

Committee on Customs Valuation

Original: English

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

SINGAPORE

The following communication has been received from the Permanent Mission of Singapore.

Singapore hereby gives formal notice of its decision to implement Article VII of GATT 1994 by the end of 1997.

It submits the following documents¹ to the Committee on Customs Valuation:

- (a) Draft of the Customs (Valuation) (Import Duty) Regulations. The Regulations will be published in the Government Gazette upon enactment of the Customs (Amendment) Bill;
- (b) Customs (Amendment) Bill. The Bill was read the first time in Parliament on 25 August 1997 and is expected to be enacted before the meeting of the Committee on Customs Valuation on 23 October 1997;
- (c) Section 90D of the Customs Act, as inserted by the Customs (Amendment) Act 1996.

Singapore's implementing legislation consists of an Amendment Bill to institutionalise the Agreement on Customs Valuation into the Customs Act. The operational details of the Agreement on Customs Valuation are in the Regulations made pursuant to the Amended Act. Owing to the schedule of the sitting sessions of Parliament, the Customs Amendment Bill will only be passed by Parliament on 7 October 1997. It has to also receive the President's Assent after Parliament's approval and to be published in the Government Gazette for it to become operative law; this will take another week which is tentatively 14 October 1997.

The Regulations, which is the subsidiary legislation containing the operative rules of the Agreement on Customs Valuation, will be published in the Government Gazette to become operative law tentatively on 17 October 1997.

In view of the legislative process explained above, the Customs Amendment Bill and draft Regulations instead of the Customs Amendment Act and Gazetted Regulations have been submitted for circulation since these are the same documents which will become operative law in Singapore.

¹ English only.

CUSTOMS ACT (CHAPTER 70)

CUSTOMS (VALUATION) (IMPORT DUTY) REGULATIONS - 1997

ARRANGEMENT OF REGULATIONS

Regulation

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In exercise of the powers conferred by sections 22A and 143(1) of the Customs Act, the Minister for Finance hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Customs (Valuation) (Import Duty) Regulations 1997 and shall come into operation on the 1997.

Definitions

2. -(1) In these Regulations, unless the context otherwise requires -

"computed value" means the value determined in accordance with regulation 8;

"country of export" or "the country from which any goods are exported" means the country from which the goods are transported directly to Singapore or, as the case may be, the country from which the goods are deemed to be transported pursuant to paragraph (4)(b);

"deductive value" means the value determined in accordance with regulation 7;

"goods of the same class or kind" means imported goods that -

- (a) are within a group or range of imported goods produced by a particular industry or industry sector that includes identical goods or similar goods in relation to the goods being valued; and

- (b) for the purposes of -

- (i) regulation 7, were exported from any country; and

- (ii) regulation 8, were produced in and exported from the country in and from which the goods being valued were produced and exported;

"identical goods" means imported goods that -

- (a) are the same in all respects, including physical characteristics, quality and reputation, as the goods being valued, except for minor differences in appearance that do not affect the value of the goods;
- (b) were produced in the country in which the goods being valued were produced; and
- (c) were produced by or on behalf of the person who produced the goods being valued,

but does not include imported goods where engineering, development work, art work, design work, plans or sketches undertaken in Singapore were supplied, directly or indirectly, by the buyer of those imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of those imported goods;

"price paid or payable", in relation to any goods, means the aggregate of all amounts paid or payable by the buyer to or for the benefit of the seller in respect of the goods;

"produce" includes grow, manufacture and mine;

"similar goods" means imported goods that -

- (a) closely resemble the goods being valued in respect of component materials and parts and characteristics and are functionally and commercially interchangeable with the goods being valued having regard to the quality and reputation (including any relevant trade mark) of the goods and the goods being valued;
- (b) were produced in the country in which the goods being valued were produced; and
- (c) were produced by or on behalf of the person who produced the goods being valued,

but does not include imported goods where engineering, development work, art work, design work, plans or sketches undertaken in Singapore were supplied, directly or indirectly, by the buyer of those imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of those imported goods;

"sufficient information", in respect of the determination of any amount, difference or adjustment, means objective and quantifiable information that clearly establishes the accuracy of the amount, difference or adjustment;

"transaction value" means the value determined in accordance with regulations 3 and 4.

