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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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PART I : SECTION (I) — GENERAL

Government Notifications

INLAND REVENUE ACT, No. 24 OF 2017

Regulations under Section 194 of the Inland Revenue Act, No. 24 of 2017

REGULATIONS made under Section 194 of the Inland Revenue Act, No. 24 of 2017 (hereinafter referred as the Act) for the purpose of Section 76, 77 and 78 of the Act.

These regulations operate effective from April 1, 2018 and rescind the Regulations published in the *Gazette Extraordinary* No. 1823/5 of August 12, 2013, effective from the same date.

MANGALA SAMARAWEERA,
Minister of Finance and Mass Media.

Colombo 01,
December 31, 2018.

REGULATIONS ON TRANSFER PRICING

Short Title and Commencement

These regulations may be cited as the Regulations on Transfer Pricing No. 1 of 2018 and come into operation with effect from April 01, 2018.

1. Transfer Pricing Regulations apply to International Transactions referred to in Section 76 and to the following cases of transactions other than international transactions made between associated enterprises referred to in Section 77 of the Inland Revenue Act, No. 24 of 2017:

(a) If there are tax exemptions granted to any one of the associated enterprises under the Inland Revenue Act, No. 38 of 2000 or Inland Revenue Act, No. 10 of 2006 or No. 24 of 2017 or under the Board of Investment of Sri Lanka Law No. 4 of 1978 ; or

(b) If any difference between income tax rates specified in any of the Schedules to the Act or any income tax rate given in the agreement entered into under the Board of Investment of Sri Lanka Law No. 4 of 1978 is applicable to any one of the associated enterprises ; or

(c) If any loss incurred by any of the associated enterprises for the year of assessment or immediately preceding years of assessment which has been brought forward to that year of assessment.

2. **Arm's Length Price**.- The arm's length price, referred to in Section 76 and Section 77 of the Act for the purpose of ascertaining income, gain or profits arising in, derived or accruing from or losses incurred in any transaction, operation or scheme entered into between two associated enterprises (hereinafter referred to as the controlled transaction) should be calculated in accordance with the arm's length principle. The arm's length principle shall be understood as that where a transaction between associated enterprises is carried out taking into account the terms and conditions that would have been used in transcations with or between independent enterprises.

(A) **The arm's length price shall be determined by the application of the most appropriate method to the facts and circumstances of the case from any of the methods outlined below** :

(a) **Comparable Uncontrolled Price Method**

The comparable uncontrolled price method consists of comparing the price charged for property or services transferred in a controlled transaction to the price charged for property or services transferred in a comparable uncontrolled transaction.

Under this method,

(i) the price charged or paid for property transferred or services provided in a comparable uncontrolled transaction, or a number of such transactions, is identified ;

(ii) such price is adjusted to account for differences, if any between the controlled transaction and comparable uncontrolled transactions or between the enterprises entering into such transactions, which could materially affect the price in the open market ;

(iii) the adjusted price so arrived at is taken to be an arm's length price in respect of the property transferred or services provided in the controlled transcations.

(b) **Resale Price Method**

The resale price method consists of comparing the resale margin that a purchaser of property in a controlled transaction earns from reselling that property with the resale margin that is earned in comparable uncontrolled purchase and resale transaction.

Under this method,

(i) the price at which property purchased by the tested enterprise from an associated enterprise is resold to any person, is identified ;

(ii) such resale price is reduced by an appropriate gross profit margin accruing to the tested enterprise based on the gross profit margins that would be earned in comparable uncontrolled transactions, with or between unrelated enterprises ;

(iii) the price so arrived at is further reduced by the expenses incurred by the tested enterprise in connection with the purchase of property ;

(iv) the price so arrived at is adjusted to take into account the functional and other differences, including differences in accounting practices, if any, between the controlled transaction and the comparable uncontrolled transactions, or between the enterprises entering into such transactions, which could materially affect the amount of gross profit margin in the open market ;

(v) the adjusted price arrived at under sub-paragraph (iv) of this paragraph is taken to be an arm's length price in respect of the purchase of the property by the tested enterprise from the associated enterprise.

(c) **Cost Plus Method**

The cost plus method consists of comparing the mark up on those costs directly and indirectly incurred in the supply of property or services in a controlled transaction with the mark up on those costs directly and indirectly incurred in the supply of property or services in a comparable uncontrolled transaction.

Under this method,

(i) the direct an indirect costs of production incurred by the tested enterprise in respect of property transferred or services provided to an associated enterprise, are determined ;

(ii) the amount of an appropriate gross profit mark-up to such costs (computed according to the same accounting norms) arising from the transfer or provision of the same or simillar property or services by the tested enterprise, or by an unrelated enterprise, in a comparable uncontrolled transaction, or a number of such transactions, is determined ;

(iii) the appropriate gross profit mark-up referred to in sub-paragraph (ii) of this paragraph is adjusted to take into account the functional and other differences, if any between the controlled transaction and the comparable uncontrolled tranactions, or between the enterprises entering into such transactions, which could materially affect such proift mark-up in the open market ;

(iv) the costs referred to in sub-paragraph (i) of this paragraph are increased by the adjusted profit mark-up arrived at under sub-paragraph (iii) of this paragraph ;

(v) the sum so arrived at is taken to be an arm's length price in relation to the supply of the property or provision of services by the tested enterprise.

(d) **Transactional Net Margin Method**

The transactional net margin method consists of comparing the net profit margin relative to an appropriate base, such as costs, sales or assets that a person achieves in a controlled transaction with the net profit margin relative to the same base achieved in comparable uncontrolled transations.

Under this method,

(i) the net profit margin realized by the tested enterprise from a transaction entered into with an associated enterprise is computed in relation to costs incurred or sales effected or assets employed by the tested enterprise or having regard to any other relevant base ;

(ii) the net profit margin realized by the tested enterprise or by an unrelated enterprise from a comparable uncontrolled transaction or a number of such transactions is computed having regard to the same basis ;

(iii) the net profit margin referred to in sub-paragraph (ii) of this paragraph arising in comparable uncontrolled transactions is adjusted to take into account the differences, if any, between the tansaction and the comparable uncontrolled transactions, or between the enterprises entering into such transactions, which could materially affect the amount of net profit margin in the open market ;

(iv) the net profit margin realized by the tested enterprise and referred to in sub-paragrph (i) of this paragraph is established to be the same as the net profit margin referred to in sub-paragraph (iii) of this paragraph ;

(v) the net profit margin thus established is then taken into account to arrive at an arm's length price in relation to the transaction.

