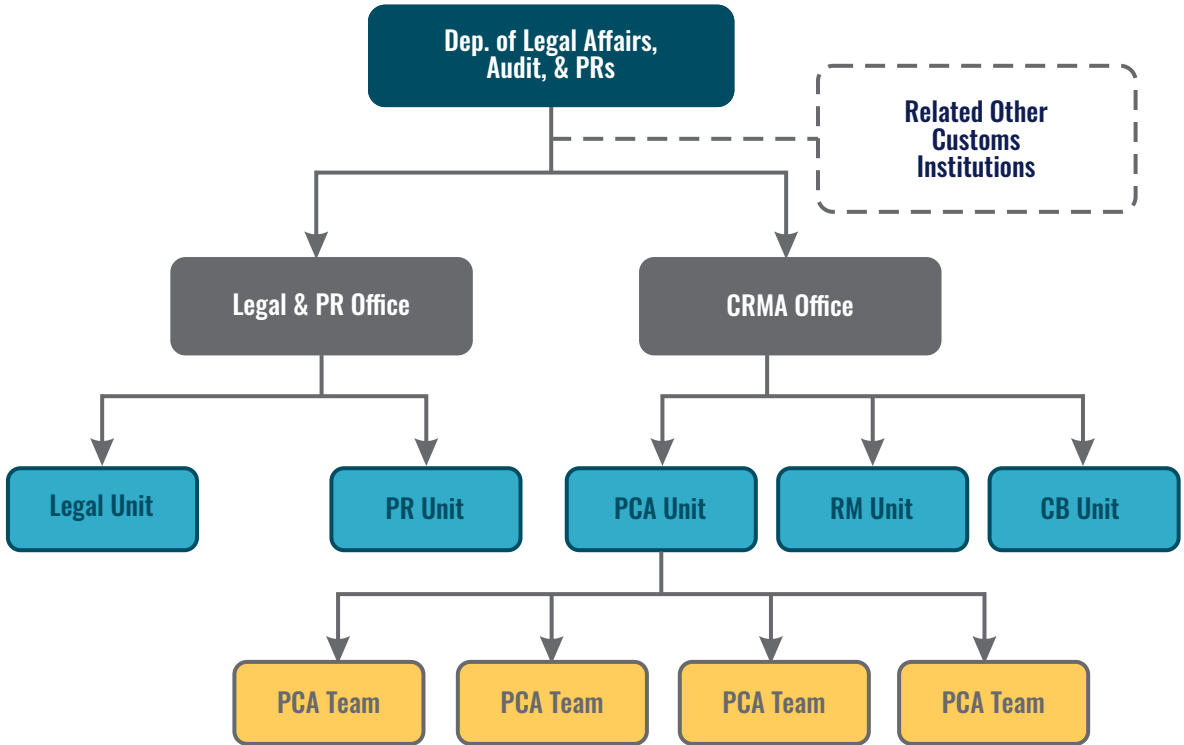
- 1)to conduct audits and examinations of documents on selected importers and companies related to the import/export of goods;
- 2)to detect duties evasion and frauds (to safeguard Customs revenue);
- 3)to verify accuracy and authenticity of Customs declarations in the past period.

#### CE Unit:

- 1)to conduct audits on focused importers and companies on-site examination of documentations.
- 2)to assess and do a survey on reported or targeted importers and companies.
- 3)to enhance compliance of importers and companies with Customs laws and regulations

## COUNTRY : CAMBODIA

1.The organizational and administrative structures for the Post Clearance Audit  
(Put the diagram for the Post Clearance Audit)



Note :

- PR Public Relations Relation
- RM Risk Management Relation
- PCA Unit Structure of PCA Team
- CRMA Customs Risk Management and Audit
- CB Customs Broker

\_\_\_\_\_ : Hierarchical

----- : Functional

## 2. Brief description about the function of each part in the diagram above

### - CRMA

Data Collection, Planning, Public awareness, Human Resource development, and Monitoring PCA work and after audit follow up.

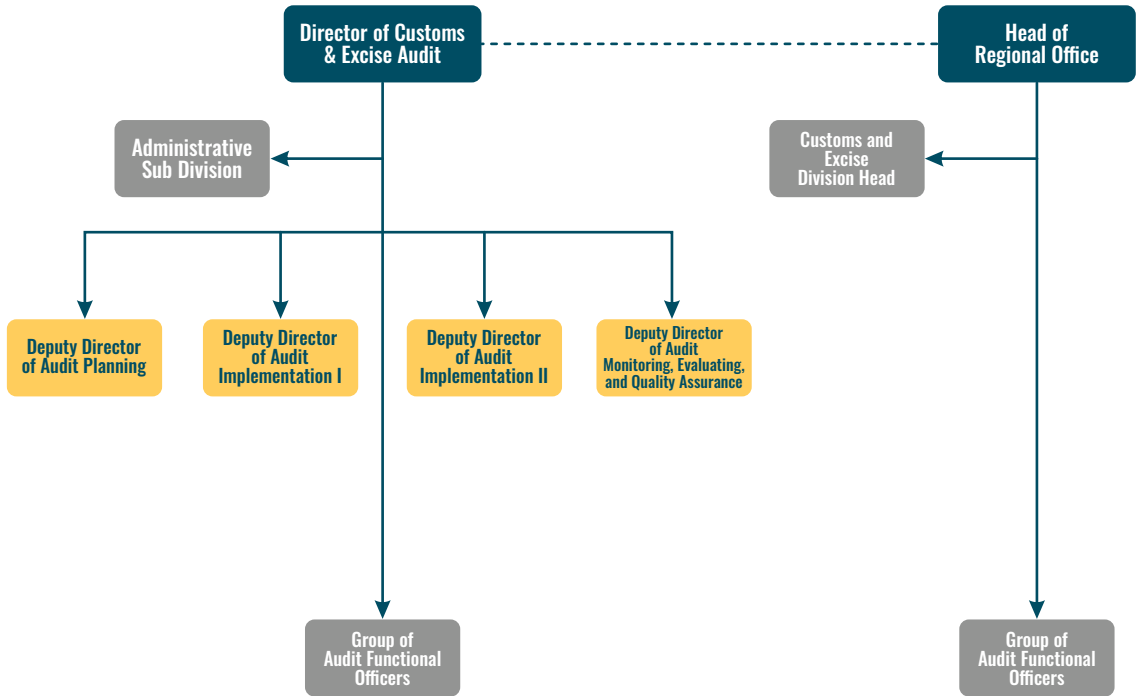
### -PCA Unit

Conduct audit on selected companies.



