

## Managing the Rise in Trade Compliance Audits

### What is driving trade compliance audits?

#### Customs valuation and transfer pricing



The relationship and tension between customs valuation and transfer pricing is an important issue that is gaining prominence with regulators.

Complexity arises in demonstrating how the customs value is determined by: 1) the transfer price between two related companies; 2) identifying and capturing additions to value (e.g. assists to imported goods, royalties and licensing fees); and 3) managing transactions that are not subject to a sale (e.g. transferring inventory).

There are few clear policy guidelines on these issues in Asia Pacific yet. But we are seeing authorities in the region make a consistent effort to build capability here. Regulators in Asia Pacific's mature jurisdictions are looking at profit margins and transfer pricing documents upfront and reviewing them against customs value to ensure these are acceptable. Elsewhere, they are more likely to target post-importation adjustments.

#### Bonded warehouses and free trade zones



In the global supply chain, Asia Pacific is often the destination for large volumes of imported goods, which are then produced or manufactured locally and distributed in the region.

As a result, we are seeing a rise in compliance audits related to bonded warehouses, free trade zones and suspended import duties. These facilities are designed to attract foreign investment but they often come with stringent restrictions that raise the risk of non compliance.

For example, rules may stipulate that a certain amount of goods produced must be exported, impose use restrictions or specific reporting requirements. In the cases of non-compliance, regulators may seek to claw back duties later.

#### Tariff classification



Global companies sometimes assume that the HS codes they use, for example, in the US will be the same as in other markets. In reality, only the first six digits are harmonized globally.

As a result, we are seeing active challenges on HS codes which attract 0 per cent duty. Non-compliance can impact on import licenses, your ability to apply tax incentives or to secure certificates of origin.

#### Product origin verification



Product origin verification is intended to avoid exporters rerouting products via different countries to circumvent trade remedies.

Several jurisdictions in Asia Pacific are already subject to trade remedy investigations by the World Trade Organization, and an increase in self-declaration as part of new free trade agreements (FTAs) is sure to attract further regulatory investigations and audits.

#### Export controls and trade sanctions



Export controls and sanctions regimes are rapidly evolving in Asia Pacific, driven by the geopolitical tensions, and have increasingly become new focus of enforcement in mature jurisdictions, like China, Japan, Singapore and Australia.

The Chinese countermeasures and blocking rules against Western sanctions targeting Chinese companies have further complicated the enforcement landscape and companies' compliance strategies in this area.

# How to Strengthen Trade Compliance

## Be prepared



Authorities in Asia Pacific are increasingly operating a post-importation customs framework, as well as the point of import/export. This means being prepared for more regular audits and retaining documentation related to historic trade.

## Be consistent



Collaboration between authorities is growing. For example, documents are frequently shared by tax authorities in relation to customs valuation, which can lead to adjustments later. Ensure you are sharing the right information with all parties.

## Adopt a localized approach



Corresponding in local language and adhering to social etiquette goes a long way to building productive relationships with authorities in Asia Pacific. This has a number of upsides for global companies, including better access to information to clarify the shape of compliance obligations and cushioned impact where compliance issues occur.

A balanced approach that holistically considers the local rules and sensitivities, in addition to the relevant trade laws with extraterritorial reaches, is critical for addressing potential conflicts of laws, which are becoming more common in the trade compliance space.

## Weigh up disclosures



Mistakes happen. Generally disclosure of compliance failures is viewed favorably by authorities, even where benefits such as penalty reduction aren't guaranteed. But there is no consistent approach with respect to disclosures in Asia Pacific.

If you have identified a compliance gap, carefully weigh the decision to disclose, considering: 1) how long it has been since the violation; 2) the nature of non-compliance; 3) the amount of duty or tax underpaid; and 4) whether the company is ready to proceed with disclosure.

Do you have the right documentation and can you demonstrate corrective steps have been taken?

## Other Resources

- [Healthcare & Life Sciences Regulatory](#)
- [Supply Chains](#)

## Key Contacts



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