

THE STATUTES OF THE REPUBLIC OF SINGAPORE

CUSTOMS (DUMPING AND SUBSIDIES) ACT

(CHAPTER 71)

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Customs (Dumping and Subsidies) Act

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An Act to provide for the imposition of anti-dumping and countervailing duties where goods have been dumped or are about to be dumped in Singapore or are being or have been imported into Singapore under subsidy.

[16th April 1962]

1. This Act may be cited as the Customs (Dumping and Subsidies) Act. Short title.

2.—(1) References to —

(a) giving a subsidy are references to giving, directly or indirectly, a bounty or subsidy on the production or export of goods (whether by grant, loan, tax relief or in any other way and whether related directly to the goods themselves, to materials of

Interpre-
tation.

the goods or to something else), and include —

- (i) the giving of any special subsidy on the transport of a particular product; and
- (ii) the giving of favourable treatment to producers or exporters in the course of administering any Governmental control over exchange or currencies where such treatment has the effect of bringing about a reduction of the prices of goods offered for export,

but do not include the application of restrictions or charges on the export of materials from any country so as to favour producers in that country who use those materials in goods produced by them;

- (b) producing goods include references to growing or manufacturing goods and to the application of any process in the course of producing goods;
- (c) the country in which goods originated shall be taken, in a case where there are two or more countries which answer that description, as a reference to any of those countries;
- (d) the country from which goods are exported to Singapore are references to the country from which they were consigned to Singapore; and goods which in the course of consignment from any country to Singapore pass through or are transhipped in any third country shall not on that account be regarded for the purposes of this Act as having been exported from that third country.

Cap. 70.

(2) This Act shall be construed as one with the Customs Act and, subject to subsection (1), for the purposes of the interpretation of the provisions of this Act section 3 of the Customs Act shall apply to this Act in the same manner as it applies for the purposes of the interpretation of the provisions of the Customs Act.

Export price.

3. For the purposes of this Act, in relation to goods imported into Singapore, the export price of such goods from the country in which the goods originated or from which they are exported shall be determined as follows:

- (a) if the Director-General of Customs and Excise (referred to in this Act as the Director-General) is satisfied —

- (i) that the goods are imported under a contract of sale which is a sale in the open market between a buyer and seller independent of each other;
 - (ii) as to the price on that sale; and
 - (iii) as to such other facts as are material for this purpose,
the export price shall be the price on that sale, subject to a deduction for —
 - (A) the cost of insurance and freight from the port or place of export in the said country to the port or place of import; and
 - (B) any other costs, charges or expenses incurred in respect of the goods after they left the port or place of export, except in so far as any such costs, charges or expenses have to be met separately by the purchaser; or
 - (b) in any other case, the export price shall be determined by the Director-General by reference to a sale of such goods (or of any goods in which the first-mentioned goods were incorporated) in the open market between a buyer and seller independent of each other.
4. For the purposes of this Act, the fair market price of Fair market price. any goods in a country shall be determined as follows:
- (a) subject to paragraph (b), the price at which goods of the description in question (that is to say, any identical or comparable goods) are being sold in the ordinary course of trade in that country for local consumption or use, but subject to any necessary adjustments, whether for differences in conditions and terms of sale, for differences in taxation, or otherwise, which may be required for the purpose of ensuring that the comparison between the fair market price and the export price is effectively a comparison between the prices on two similar sales; or
 - (b) if it appears to the Director-General that goods of that description are not being sold in that country or not being sold in such circumstances that the fair market price can be determined in

accordance with paragraph (a), the fair market price shall be determined by the Director-General by reference to any price obtained for goods of that description when exported from that country, with adjustments made for the purpose mentioned in paragraph (a) or, if the Director-General thinks fit, by reference to the cost or estimated cost of production of the goods, the dumping of which is in question, with such additions in respect of selling cost and profit as may appear to the Director-General to be proper:

Provided that no account shall be taken under this section of any application of restrictions or charges on the export of materials from any country so as to favour producers in that country who use those materials in goods produced by them.

