



**World Customs
Organization**

Related Party Transactions

Amman, Jordan

5 - 9 February 2023

Customs Value and related party transactions



- Article 1.1 (d)
- The customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the country of importation adjusted in accordance with the provisions of [Article 8](#), provided :
 - (a)
 - (d) that the buyer and seller are not related, or where the buyer and seller are related, that the transaction value is acceptable for customs purposes under the provisions of paragraph 2.

Meaning of related persons



- Article 15.4 of the Agreement provides the meaning of related persons
- Article 15.5 focuses on the relationship regarding persons associated in business : sole agent, distributor or sale concessionaire

Types of relationship



Family	Members of the same or affiliated business enterprise	Financial/legal control
Buyer and seller are members of the same family	Buyer and seller are legally recognized partners in business	A person owns, controls or holds 5% or more of the outstanding voting stock of both the buyer and the seller
	The buyer is the employer of the seller or vice versa	Buyer directly or indirectly controls the seller, or vice versa
	The buyer and seller are officers or directors of one another's businesses	Both buyer and seller are directly or indirectly controlled by a third person
		Buyer and seller together directly or indirectly control a third party



EU legal definition of family:

Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another:

- husband and wife,
- parent and child,
- brother and sister (whether by whole or half blood),
- grandparent and grandchild,
- uncle or aunt and nephew or niece,
- parent-in-law and son-in-law or daughter-in-law,
- brother-in-law and sister-in-law.

Control



One person shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.

- Legal control – parent – subsidiary corporate relationship, where one firm fully owns or has a controlling interest in the other and is legally in a position to exercise restraint or control
- Operational control – a seller may be operationally in a position to exercise control if the seller’s president also acts as the chief operating officer of the buyer.



Sole agent/distributor/concessionaire

Article 15.5

Persons who are associated in business with one another in that one is

- the sole agent,
- sole distributor or
- sole concessionaire, however described,

of the other shall be deemed to be related for the purposes of this Agreement if they fall within the criteria of paragraph 4 of Article 15.

Key text -Article 1.2(a)

- In determining whether the transaction value is acceptable, the fact that the buyer and the seller are related within the meaning of Article 15 shall not in itself be grounds for regarding the transaction value as unacceptable
- In such cases, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price.
- Examine cases where there are doubt

Article 1.2 (a)

If, in the light of information provided by the importer or otherwise, there are grounds for considering that the relationship influenced the price

- a) Customs shall communicate its grounds to the importer and the importer shall be given a reasonable opportunity to respond.
- b) If the importer so requests, the communication of the grounds shall be in writing.

Test values – Article 1.2 (b) & (c)

- In a sale between related persons, the transaction value shall be accepted when the importer demonstrates that such value closely approximates to one of the following occurring at or about the same time:
 - (i) the transaction value in sales to unrelated buyers of identical or similar goods for export to the same country of importation;
 - (ii) the customs value of identical or similar goods as determined under the provisions of Article 5;
 - (iii) the customs value of identical or similar goods as determined under the provisions of Article 6;

Test values - *continued*



- Due account to be taken of demonstrated differences in :
 - *commercial levels*
 - *quantity levels*
 - *Article 8 elements*
 - *Costs incurred by the seller in sales when seller and buyer are not related that are not incurred by the seller in sales in which the buyer and seller are related*
- Used at initiative of importer
- Only for comparison purposes
- Substitute values may not be established under this provision

Circumstances of sale – Interpretative Note to Article 1



- Where the Customs administration is unable to accept the transaction value without further inquiry, it should give the importer an opportunity to supply such further detailed information as may be necessary to enable it to examine the circumstances surrounding the sale.

Circumstances of sale

– Interpretative Note to Article 1



- ... examine relevant aspects of the transaction, including :
 - the way in which the buyer and seller organize their commercial relations and,
 - the way in which the price in question was arrived at.
- Can it be shown that the buyer and seller, although related, buy from and sell to each other as if they were not related?