# COUNTRY : INDONESIA

1.The organizational and administrative structures for the Post Clearance Audit  
(Put the diagram for the Post Clearance Audit)



## 2. Brief description about the function of each part in the diagram above

**Directorate of Audit Customs and Excise (Article 874, Regulation of the Minister of Finance of The Republic of Indonesia Number 234/PMK.01/2015)**

Formulating and implementing policies and technical standardization in customs and excise audit.

**Sub directorate of Audit Planning (Article 878, Regulation of the Minister of Finance of The Republic of Indonesia Number 234/PMK.01/2015)**

- Planning of policy formulation; technical standardization and coaching; evaluation, composition and data management, as well as audit planning in terms of import and export.
- Planning of policy formulation; technical standardization and coaching; evaluation, composition and data management, as well as audit planning in terms of customs facilities.
- Planning of policy formulation; technical standardization and coaching; evaluation, composition and data management, as well as audit planning in terms of excise.

**Sub directorate of Audit Implementation I (Article 882, Regulation of the Minister of Finance of The Republic of Indonesia Number 234/PMK.01/2015)**

- Planning of policy formulation; technical standardization and coaching; evaluation as well as audit conduct and second provision in terms of import and export.
- Planning of policy formulation; technical standardization and coaching; evaluation as well as audit conduct and second provision in terms of customs facilities.
- Planning of policy formulation; technical standardization and coaching; evaluation as well as audit conduct and second provision in terms of excise.



**Sub directorate of Audit Implementation II (Article 886, Regulation of the Minister of Finance of The Republic of Indonesia Number 234/PMK.01/2015)**

- a. Planning of policy formulation; technical standardization and coaching; evaluation as well as audit conduct and second provision in terms of import and export.
- b. Planning of policy formulation; technical standardization and coaching; evaluation as well as audit conduct and second provision in terms of customs facilities.
- c. Planning of policy formulation; technical standardization and coaching; evaluation as well as audit conduct and second provision in terms of excise.

**Sub directorate of Audit Monitoring, Evaluating and Quality Assurance (Article 890, Regulation of the Minister of Finance of The Republic of Indonesia Number 234/PMK.01/2015)**

- a. Planning of policy formulation; technical standardization and coaching; evaluation of customs audit conduct in terms of import and export.
- b. Planning of policy formulation; technical standardization and coaching; evaluation of excise audit conduction.
- c. Planning of policy formulation; technical standardization and coaching; evaluation of customs audit conduct in terms of customs facilities.
- d. Planning of policy formulation; technical standardization and coaching; evaluation of customs and excise audit monitoring;
- e. Planning of policy formulation; technical standardization and coaching; and evaluation of customs and excise audit planning, conducting, and evaluation quality assurance.

**Administrative Sub-Division (Article 893, Regulation of the Minister of Finance of The Republic of Indonesia Number 234/PMK.01/2015)**

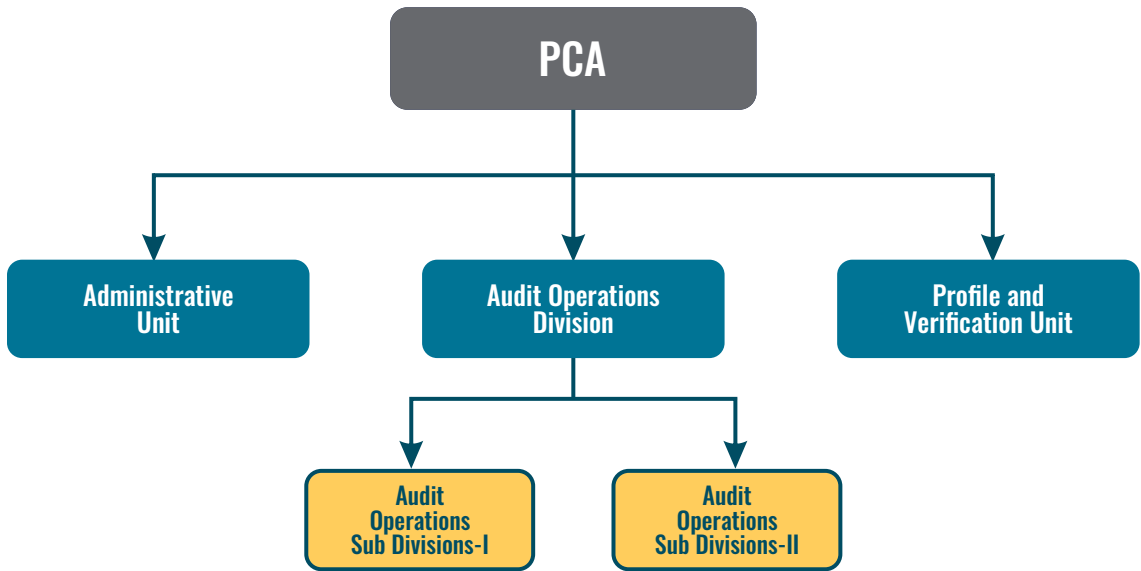
- a. Managing official letters, archives, household and employee affairs, as well as arranging strategic plans and accountability report of Customs and Excise Audit.
- b. In performing the duties, the subdivision were under the Sub directorate Audit Planning.

**Group of Audit Functional Officers**

- a. Conducting audit processes from the planning stage, fieldwork, data examination, and reporting.
- b. Responsible to assess the auditees' compliance towards regulations, including their internal control to match with Customs needs.

## COUNTRY : MALAYSIA

1.The organizational and administrative structures for the Post Clearance Audit  
(Put the diagram for the Post Clearance Audit)



### 2. Brief description about the function of each part in the above diagram

PCA is responsible to ensure compliance to the Customs Act 1976 (Law and Regulations) on matters pertaining to customs declarations. Information and data from other custom's branch i.e. Import/Export, Preventive, Technical Branches are shared with the PCA Branch in order to profile, plan and schedule companies to be audited.

