

A photograph of an industrial port at night. The scene is illuminated by warm lights from cranes and buildings, reflecting on the water. A metal walkway with railings leads towards the water in the foreground. The sky is dark with some clouds.

**Baker
McKenzie.**

Asia Pacific Industrials, Manufacturing & Transportation Webinar Series

14 July 2022 | 1:00 to 2:00 pm (JKT)



Webinar Housekeeping Reminders



The session is being recorded; all webinar materials will be shared post-event.



Please use the Q&A function at the bottom of your screen to submit your questions. Questions will be answered at the end of session or post-event.

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Welcome & Introduction



Yaeko Hodaka

Co-chair, Asia Pacific IMT Industry Group,
Baker McKenzie, Tokyo

Speakers

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Yaeko Hodaka

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Riza Buditomo

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Yaeko Hodaka

A large container ship is docked at a port at dusk. The ship is illuminated by warm lights, and its reflection is visible in the water. In the foreground, a metal walkway with railings leads towards the ship. To the right, a smaller boat is docked. The sky is a mix of dark blue and orange, suggesting sunset or sunrise. The overall scene is industrial and serene.

2

Customs Audit 101 – Indonesia

General Overview

Legal Basis:

- Customs Law No. 10 of 1995 as lastly amended by No. 17 of 2006
- Customs and Excise Regulation Number 35/BC/2017 on Customs Audit Procedure

Carried out by Audit department of the Indonesian Directorate of Customs and Excise



Objective:

- To optimize state revenue by checking the tax, customs and/or excise compliance of Auditees.

Common Industry Targets:

Chemical Industry, Tobacco Industry, Trading, Mining Industry, Automotive Industry, IT Industry, Oil and Gas Industry, Other Industries that uses customs facilities such as KITE Users, Bonded Zone Users, Masterlist Users

Customs and Excise Revenue

Based on APBN 2021 and APBN 2022

Customs and Excise Revenue

State Budget ("APBN") 2021

Target Revenue Rp215 trillion

Realized Revenue Rp269 trillion*

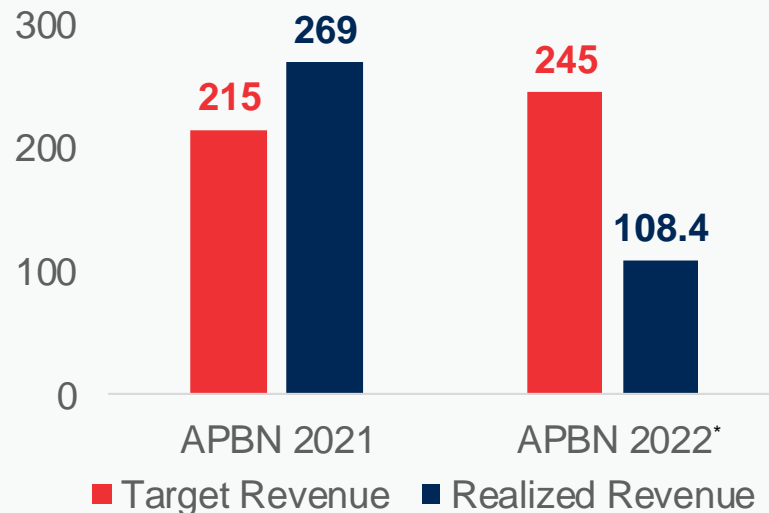
APBN 2022

Target Revenue Rp245 trillion

Realized Revenue (April 2022) Rp108.4 trillion*

Comparison Table on the State's Income

Customs and Excise Revenue
(in trillion Rupiah)



Notes:

*realized revenue as per April 2022, amounting 44.2% of the total targeted revenue (source: Ministry of Finance (MOF) official website)

Auditees and Auditor

Who is audited?



