

WTO Agreement

ARTICLE 1 – RELATED PARTY TRANSACTIONS

Related party – definition

Article 15.4

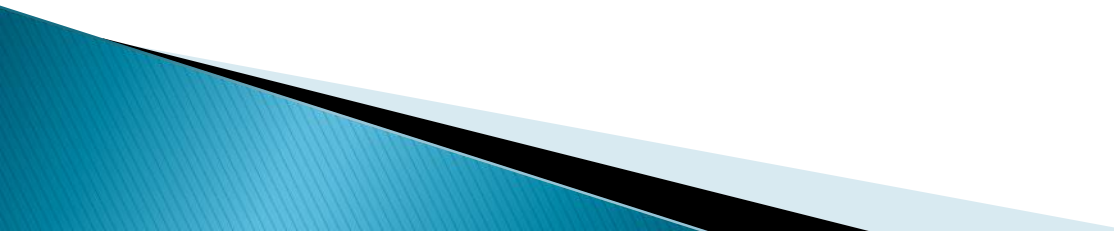
For the purposes of the Agreement, persons shall be deemed to be related only if:

- (a) they are officers or directors of one another's businesses;
- (b) they are legally recognized partners in business;
- (c) they are employer and employee;
- (d) any person directly or indirectly owns, controls or holds 5 per cent or more of the outstanding voting stock or shares of both of them;
- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person;
- (g) together they directly or indirectly control a third person;
or
- (h) they are members of the same family.

Related party – definition

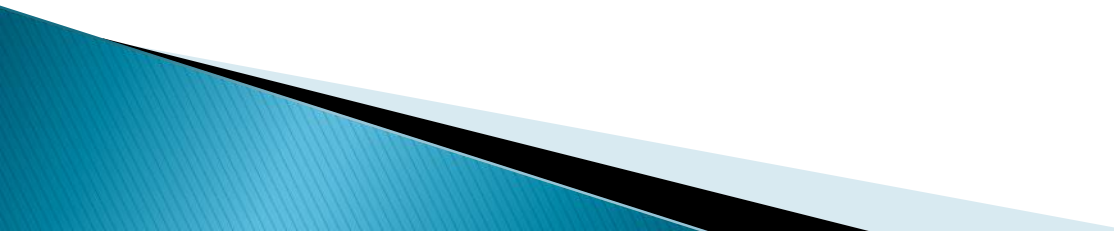
EU legal definition of family relationships:

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.
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Related party – definition III

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.



Related party transactions

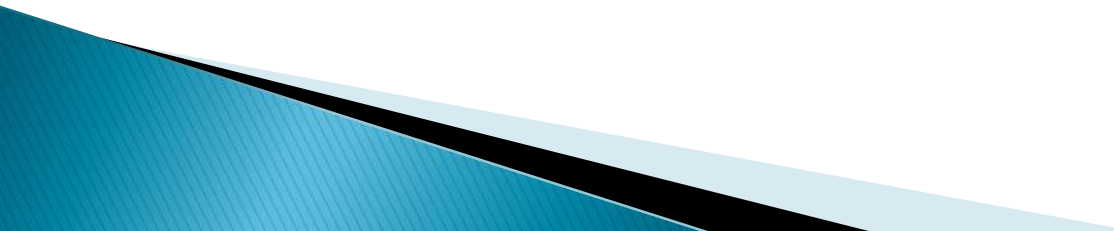
Key text – Article 1.2 (a)

- ▶ 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

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

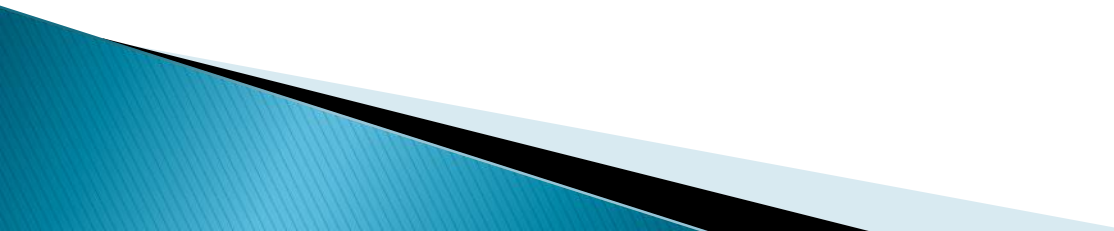
- ▶ ... examine relevant aspects of the transaction, including :
 - ▶ **the way in which the buyer and seller organize their commercial relations and the way in which the price in question was arrived at.**
 - ▶ Can it be shown that the buyer and seller, although related, buy from and sell to each other as if they were not related?
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Circumstances of sale – Interpretative Note to Article 1

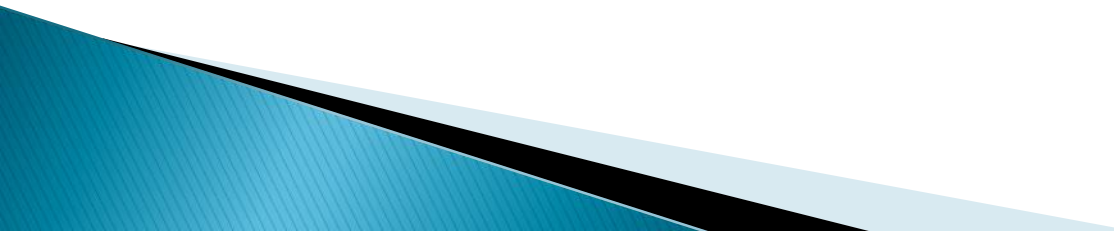
Examples:

- 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 *[i.e. seller'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?

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;
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Test values – *continued*

- ▶ Due account to be taken of demonstrated differences in :
 - *commercial levels*
 - *quantity levels*
 - *Article 8 elements*
 - ▶ Used at initiative of importer
 - ▶ Only for comparison purposes
 - ▶ Substitute values may not be established under this provision
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Related-Party Transactions



Definitions
(Article 15.4)