(e) **Profit Split Method**

This method may be applicable mainly where special conditions have been made or imposed in controlled transactions or in multiple transactions which are so interrelated that they cannot be evaluated separately for the purposoe of determining the arm's length price of any transaction, by which

(i) the combined net profits of the associated enterprises arising from the transction in which they are engaged, are determined ;

(ii) the relative contributions made by each of the associated enterprises to the earning of such combined net profits are then calculated based upon a reasonable approximation of the division of profits that independent entrerprises would have expected to realize from engaging in comparable transactions on the basis of the functions performed, assets employed and risks assumded by each enterprise ;

(iii) the combined net profits are then split amongst the enterprises in proportion to their relative contributions ;

(iv) the profit thus apportioned to the tested enterprise is taken into account to arrive at an arm's length price in relation to the controlled transaction ;

Provided that the combined net profits referred to in sub-paragraph (i) of this paragraph may, in the first instance, be partially allocated to each enterprise so as to provide it with a basic return appropriate for the type of routine functionality in which it is engaged, with reference to market returns achieved for similar types of functions by independent enterprises, and thereafter, the residual net profit remaing after such allocation may be split amongst the enterprises in proportion to their unique and valuable contributions, and in such a case the aggregate of the net profit allocated to the tested enterprise in the first instance together with the residual net profit apportioned to that tested enterprise on the basis of its unique and valuable contributions shall be taken to be the net profit arising to that tested enterprises from the controlled transaction.

Provided that where there are two or more independent transactions, all being equally comparable to the controlled transaction entered into between associated enterprises, a range of prices or profit margins may be obtained derived from the application of the most appropriate method. This arm's length range shall be used to calculate the arm's length price.

(B) **Arm's Length Range**

An arm's length range is a range of relevant financial indicator figures (e. g. prices or margins) produced by the application of the most appropriate transfer pricing method as set out in this regulation, to a number of uncontrolled transcations with a relatively equal degree of comparability to the controlled transaction based on a comparability anylysis conducted in accordance with Regulation 3. For the purpose of this paragraph fourtieth to sixtieth percentile is considered to be the arm's length range.

Where the actual price for a controlled transaction between associated enterprises is within the arm's length range, the actural price shall be treated as the arm's length price for such transaction.

Where the actual price for a controlled transaction between associated enterprirses is not within the arm's length range, the median in the arm's length range shall be treated as the arm's length price for such transcation. For the purposes of this paragraph, the median of the arm's length range shall be the 50th percentile of the financial indicator figures derived from the comparable uncontrolled transactions forming the arm's length range.

3. **Comparability Factors** - For the purposes of Regulation 2, the comparability of a controlled transaction between associated enterprises with uncontrolled transactions shall be judged with reference to the following.

(a) the contractual terms (whether or not such terms are formal or in writing) of the controlled transaction which lay down explicitly or implicitly how the responsibilities, risks and benefits are to be divided between the respective parties to such transctions ;

(b) the functions performed, taking into account assets employed and the risks assumed, by the respective parties to such transactions ;

(c) the specific characteristics of the property transferred or services provided in such transaction ;

(d) the economic circumstances and business strategies related to such transactions between associated enterprises, specifying the conditions prevailing in the markets in which the respective associated enterprises to such transactions operate, including the geographical location and size of the markets, the laws and Government orders in force, costs of labour and capital in the markets, overall economic development and level of competition and whether the markets are wholesale or retail, among other.

4. **Comparability**. - An uncontrolled transaction shall be comparable to a controlled transaction, if ;

(i) none of the differences, if any, between the transaction being compared, are likely to materially affect the conditions being examined in the methodology (*e. g.* price or profit margin) ; or

(ii) resonable accurate adjustments can be made to eliminate the material effect of such differences.

The data to be used in analyzing the comparability of an uncontrolled transaction with a controlled transcation shall be the data relating to the year of assessment in which such transaction has been entered into.

Provided that data relating to a period not being more than two years prior to such year of assessment may also be considered if such data reveals facts which could have an influence on the determination of transfer prices in relation to the transactions being compared.

5. **Most Appropriate Method**

(a) For the purposes of Regulation 2, the most appropriate method shall be the method which is best suited to the facts and circumstances of each particular controlled transction between associated enterprises, and which provides the most reliable measure of an arm's length price in relation to such transaction.

(b) In selecting the most appropriate method, the follwoing factors shall be taken into account, namely ;

(i) the nature and class of such transcation based on the functions performed, the assets employed and risks assumed by associated enterprises entering into such transaction ;

(ii) the availability, coverage and reliability of data (in particular on uncontrolled comparable transactions) necessary for the application of the method ;

(iii) the degree of comparability existing between controlled transaction and the uncontrolled transcations ;

(iv) the extent to which reliable and accurate adjustments can be made to account for differences, if any, between controlled transcation and the comparable uncontrolled transactions.

6. **Transfer Pricing Documentation and Disclosure Form** - Enterprises carrying out controlled transactions with associated enterprises subject to Section 76 and 77, as the case may be, must maintain documents and submit information regarding controlled transactions, including information on those associated enterprises, as follows.

(a) Preparing and Maintaining Transfer Pricing Documentation

Enterprises carrying out controlled transaction with associated enterpises subject to Section 76 and/or 77, as the case may be, shall be responsible for preparing and maintining transfer pricing documentation including :

(i) Local File referring specifically to material and controlled transcations of the local taxpayer, according to Annexure I ;

(ii) Master File containing standardised information relevant for all the members of a multinational group, according to Annexure II ;

(iii) Country-by-Country Report containing certain information relating to the global allocation of the multinational group's income and taxes paid together with certain indicators of the location of economic activity within the group, according to Annexure III.

The Local File referred to in the above item (i) is to be prepared and maintained by those enterprises that carry out controlled transcations or each category of controlled transactions with associated enterprises exceed Sri Lankan Rupees (LKR) 200 million for each year of assessment as recorded in th books of account. The local file must be prepared in English in the case of international transactions. The Local file should be kept available for a period of six years from the end of the relevant year of assessment, and it should include the information specified in **Annexure I** of this Regulation (The transaction here does not include dividened and granting or repayment of loan capital)

The Master File referred to in the above item (ii) is to be prepared and maintained by those enterprises that have declared revenue whose value exceeds LKR 7.5 billion for each year of assessment as recorded in the books of account. The Master file which is maintained in English should include the information specified in **Annexure II** of this Regulation.

The Country-by-Country Report referred to in above item (iii) is to be prepared and filed according to paragraph (e) of this Regulation.