Any importers, exporters, entrepreneurs of temporary stockpiling places, entrepreneurs of bonded storage places, customs brokers or shipping/carrier line companies



Audit Quality Supervisor (*Pengawas Mutu Audit/PMA*), an Audit Technical Supervisor (*Pengawas Teknis Audit/PTA*), and a Chief of Audit, and may also include one or more officials from the Customs Authority and other agencies

Example of Audit Assignment Letter



KEMENTERIAN KEUANGAN REPUBLIK INDONESIA DIREKTORAT JENDERAL BEA DAN CUKAI

JALAN JENDERAL A. YANI JAKARTA 13230 KOTAK POS 225 JAKARTA-13013
TELEPON (021) 4890308 ext. 124; FAKSIMILE (021) 4890871; SITUS www.beacukai.go.id
PUSAT KONTAK LAYANAN 1500225; SURAT ELEKTRONIK info@customs.go.id

SURAT TUGAS NOMOR [REDACTED]

Berdasarkan pasal 86 Undang-Undang Nomor 10 tahun 1995 tentang Kepabeanan sebagaimana telah diubah dengan Undang-Undang Nomor 17 tahun 2006 dan/atau pasal 39 Undang-Undang Nomor 11 tahun 1995 tentang Cukai sebagaimana telah diubah dengan Undang-Undang Nomor 39 Tahun 2007, dengan ini kami pejabat yang bertanda tangan di bawah ini memberi tugas kepada:

- nama/NIP : [REDACTED]
pangkat/golongan : Pembina Tk.I / IV.b
jabatan : Pengawas Mutu Audit
- nama/NIP : [REDACTED]
pangkat/golongan : Pembina / IV.a
jabatan : Pengendali Teknis Audit
- nama/NIP : [REDACTED]
pangkat/golongan : Penata Tk.I / III.d
jabatan : Ketua Auditor
- nama/NIP : [REDACTED]
pangkat/golongan : Penata Muda / III.a
jabatan : Auditor
- nama/NIP : [REDACTED]
pangkat/golongan : Pengatur / II.c
jabatan : Pelaksana

untuk melakukan audit kepabeanan dan/atau audit cukai serta melakukan penindakan seperlunya terhadap :

- nama perusahaan : [REDACTED]
NPWP : [REDACTED]
alamat kantor : [REDACTED]
alamat pabrik : [REDACTED]
mulai tanggal : [REDACTED]

Semua informasi yang diperoleh dari Perusahaan yang diaudit merupakan rahasia jabatan.

Surat tugas ini disusun untuk dilaksanakan dan setelah selesai dilaksanakan, agar menyampaikan Laporan Hasil Audit secara tertulis. Kepada instansi terkait, kami mohon bantuan demi kelancaran pelaksanaan tugas tersebut.

Jakarta [REDACTED]
DIREKTUR JENDERAL
u.b.
DIREKTUR AUDIT KEPABEANAN DAN CUKAI



[REDACTED]
NIP. [REDACTED]

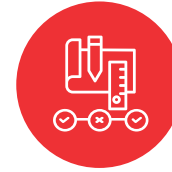
When and Period



No standardized timing of when a company will be audited by Customs Authority. It depends on the priority of the Authority, the historical profile of the company or certain conditions that need further investigation through an audit. For example companies with multiple assessment letters.



Customs Authority is authorized to re-assess the customs value and tariff classification within two years after submission of import declaration forms (*Pemberitahuan Impor Barang/PIB*).



The period is counted backwards from the assignment date of the audit. For instance, if the audit assignment letter is dated 1 June 2022, then the period of assessment would be from 1 June 2020 until 31 May 2022.



Requested Audit Data

For a general customs audit, the Customs Authority usually asks for the following documents:

Legal Documents

- 1 Company's deed of establishment and the amendments
- 2 TDP/SIUP/IUI License*
- 3 Basic import license document, i.e., Business Identification Number (*Nomor Induk Berusaha/NIB*) or General Import Identification Number (APIU)/Producer Import Identification Number (APIP)
- 4 Tax ID Number (*Nomor Pengusaha Wajib Pajak/NPWP*) and PKP (Tax Entrepreneur Registration Number)
- 5 Complete organization chart
- 6 Company profile
- 7 ID and Tax ID/KITAS of Directors and Commissioners
- 8 Other import approvals
- 9 Manual books system or flowchart for procurement

Legal Documents

- 10 Manual books system or flowchart for incoming and outgoing goods to and from a warehouse
- 11 Manual books system or flowchart for payment of goods
- 12 One set of samples of import documents
- 13 One set of samples of export documents

