



European Regional Conference 2025

Collaborate to Create: The Power
of Strategic Alliances





Trade Wars & Tariffs: Is Transfer Pricing the Silver Bullet?

Dritton Jemmalay

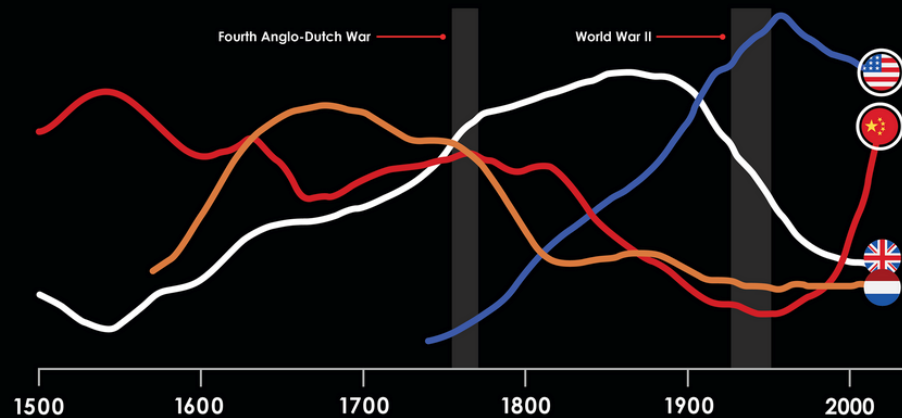
TP Benchmark

Agenda

1. Customs & TP basics
2. The interplay
3. Case studies

Relative Powers of Countries Since 1500

— United States — China
— United Kingdom — Netherlands



These are approximate estimates based on the average of 8 different measures of power.

THE CHANGING WORLD ORDER

@raydalio

IF CHINA CAN HAVE A WALL



makeameme.org

Customs basics

- Key tariff determinants –
 - Product classification
 - Country of origin
- Product value –
 - Various valuation methodologies, ‘transaction value’ primary method. Although, could first sale rule apply?
 - Includes certain royalties and licence fees,
 - Excludes post importation expenses such as erection, testing assembly, and other technical assistance