Origin of
goods.

5. For the purposes of this Act, goods shall be regarded as having originated in a country —

- (a) if those goods were wholly produced in that country;
- (b) if some stage in the production of the goods was carried out in that country and the cost of carrying out such stages (if any) in the production of the goods as were carried out after those goods last left that country (but before the import of the goods into Singapore) was less than 25% of the cost of production of the goods as so imported; or
- (c) if some stage in the production of any components or materials incorporated in the goods was carried out in that country and the cost of carrying out such stages in production as were carried out after those components or materials last left that country to convert those components or materials into the goods as imported into Singapore was less than 25% of the cost of production of the goods as so imported:

Provided that where —

- (i) the export price of any goods from the country in which they originated is in question; and

- (ii) some stage in the production of the goods or of any components or materials incorporated in the goods, was carried out after they last left that country,

the deductions to be made by the Director-General in the price by reference to which the export price is to be ascertained shall include a deduction for the cost of carrying out any such stage in the production of the goods and in the production of any components or materials incorporated in the goods; and the fair market price shall be the fair market price of those goods or, as the case may be, of those components or materials, in the state in which they left that country.

6. For the purposes of this Act, goods shall be regarded as having been dumped — Dumping.

- (a) if the export price from the country in which the goods originated is less than the fair market price of the goods in that country; or
- (b) in a case where the country from which the goods were exported to Singapore is different from the country in which they originated —
 - (i) if the export price from the country in which the goods originated is less than the fair market price of those goods in that country; or
 - (ii) if the export price from the country from which the goods were so exported is less than the fair market price of those goods in that country.

7.—(1) There shall be charged, levied and paid to the Director-General such duty or duties on goods of any class or description which are being or have been imported into Singapore as may be prescribed by the Minister by order published in the *Gazette*, where it is represented to the Minister that goods of that class or description are being or have been so imported in circumstances in which they are under the provisions of this Act regarded as having been dumped or subject to the giving of a subsidy, and that, having regard to all the circumstances, it would be in the public interest to do so: Power of Minister to impose duties.

Provided that where the Minister is not satisfied that the effect of the dumping or of the giving of the subsidy is such as to —

- (a) cause or threaten material injury to an established industry in Singapore; or
- (b) retard materially the establishment of an industry in Singapore,

the Minister shall make no such order.

(2) Where, on receiving any representations under subsection (1), the Minister is satisfied that —

- (a) a prima facie case exists of the dumping or subsidising of goods;
- (b) it is desirable that a duty should be imposed under subsection (1); and
- (c) it is impossible to establish the export price or fair market price of goods without such delay as would be prejudicial to the public interest if no duty under subsection (1) were imposed in the meanwhile,

he may thereupon make an order under subsection (1), referred to in this Act as an interim order, imposing such duty as is necessary in the opinion of the Minister temporarily to counteract the effect of such dumping or subsidy:

Provided that as soon as the export price or fair market price, as the case may be, has been established the Minister may revoke or vary the interim order in such manner as he may consider necessary.

(3) Any order made under this section shall be published in the *Gazette* and shall be presented to Parliament as soon as possible after publication.

Provisions or orders under section 7.

8.—(1) An order made under section 7 shall prescribe —

- (a) the class or description of the goods liable to the duty imposed thereby; and
- (b) the rate of the duty imposed thereby.

(2) An order made under section 7 may prescribe such provisions with respect to the goods chargeable with duty and to the cases in which duty is chargeable thereunder as may appear to the Minister necessary for the purposes of

this Act and, in particular, and without prejudice to the generality of the foregoing, may prescribe provisions —

- (a) limiting the class or description of the goods by reference to the particular persons or organisations by whom the goods were produced or who were concerned with the production of the goods in some specified manner;
- (b) defining the rate of duty by reference to value or weight or other measure of quantity;
- (c) directing that duty be charged for any period or periods, whether continuous or not, or without any limit or period, or at different rates for different periods or parts of periods; and
- (d) in connection with the commencement, variation or determination of a duty, authorising repayments in respect of duty where it is shown that any conditions prescribed by the order are fulfilled.