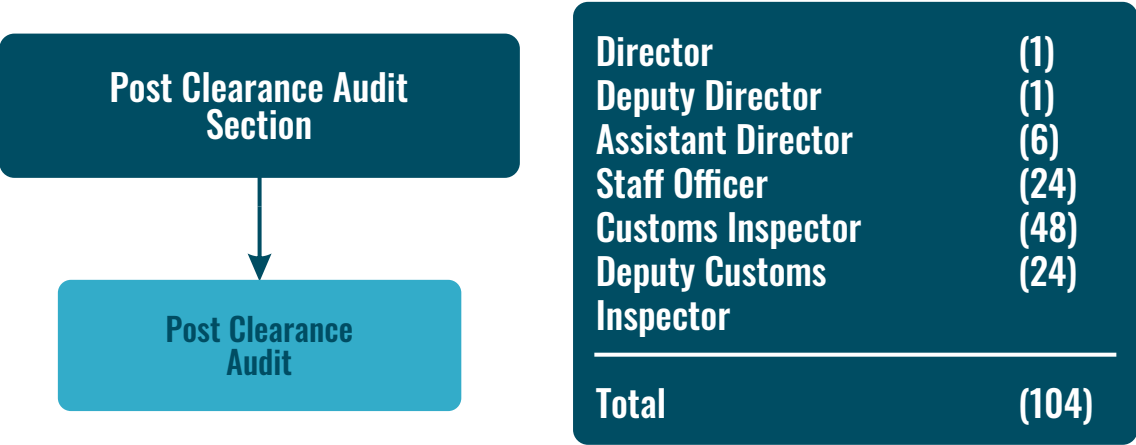
**Administrative Unit** is responsible for general administrative work, compilation of statistics, manage assets i.e. office vehicles for audit purposes, budgeting and carry out other tasks.

**Audit Operations Division** is responsible audit proper, reporting, issuance of short collections and compound notice.

**Profile and Verification Unit** is responsible for the preparation of importer's profile, verification of importers premises/location and directors particulars.

# COUNTRY : MYANMAR

1.The organizational and administrative structures for the Post Clearance Audit  
(Put the diagram for the Post Clearance Audit)

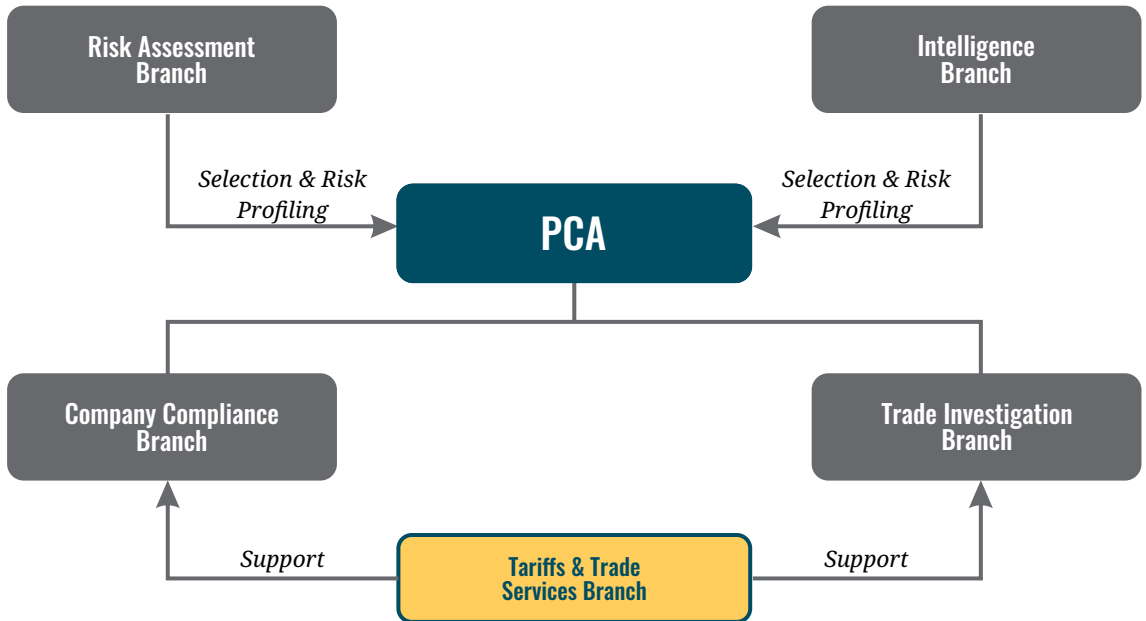


## 2. Brief description about the function of each part in the diagram above

- (1) Selected Auditees
- (2) Preaudit Survey (collecting of information)
- (3) Field Audit
- (4) Analysis of Company
- (5) Audit Report

## COUNTRY : SINGAPORE

1.The organizational and administrative structures for the Post Clearance Audit  
(Put the diagram for the Post Clearance Audit)



## 2. Brief description about the function of each part in the diagram above

PCA is a trade facilitation measure that aims to safeguard revenue interest while providing the necessary support in the implementation of trade facilitating measures and simplified procedures for the movement of goods across borders. It is conducted by teams of CUSTOMS officials after the clearance of goods to uphold trade integrity and to prevent customs duty and tax evasions, as well as to detect false declarations by traders. Through this measure, CUSTOMS aims to enforce CUSTOMS legislations and ultimately, maximize traders' self-compliance and eliminate future errors.