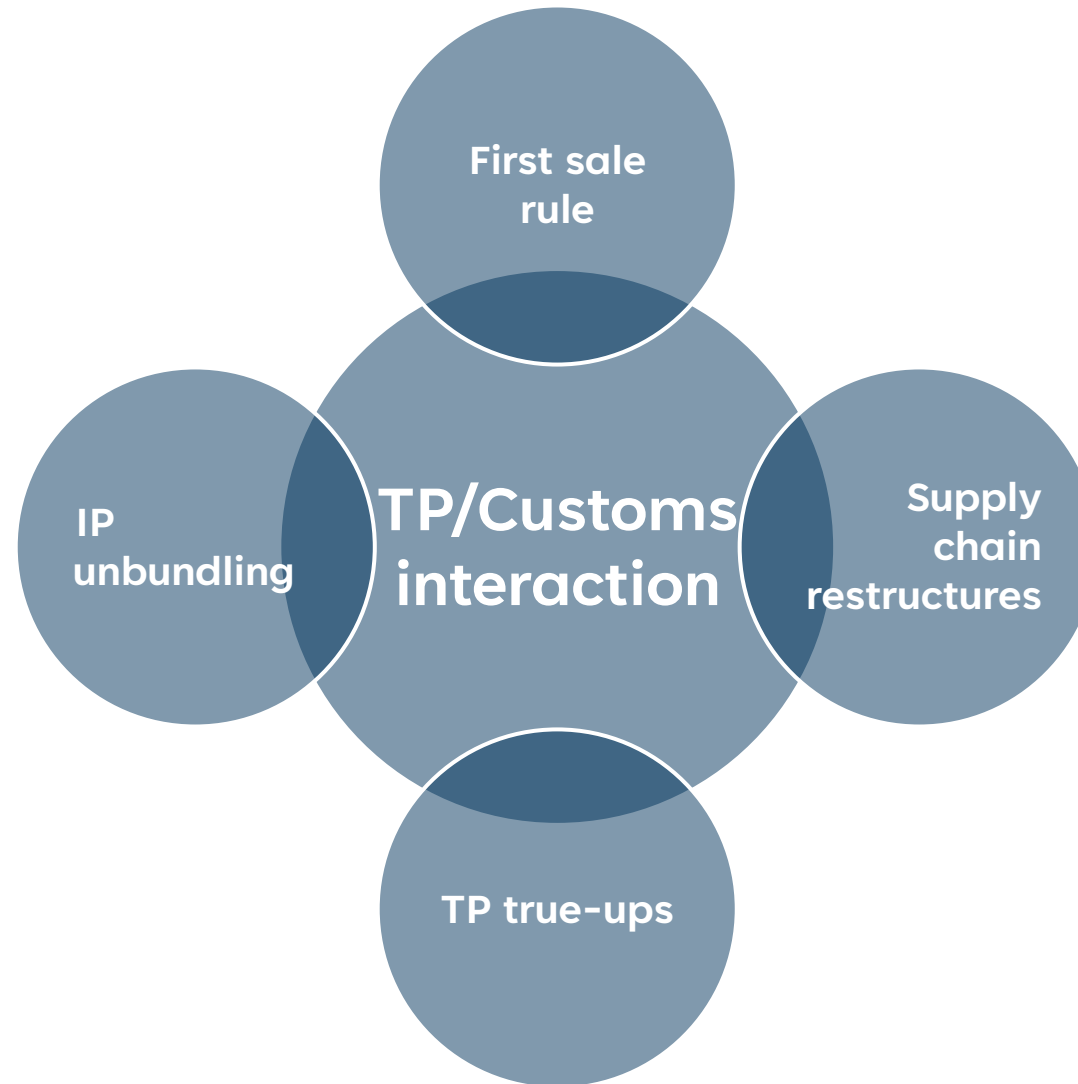
Customs basics

- First sale rule –
 - Not ratified by all territories (accepted by USA)
 - Customs value → first arm's-length sale in a multi-tiered supply chain (eg manufacturer to principal)
- Transfer pricing value often used to support customs value (if non-arm's length pricing may influence custom valuation methodology)

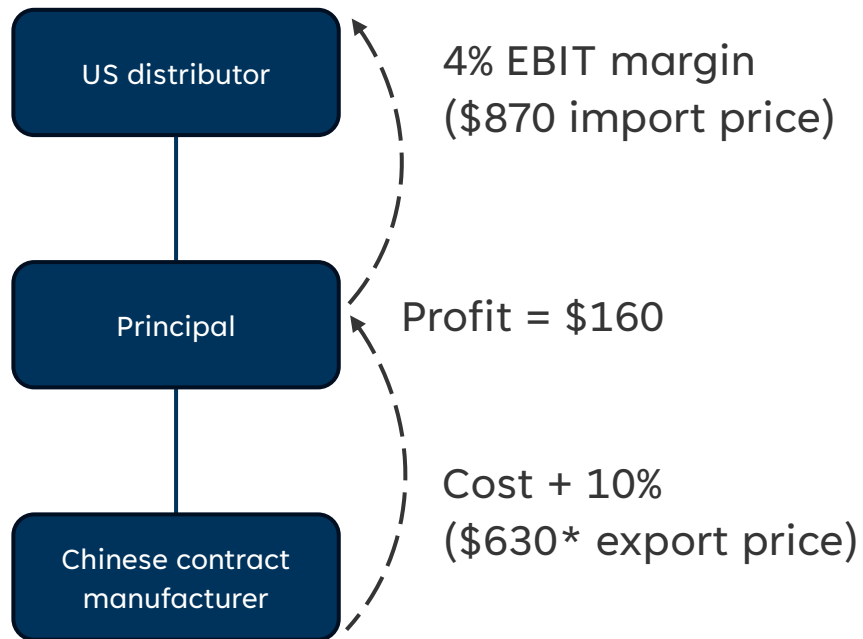
Transfer pricing / tax basics

- MNE hub & spoke centralised intangibles –
 - toll or contract manufacturing
 - limited risk distributors
 - principal requires substance
- IRP product pricing TNMM / CPM (EBIT / sales target) –
 - Periodic or year-end ‘true-ups’
 - Embedded intangibles (subject to royalty WHT?)

Customs & TP interplay



First sale rule



Illustrative Example - \$1000 iPhone sale

This example highlights –

1. First sale price of **\$630** (likely overstated)*
2. US import price of **\$870.**

What is the import value for customs?