Finance and Tax Documents

Accounting Data

- 14 Chart of accounts and trial balance
- 15 Financial statements for the last two years (audited is preferable)
- 16 General ledger for all accounts in softcopy, usually the important ones are inventory, cash and bank, accounts payable, accounts receivable, purchases, sales
- 17 Subsidiary ledger related to import, accounts payable, bank (all accounts)

* Company Registry Certificate/Trading Business License/Industrial License



Requested Audit Data

Tax Data

- | | |
|----|--|
| 18 | e-SPT (e-submission payment proof) of value added tax for the audit period |
| 19 | Corporate income tax return for the last 2 years |
| 20 | Recapitulation of income tax articles 22 and 26 |

Cash and Bank Documents

- | | |
|----|--|
| 21 | Bank Statements of the audit period, particularly related to purchase of goods |
| 22 | TT Payment/LC* |
| 23 | Debit note/credit note |
| 24 | Recapitulation of purchase orders and sales contracts |

Others

- | | |
|----|---|
| 25 | Transfer pricing documents for the last two years |
| 26 | Royalty or License agreement |

Customs Documents

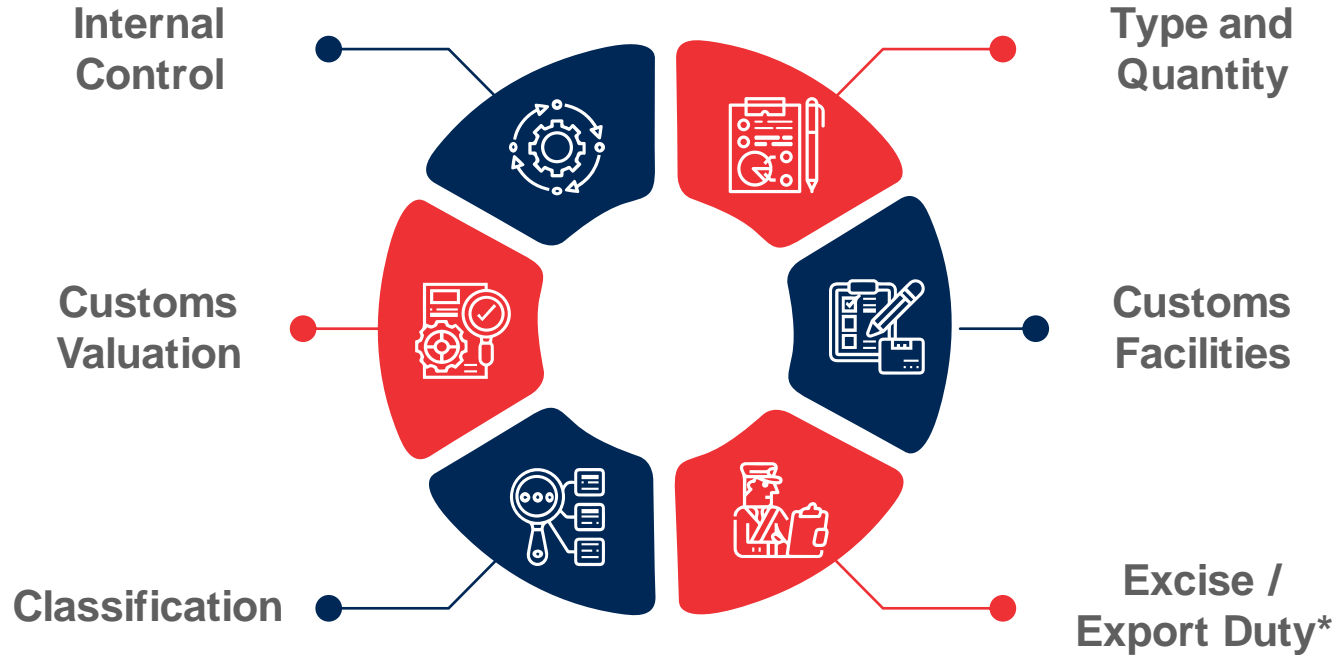
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|----|---|
| 27 | PIBs |
| 28 | Back-up data from Electronic Data Interchange system |
| 29 | Good receiving notes |
| 30 | Hardcopy and softcopy of Free Trade Agreement documents, including the relevant PIBs and supporting documents (e.g., invoice, bill of lading) |
| 31 | Customs Authority stipulation letter on tariff and customs value (SPTNP) and the results/decisions on objection against the SPTNP (if any) |
| 32 | Product catalogue/image/MSDS/certificate of analysis related to the imported goods |

