

**Baker
McKenzie.**

**IMT Webinar Series:
Customs Audit and Disputes in Asia Pacific**

21 January 2021 | 1:30-2:30 PM (VNT)



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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Agenda

1 OVERVIEW ON CUSTOMS AUDIT IN VIETNAM

2 CUSTOMS AUDIT FOCUSES

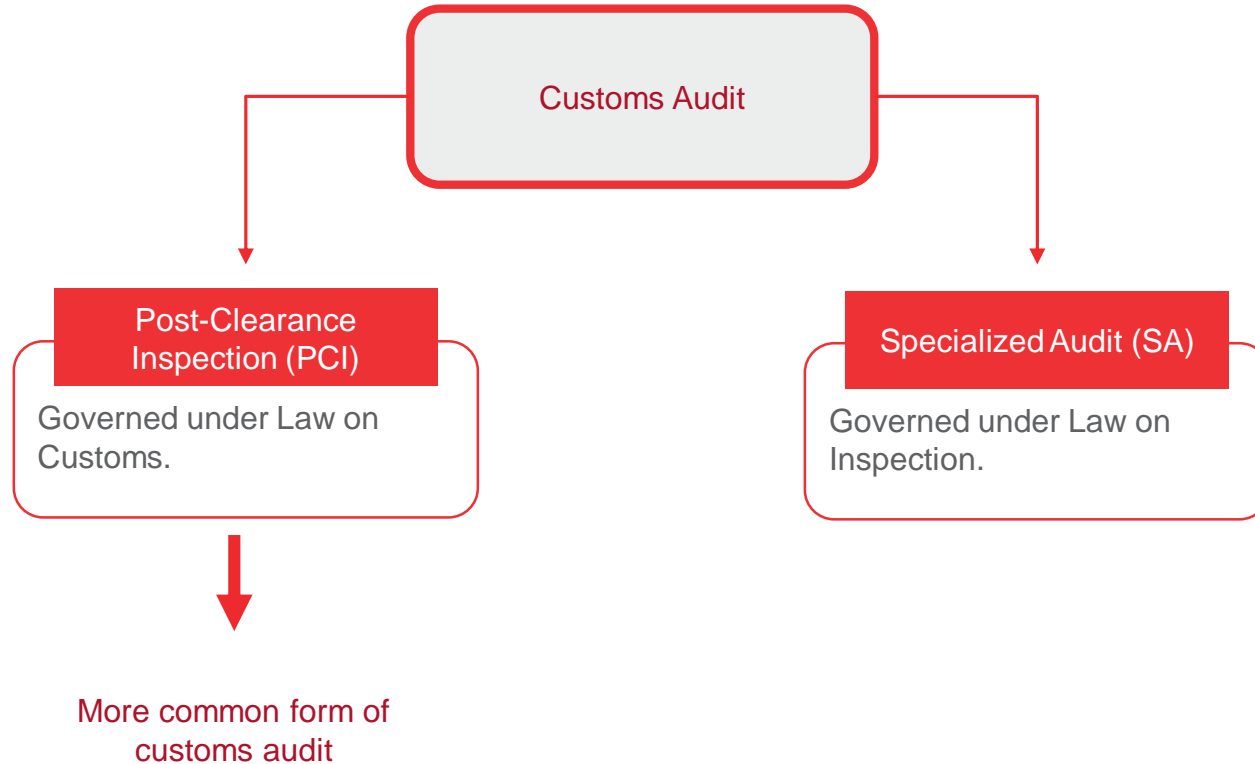
3 MANAGING A CUSTOMS AUDIT

4 Q&A

1

Overview on Customs Audit in Vietnam

Overview on custom audit



Overview on PCI



Statute of Limitation: 5 years

Conducted when:



Sign of violation



Risk management basis



Compliance verification purpose



Overview on PCI

PCI at Customs Authority's office

Capacity:

- Director of Provincial Customs Department: **within 5 years**
- Director of Divisions under a provincial customs department: **within 60 days**

Duration:

Up to 5 working days

Timeline:

PCI Decision to be sent to declarant within 3 working days of the issuance, and no later than 5 working days before the PCI

PCI at Declarant's office

Capacity: Within 5 years including those which have undergone PCI at CA's office

- General Director of GDC
- Director of GDC's PCI Department
- Director of Provincial Customs Department

