

**NOTIFICATION UNDER ARTICLE 22 OF THE AGREEMENT ON
IMPLEMENTATION OF ARTICLE VII OF THE GENERAL
AGREEMENT ON TARIFFS AND TRADE 1994**

PAKISTAN

The following communication, dated 9 May 2001, has been received from the Permanent Mission of Pakistan.

[1969: Act IV]¹

CUSTOMS

(Chapter V - Levy of Exemption From, and Repayment of Customs Duties)

(1) [25. Determination of Customs value of goods.- (1) Transaction Value.- The customs value of imported goods, subject to the provisions of this section and the rules, shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to Pakistan:

Provided that —

- (a) there are no restrictions as to the disposition or use of the goods by the buyer other than the 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 affect the value of the goods;
- (b) the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
- (c) 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 is made in accordance with the provisions of sub-section (2) (e); and
- (d) 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 sub-section (3).

¹ Substituted by Finance Act, 1998, revised by Finance Act, 1999, and further amended by Finance Ordinance, 2000.

- (2) Subject to clause (b), in determining the customs value under sub-section (1);
- (a) there shall be added to the price actually paid or payable for the imported goods, if not already included in the price;
 - (i) the cost of transport, excluding inland freight after importation, of the imported goods to the Port, Airport or place of importation;
 - (ii) loading, unloading, and handling charges associated with the transport of the imported goods to the Port, airport or place of importation; and
 - (iii) the cost of insurance;
 - (b) there shall also be added to such price, to the extent that they are incurred by the importer but are not included in the price actually paid or payable of the imported goods —
 - (i) commissions including indenting 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; and
 - (iii) the cost of packing whether for labour or materials;
 - (c) there shall also be added to such price the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the importer or his related person free of charge or at reduced cost, for use in connection with the production and sales for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:
 - (i) materials, components, parts 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; and
 - (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in Pakistan and necessary for the production of the imported goods;
 - (d) there shall also be added to such price, royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable; and
 - (e) there shall also be added to such price, the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;
 - (f) if sufficient information is not available for any reason, with respect to any adjustments referred to above, the transaction value, of the imported goods shall be treated, for the purpose of sub-section (1), as the one that cannot be determined;
- (3) If the buyer and seller are related in terms of the rules the transaction value shall be accepted for the purposes of sub-section (1); whenever:

- (a) the examination of the circumstances surrounding the sale of the imported goods as demonstrated by the importer, indicate that the relationship did not influence the price; or
- (b) the importer demonstrates that such value closely approximates to one of the following Test Values occurring at or about the same time;
 - (i) the transaction value in sales to unrelated buyers of identical or similar goods for export to Pakistan.
 - (ii) the customs value of identical or similar goods as determined under the provisions of sub-section (7) (deductive value);
 - (iii) the customs value of identical or similar goods as determined under the provisions of sub-section (8) (computed value).

Provided that in applying the foregoing tests due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in sub-section (2) 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;

- (4) Where, in relation to the goods being valued, the appropriate officer is of the opinion that the importer has not, for the purposes of clause (a) of sub-section (3) , demonstrated that the relationship did not influences the price or , for the purposes of clause (b) of sub-section (3), that the declared price at which the goods are imported does not closely approximate to one of the test values as mentioned therein , the appropriate officer shall inform the importer his reservations in writing and give the importer an opportunity to justify the price difference. If the importer fails to justify the price difference, the customs value cannot be determined under the provisions of sub-section (1).
- (5) **TRANSACTION VALUE OF IDENTICAL GOODS.-** If the customs value of the imported goods cannot be determined under the provisions of sub-section (1), it shall, subject to rules, be the transaction value of identical goods sold for export to Pakistan and exported at or about the same time as the goods being valued.
 - (a) In applying the provisions of this sub-section, the transaction value of the identical goods in a sale at the same commercial level and substantially the same quantity as the goods being valued shall be used to determine the customs value of the imported goods.
 - (b) Where no sale referred to in clause (a) is found, the transaction value of identical goods sold at a different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or decrease in the value.
 - (c) Where the costs and charges referred to in clause (a) of sub-section (2) are included in the transaction value of identical goods, an adjustment shall be made to take account of significant differences in such costs and charges between the goods being valued and the identical goods in question arising from differences in distances and modes of transport.
 - (d) If, in applying the provisions of this sub-section, there are two or more transaction values of identical goods that meet all the requirements of this sub-section and

clauses (b), (d), (e) and (f) of sub-section (13), the customs value of the imported goods shall be the lowest such transaction value, adjusted as necessary in accordance with clauses (b) and (c).

