

# The Link Between Transfer Pricing and Customs Valuation 2015 Country Guide



# Table of contents

Foreword	1
Deloitte global profile	2
WTO Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 — Related Party Valuation Rules excerpt	3
Argentina	4
Australia	5
Austria	6
Belgium	7
Brazil	8
Canada	9
Chile	10
China	11
Colombia	12
Costa Rica	13
Czech Republic	14
Denmark	15
Ecuador	16
Egypt	17
France	18
Germany	19
Guatemala	20
India	21
Indonesia	22
Ireland	23
Israel	24
Italy	25
Japan	26
Kenya	27
Luxembourg	28
Malaysia	29
Mexico	30
Netherlands	31
New Zealand	32
Norway	33
Peru	34
Philippines	35
Poland	36
Portugal	37
Romania	38
Russia	39
Saudi Arabia	40
Singapore	41
South Africa	42
South Korea	43
Spain	44
Sweden	45
Switzerland	46
Taiwan	47
Thailand	48
Turkey	49
United Arab Emirates	50
United Kingdom	51
United States	52
Vietnam	53
Customs & Global Trade Country Contacts	54

# Foreword

*The Link Between Transfer Pricing and Customs Valuation — 2015 Country Guide* is one of the most broad-based and authoritative, annually updated, guides of its kind, compiling essential information regarding the customs-related requirements and implications of related party pricing and retroactive transfer pricing adjustments in numerous key jurisdictions around the world. The information contained herein has been provided by local country specialists from Deloitte Touche Tohamtsu Limited's global network\* of Customs and Global Trade (CGT) professionals.\*\* With more than 550 professionals in over 100 countries worldwide, the Deloitte member firms' CGT practice serves importers and exporters in business sectors and industries around the world.

## What's new in 2015?

*The Link Between Transfer Pricing and Customs Valuation — 2015 Country Guide* has been expanded this year to include three new contributing countries of increasing interest to multinationals: Costa Rica, Guatemala, and the United Arab Emirates.

Additionally, it has been updated to address several country-specific regulatory and enforcement changes and advancements impacting related party customs valuation,\*\* including:

- Australia has revised its penalty structure to substantially increase potential penalty assessments.
- Austria has increased the time limitation for duty refunds resulting from changed customs values to 3 years.
- Canada's customs authorities now require importers to report downward adjustments to customs value and provide an opportunity for duty refunds, provided certain conditions are met.
- China's customs authorities have implemented a pilot program for voluntary disclosures.
- In Costa Rica and Guatemala, new transfer pricing laws have been enacted such that it will be important to monitor how the customs authorities will react to the new transfer pricing regime and the adjustment of transfer prices.
- Malaysia will see the introduction of a new General Sales Tax (GST) in April 2015, which may impact the customs authorities' procedures for reporting customs value changes related to transfer pricing adjustments.

- Mexico has updated its procedures for amending customs declarations.
- Peru's customs authorities are now requiring documentation to support changes in reported customs values.
- South Korea has increased the period in which to claim duty refunds to 3 years (up from 2 years).

## An area of continuous developments

Given the complexity of customs valuation and transfer pricing issues, frequent developments, as well as the increasing scrutiny of related party transactions by customs and tax authorities around the globe, *The Link Between Transfer Pricing and Customs Valuation — 2015 Country Guide* provides you with a starting point for your inquiries on the customs-related impacts of setting and adjusting transfer prices. It is important to note that the setting of transfer prices and the making of transfer pricing adjustments have other potential tax implications that are not directly addressed in this guide. Such issues must be assessed on a case-by-case basis.

For further information about *The Link Between Transfer Pricing and Customs Valuation — 2015 Country Guide* and the CGT practice of the Deloitte member firms in general, please contact your local CGT practice contact shown at the end of this guide or [click here](#) to visit the CGT home page.

\* As used in this document, "Deloitte" means Deloitte LLP and its subsidiaries. Please see [www.deloitte.com/us/about](http://www.deloitte.com/us/about) for a detailed description of the legal structure of Deloitte LLP and its subsidiaries. Certain services may not be available to attest clients under the rules and regulations of public accounting.

\*\* *The Link Between Transfer Pricing and Customs Valuation — 2015 Country Guide* is intended as a general guide only. Its application will depend on the particular circumstances involved. While all reasonable attempts have been made to publish accurate information as of January 1, 2015, the rules underlying the information provided may change, which may impact the accuracy of this communication. None of the Deloitte network, its member firms, or their related entities is rendering professional advice or services by means of this communication. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

\*\*\* The WTO Customs Valuation Agreement defines "related parties" as: (a) officers or directors of one another's businesses; (b) legally recognized partners in business; (c) employer and employee; (d) any person [that] directly or indirectly owns, controls or holds 5 percent or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) members of the same family.



# Deloitte global profile

Deloitte's worldwide network of tax professionals keeps current on the latest changes that may impact clients' business tax planning, enabling clients to focus on business objectives while we address the tax requirements. Deloitte's tax professionals provide the breadth and depth of specialized resources to consult on the various tax objectives or tax-related issues clients may encounter.

Deloitte provides audit, tax, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and deep local knowledge and experience

to help clients succeed wherever they operate. Deloitte's approximately 210,000 professionals are committed to becoming the standard of excellence.

Deloitte's professionals are unified by a collaborative culture that fosters integrity, outstanding value to markets and clients, commitment to each other, and strength from cultural diversity. They enjoy an environment of continuous learning, challenging experiences, and enriching career opportunities. Deloitte's professionals are dedicated to strengthening corporate responsibility, building public trust, and making a positive impact in their communities.



# WTO Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 — Related Party Valuation Rules excerpt

**The following is an excerpt from the above-named agreement that sets forth the basic rules pertinent to the use of related party pricing as the basis for customs valuation in countries that are signatories to the agreement.**

## **Part I: Rules on customs valuation**

### **Article 1, paragraph 1:**

The customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the country of importation adjusted in accordance with the provisions of Article 8\*, provided that... the buyer and seller are not related, or where the buyer and seller are related, that the transaction value is acceptable for customs purposes under the provisions of paragraph 2.

### **Paragraph 2:**

- (a) In determining whether the transaction value is acceptable for the purposes of paragraph 1, the fact that the buyer and the seller are related... shall not in itself be grounds for regarding the transaction value as unacceptable. In such case the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the importer or otherwise, the customs administration has grounds for considering that the relationship influenced the price,

it shall communicate its grounds to the importer and the importer shall be given a reasonable opportunity to respond. If the importer so requests, the communication of the grounds shall be in writing.

- (b) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with the provisions of paragraph 1 whenever the importer demonstrates that such value closely approximates the customs value in sales to unrelated buyers of identical or similar goods at or about at the same time\*\*....

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 8 and costs incurred by the seller in sales in which the seller and the buyer are not related that are not incurred by the seller in sales in which the seller and the buyer are related.

- (c) The tests set forth in paragraph 2(b) are to be used at the initiative of the importer and only for comparison purposes. Substitute values may not be established under the provisions of paragraph 2(b).

\* Article 1 is to be read together with Article 8 which provides, inter alia, for adjustments to the price actually paid or payable for elements that are part of the customs value but are not included in the price. Article 8 also provides for the inclusion in the transaction value the value of specified goods or services from the buyer to the seller.

\*\* Such value is determined under the provisions of Articles 5 (deductive value) and 6 (computed value) when the customs value cannot be determined on the basis of transaction value (under Article 1).

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	Yes. In some cases, a reference price, or “valor criterio,” is provided by the customs authorities for specific Harmonized Tariff Schedule (HTS) codes.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. However, in rare cases, penalties may still be assessed for reporting an incorrect value, if discovered upon audit.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	No, unless adjusted by the customs authorities upon audit.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. However, in rare cases, penalties may still be assessed for reporting an incorrect value, if discovered upon audit.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes. However, in practice, refunds are difficult to obtain.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 5 years.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties of 1 to 5 times the duty owed may apply. Voluntary disclosure does not eliminate or reduce these penalties.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer is required to amend the import declaration if the need for an adjustment is discovered upon audit.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Generally, transaction-by-transaction. However, aggregate adjustments may be accepted on a case-by-case basis.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	If requested upon audit, additional VAT filings may be required and additional VAT and other taxes and fees may be due.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional VAT filings are required.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase and decrease: Yes.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold which would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Yes. No set threshold exists. The recommended approach is to proactively contact customs to discuss transfer pricing adjustments. Customs may request the transfer pricing study during such discussions.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer’s inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, in practice, the two values should be consistent because of the potential risk that customs may discover the discrepancy during an audit. Customs does review the inventory basis during an investigation and if the discrepancy is not justified, customs may impose penalties, depending on the severity of the discrepancy and the company’s history with customs.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Yes. The importer would apply for Valuation Advice after an APA has been issued to obtain mutual agreement.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	Yes. "Practice Statement No: B_IND08" provides legislative customs valuation requirements and policies for transfer pricing adjustments.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 4 years from the date of the import declaration. There is no time limitation in cases of fraud.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. If the adjustment results in additional duty owed, penalties up to 5 times the amount of duty owed or AUD 51,000 per import declaration, whichever is greater, would apply, and no interest would apply. But, if the adjustment does not impact the duty owed or results in a duty refund, penalties up to AUD 51,000 per import declaration, but no interest would apply. If a voluntary disclosure is made, no fines, penalties, or interest would apply, unless fraud is involved.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	Generally, a Valuation Advice application is filed with the customs authorities to obtain an advance ruling on the adjustment before the importer amends the customs values on the impacted import declarations.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Increased customs value: Aggregate payments of additional customs duties and Goods and Service Tax (GST) are permitted, although the adjustment must be reasonably apportioned so that the adjusted value, when presented to the customs authorities during the ruling process, is appropriately allocated to the correct duty rate. Decreased customs value: Transaction-by-transaction adjustments are required.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	Yes. The Valuation Advice ruling process states that a binding ruling remains in place for 5 years and can be used over this period for repeated retroactive adjustments.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional GST filings are required, unless an aggregate adjustment is made. Under this arrangement, the customs authorities would issue a tax invoice and the importer would pay the customs authorities the GST amount and claim an input tax credit for that GST amount in its next Business Activity Statement.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional GST filings are required. An adjustment to import value will automatically reduce the reported GST amounts.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase and decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No.



