



Deloitte Forum 2023:
Exploring New Horizons for
Growth and Beyond

Customs and Trade: Key Updates and Developments





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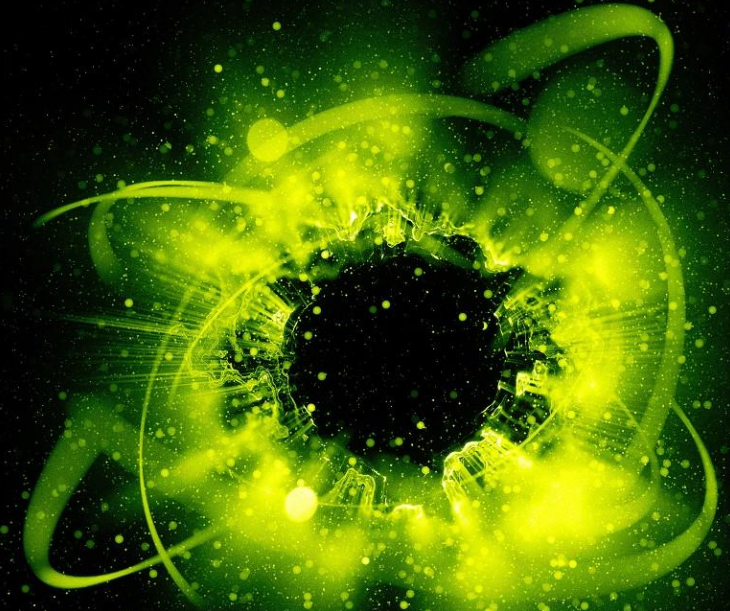
Customs and Trade: Key Updates and Developments



Sujitra Sukpanich
Director
Deloitte Thailand








Pattiya Dao-Chaeng
Senior Manager
Deloitte Thailand



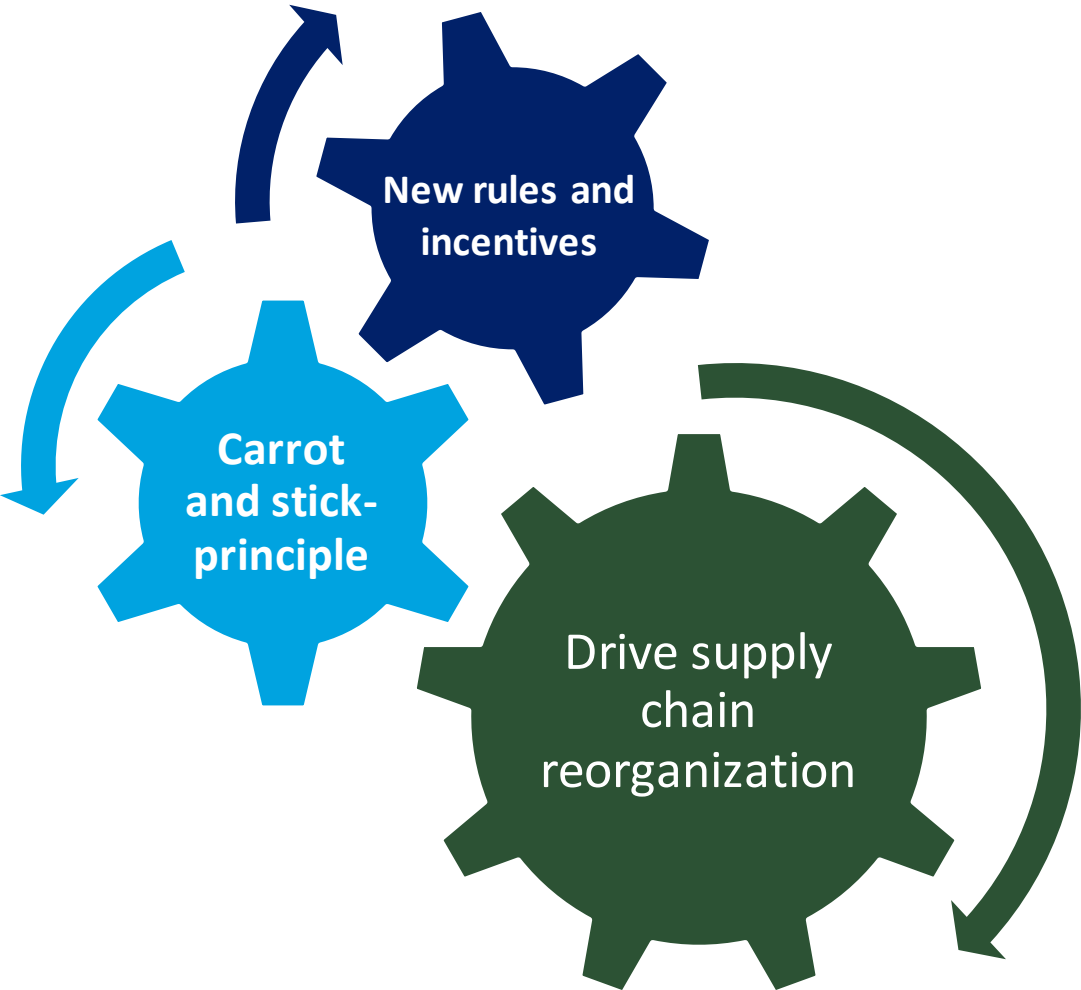
Overview of recent customs & trade developments in Thailand