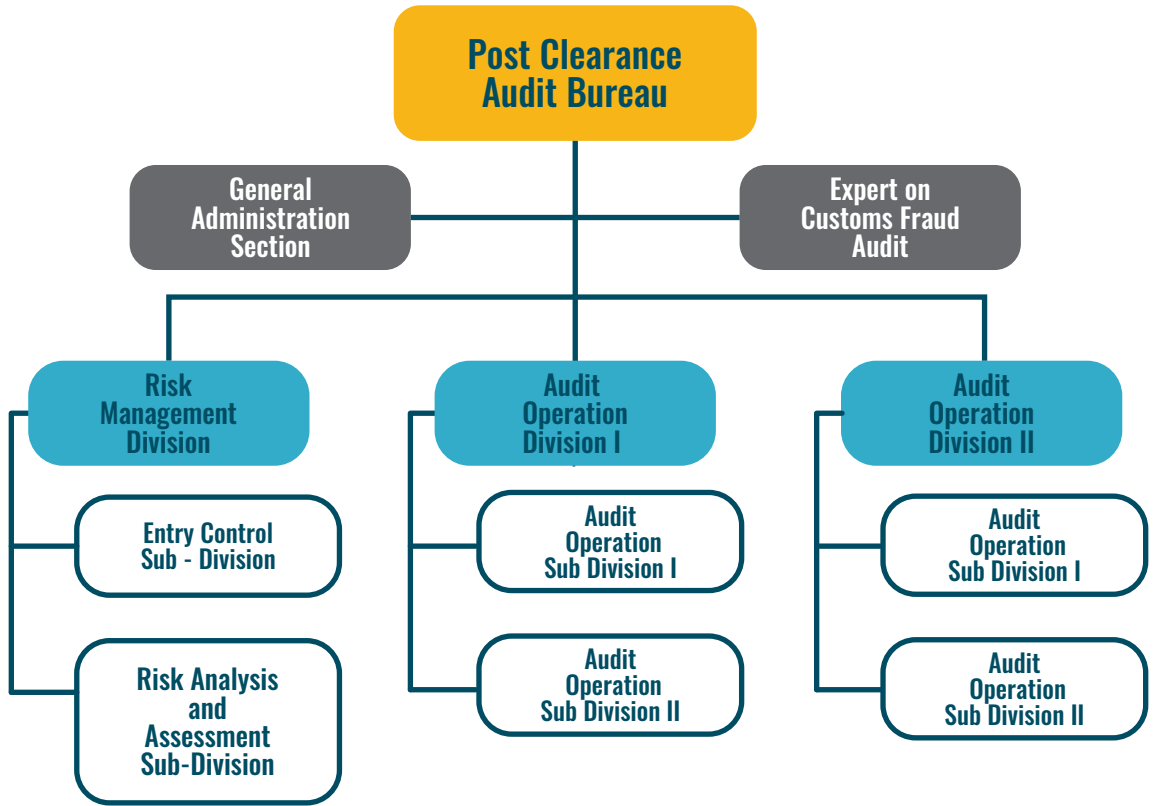
The Risk Assessment Branch and Intelligence Branch are responsible for selection and risk profiling of companies for PCA.

PCA done by the following 2 branches:

- Company Compliance Branch
- Trade Investigation Branch (Fraud)

## COUNTRY : THAILAND

1.The organizational and administrative structures for the Post Clearance Audit  
(Put the diagram for the Post Clearance Audit)



## 2. Brief description about the function of each part in the above diagram

Post Clearance Audit Bureau is responsible for intelligence activities and field audits whether tariff nomenclature, tax and duty incentives and import/export formalities applied are compliant with relevant laws and regulations; maintaining post clearance documents and conducting post clearance review; auditing records, accounts, and documents on imports and exports at the importer's / exporter's premises or related parties; and analyzing risks on imports, exports, and tax and duty incentives, including establishing and updating the Central Profile. It composes of 3 divisions, 1 sub-division and 1 expert on Customs Fraud Audit.

**Expert on Customs Fraud Audit** give advice for officers on the tasks both auditing and legal.

**General Administrative Sub-division** is responsible for correspondence/general administrative works, PR and dissemination of Bureau's performance, coordination and provide general services, forming projects in accordance with strategy, manage and develop human resources,

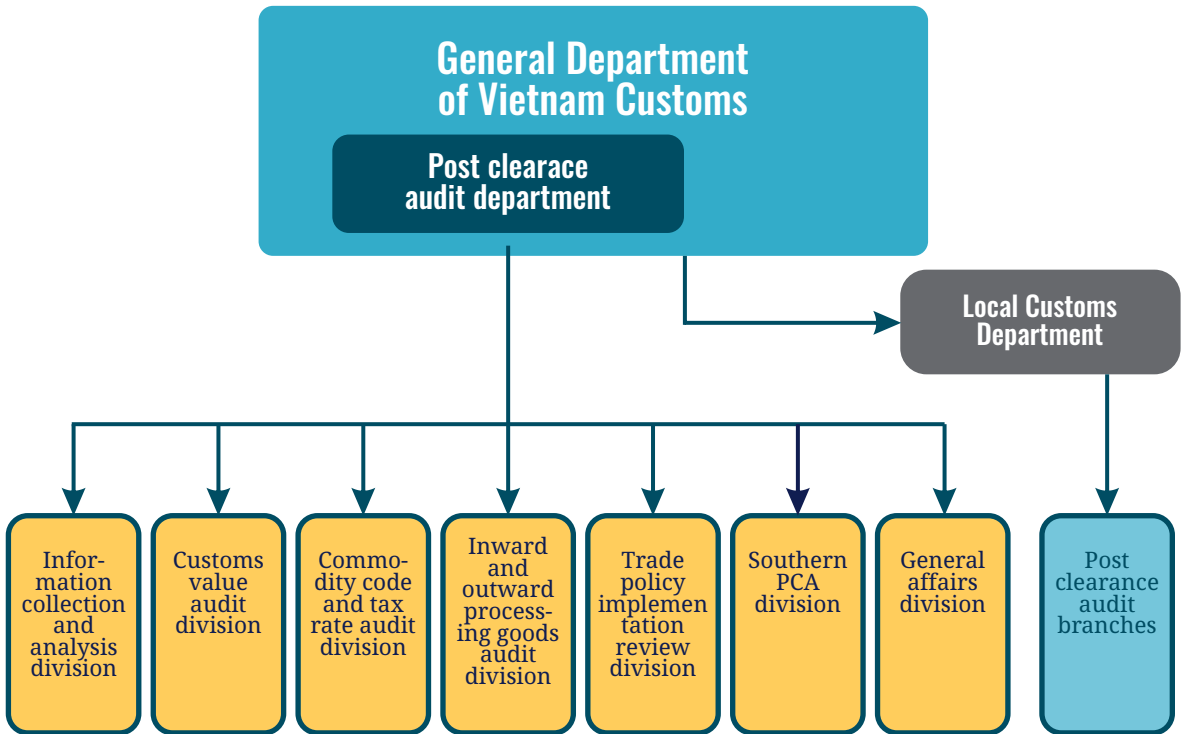
budgeting and office supply control and carry out other tasks as assigned.

