

Customs valuation methodology selection and application

Step 1: Assess if pragmatic approach may be applied

The Dutch Customs Authorities have agreed that VTTI may use the market value of a product as the customs value in the import declaration in situations where the customs value has no impact on the amount of duties payable. First step in the valuation procedure is to determine whether this pragmatic approach can be applied.

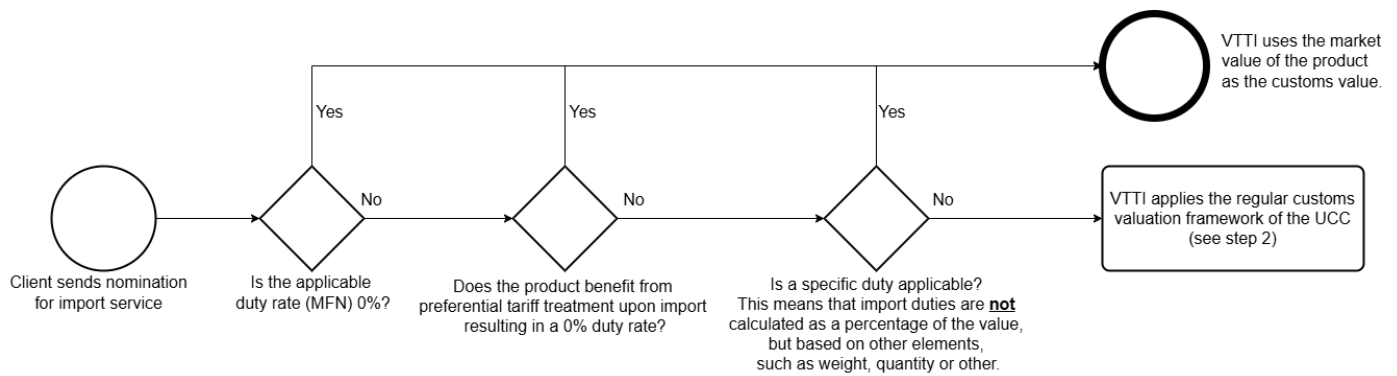
When a product arrives at the terminal and a parcel is registered in ERP, the value of the product is recorded by CS in line with the market value at the time of registration. The market value is usually provided by the customer, or otherwise obtained by CS from publicly available market data sources.

When the customer sends a nomination to bring the product into free circulation, CS registers an import service in ERP. The import service requires a value, which is used in the import declaration.

Where the applicable import duty rate is 0%, the goods qualify for preferential treatment upon import, or where a specific duty applies (i.e., duties are not calculated over the value but over another factor such as weight), the customs value declared serves a purely statistical purpose and has no financial impact. In such cases, the customs authorities have approved that VTTI applies the “reasonable means” method as an alternative method of customs valuation, in accordance with Article 74(3) of the UCC. More specifically, the market value that was registered at the time the parcel was created is used as the customs value in the import declaration.

If the import duty rate exceeds 0%, no preferential treatment applies and customs duties due are calculated on an ad valorem basis, the regular customs valuation framework of the UCC will be applied to determine the customs value.

This approach can be schematically displayed as follows:



Step 2: Assessment of the applicability of the transaction value method

If Step 1 results in the customs value being determined under the regular customs valuation framework of the UCC, the next step is to assess whether the transaction value method can be applied. As this is the primary customs valuation method, the assessment should determine whether the method is available and, if so, which transaction forms the basis for the customs value. The assessment framework is set out below.

Step 2.1: Identification of a qualifying sales transaction

The transaction value method can only be applied if the goods are sold for export to the EU. This means that ownership of the product is transferred from the seller to the buyer, and that, at the time of the sale, it is clear that the product is intended for export to the EU.

If the product is not sold prior to its physical entry into the EU, but while in temporary storage, under external transit, in a customs warehouse or under inward processing, such a sale may also

qualify as a "sale for export" on which the transaction value can be based.

If the product is sold multiple times prior to its arrival in the EU (i.e., more than one sale qualifies as "sale for export"), the transaction value must be based on the last sale, i.e. the sale concluded immediately before the goods enter the EU.

As VTTI has limited insight in the supply-chain and the underlying transactions, the customer indicates whether or not a sale for export exists and which sale qualifies as the last sale for export. The customer provides CS with the relevant information regarding that sale, including the commercial invoice.

If the customer indicates that no sale for export exists, the value must be determined in line with one of the secondary valuation methods, briefly described below under step 3. This scenario is extremely rare in the energy products market.

Step 2.2: Review of the commercial invoice

The commercial invoice relating to the transaction identified in Step 2.1 is required as a supporting document for the declared transaction value. It is the customer's responsibility to provide CS with a valid commercial invoice.

CS will perform a reasonableness check to assess whether the invoice appears valid and suitable for customs valuation purposes. This review concerns the apparent validity and completeness of the invoice.

If deficiencies are identified in the invoice, CS will contact the customer to obtain clarification and/or additional supporting documentation.

