TradeWatch

EY Global Trade – Asia-Pacific Insights

Issue 2 2022

Subscribe here to receive future editions of *TradeWatch*

Follow us on Twitter

Visit us on LinkedIn

EY

Building a better working world

Insights
Additional resources
Contacts

China: Pilot program for collaborative management of transfer pricing and customs values in Shenzen

Background

The Chinese customs and tax authorities in Shenzhen issued a notice, the Collaborative Management of Transfer Prices of Related-Party Imported Goods (the Notice), on 18 May 2022. The Notice took effect on the same date, setting out a pilot framework for taxpayers to acquire certainty from both the customs and tax authorities of Shenzhen on the transfer price and customs value of an import transaction established between related parties. This is a significant move by the Chinese Customs and State Tax Administration (STA) in driving collaborative efforts on the customs valuation/transfer pricing topic.

According to the Notice, the key procedures of this pilot program involve three major steps:

1. An application from enterprise
2. Joint evaluations
3. The signing of a memorandum

The requirements for the collaborative management are further described below:

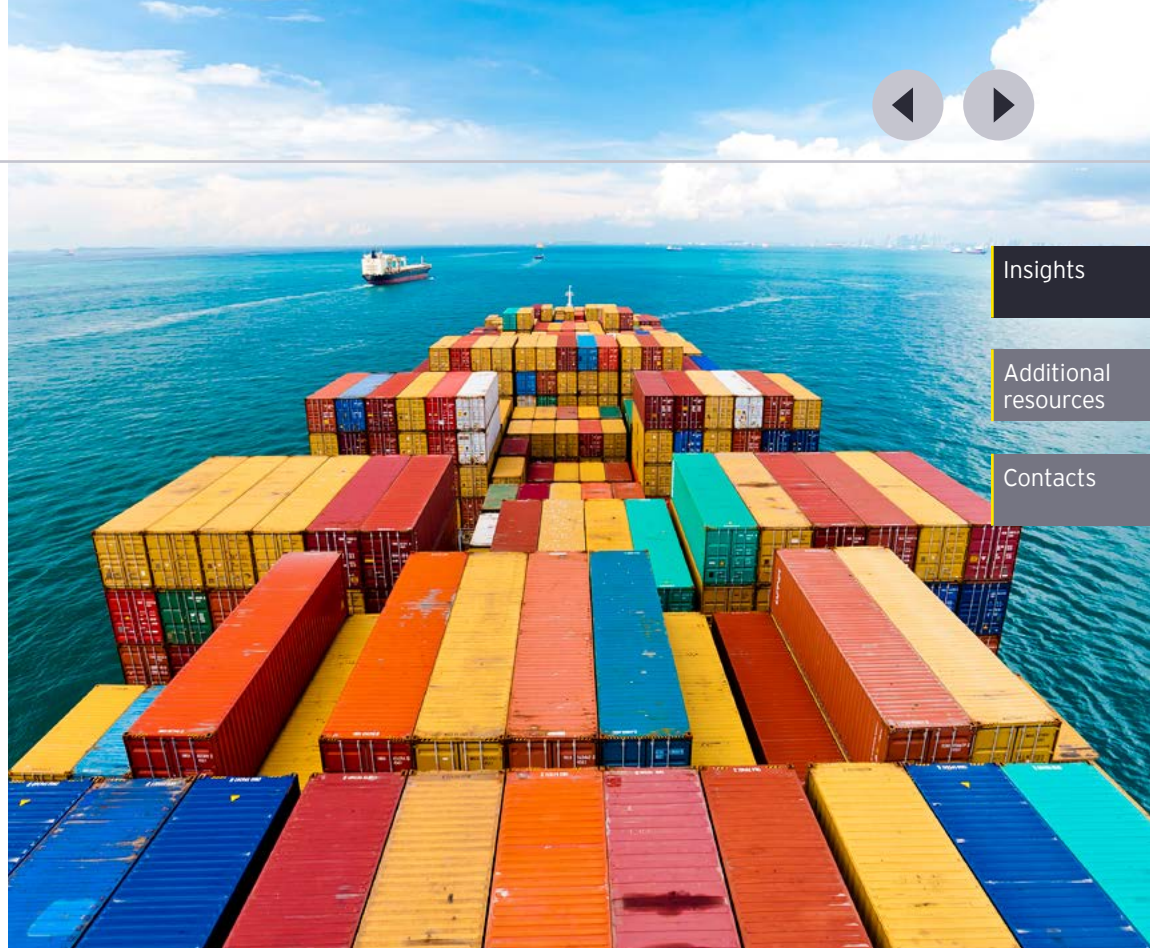
	Requirements/details
Scope	▸ The transfer price of import transactions between related parties
Applicant	The enterprise meets the requirements of both Article 4 of General Administration of Customs (GAC) Decree No.236 and Article 4 of STA Bulletin No.64: ▸ It is engaged in exports and imports, and registered with China Customs as a cross-border trading operator ▸ It is engaged in related-party transactions of over RMB 40 million for each of the past three years
Competent authorities	▸ **Customs** – The General Operations section of local customs ▸ **Tax** – The General Operations section of Unit 4 of the Shenzhen Tax Bureau
Documentation	▸ An application for collaborative management of the transfer price of related-party imported goods ▸ An application to Customs for an advance ruling on import pricing ▸ An application to the Tax Bureau for an advance pricing arrangement pre-filing meeting ▸ Other relevant documents
Time limits	▸ **Acceptance:** confirmed jointly by the customs and tax authorities within 10 days of an application ▸ **Evaluation:** initiated jointly by customs and tax authorities within 15 days of acceptance of the application ▸ **Memorandum renewal:** an application to be filed within 90 days before the expiry of the current memorandum
Implementation	▸ A Memorandum on Collaborative Management signed by Shenzhen customs and tax authorities and the taxpayer ▸ An advance ruling on import pricing issued by Shenzhen Customs ▸ An advance pricing arrangement agreed between the Shenzhen Tax Bureau and the taxpayer ▸ Customs and tax authorities to follow their respective procedures if the taxpayer makes adjustment to its transfer prices, as agreed in the memorandum
Follow-up	▸ **Annual update:** the taxpayer must update both the customs and tax authorities about the actual implementation and consequential outcome within six months after closing of each fiscal year ▸ **Evaluation:** both the customs and tax authorities will conduct evaluations based on the annual update provided by the taxpayer and implement the relevant treatment or procedure accordingly