No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Possibly, if both the tax and the customs authorities agree that the price is considered to be arm's length.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	No, unless the price change is reflected in the contract conditions for the sale of goods. These contract conditions would have to be established before importing the goods into Austria.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: 3 years from the date when the customs declaration is accepted. This time limitation is extended to 10 years in cases of fraud. Duty refunds: 3 years with the possibility of extension in certain cases.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Fines, penalties, and interest may apply. Generally, if a voluntary disclosure is made, fines and penalties may be reduced or eliminated, but the late payment interest would still apply.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should contact the customs authorities to seek guidance on how to proceed.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction adjustments are required.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	The VAT filing must be amended to adjust the amount of input tax (provided the importer is not fully entitled to recover input VAT). Any additional VAT owed must be paid.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional VAT filings are required, provided that the VAT deduction is applicable. If the VAT deduction is not applicable, the VAT filing must be amended to adjust the amount of import VAT.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No.



No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Yes.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	Yes. The customs authorities have published administrative clarifications that deal with customs valuation and related party pricing.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 3 years after the closing of the verification activities by the customs authorities.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties, plus late payment interest of 9.6% per year, may apply. Penalties may be reduced for voluntary disclosure, although interest would still apply. If a ruling is in place, penalties may be avoided.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should contact the customs authorities to seek guidance on how to proceed.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction or aggregate, depending on the requirements of the regional customs authorities.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	Yes. A company-specific ruling from the customs authorities may facilitate repeated retroactive adjustments.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	If the importer does not have an ET 14.000 license to defer the import VAT to the VAT return, no additional VAT filings are required and any additional VAT would be automatically paid to the customs authorities. If the importer does have an ET 14.000 license, the correction must be made in the periodic VAT return covering the month in which the adjustments were made.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	If the importer does not have an ET 14.000 license to defer the import VAT to the VAT return, no additional VAT filings are required. If the importer does have an ET 14.000 license, the correction must be made in the periodic VAT return covering the month in which the adjustments were made.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. Penalties of up to 20% of the VAT owed, plus interest of 0.8% per month, may apply, if the adjustment is discovered upon audit. If a voluntary disclosure is made, only late payment interest may apply. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No. The recommended approach is to proactively contact the customs authorities to discuss prospective transfer pricing adjustments.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, in practice, the two values should be consistent. There is a potential risk that the tax and customs authorities may exchange information and reject/amend either the taxpayer's taxable basis or customs value.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Generally, no.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of fines or penalties. Brazilian legislation defines transfer pricing adjustments and customs valuation as distinct and independent matters, so there is no obligation to amend previous customs entries when making retroactive transfer pricing adjustments (please note that Brazil does not follow the Organisation for Economic Co-Operation and Development (OECD) guidelines and retroactive transfer pricing adjustments can only be made within the current calendar year).
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	N/A
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of fines or penalties. Brazilian legislation defines transfer pricing adjustments and customs valuation as distinct and independent matters, so there is no obligation to amend previous customs entries when making retroactive transfer pricing adjustments (please note that Brazil does not follow the OECD guidelines and retroactive transfer pricing adjustments can only be made within the current calendar year).
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	N/A
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	N/A
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	No.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	N/A
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	N/A
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	N/A
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	N/A
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	N/A
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	N/A
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Possibly. A variance in the customs value of 10% or more would likely trigger the customs authorities' scrutiny. It is recommended that the importer seek guidance on both the tax and customs considerations before a prospective adjustment is made to determine the best course of action.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, in practice, the two values should be consistent.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	Generally, yes.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Yes. Generally, the customs authorities will accept the arm's length price determined for tax purposes, provided that it is supported (e.g., by a transfer pricing study). However, each authority (tax and customs) reserves the right to make an independent decision.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	Yes. Customs Departmental Memorandum D13-3-6, entitled "Income Tax Transfer Pricing and Customs Valuation," describes the interaction between transfer pricing and customs value. It also acknowledges that the customs authorities will generally accept a transfer price established under OECD guidelines. Customs Departmental Memorandum D13-4-5, entitled "Transaction Value Method for Related Persons," also provides information on this topic.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes. A recent change in administrative policy requires importers to report decreases in customs value, provided that a written agreement triggering the reduction was entered into prior to the goods' importation.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes. A recent change in administrative policy allows importers to qualify for duty refunds, provided the written agreement triggering the reduction was entered into prior to the goods' importation.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: Within 90 days of booking the adjustment for accounting purposes. The obligation to adjust ends 4 years after the date that the goods are accounted for under the Customs Act. Duty refunds: A refund claim must be filed within 4 years of the original entry.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Interest is applied based on the duty and/or taxes owed. If affected transactions are not adjusted within 90 days, penalties may be issued and are based on the number of affected transactions or the number of "issues" being penalized. If a voluntary amendment or disclosure is made, penalties may not apply and interest may be reduced or waived. Failure to file a downward adjustment to customs value could result in penalties where the adjustment would not result in a duty refund.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	A voluntary amendment of the customs value following an upward or downward adjustment for non-dutiable goods or an upward adjustment for dutiable goods may be made within 90 days of booking the adjustment for accounting purposes. After 90 days, a one-time voluntary disclosure may be made. An amendment is not required for downward adjustments that pertain to dutiable goods; instead a refund may be available.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Aggregate adjustments may be permitted by obtaining a blanket authorization from the customs authorities.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No. There are no restrictions on the number of voluntary amendments that can be made; however, a voluntary disclosure can only be made once. Where a specific transaction, or a series of transactions, has been adjusted for customs valuation, a further amendment related to customs value cannot generally be submitted for the same transaction or transactions unless certain criteria are met.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No. However, obtaining a blanket authorization may allow for future retroactive adjustments on a case-by-case basis.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	Additional Goods and Services Tax (GST) must be paid to the customs authorities on amended entries, and can be claimed as an input tax credit on the GST return provided that the importer is eligible to claim such credits.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	Generally, the customs authorities will not refund GST on commercial goods. However, where GST has been overpaid, and the importer is either a non-registrant or does not recover full input tax credits, it may be possible to recover the GST from the tax authorities. The form and process varies depending on the situation.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: No. No additional fines or penalties would apply. However, if a non-Canadian vendor is registered for GST/Harmonized Sales Tax (HST) and is delivering goods into Canada, there could be two instances of GST/HST to report and the vendor could be liable to collect GST/HST on the additional invoice amount. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Possibly, if the value reported prospectively is significantly different than prior period reporting, it may trigger scrutiny during the customs authorities' targeting and/or verification process. It is recommended that the information and support for making a prospective adjustment be appropriately documented and maintained.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Yes, this is now possible based on recent legislation.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	Yes.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of fines or penalties.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	No.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of fines or penalties.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	No.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	N/A
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	No.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	N/A
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	N/A
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	N/A
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	N/A
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	N/A
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	N/A
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase and decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Yes. No set threshold exists. It is recommended that the information and support for making a prospective transfer pricing adjustment be appropriately documented and maintained. The importer may also proactively contact the customs authorities to discuss the transfer pricing adjustments. For even greater certainty, the importer may request an APA with the corporate tax authorities and provide a copy of the APA to the customs authorities.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	Yes. The potential risk is the denial of the corporate tax deduction.