**Risk Management Division** is responsible for planning and specify guidelines or measures on auditing tax collection, gather and analyze import/export data for risk assessment, planning, evaluating, developing, improving and working on Central Profile, auditing document after customs clearance, valuation, duty and tax calculation an issue statement required a payment of deficit tax, store import/export declaration and carry out other tasks as assigned.

**Audit Operation Division I,II** are responsible for planning and specify guidelines or measures on auditing tax collection, pre-audit survey, planning, auditing records accounting books, record, and documents, verify if tariff classification tariff role have been correct, and all requirements to qualify for tax incentives have been completed and carry out other tasks as assigned.

## COUNTRY : VIETNAM

1.The organizational and administrative structures for the Post Clearance Audit  
(Put the diagram for the Post Clearance Audit)



## 2. Brief description about the function of each part in the diagram above

### I. PCA department:

According to Decision No. 1015/QĐ-BTC dated 11/5/2010 by the Ministry of Finance, Post-Clearance Audit Department which is under the General Department of Customs has position and functions, duties and powers, organizational structure, as follows:

#### **Position and function**

Post-Clearance Audit Department, a unit of General Customs Department, which functions is to advise and assist the Director General of General Customs to manage, direct, guide, inspect the units in the implementation of PCA laws; directly implement PCA within the tasks and powers prescribed by law.

#### **Duties and powers**

1. To submit to the General Department of Customs to the Minister of Finance:
  - a) Legal documents, written regulations on customs clearance audit promulgated under the authority of the Minister of Finance;
  - b) The projects, programs and plans for post-clearance audit decisions under the authority of the Minister of Finance;
  - c) Suggestions and proposals to the competent

authorities to consider the amendment and supplement of legal documents for PCA;

- d) Solve problems related to post-clearance audit exceeded decisions power of the General Department of Customs.

### 2. To submit to the General Department of Customs:

- a) Written instructions internal business processes and organizational measures for post-clearance inspection;
- b) A written response policies, regulations and procedures, post-clearance inspection under the authority of the General Department of Customs;
- c) Make recommendations to the ministries of solving problems related to post-clearance inspection;
- d) Decision retrospective collection of tax refund after customs clearance inspection;
- e) Dealing with problems related to post-clearance inspection beyond the competence of the Director-clearance inspection.

### 3. Directing, guiding, inspection activities in post-clearance audit of units under the provincial, inter-provincial cities under central authority as prescribed by law.

- 4.To collect, synthesize, analyze and process information in service of customs clearance inspection. Applying professional measures, conduct transactions with other organizations and individuals inside and outside the country or organization to receive information, allegations, requested agencies and units concerned to provide information and documents for inspection for customs clearance.
- 5.Direct the work of post-clearance inspection in accordance with the law.
- 6.Handling administrative violations on post-clearance inspection according to their jurisdiction to settle complaints handling decisions of administrative violations and other administrative decisions on customs clearance examination of competence.
- 7.Application of coercive measures to implement administrative decisions under the authority prescribed by law.
- 8.Perform the tasks of international cooperation on customs clearance inspection in accordance with the law and assigned by the General Department of Customs.
- 9.Organization of research and application of science and technology in the post-clearance inspection.
- 10.Participate in program development, content and teaching profession of post-clearance inspection for officials and employees of the General Department of Customs.
- 11.Statistics, review, reporting, and evaluating the results of the reexamination of customs dossiers, the inspection of the Customs clearance.
- 12.Recordkeeping organizations and documents related to the post-clearance inspection in accordance with the law and the General Department of Customs.
- 13.Management officials, public servants and financial management, asset allocation in accordance with the law and the decentralization of the Ministry of Finance.
- 14.Perform other duties assigned by Director General Department of Customs Affairs and in accordance with the law.

#### **Structures:**

- 1.General affair division
- 2.Customs value audit division
- 3.Commodity code and tax rate audit division
- 4.Inward and outward processing goods audit division
- 5.Trade policy implementation review division
- 6.Southern PCA division
- 7.Information collection and analysis division

#### **II. Divisions of PCA department:**

According to Decision No. 1252/QĐ-TCHQ dated 16/6/2010 by the General Director, divisions of PCA department have duties and powers, as follows:

1. General affair division
  - to help Director of PCA department to advice General Director to build, amend, supplement legal documents, written instructions internal business processes on PCA; help Director of PCA

department to manage, direct, guide, inspect the implementation of those documents.

- to help Director to handle administrative violations on post-clearance inspection according to their jurisdiction to settle complaints handling decisions of administrative violations and other administrative decisions on customs clearance examination of competence.
  - to help Director to perform planning, implementation, plan implementation inspection; modernization, reform of administrative procedures; training for PCA workforce; personnel management; filling...
2. Customs value audit division
    - to help Director of PCA department to advice General Director to build, amend, supplement legal documents, written instructions internal business processes on customs value and Customs value audit.
    - to collect, combine, analyse information about customs value to do the work of post-clearance inspection.
  3. Commodity code and tax rate audit division
    - to help Director of PCA department to advice General Director to build, amend, supplement legal documents, written instructions internal business processes on Commodity code and tax rate.
    - to collect, combine, analyse information about Commodity code and tax rate to do the work of post-clearance inspection.
  4. Inward and outward processing goods audit division
    - to help Director of PCA department to advice General Director to build, amend, supplement legal documents, written instructions internal business processes on Inward and outward processing goods.
    - to collect, combine, analyse information about Inward and outward processing goods to do the work of post-clearance inspection.
  5. Trade policy implementation review division
    - to help Director of PCA department to advice General Director to build, amend, supplement legal documents, written instructions internal business processes on Trade policy implementation.
    - to collect, combine, analyse information about trade policy implementation to do the work of post-clearance inspection.
  6. Southern PCA division
    - to collect, combine, analyse information about import and export activities in the south of Vietnam do the work of post-clearance inspection.
    - direct the work of post-clearance inspection in the area.
  7. Information collection and analysis division
    - to collect, combine, analyse customs internal and external information to supply PCA.
    - to perform Risk management
    - supply IT solution for PCA inspection.