(b) **Non Requirement of Maintaining Fresh Documents**

Where any controlled transaction continues to have effect over more than one year of assessment, fresh documentation need not be maintained separately in respect of each year of assessment, unless there is any significant change in the nature or terms of such transction, in the assumptions made, or in any other facto which could influence the transfer price, and in case of such significant change, fresh documentation as may be necessary under this Regulation shall be maintained bringing out the impact of change on the pricing of such transcation.

In case the taxpayer's operation reflects no significant change, the searches in databases for comparables should be updated every three years instead of annually. Financial data for the comparables should nonetheless be updated every year in order to apply the arm's length principle reliably.

Notwithstanding the above, the substantial obilgation of complying with the arm's length principle in controlled transactions with associated entreprises remains mandatory for all taxpayers and therefore, they shall be required to substantiate on the basis of documents mentioned in above paragraph (a) or on the basis of any other material available with them when the notice is sent to the taxpayer.

(c) **Submission of Transfer Pricing Documentation**

The transfer pricing documentation specified in Regulation 6(a)(i) and 6(a)(ii) shall be provided by the taxpayer within 30 calendar days of the written request being duly issued by the Commissioner General of Inland Revenue (herein after referred to as Commissioner General).

The obligation of the taxpayer to provide this documentation is established without prejudice to the power of the Commissioner General to request additional information that in the course of audit procedures it deems necessary to carry out its functions.

(d) **Preparation and Submission of Transfer Pricing Disclosure Form**

Enterprises that carry out controlled transactions or categories of controlled transactions with associated enterprises are obliged to prepare and file an annual transfer pricing disclosure form along with the Return of Income as per the format and under the conditions disclosed in **Annexure IV.**

(e) **Submission of Country-by-Country Report ("CbCR") of the ultimate parent company according to Annexure III**

(I) **Definitions**

For purposes of paragraph (e) of this regulation the following terms have the following meanings :

(i) The term "**Group**" means a collection of enterprises related through ownership or control such that it is either required to prepare Consolidated Financial Statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange.

(ii) The term "**MNE Group**" means any Group that :

(a) includes two or more enterprises the tax residence for which is in different jurisdiction, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction, and

(b) is not an Excluded MNE Group.

(iii) The term "**Excluded MNE Group**" means, with respect to any Fiscal Year of the Group, a Group having total consolidated group revenue of less than 115 billion Sri Lankan Rupees during the Fiscal Year immediately preceding the Reporting Fiscal Year as reflected in its consolidated Financial Statements for such preceding Fiscal Year.

(iv) The terms "**Constituent Entity**" means :

(a) any separate business entity of an MNE Group that is included in the Consolidated Financial Statements of the MNE Group for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange ;

(b) any such business entity that is excluded from the MNE Group's Consolidated Financial Statements solely on size or materiality grounds ; and

(c) any permanent establishment of an separate business entity of the MNE Group included in (a) or (b) of above item (ii) provided the business entity prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes.

(v) The term "**Reporting Entity**" means the Constituent Entity that is required to file a country-by-country report conforming to the requirements specified in sub-paragraph (IV) of paragraph (e) of this regulation in its jurisdiction of tax residence on behalf of the MNE Group. The Reporting Entity may be the Ultimate Parent Entity, the Surrogate Parent Entity, or any entity described in item (ii) of sub paragraph (II) of paragraph (e) of this Regulation.

(vi) The term "**Ultimate Parent Entity**" means a Consituent Entity of an MNE Group that meets the following criteria :

(a) it owns directly or indriectly a sufficient interest in one or more other Constituent Entities of such MNE Group such that it is required to prepare Consolidated Financial Statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on a public securities exchange in its jurisdiction of tax residence ; and

(b) there is no other Constituent Entity of such MNE Group that owns directly or indirectly an insterest described in sub-paragraph (a) of paragraph (vi) above in the first mentioned Constituent Entity.

(vii) The term "**Surrogate Parent Entity**" means one Constituent Entity of the MNE Group that has been appointed by such MNE Group, as a sole substitute for the Ultimate Parent Entity, to file the Country-by-Country Report in that Constituent Entity's jurisdiction of tax residence, on behalf of such MNE Group, when one or more of the conditions set out in Subitem (b) of item (ii) of sub paragraph (II) of paragraph (e) of this Regulation applies.

(viii) The term "**Fiscal Year**" means an annual accounting period with respect to which the Ultimate Parent Entity of the MNE Group prepares its financial statements.

(ix) The term "**Reporting Fiscal Year**" means that Fiscal Yar the financial and operational results of which are reflected in the Country-by Country Report defined in sub-paragraph (IV) of paragraph (e) of this regulation.

(x) The term "**Qualifying Competent Authority Agreement**" means an agreement that,

(a) is between authorised representatives of those jurisdictions that are parties to an International Agreement , and

(b) requires the automatic exchange of Country-by-Country Reports between the parties to the Agreement.

(xi) The term "**International Agreement**" shall mean any bilateral or multilateral Agreement for Mutual Administrative Assistance in Tax Matters, any bilateral or multilateral Tax Agreement, or any Tax Information Exchange Agreement to which Sri Lanka is a party, and that by its terms provides legal authority for the exchange of tax information between jurisdictions, including automatic exchange of such information.

(xii) The term "**Consolidated Financial Statements**" means the financial statements of an MNE Group in which the assets, liabilties, income, expenses and cash flows of the Ultimate Parent Entity and the Constituent Entitis are presented as those of a single economic entity.

(xiii) The term "**Systemic Failure**" with respect to a jurisdiction means that a jurisdiction has a Qualifying Competent Authority Agreement in effect with Sri Lanka, but has suspended automatic exchange (for reasons other than those that are in accordance with the terms of that Agreement) or otherwise persistently failed to automatically provide to Sri Lanka Country-by-Country Reports in its possession of MNE Groups that have Constituent Entities in Sri Lanka.

(II) **Filing Obligation**

(i) Each Ultimate Parent Entity of the MNE Group that is resident for tax purposes in Sri Lanka shall file a Country-by-Country Report conforming to the requirements of sub-paragraph (IV) of paragraph (e) of this regulation with the Commissioner General of the Inland Revenue with respect to its Reporting Fiscal Year on or before the date specified in sub-paragraph (V) of paragraph (e) of this regulation.