No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Possibly. Although difficult to achieve in practice, the authorities may agree on the same price if there is a reasonable basis to do so.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. Reporting is voluntary, although recommended to mitigate potential penalties that may be assessed upon audit.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. Reporting is voluntary, although recommended to mitigate potential penalties that may be assessed upon audit.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes. In practice, however, duty refunds are difficult to obtain.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: 3 years. Duty refunds: 1 year.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. For value increases, administrative penalties of 30% to 200% of the duty owed, plus interest, may apply on a case-by-case basis. For value decreases, a warning or administrative penalties of RMB 1,000 to RMB 10,000 may apply on a case-by-case basis. If a voluntary disclosure is made, penalties and interest may be reduced or waived on a case-by-case basis.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	If the importer elects to report, the importer should contact the customs authorities to seek guidance on how to proceed.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction or aggregate, depending on the requirements of the customs authorities involved.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required. An adjustment to import value will automatically result in the assessment of additional VAT.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional VAT filings are required. However, VAT refunds are difficult to obtain.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. Administrative penalties of 30% to 200% of the import VAT owed, plus interest, may apply. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Yes. No set threshold has been published. However, in practice, a 5% variance in price may trigger customs' scrutiny in Shanghai. It is recommended that the information and support for making a prospective adjustment be appropriately documented and maintained and that the importer be prepared to answer any questions regarding its related party pricing and prospective transfer pricing adjustments. The importer could seek an advance agreement with the customs authorities, but it may be difficult to obtain.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	Generally, no. However, the Processing Trade Relief provisions require consistency. Also, a significant variance may trigger scrutiny by the authorities.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Possibly. Tax and customs operate as two branches within one authority, but separate methodologies are used to evaluate pricing. There are no procedures to coordinate decision making between the two branches.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. There is a risk of penalties if audited. Importers may voluntarily report the change.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of fines or penalties.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	N/A
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Voluntary reporting of additional duty payment and duty refunds: 3 years from the date of the accepted import declaration.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. If the customs authorities pursue an investigation, penalties of 50% of the difference between the declared value and the adjusted value, plus interest, may apply. If a voluntary disclosure was made, penalties are reduced by 20%.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	There is no set procedure.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction adjustments may be required by the customs authorities as the result of an audit.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required. Any additional VAT owed must be paid.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	N/A
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. Penalties of 50% of the difference between the declared value and the adjusted value, plus interest, may apply. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	Yes. The potential risk is an investigation by one or both branches (tax and/or customs).

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	Transfer pricing studies are a new requirement and APAs are a new opportunity as of January 2015. As such, it is unknown how they will be viewed from a customs perspective. It is expected that a transfer pricing study or an APA alone will not be sufficient.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Possibly. Tax and customs operate as two branches within one authority, but separate methodologies are used to evaluate pricing. There are no procedures to coordinate decision making between the two branches.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Whether the customs authorities will expect importers to report increased customs values due to the retroactive transfer pricing adjustments remains to be seen as the new transfer pricing laws are applied in practice.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Currently, the importer is required to report an increase in the declared customs values that have changed for other reasons. Whether the customs authorities will expect importers to report the change in customs value resulting from transfer pricing adjustments remains to be seen as the new transfer pricing laws are applied in practice.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Whether the customs authorities will expect importers to report decreased customs values due to a retroactive transfer pricing adjustments remains to be seen as the new transfer pricing laws are applied in practice.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Currently, the importer may request a duty refund when the declared customs value is decreased. Whether the customs authorities will expect importers to report the change in customs value resulting from transfer pricing adjustments remains to be seen as the new transfer pricing laws are applied in practice.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Currently, additional duty payments and duty refunds must be reported within 4 years from the date of importation. Whether the customs authorities will provide specific rules for amending customs values due to transfer pricing adjustments remains to be seen as the new transfer pricing laws are applied in practice.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Value increase: Yes. Currently, when there is a change to the reported customs values for other reasons that results in a value increase, fines and interest may apply. If a voluntary disclosure is made, reduced fines would apply. Value decrease: No.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	N/A
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	N/A
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	Currently, no restrictions are placed on the number of customs value adjustments that may happen in a given year. Whether the customs authorities will provide specific rules for transfer pricing adjustments remains to be seen as the new transfer pricing laws are applied in practice.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	General Sales Tax (GST) must be paid to the customs authorities on amended import declarations, and can be claimed as an input tax credit on the GST return provided that the importer is eligible to claim such credits. Also, the importer has to rectify the GST return in order to include the new GST credit in the proper (monthly) return.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	Generally, the customs authorities will not refund GST on commercial goods.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. Fines and interest may apply. If a voluntary disclosure is made, reduced fines would apply. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Possibly. It remains to be seen how the customs authorities will handle customs value changes due to prospective transfer pricing adjustments. It is possible that related party transactions may invite more scrutiny from the customs authorities in 2015.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	Yes. The potential risk is an investigation by one or both branches (tax and/or customs).

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Possibly, but this is untested.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes, provided that the conditions of the adjustment were known at the time of importation.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes, provided that the conditions of the adjustment were known at the time of importation.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 3 years from the date of release of the imported goods. This time limitation is extended to 10 years for criminal acts.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Fines of up to EUR 160,000, plus penalties of 20% of the duty owed, may apply. No interest would apply. If a voluntary disclosure is made, no fines, penalties, or interest would apply.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should submit a letter and an application to the customs authorities for payment of additional duty owed. The customs authorities would then provide guidance on how to proceed.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction adjustments are required.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	The ordinary VAT return for the period in which the change was made must be adjusted to reflect the new VAT tax base and VAT amount.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	The ordinary VAT return for the period in which the change was made must be adjusted to reflect the new VAT tax base and VAT amount.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. If the adjustment is discovered upon audit, penalties of 20% of the VAT owed, plus interest and a fine of up to EUR 2,000, may apply. If an adjusted VAT return is filed, no penalties or interest would apply. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	Yes. The potential risk is the denial of the corporate tax deduction.



No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 3 years from the date of release of the imported goods. This time limitation is extended to 5 years for criminal acts.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties of up to 50% of the duty owed may apply if the adjustment is discovered upon audit. If a voluntary disclosure is made, there may be reduced or zero penalties. No interest would apply in either case.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should file a general correction form, including supporting documents, and a letter of explanation.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Generally, transaction-by-transaction. However, aggregate adjustments may be accepted on a case-by-case basis.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	Possibly. The "provisional customs clearance" agreement may facilitate repeated adjustments. The customs declaration should clearly indicate that the value is provisional and will be adjusted after customs clearance.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	For importers with a deferred payment arrangement, VAT will automatically be corrected if the importer files a correction. For other importers, import VAT need not be corrected in the VAT return if an importer has the right to a full deduction of import/input VAT.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	For importers with a deferred payment arrangement, VAT will automatically be corrected if the importer files a correction. For other importers, import VAT need not be corrected in the VAT return if an importer has the right to a full deduction of import/input VAT.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase and decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of fines or penalties.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	No, unless adjusted by the customs authorities upon audit.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of fines or penalties.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	No.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: 3 years from the date of entry. Duty refunds: N/A
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	No.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	N/A
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	N/A
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	An amended VAT filing is required to reflect the revised amount.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional VAT filing is required.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Yes. No set threshold exists. There is no process to proactively address this with the customs authorities.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	Yes. The potential risk is increased scrutiny by either the tax or customs authorities, or both. Discrepancies between the inventory basis (cost of goods sold) and the customs value may trigger an investigation by the tax authorities.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	Generally, yes.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Currently, no, and there is no risk of fines or penalties. However, the customs authorities are contemplating new regulations.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	N/A
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Currently, no, and there are no fines and penalties. However, the customs authorities are contemplating new regulations.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	N/A
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	N/A
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	N/A
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	N/A
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	N/A
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	N/A
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	N/A
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	N/A
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	N/A
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	N/A
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Yes. However, no set threshold currently exists.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. Although no written laws are currently in place, in practice, the two values must be consistent. The potential risk is the denial of the corporate tax deduction. In all cases, the tax authorities use the customs authorities' validated information via an online system.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Generally, no. The customs and tax authorities communicate with each other, but there are no procedures to coordinate decision making between the two authorities.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	Yes. There is a recent guidance publication entitled, "Règlement particulier: la valeur en douane (Special Regulation: Customs Value)," which defines the concept of transfer pricing and the use of the "provisional customs clearance" program.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, unless the importer utilized the "provisional customs clearance" program and must establish a final value. There is no risk of fines or penalties.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	No, unless the importer utilized the "provisional customs clearance" program. However, in practice, it is difficult to obtain approval of a downward adjustment that may yield refunds.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 3 years from the date of the price change (taxable event).
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Depending on the violation, penalties between 1 and 2 times the value of goods, plus interest — and in some cases, confiscation of the goods — may apply to upward adjusted values, unless the importer is in the "provisional customs clearance" program.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should implement a "provisional customs clearance" agreement before the importation of the goods. This agreement will specify the procedure to make adjustments.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Generally, transaction-by-transaction. However, aggregate adjustments may be permitted if the "provisional customs clearance" program has been implemented.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	Yes. The "provisional customs clearance" agreement may facilitate repeated adjustments.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	The original invoices must be canceled and reissued in addition to the customs declaration being amended. The overpaid VAT could be refunded or credited on the VAT return depending on the advance agreement with the authorities.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase and decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, in practice, the two values should be consistent.



