

## Bridging the gap between Transfer Pricing and customs valuation

The geo-political space has brought international trade and trade compliance to the forefront of many discussions across companies around the world. These developments have the potential to impact supply chains and production models, leading to changes in related party transactions. This, in turn, could give rise to new

issues that require attention under customs valuation rules. The need to continue to monitor policy changes and proactively plan trade strategies for the longer term has become increasingly important, given the added scrutiny from tax and customs authorities.

### Importance of customs valuation

The customs value is one of the key element for customs purposes as it is directly linked to the duties and taxes paid on the products; hence, it generally entails a high scrutiny from the authorities across the SEA region.

There exists a tight link between Transfer Pricing (TP) and its use for customs valuation purposes.

While the concepts may be identical, their purpose use, and interpretation will differ in practice—whether it is being looked at from a customs or tax angle.

Some of the transaction characteristics and external factors will have a direct impact on the customs value.

The variety in information that customs authorities will consider as supportive of the acceptability of Transfer Pricing as the basis for transaction value continues to remain varied.

Few customs authorities will view the existence of a Transfer Pricing Agreement (TPA) alone as being sufficient but agree it will typically contain some useful information.



Limited jurisdiction have publicly available specific guidance on the treatment of related party prices and/or Transfer Pricing adjustments impact on customs valuation.

Related party customs valuation is an increasingly high-focus enforcement area.



In order to overcome those challenges, we propose to work with you to reconcile Transfer Pricing adjustments with the customs value. In addition, we will prepare a document with the necessary information required by the customs authorities for their analysis. The document will be formulated in a clear manner, which should not lead to any misinterpretation or confusion.

### Our value proposition

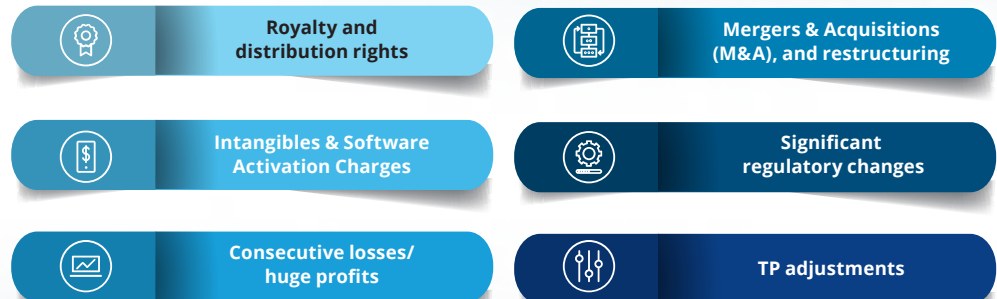
In practice, we have seen some challenges when sharing a complete Transfer Pricing Agreement with customs authorities. Indeed, next to containing some sensitive commercial information, a full Transfer Pricing documentation may be drafted in a way that corresponds to the tax authorities' requirements, but which may lead to additional customs enquiries and brings potentially more questions than answers.

Looking at a TP policy, only some parts will be relevant for the customs authorities in order to conduct their analysis and draw conclusions on whether the transaction is meeting the criteria of the transaction value and whether it was not over- or under-valued.

Our Global Trade Advisory team can assist you with the following:

- Review your Transfer Pricing documentation;
- Understand how the customs value is currently declared and if adjustments are made to the transfer price;
- Review the potential adjustments in view of the transaction value definition and provide recommendations accordingly;
- Review the TP benchmark analysis and assess if this is aligned to Customs requirements;
- Capture the reasoning in an ad-hoc document for customs purposes.

### Increased risk factors in transactions include:





## What actions can be taken when customs authorities raise concerns or objections?

- Understand by which section and level within your national customs authorities you are being challenged;
- Understand the authorities focus and key concern;
- Address their request in a timely manner and ensure that your reply is well structured and that the explanations provided are complete and supported by the appropriate documentation;
- Understand if other functions within your company may be affected; and
- Ensure that your response does not have any adverse impact on future operations within your department or the company.



## What measures can be taken as of now?

- Risk assessment and control of the elements that may impact your customs value, such as:
  - Changes to import transaction model and/or import price
  - Changes to your Transfer Pricing policy
  - Free-of-charge imports
  - Non-trade payables
- Securing formal or informal valuation opinion from the authorities;
- Appropriate documentation of the reasoning behind the customs value determination;
- Supply chain planning.

## Contact us



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