Thailand overview

Overview of recent customs & trade developments in Thailand

-  •Trade tensions between China and EU/US and Thai incentive offerings persuade companies to reorganize their supply chain through Thailand – but not without risks
-  •Thailand EV industry continues to grow driven by EV3/EV 3.5 customs & excise incentives
-  •Increased post-entry customs audits and investigations at the port with a focus on tariff classification, import licensing, royalties and FTA compliance
-  •Expansion of customs compliance requirements from duty assessments to import and export controls for environmental, security and economic considerations
-  •Thailand continues to seek new FTAs with new markets including UAE, Sri Lanka, EFTA and officially restarted FTA negotiations with the EU in September 2023

Thailand overview



THAILAND IN-DEPTH

Incentives for EV manufacturers continue beyond 2025

- Temporary and conditional customs duty reductions and eliminations for CBUs
- Excise tax reductions
- Purchase subsidies
- Customs duty exemptions on imports of key EV parts

Voluntary self-disclosure program

- Only for non-compliance issues with duty exposure
- Companies wish to use the program but can be deterred by the “case-by-case” consideration of duty evasion intent
- Proposal to formalize the program into law with objective conditions

Export controls

- Implementation of catch-all controls by the
- Thai DFT issues letters encouraging “likely” exporters of DUIs to certify their Internal Compliance Program for export control purposes

FTA and anti-circumvention investigations

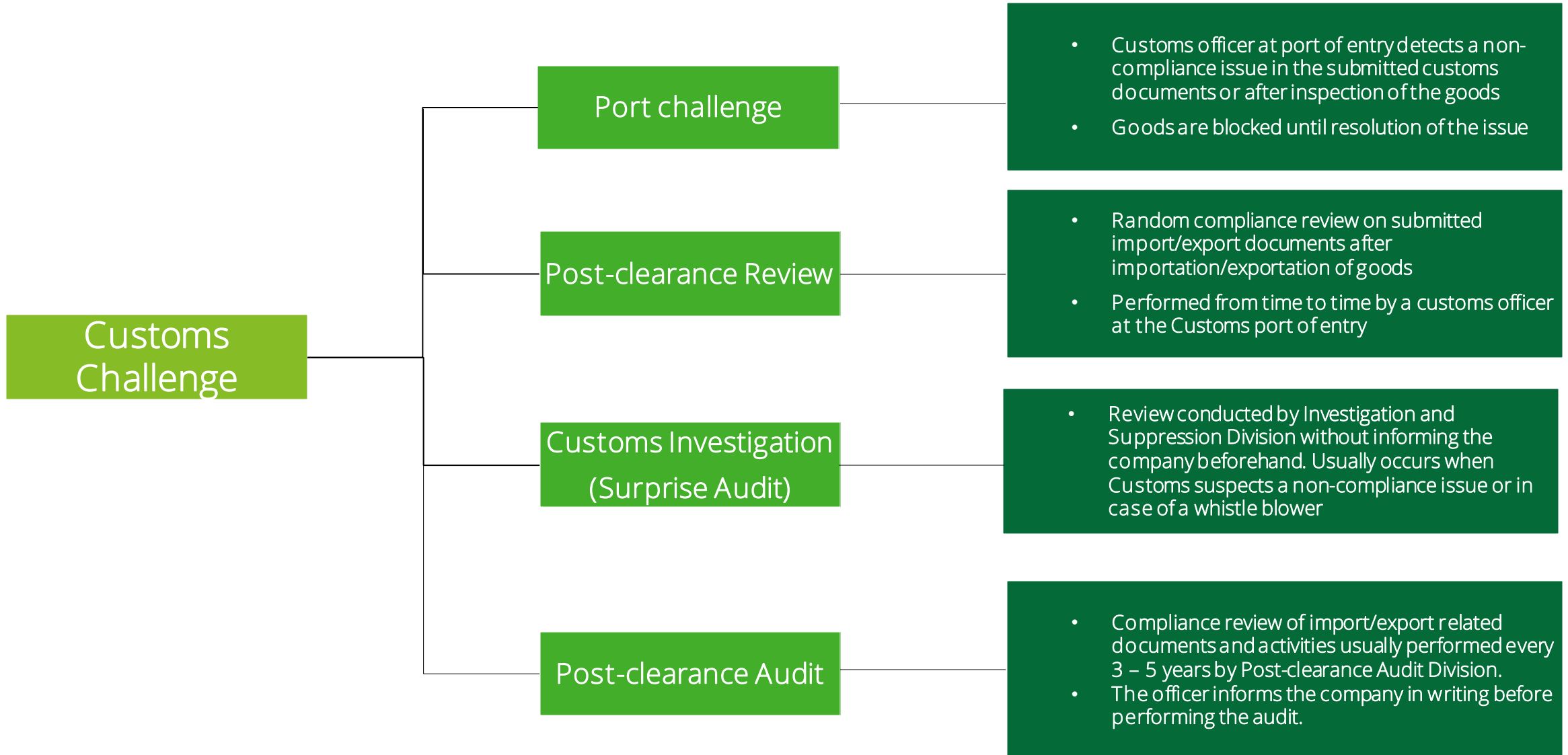
- FTA exports to India face CAROTAR investigations
- Companies shifting production from China to Thailand for export to US/EU fact scrutiny on the origin of export goods
- DFT issues a list with risk products subject to increased information requirements