No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Yes. The customs authorities could accept the arm's length price determined for tax purposes, provided that it is supported by a transfer pricing study, among other things.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes, provided that a written contract or transfer pricing agreement indicating that a change in price may occur was in place prior to the date of importation.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 3 years from the date the customs declaration is accepted. This time limitation can be extended to 10 years in cases of fraud.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties may apply, but no interest. The penalty amount is equal to the customs authorities' determination of the "economic benefit" received by the importer due to the under-declaration of value. If a voluntary disclosure is made, no penalties or interest would apply.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should contact the customs authorities to seek guidance on how to proceed.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction adjustments are required.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required. If the importer is not fully entitled to recover import VAT, an adjustment to import value will automatically result in the assessment of additional VAT. If the importer is fully entitled to recover import VAT, the additional VAT will not be assessed.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional VAT filings are required. An adjustment to import value will automatically result in a refund of the overpaid VAT. The difference between the import VAT claimed for input VAT recovery from the tax authorities and the import VAT assessed and refunded by the customs authorities will need to be repaid to the local tax office.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase and decrease: Yes. Fines may apply, but no penalties or interest. If a voluntary disclosure is made, no fines would apply.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Possibly, during an audit. No set threshold exists. However, it is recommended that the information and support for making a prospective adjustment be appropriately documented and maintained, and that the importer be prepared to answer any questions regarding its related party pricing and prospective transfer pricing adjustments.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of fines or penalties.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	N/A
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of fines or penalties.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	N/A
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	N/A
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	No.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	N/A
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	N/A
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	N/A
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	N/A
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	N/A
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Yes, if the value is decreased. No set threshold exists. There is no process to proactively address this with the customs authorities.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	Yes. The potential risk is the denial of the corporate tax deduction.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No. There are no formal procedures; however, the two authorities increasingly share information.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Possibly. Retroactive transfer pricing adjustments that increase the price paid by the importer made after the final determination by the customs authorities may be required to be reported in certain circumstances (e.g., where there is an actual additional payment associated with the increase in customs value). Nonreporting of such value increases may result in penalties.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes, provided that the adjustment resulted in actual additional payment associated with the increase in customs value.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Technically, no. However, imports are subject to provisional assessment until a final valuation determination is made by the customs authorities. Adjustments made prior to the final valuation determination should be assessed and the correct amount of duty and interest deposited.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	No.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: 1 year. The time limitation is extended to 5 years in cases of evasion. Duty refunds: N/A
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Generally, only interest would apply. However, penalties of up to the amount of duty owed, plus interest, may apply in cases where the customs authorities allege intent to evade duty in the final valuation determination.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should document the facts relating to the adjustment, pay the additional duties and interest owed, and seek acknowledgment of the submission made to the customs authorities.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction adjustments are required.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	N/A
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase and decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, in practice, both customs and transfer pricing authorities may compare the two values. The potential risk is a demand for customs duties, plus interest and penalties, and/or further transfer pricing adjustments if the price differences are not satisfactorily explained.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. There is no requirement to report increases to value, and any attempt to voluntarily disclose such adjustments will not reduce or eliminate potential penalties.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of fines or penalties.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	N/A
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: 2 years from the date of import declaration. Duty refunds: N/A
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. A maximum penalty of 1000% of the duty owed may apply depending on the amount of duty owed and the tariff provisions applied to the imported goods. Voluntary disclosure does not eliminate or reduce these penalties.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	N/A
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction or aggregate, depending on the requirements of the customs authorities conducting the audit.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required. An adjustment to import value will automatically result in the assessment of additional VAT.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	N/A
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Yes. Interest of 2% of the VAT owed per month, for a maximum of 24 months, may apply if the adjustment is discovered upon audit. The interest is calculated from the date the payment is due, which is 60 days from the date that the payment is assessed. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Yes, if the value is decreased. No set threshold exists. However, the use of transaction value may be rejected if the price decrease is significant (e.g., more than 5% variance). It is recommended that the information and support for making a prospective transfer pricing adjustment be properly documented and maintained.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, in practice, the two values should be consistent. The potential risks would be increased scrutiny by the customs authorities and a downward adjustment to inventory value by the tax authorities.



No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Yes.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes, provided that the adjustment exceeds 5% of the originally declared value or quantity of the goods.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 3 years from the date of importation. This time limitation may be extended in cases of fraud.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Interest may apply from the date when the debt was communicated (as opposed to the date of the adjustment or the date of the original import). In practice, it is unlikely that penalties would be applied.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should file Form C&E 125A with the customs authorities and amend the original import declaration.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Generally, transaction-by-transaction adjustments are required. However, aggregate adjustments may be accepted on a case-by-case basis, depending on the volume of affected transactions.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required. The customs authorities may require the importer to pay any additional VAT owed.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	In practice, no additional VAT filings should be required.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. Penalties and interest may apply. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No. We are not aware of such scrutiny on a systematic basis. However, transfer pricing is a relatively new feature of Irish taxation, and it cannot be ruled out that such scrutiny will be introduced in due course.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. Direct tax is based on accounting policies, while customs valuations follow EU rules. However, one could expect that large disparities between the two values would result in some inquiries by an auditing tax official.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Possibly, if the price is considered to be arm's length.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No. However, the Israel Tax Authority has appointed a professional committee to examine this issue, but no guidance has yet been published.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Generally, yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of fines or penalties.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes. In practice, however, duty refunds are difficult to obtain.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 5 years from the date of the taxable event.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Fines, interest, and an inflation adjustment will apply.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	No formal procedures exist. The typical approach would be to amend the import declaration.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction adjustments are required.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional VAT filings are required.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Possibly. No set threshold exists. The customs authorities use several criteria to assess risk. It is recommended that the importer obtain an advance ruling and that information to support a prospective adjustment be appropriately documented and maintained.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, in practice, the two values should be consistent. There is a potential risk that the tax and customs authorities may exchange information and reject/amend either the taxpayer's taxable basis or customs value.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	In principle, no. However, the transfer pricing study or international ruling (which is similar to an APA and can be unilateral or bilateral) may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Generally, no. While there are no formal procedures that govern how the tax and customs authorities would arrive at the same price, it may be possible to arrange for a meeting with the two authorities to obtain joint approval.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No, but it is possible that the customs authorities may publish guidance in light of recent Italian Supreme Court decisions analyzing the impact of transfer pricing methods on the reported customs value.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	No, unless the importer utilized the "provisional customs clearance" program.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 3 years from the date of the taxable event. Should the failure to pay customs duties be caused by criminal activity, the 3-year customs statute of limitations starts on the date on which the judgment in the criminal proceeding becomes final.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties from EUR 103 to up to 10 times the duty owed may apply when there is a variance in duty owed greater than 5%. However, no penalty will be assessed if the importer has implemented the "provisional customs clearance" program or has filed a voluntary disclosure (before a customs audit commences).
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should obtain a "provisional customs clearance" authorization before the importation of the goods. This authorization will specify the procedure to make adjustments. However, if the "provisional customs clearance" program has not been implemented, voluntary disclosure is an option.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Generally, transaction-by-transaction adjustments are required. However, aggregate adjustments may be permitted if the "provisional customs clearance" program has been implemented.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No. However, frequent adjustments may result in increased scrutiny from the customs authorities.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	Possibly. The "provisional customs clearance" agreement may facilitate repeated adjustments. However, the time period to declare final values must be negotiated with the customs authorities (the time period cannot exceed 3 years).
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required. An adjustment to import value will automatically result in the assessment of additional VAT.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional VAT filings are required, although a request must be made to obtain a refund of overpaid VAT. However, this is not recommended because the importer may have already recovered input VAT through the monthly VAT computation.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. Penalties described in the above reply to "Question 9" as listed in the question for this entry, plus interest, should only apply. If the importer directly requested the amendment of the customs declaration, interest may apply, but no penalties. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Possibly. No set threshold exists. Customs values are scrutinized on a transaction-by-transaction basis. However, the risk of a customs audit may increase if the price of the same product changes within the same year.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, in practice, the two values should be consistent.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. Reporting is voluntary, although recommended to avoid potential penalties.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes. In practice, however, duty refunds are difficult to obtain.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 5 years. This time limitation is extended to 7 years in cases of fraud.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties of 10% to 15% of the duty owed, as well as the annual rate of interest (currently 2.9%), may apply. If a voluntary disclosure is made, interest may apply, but no penalties.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should contact the jurisdictional customs authorities and negotiate how to amend past import declarations.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Aggregate adjustments are available for upward adjustments, if previously negotiated with the customs authorities. Duty refunds may require a transaction-by-transaction adjustment.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	Yes. The "advanced declaration of customs valuation" program allows the importer to obtain approval to calculate the expected customs value due to transfer pricing adjustments.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	An adjustment to import value will automatically result in the assessment of additional Japanese Consumption Tax (JCT) by the customs authorities. However, a claim for a JCT refund may be filed with the tax authorities.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	An adjustment to import value will automatically result in a JCT refund from the customs authorities. However, amended JCT filings with the tax authorities are required to decrease the input JCT credit.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Penalties of 10% to 15% of the JCT owed, as well the annual rate of interest (currently 2.9%), may apply. If a voluntary disclosure is made, interest would apply, but no penalties. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. Reporting is voluntary, although recommended to avoid potential penalties (importers are subject to self-assessment and required to declare the correct value).
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. Reporting is voluntary, although recommended to avoid potential penalties. However, the customs authorities generally would not accept a decrease in value due to a retroactive transfer pricing adjustment.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Generally, no. Refunds may be possible in the unlikely event that a decrease in value due to a retroactive transfer pricing adjustment is accepted by the customs authorities.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: 5 years from the date of the original payment. There is no time limitation in cases of fraud. Duty refunds: 12 months from the date of the original payment.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties of 2% of the duty owed per month, payable from the date the duty was due, may apply. In addition, the false declaration of value may result in fines of up to USD 10,000 (about 900,000 KES). If found upon audit, penalties and fines may not be assessed if the importer pays the additional duties owed within a specified time period. If a voluntary disclosure is made, penalties may be reduced.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should contact the customs authorities to seek guidance on how to proceed.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction adjustments are required.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required. Any additional VAT owed must be paid.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional VAT filings are required. In the unlikely event that the customs authorities accept a decrease in value due to a retroactive transfer pricing adjustment, the importer may make a claim for a VAT refund.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase and decrease: Yes. Penalties of 2% of the VAT owed per month, payable from the date the VAT was due, may apply.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Yes. No set threshold exists. The recommended approach is to proactively disclose such adjustments to the customs authorities before importing at new prices, especially when the adjustment yields a higher customs value. The customs authorities have a valuation database that they check to confirm unexplained differences.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, during an audit of the company's transfer pricing activity, the income tax authority may request the values that are reported for customs purposes.