Other

- | | |
|----|---|
| 33 | Any other relevant documents for the audit period |
|----|---|

* Telegraphic transfer payment/Letter of Credit

Areas of Assessments

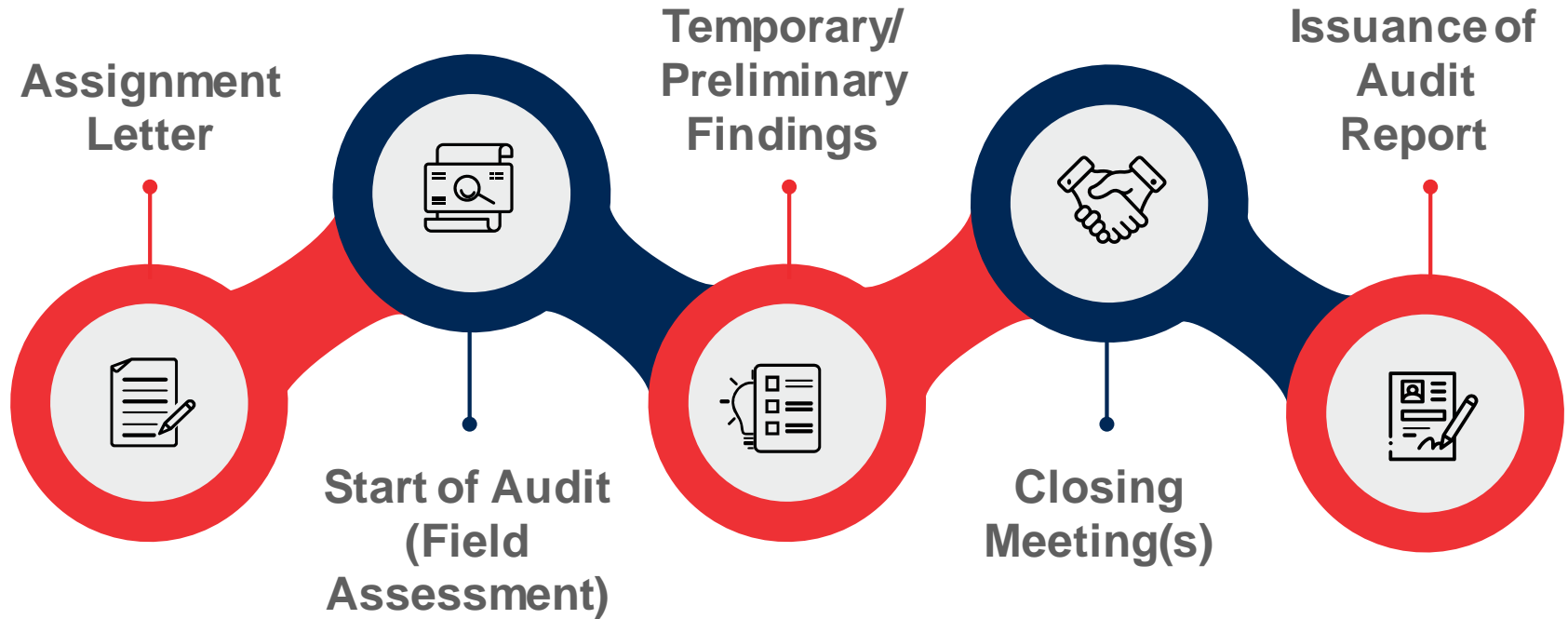




Areas of Assessments

Fields of assessment	Purpose
Internal control	To evaluate the reliability level of internal control of the Auditee
Customs value declaration	To ensure the number and quantity of the PIB declared To ensure that the transaction value can be accepted as customs value based on certain criteria ¹¹ To ensure the price actually paid or the price that should be paid is correct (whether the calculation is correct or there should be other costs that should be added)
Tariff and classification declaration	To assess the correctness of classification of imported goods because incorrect classification will cause incorrect tariff imposition To assess the fulfillment of origin criteria in order to accept preferential tariffs under a Free Trade Agreement scheme
Type and quantity of goods declaration	To assess the correctness of type and quantity of goods declared
Improper use of customs facilities (e.g., masterlist facility, bonded stockpiling places facility, KITE ¹² facility)	To evaluate the company's level of compliance with the provisions of the customs facility granted.

