

REPORT OF THE COMMITTEE ON ESTIMATES ON THE CUSTOMS AND EXCISE (AMENDMENT) BILL, N.A.B NO 22 OF 2015, FOR THE FIFTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY APPOINTED ON WEDNESDAY, 23RD SEPTEMBER, 2015

Consisting of:

Mr H H Hamududu, MP (Chairperson); Mr E M Sing'ombe, MP; Mrs I M Mphande, MP; Mr R L Mpundu, MP; Mr G K Mwamba, MP; Mr B M Ntundu, MP; Mr R P Mtolo, MP; Mr P Phiri, MP; Dr G L Scott, MP;

The composition of your Committee changed following the appointment of Mr R L Mpundu, MP, to a ministerial position and he was replaced by Mr J Shuma, MP.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir,

Your Committee has the honour to present its Report on the Customs and Excise (Amendment) Bill, N.A.B No. 22 of 2015, referred to it by the House on 5th November, 2015.

Functions of the Committee

2. In addition to any other duties conferred upon it by the Honourable Mr Speaker, or any other order of the House, your Committee is mandated to consider any Bills that may be referred to it by the House.

Meetings of the Committee

3. Your Committee held seven meetings to consider the Customs and Excise (Amendment) Bill, N.A.B No. 22 of 2015, referred to it by the House.

Procedure adopted by the Committee

4. In order to acquaint itself with the Bill, your Committee requested written and oral submissions from relevant stakeholders.

Object of the Customs and Excise (Amendment) Bill, N.A.B No. 22 of 2015

5. The object of the Bill is to amend the *Customs and Excise Act* so as to:

- (a) *remove customs duty on green houses and rose seedlings;*
- (b) *revise the customs duty rates applicable to the importation of motor vehicles and impose surtax on the importation of vehicles older than five years;*

- (c) increase specific Excise duty rates on tobacco products;
- (d) provide for the keeping of transactional records for a minimum period of six years; and
- (e) provide for matters connected with, or incidental to, the foregoing.

Background

6. The Bill seeks to amend to the *Customs and Excise Act*, Chapter 322 of the Laws of Zambia in order to remove customs duty on green houses and rose seedlings; increase specific excise duty rates on tobacco products; revise the customs duty rates application to the importation of vehicles older than five years as part of the house keeping measures for the 2016 Budget.

Salient Provisions of the Bill

7. The salient provisions of the Customs and Excise (Amendment) Bill, N.A.B No. 22 of 2015 are as set out hereunder.

Clause 2 – Amendment of Section 32

Clause 2 provides for introduction of a specific penalty for late clearance of goods, similar to that applicable on late exit of goods in transit. Currently, the law does not provide for a specific penalty for late clearance of goods allowed to enter the country for customs clearance at an in-land Port. However, in the case of goods transiting through Zambia, the law provides for a specific penalty of 3,000 fee units per day for late exit.

Clause 3 – Amendment of Section 72

Clause 3 seeks to provide for the Minister of Finance to prescribe, by Statutory Order, parameters for the Commissioner-General to adjust the index some specific rates under the *Customs and Excise Act*. Currently, although *Customs and Excise Act* provides for specific rates on various goods and services, specific tax rates need adjustments from time to time because they are fixed value rates per quantity and get eroded by factors such as inflation over time. These rates are not adjusted as regularly as they should be although sometimes they are adjusted during the budget time. The measure is, therefore, intended to provide for a structured and predictable adjustment mechanism for all the specific tax rates in order to allow for regular adjustment of such rates.

Clause 4 – Amendment of Section 77

Clause 4 seeks to provide for the introduction of a surtax on imported motor vehicles older than five years from the year of manufacture so as to discourage the importation of such vehicles and minimise the adverse effect on the environment caused by older motor vehicles.