Duration:

Up to 10 working days, with 1 extension of up to 10 working days

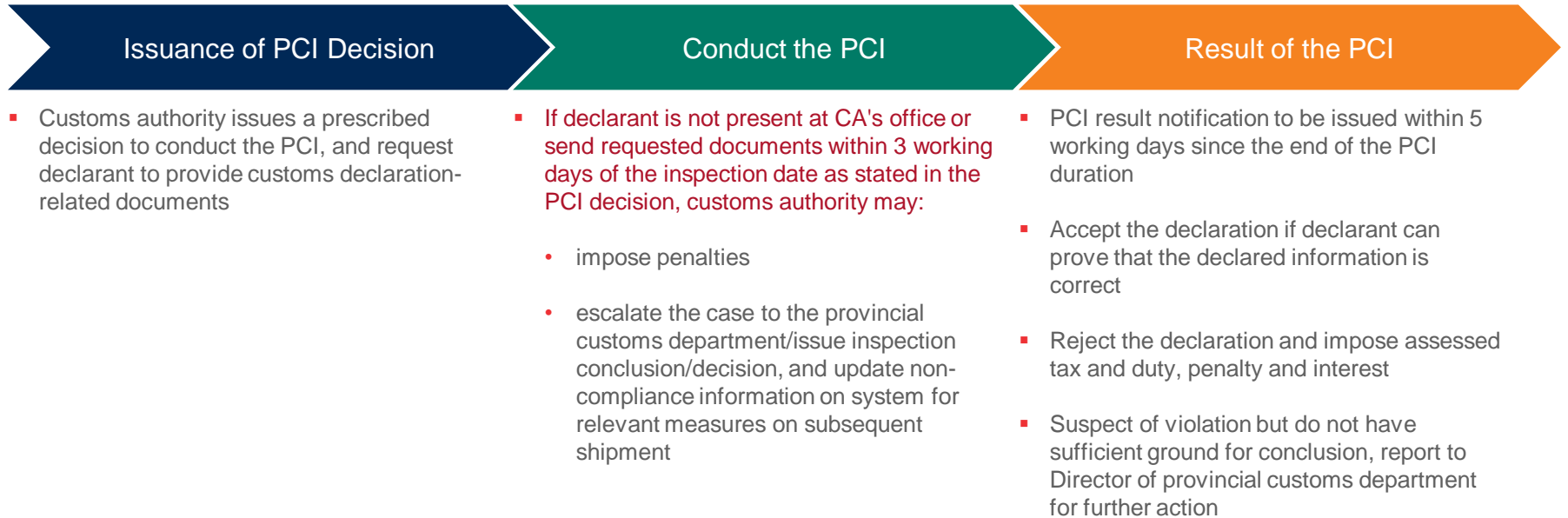
Timeline:

PCI Decision to be sent to declarant within 3 working days of the issuance, and no later than 5 working days before the PCI (**except for the case of violation**)



