

(SECTION 173)

**SEVENTH SCHEDULE****PART I - VALUE OF IMPORTED GOODS**

The Customs value of imported goods shall be determined through application of the following Articles in the sequence indicated except where otherwise stated.

**Article 1****Value of the Goods**

The customs value of imported goods shall be the price actually paid or payable for the goods when sold for export to The Gambia adjusted in accordance with the provisions of Appendix B, provided:

1. (a) that there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which:
  - (i). are imposed or required by law;
  - (ii). limit the geographical area in which the goods may be resold; or
  - (iii). do not substantially affect the value of the goods; and
- (b). that the price is not subject to some condition or consideration for which a value cannot be determined with respect to the value of the goods being valued.
- (c). that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of Appendix B; and
- (d). that the buyer and seller are not related or where the buyer and seller are related that the transaction value is accepted for customs purposes under the provisions of Paragraph (2).
2. (a)(i) in cases where the buyer and the seller are related, within the meaning of Appendix C, the transaction value shall be accepted provided that the relationship did not influence the price.
  - (ii) where the customs has grounds for considering that the relationship influenced the price of the goods, it shall communicate the grounds in writing to the importer and shall afford reasonable time for the importer to respond thereto.
- (b) The customs shall accept the transaction value in a sale between related persons where 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 by the same party to unrelated buyers of identical or similar goods sold for export to The Gambia.
  - (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.
- (c). In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Appendix B and costs incurred by the seller in sales in which the seller and the buyer are not related that are not incurred by the seller in sales in which the seller and the buyer are related.
- (d). The tests set forth in Paragraph (2) (b) shall be applied at the initiative of the importer and only for comparison purposes.

## Article 2

### Transaction Value of Identical Goods

1. (a) If the customs value of imported goods cannot be determined under the provisions of Article 1, the customs value shall be the transaction value of identical goods sold by other sellers for export to The Gambia at or about the same time as the goods being valued.
- (b) Under this Article, the transaction value of goods shall be:
  - (i). the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being value or shall be used to determine the customs value.
  - (ii). where no such sale is found, the transaction value of identical goods sold at a different commercial level or in different quantities adjusted to take account of differences attributable to commercial level or to quantity.

Provided that such adjustments are made on the basis of demonstrated evidence which establishes the reasonableness and accuracy of adjustment, whether the adjustment leads to an increase or a decrease in the value.
2. Where the cost and charges referred to in Paragraph (1) of Appendix B are included in the transaction value, an adjustment shall be made to take account of significant differences in such cost and charges between the imported goods and the identical goods in question arising from differences in distances and mode of transport.
3. If, in applying this article more than one transaction value of identical goods is found, the lowest such value shall be used to determine the customs value of the imported goods being valued.

### Article 3

#### Transaction Value of Similar Goods

1. (a) if the customs value of imported goods cannot be determined under the provisions of Article 1 and 2, the customs value shall be the transaction value of similar goods sold for export to The Gambia and exported at or about the same time as the goods being valued.  
  
(b) Under this Article, the transaction value shall be determined using:
  - (i). the transaction value of similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued;  
or
  - (ii). the transaction value of similar goods sold at a different commercial level or in different quantities, adjusted to take account of differences attributable to commercial level or to quantity.

Provided that such adjustments are on basis of demonstrated evidence, which establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in value.
2. Where the cost and charges referred to in Paragraph (2) of Appendix B are included in the transaction value, an adjustment shall be made to take account of significant **differences** in such costs and charges between the imported goods and the similar goods in question arising from differences in distances and modes of transport.
3. If, in applying this Article, more than one transaction value of similar goods is found, the lowest such value shall be used to determine the customs value of the imported goods being valued.

### Article 4

Where the customs value of imported goods cannot be determined under the provisions of Article 1, 2 or 3, Article 5 and 6 may be applied and the sequence of application shall be reversed at the request of the importer.