(ii) A Constituent Entity which is not the Ultimate Parent Entity of an MNE Group shall file as Country-by-Country Report conforming to the requirements of sub-paragraph (IV) of paragraph (e) of this regulation with the Commissioner General of the Inland Revenue with respect to the Reporting Fiscal Year of an MNE Group of which it is a Constituent Entity, on or before the date specified in sub-paragraph (V) of paragraph (e) of this regulation if the following criteria are satisfied :

(a) the entity is resident for tax purposes in Sri Lanka and

(b) one of the following conditions applies :

(aa) the Ultimate Parent Entity of the MNE Group is not obligated to file a Country-by-Country Report in its jurisdiction of tax residence ; or

(bb) the jurisdiction in which th Ultimate Parent Entity is resident for tax purposes has a current International Agreement to which Sri Lanka is a party but does not have a Qualifying Competent Authority Agreement in effect to which Sri Lanka is a party by the time specified in sub-paragraph (V) of paragraph (e) of this Regulation for filing the Country-by-Country Report for the Reporting Fiscal Year ; or

(cc) there has been a Systemic Failure of the jurisdiction of tax residence of the Ultimate Parent Entity that has been notified by the Commissioner General of Inland Revenue to the Constituent Entity resident for tax purposes in Sri Lanka.

(iii) Where there are more than one Constituent Entities of the same MNE Group that are resident for tax purposes in Sri Lanka and one or more of the conditions set out in subsection (ii) above apply, the MNE Group may designate one of such Constituent Entities to file the Country-by-Country Report conforming to the requirements of sub-paragraph (IV) of paragraph (e) of this Regulation with the Commissioner General of Inland Revenue with respect to any Reporting Fiscal Year on or before the date specified in sub-paragraph (V) of paragraph (e) this Regulation, and to notify the Commissioner General of Inland Revenue that the filing is intended to satisfy the filing requirement of all the Constituent Entities of such MNE Group that are resident for tax purposes in Sri Lanka.

(iv) Notwithstanding the provisions of item (ii) of sub-paragraph (II) of paragraph (e) of this Regulation, when one or more of the conditions set out in sub-item (b) of item (ii) of sub-paragraph (II) of paragraph (e) of this Regulation apply, an entity described in item (ii) of sub-paragraph (II) of paragraph (e) of this Regulation shall not be required to file a Country-by-Country Report with the Commissioner General of Inland Revenue with respect to any Reporting Fiscal Year if the MNE Group of which it is a Constituent Entity has made available a Country-by-Country Report conforming to the requirements of sub-paragaph (IV) of paragraph (e) of this Regulation with respect to such Fiscal Year through a Surogate Parent Entity that files that Country-by-Country Report with the tax authority of its jurisdiction of tax residence on or before the date specified in sub-paragraph (V) of paragraph (e) of this Regulation and that satisfies the following conditions:

(a) the jurisdiction of tax residence of the Surrogate Parent Entity requires filing of Country-by-Country Report conforming to the requiremens of sub-paragraph (IV) of paragraph (e) of this Regulation ;

(b) the jurisdiction of tax residence of the Surrogate Parent Entity has a Qualifying Competent Authority Agreement in effect to which Sri Lanka is a party by the time specified in sub-paragraph (V) of paragraph (e) of the Regulation for filing the Country-by-Country Report for the Reporting Fiscal Year ;

(c) the jurisdicton of tax residence of the Surrogate Parent Entity has not notified the Commissioner General of Inland Revenue of a Systemic Failure ;

(d) the jurisdiction of tax residence of the Surrogate Parent Entity has been notified in accordance with item (i) of sub-paragraph (III) of paragraph (e) of this Regulation by the Constituent Entity resident for tax purposes in its jurisdiction that it is the Surrogate Parent Entity ; and

(e) a notification has been provided to the Commissioner General of Inland Revenue in accordance with item (ii) of sub-paragraph (III) of paragraph (e) of this Regulation.

(III) **Notification**

(i) Any Constituent Entity of an MNE Group that is resident for tax purposes in Sri Lanka shall notify the Commissioner General of Inland Revenue Department whether it is the Ultimate Parent Entity or the Surrogate Parent Entity, not later than December 31st of the Reporting Fiscal Year of such MNE Group.

(ii) Where a Constituent Entity of an MNE Group that is resident for tax purposes in Sri Lanka is not the Ultimate Parent Entity nor the Surrogate Parent Entity, it shall notify the Commissioner General of Inland Revenue of the identity and tax residence of the Reporting Entity, no later than December 31st of the Reporting Fiscal Year of such MNE Group.

(IV) **Country-by-Country Report**

(i) For the purposes of Paragraph (e) of this Regulation, a Country-by-Country Report with respect to an MNE Group is a report containing :

(a) Aggregate information relating to the amount of revenue, proft (loss) before income tax, income tax paid, income tax accured, stated capital, accumulated earnings, number of employees, and tangible assets other than cash or cash equivalents with regard to each jurisdiction in which the MNE Group operates ;

(b) An identification of each Constituent Entity of the MNE Group setting out the jursdication of tax residence of such Constitutent Entity, and where different from such jurisdiction of tax residence, the jurisdiction under the laws of which such Contituent Entity is organized, and the nature of the main business activity or activities of suh Constituent Entity.

(ii) The Country-by-Country Report shall be filed in a form identical to and applying the definitions and instructions contained in the standard template set out at **Annexture III** of this *Gazette Notification*.

(V) **Time of filing**

The Country-by-Country Report required by Paragraph (e) of this Regulation shall be filed no later than 12 months after the last day of the Reporting Fisal Year of the MNE Group.

(VI) **Use and Preserve Confidentiality of Country-by-Country Report Information**

(i) The Transfer Pricing Officers shall use the Country-by-Country Report for purposes of assessing high-level transfer pricing risks and other base erosion and proift shifting related risks in Sri Lanka, including assessing the risk of non-compliance by members of the MNE Group with applicable transfer pricing rules, and where appropriate for economic and statistical analysis. Transfer pricing adjustments by the Transfer Pricing Officers will not be based on the Country-by-Country Report.

(ii) The Commissioner General of Inland Revenue shall perserve the confidentiality of the information contained in the Country-by-Country Report at least to the same extent that would apply if such information were provided to it under the provisions of a double taxation agreement or as Mutual Administrative Assistance Agreement entered in to under the Act.

(VII) **Effective Date**

For the purpose of Paragraph (e) of this Regulation is effective for Reporting Fiscal Years of MNE Groups begining on or after 1st April 2019.

(f) **Penal Provisions**

Where any person who fails to comply with the requirements of section 76 and/or 77 in relation to any controlled trasaction with associated enterprises, the Commissioner General may impose on such person the following penalties :

(i) **Penalty on not preparing and maintaining Transfer Pricing Documentation** - Not preparing and non-maintaining of the transfer pricing documentation mentioned in Regulation 6 will lead to penal provisions specfied in Section 184 of the Act.