### **III. PCA branch**

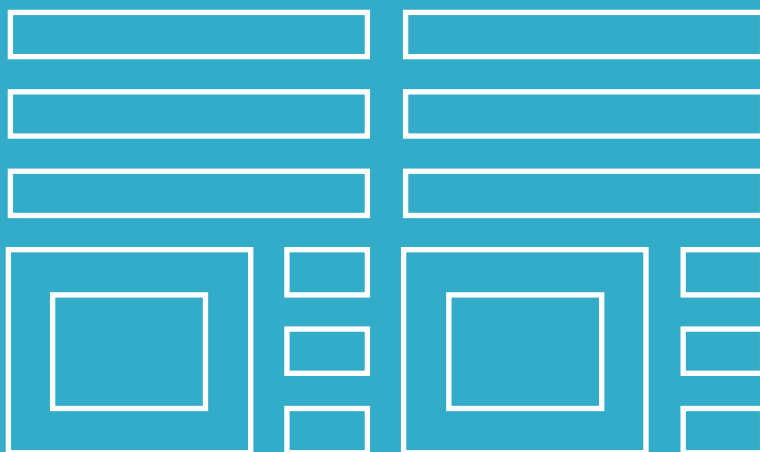
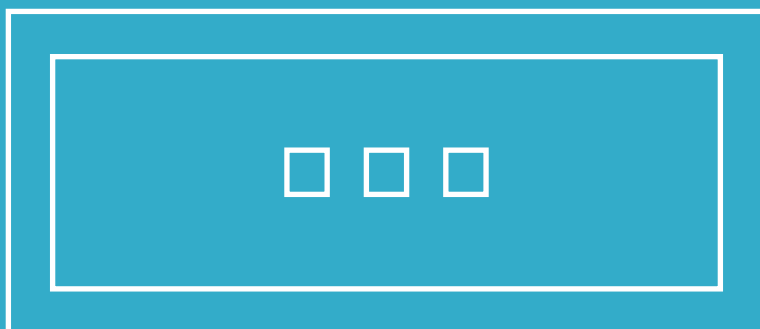
#### *Function of PCA branch:*

1. Management, directing, guiding post-clearance inspection
2. Direct the work of post-clearance inspection.

#### *Duties and power of PCA branch:*

1. Construct, organize PCA programs.
2. Manage, direct, guide and implement reexamination of customs dossiers and PCA.
3. To collect, synthesize, analyze and process information in service of customs clearance inspection
4. Direct the work of post-clearance inspection
5. Handling administrative violations on post-clearance inspection.





# GALLERY & ARTICLE

# REGIONAL WORKSHOP ON VALUATION AND PCA

20 - 23 NOVEMBER 2017



The workshop was organized by Indonesia as Country Coordinator of Customs Valuation and Post Clearance Audit and was held at the Indonesia Customs and Excise Training Centre in Jakarta on 20-23 November 2017. The workshop served as a forum for participants to exchange information, share experiences and broaden networking channel among ASEAN Customs administrations.

There are several resource persons at the workshop: WCO Accredited Expert on Valuation along with the Senior Practitioner both on Valuation and PCA. These experts and participants discuss several points of substances such as:

## 1. Revenue package

To strengthen Customs' capacity to collect duties legally due through:

- a. Valuation controls,
- b. Origin verification,
- c. Tariff infrastructure,
- d. Post clearance audit,
- e. Optimizing the existing diagnostic tools from WCO
- f. Cooperation with other government agencies, such as Tax Authority

## 2. Valuation

- a. Basic principle in customs value is Transaction Value

- b. Post-clearance stage is the most effective and efficient stage to conduct customs examination on valuation
- c. Most ASEAN Member States (AMS) have already implemented the principle of valuation based on WTO Valuation Agreement on their own technique.
- d. The importance of sharing cases to have common understanding and to anticipate future challenges.





### 3. Post Clearance Audit

- a. Targeting auditees should incorporate risk management to overcome the problem of the limited resources.
- b. Audit findings should be based on a solid evidence, not assumptions.
- c. Audit reports should not only give feedback to audit process, but also to targeting auditees.

After the discussion session, the policy recommendation based on the findings are:

#### 1. On National Level

- a. To strengthen the efficiency of the existing Valuation & PCA methods
- b. To explore new methods, particularly for PCA
- c. To enhance the knowledge of valuation and PCA through capacity building (workshop/training)
- d. To review national legislation to congruent to international best practices (WTO and WCO Guidelines)

- e. To develop and strengthen customs value database
- f. To adapt and adopt international best practices
- g. To encourage compliance of customs stakeholders
- h. To strengthen data basis for valuation and PCA
- i. To cooperate with other government units/agencies in terms of data exchange, joint audit, and analysis.

#### 2. On Regional Level

- a. Updating ASEAN Compendium on Valuation Guide
- b. Establishing ASEAN PCA Guide
- c. Continuous regional capacity building on Valuation and PCA
- d. Building an effective and efficient mechanism of information exchange of customs value in term of valuation fraud and PCA among AMS
- e. Arranging discussion forum of expert or practitioner regularly on valuation and PCA matters and use.







# 22<sup>nd</sup> CECWG

Phnom Penh, Cambodia, 22<sup>nd</sup>- 24<sup>th</sup> August 2017



# 23<sup>rd</sup> CECWG

Kuala Lumpur, Malaysia, 27<sup>th</sup> February- 1<sup>st</sup> March 2018



# BENEFITS OF STATISTICS FOR POST CLEARANCE AUDIT

Authors : Bambang Wicaksono & Eko Herlambang P

## A. Background

Post Clearance Audit is compliance audit which aims to examine the level of auditee's compliance towards procedures and regulations set by Directorate General of Customs and Excise and other relevant institutions. Basis of audit execution is Article 86 Act No 10 Year 1995 concerning Customs as amended by Act No 17 Year 2006 and Article 39 Act No 11 Year 1995 concerning Excise as amended by Act No 39 Year 2007. The execution of PCA is all related to data collection such as documents, written notes, graphics and numbers. Those things are inseparable from Statistics.