**Article 5****Deductive Value**

1. (a) If the imported goods or identical or similar imported goods are sold in The Gambia in the same condition as they were imported the customs value of the imported goods under the provisions of this Article shall be based on the unit price at which the imported goods or identical or similar goods are sold in the greatest aggregate quantity, at or about the time of importation of the goods being appraised, to persons who are not related to the persons from whom they buy such goods subject to deductions for the following:
  - (i). either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales of such goods or goods of the same class or kind imported into The Gambia;
  - (ii). the usual costs of transport and insurance and associated costs within The Gambia territory;
  - (iii). where appropriate, the costs and charges referred to in Paragraph (2) of Appendix B; and
  - (iv). The customs duties and other national taxes payable in The Gambia by reason of importation or the sales of the goods.
- (b) If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation as the goods being appraised, the customs value shall, subject to the provisions of Paragraph (1) (a) be based on the unit price at which the imported goods or identical or similar imported goods are sold in The Gambia in the same condition as imported at the earliest date after importation of the goods being appraised but before the expiration of ninety days after such importation.
2. If neither the imported goods nor identical not similar imported goods are sold in The Gambia in the same conditions as imported, then if the importer so requests, the customs value shall be based on the unit price at which the imported goods, after further processing are sold in the greatest aggregate quantity to persons in The Gambia who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in Paragraph 1(a).
3. The term "unit price at which goods are sold in the greatest aggregate quantity" means the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.

**Article 6****Computed Value as Value for Duty**

1. Subject to provisions under this Article, the value for customs purposes shall be based on the computed value. The computed value of goods being appraised is the aggregate of amounts equal to:
  - (a) Subject to Paragraph (2), the cost, charges and expenses incurred in respect of, or the value of:
    - (i). materials employed in producing the goods being appraised; and
    - (ii). the production or other processing of the goods being appraised and determined in the manner prescribed; and
  - (b) The amount, determined in the manner prescribed, for profit and general expenses considered together as a whole, that is generally reflected in sales for export into The Gambia of goods of the same class or kind as the goods being appraised made by the producer in the country of export.
2. Without limiting the generality of Paragraph 1 (a) the cost, charges, expenses and value referred to in that Paragraph include:
  - (i). the cost or value of materials and fabrication or other processing employed in producing the imported goods;
  - (ii). 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 appraised which are made by producers in the country of exportation for export to The Gambia;
  - (iii). the cost or value of all other expenses necessary to reflect the adjustment in Paragraph (2) of Appendix B.
3. To allow access to any account or other record for the purposes of determining a computed value the importer shall maintain proper books of account, (including sales contract, purchase orders, invoices or agreements) and shall be responsible for the information supplied by the seller of the goods being appraised. However, the Commissioner General as provided under Section 253 of this Act shall verify information supplied by the producer of the goods through the importer in the country of export.

**Article 7**

1. If the customs value of the imported goods cannot be determined under the provisions of methods 1 through 6, the customs value shall be determined using reasonable means consistent with the principles and general provisions of the World Trade Organization (WTO) Agreement on Customs Valuation and of Article VII of GATT 1994 and on the basis of available data collected by customs or supplied by the importer.
2. However, no customs value shall be determined under the provisions of this Act on the basis of:
  - (a) the selling price of identical or similar goods produced in The Gambia;
  - (b) a system which provides for the acceptance for customs purposes the higher of two alternative values;
  - (c) the price of goods on the domestic market of the country of exportation;
  - (d) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of method 6;
  - (e) the price of goods for export to another country other than The Gambia from the country of export;
  - (f) minimum customs values; or
  - (g) arbitrary or fictitious values.
3. If the importer so requests, the importer shall be informed in writing of the customs value determined under the provisions of this Act and the article used to determine such value.



**APPENDIX B**

1. In determining the customs value under the provisions of Article 1 of this Schedule, there shall be added to the price paid or payable for imported goods:
  - (a) the following to the extent they are incurred by the buyer but are not included in the transaction price:
    - (i). commissions and brokerage, except buying commissions;
    - (ii). the cost of containers which are treated as being one for customs purposes with the goods in question;
    - (iii). the cost of packing whether for labour or materials.
  - (b) The value apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods to the extent that such value has not been included in the transaction value:
    - (i). materials, components, part and similar items incorporated in the imported goods;
    - (ii). tools, dies, moulds and similar items used in the production of the imported goods;
    - (iii). materials consumed in the production of the imported goods, engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in The Gambia and necessary for the production of the imported goods;
  - (c) Royalties and licence fees related to the goods being valued payable by the buyer, to the extent that such royalties and fees are not included in the transaction value.
  - (d) The value or any part of the proceeds of any subsequent sale, resale, disposal or use of the imported goods that accrues directly or indirectly to the seller.
  - (e) The freight cost or the cost of transport of the imported goods to the port of discharge (point of entry).
  - (f) The handling charges associated with the transport of the goods to the port or place of importation.
  - (g) The cost of insurance to either marine or aviation or overland risk.
  - (h) Other costs associated to the transport of the imported goods.
2. Additions to the price paid or payable shall be made under this Act only on the objective and quantifiable data.
3. No additions shall be made to the price paid or payable in determining the customs value except as provided under this Schedule.

**APPENDIX C**

**RELATED PERSONS**

1. For the purposes of this Act, persons shall be deemed to be related if:
  - (a) they are officers or directors of one another's business;
  - (b) they are legally recognized partners in business;
  - (c) one is an employee of the other;
  - (d) one person directly or indirectly owns, controls or holds five percent 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; or
  - (g) together they directly or indirectly control a third person; or
  - (h) they are members of the same family;
  - (i) one is sole distributor or sole concessionaire, however described, of the other.



---

**PART II - VALUE OF SERVICES AND LOCALLY MANUFACTURED EXCISABLE GOODS**

---

The excise value of locally manufactured goods shall be determined through application of the following provisions in the sequence indicated except where otherwise stated:

1. The excise value of locally manufactured goods shall be the price actually paid or payable for the goods when sold for home use, adjusted in accordance with the provisions of Section 157C (3):

Provided that:

- (a) there shall be no restrictions as to the disposal or use of the goods by the buyer other than restrictions which:
    - i. are imposed or required by law;
    - ii. limit the geographical area in which the goods may be resold; or
    - iii. do not substantially affect the value of the goods.
  - (b) the price shall not be subject to any condition or consideration for which a value cannot be determined with respect to the value of the goods being valued;
  - (c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer shall accrue directly or indirectly to the manufacturer; and
  - (d) the buyer and manufacturer are not related, or where the buyer and manufacturer are related within the meaning of Appendix A, the transaction value is accepted for customs purposes under the provisions of Paragraph 2.
2. In cases where the buyer and manufacturer are related, the transaction value shall be adjusted under the provisions of Paragraph 3 except where the Commissioner General is satisfied that the relationship did not influence the price.
3. Where the excise value of locally manufactured goods cannot be determined under Paragraph 1 above, then excise value shall be determined in the following manner:
  - (a) where excisable goods are sold in The Gambia in the same condition as they were manufactured and received in the excise stock room, the value shall be the price paid or payable by the retailer;
  - (b) where the excisable goods are sold to an excise manufacturer for further processing, the excisable value shall include the increase in price where the goods are sold by the subsequent manufacturer; and
  - (c) where the first manufacturer had paid excise duty in respect of the goods then the latter manufacturer shall deduct the amount so paid from the amount of duty payable on the goods.

4. Where the provisions Paragraph 3 do not apply the value for excise purposes shall be based on the computed value. The computed value of goods being appraised is the aggregate of amounts equal to:
  - (a) subject to the provisions of Section 157C (3), the cost, charges and expenses incurred in respect of or the value of:
    - i. materials employed in producing the goods being appraised; and
    - ii. the production or other processing of the goods being appraised and determined in the manner prescribed; and
  - (b) the amount, determined in the manner prescribed for profit and general expenses considered together as a whole.
5. (1) The value for excisable services shall be the price paid or payable by the consumer for that service:

Provided that:

  - (a) the price is not subject to any condition or consideration for which value cannot be determined in respect of the service being valued;
  - (b) the buyer and seller are not related;
  - (c) no proceeds of the sale or use of the service shall accrue to the seller.
- (2) Where the provisions of this paragraph do not apply, the Commissioner General shall adjust the value to reflect the price paid or payable for an identical or similar service sold in a sale between buyer and seller independent of each other.
6. In order to allow access to any account or other records for the purposes of determining an excise value the manufacturer shall maintain proper books of account, (including sales contracts, purchase orders, invoices or agreements).

## **APPENDIX A**

### **Related Persons**

1. For the purposes of levying excise duty, persons shall be deemed to be related if:
    - (a) they are officers or directors of one another's business;
    - (b) they are legally recognized partners in business;
    - (c) one is an employee of the other;
    - (d) one person directly or indirectly owns, controls or holds five percent 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; or
    - (g) together they directly or indirectly control a third person; or
    - (h) they are members of the same family;
    - (i) one is sole distributor or sole concessionaire, however described, of the other.
-