Audit Phase/Steps



Temporary Audit Findings (*Daftar Temuan Sementara*/"DTS")



Customs Authority will issue a DTS and ask the Auditee to provide a response within seven working days.



The period to provide a response may be extended one time upon request with an additional period of seven working days in maximum.

Closing Meeting

The following documents will be issued:



A closing meeting will be held by all of the audit team as well as the key persons of the company (e.g., a director of the company, the logistics manager, the finance manager)



The agenda of the meeting is to discuss the findings and reasoning (including the evidence), when an Auditee disagrees with some or all of the findings

- Closing meeting summary (*Risalah Pembahasan Akhir*)
- Closing meeting results (*Hasil Pembahasan Akhir*)
- Audit result minutes (*Berita Acara Hasil Audit/BAHA*)

Outcome of Customs Audit

The outcome would be in the form of Final Audit Report. If there are findings, the report will be attached with following possible assessments:



Customs Stipulation
Letter (*Surat Penetapan
Pabean* ("SPP"))



Letter of Stipulation of
Administrative Sanctions
(*Surat Penetapan Sanksi
Administrasi* ("SPSA"))

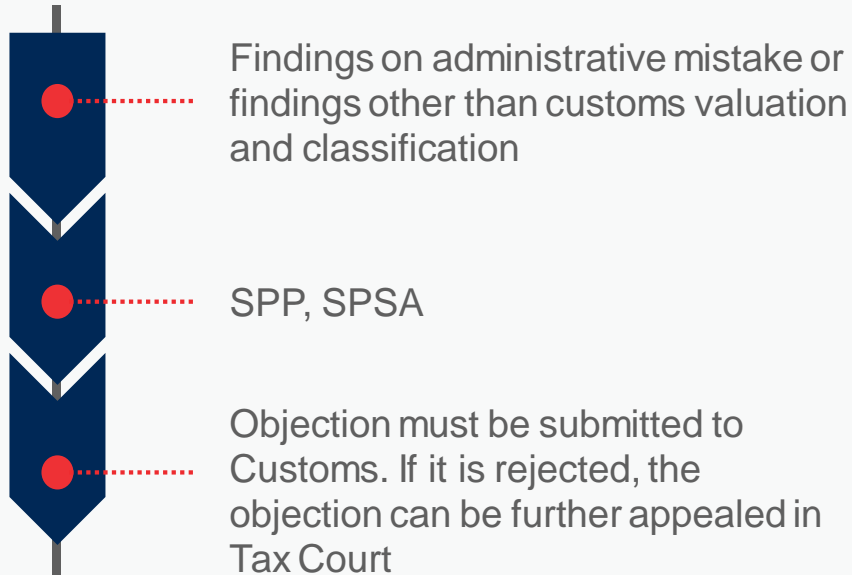


Letter of Re-stipulation on
Tariffs and/or Customs Value
(*Surat Penetapan Kembali
Tarif dan/atau Nilai Pabean*
("SPKTNP"))

Legal Avenue

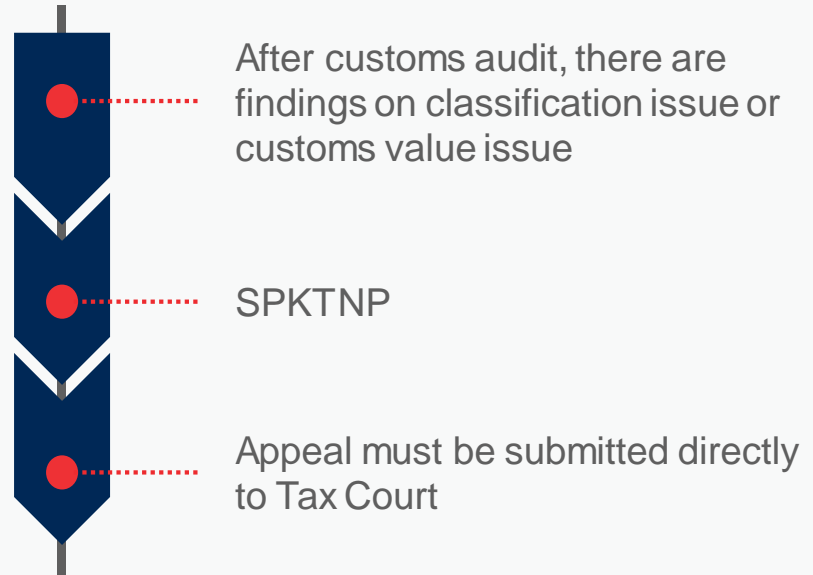
The objection against Customs assessment in the form of e.g., **SPP**, **SPSA** should be submitted to **Customs Office**.