Circumstances of sale

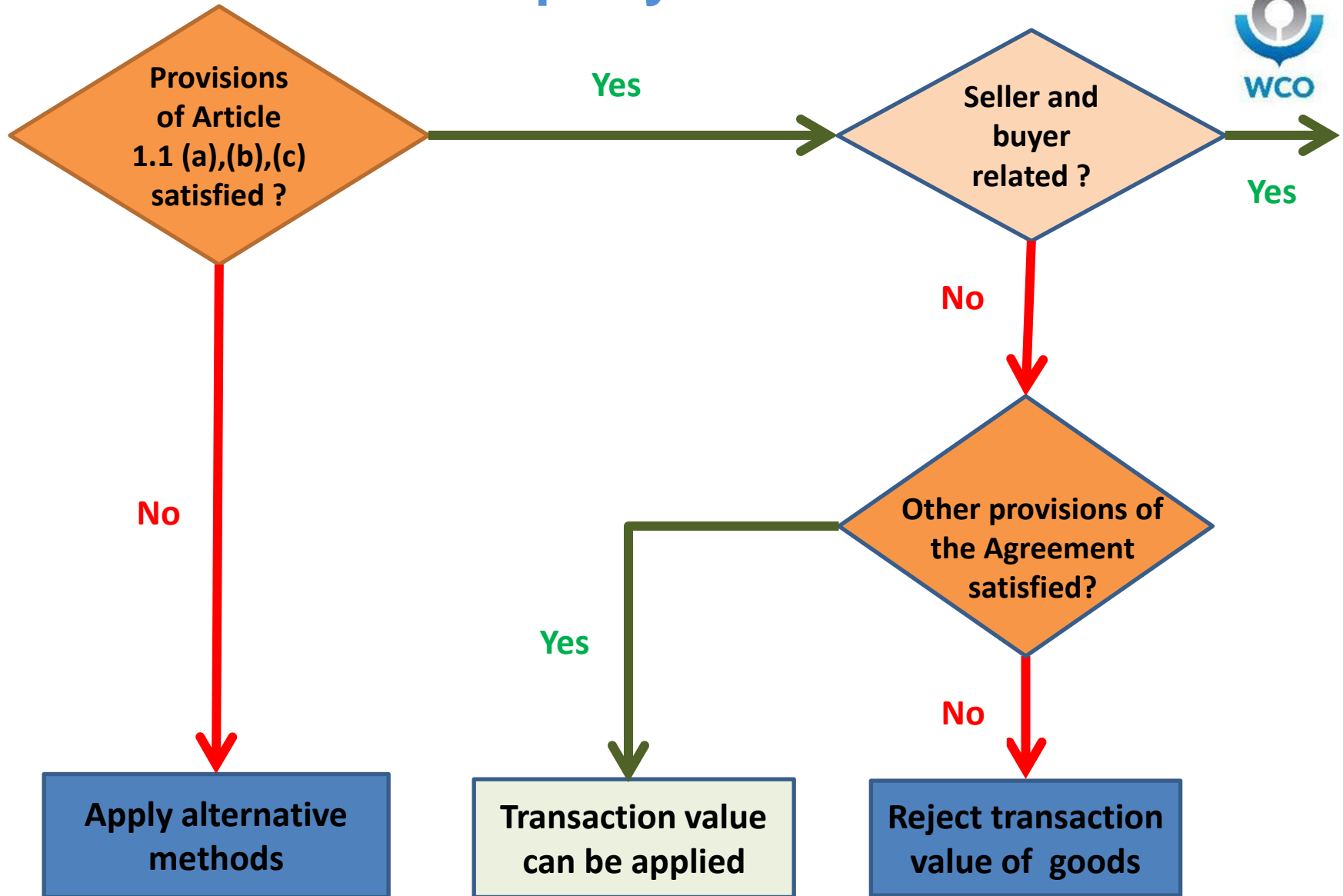
– Interpretative Note to Article 1



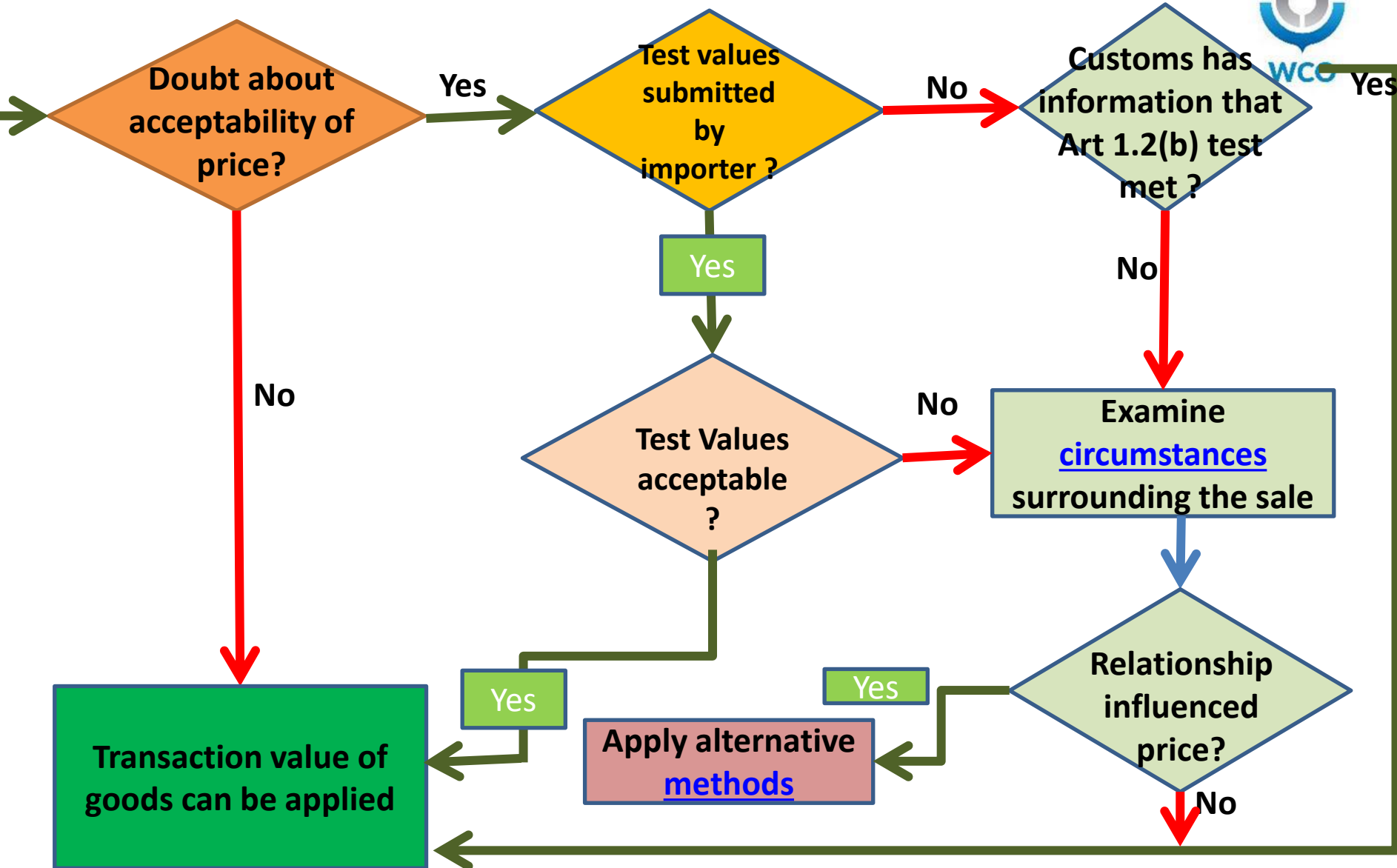
Examples:

- Has price been settled in a **manner consistent with the normal pricing practices of the industry in question** or with the way the seller settles prices for sales to buyers who are not related to the seller?
- Is price adequate to ensure **recovery of all costs plus a profit which is representative of the firm's overall profit realized over a representative period of time** (e.g. on an annual basis) in sales of goods of the same class or kind?

Related party transactions



Related party transactions





**World Customs
Organization**

Thank you