Statistics is the study of how to plan, collect, analyze, interpret and present data. From data collection, statistics can be used to draw conclusions or to describe data and it may also be used in the purpose of sampling activities.

Here, we can see the advantage of audit activities compared to other examination activities where audit activities allow auditors to collect more complete and comprehensive data. Moreover, accuracy and validity of the data can be tested before.

According to Fauzy (2008:2), statistic is collection of information presented in form of lists or images which describe and portray something. Furthermore, he defines statistic as procedures of collecting, processing, analysing and serving data as well as drawing conclusion based on analysis.

Consequently, there are various terms of statistic, for example :

- Statistic of production. The presented data describe the number of production of any products
- Statistic of export and import. The presented data explain the number of export and import
- Statistic of revenue and expenditure of money. The presented data illustrate the amount of income and expenditure of a company
- Statistic of trade. The presented data inform types and volumes of trade that is being run

Part of simple statistic is graphics that can be used as material analysis, by comparing patterns of several activities such as incomes, expenditures, process etc. Result of the analysis is indications of risk points. The indications continued with comprehending and processing the data. For reporting purpose, graphics represent a form of presentation and it may be easier for stakeholder to understand.

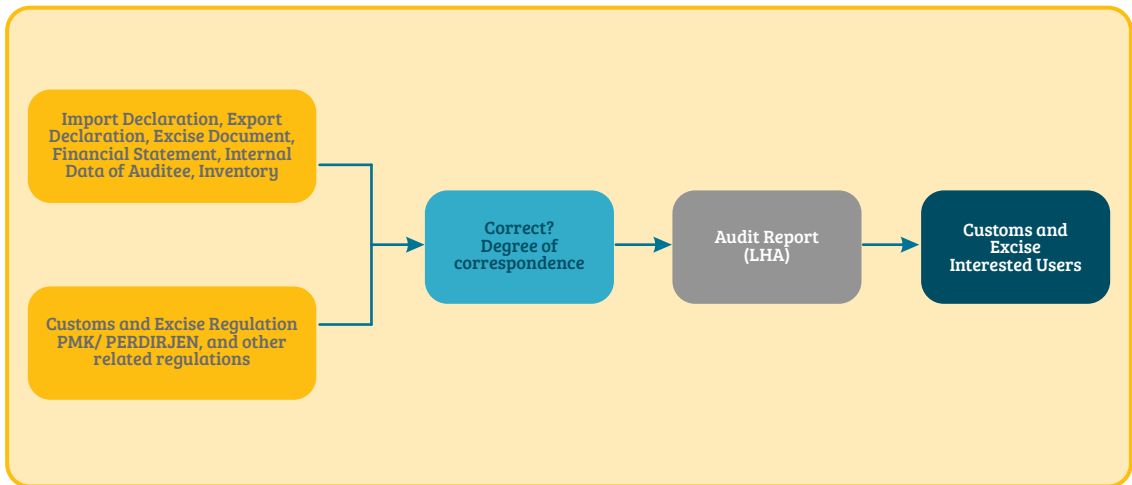
Statistics in Post Clearance Audit is not only for the purpose of sampling and selecting sampling methods, but also, the more important thing, statistics can be used to analyze patterns of auditee business process towards points and indications that show certain level risk. With quantitative and representative analysis, combined with risk management, audit activities can be more focused, targetted, accountable and efficient. By using those statistical tools, the output of Post Clearance Audit is expected to be more qualified.

Post Clearance Audit is compliance audit executed to companies that export and import their goods to and from Indonesia and it is also executed to companies that do excise activities in Indonesia. Unlike operational audit, compliance audit is conducted to determine whether auditee obeys certain procedures or regulations that have been set by higher authorities and also to measure the extent of how procedures and regulations have been applied in their business. Other than that, Post Clearance Audit is not only to measure auditee's compliance towards customs and excise procedures and regulations, but also, to measure their compliance towards export and import regulations that have been set by other institutions. This 'advantage' becomes 'responsibility' for auditor of customs and excise to conduct comprehensive audit. Completeness, accuracy and validity of data are really important in order to produce quality and accurate output. The output of Post Clearance Audit becomes references, informations and recommendations for DGCE internal parties and also for other relevant parties.

Because of this 'advantage', Post Clearance Audit has some limitations compared to other kind of audit activities as Post Clearance Audit is only executed to recorded data that have been published by auditee.



Image by Osaba - Freepik.com



If auditee, for any reasons, hides the recording/book keeping/management and auditors of customs and excise can't find it, the auditors can't provide full informations related to the level of auditee's compliance and auditee's exact potency. Other limitations are limited cost, limited completion time, limited number of auditors and limited preliminary informations of auditee profile. All of those limitations have become a big challenge for auditors to manage their resources and auditing methods, especially, to determine target and focus according to risk management. From the beginning, audit team must be able to capture and determine critical points and auditee business patterns that show big potency of their 'disobedience', so that, audit can be conducted effectively and efficiently and it can provide optimal output and outcome.

Comprehending Internal Control System (SPI) of auditee is a first step of audit. Business process, profile, information of auditee environment, level of data realibility, till risk assessment are acquired from Internal Control System. However, data and informations obtained from Internal Control System are often insufficient for determining critical points and the risk patterns on intentional disobedience covered by auditee. Many auditors use their knowledge, experience and intuition, especially qualitative intuition, as their capital to determine audit target, and they may do trial and error, so they often can't explain to their leaders and stakeholders concerning things happen to auditee. Therefore, they need tools/knowledge that can define risk in the form of quantitative.

The nature of audit activities is all written data and evidences, and the tools needed to help audit activities is statistics, a science that can process data to become quantitative informations which can explain business pattern of auditee. With the help of statistics, the data are eligible to become analysis materials for audit team in determining which critical points that should be deepened and expanded.

### A. Audit Sampling

Sampling is one of methods applied by drawing conclusion towards the tested population, based on the result of sample test. Population is collection of groups of data which become object of research. Sample is a part of population selected to be tested and its function is as representative of all member population.