- (6) **TRANSACTION VALUE OF SIMILAR GOODS.-** If the customs value of the imported goods cannot be determined under the provisions of sub-section (5), it shall, subject to clauses (c), (d), (e) and (f) of sub-section 13 and rules, be the transaction value of similar goods sold for export to Pakistan and exported at or about the same time as the goods being valued, and the provisions of clauses (a), (b), (c) and (d) of sub-section (5) shall mutatis mutandis also apply in respect of similar goods.
- (7) **DEDUCTIVE VALUE.-** If the customs value of the imported goods cannot be determined under sub-section (6), it shall, subject to rules, be determined as follows:
- (a) If the imported goods or identical or similar imported goods are sold in Pakistan in the condition as imported, the customs value of the imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are so sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to the 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 in Pakistan of imported goods of the same class of kind;
- ii) the usual costs of transport and insurance and associated costs incurred within Pakistan; and
- (iii) Omitted .
- (iv) the customs duties and other taxes payable in Pakistan by reason of the importation or sale of the goods.
- (b) If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the customs value shall, subject otherwise to the provisions of clause (a) of this sub-section, be based on the unit price at which the imported goods or identical or similar imported goods are sold in Pakistan in the condition as imported at the earliest date after the importation of the goods being valued but before the expiry of ninety days after such importation.
- (c) If neither the imported goods nor identical nor similar imported goods are sold in the country of importation in the condition 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 country of importation 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 clause (a).
- (8) **COMPUTED VALUE.-** If the customs value of the imported goods cannot be determined under sub-section (7), it shall, subject to rules, be based on computed value which shall consist of the sum of:-
- (a) the cost of value of materials and fabrication or other processing employed in producing the imported goods;

- (b) 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 exportation for export to Pakistan; and
 - (c) the cost or value of all other expenses as specified in clause (a) of sub-section (2).
- (9) **FALL BACK METHOD.**- If the customs value of the imported goods cannot be determined under sub-sections (1), (5), (6), (7) and (8), it shall, subject to the rules, be determined on the basis of a value derived from among the methods of valuation set out in sub-sections (1), (5), (6), (7) and (8), that, when applied in a flexible manner to the extent necessary to arrive at a customs value.
- (10) Sub-sections (1), (5), (6), (7), (8) and (9) define how the customs value of imported goods is to be determined under this Act. The methods of customs valuation are required to be applied in a sequential order except reversal of the order of sub-sections (7) and (8), at the importer's request, if so agreed by Collector of the Customs.
- (11) Nothing contained in this section or the rules, shall be construed as restricting or calling into question the rights of the appropriate officer of customs to satisfy himself as to the truth or accuracy of any statement, information, document or declaration presented for customs valuation purposes.
- (12) An appropriate officer of Customs appointed by an order in writing by the Board, or Collector of Customs, on case to case basis, shall have free access to business premises, registered office, warehouses or any other place, where any stocks, business records or documents required under this Act are kept or maintained belonging to any person after serving notice to such person whose business activities are covered under this Act or who may be required for audit, inquiry or investigation in any offence committed under this Act by such person, his agent or any other person: and such officer may, at any time during the working hours, inspect the goods, stock, records, data, documents, correspondence, accounts and statements and any other record or documents and may take into custody such records in whole or in part, in original or copies thereof against a signed receipt. The Board or Collector of Customs may also order for audit for ascertaining the correctness of declarations, documents records and value of imported goods. All searches and seizure of documents made under this sub-section shall be carried out mutatis mutandis in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898).
- (13) For the purposes of this section,—
- (a) "customs value of imported goods" means the value of goods for the purposes of levying duties of customs and other taxes on imported goods;
 - (b) "identical goods" means goods which are the same in all respects including physical characteristics, quality and reputation. Minor differences in appearance would not preclude goods otherwise conforming to the definition from being regarded as identical;
 - (c) "similar goods" means goods which although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar;

- (d) the terms "identical goods" and "similar goods" do not include, as the case may be, goods which incorporate or reflect engineering development, artwork, design work, and plans and sketches for which no adjustment has been made under sub-section 2(c) (iv) because such elements were undertaken in Pakistan;
- (e) goods shall not be regarded as "identical goods" or "similar goods" unless they were produced in the same country as the goods being valued;
- (f) goods produced by a different person shall be taken into account only when there are no identical goods or similar goods, as the case may be, produced by the same person as the goods being valued; and
- (g) "goods of the same class or kind" means goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods.

of the same type of goods. A notification issued under this sub-section shall be effective from the day specified therein, notwithstanding that the official Gazette in which such notification appears is published at any time after that day.