A



However, objection (appeal) against e.g., **SPKTNP** must be submitted to **Tax Court** within **60 days** as of the SPKTNP is issued.

B



A large container ship is docked at a port during the "blue hour" of dusk. The ship's deck is illuminated with warm lights, and its reflection is visible in the calm water. In the foreground, a metal walkway with railings leads towards the ship. In the background, another container ship is docked, and the port's infrastructure, including cranes and buildings, is visible under a dark, cloudy sky. The overall scene is a busy port at twilight.

2

Case Studies

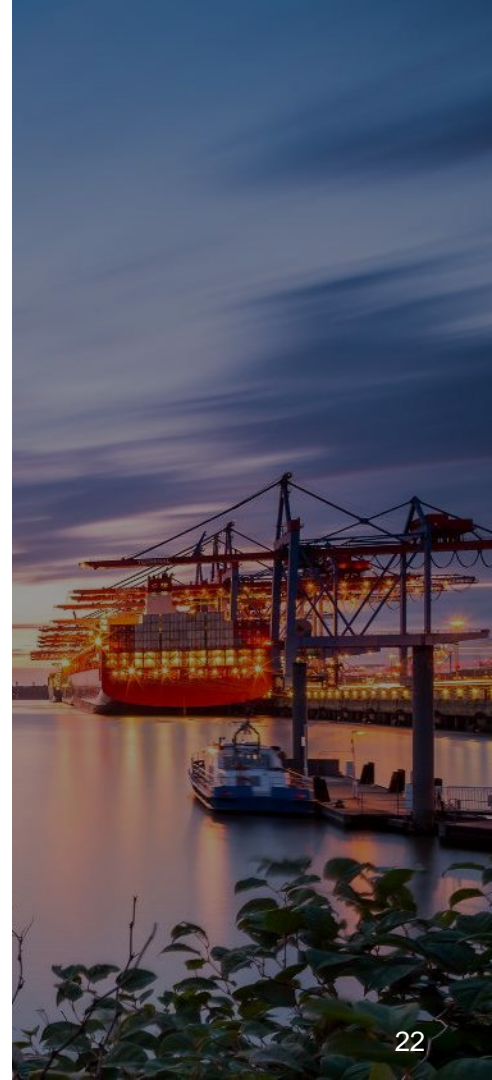
Case Study 1

Related party transaction



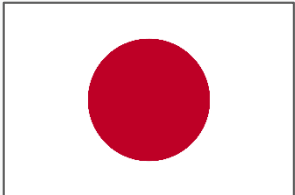
Customs deemed that Method 1 cannot be applicable

- The price fluctuates for polyester or plastics materials
- The current import price is more than 5% lower than the previous or current market price
- Auditee can prove that the payment reflects the commercial invoice price, but it cannot prove that the relationship between seller and buyer does not affect the transaction price.
- Customs re-determined the customs value using similar goods value based on its price database



Example – Case Study 2 – AJCEP

Transshipped in Hong Kong



Change vessel (unload and reload of cargo. There is no further process on the imported goods)



Vessel A



Vessel B



Vessel A



Vessel B



Importer is only supported by a statement letter from the shipping company mentioning that there is a change of vessel without any further process on the goods. This proof is still rejected