The process of Post Clearance Audit is set in Regulation of Directorate General of Customs and Excise No Per-9/BC/2012 concerning Procedures of Audit of Customs and Excise Article 1 No 40 that stated : *"Audit Sampling Technique is a substantive test technique applied in level less than 100 percent"*

Furthermore, audit sampling technique is set in the same regulation, in Article 39 Section (1) and Section (2) which stated :

1. Pursuant to the data and informations gained by Auditee, Audit team tests the data and informations based on Audit Program which have been made, as mentioned in Article 27 Section (1).
2. Testing, as mentioned in section (1), can be done by applying Audit Sampling Technique

According to Statement on Auditing Standard (PSA) No 26, Audit Sampling is application of audit procedure to less than 100 percent element of account balance or class of transactions for the purpose to assess some characteristics of the balance or certain class.

There is another reason for auditors to test less than 100 percent elements which form account or class of transaction. For instance, auditors may just test some transactions of an account or class to comprehend the characteristic of entity operation or to clarify the comprehension of control of internal entity.

Audit sampling may be applied to conduct control test and substantive test. Auditors, often, applied this audit sampling in testing procedures : vouching, tracing and confirming. It is applied if audit activities have inadequate time and cost to test all transactions/event of population. Population is all items that must be tested. Sub of population is called 'sample'.

Sampling is applied to infer characteristic of population. The benefits of using sample itself are as follows:

1. Economize sources : cost, time, energy
2. Quick in getting updated information
3. Has wider coverage
4. Data/information gained are more accurate and thorough
5. Field works are easier to do

There are six steps of audit sampling :

1. Making audit plan
2. Determining quantity or unit sample
3. Selecting sample
4. Testing sample
5. Estimating condition of population
6. Making audit conclusion

There are two general approaches in audit sampling: statistical and non-statistical. Both approaches require auditors to use their professional judgment in planning, executing, and testing sample.

### **A. Statistical Sampling**

Audit sampling that uses statistics is audit that uses mathematics as medium to determine plan,

choice and evaluation of sample. In this case, statistics is really helpful as it provides some methods which auditors may use in order to select and use those samples for drawing comprehensive conclusion regarding audited population.

Guy (1981) stated that statistical sampling is application of sampling plan in such way so that law of probability is used in order to make statement of population. There are two requirements to categorize 'procedure' as statistical sampling :

First, sample must be selected randomly. Random is the opposite of arbitrary or judgmental. Random selection offers sample opportunity will not be bias. Second, sample result must be evaluable mathematically. If one of these requirements is not met, it can't be called as statistical sampling.

To select sample randomly, there are some methods that can be applied. Those are :

#### *a. Simple Random Sampling*

Using random choice to ensure that every population of element has equal opportunity to be selected. Here, random table number may be used in order to achieve 'randomness'

#### *b. Stratified Random Sampling*

Dividing population into groups and selecting every group randomly. Advantages of applying this method are: First, sample selection can be connected to key item. This method also allows auditors to apply different audit technique for every stratum. Second, stratification increases sample reliability and reduces required sample size. If a homogeneous sample is arranged into group, the effectiveness and efficiency of the sample can be increased.

#### *c. Systematic Sampling*

Using random start point, then selecting every population to n. Main advantage of this method is the simplicity of application. However, the main problem is the possibility of taking biased sample (Guy, 1981).

#### *d. Sampling Probability Proportional to Size (Dollar Unit Sampling)*

Selecting sample randomly, so that probability of choice is directly connected with size. By applying this method, unit with big carrying value will have more opportunity to be selected rather than unit with small carrying value.

Furthermore, according to Guy (1981), there are four advantages of statistical sampling. Those are :

1. Allows auditors to count reliability of sample and to count risk according to sample
2. Requires auditors to plan sampling in more orderly manner compared to non-statistical sampling
3. Auditors can optimize sample size, not overstated or understated, and the risk that will be accepted is measured mathematically
4. Based on sample, auditors can make objective statement regarding population of sample



Image by Freepik.com



## B. Uncertainties on Audit Sampling

Auditors acknowledge some factors such as time and cost needed to test, either to test sample data or all of data. The more sample taken, the more time and cost needed. Auditors also acknowledge negative consequences of wrong decision-making which is made based on audit conclusion and sample data only.

Auditor may decide to accept some uncertainties that arise due to sampling. Those uncertainties are :

### 1. Uncertainty caused by the use of sampling (risk of sampling)

Risk of sampling relates to the possibility that the taken sample is unrepresentative. Risk of sampling arises from the possibility that auditor's conclusion when using sampling, may be different from conclusion that auditors would reach if the similar test is applied without sampling. The level of risk of sampling has inverse relationship with sample size. The smaller the sample size, the higher the sampling risk. On the other hand, the bigger the sample size, the lower the sampling risk. Auditors should use their professional judgment in determining the level of sampling risk. There are two different types of sampling risk:

- a. Sampling risk on substantive test of details. Auditors should concern with two aspects of sampling risk. Those aspects are: risk of incorrect acceptance and risk of incorrect rejection.
- b. Risk of sampling in control testing. The auditors should concern with two important aspects of sampling risk. Those are :
  - Risk of assessing control risk too low
  - Risk of assessing control risk too high

### 2. Uncertainty caused by factors other than sampling (non-sampling risk).

Non-sampling risk includes all aspects of audit risk that not related to sampling. This risk can never be measured systematically. Non-sampling risk may arise due to:

- a. Human mistakes. Such as failure to acknowledge mistakes in the document
- b. Mistake of selecting and applying audit procedures which not matched with audit purpose
- c. Misinterpretation of sample results

On the first day of audit field work, audit team must comprehend well internal control system (SPI) of auditee in order to plan audit and to determine nature and scope of test that will conduct. Audit plan can be arranged in Audit Work Plan (RKA) and type of audit can be defined by making Audit Program (PA). The arranged RKA and PA are used as measuring tools of audit execution. Also, it can be used as an initial step of determining whether sampling audit is needed or not.

Types of audit test that may require sampling :

1. Test of control
2. Substantive test of transactions
3. Test of balance details

Technically, the regulations concerning audit sampling has not been set yet in audit of customs and excise. This matter should be an attention for auditors in audit execution as audit execution is always related to audit findings which affect to underpayment or overpayment of import duties (BM), export duties (BK), excise, tax in the form of import (PDRI), administration fine and other kind of fines concerning Customs and Excise Law and other relative regulations.

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