Clause 5 – Amendment of Section 85

Clause 5 seeks to provide for the valuation method for second hand motor vehicles. Currently, the value for duty purposes is based on invoices submitted by declarants. However, with regard

to second hand motor vehicles, it is difficult to establish precise transaction values because values are dependent on various factors including usage and source, among others. This Clause, therefore, is intended to come up with a standard way of valuing motor vehicles and bring about predictability, transparency, consistency and uniformity in the valuation of second hand vehicles.

Clause 6 – Amendment of Section 88

Clause 6 seeks to provide for self-assessment and flexibility on the requirement to use a clearing agent for an authorised group of taxpayers. Currently, only the Commissioner-General is mandated to raise assessments under the *Customs and Excise Act*. Further, it is a legal requirement for all importers to engage the services of a clearing agent. However, due to the modernisation of the tax administration which has resulted in the development of online trade facilitation tools, clients can easily conduct a self-assessment. This measure is intended to enhance trade facilitation in line with international good practice.

Clause 7 - Amendment of Section 155

Clause 7 seeks to introduce a new provision that will extend the liability for an offence committed by a body corporate to directors or principal officers of a company where such officers have knowledge and consent of the offence. Currently, there is no provision, under the *Customs and Excise Act* that places liability on the directors and principal officers of a company. Further, the Clause is intended to make directors and principal officers liable for offences committed by a corporate body for which they had full knowledge and consent.

Clause 8: Amendment of Section 182A

Clause 8 provides for accreditation of employees of clearing agents that directly handle customs business. The Clause is further intended to provide for accreditation of employees of licensed clearing and forwarding companies who are directly involved in handling customs business in order to enhance professionalism, safeguard the interests and rights of importers and exporters and protect Government revenue.

Clause 9 – Amendment to Section 188

Clause 9 seeks to increase the time required for a taxpayer to keep records for tax assessment purposes under the *Customs and Excise Act* to six years from five years and provide for the Commissioner-General to make an assessment of taxes beyond the six years where there is evidence of willful default or fraud.

Clause 10 – Amendment of Section 190

Clause 6 seeks to align the *Customs and Excise Act* with the *Tax Appeals Tribunal Act of 2015*.

Submissions by Stakeholders

8. The stakeholders who appeared before your Committee submitted as setout hereunder.

Some stakeholders noted the proposal to introduce an export duty on unprocessed wood at forty percent and that of semi- processed wood at twenty percent and also the increase of customs duty on wood and wood products from twenty-five percent to forty percent. They submitted that the proposed change would promote local manufacturing and value addition. Further the measure would sustain harvesting of the forests.

A number of stakeholders who appeared before your Committee supported the removal of excise duty on green houses and rose seedlings. They were of the view that the move would help to revive the horticulture sector as well as facilitate the diversification of the economy and promote non-traditional exports.

Some stakeholders expressed concern on the increase in customs duty on some types of motor vehicles to thirty percent and a surtax of K2,000 on all imported motor vehicles older than five years from the year of manufacture as provided for in Clause 4 of the Bill. They contended that the increase would have adverse effects on Government's revenue. They further argued that motor vehicle sales in most of the dealers were already declining due to the weakening of the kwacha. They indicated that the increase in duty will make motor vehicles more costly to citizens and businesses. They were of the view that it was not necessary to revise the duty rates since there was no motor vehicle manufacturing industry that Government was trying to protect.

Stakeholders also expressed concern about the increase on specific duty rates for tobacco. They were of the view that the revision would exacerbate the challenges being faced by the tobacco industry and would lead to loss of revenue due to an increase in smuggling and illicit trade in tobacco and its products.

Some stakeholders were concerned about increasing the specific customs duty rate on refined edible oil from K 2.20 per kilogram to K 4.0 per kilogram. They submitted that the proposed change which is aimed at protecting the edible oil industry would increase the price of locally edible produced oil as the domestic production capacity was unable to satisfy the local market.

