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Committee on Customs Valuation

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**INFORMATION ON IMPLEMENTATION AND ADMINISTRATION  
OF THE AGREEMENT ON CUSTOMS VALUATION**

CHECK-LIST OF ISSUES

THE GAMBIA

The following submission, dated 21 August 2019, is being circulated at the request of the delegation of The Gambia.

**1. Questions concerning Article 1:**

**(a) Sales between related persons:**

**(i) Are sales between related persons subject to special provisions?**

Article 1 (2) of the Seventh Schedule of the Customs and Excise Act 2010 states that the value of imported goods shall be determined in accordance with the provisions of the WTO Agreement on Customs Valuation.

**(ii) Is the fact of intercompany prices prima facie considered as grounds for regarding the respective prices as being influenced?**

No. Section 174 (2) of the Customs and Excise Act 2010 states that "in case of goods imported under a contract of, the price paid or payable on that sale shall be deemed to be the value".

**(iii) What is the provision for giving the communication of the afore-mentioned grounds in writing if the importer so requests? (Article 1.2(a))**

Not applicable on the afore-mentioned grounds. However, Section 176 (1) of the Customs and Excise Act states that if the Commissioner General has reason to believe that the value of imported goods or goods for export or re-export are below or above the transaction value, the proper officer or authorized person shall appraise or cause the goods to be appraised in accordance with the methods set out in the Seventh Schedule.

Section 176 (3) of the Act states that upon written request, the importer shall be entitled to an explanation, in writing, from the proper officer or the person authorized as to the method applied in appraising the goods pursuant to this section.

**(iv) How has Article 1.2(b) been implemented?**

Article 1 (2a) of the Seventh Schedule of the Customs and Excise Act 2010

**(b) Price of lost or damaged goods:****Are there any special provisions or practical arrangements concerning the valuation of lost or damaged goods?**

- Section 196 of the Customs and Excise Act – provisions for lost or destroyed goods; and
- Section 200 (1) – provisions for rebate of certain duties on damage goods whilst under customs control.

**2. How has the provision of Article 4 to allow the importer an option to reverse the order of application of Articles 5 and 6 been implemented?**

Article 4 of the Seventh Schedule of the Customs and Excise Act.

**3. How has Article 5.2 been implemented?**

Article 5 of the Seventh Schedule of the Customs and Excise Act.

**4. How has Article 6.2 been implemented?**

Article 6 (3) of the Seventh Schedule of the Customs and Excise Act.

**5. Questions concerning Article 7:****(a) What provisions have been made for making value determinations pursuant to Article 7?**

Article 7 (1) of the Seventh Schedule of the Customs and Excise Act.

**(b) What is the provision for informing the importer of the customs value determined under Article 7?**

Article 7 (3) of the Seventh Schedule of the Customs and Excise Act.

**(c) Are the prohibitions found in Article 7.2 delineated?**

Article 7 (2) of the Seventh Schedule of the Customs and Excise Act.

**6. How have the options found in Article 8.2 been handled? In the case of f.o.b. application, are ex-factory prices also accepted?**

Section 173 (1) of the Customs and Excise Act 2010.

**7. Where is the rate of exchange published, as required by Article 9.1?**

The rate of exchange to be used for determining the equivalent in the Gambia currency (CIF) of any foreign currency shall be the prevailing rate as notified and published in the website of the Central Bank of the Gambia.

**8. What steps have been taken to ensure confidentiality, as required by Article 10?**

Section 14 of the Customs and Excise Act 2010 contains provisions to ensure confidentiality. Notwithstanding, the Commissioner General may:

- Disclose information to a person in the service of the Government in a revenue or statistical department where the information is needed for the purposes of the official duties of that person solely for revenue or statistical purposes; and
- Subject to such reciprocal arrangements as may be agreed upon by him, furnish to the competent authorities of a foreign country any information, certificate, official report or other document with a view to the prevention, investigation or suppression of offences

against the laws and regulations applicable to the importation or exportation of goods into or from the territory of that foreign country.

**9. Questions concerning Article 11:**

**(a) What rights of appeal are open to the importer or any other person?**

Where a dispute arises regarding the determination of value on imported goods, the importer or other person liable for the payment of duty, may, within 30 days of the day he is notified of the decision, appeal to the Tribunal established under Section 261 of the Customs and Excise Act.

**(b) How is he to be informed of his right to further appeal?**

By writing.

**10. Provide information on the publication, as required by Article 12, of:**

**(a) (i) The relevant national laws;**

Published in the Customs and Excise Act 2010.

**(ii) The regulations concerning the application of the Agreement:**

Published in the Seventh Schedule of the Customs and Excise Act 2010.

**(iii) The judicial decision and administrative rulings of general application relating to the Agreement:**

Published in The Gambia Government Gazette.

**(iv) General or specific laws being referred to in the rules of implementation or application.**

The Customs and Excise Act 2010.

**(b) Is the publication of further rules anticipated? Which topics would they cover?**

None.

**11. Questions concerning Article 13:**

**(a) How is the obligation of Article 13 (last sentence) being dealt with in the respective legislation?**

An importer may remove goods from customs authority pending final determination of the value upon payment of a cash deposit equivalent to the assessed duty. Any excess thereof shall be refunded within 30 days from the date of final determination of duty payable.

**(b) Have additional explanations been laid down?**

None.

**12. Questions concerning Article 16:**

**(a) Does the respective national legislation contain a provision requiring customs authorities to give an explanation in writing as to how the customs value was determined?**

Section 176 (3) of the Customs and Excise Act states that upon written request, the importer shall be entitled to an explanation, in writing, from the proper officer or the person authorized as to the method applied in appraising the goods pursuant to this section.

**(b) Are there any further regulations concerning an above-mentioned request?**

None.

**13. How have the Interpretative Notes of the Agreement been included?**

The Interpretative Notes of the Agreement have been included in the Seventh Schedule of the Customs and Excise Act 2010.

**14. How have the provisions of the Decision on the Treatment of Interest Charges in the Customs Value of Imported Goods been implemented?**

Appendix B of the Seventh Schedule of the Customs and Excise Act contains the determinants of the customs value and this includes interest charges for valuation purposes.

**15. For those countries applying paragraph 2 of the Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment, how have the provisions of this paragraph been implemented?**

Not applicable.

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