No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	Possibly. This would need to be negotiated with the customs authorities on a case-by-case basis.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Possibly. This would need to be negotiated with the tax and customs authorities on a case-by-case basis.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 3 years from the date of the taxable event. This time limitation is extended to 10 years in cases of fraud or other criminal activity.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties of 2 times the additional duty owed, plus interest of 9.6% per year, may apply. If a voluntary disclosure is made, penalties may be reduced or eliminated, except in cases of obvious negligence or fraud.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should notify the customs authorities and file an additional customs declaration. The customs authorities would then provide guidance on how to proceed.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction or aggregate, depending on the requirements of the customs authorities involved.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No. However, frequent adjustments may result in increased scrutiny from the customs authorities.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	An amended VAT return must be filed in addition to the customs declaration. The import VAT declared would be recoverable on the same return according to the importer's overall VAT recovery rate.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	An amended VAT return must be filed in addition to the customs declaration. The import VAT declared would be recoverable on the same return according to the importer's overall VAT recovery rate.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase and decrease: Yes. Penalties and interest may apply on a case-by-case basis.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No. However, if the price change is significant, the importer should proactively contact the customs authorities to discuss transfer pricing adjustments.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. Reporting is voluntary, although recommended to avoid potential penalties.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of fines or penalties. However, voluntary reporting is recommended if the importer wishes to request a duty refund.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes. However, in practice, refunds are difficult to obtain.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: Generally, 3 years from the date on which the customs duty was payable or the deficient customs duty was paid. There is no time limitation in cases involving fraud or tax evasion. Duty refunds: an application to the customs authorities for a refund may be made within 1 year after the overpayment. Beyond 1 year, any such application may be made to the Ministry of Finance.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Typically, no. Penalties would only apply in cases of fraud or tax evasion.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should submit a letter to the customs authorities to seek guidance on how to proceed.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Typically, transaction-by-transaction adjustments are required. Aggregate adjustments may be permitted with agreement from the customs authorities.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	Goods and Services Tax (GST) will be introduced in April 2015. It remains to be seen what actions may need to be taken relative to GST reporting requirements. The recommended approach is to discuss the value adjustment with the customs authorities when reporting the value increase.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	GST will be introduced in April 2015. It remains to be seen what actions may need to be taken relative to GST reporting requirements. The recommended approach is to discuss the value adjustment with the customs authorities when reporting the value decrease.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	No, unless fraud is involved. The penalty regime applicable to fraud remains to be defined under the new GST legislation.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Yes. No set threshold exists. It is recommended that the importer obtain an advance valuation ruling with the customs authorities before importing at the new prices.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Yes. However, there is no guidance or administrative process. Therefore, it is uncommon.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: No time limitation. Duty refunds: 5 years.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. If a voluntary adjustment or disclosure is made, surcharges and an inflation adjustment will apply; however, no other fines or penalties will apply.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	As of 29 August 2014, the customs declaration could be amended by either of two available procedures: (1) Through the Customs R1 Form for transaction-by-transaction amendments. With this method, the importer should amend the customs document through the Customs R1 Form and amend the original invoice. The Customs R1 Form must be linked to the original customs document; or (2) With the Customs GC Form, which is a form that allows the importer to aggregate several amended import transactions in one consolidated filing before the importer submits its supplemental annual tax return. Either the customs broker or the importer may submit either form.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Both mechanisms apply as follows: (1) transaction-by-transaction adjustments are available for any customs value modification and an amended customs document must be generated for each transaction that is modified; or (2) a single consolidated amendment to correct the previous fiscal years' customs declarations is filed along with a copy of the annual tax return that has already been filed.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No. However, if a Customs GC Form was used previously, corrections to the GC Form must be done on a transaction-by-transaction basis using the R1 Form.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	The monthly VAT declarations, as well as the customs documents, must be amended and the additional VAT owed must be paid. The importer is also required to support the increase in value and the additional VAT owed.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	The monthly VAT declarations, as well as the customs documents, must be amended, which will result in a credit of the overpaid VAT. The importer may request a refund instead of a credit. It is required to support the credit of the overpaid VAT.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	Yes. The potential risk is the denial of the corporate tax deduction and the rejection of the VAT credit.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Yes. The customs and tax authorities cooperate closely on transfer pricing issues.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 3 years from the date of release of the imported goods. This time limitation is extended to 5 years for acts that give rise to criminal court proceedings.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties may apply, but no interest. If a voluntary disclosure is made, in practice, no penalties would apply.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer must contact the customs authorities to revise previous customs declarations. If customs value changes due to transfer pricing adjustments are expected to recur, it is recommended that the importer obtain a ruling and agree on a procedure with the customs authorities to avoid noncompliance for future adjustments.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Aggregate adjustments may be permitted. However, if requested by the customs authorities, each adjustment must be linked to a specific transaction and the corresponding duty rates for the affected entries.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	Possibly. Frequent adjustments may result in increased scrutiny from the customs authorities. If frequent adjustments are expected, it is recommended that the importer obtain a ruling and agree on a procedure with the customs authorities.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	Yes. A customs valuation ruling and an agreement on a procedure are recommended to implement repeated adjustments.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	Additional VAT must be paid and/or reported by the taxpayer. However, it may be possible to obtain a refund of the VAT if certain conditions are fulfilled.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	The taxpayer must account for the decrease in VAT, which could result in a payment. The method to do so will vary depending on the situation.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase and decrease: Yes. Fines, penalties, and interest may apply if amended VAT filings are not timely filed.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Possibly. Any change in value may trigger scrutiny during a customs audit. The recommended approach to managing prospective transfer pricing adjustments is to obtain a customs valuation ruling.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 4 years from the date of the original assessment. There is no time limitation in cases of fraud.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes, penalties may apply, but no interest.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer may make a voluntary disclosure via letter to the customs authorities.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Aggregate adjustments are permitted. However, the importer may request that adjustments be made on a transaction-by-transaction basis.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional Goods and Services Tax (GST) filings are required. Any additional GST owed must be paid.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional GST filings are required. The importer may request a refund of overpaid GST, provided that the importer is not already registered for GST. If the importer is registered for GST, the overpaid GST would be claimed as an input tax deduction and no refund would be provided.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase and decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No.