- On \$200 million of sales, tariff differential could be in excess of \$10 million under first sale rule

Based on oversimplified assumptions deduced from 2024 Apple 10-K -

- 63% gross margin
- 9% SG&A (attributed entirely to distributor)
- 20% operating margin

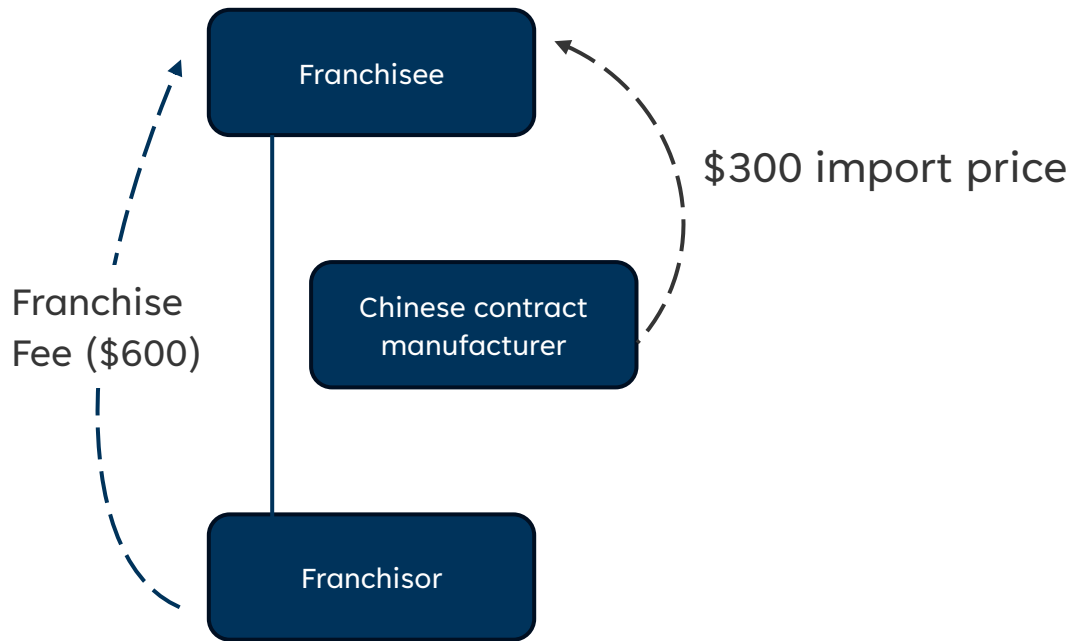
* Anecdotally the assembled cost of an iPhone is \$400.

TP true-ups

- TP documentation critical to relying on ‘transaction value’ methodology.
- Otherwise risk Customs applies their own methodology.

| TP True-up | Customs impact at import | Compliance risk |
|------------------|--------------------------|--|
| Increase of COGS | Duty underpaid | Penalty for incorrect duty |
| Decrease of COGS | Duty overpaid | Refusal of duty refund (money on the table) |

IP unbundling



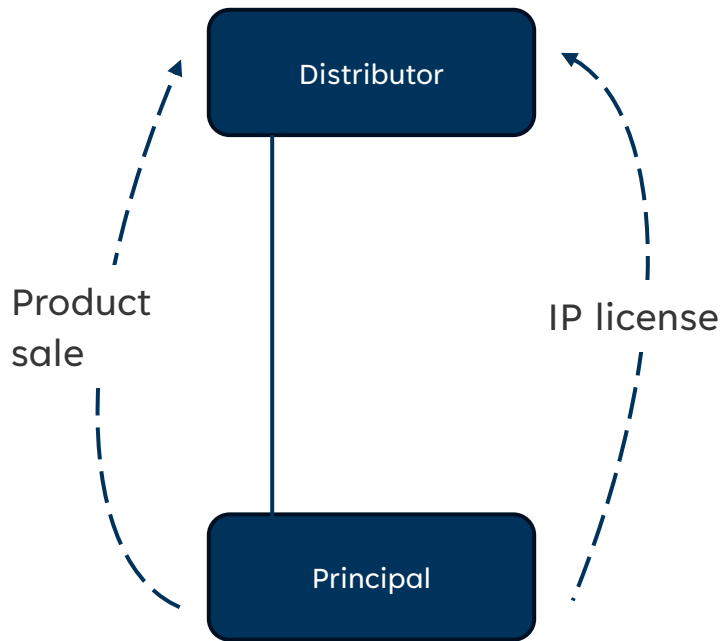
Illustrative Example – MNE luxury goods franchise

This example highlights –

1. Luxury good sold for \$1000
2. Manufactured price of \$300
3. Franchise fee of \$600 (including various marketing intangibles and sales system (eg store layout)).

What is the import value for customs?

IP unbundling



Illustrative Example – After sale services

This example highlights –

1. Product sale
2. After market sales team uses know-how / IP as part of after sales services.

What is the import value for customs?