In exceptional cases where a final commercial invoice is not yet available, alternative supporting documents, such as a pro forma invoice, a "for customs purposes only" invoice or another preliminary commercial document, may be used, provided that they accurately reflect the transaction value and that this value can be substantiated by the underlying commercial documentation. Before relying on such alternative documentation, CS will consult the customs specialist at the terminal or VTTI HQ.

Where the customer is unable to provide the required commercial invoice at the time of importation but confirms that the invoice will become available at a later stage, CS may, subject to the applicable conditions, submit a simplified customs declaration in accordance with Article 166 UCC. The simplified declaration will contain a provisional customs value based on the information available at the time of importation. Once the commercial invoice becomes available, CS will determine the final customs value in accordance with the transaction value method and submit that value by means of a supplementary declaration pursuant to Article 167 UCC. Before using this simplified declaration procedure, CS will consult the customs specialist at the terminal or VTTI HQ.

If a valid commercial invoice is available and the reasonableness check does not identify any unresolved deficiencies, it must also be verified whether the other conditions for application of the

transaction value method are met. See Step 2.3.

If no valid commercial invoice is available and the customer is unable to provide one at a later stage, the transaction value method cannot be applied. CS will inform the customer and escalate the matter to the customs specialist at the terminal or VTTI HQ. The customer must determine and substantiate the customs value in accordance with an appropriate alternative valuation method as described in Step 3 and provide CS with all information and supporting documentation required to prepare the customs declaration. VTTI may discuss the proposed valuation approach with the customer and perform a reasonableness check, but responsibility remains with the customer. CS will not lodge the customs declaration until a sufficiently substantiated customs value has been provided and any material concerns have been resolved.

Step 2.3: Assessment whether the transaction value method can be applied

In addition to verifying the availability and apparent validity of the commercial invoice under Step 2.2, it must be assessed whether the transaction identified in Step 2.1 satisfies the conditions for application of the transaction value method.

This assessment is intended to verify whether the conditions set out in Article 70(3) UCC are met.

In short, the transaction value method cannot be applied where:

- the buyer is subject to restrictions regarding the disposal or use of the goods, other than restrictions permitted under Article 70(3)(a) UCC;
- the sale or price is subject to conditions or considerations for which a value cannot be determined with respect to the goods being valued;
- any part of the proceeds of a subsequent resale, disposal or use of the goods accrues directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with Article 71 UCC; or
- the buyer and seller are related and the relationship has influenced the price.

Given VTTI's role, VTTI inherently has limited visibility of the supply chain, the underlying chain of transactions and the contractual circumstances surrounding the sale. The customer is therefore responsible for assessing whether the transaction satisfies the conditions for application of the transaction value method. CS performs a reasonableness check based solely on the information and documentation provided by the customer. The reasonableness checks performed by CS are incorporated into the customs valuation checklist available in BzCtrl. The checklist covers both the apparent validity of the commercial invoice and supporting documentation under Step 2.2 and the conditions for application of the transaction value method under this Step 2.3.

The reasonableness checks conducted by CS are incorporated in a checklist in BzCtrl and included [here](#).

If the reasonableness check raises doubts as to whether the transaction satisfies the conditions set out in Article 70(3) UCC, CS will contact the customer and request further clarification and supporting documentation before lodging the customs declaration.

If no unresolved concerns are identified, CS may use the transaction as the basis for applying the transaction value method.

If it is concluded that the conditions set out in Article 70(3) UCC are not satisfied, the transaction value method cannot be applied. CS will inform the customer and escalate the matter to the customs specialist at the terminal or VTTI HQ. The customer must determine and substantiate the customs value in accordance with an appropriate alternative valuation method as described in Step 3 and provide CS with all information and supporting documentation required to prepare the customs declaration. VTTI may discuss the proposed valuation approach with the customer and perform a reasonableness check but responsibility remains with the customer. CS will not lodge the customs declaration until a sufficiently substantiated customs value has been provided and any material concerns have been resolved.

Step 3: Assessment of the applicability of one of the secondary valuation methods

The need to apply a secondary customs valuation method is expected to arise only in exceptional circumstances. In the energy-products supply chains in which VTTI is involved, a commercial invoice and a qualifying transaction will generally be available, allowing the customs value to be determined using the transaction value method.

Where the transaction value method cannot be applied, the customer must assess the secondary valuation methods in the order prescribed by Article 74 UCC and determine the customs value using the first applicable method. The customer must provide CS with the selected valuation method, the resulting customs value and any other information and documentation required for CS to prepare and lodge the customs declaration.

This Step 3 provides only a high-level overview of the secondary valuation methods that may be considered. It is not intended to provide an exhaustive description of the applicable legal requirements or detailed instructions for applying these methods, as the actual assessment lies with the customer.

CS, together with the customs specialist at the terminal or VTTI HQ, will perform a reasonableness check based on the valuation method, customs value and any other information and documentation provided by the customer, and will reach out to the customer for clarification in case of unclarities. VTTI will not lodge the customs declaration if the information provided by the customer gives rise to material concerns that have not been adequately addressed.

The secondary valuation methods must be considered in the order set out below.