Global Trade Advisory (GTA)

Customs audits and the role of automation

Customs Audit

Trigger points for Customs & trade challenges



Customs Audits

Key audit trends in Thailand

1



Customs classification

Common issues

- HS 2022 adjustments
- Products with multiple possible tariff codes
- Management of classifications for large import volumes

Risk management

- Conduct classification reviews based on master data and keep supporting rationale
- Automate classification screening where possible

2



FTA documentation

Common issues

- FTA OCP and CO formalities
- Inconsistency between CO and customs documents
- Different interpretation rules on export vs import side

Risk management

- Thorough review and application of OCP rules
- Assess requirements on import and export side

3

Customs Valuation

Common issues

- Royalties: broad interpretation by Customs
- TP adjustments: no formalized approach towards Customs

Risk management

- Record relevant documentation to support the purchase transaction
- Prepare pricing analysis in case of audits

4



Import licensing

Common issues

- NSW limitations
- Proliferation of regulatory restrictions on imports
- Restrictions on retroactive approval of import license

Risk management

- Analyze applicable regulations and consult with government agencies

Customs Audits

FTA compliance investigations on Thai exports

Import country challenges FTA privilege

Thai exporter must present data to support origin qualification of goods

Thai DFT and Customs of import country review

Risk management best practices



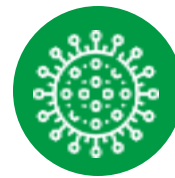
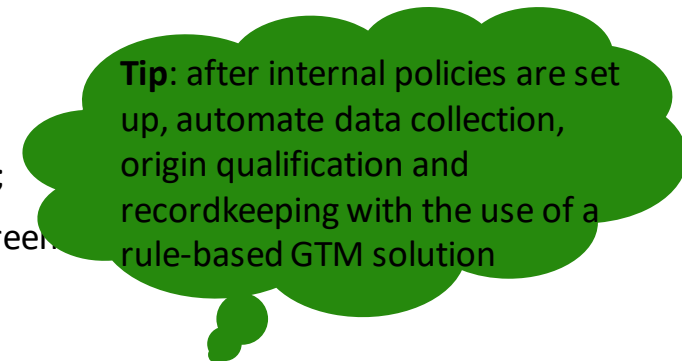
Analyze first

- Identify trade flows between countries that are parties to the same FTA
- Compare the normal tariff rates vs FTA tariff rates
- Confirm the correctness of your HS code
- Assess whether your product meets the FTA Rule of Origin



Organize data collection

- Set up a database for FTA eligible products;
- Put in place internal procedures to collect and monitor sourcing and costing info;
- Obtain and record verifiable and legally accepted proofs to support sourcing and costing info;
- Persons in Charge to handle the procedures on transactional basis and perform periodical screen



Be ready

- Apply for FTA privileges with accurate supporting information and update when needed;
- Understand the certification conditions for FTA usage and verify COs on transactional basis;
- In case of post-verification challenges, cooperate with authorities and provide accurate product information based on your up-to-date FTA databases to support FTA claims

Customs Audits

US anti-circumvention investigations

Cause and issues



- Punitive tariffs imposed on Chinese imports in the US/EU
- Relocation of factories from China to Thailand to mitigate impact
- Manufacturers in Thailand must still meet **substantial transformation requirements** to obtain Thai origin
- US/EU concerns about Chinese suppliers potentially circumventing the anti-dumping measures by **rerouting** the goods through **Thailand**