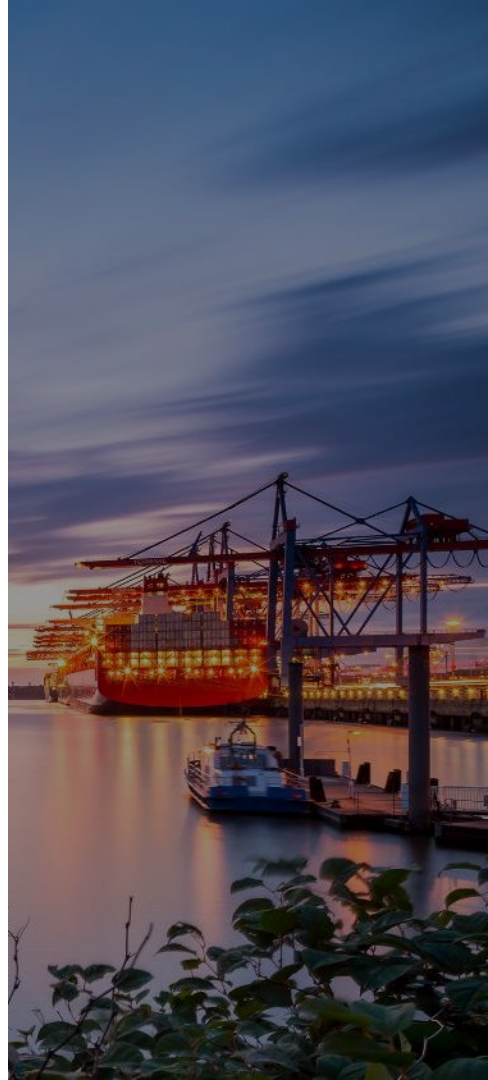
Case Study 2

COO cancellation because of transit/transshipment issue, particularly for AKFTA, JIEPA, AJCEP



In an audit, customs found that the goods are being transited/transshipped in a non-member FTA countries without proof of documents

- Direct consignment criteria is not fulfilled according to Customs
- Difficulties: in practice, sometime the importer does not aware if the goods are being transited/transshipped by the shipper
- OCP or procedure of direct consignment in the AKFTA, JIEPA and AJCEP actually do not stipulate a specific document to proof of transshipment. However, the Customs (and judges at the tax court) are of the view that "Through Bill of Lading" is mandatory for transshipment.
- For transit issue, the judges still accept "other documents" to proof the transit.



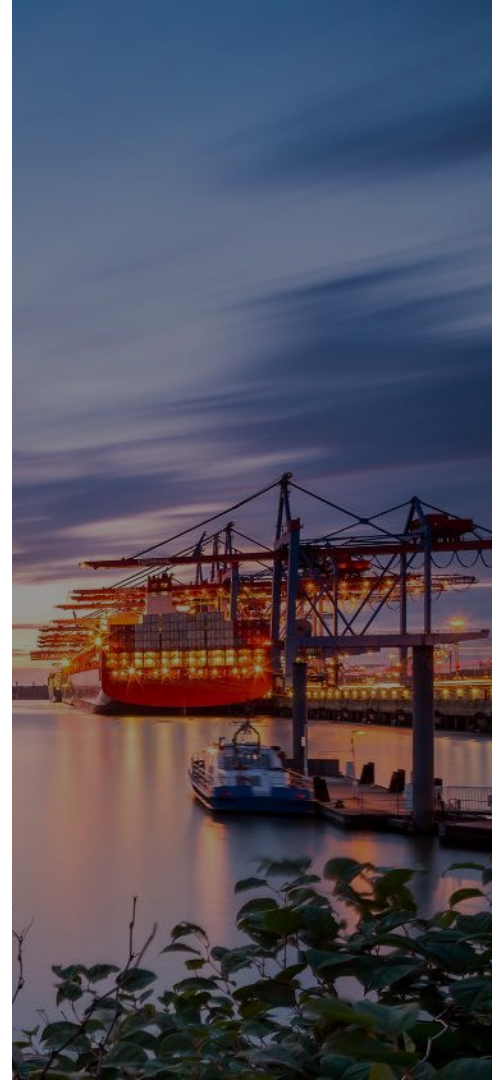
Case Study 3

Voluntary Disclosure (VD) on intangible goods (i.e., software)



Referring to MOF Regulation 201, in an audit, the Customs deemed that the software installed later on should be voluntarily declared in the form of Voluntary Payment (VP).