No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Yes. However, there are no formal procedures that govern how the tax and customs authorities would arrive at the same price.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of fines or penalties. However, voluntary reporting is recommended if the importer wishes to request a duty refund.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 3 years from the filing date of the customs declaration. This time limitation is extended to 10 years in cases of fraud or if insufficient information is provided by the importer.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Interest will apply for adjustments that increase the customs value. Penalties may apply if the importer is negligent in declaring the incorrect customs value. Penalties may be up to 30% of the duties owed.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	Generally, changes to customs value may be made post-importation on a transaction-by-transaction basis. However, the importer may file an application for an uplift agreement (postponed determination) if the value is not known at the time of importation.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Generally, transaction-by-transaction adjustments are required. However, aggregate adjustments for an agreed time period could be made if the uplift agreement has been granted.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required. The customs authorities would issue a bill in the following month, and any additional VAT owed must be paid.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	An amended VAT filing is required to reflect the revised amount.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. Penalties of 5% to 10% of the import VAT owed may apply. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, in practice, the two values should be consistent.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the use of the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of fines or penalties.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes. However, in practice, refunds may be difficult to obtain.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 4 years from January 1 of the year subsequent to the declaration date.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties amounting to 2 times the additional duty owed may apply. If a voluntary disclosure is made, penalties may be reduced to 10% of the original penalty assessment.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should submit an electronic correction to the original declaration. Also, it is recommended to amend each individual invoice that is subject to the import declaration corrections.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction adjustments are required.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	An electronic correction must be made to the customs value. However, no additional VAT filings are required because the customs value change will automatically trigger changes in the VAT paid. An upward adjustment to import value will automatically result in the assessment of additional VAT.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional VAT filings are required. However, if the importer voluntarily reports a decrease in the customs value, it must first make an electronic correction to the customs value and then formally request a VAT credit because a downward adjustment will not automatically result in a VAT credit.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. Penalties of twice the additional VAT owed may apply. If a voluntary disclosure is made, penalties may be reduced to 10% of the original penalty assessment. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Yes. No set threshold exists. It is recommended that the information and support for making a prospective adjustment be appropriately documented and maintained.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, in practice, the two values should be consistent because the tax authorities may issue penalties based on the discrepancy.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. Reporting is voluntary, although recommended to avoid penalties.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of customs fines or penalties. Reporting is recommended to reduce potential VAT penalties.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes. However, tax credit certificates that can be used to pay customs duties are provided rather than duty refunds.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: Generally, 3 years from the date of payment. There is no time limitation in cases of fraud. Duty refunds: 6 years from the date of payment.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties equivalent to 1/2 to 2 times the duty owed may apply. If a voluntary disclosure is made, penalties will be eliminated.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should send a letter to the Commissioner of Customs, in accordance with the Voluntary Disclosure Program, amending the affected entries and tendering the duty owed. This program is not available if the importer is under prior investigation.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction adjustments are required.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	The monthly VAT return should be amended to reflect the correct amount of import VAT and filed with the tax authorities. Any additional VAT owed must be paid.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	The monthly VAT return should be amended to reflect the correct amount of import VAT and filed with the tax authorities. A VAT credit is typically provided instead of a refund.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase and decrease: Yes. If the adjustment is discovered upon audit, penalties of PHP 1,000 to PHP 50,000, plus interest of 20% of the VAT owed, per annum, may apply. A 50% surcharge may also apply if the VAT-related adjustment is more than 30% of the original VAT base.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No. However, if the value reported prospectively is significantly different than the prior period reporting, it may trigger scrutiny during a customs audit or post-entry verification. It is recommended that the information and support for making a prospective adjustment be properly documented and maintained.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No. However, the customs authorities may consider the approved transfer pricing methodology as a factor in supporting the price.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes. In practice, however, customs authorities do not always enforce this requirement.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Possibly. A refund request would be analyzed and approved on a case-by-case basis.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: 3 years. This time limitation may be extended in cases of fraud. Duty refunds: Generally, 3 years.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties and interest may apply. If a voluntary disclosure is made, interest may apply, but no penalties.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should file an application to amend the import declaration and submit an explanatory letter to the customs authorities. The customs authorities will then issue a decision. If an adjustment is discovered upon audit, the customs authorities will amend the import declaration.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction adjustments are required.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	Generally, no. However, amendments to a declaration confirmed in an administrative decision of the customs authorities may produce additional procedural complexity.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required. The customs authorities would issue a decision, and any additional VAT owed must be paid.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional VAT filings are required. A VAT refund is available, provided that the import VAT has not already been recovered.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. Interest would apply. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Generally, yes. No specific threshold has been published. It is recommended that the importer be prepared to support the related party pricing and prospective value adjustment upon filing the import declaration.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, in practice, the two values should be consistent.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Generally, no. However, in theory, it should be possible to get the customs and tax authorities to both agree on the same price for corporate tax and customs value purposes, although we are not aware of any case in which such agreement was made.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 3 years from the date of the taxable event.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties and interest may apply. If a voluntary disclosure is made, penalties may be reduced.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should contact the customs authorities to seek guidance on how to proceed.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction or aggregate, depending on the requirements of the customs authorities involved.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required. An adjustment to import value will automatically result in the assessment of additional VAT.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional VAT filings are required, although a request must be made to obtain a refund of overpaid VAT.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. Penalties of 30% to 100% of the VAT owed (with a maximum of EUR 45,000 per penalty), plus interest of 4% per annum, may apply. If a voluntary disclosure is made, penalties may be reduced. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Possibly. No set threshold exists. The recommended approach is to conduct advance discussions with the customs authorities given that the tax authorities and the customs authorities were merged in 2012, and transfer pricing topics are a priority for both authorities.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, in practice, the two values should be consistent because of the potential risk that the tax and customs authorities may exchange information and reject/amend either the taxpayer's taxable basis or customs value.



No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes. In practice, however, duty refunds are difficult to obtain.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 3 years.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties of 0.02% per day, plus interest of 0.04% per day, may apply (i.e., 0.06% per day). Additionally, fines of RON 500 to RON 8,000 per review period may apply. A voluntary disclosure does not eliminate or reduce these penalties, fines, or interest.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	Typically, the importer would submit a letter to the customs authorities notifying them of the change in the customs value, with an appendix listing all the affected transactions. The customs authorities would then issue a decision indicating the amount of duty and VAT owed.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Aggregate adjustments may be permitted.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required. The customs authorities will issue a decision, and any additional VAT owed must be paid to the customs authorities and reported as a settlement of deductible VAT in the VAT return.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional VAT filings are required. The customs authorities will issue a decision, and any overpaid VAT would be refunded and reported as a settlement of deductible VAT in the VAT return.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. Penalties of 0.02%, plus interest of 0.04% per day, may apply (i.e., 0.06% per day). Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Possibly. No set threshold exists that would automatically trigger such scrutiny because it depends on the local customs official's review. The recommended approach is to conduct, in advance, discussions with the customs authorities before making the prospective transfer pricing adjustment.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	Yes. The Eurasian Economic Commission recently issued Resolution N 283, entitled "The Application of Transaction Value to Calculate Customs Value (Method 1)," which describes the transaction value method of appraisal and rules for verifying that the parties' relationship did not influence the transaction price.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of fines or penalties. Importers may consider voluntarily reporting downward adjustments to potentially obtain a duty refund, although refunds are difficult to obtain.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes. In practice, however, duty refunds are difficult to obtain.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: 3 years from the original payment. Duty refunds: 3 years from the date of payment.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Interest and penalties of up to 200% of the duties and taxes owed may apply. Importers may attempt to avoid penalties through a voluntary disclosure, although this is not always successful.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer must submit an application form providing details on the value adjustment and documentation that supports the change in value.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction adjustments are required.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	Corresponding import VAT as well as late payment interest must be paid to the customs authorities. The additional VAT may be recovered if the conditions for input VAT recovery are met.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional VAT filings are required. If a VAT refund is requested and granted, then the original VAT filing must be amended.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: No. Value decrease: Yes. If the overpaid VAT is refunded/offset, but the VAT filing is not properly amended, penalties of 20%, plus interest, may apply.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Possibly. No set threshold exists. It is recommended that the importer be prepared to support the related party pricing and prospective value adjustments upon the filing of the import declaration.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No. However, the tax authorities rely on the price that the customs authorities have accepted as the customs value.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. However, there is a risk of fines or penalties.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	N/A
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. However, there is a risk of fines or penalties.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	N/A
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	N/A
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	N/A
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	N/A
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	N/A
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	N/A
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	N/A
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	N/A. There is no VAT or equivalent.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	N/A. There is no VAT or equivalent.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	N/A. There is no VAT or equivalent.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	Yes. In practice, if there is a discrepancy, the tax authorities will make an adjustment to the amount that has been reported in the tax return. The tax authorities will disallow the deduction for imports (foreign purchases) if the value reported for tax purposes is higher than the reported customs value. Conversely, the tax authorities will impute a deemed profit if the import (foreign purchases) value reported for tax purposes is lower than the reported customs value.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No. There is currently no formal procedure in place and implementation of such a procedure is not anticipated in the near future.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: No time limitation. Duty refunds: 1 year from the date of entry of the goods and payment.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Typically, no, if the changes in customs value are reported to the authorities on a voluntary basis before notice or commencement of audit checks and investigations. Penalties would only apply in cases of fraud.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should make a submission to the customs authorities through the Voluntary Disclosure Program or by letter to the relevant department.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Disclosures can be made on an aggregate basis. Adjustments are made either by a single supplementary short-payment permit or on a permit-by-permit basis.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	Yes. The Voluntary Disclosure Program can facilitate repeated customs value adjustments due to retroactive transfer pricing adjustments.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	If the net Goods and Services Tax (GST) impact of the adjustment is less than SGD 1,500 for all of the affected periods, the adjustment may be reported on the next GST return. If not, the adjustment should be voluntarily disclosed in writing to the tax authorities and the approach to corrective action agreed upon.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	A refund of the overpaid import GST may be claimed in the next GST return. In practice, however, downward adjustments are rarely reported where the declarant is able to recover all the import GST paid.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes, penalties of up to 5% of the VAT owed may apply. If a voluntary disclosure is made, no penalties would apply. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No. However, it is recommended that the importer proactively contact customs to discuss transfer pricing adjustments before importing goods at new prices.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, in practice, the two values should be consistent. Should the variances be discovered upon audit, the company may be exposed to potential penalties.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method. Note that South Africa is not yet a party to an APA.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No. However, recently, the customs authorities have been formally requesting that companies confirm whether they have had a retroactive transfer pricing adjustment in the last 5 years and confirm how they treated the customs value for these adjustments.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes. Retroactive transfer pricing adjustments that increase the price paid by the importers are under heightened scrutiny by the customs authorities.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 2 years.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties of 25% (or higher) of the duty owed, plus interest and forfeiture, may apply. If a voluntary disclosure is made, interest would apply, but the customs authorities may waive the penalties and forfeiture.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should file a voluntary disclosure and amend each affected entry.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction or aggregate, depending on the requirements of the customs authorities involved.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	Yes. However, it can only be done by agreement with the relevant customs office.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required. An adjustment to import value will automatically result in the assessment of additional VAT.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional VAT filings are required. No refund or credit of import VAT would be provided.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. Penalties of up to 10% of the import VAT owed, plus interest, may apply. If a voluntary disclosure is made, interest would apply, and penalties may be applied on a case-by-case basis. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No. No set threshold exists. If the customs values are specifically regulated through a value determination number (VDN), the importer should inform the customs authorities of the amended pricing and amend the VDN accordingly.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	Yes. The customs authorities have introduced form IT14SD, which aims to match the cost of sales to the import values declared. Any discrepancies need to be substantiated. As this is a relatively new process, it is unclear what the potential risk will be if these values do not reconcile to the authorities' satisfaction.