(ii) **Penalty on Non submission of requested documents** - Non Submission of the required documents will lead to penal provisions specified in Section 184 of the Act.

(iii) **Penalty on Non-disclosure of any required information** - Non disclosure of any required information will lead to penal provsions specified in Section 184 of the Act.

(iv) **Penalty on Non submission of documents prescribed in Regulation 6 on or before the specified date** - Non submission of the documents prescribed in Regulation 6 on or before specified date will lead to penal provisions specified in section 184 of the Act.

(v) **Penalty on concealment of the particulars or furnish inaccurate particluars** - concealment of the particulars of his income or furnished inaccurate particluars of such income will lead to penal provisions specified in Section 184 of the Act.

(vi) Apart from the penalties mentioned in section 184, the penalties specified in section 185 and criminal proceedings specified in Chapter XVIII are applicable for transfer pricing.

7. **Advance Pricing Agreements (APA)** - With a view to supplement the traditional administrative, judicial and treaty mechanism for resolving transfer pricing issues, any person who has controlled international transactions can enter into an Advance Pricing Agreement with the Commissioner General of Inland Revenue. An Advance Pricing Agreement determine, in advance of specified international transactions with associated enterprises (i. e. the controlled transaction covered by the agreement), an appropriate set of criteria (e. g. methodology, appropriate adjustments thereto, and critical assumptions as to the future events) for the determination of the arm's length price for those transactions over a fixed period of time.

(a) The arrangements can basically be divided into the following two categories.

(i) Unilateral Advance Pricing Agreements. Whereby the Commissioner General of Inland Revenue and the taxpayer establish an arrangement regarding to a particular transaction between associated enterprises without involvement of other interested tax administrations, though it may affect the tax liability of the associated enterprise in other tax jurisdiction.

(ii) Bilateral/Multiletral Advance Pricing Agreements. Whereby two or more tax authorities in different jurisdiction concur in regard to a particular transaction between associated enterprises. The bilateral or multilateral approach is considered equitable to all tax administrations and taxpayers and provides greater certanity to the taxpayer concerned.

(b) An Advance Pricing Agreement may be entered into between a taxpayer and the Commissioner General in respect of the arm's length result of an international transaction with an associate enterprise.

(c) The Commissioner General may agree to enter into an Advance Pricing Agreement on a unilateral basis or through consultation with the competent authority of the country of residence of the associated enterprise with which the transaction is to be entered into, provided that the country of residence is a country with which Sri Lanka has a Double Tax Avoidance Agreement.

(d) Where the Commissioner General enters into an Advance Pricing Agreement with a taxpayer, provided that the terms and conditions set out in the Advance Pricing Agreement are fully complied with, no adjustment will be made by the Commissioner General under Section 76 of the Act to the trasaction that is within the scope of the APA.

(e) Advance Pricing Agreements shall have a validity not exceeding four years of assessments. Taxpayer shall request for an ageement before the Commissioner General and may request modifications or its cancellations, subject to the Commissioner General's evaluation and approval. The Commissioner General will specify the manner in which the advance pricing agreement process shall operate by issuing an APA Guideline, which will specify :

(aa) eligibility for application for an advance pricing agreement ;

(bb) term limits for advance pricing agreements ;

(cc) the application procedure and process ;

(dd) annual compliance procedures for concluded advane pricing agreements ;

(ee) the conditions and procedures for revocation or cancellation of an advance pricing agreement ;

(ff) other requirements as may be necessary.

8. **Associated Entrprises** - For the purposes of Section 76 and 77 of the Act, and for these Regulations, two enterprises shall be deemed to be associated entreprises, if, at any time during the year of assessment, any of the following conditions is met.

(a) any person or enterprise holds, directly or indriectly shares or otherwise carrying the majority of the voting power in the other enterprise ;

(b) any person or enterprise holds, directly or indirectly, shares carrying not less than fifty percent of the voting power in each of such enterprise ;

(c) loans advanced by one enterprise to another enterprise constitute not less than fifty-one percent of the book value of the total assets of the other enterprise provided that it is not given by a bank which is not considered as an associated enterprise under any other item of this Regulation ;

(d) loans and equity provided by one enterprise to another enterprise constitute not less than fifty-one per cent of the book value of the total assets of the other enterprise provided that it is not given by a bank which is not considered as an associated enterprise under any other item of this Regulation ;

(e) one enterprise guarantee not less than twenty-five percent of the total borrowings of the other enterprise ;

(f) more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of one enterprise, are appointed by the other enterprise ;

(g) more than half of the board of directors or members of the governing board, or one or more of the executive directors of members of the governing board, of each of the two enterprises are appointed by the same person or persons ;

(h) ninety per cent or more of the raw materials, semi-finished goods and consumables required for the manufacture or processing of goods or articles carried out by one enterprise, or of purchases required for the sale, are supplied by the other enterprise, or by person specified by the other enterprises, and the prices and other conditions relating to the supply are influenced by such other enterprise ;

(i) the goods or articles manufactured or processed by one enterprise are sold/tranferrred to another enterprise or to persons specified by the enterprises, and the prices and other conditions relating thereto are influenced by such enterprise or *vice versa* ;

(j) where one enterprise is controlled by an individual or jointly by such individual and his relative, and the other enterprise is controlled by such individual or his relative or jointly by such individual and his relative or jointly by relative os such individual ;

(k) where one enterprise is a firm, association of persons or body of individuals, the other enterprise holds not less than ten per cent interest in such firm, association of persons or body of individuals, or

(j) where the controlled transcation differs from the transactions that would have been made or imposed by any person not directly participating in the management, control or capital as mentioned in Section 76 or 77, but confers a potential advantage to the enterprise.

9. **Corresponding adjustments for domestic transaction** - Where an adjustment is made under Section 77 of the Act to the taxable income of a taxpayer in relation to a domestic transaction, no tax adjustment would be made to the taxable income of the other party to the transaction.

Where the total income of an associated enterprise is computed on the arm's length price, which is determined under the provisions of Section 77 of the Act and paid to another associated enterprise from which tax has been deducted (or is deductible) the income of other associated enterprise shall not be recomputed by reason of such determination of arm's length price in the case of first mentioned enterprise.

10. **Corresponding adjustments to prevent double taxation in the case of international transactions**

(1) Where -

(a) an adjustment to the conditions of tranasction between a taxpayer resident in Sri Lanka and an associated enterprise is made or proposed by a tax administration in a country other than Sri Lanka, and

(b) this adjustment results in the taxation in that other country of an amount of income on which the taxpayer residsent in Sri Lanka has already been charged to tax in Sri Lanka ; and

(c) the country making or proposing the adjustment has a Double Taxation Avoidence agreement with Sri Lanka that reflects an intention to provide for the relief of economic double taxation,

the adjustment should be made subject to the provisions of such agreement and subject to following paragraph.