In general, the above framework set out in the Notice is consistent with the existing transfer pricing advance pricing agreement mechanisms of the tax authority and the existing advance ruling mechanism of China Customs, but it is the first time that the two authorities are collaborating with each other on this potentially controversial technical topic from very different technical angles.

Key implications

The Notice is currently only applicable in Shenzhen. However, the implications of the Notice may extend to other regions or cities of the country. Below are some key implications:

- The Notice is the first stand-alone regulation released by China Customs for a systematic approach in managing the transfer price of import transactions between related parties.
- This endeavor is the first time formal collaboration has been established between the Chinese Customs and tax authorities in setting out regulations and procedures on the topic of customs valuation and transfer pricing, although differences in their respective points of view and assessment approaches on this topic will likely still remain.
- The introduction of this pilot for a collaborative management program may impose additional requirements on taxpayers for compliance in terms of managing their transfer prices collectively from both a tax and customs perspective going forward.



- The Notice provides an avenue for taxpayers to obtain a joint pre-assessment from both authorities on the transfer price of import transactions made between related parties. This could help taxpayers enhance their transfer pricing and customs valuation compliance, effectively reducing the risks of scrutiny coming from both customs and tax authorities.
- The Notice sets out the compliance procedures for adjustments of transfer prices post-transaction. It also states that the taxpayer can sign a memorandum with China Customs and the tax authorities to agree transfer pricing of customs values between related parties and then adjust the prices going forward based on the agreed terms in the memorandum.

Based on the sample memorandum released together with the Notice, we also observed the following points on the implementation of the agreement:

- The collaborative management memorandum, once signed by the importer with the customs and tax authorities, will be effective for three years.
- The taxpayer's transfer prices shall target the median value of the agreed financial indicator selected for evaluating the transaction(s).
- If the taxpayer's transfer prices fall below or rise above the median value, the taxpayer shall adjust its transfer prices to the median value.

Actions for business

China Customs and the tax authorities may issue separate regulations on operational measures with details on implementing the Notice, including for the reconciliation of transfer price evaluations from a tax and customs perspective. In addition, it remains to be seen whether the policy would extend to other regions or cities in the country.

This development signals increased scrutiny from China's customs and tax authorities on the transfer price of import transactions between related parties. Taxpayers should review their transfer pricing policies and monitor the progress of this development in other parts of the country.

Taxpayers in Shenzhen should perform a cost-benefit assessment to determine whether to apply for this collaborative management as set out in the Notice. Other taxpayers may also want to consider exploring the feasibility locally as customs and tax authorities in locations outside Shenzhen are likely to be interested in replicating this pilot program in their own jurisdictions. ■

For additional information please contact:

Bryan Tang | + 86 21 2228229 | bryan.tang@cn.ey.com
Belinda Hu | + 86 21 22284556 | belinda.hu@cn.ey.com

Additional resources

Global trade on ey.com

While indirect tax is a part of everyday life in most countries, the rise of new technologies and expanding global trade adds additional layers of complexity. Learn what EY can do for you, connect with us or read our latest thinking.