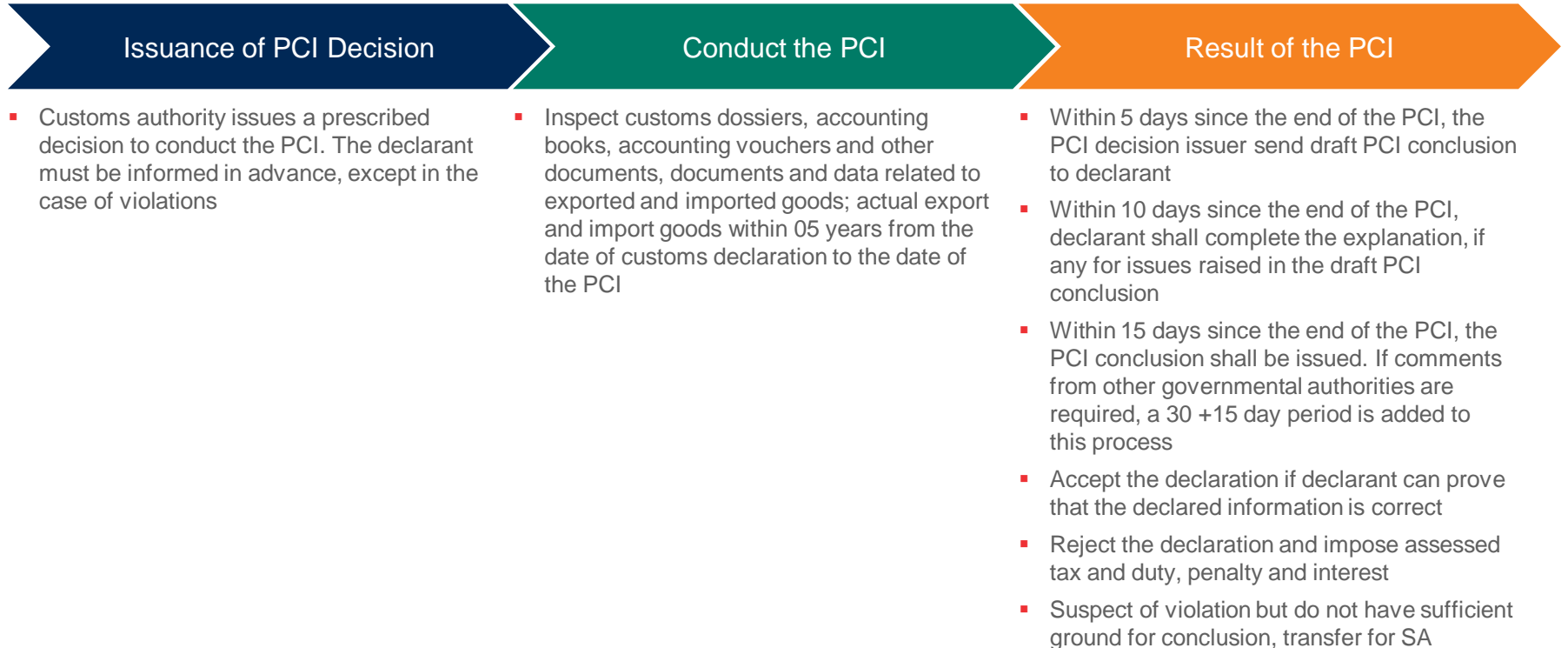
Overview on PCI

PCI at the customs authority's office



Overview on PCI

PCI at the declarant's office



Overview on SA



Decision makers:

- Chief Inspector of the MOF, General Director of GDC, Director of PCI Department
- Chief Inspector of the provincial customs departments



Duration:

- at Ministry level: 45 to 70 days
- at Provincial level: 30 to 45 days



Overview on SA

Issuance of SA Decision

- Within 15 days since the issuance, the SA Decision shall be informed to the SA subjects

Conduct the SA

- Collect, research, analyze information, documents and evidences; assess the observance of policies, laws, tasks and powers of inspected subjects related to assigned inspection contents
- Head of the SA team is responsible for reporting to the inspection decision issuer on the progress of the inspection team's performance of tasks according to the inspection plan or at request by inspection decision issuer

Result of the SA

- Within 15 days since the end of the SA, SA result shall be issued with following information:
 - Overview of inspected subjects;
 - Results of inspection and verification of each inspection content;
 - Evaluate the implementation of policies, laws, tasks, and the observance of regulations on standards, expertise and techniques by inspected subjects;
 - Measures have been applied during the inspection; propose measures to handle violations of the law; propose amendments, supplements and promulgation of regulations to suit management requirements or annul illegal regulations discovered through inspection (if any);
 - Different opinions among members of the inspection team (if any)

Overview on custom audit

Voluntary disclosure



Supplemental declaration within 60 days of import/export not subject to administrative penalty



Penalty of 10% of tax shortfalls: supplemental declaration after 60 days of import/export but before any PCI



Penalty of 20% of tax shortfalls: Voluntary payment of tax shortfalls after the PCI conclusion is available



Penalty of 1 to 3 times of tax shortfalls: Not make payment of tax shortfalls before a violation minutes is prepared



Overview on custom audit

Advance rulings



Current regulations include advance rulings for HS code, customs value, and origin



In practice, only HS classification advance rulings are available;

Overload and time
consuming process



Tighten policy to limit advance
ruling application



2

Customs Audit Focus

Customs audit focus

- Law on Customs has been in place since 2014 with no updates;
- The General Department of Customs develops list of high-risk goods in customs field for risk management purpose;
- The list of high-risk goods may be changed from time to time, which covers a wide spectrum of commodities;
- This list is one of the basis for customs authority to determine customs audit activities.