(2) The Commissioner General of Inland Revenue shall, after a request is made by the taxpayer resident in Sri Lanka, examine the consistency of that adjustment with the arm's length principle provided for under Section 76, consulting as necessary with the competent authority of the other country.

(3) If the adjustment proposed or made by the other country is consistent with the arm's length principle both in principle and as regards the amount, the Commissioner General of Inland Revenue shall make a corresponding adjustment to the amount of the tax charged in Sri Lanka to that person on those profits, in order to eliminate the economic double taxation that would result from the inclusion of the same profits in the taxable income of both that taxpayer and the associated enterprise.

(4) A request under Regulation 10 must include the information necessary for the Commissioner General of Inland Revenue to examine the consistency of the adjustment made by the tax administration of the other country with the arm's length principle, including :

(a) the name, registered address and, where applicable, trading name(s) of the associated enterprise (s) ;

(b) evidence of the tax residence of the associated enterprise(s) ;

(c) the year(s) in which the adjusted transaction(s) with the associated enterprise(s) took place ;

(d) the amount of the requested corresponding adjustement and the amounts of the adjustments made by the tax administration of the other country ;

(e) evidence of the adjustment made by the tax administration of the other country and the basis for the adjustment, including details of comparability analysis relied upon and the transfer pricing method applied ;

(f) confirmation that the associated enterprise(s) will not, or is unable to, pursue any further recourse under the deomestic law of the other country that may result in the adjustment made by tax administration of the other country being reduced or reversed ;

(g) any other information that may be relevant for examining the consistency of the adjustment with the arm's length principle.

(5) The request must be made within the applicable time period for making a request for the case to be resolved by way of the mutual agreement procedure under the applicable tax treaty.

Annexture I - Local File

Transfer pricing documentation - Local file

The following information shall be included in the local file :

Part A - Local entity

* A description of the ownership structure of the local entity with details of shares or other ownership interest held therein by other enterprises.

* A description of the management structure of the local entity, a local organization chart, and description of the inviduals to whom local management reports and the country (ies) in which suh individuals maintain their principal offices.

* A detailed descriptions of the business and business strategy pursued by the local entity including an indication whether the local entity has been involved in or affected by intangible transfers in the present of immediately past year and an explanation of those aspects of such transcations affecting the local entity.

* A description of important business restructuring transactions, acquisitions and divestitures occurring during the year of assessment.

* A record of economic and market analyses, forecasts, budgets or any other financial estimates prepared by the local entity for the business as a whole and for each division or product separately, which may have a bearing on the controlled transactions entered into.

* Key competitors.

Part B - Controlled transactions

For each material category of controlled transactions in which the entity is involved, the following information shall be provided.

* Description of the material controlled transactions (e.g. procurement of manufacturing services, purchase of goods, provision of services, loans, financial and performance guarantees, licenses of intangible *etc*.) and the context in which such transactions take place.

* The amount of intra-group payments and receipts for each category of controlled transactions involving the local entity (*i.e.* payments and receipts for products, services, royalties, interest *etc*.) and in the case of international transactions broken down by tax jurisdiction of the foreign payer or recipient.

* An identification of associated enterprises involved in each category of controlled transactions, and the relationship amongst them.

* Copies of all material intercompany agreements concluded by the local entity.

* A detailed comparability and functional analysis of the taxpayer and relevant associated enterprises with respect to each documented category of controlled transactions, including any changes compared to prior years.

* The assumptions, policies and price negotiations, if any, which have critically affected the determination of the arm's length price.

* An indication of the most appropriate transfer pricing method with regard to the category of transaction and the reasons for selecting that method.

* An indication of which associated enterprise is selected as the tested enterprise, if applicable, and an explanation of the reasons for this selection.

* A summary of the important assumptions made in applying the transfer pricing methodology.

* If relevant, an explanation of the reasons for performing a multi-year analysis.

* A list and description of selected comparable uncontrolled transactions (internal or external), if any, and information on relevant financial indicators for independent enterprises relied on in the transfer pricing analysis, including a description of the comparable search methodology and the source of such information.

* A description of any comparability adjustments performed, and an indication of whether adjustments have been made to the results of the tested enterprise, the comparable uncontrolled transactions, or both.

* A description of the reasons for concluding that relevant transactions were priced on an arm's length basis based on the application of the selected transfer pricing method.

* A summary of financial information used in applying the transfer pricing methodology.

* A copy of existing unilateral and bilateral/multilateral APAs and other tax rulings to which the local tax jurisdiction is not a party and which are related to controlled transactions described above.

* Any other information, data or documents, including information or data relating to the associated enterprises, which may be relevant for determination of the arm's length price.

Part C - Financial information and supporting documents

* Annual local entity financial accounts for the fiscal year concerned, if audited statements exist they should be supplied and if not, existing unaudited statements should be supplied.

* Information and allocation schedules showing how the financial data used in applying the transfer pricing method may be tied to the annual financial statements.

* Summary schedules of relevant financial data for comparables used in the analysis and the sources from which that data was obtained.

* Official publications, reports, studies and databases from the Government of the country of residence of the associated enterprises, or of any other country which are relevant to the case.

* Reports of market research studies carried out and technical publications, databases brought out by institutions of national or international repute.

* Price publications including stock exchange and commodity market quotations.

* Letters and other correspondence documenting any terms negotiated between the taxpayer and the associated enterprise.

* Documents normally issued in connection with various transactions under the accounting practices followed.

Annexure II - Master File

Transfer pricing documentation - Master file

The following information shall be included in the master file :

Part A - Organisational structure

* Chart illustrating the MNE's legal and ownership structure and geographical location of operating entities.

Part B - Description of MNE's business(es)

* General written description of the MNE's business including :

    - Important drives of business profit ;

    - A description of the supply chain for the group's five largest products and/or service offerings by turnover plus any other products and/or services amounting to more than 5 percent of group turnover. The required description could take the form of a chart or a diagram ;

- A list and brief description of important service arrangements between members of the MNE group, other than research and development (R & D) services, including a description of the capablities of the principal locations providing important services and transfer pricing policies for allocating services costs and determining prices to be paid for intra-group services ;

- A description of the main geographic markets for the group's products and services that are referred to in the second bullet point above ;

- A brief written functional analysis describing the principal contribution to value creation by individual entities within the group, i. e. key functions performed, important risk assumed, and important assets used ;

- A description of important business restructuring transactions, acquisitions and divestiture occurring during the fiscal year.