9.—(1) Where it appears to the Minister that relief under this section should be available as respects a duty imposed by an order made under section 7 (being an order made to afford protection against dumping) he may, if he thinks fit, in that or a subsequent order made under that section, apply this section in relation to that duty. Relief from duty.

(2) Where this section applies in relation to any duty the importer of any goods in respect of which an order has been made under section 7 may apply to the Minister for relief from duty on those goods.

(3) If on any application under this section the Minister is satisfied that the export price of the goods, with the amount of the duty added thereto, exceeds the fair market price of identical or comparable goods, he may in his discretion remit or repay the amount of the excess duty; and the Director-General shall on the direction of the Minister remit or repay the duty up to the amount of such excess.

(4) An application under this section in respect of any goods shall be made within 6 months of the payment of duty on those goods.

(5) In making any application under this section the importer shall furnish the Minister with such information

and evidence as the Minister may require from him for ascertaining the export price or fair market price.

(6) Subsections (1) to (5) shall have effect in relation to a duty imposed by an order made under section 7 (being an order made to afford protection against the giving of a subsidy) as if references to the fair market price in a country were references to the export price from that country increased by such amount (if any) as may be necessary to offset the effect of the giving of the subsidy.

Duties under section 7 deemed to be customs duties for purposes of collection. Cap. 70.

10. Except as may be otherwise provided in any order made under section 7, any duty levied thereunder shall be deemed for the purposes of collecting and enforcing the collection thereof to be a customs duty imposed under the provisions of the Customs Act.

Power to require information from importers.

11.—(1) The Director-General may require the importer of any goods to state such facts concerning the goods and their history as he may think necessary to determine whether the goods are goods originating in a country specified in an order made under section 7 or goods exported from any country, and to furnish him in such form as he may require with proof of any statements so made; and if such proof is not furnished to the satisfaction of the Director-General, or the required facts are not stated, the goods shall be deemed to have originated in, or, as the case may be, to have been exported from, such country as the Director-General may determine.

(2) Where an order made under section 7 limits the class or description of goods in respect of which duty is chargeable under this Act, or the cases in which duty is so chargeable, so that the question whether any, and, if so, what duty is chargeable on the goods depends on other matters besides the country in which the goods originated or from which they were exported, the Director-General may require the importer to state such facts as he may think necessary to determine that question so far as regards those other matters, and to furnish him in such form as he may require with proof of any statements so made; and if such proof is not furnished to the satisfaction of the Director-General or the required facts are not stated, those facts shall be deemed for the purposes of duty under this Act to be such as the Director-General may determine.

12. The Director-General may, subject to such conditions and restrictions as he may prescribe, delegate all or any of the powers conferred on him by this Act to such person or persons as he may think fit.

Power of Director-General to delegate.

13. Any duty chargeable under this Act on any goods shall be chargeable in addition to any other duty for the time being chargeable thereon under the provisions of the Customs Act or any other written law.

Duty to be additional to that imposed by other law. Cap. 70.

14.—(1) The Minister may make regulations —

Regulations.

- (a) prescribing the costs, charges and expenses to be taken into account in ascertaining costs of production or the cost of any stage in production;
- (b) prescribing the manner in which cost of production is to be ascertained in cases where different stages are carried out by different persons;
- (c) prescribing the manner in which the cost of different stages of production is to be ascertained; and
- (d) generally for the purpose of carrying out the provisions of this Act.

(2) All regulations made under this section shall be published in the *Gazette* and shall be presented to Parliament as soon as possible after publication.