Current status in Thailand



- Thai DFT imposed additional verification requirements **for exporters of selected “risky” products who request a non-preferential certificate of origin (CO) for export to the US and EU**
- US CBP conducts investigations into exports from Thailand by Chinese-owned companies and on-site audits on the factories
- Objective: ensure exports from Thailand are effectively Thai and if Chinese: impose punitive tariffs

What to do when facing investigation on origin of goods



- Companies may start with the following:
 - Conduct an internal review whether the products **meet non-preferential rules of origin** requirement
 - Ensure that the Certificates of Origin and supporting customs documents are consistent and meet all the formalities
 - Monitor and record supporting documents / evidence (e.g., list of materials and suppliers, invoices, import declarations, flowchart of production process, etc.) as evidence that the products meet the origin rules, if requested.

Global Trade Advisory (GTA)

Economic sanctions and export controls in the new normal

Economic Sanctions & Export Controls

Thailand DUI Export Controls

What is the scope of control?

Export/transactions of products/intangibles which have a **civilian purpose** but can also be used to produce Weapons of Mass Destruction (WMD) or for military purposes, so called dual-use items (DUIs).

- DUI List 1: EU DUI List of 2019
- DUI List 2: HS code list

Which are the Export Control Regulations?

- Weapons of Mass Destruction Related Items Act (TCWMD Act) B.E. 2562 (2019) – became effective from 1 January 2020 onwards
- Supplementary laws
 - Notification of Ministry of Commerce re: Catch-all Control measures
 - Notification of DFT re: Criterion for a certified Internal Compliance Program (ICP) certification

Catch-all controls:

- DFT and Customs controls on **the destination, end-use and end-user** of the export/transaction to assess if products are at risk of being used in the development of proliferation of weapons of mass destruction.
- Thai exporters/ traders must be prepared to demonstrate sufficient due diligence on the end-use and end-user to avoid blocked shipments, fines and penalties.

Enforcement measures

- Suspension of transactions that risk to enable development of WMD
- Fines and imprisonment penalties for violation of suspensions, contribution to WMD development or failure to produce due diligence information
- Licensing requirement – **currently not implemented yet**

Economic Sanctions & Export Controls

Thailand DUI Export Controls

DFT Internal Compliance Program (ICP): voluntary program to help companies self-monitor DUIs and compliance with catch-all controls by implementing measures to collect and verify products, users, and end-user data.

→ **Makes it easier to pass DFT controls**

6 elements:

- 1) Appointment of administrative compliance responsibilities and procedures
- 2) Product, end-user, end-use and transaction screening
- 3) Internal Employee training
- 4) Recordkeeping and documentation
- 5) Self-audit
- 6) Reporting

Benefits of ICP:

- Helps companies to effectively manage their export compliance with the export rules and mitigate the risk of penalties
- Facilitate information sharing between exporters and the authorities and protect companies' reputation
- ICP companies considered as more 'trustworthy' and subject to less scrutiny than non-ICP companies

Other Thai export control considerations

- Export controls by DFT/Department of Defense on military goods to specific countries
- Partial or full country embargoes
- Companies must screen business partners against the UN Consolidated Sanction party List

Global Trade Advisory (GTA)

Our service offerings

Our GTA expertise

Our services

- **Global Trade Advisory**

- Our team of GTA specialists are able to support on various global trade and customs compliance issues arising at any point along the global value chain, providing a holistic support to your organisation from risk mitigation to supply chain optimisation.

- Our service areas include but are not limited to the following:

Service areas (non-exhaustive)	Examples
Tariff classification	HS code review, mass classification, classification rulings
FTAs and Origin	Market access, preferential tariff claims, origin rulings, origin verification
Customs valuation	Determination of customs valuation methodology, unbundling of dutiable elements, impact of TP adjustments, valuation rulings
Strategic goods export controls	ECCN classification, license approval and application for bulk permits, export compliance process audit
Duty reliefs and exemptions	Qualification, application, and compliance monitoring
Free Trade Zones/ Bonded Warehouse/ Processing Zones	Setting up and compliance monitoring
Supply chain security programmes	Internal Compliance Programs (ICP) and Authorised Economic Operator (AEO) certification
Customs compliance reviews	Compliance health-checks, voluntary disclosure
Audit defence	Review existing exposure and advice on risk mitigation plans and strategy
Trade remedies	Anti-dumping, countervailing, safeguards, investigation defence
Dispute resolution	Representation during audits, investigations and appeals at tribunal level
Non-tariff barriers	Licensing requirements, quota, exemption, standards
Customs automated solutions	SAP GTS, Global Trade Management tools, Global trade radar, Trade Classifier, GTA Review
Training/ on-site support/ managed services	Training workshops, on-site implementation support, managed services and loan staff arrangement.



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