Find out more

Worldwide VAT, GST and Sales Tax Guide 2022

Outlining value-added tax (VAT) systems in 142 jurisdictions, the 2022 edition of our annual reference book, *Worldwide VAT, GST and Sales Tax Guide*, is now available in an interactive map format (as well as to download as a pdf).

Find out more

Brexit: read our latest analysis

As Brexit uncertainty continues, read our latest analysis and probabilities and consider how to mitigate the impact and prepare your business.

Find out more

EY Green Tax Tracker

Keep pace with sustainability incentives, carbon regimes and environmental taxes.

Find out more

Global Tax News Update

With EY's Tax News Update: Global Edition (GTNU) subscription service, you'll enjoy access to the same updates that are distributed each day within the EY Tax practice. Choose the topical updates you want to receive across all areas of tax (corporate, indirect, and personal), the jurisdictions you are interested in, and on a schedule that's right for you.

Find out more

TradeFlash

Our *TradeFlash* newsletter provides a roundup of the latest developments in global trade around the world.

Find out more

Subscribe to receive future editions of *TradeWatch*

Click here

Contacts

Global

Jeroen Scholten
EY Global Trade Leader

Editorial Board

Richard Albert
EY Germany Global Trade Leader

Lynlee Brown
EY Americas Global Trade Partner

Ian Craig
EY Latin America South Global Trade Leader

Franky de Pril
EY Europe West Global Trade Leader

Walter de Wit
EY Netherlands Global Trade Partner

Jef d'Hollander
EY Belgium Global Trade

Sally Jones
EY UK Trade Strategy and Brexit Leader

Michael Leightman
EY Americas Global Trade Partner

Rocio Mejia
EY Latin America North Global Trade Leader

William Methenitis
TradeWatch Editor

Yoichi Ohira
EY Japan Indirect Tax Leader

Carolina Palma
EY Costa Rica Global Trade Leader

Martijn Schippers
EY Netherlands, Indirect Taxation and Global Trade

Paul Smith
EY Oceania Global Trade Leader

Global Trade contacts

Insights
Additional resources
Contacts

Global Trade contacts by country

Americas

Argentina
Sergio Stepanenko
+ 54 11 4318 1648

Brazil
Ian Craig
+ 55 21 32637362

Fernando Fagiani
+ 55 11 2573 6913

Cesar Finotti
+ 55 11 2573 6465

Canada
Sylvain Golsse
+ 1 4169 325165

The Caribbean
Rose Boevé
+ 599 0 430 5076

Colombia
Gustavo Lorenzo
+ 57 14847225

Costa Rica
Carolina Palma
+ 506 2459 9727

Mexico
Karla Cardenas
+ 52 664 681 7844

Roberto Chapa
+ 52 818 152 1853

Rocio Mejia
+ 52 555 283 8672

Jorge Nasif
+ 52 551 101 7327

Peru
Giancarlo Riva
+ 51 1411 4448

United States
Doug Bell
+ 1 202 327 7455

Armando Beteta
+ 1 214 969 8596

Jay Bezek
+ 1 704 331 1975

Lynlee Brown
+ 1 858 535 7357

Sergio Fontenelle
+ 1 212 466 9780

Nathan Gollaher
+ 1 312 879 2055

Michael Heldebrand
+ 1 408 947 6820

Michael Leightman
+ 1 713 750 1335

Sharon Martin
+ 1 312 879 4837

Bill Methenitis
+ 1 214 969 8585

Anand Raghavendran
+ 1 949 437 0480

Bryan Schillinger
+ 1 713 750 5209

Justin Shafer
+ 1 513 612 1745

Prentice Wells
+ 1 408 947 5438

Asia-Pacific

Australia
Kylie Norman
+ 61 2 9248 4765

China Mainland
Lynette Dong
+ 86 21 2228 4107

Yao Lu
+ 86 139 1015 1448

Shubhendu Misra
+ 852 9664 0842

Bryan Tang
+ 86 21 2228 2294

Hong Li Wang
+ 86 10 5815 2307

Tina GY Zhang
+ 86 10 58152197

Japan
Yumi Haraoka
+ 81 3 3506 2110

Yoichi Ohira
+ 81 3 3506 2110

Korea (South)
Dongo Park
+ 82 23 787 4337

Malaysia
Jalbir Singh Riar
+ 60 3749 58329

New Zealand
Paul Smith
+ 64 9 348 8409

Phillipines
Lucil Vicerra
+ 63 288 948 115

Singapore
Donald Thomson
+ 65 6309 8636

Taiwan
William Chea
+ 662 264 9090

Thailand
Vivian Wu
+ 886 2 2728 8833

Vietnam
Anh Tuan Thach
+ 84 28 3629 7366