No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Yes. Once an APA or an Advance Customs Valuation Arrangement (ACVA) exists, both authorities may consult with one another to establish an acceptable price for both corporate tax and customs purposes.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. Reporting is voluntary, although recommended to avoid potential penalties.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of fines or penalties.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Typically, no, but the customs authorities involved may accept a downward adjustment and refund if it can be shown that there was a pre-existing agreement for the transaction price.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: 5 years. Duty refunds: 3 years.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. If an upward adjustment is discovered during an audit, penalties, plus interest, may apply. A voluntary disclosure does not eliminate the penalty and/or interest. However, an ACVA may cause only the interest, but not the penalty, to be imposed.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should file a declaration form and supporting documents with the local customs authorities, in accordance with the general post-importation declaration procedure.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Generally, on a transaction-by-transaction basis. However, aggregate adjustments may be permitted if discovered upon an audit.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required. Any additional VAT owed must be paid. The customs authorities would then issue a new import VAT receipt for the VAT paid, along with the date of payment.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	N/A
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. A penalty tax and interest may apply. If a voluntary declaration is made within 6 months of the initial declaration date, the penalty tax may be waived, although the interest would still apply. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Yes. Generally, an adjustment over 10% in value may trigger the customs authorities' scrutiny. It is recommended that the information to support a prospective adjustment be appropriately documented and maintained.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, in practice, the two values should be consistent.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes, provided that the importer reports a provisional value at the time of importation or has a customs valuation agreement in place.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 3 years from the date of the taxable event.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties of 50% to 150% of the duty owed, plus interest and surcharges, may apply. If a voluntary disclosure is made, only interest and surcharges may apply.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should submit a written statement to the customs authorities to report the change in value and identify the affected entries. The customs authorities would then issue a payment letter outlining the additional duties and VAT owed, if any.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction adjustments are required.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	Yes. Valuation Agreements with the customs authorities may define the procedures for repeated adjustments. In addition, importers may apply for the provisional value program, which may facilitate adjustments to value made on a monthly or quarterly basis.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required. The customs authorities will issue a payment letter, and any additional VAT owed must be paid, if any.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional VAT filings are required. If the importer has declared a provisional value at the time of import, an adjusted VAT return should be filed with the tax authorities to obtain a refund of overpaid VAT, if any.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. Penalties of 50% to 100% of the VAT owed, plus interest, may apply if the adjustment is discovered upon audit. If a voluntary disclosure is made, a surcharge of 5% to 20% of the VAT owed may apply. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Yes. No set threshold exists. It is recommended that the importer obtain an advance ruling with the customs authorities (e.g., a Valuation Agreement, which is a binding agreement between the importer and the customs authorities).
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Yes, but this is untested.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments and duty refunds: 3 years from the date of the original import declaration.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties of 20% of the duty owed, plus interest, may apply. If a voluntary disclosure is made, interest may apply, but no penalties.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer may file new import declarations to replace the original declarations or may submit a spreadsheet containing all entry data with the adjusted values and corresponding duties, along with supporting documentation.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction adjustments are required.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No. However, frequent adjustments may result in increased scrutiny from the customs authorities.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	N/A (The customs authorities will not reassess the import VAT in the event of a customs value decrease).
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. Fines of 10% of the import VAT owed may apply if the adjustment is discovered upon audit. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Yes. The importer may submit a ruling request to the customs authorities to confirm the acceptability of the transfer price.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes. Customs duty is generally based on weight; however, the customs authorities still require, in certain cases, that the correct value be reported because an incorrect value declaration may result in potential penalties. Specifically, if the importer is not entitled to a 100% input VAT reduction, the retroactive transfer pricing adjustment must be reported within 30 days of the adjustment. Otherwise, if the importer is entitled to a 100% VAT reduction, it is not required to report the retroactive transfer pricing adjustment under VAT law (although reporting may still be required for statistical reporting purposes). The authorities have 5 years from the date of importation to pursue penalties.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	No. Customs duty is based on weight rather than value, and any retroactive transfer pricing adjustment will not affect the duty.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes. Customs duty is generally based on weight; however, the customs authorities still require that the actual value also be declared. An incorrect value declaration may result in potential penalties.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	No. Customs duty is based on weight rather than value and any retroactive transfer pricing adjustment will not affect the duty.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	N/A
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties may apply for incorrect value declarations, but the amount depends on the circumstances. In cases where the importer is not entitled to a 100% input VAT reduction, and the retroactive transfer pricing adjustment is not timely reported, the customs authorities have 5 years from the date of importation to pursue penalties.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	If the importer is not entitled to a 100% input VAT reduction, the retroactive transfer pricing adjustment must be reported in written form to the Customs District Directorate within 30 days of the transfer pricing adjustment. If the importer is entitled to a 100% input VAT reduction, reporting is not required.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Generally, transaction-by-transaction. However, aggregate adjustments may be accepted on a case-by-case basis.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No. However, it may be possible to file a ruling request to obtain binding information for repeated retroactive adjustments.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	Generally, the customs authorities must be notified of the related parties' VAT adjustment within 30 days of the adjustment. There is no standard process for reporting and paying the additional VAT. If the additional VAT payable could be deducted as input VAT, then the importer may not be required to notify the customs authorities and the adjusted VAT may not be assessed.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	An application must be filed to obtain a refund of overpaid VAT, if the importer is not entitled to a 100% input VAT reduction. If the importer is entitled to a 100% input VAT reduction, the overpaid VAT could be recovered on the next VAT return.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. Penalties and interest may apply, if the adjustment is discovered upon audit. If the adjustment is communicated within 30 days, no penalties or interest would apply. Value decrease: Possibly. Penalties may apply, but are not likely.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of fines or penalties.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	No.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Generally, 6 months, unless the transaction violates the Customs Anti-Smuggling Act, in which case it is 5 years.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Additional duties, penalties, and interest may apply. If there is a violation of the Customs Anti-Smuggling Act, penalties may apply in the event of an audit. If there is no violation of the Customs Anti-Smuggling Act, additional duties and interest may apply.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer would submit a letter to the customs authorities to seek approval to make adjustments. If approved, the importer would file an amended import declaration form.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction adjustments are required.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	An adjustment to import value will automatically result in the assessment of additional VAT. Because the customs assessment period is shorter than the VAT assessment period, the importer should inform the VAT authorities of the adjustment if it was made after the end of the customs assessment period.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	N/A
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase and decrease: Possibly. If the adjustment is self-reported, the importer could argue for a waiver of any VAT penalties. If the customs authorities discover the adjustment and deem there is a violation of the Customs Anti-Smuggling Act, then additional VAT and penalties may be imposed.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, because the import declaration supports the cost of imported goods under the income tax laws, the two values should be consistent, unless the income tax authority agrees otherwise in advance.



No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes. In practice, however, duty refunds are difficult to obtain.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: No time limitation. Duty refunds: 2 years.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties of 2 times the duty owed, plus interest of 1% per month, may apply. If a voluntary disclosure is made (before a customs audit commences), interest may be applied, but no penalties.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should submit a letter informing the customs authorities of the price change, along with documents showing why the value changed.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction adjustments are required.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	Any additional VAT owed must be paid to the customs authorities. The additional import VAT would be claimed as a credit on the monthly VAT return.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	Generally, no action would be taken since the import VAT would already have been claimed as a credit in the monthly VAT return.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes, a maximum penalty of 1 times the VAT shortfall and a 1.5% monthly surcharge may apply. Penalties may be reduced if the importer makes a voluntary disclosure. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	No. However, in the case of a downward adjustment, it is recommended that the importer either obtain an advance ruling or that the information and support for making a prospective adjustment be appropriately documented and maintained.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, in practice, the two values should be consistent.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. Reporting is voluntary, although recommended to reduce potential penalties.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. However, penalties may still be assessed for reporting an incorrect value, if discovered upon audit.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	No, unless the price change is reflected in the contract conditions for the sale of goods and the importer files an Exceptional Value Declaration with the customs authorities at the time of importation.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: 3 years. Duty refunds: 3 years if the conditions for obtaining a duty refund are met.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. Penalties of up to 3 times the duty owed, plus interest, may apply. The amount of the penalty depends on whether the upward adjustment was voluntarily declared by the importer or discovered by the customs authorities.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	There is no formal procedure. In practice, the importer should submit a letter to the customs authorities advising of the increase.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Transaction-by-transaction adjustments are required.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	No additional VAT filings are required. An adjustment to import value will automatically result in the assessment of additional VAT.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	No additional VAT filings are required if the conditions for obtaining a VAT refund are met.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Penalties of up to 3 times the VAT owed, plus interest on the unpaid VAT. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Yes. No set threshold exists. However, the use of transaction value may be rejected if the price variance is significant (e.g., more than a 5% - 10% variance, depending on the product). It is recommended that adjustments be managed to avoid a significant variance.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No. However, in practice, the two values should be consistent because of the potential risk that the tax and customs authorities may exchange information and investigate the taxpayer's taxable basis and/or customs value.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	No.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. However, fines may still be assessed for reporting an incorrect value if discovered upon audit.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	No, unless adjusted by the customs authorities upon audit.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. However, fines may still be assessed for reporting an incorrect value if discovered upon audit.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	N/A
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	N/A
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. If an incorrect value is discovered upon audit, a fine of not less than 500 SAR and not exceeding 5,000 SAR (or its UAE AED equivalent) would apply, unless fraud is involved.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	N/A
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	N/A
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	N/A
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	N/A
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	N/A. There is no VAT equivalent.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	N/A. There is no VAT equivalent.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	N/A. There is no VAT equivalent.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Yes. No specific threshold has been published. The recommended approach is to proactively engage with the customs authorities, especially when the adjustments yield a lower customs value. Also, the customs authorities have a risk tool that assesses the valuation component of the customs declaration and can detect changes in value.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	No.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No. The two authorities act autonomously; thus, joint agreements are not possible. However, increased cooperation between customs and tax authorities is expected in the future.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	Yes. The customs authorities provide some guidance on the acceptability of related party pricing and more limited guidance on managing retroactive transfer pricing adjustments.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes. When, at the time of entry, there is potential for a retroactive transfer pricing adjustment, the customs authorities may agree to treat the value declared at the time of entry as provisional. The appropriate security would need to be provided.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Yes.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes. However, in practice, duty refunds may be difficult to obtain. If the importer has an agreement with the seller that contemplates potential retroactive transfer pricing adjustments, this should be proactively discussed with the customs authorities in advance of the import.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: 3 years from the date on which the debt was incurred. There is no time limitation in cases of fraud. Duty refunds: 3 years from entry acceptance. However, the customs authorities will still need to approve the refund, which is easier to obtain if there is an advance agreement.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Interest may apply at the discretion of the customs authorities. Penalties may apply in cases of fraud or negligence.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The importer should contact the customs authorities. In cases of underpayment, the customs authorities may typically issue a post-clearance demand notice.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Aggregate adjustments may be permitted with agreement from the customs authorities.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No. However, frequent adjustments may result in increased scrutiny from the customs authorities.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	No.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	Once the authorities are notified of the adjustment, a demand notice for VAT will be issued by the authorities.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	Adjustments should be made on the VAT return, according to the VAT rules.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase and decrease: Generally, no. There is a separate penalty regime for VAT, but additional penalties would rarely apply.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Possibly. No set threshold exists. A price change may trigger an audit if it is significant and results in a price decrease. In this regard, what is deemed "significant" by the customs authorities will vary by case. It is recommended that the importer verify that the transfer price is acceptable for customs value purposes and explain the prospective adjustment to the customs authorities.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	Yes. The potential risk would be that, if the cost of goods sold were too high, taxable profits may be reduced. Penalties of up to 100% may be applied, but they may be mitigated through voluntary disclosure and cooperation with the corporate tax authorities.