Step 3.1: assessment of identical goods method

If possible, the customs value must be based on the transaction value of identical product sold for export to the EU and exported at or about the same time as the product being valued.

In practice, in the supply chains in which VTTI is involved, it is never possible to apply this method, as there is hardly ever such a transaction of identical product available at or about the same time as the product being valued, or the data of that transaction is not available. As such, this secondary valuation method is in practice never applied.

Step 3.2: assessment of similar goods method

If the identical goods method cannot be applied, the customs value should be based on the transaction value of similar product sold for export to the EU and exported at or about the same time as the product being valued.

In practice, in the supply chains in which VTTI is involved, it is never possible to apply this method, as there is hardly ever such a transaction of similar goods available at or about the same time as the goods being valued, or the data of that transaction is not available. As such, this secondary valuation method is in practice never applied.

Step 3.3: assessment of deductive method

If the identical goods and similar goods methods cannot be applied, the customs value must in principle be determined under the deductive method. However, at the customer's request to the customs authorities, the order of the deductive method and the computed value method may be reversed, allowing the computed value method to be considered first.

Under the deductive method, the value is based on the unit price at which the imported product, or identical or similar imported product, is sold within the customs territory of the Union in the greatest aggregate quantity to persons not related to the sellers. In the supply chains in which VTTI is involved, it is hardly ever possible to apply this method, as VTTI almost never has access to the data required for this valuation method.

Step 3.4: assessment of computed value method

The computed value method is generally applied if the deductive method cannot be used. However, at the customer's request to the customs authorities, the order of these two methods may be reversed, allowing the computed value method to be applied before the deductive method. Under the computed value method, the customs value is calculated as the sum of:

1. The cost or value of materials, fabrication and other processing employed in producing the imported goods,
2. An amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of export for export to the Union and

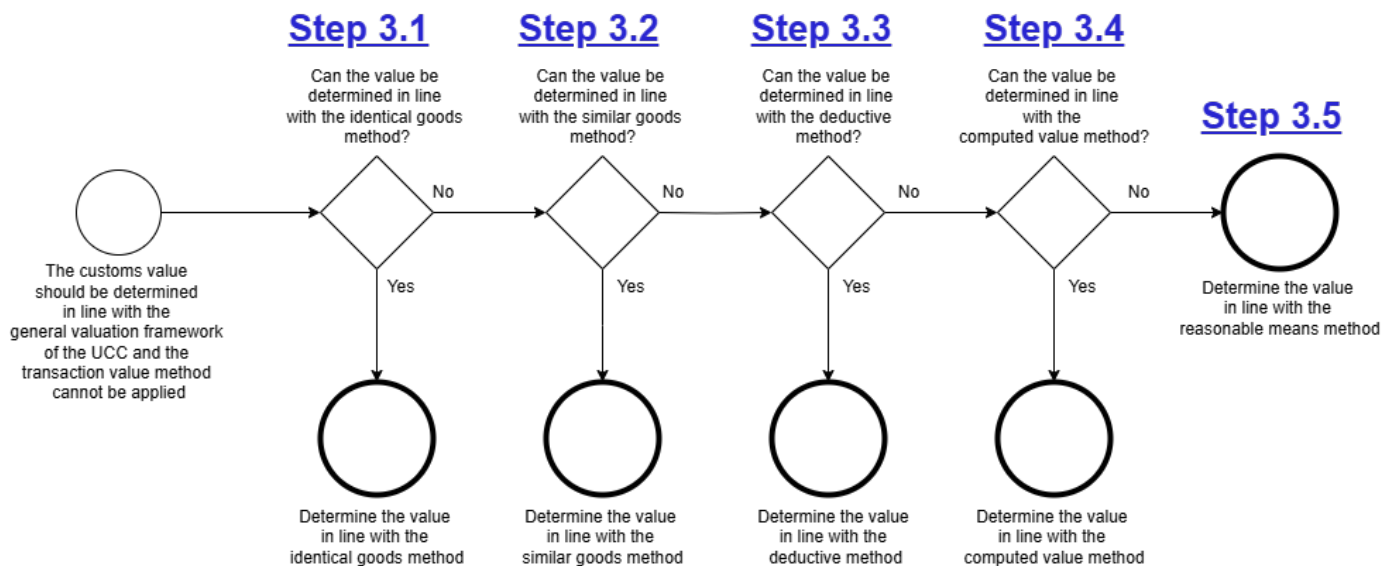
3. The cost of transport and insurance and loading and handling charges associated with the transport of the imported product, up to the place where the product is brought into the customs territory of the EU.

As with the preceding secondary valuation methods, it is hardly ever possible to apply this method, due to a lack of data.

Step 3.5: assessment of reasonable means method

If none of the preceding secondary valuation methods can be applied, the customs value must be determined under the reasonable means method. Under this method, the customs value must be determined on the basis of data available in the customs territory of the EU, using reasonable means consistent with the principles and general provisions of the applicable WTO customs valuation rules and the UCC. In the energy-products market, this will generally involve using the market value of the relevant product as the basis for determining the customs value.

Step 3 can be schematically displayed as follows:



Steps 2 and 3 combined can be displayed as follows:

