

TRADE & CUSTOMS

# Managing Transfer Pricing and Customs Valuation

TAX

# Managing Transfer Pricing and Customs Valuation



Transfer pricing is both a corporate tax and a customs valuation issue. Because customs valuation can profoundly impact a company's transfer pricing strategies, and vice versa, it has become increasingly important to coordinate the two.

Changes to transfer prices often set in motion events that may require appropriate adjustments to existing customs declarations. This is why it has now become standard procedure for customs auditors to request transfer pricing related information when making customs valuation enquiries. The transfer pricing guidelines set by the Organization for Economic

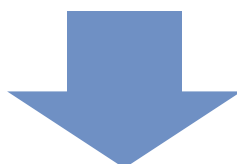
Cooperation and Development (OECD) and valuation rules of the World Trade Organization (WTO) both abide by the arms-length principle. However, the motivation of the two bodies is generally incompatible, which can make it difficult to satisfy both tax and customs authorities. In an importing country, for example, tax authorities strive to increase taxable income by reducing customs value. Customs authorities, on the other hand, strive to increase import value.

Fortunately, there are ways for a company to proactively manage both transfer pricing and customs. KPMG member firms have been providing services to companies in this area by bringing together professionals in both the Transfer Pricing and Customs groups. The result is a targeted delivery of professional advice that can address both transfer pricing and customs concerns.

We look forward to assisting your company in this important endeavor.

## Managing Transfer Pricing and Customs Valuation

Transfer pricing	Customs valuation
<b>Advance Pricing Arrangement (APA)</b> <ul style="list-style-type: none"> <li>Establish transfer pricing method for covered transaction during an extended period of time under critical assumptions with tax authorities</li> </ul>	<b>Customs ruling</b> <ul style="list-style-type: none"> <li>Establish an acceptable customs valuation including additions and deductions to declared price. Get approval from customs authorities</li> </ul>
<b>Transfer pricing risk assessment review</b> <ul style="list-style-type: none"> <li>Identify inter-company transactions</li> <li>Review functional and risk profile</li> <li>Review price setting policy</li> <li>Determine arm's-length range</li> <li>Identify transfer pricing exposure</li> <li>Quantify transfer pricing exposure</li> </ul>	<b>Customs valuation review</b> <ul style="list-style-type: none"> <li>Determine arms-length for customs (yes/no)</li> <li>Determine proper method of appraisalment</li> <li>Identify savings via "stripping out"</li> <li>Determine mandatory "additions to declared price" (if appropriate)</li> <li>Align procurement with valuation adjustments</li> </ul>
<b>Transfer pricing adjustment process</b> <ul style="list-style-type: none"> <li>Determine true ups (quarterly, biannually and annually)</li> <li>Reconciliation with indirect taxes</li> </ul>	<b>Customs reconciliation process</b> <ul style="list-style-type: none"> <li>Determine optimal reconciliation timeframe (quarterly, biannually and annually), if applicable</li> <li>Implement record keeping and document matching system and framework (if applicable)</li> </ul>
<b>Transfer pricing documentation</b> <ul style="list-style-type: none"> <li>Functional, financial and economic analysis</li> <li>Determine arms-length range</li> <li>Document past transactions</li> <li>Support proposed transactions</li> </ul>	<b>Internal controls and risk management</b> <ul style="list-style-type: none"> <li>Policies, procedures, internal controls, training</li> </ul>



### Proactive Transfer Pricing and Customs Process

- Combine tax and customs planning from the earliest possible opportunity
- Utilize pre-approval processes, such as Advance Pricing Arrangements from tax authorities and customs rulings from customs officials (APAs and ACRs)
- Reduce customs duties by way of the "Appraisalment Hierarchy"
- Implement robust document tracking and customs entry reconciliation processes
- Introduce ongoing policies, procedures and internal controls
- Monitor inter-company transaction flow and profitability
- Centralize procurement policies and internal controls.

# KPMG's Global Transfer Pricing and Trade & Customs Services

KPMG's Global Transfer Pricing Services is a network of experienced tax professionals, financial analysts, and economists from various KPMG International member firms — all of whom are dedicated to providing clients worldwide with effective transfer pricing services that address the significant facets of their business.

Global Transfer Pricing Services consists of more than 800 multidisciplinary member firm professionals operating in major regions of the world.

KPMG's Global Trade & Customs network consists of more than 200 experienced customs professionals worldwide. Many are former customs officials, while others come from backgrounds in private industry, accounting, law and economics.

The Trade & Customs network works closely with KPMG's Global Transfer Pricing Services Group, providing clients with wide-ranging and thorough advice across the tax and customs disciplines.

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# How well is your company managing its transfer pricing and customs valuation?



## Identifying key issues and opportunities

### **Retroactive price adjustments:**

A retroactive price adjustment involving either an increase or a decrease could mean that your company needs to adjust its customs declarations over the previous timeframe. This may apply to both dutiable and non-dutiable goods.

### **Possible duty savings:**

It may be possible to reduce customs duties on imports by choosing an appraisement method such as computed value. This appraisement method is used in situations where an arms-length price is not established for customs purposes under transaction value or Transaction Value of Identical and Similar Goods. Certain elements of the declared price not relevant to the goods themselves can be “stripped out” and customs duties can be reduced. This may, however, impact your company’s transfer price and must be carefully coordinated.

### **Additions to customs value:**

Some elements of a transfer price may increase customs duties because they may need to be added to the declared value to customs. Under the Transaction Value appraisement method, these include: certain royalties and commissions, certain “assists” paid by the importer or its designee to the manufacturer/seller, if provided free of charge or at a reduced cost; certain

proceeds and even certain costs for packing. It is important to weigh the risks and benefits regarding all the various elements which may go into an inter-company price.

### **Changing commercial circumstances:**

Changing commercial circumstances for new tax structures associated with transfer prices can impact customs valuation. Common areas include: a shift in allocation of profit or responsibility from one entity to another; provisional pricing arrangements; introductions or removals of intermediaries from transactions, and even pricing adjustments made for currency fluctuations.

### **R&D and product launches:**

Building costs of new product development and R&D or marketing into a transfer price can attract the attention of customs regimes across Asia and beyond. If the price changes significantly from previous benchmarks customs may decide to review more closely.

### **Customs audits:**

Should customs request a copy of a transfer pricing study along with other traditional customs audit documents, it is important that appropriate customs procedures and internal controls can be demonstrated which coincide with transfer-pricing practices

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\*Harsono Hadibroto Consulting (HHC) is a business advisory company providing a full range of tax and customs services. HHC is not a member firm of KPMG.

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