- (2) For the purposes of these Regulations, persons shall be deemed to be related only if -

- (a) they are officers or directors of one another's businesses;
- (b) they are legally recognised 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.
- (3) 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 these Regulations if they fall within the criteria of paragraph (2).
- (4) For the purposes of these Regulations -
- (a) where there are no goods that were produced by or on behalf of the person who produced the goods being valued and that are otherwise identical goods or similar goods, goods that were produced by or on behalf of a different person and that are otherwise identical goods or similar goods shall be deemed to be identical goods or similar goods, as the case may be; and
 - (b) goods exported to Singapore from any country but passing through any other country on their way to Singapore (whether transhipped in that other country or not) shall be deemed to be transported directly from the first-mentioned country.
- (5) In the interpretation of these Regulations, regard shall be had to -
- (a) the Interpretative Notes in Annex I to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994; and
 - (b) the Decision of 26 April 1984 on the Treatment of Interest Charges in the Customs Value of Imported Goods.

Transaction value as primary basis of valuation

- (3) - (1) For the levying of import duty, the value of imported goods shall be their transaction value, that is, the price paid or payable for the goods when sold for export to Singapore, adjusted in accordance with regulation 4, if -
- (a) there are no restrictions respecting the disposition or use of the goods by the buyer, other than restrictions that -
 - (i) are imposed 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 sale of the goods or the price paid or payable for the goods is not subject to some condition or consideration in respect of which a value cannot be determined;

- (c) any part of the proceeds of any subsequent resale, disposal, or use of the goods by the buyer is to accrue, directly or indirectly, to the seller, the price paid or payable for the goods includes the value of that part of the proceeds or can be adjusted in accordance with regulation 4; and
- (d) the buyer and seller of the goods are not related at the time the goods are sold for export or, where the buyer and seller are related at that time -
 - (i) their relationship did not influence the price paid or payable for the goods; or
 - (ii) the importer demonstrates that the transaction value of the goods meets the requirements set out in paragraph (2).

(2) In a sale between related persons, for the purpose of showing that the relationship did not influence the transaction value, the importer may produce evidence that the transaction value of the goods being valued, taking into consideration any relevant factors including such factors and differences as enumerated in paragraph (6), closely approximates the customs value of other goods determined at the same time or substantially at the same time as the goods being valued, being -

- (a) the transaction value of identical goods or similar goods in respect of a sale of those goods for export to Singapore between a seller and buyer who are not related at time of the sale;
- (b) the deductive value of identical or similar goods determined in accordance with regulation 7; or
- (c) the computed value of identical or similar goods determined in accordance with regulation 8.

(3) In any case where the proper officer of customs is of the opinion that the relationship between the buyer and seller of any goods influenced the price paid or payable for the goods, he shall inform the importer, in writing if so requested, of the grounds on which he formed his opinion, and shall give the importer a reasonable opportunity to satisfy him that the relationship did not influence the price.

(4) Where, in the opinion of the proper officer of customs, the customs value cannot be determined under this regulation, it shall be determined by proceeding sequentially through regulations 5 to 9 to the first such regulation under which the customs value can, in his opinion, be determined.

(5) Notwithstanding paragraph (4), on the written request of the importer to the proper officer of customs the order of consideration of the valuation basis provided for in regulations 7 and 8 shall be reversed.

(6) The factors and differences referred to in paragraph (2) are as follows -

- (a) the nature of the goods being valued;
- (b) the nature of the industry that produces the goods being valued;
- (c) the season in which the goods being valued are imported;
- (d) whether a difference in values is commercially significant;

- (e) the commercial levels at which the sales take place;
- (f) the quantity levels of the sales;
- (g) any of the amounts referred to in regulation 4(2) and (3); and
- (h) the costs, charges or expenses incurred by a seller, when he sells to a buyer to whom he is not related that are not incurred when a seller sells to a buyer to whom he is related.

Adjustment of price paid or payable

4.-(1) In determining the transaction value of goods under regulation 3, the price paid or payable for the goods shall be adjusted in the manner specified in paragraphs (2) and (3).

(2) The price paid or payable for the goods shall be adjusted by adding amounts, to the extent that each such amount is not otherwise included in the price paid or payable for the goods and is determined on the basis of sufficient information, equal to -

- (a) commissions and brokerage in respect of the goods incurred by the buyer, other than fees paid or payable by the buyer to his agent for the service of representing him overseas in respect of the purchase of the goods;
- (b) the packing costs and charges incurred by the buyer in respect of the goods, including the cost of cartons, cases and other containers and coverings that are treated for customs purposes as being part of the imported goods and all expenses of packing incidental to placing the goods in the condition in which they are transported to Singapore;
- (c) the value of any of the following goods and services -
 - (i) materials, component parts, and other goods incorporated in the imported goods;
 - (ii) tools, dies, moulds and other goods utilised in the production of the imported goods;
 - (iii) materials consumed in the production of the imported goods; or
 - (iv) engineering, development work, art work, design work, plans and sketches undertaken elsewhere than in Singapore and necessary for the production of the imported goods.

