



Customs Value and Transfer Pricing

**The impact of retroactive transfer pricing
adjustments on EU customs valuation**

March 2018

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CJEU Judgment

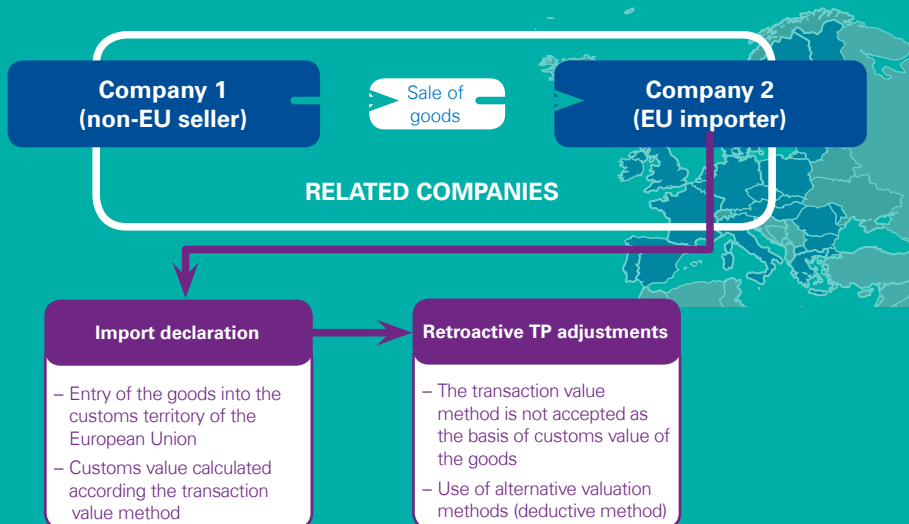
With its judgment of 20 December 2017 in case C-529/16, the Court of Justice of the European Union (CJEU) has brought clarity regarding the impact of retroactive transfer pricing adjustments on the customs value of goods imported into the European Union.

Content

- The CJEU ruled that if the initial transfer price can be subject to retroactive adjustments, it cannot be used for customs valuation purposes. Consequently, goods imported by companies applying a transfer price that allows for retroactive adjustments cannot be valued based on the transaction value method and one of the other customs valuation methods must be used instead.
- For this reason, companies carrying out retroactive adjustments as a result of the application of transfer pricing policies should (i) use alternative customs valuation methods (the deductive method being the most likely to apply) and (ii) submit simplified customs declarations, which will entail an increase in the administrative burden.

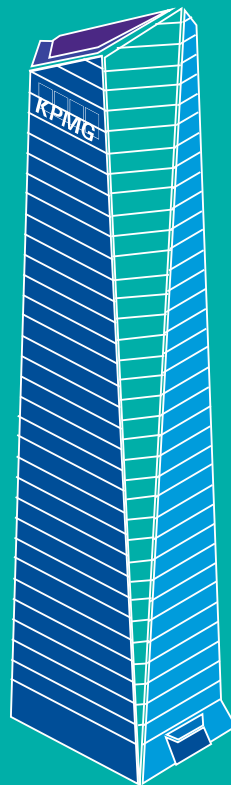
Action plan

- In light of the aforementioned CJEU judgment and the provisions of the new Union Customs Code (UCC), importers applying retroactive transfer pricing adjustments should file simplified customs declarations on a regular basis. To do so, they must obtain authorisation from the customs authorities, which will trigger an Authorised Economic Operator (AEO) compliance requirement.
- Moreover, their transfer pricing policies will have to be aligned with the customs value declared in accordance with the alternative customs valuation method used.



KPMG at your service

- The Customs and Transfer Pricing Practices of KPMG Abogados is at your disposal to analyse the potential impact of this ruling on the import operations carried out by your Company, considering both transfer pricing and customs implications, in order to identify the appropriate customs procedures to be applied in line with the CJEU judgment and the customs regulations set out in the UCC.
- For this purpose, KPMG Abogados has a professional team of highly qualified experts on Customs and Transfer Pricing, led by Juan José Blanco and Montserrat Trapé, with extensive experience in these fields.



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