No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method. Bilateral APAs have been viewed as more persuasive than the alternatives.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	Yes. If an APA is sought with the involvement of the customs authorities, it may be possible to obtain a supportive customs valuation ruling.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	Yes. There is an Informed Compliance Publication entitled, "Determining the Acceptability of Transaction Value for Related Party Transactions," published in April 2007. In addition, numerous customs rulings and case law address valuation for related party import transactions.
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Generally, yes, with very limited exceptions.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Generally, yes, unless the adjustment was unforeseeable.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	Generally, yes, with very limited exceptions.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	Yes, but only for a limited period – i.e., prior to liquidation (which is typically about 314 days) or within the 21-month reconciliation period, if applicable. Note that under recent guidance, the customs authorities strongly encourage that transfer pricing adjustments be reported through the Reconciliation program, especially if the importer seeks to obtain refunds.
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	Additional duty payments: 5 years from the date of entry. Duty refunds: Generally, refunds must be claimed prior to liquidation or up to 21 months through the Reconciliation program.
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. If the importer did not act with "reasonable care," the minimum penalty for negligence would be 2 times the duty owed if the goods were dutiable, or 20% of the import value if the goods were not dutiable. Penalties are much greater for gross negligence and fraud. If a voluntary disclosure is made, only interest may apply. No penalties would apply if the adjustments are made through the Reconciliation program.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	The Reconciliation program is the preferred method for reporting retroactive transfer pricing adjustments. If in the Reconciliation program, the values must be adjusted and reported via reconciliation entries filed within 21 months. If not in the Reconciliation program, before liquidation of the entry (i.e., within approximately 314 days of importation) the importer should file a Post Entry Amendment. If the entry has already liquidated, the importer should file a protest or prior disclosure with the customs authorities.
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	Generally, transaction-by-transaction, with limited exceptions.
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No. If the importer is part of the Reconciliation program, there are no restrictions. If not in Reconciliation, there is no limit; however, the customs authorities may question the acceptability of the transaction value if repeated value corrections are made due to transfer pricing adjustments.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	Yes. The Reconciliation program allows the importer to flag entries for value at the time of import and then reconcile the originally declared value to a final value within 21 months.
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	N/A
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	N/A
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	N/A
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Possibly. Related party import transactions are currently a high focus area. If the value reported prospectively significantly differs from prior reported values, it may trigger scrutiny by the customs authorities. It is recommended that the information and support for making a prospective adjustment be properly documented and maintained and that the importer be prepared to answer any questions regarding its related party pricing and prospective transfer pricing adjustments.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	Yes. The potential risk is the denial of the corporate tax deduction.



No.	Question	Answer
1	Is a transfer pricing study or an Advance Pricing Agreement (APA) alone viewed by the customs authorities as sufficient to support the use of the transaction value method of customs valuation?	No. However, transfer pricing studies and APAs may contain information that is useful for supporting the transaction value method. Note that the APA regime is very new to Vietnam.
2	Is it possible to get the customs and tax authorities to both agree on the same price (price refers to the price paid or payable, exclusive of freight, insurance, and other additions to transaction value) for corporate tax and customs duty purposes?	No. However, Vietnam is working on a framework for this with pioneer APA cases currently under assessment. If approved, there may be a basis to seek agreement from the custom authorities.
3	Is there any publicly available guidance from the customs authorities on the treatment of related party prices and/or retroactive transfer pricing adjustments from a customs perspective?	Related party price: Yes Retroactive transfer pricing adjustment: No
4	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>increases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No. There is a risk of penalties if the customs authorities discover the adjustment and re-assess the value.
5	As applicable, if a retroactive transfer pricing adjustment <u>increases</u> the reported customs value, are additional customs duties and related fees due?	Yes, if the customs authorities re-assess the value.
6	Are importers required to report to customs authorities a retroactive transfer pricing adjustment that <u>decreases</u> the price paid by the importer? If no, is there still a risk of fines or penalties?	No, and there is no risk of penalties.
7	As applicable, if a retroactive transfer pricing adjustment <u>decreases</u> the reported customs value, are duty refunds available?	N/A
8	In the event of a change to customs value resulting from a retroactive transfer pricing adjustment, what are the time limitations for additional duty payments and/or duty refunds?	N/A
9	Are there any customs-related fines, penalties, or interest that could result from a change to customs value due to a retroactive transfer pricing adjustment?	Yes. If the customs authorities discover the adjustment and the value is re-assessed, penalties and interest may apply in combination as follows: 0.05% - 0.07% interest per day on the unpaid duties, 10% - 20% on late duties paid, or a maximum penalty of 3 times the duties owed.
10	If available, what is the procedure for reporting to customs authorities changes to customs values resulting from retroactive transfer pricing adjustments?	N/A
11	If available, can customs-related disclosures for retroactive transfer pricing adjustments be made in the aggregate, or is a transaction-by-transaction adjustment required?	N/A
12	If available, are there restrictions on the number of customs value adjustments that can happen in a given period of time?	No.
13	Do any customs programs currently exist to facilitate repeated retroactive transfer pricing adjustments?	N/A
14	If customs value increases are reported to the customs authorities, what actions must also be taken with respect to import Value Added Tax (VAT) and equivalents?	If the customs authorities discover the upward adjustment, any additional VAT and excise tax (where applicable) must be paid to the customs authorities.
15	If customs value decreases are reported to the customs authorities, what actions must also be taken with respect to import VAT or equivalents?	If the customs authorities discover the downward adjustment, import VAT and excise tax (where applicable) may be refunded by the customs authorities.
16	Other than the customs-related fines, penalties, and interest described in Question 9, are there any VAT-only fines, penalties, or interest that could apply when making a VAT-related adjustment due to a customs value increase or decrease?	Value increase: Yes. Additional VAT, penalties and interest may apply in combination as follows: 0.05% - 0.07% interest per day on the additional VAT owed, 10% - 20% on the late VAT paid, or a maximum penalty of 3 times the VAT owed. Value decrease: No.
17	Do <u>prospective</u> transfer pricing adjustments typically invite scrutiny by the customs authorities? If yes, is there a set percentage threshold that would automatically trigger such scrutiny, and is there a formal process, requirement, or recommended approach to managing prospective transfer pricing adjustments prior to importing at new prices?	Yes. No set threshold exists. However, a price change may trigger scrutiny by the customs authorities if it results in a price decrease; whereas, one resulting in a price increase would automatically raise the benchmark price. It is recommended that the information and support for making a prospective adjustment be appropriately documented and maintained.
18	Do the income tax laws or practices in your country require (for corporate income tax purposes) consistency between a taxpayer's inventory basis (cost of goods sold) and values reported for customs purposes? If such amounts are not consistent, what are the potential risks?	Yes. Recently, the tax and customs authorities have begun to cross-check their databases. If an inconsistency exists, the authorities may seek additional information, and the importer would be required to explain its position and an assessment for additional duties or taxes may result. The authorities would not automatically impose an adjustment.

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