Committee's Observations and Recommendations

9. Your Committee supports the Bill. However, it observes that revision of customs rate applicable to importation of motor vehicles and imposition of a surcharge on the importation of vehicles older than five years in order to minimise the effect on the environment will have an adverse effect on Government revenues. Your Committee is also of the view that the tax measure will mainly affect people in the lower income brackets. It further noted that revision of the rates will increase the cost of importation thereby discouraging and reducing the volume of motor vehicles imported into the country. Your Committee, therefore, recommends that surcharge and the revised customs rate should be implemented only if incentives are introduced on the procurement of new vehicles. Your Committee further recommends differentiated tax system be implemented where older vehicles will pay higher taxes than new vehicles.

Conclusion

10. Sir, your Committee concluded its deliberations within its terms of reference. To do this, your Committee had invited a number of stakeholders from whom it sought comments and reactions to the Bill. Your Committee is grateful to the stakeholders who made both oral and written submissions.

Your Committee Sir also wishes to thank you, Mr Speaker, for affording it an opportunity to consider the Bill. Your Committee further thanks the Office of the Clerk of the National Assembly for its assistance and advice throughout its deliberations.

Sir, your Committee has the honour to present its Report on the Customs and Excise (Amendment) Bill, N.A.B No. 22 of 2015, referred to it by the House on 5th November, 2015.

Mr H H Hamududu, MP
Chairperson

Mr E M Sing'ombe, MP
Member

Mrs I M Mphande, MP
Member

Mr R L Mpundu, MP
Member

Mr R P Mtolo, MP
Member

Mr G K Mwamba, MP
Member

Mr B M Ntundu, MP
Member

Mr P Phiri, MP
Member

Dr G L Scott, MP
Member

APPENDIX I

List of Officials

Mr S C Kawimbe, Principal Clerk of Committees
Ms M K Sampa, Deputy Principal Clerk of Committees
Mr F Nabulyato, Committee Clerk (SC)
Mr M F Kateshi, Revenue and Expenditure Analyst
Mr S Mtambo, Budget Analyst (Microeconomics)
Mr C Chishimba, Assistant Committee Clerk
Mrs D Mukwankwa, Assistant Committee Clerk
Mr A Chilambwe, Assistant Committee Clerk
Mr F Chikambwe, Assistant Committee Clerk
Ms K Lufuma, Intern
Ms S Kayawa, Stenographer
Mr R Mumba, Committee Assistant
Mr M Chikome, Parliamentary Messenger

APPENDIX II

Ministry of Justice (MoJ)

Mr A Nkunika, Acting Chief Parliamentary Counsel
Mr M Chola, Acting Deputy Chief Parliamentary Counsel
Ms D Kafunga, Acting Senior Parliamentary Counsel

Zambia Revenue Authority (ZRA)

Mr B Msiska, Commissioner-General
Mr D Banda, Commissioner-Customs
Ms P Banda, Commissioner-Domestic Tax
Ms M Mudenda, Commissioner-Corporate
Ms D Goramota, Legal Counsel
Mr E Phiri, Director-Research
Mr L Simbeye, Executive Assistant
Mr S Sifuniso, Senior Collector

Civil Society for Poverty Reduction (CSPR)

Mr M Nkhoma, Programmes Officer
Mr E Musosa, Programmes Officer

Zambia Institute of Chartered Accountants (ZICA)

Mr C Chiteba, Acting Chief Executive Officer
Mr M Phiri, Committee Member

Zambia Association of Chambers of Commerce and Industry (ZACCI)

Mr M Nyirenda, Board Member
Mr C Sakala, Officer - Business

Bankers Association of Zambia (BAZ)

Mr L Mwanza, Chief Executive Officer
Mr C Simatyamba, Chairman
Ms D Tembwe, Member

Real Estate Investment of Zambia (REIZ) PLC

Mr S E Popota, Acting Chief Executive Officer

National Economic Advisory Council (NEAC)

Mr W Wake, Executive Secretary
Dr O K Mungule, Principal Policy Analyst

Ministry of Finance (MoF)

Mrs P Kabamba, Permanent Secretary
Ms M Mukubesa, Acting Director-Budget
Ms M Chikuba, Principal Analyst
Ms P Chitulangoma, Principal Analyst
Mr K Chimfwembe, Acting Chief Analyst