- MOF Regulation 201 basically has no specific provision on VP of intangible goods. VP is available for customs valuation components e.g., royalty, proceeds, assist.
- So, it was unclear on what form of VP that should be used. If the auditor regarded this software license as "assist" or "royalty", then the VP that they meant would be VP for customs valuation.
- There is no further implementing regulation on VD and VP, particularly on intangible goods.
- We argued that the software are not related to the imported goods at all, so the value of software should not be added to customs value of imported goods
- Customs eventually dropped the findings on software that are not related to imported goods.



Questions



7

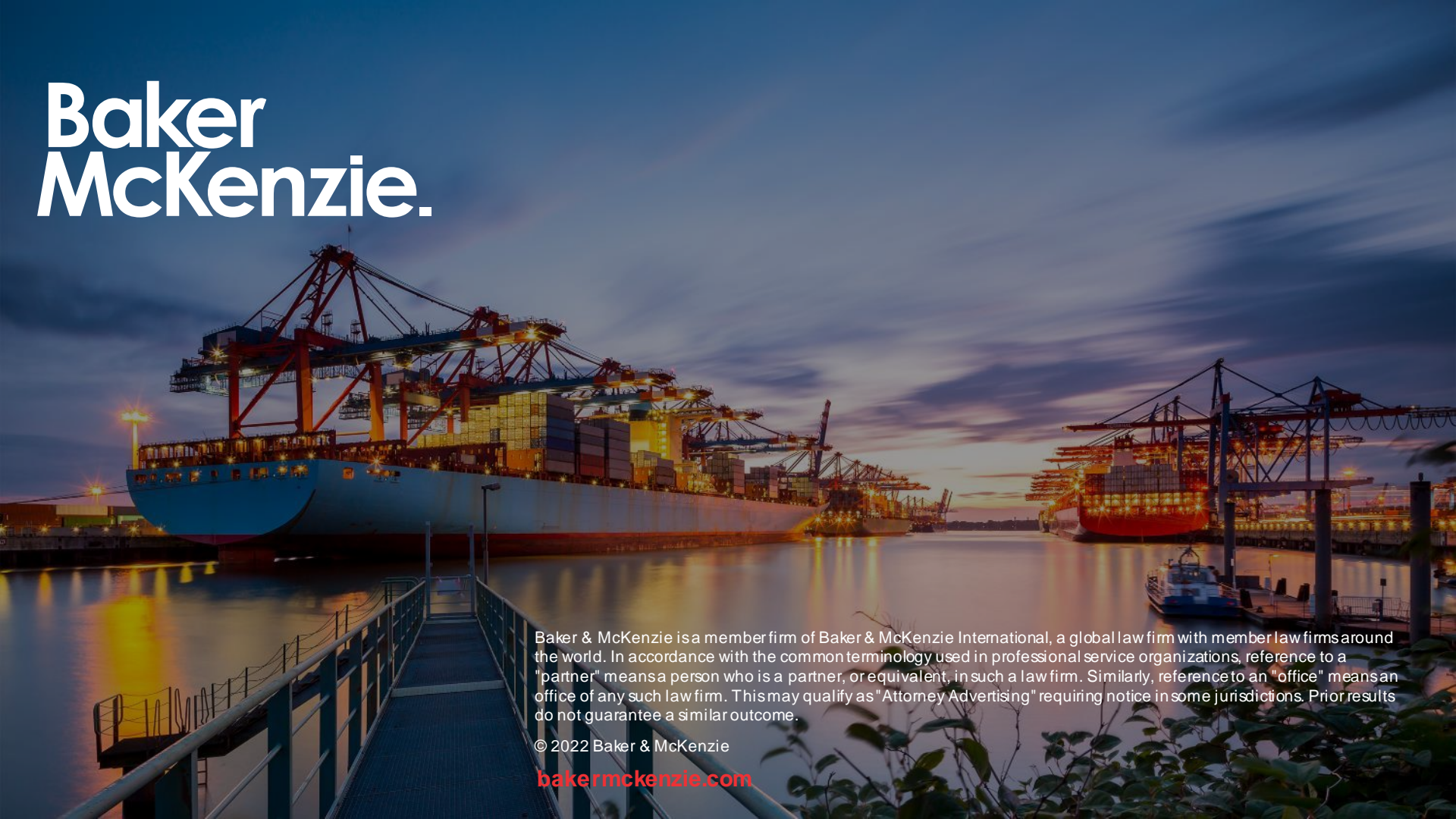
Closing & Wrap-up



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