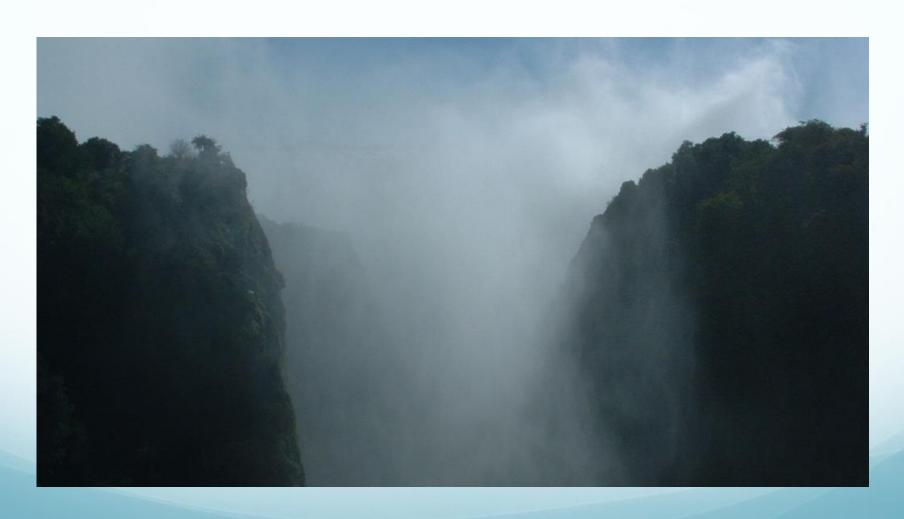
Transfer Pricing and Customs Valuation

Background and current developments



Transfer Pricing & Customs Valuation - Bridging the gap



What is the issue?

- Customs aim to verify whether a price has been influenced in a related-party transaction
- Multi-nationals offer a transfer pricing study as 'proof' that the transactions are 'arm's length'
 - Is this helpful to Customs?
- What are implications for Customs of TP adjustments?

Competing tensions

Customs administration objective

Ensuring all <u>appropriate</u> elements are included in the Customs value

Direct Tax authority objective

Ensuring the transfer price does not include <u>inappropriate</u> elements

Pull in opposite directions

Trade objective

Lower Customs value desirable

Trade objective

Higher transfer price desirable = reduced taxable profit

Key Differences

Customs Valuation

- Goods only
- Transaction based
- Confirmed at point of customs clearance

Transfer Pricing

- Goods, services & property
- Based on aggregates/annual
- Confirmed retrospectively (some years after event)

Activities to date

- Two joint WCO/OECD conferences (2006, 2007)
- Focus Group 2007 identified key issues
- On agenda of TCCV
- Commentary 23.1

Commentary 23.1

Examination of the expression "circumstances surrounding the sale" under Article 1.2 (a) in relation to the use of transfer pricing studies

- First text of the TCCV to refer to transfer pricing
- Key questions:
 - Has price been settled in a manner consistent with the normal pricing practices of the industry?
 - Is price adequate to ensure recovery of all costs plus a profit representative of the firm's (seller's) overall profit realized over a ..period of time?
 - Acknowledgement that a TP study may be of use in examining a related parties transaction

Case Study: 14.1 Use of information from a TP study