Part C - MNE's intangibles

* A general description of the MNE's overall stategy for the development, ownership and exploitation of intangibles, including location of principal R & D facilities and location of R & D management.

* A list of intangible or groups of intangibles of the MNE group that are important for transfer pricing purposes and entities which own them legally.

* A list of important agreements among identified associated enterprises related to intangibles, including cost contribution arrangements, principal research service agreements and license agreements.

* A general description of the group's transfer pricing policies related to R & D and intangibles.

* A general description of any important transfers of interests in intangibles among associated enterprises during the fiscal year concerned, including the entities, countries, and compensation involved.

Part D - MNE's intercompany financial activities

* A general description of how the group is financed, including important financing arrangements with unrelated lenders.

* The identification of any members of the MNE group that provide a central financing function for the group, including the country under whose laws the entity is organized and the place of effective management of such entities.

* A general description of the MNE's general transfer pricing policies related to financing arrangements between associated enterprises.

Part E - MNE's financial and tax positions

* The MNE's annual consolidated financial statement for the fiscal year concerned if otherwise prepared for financial reporting, regulatory, internal management, tax or other purposes.

* A list and brief description of the MNE group's existing unilateral advance pricing agreements (APAs) and other tax rulings relating to the allocation of income among countries.

Annexure III - Country-by-Country Report Template

The following is the template of the Country-by-Country Report :

Table 1 : Overview of allocation of income, taxes and business activities by tax jurisdiction

Name of the MNE Group :

Fiscal year concerned :

Currency used :

Tax jurisdiction	*Revenues*			*Profit (Loss) before Income Tax*	*Income Tax Paid (on Cash Basis)*	*Income Tax Accrued Current Year*	*Stated Capital*	*Accumulated Earnings*	*Number of Employees*	*Tangible Assets other than cash and cash equivalent*
	Unrelated party	*Related Party*	*Total*							

Table 2 : **List of all the Constituent Entities of the MNE group included in each aggregation per tax jurisdiction**

Name of the MNE group :
Fiscal year concerned :

Tax Jurisdiction	Constituent Entities Resident in the Tax Jurisdiction	Tax Jurisdiction of Organization or Incorporation if Differenet from Tax Jurisdiction of Residence	Main Business Activity (ies) :												
			Research and Development	Holding or Managing Intellectual Property	Purchasing or Procurement	Manufacturing or Production	Sales, Marketing or Distribution	Administrative, Management or Support Services	Provision of Services to Unrelated Parties	Internal Group Finance	Regulated Financial Services	Insurance	Holding Shares or Other Equity Instruments	Dormant	Other

Table 3 : **Additional Information**

Name of the MNE Group : Fiscal year concerned :

Annexure IV

TRANSFER PRICING DISCLOSURE FORM

In terms of Paragraph (d) of Regulation 6 of this Gazette Notification issued under Section 76, 77 and 194 of the Inland Revenue Act, No. 24 of 2017.

(*** Please refer to the Inland Revenue Web Portal for guidelines to complete this form*)

Part A. Taxpayer Information

Particulars of the person making this disclosure :

A1 : Name

A2 : Address

City

Postal code

State

Country

A3 : Incorporation of the company/ partnership registration number

A4 : Taxpayer Identification Number

A5 : Telephone

A6 : E-mail Address

A7 : Web Address ....

A8 : Designation

A9 : Signature :..

A10 : Date (DDMMYYYY)

Declaration

(to be completed by a Director/Principal Officer/Precedent Partner/Proprietor)

I,

with Identity Card No./Passport No. *
(**delete appropriately*)

hereby declare that this form contains information that is true, correct and complete as at ....

Designation

Signature

Date

For Office use only

Date (DDMMYYYY)

Name of Officer

Designation

Signature

Part B : Transactions with Associated Enterprises

Column I			*Column II*		*Column III*		*Column IV*	
Transaction			*Associated Enterprise*		*TP Methodology*		*Arm's Length Price*	
	Category of trasactions		Name of associated enterprises		TP Method		Comparable price/margin	
	Amount of transaction (in LKR)		Associated enterprise's Tax Identification Number		Profit level indicator		AL Range-Max	
	For loans, principal amount		Country of residence		Price/Profit Margin/Rate		AL Range-Med	
	For loans, ending balance		Criteria of associated enterprise		Tested enterprise		AL Range-Min	

Annexure V

CODES FOR TRANSFER PRICING DISCLOSURE FORM

CATEGORIES OF TRANSACTIONS WITH ASSOCIATED ENTERPRISES

(i) Revenue Transactions

Transaction Code No.	*Description*
01	Sale of produced inventories
02	Sale of non-produced inventories
03	Production supporting services
04	Administrative services
05	Technical assistance
06	Technical services
07	Other services
08	Fees
09	Commissions
10	Promotional activities
11	Insurance and Reinsurance
12	Financial Instruments
13	Interest on loans
14	Leasing
15	Other financial services
16	Guarantees
17	Sales of shares and interests as investment assets
18	Other portfolio transfers
19	Sale of non-depreciable assets
20	Sale of depreciable or amortizable assets
21	Transfer of intangible assets
22	Royalties
23	Other investments
24	Other assets
25	Other revenue
26	Other (to be specified in Local File)

(ii) Expenses transactions

Transaction Code No.	*Description*
27	Purchase of produced inventories
28	Purchase of non-produced inventories
29	Production supporting services
30	Administrative services
31	Technical assistance
32	Technical services
33	Other services
34	Fees
35	Commissions
36	Promotional activities
37	Insurance and Reinsurance
38	Financial Instruments
39	Interest on loans
40	Leasing
41	Other financial services
42	Guarantees
43	Purchase of shares and interests as investment assets
44	Other portfolio transfers
45	Purchase of non-depreciable assets
46	Purchase of depreciable or amortizable assets
47	Purchase of intangible assets
48	Royalties
49	Other investments
50	Other assets
51	Other expenditures
52	Other (to be specified in Local File)

Annexure VI

TRANSFER PRICING DISCLOSURE FORM

Completion requirements

The following is the guidance for the completion of the Transfer Pricing Discloure Form

All taxpayers that carry out transaction with associated enterprises during the year of assessment must complete and file a Transfer Pricing Disclosure Form, regardless of the size and nature of those transactions. The following conditions apply :-

* All taxpayers that carry out categories of transactions that exceed LKR 200 million must complete all fields (Column I to IV) of the Transfer Pricing Disclosure Form
* Those taxpayers that carry out categories of transactions that do not exceed LKR 200 million must only complete Column I and II.