Global and Editorial contacts
Europe, Middle East, India and Africa contacts

Insights
Additional resources
Contacts

Global Trade contacts by country continued

Europe, Middle East, India and Africa

Austria
Theresa Arlt
+ 43 1 211 70 1102

Belgium
Antoine De Donder
+ 32 2 749 36 90

Franky De Pril
+ 32 2 774 94 84

Erwin De Vos
+ 32 2 774 93 75

Jef d'Hollander
+ 32 4 851 58 852

Christina Horckmans
+ 32 2 774 93 22

Philippe Lesage
+ 32 2 774 92 69

Kristof Verbist
+ 32 2 774 90 86

Keshia Wagner
+ 33 6 61 08 49 83

Denmark
Anne-Mette Høiriis
+ 45 51582559

France
Nadine Grenouilleau
+ 33 1 46 93 84 28

Marguerite Trzaska
+ 33 1 46 93 84 32

Germany
Rafik Ahmad
+ 49 6196 996 22586

Richard J Albert
+ 49 211 9352 17756

Robert Boehm
+ 49 211 9352 10529

Nadin Nottekämper
+ 49 211 9352 26138

Frank-Peter Ziegler
+ 49 6196 996 14649

Greece
Nicoleta Merkouri
+ 30 697 3773203

Hungary
Aron Nagy
+ 36 1 451 8636

India
Sourabh Jain
+ 91 98 1800 9094

Krishna Kanth Kotagiri
+ 91 99 6388 4466

Suresh Nair
+ 91 22 6192 2004

Agneshwar Sen
+ 91 98 11167838

Ireland, Republic of
Ciarán Behan
+ 353 1 2211445

Neil Byrne
+ 353 1 2212370

Colin Doolin
+ 353 1 2212949

Italy
Alessandra Di Salvo
+ 39 335 7361484

Kenya/rest of Africa
Hadijah Nannyomo
+ 254 20 2886000

Middle East and North Africa
Pascal Cange
+ 971 4 3129330

Ramy Rass
+ 971 4 7010900

Netherlands
Walter de Wit
+ 31 88 407 1390

Caspar Jansen
+ 31 88 407 1441

Bastiaan Kats
+ 31 88 40 73806

Martijn Schippers
+ 31 88 407 9160

Jeroen Scholten
+ 31 88 407 1009

Norway
Øystein Arff Gulseth
+ 47 982 06 387

Narve Løvø
+ 47 982 06 238

Poland
Slawomir Czajka
+ 48 71 711 88 93

Spain
Pedro Gonzalez-Gaggero
+ 34 954 665 246

South Africa/rest of Africa
Johnathan B Fillis
+ 27 11 772 5040

Sweden
Zoran Dimoski
+ 46 8 52059260

Switzerland
Ashish Sinha
+ 41 58 286 5906

Turkey
Sercan Bahadir
+ 90 212 408 53 41

Yakup Gunes
+ 90 212 408 58 38

Sedat Tasdemir
+ 90 212 408 52 57

United Kingdom
Onelia Angelosanto
+ 44 161 234 0508

Marc Bunch
+ 44 20 7980 0298

Penelope Isbecque
+ 44 113 298 2447

Sally Jones
+ 44 20 7951 7728

George Riddell
+ 44 20 7951 9741

Global and Editorial contacts

Americas and Asia-Pacific contacts

EY | Building a better working world

EY exists to build a better working world, helping to create long-term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. EY member firms do not practice law where prohibited by local laws. For more information about our organization, please visit ey.com.

About EY Global Trade practices

EY teams bring you a global perspective on Global Trade. The Global Trade EY professionals can help you develop strategies to manage your costs, speed your supply chain and reduce the risks of global trade. They can help to increase trade compliance, improve import and export operations, reduce customs and excise duties and enhance supply chain security. They help you to address the challenges of doing business in today's global environment to help your business achieve its potential. It's how EY teams makes a difference.

TradeWatch is a regular newsletter prepared by EY Global Trade groups. For additional information, please contact your local Global Trade professional.

The views of third parties set out in this publication are not necessarily the views of the global EY organization or its member firms. Moreover, they should be seen in the context of the time they were made.

© 2022 EYGM Limited.
All Rights Reserved.

EYG no. 008556-22Gbl
ED None

UKC-024498.indd 09/22.
Artwork by Creative UK.

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, legal or other professional advice. Please refer to your advisors for specific advice.

ey.com