Customs audit focus

ISSUE

Customs valuation in related-party transactions

- Off-shore sellers and local importer are related parties and have special relationships
- Agreement on profit margin
- Buyer proposes buying price
- Unspecified discount scheme
- Certain control on imported goods or goods distribution



Customs audit focus

ISSUE

HS classification

- Importer normally conducts declaration on the basis of HS code as provided by exporter
- HS codes of the same heading/subheading with higher tariff rate are used to challenge the declared HS code in case description of certain terms are unclear
- Customs authority may use ingredients to challenge classification in different HS codes of higher tariff rates



Customs audit focus

ISSUE

Preferential Origin

- Importer claims preferential duty on the basis of Certificate of Origin issued by exporting countries
- Common errors on Certificate of Origin such as:
 - Erroneous origin criterion
 - Failure of ticking certain boxes in C/O such as Third Party Invoicing box
 - Do not indicate the RVC percentage
 - Inconsistency in presenting the goods description



Customs audit focus

ISSUE

Export production

- Material consumption is controlled by customs authority
- Risk of duty free material leakage



3

Managing a Customs Audit

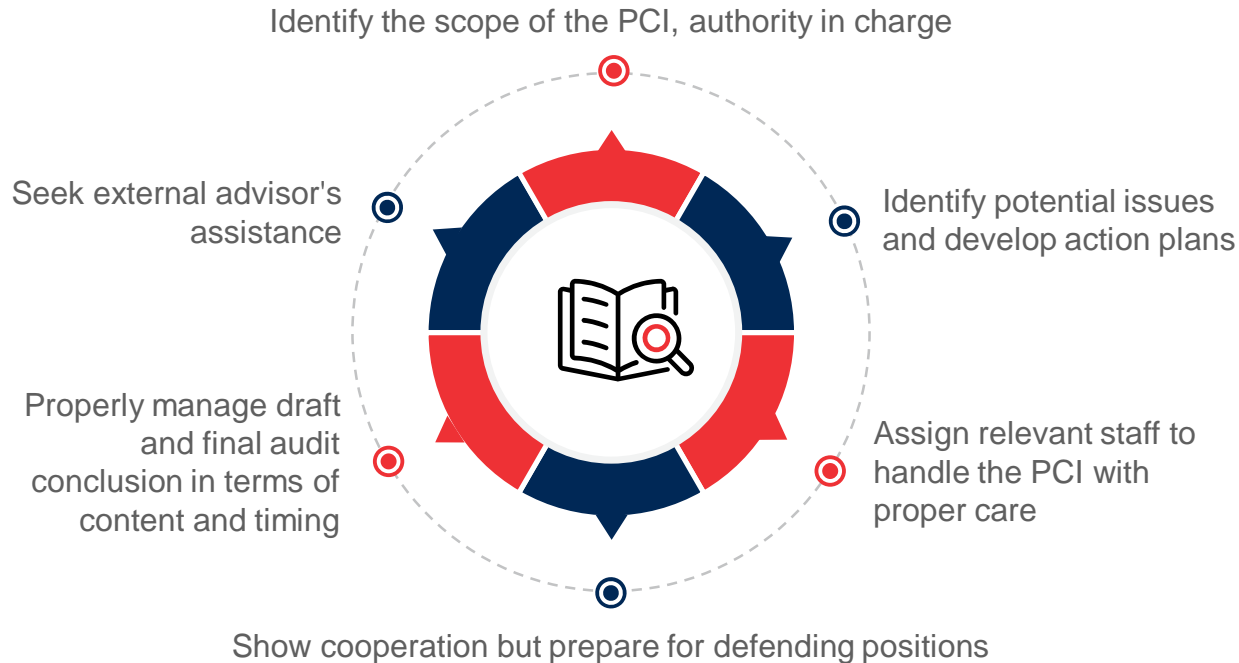
Managing a customs audit

Before any customs audit



Managing a customs audit

During a customs audit



The image features a white speech bubble shape on the left side, containing the word "Questions" in a bold, dark blue font. The background is a dark brown color with a subtle, textured pattern. On the right side, there is a vibrant, abstract graphic element consisting of diagonal stripes in shades of orange, yellow, and red, resembling a sunset or a stylized sun.

Questions

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