Categories of transcations are listed in Annexure V of this Gazette

The following are the details of the information to be provided by taxpayers in the Transfer Pricing Disclosure Form on an annual basis. Transactions are to be disclosed by their categories and per associated enterprise.

Column I			*Column II*		*Column III*		*Column IV*	
No.	*Transaction*		*Associated Enterprise*		*TP Methodology*		*Arm's Length Price*	
1	Category of trasaction		Name of associated enterprise		TP Method		Comparable price/margin	
	Amount of transaction (in LKR)		Associated enterprise's Tax Identification Number		Profit level indicator		AL Range-Max	
	For loans, principal amount		Country of residence		Price/Profit Margin/Rate		AL Range-Med	
	For loans, ending balance		Criteria of associated enterprise		Tested enterprise		AL Range-Min	

Colum I. Transaction. This Section provides the detail of the disclosed category of transaction (in accordance with Annexure V of these Regulations) with every associated enterprise carried out during the year of assessment.

* Category of transaction : Disclose the code of the categories of transactions carried out according to Annexure IV of these Regulations.
* Amount of transaction (in LKR) : Disclose the value in LKR of each particular category of transaction carried out with each associted enterprise.
* For loans, amount of principal : Disclose the amount of the accounting balance of the principal received or provided through a loan.
* For loans, ending balance : Disclose the amount of the accounting balance of the principal received or provided through a loan on the date of the fiscal year-end.

Column II. Associated Enterprise : This section provides the detail of the associated enterprise with which transactions were carried out during a year of assessment.

* Name of associated enterprise : Disclose the complete name of the associated enterprise.
* Associated enterprise's Tax Identification Number : Disclose the tax identification number that the associated enterprise utilizes in its country of residence for income tax purposes.
* Country of residence : Disclose the code for the country of residence of the associated enterprise.
* Criteria of associated enterprises : Disclose the code for the type of association criteria according to Annexure VII of these Regulations.

Note : Sections I and II of the Transfer Pricing Disclosure Form to be completed only by all taxpayers that carried out categories of transactions that do not exceed LKR 200 million.

Column III. TP Methodology : This section provides the detail of the transfer pricing methodology selected by the taxpayer in the analysis of the transactions carried out with associated enterprises during a year of assessment.

* TP Method : Disclose the transfer pricing method selected to analyse the disclosed transaction according to Annexure VIII of these Regulations.
* Profit level indicator : Disclose the profit level indicator selected to analyse the disclosed transaction according to Annexure VIII of these Regulations.
* Price/Profit Margin/Rate : Disclose the price, proft margin or rate arrived or derived from the applicaton of transfer pricing methodology to the disclosed transcation. Please include two (2) decimal places.
* Tested enterprise : Disclose the party to the transaction that has been selected as the tested one for the disclosed transaction according to Annexure VIII of these Regulations.

Column IV. Arm's length price : This section provides the detail of the result of the application of the transfer pricing methodology to the transactions carried out with associated enterprises during a year of assessment.

* Comparable price/margin : In case these is only once comparable price or margin, disclose its vlaue : Please include two (2) decimal places.
* AL Range - Max : Disclose the maximum/upper limit of the calculated arm's length range.
* AL Range - Med : Disclose the median of the calculated arm's length range.
* AL Range - Min : Disclose the minimum/lower limit of the calculated arm's length range.

Annexure VII

ASSOCIATED ENTERPRISES

List of Codes

The following is the list of Codes for the completion of the Transfer Pricing Disclosure Form

Association Code No.	*Description*
01.	Participating directly or indirectly in the management, control or capital (Sec. 77(5)(a)of the Act)
02.	Permanent Establishment (Sec. 77(5)(b) of the Act)
03.	Directly or indirectly holding of shares or otherwise carrying the majority of the voting power (Regulation 8(a))
04.	Holding directly or indirectly shares carrying not less than fifty percent of the voting power (Regulation 8(b))
05.	Loans advanced by one enterprise to another enterprise constitute not less than fifty-one percent of the book value of the total assets of the other enterprise (Regulation 8(c))
06.	Loans and equity provided by one enterprise constitute not less than fifty-one percent of the book value of the total assets of the other enterprise (Regulation 8(d))
07.	Guarantees of not less than twenty five percent of the total borrowings (Regulation 8(e))
08.	More than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of one enterprise, are appointed by the other enterprises (Regulation 8(f).
09.	More than half of the board of directors or members of the governing board, or one or more of the executive directors or members of the governing board, of each of the two enterprises are appointed by the same person or persons (Regulation 8(g)).
10.	Ninety per cent or more of the raw materials, semi-finished goods and consumables required for the manufacture or processing of goods or articles carried out by one enterpise, or of purchases required for the sale, are supplied by the other enterprise, or by persons specified by the other enterprise, and the prices and other conditions relating to the supply are influenced by such other enterprise (Regulation 8(h)).
11.	Goods or articles manufactured or processed by one enterprise are sold/transferred to another enterprise or to persons specified by the enterprise, and the prices and other conditions relating thereto are influenced by such enterprise or *vice versa* (Regulation 8(i)).
12.	Control by an individual or his relative or jointly by such individual and his relative or jointly by relatives of such individual (Regulation 8(j)).
13.	Holding of not less than ten percent interest of a firm, association of persons or body of individuals (Regulation 8(k)).
14.	Where the controlled transactions differs from the transactions that would have been made or imposed by any person not directly participating in the management, control or capital as mentioned in section 76 or 77, but confers a potential advantage to the enterprise (Regulation 8(l))

Annexure VIII

TRANSFER PRICING METHODOLOGY, PROFIT LEVEL INDICATORS AND TESTED ENTERPRISE

List of Codes

The following is the list of Transfer Pricing Method codes for the completion of the Transfer Pricing Disclosure Form

Method Code No.	*Description*
CUP	Comparable Uncontrolled Price Method
RP	Resale Price Method
CP	Cost Plus Method
TNM	Transactional Net Margin Method
PS	Profit Split Method

The following is the list of Profit Level Indicator codes for the completion of the Transfer Pricing Disclosure Form

PLI Code No.	*Description*
GM	Gross Margin
GMK	Gross Markup
ROS	Operating Margin/Return on Sales
ROTC	Operating Markup/Return on Total Cost
ROA	Return on Assets
ROCE	Return on Capital Employed
BERRY	Berry Ratio
Other	Other (to be specified in Local File)

The following is the list of Tested Enterprise Codes for the completion of the Transfer Pricing Disclosure Form.

Tested Enterprise Code No.	*Description*
01	Sri Lanka enterprises
02	Foreign enterprises

01 - 328

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