determined in the manner specified in paragraphs (5) to (8), that are supplied, directly or indirectly, by the buyer free of charge or at a reduced cost for use in connection with the production and sale for export of the imported goods, apportioned to the imported goods in a reasonable manner and in accordance with generally accepted accounting principles;

- (d) royalties and licence fees, including payments for patents, trademarks and copyrights in respect of the imported goods that the buyer must pay, directly or indirectly, as a condition of the sale of the goods for export to Singapore, exclusive of charges for the right to reproduce the imported goods in Singapore;
- (e) the value of any part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer that accrues or is to accrue, directly or indirectly, to the seller; and

- (f) the cost of transportation and insurance of, and the loading, unloading, and handling charges, and other charges and expenses associated with the transportation of the imported goods from the country of export to Singapore.

(3) After the additions are made in accordance with paragraph (2), the price paid or payable for the goods shall be further adjusted by deducting amounts, to the extent that each such amount is otherwise included in the price paid or payable for the goods, equal to any of the following costs, charges or expenses -

- (a) any reasonable cost, charge or expense that is incurred for the construction, erection, assembly or maintenance of, or technical assistance provided in respect of, the goods after the goods are imported;
- (b) any reasonable cost, charge or expense that is incurred in respect of the transportation or insurance of the goods within Singapore and any reasonable cost, charge or expense associated therewith; or
- (c) any customs duties or other taxes payable in Singapore by reason of the importation or sale of the goods,

if the cost, charge or expense is identified separately from the balance of the price paid or payable for the goods.

(4) Where any adjustment in terms of paragraph (1), (2) and (3) cannot, in the opinion of the proper officer of customs, be made because of the lack of sufficient information, then the transaction value of the goods being valued cannot be determined under regulation 3.

(5) The value of the goods and services supplied, directly or indirectly, by the buyer of any goods being valued shall be determined in accordance with paragraphs (6), (7) and (8).

(6) In the case of materials, components, parts and other goods incorporated in the goods being valued or any materials consumed in the production of the goods being valued -

- (a) by ascertaining -
 - (i) their cost of acquisition where they were acquired by the buyer from a person who was not related to him at the time of their acquisition;
 - (ii) their cost of acquisition incurred by the person related to the buyer, where the goods were acquired by the buyer from a person who was related to him at the time of their acquisition but who did not produce them; or
 - (iii) their cost of production where they were produced by the buyer or a person related to him at the time of their production; and
- (b) by adding thereto -
 - (i) the cost of their transportation to the place of production of the goods being valued; and
 - (ii) the value added to them by any repairs or modifications made to them after they were so acquired or produced.

(7) In the case of tools, dies, moulds, and other goods, utilised in the production of the goods being valued -

- (a) by ascertaining -
 - (i) their cost of acquisition where they were acquired by the buyer from a person who was not related to him at the time they were so acquired;
 - (ii) their cost of acquisition incurred by the person related to the buyer, where they were acquired by the buyer from a person related to him at the time they were so acquired but who did not produce them; or
 - (iii) their cost of production where they were produced by the buyer or a person related to him at the time of their production; and
- (b) by adding thereto -
 - (i) the cost of their transportation to the place of production of the goods being valued; and
 - (ii) the value added to them by any repairs or modifications made to them after they were so acquired or produced; and
- (c) by deducting therefrom an amount to account for any previous use of the goods made after the goods were so acquired or produced.

(8) In the case of engineering, development work, art work, design work, plans and sketches, undertaken elsewhere than in Singapore and necessary for the production of the goods being valued, by ascertaining -

- (a) their cost of acquisition or of the lease thereof, where they were acquired or leased by the buyer from a person who was not related to him at the time they were so acquired or leased and are not generally available to the public;
- (b) their cost of acquisition or of the lease thereof incurred by the person related to the buyer, where they were acquired or leased by the buyer from a person related to him at the time they were so acquired or leased, but who did not produce them and are not generally available to the public;
- (c) the cost to the public of obtaining them where they are available generally to the public; or
- (d) the cost of production thereof where they were produced by the buyer or a person related to him at the time of their production.

Transaction value of identical goods as value

5.-(1) Subject to paragraphs (2) to (4), where the customs value of imported goods cannot, in the opinion of the proper officer of customs, be determined under regulation 3, the customs value of the goods shall be the transaction value of identical goods in respect of a sale of those goods for export to Singapore if that transaction value is the customs value of the identical goods and the identical goods were exported at the same or substantially the same time as the goods being valued and were sold under the following conditions -

- (a) to a buyer at the same or substantially the same commercial level as the buyer of the goods being valued; and
- (b) in the same or substantially the same quantities as the goods being valued.