



REPUBLIC OF ZAMBIA

REPORT OF THE PLANNING AND BUDGETING COMMITTEE

ON

THE CUSTOMS AND EXCISE (AMENDMENT) BILL, N.A.B. NO 25 OF 2023

FOR THE

THIRD SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY

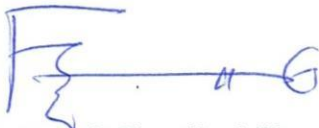
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FOREWORD

Honourable Madam Speaker, the Planning and Budgeting Committee has the honour to present its Report on the consideration of the Customs and Excise (Amendment) Bill, N.A.B. No. 25 of 2023, for the Third Session of the Thirteenth National Assembly referred to it by the House on Wednesday, 29th November, 2023. The Committee is mandated to consider Money Bills referred to it by the House, as per Standing Order 195(5), of the National Assembly of Zambia Standing Orders, 2021.

The Committee held six meetings to consider the Customs and Excise (Amendment) Bill, N.A.B. No. 25 of 2023. In order to acquaint itself with the ramifications of the Bill, the Committee sought both written and oral submissions from various relevant stakeholders. The list of stakeholders who appeared before the Committee -is at Appendix II of the Report. The Report is in three Parts. Part I contains the background as well as salient provisions of the Bill. Part II highlights the views of stakeholders, while Part III contains the Committee's Observations and Recommendations.

Madam Speaker, the Committee is grateful to stakeholders who tendered both written and oral submissions. It also wishes to thank you, Madam Speaker, for affording it the opportunity to consider the Customs and Excise (Amendment) Bill, N.A.B. No. 25 of 2023. The Committee also appreciates the services rendered by the Office of the Clerk of the National Assembly during its deliberations.



Mr Fred C Chaatila, MP
CHAIRPERSON

December, 2023
LUSAKA

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1.0 COMPOSITION OF THE COMMITTEE

The Committee consisted of Mr Fred C Chaatila, MP (Chairperson); Ms Brenda Nyirenda, MP (Vice-Chairperson); Mr Machila Jamba, MP; Mr Koonwa Simunji, MP; Mr David Mabumba, MP; Mr Kalalwe Mukosa, MP; Mr Jeffrey Mulebwa, MP; Mr Anthony C Mumba, MP; Mr Mayungo Simushi, MP and Mr Mwabashike Nkulukusa, MP.

PART I

2.0 BACKGROUND AND SALIENT PROVISIONS OF THE BILL

2.1 BACKGROUND

Customs duties serve multiple purposes, among them, generating Government's revenue, safe guarding domestic industries, and rectifying trade imbalances through import and export taxes. In the 2024 National Budget, the Government proposed several amendments to the *Customs and Excise Act, Chapter 322 of the Laws of Zambia*. The proposed amendments are to do with the removal of customs duty, while others are to increase the same.

2.2 OBJECT OF THE BILL

The object of the Bill was to amend the Customs and Excise Act so as to:

- a) revise the rates of customs and excise duty payable on certain goods;
- b) revise the list of goods to be subject to surtax at importation;
- c) increase excise duty on non-alcoholic beverages and cigarettes;
- d) introduce excise duty on coke and semi-coke of coal, of lignite or of peat, whether or not agglomerated, retort carbon;
- e) revise the basis of excise duty valuation for spirits, liqueurs, and other spirituous beverages;
- f) reduce customs duty on hybrid and electric motor vehicles and cycles;
- g) remove customs duty on rolling stock and locomotive; and
- h) provide for matters connected with, or incidental to, the foregoing.

2.3 SALIENT PROVISIONS OF THE BILL

The salient provisions of the Customs and Excise (Amendment) Bill, N.A.B. No. 25 of 2023, were set out hereunder.

Clause 2–Amendment of section 2

Clause 2 sought to amend section 2 of the principal Act, by the deletion of the definitions of the words “Deputy Commissioner” and “electronic device”. Further, the clause sought to insert new definitions in the appropriate places in alphabetical order so as to make the law easier to understand.

Clause 3–Amendment of section 22

This clause sought to insert a new subsection (3), immediately after subsection 2. Subsection 3 provided that a pilot in charge of an aircraft shall before, or immediately after, departure of the aircraft, deliver electronically to the Customs Service Division, a cargo manifest. Further, subsection (3), provided for the renumbering of subsections (3) and (4).

Clause 4–Amendment of section 32

The amendment was intended to reduce the number of days that goods may be removed for bond carriage to a customs area at another customs port or inland place for consumption or warehousing to five days from fifteen days.

Clause 6–Amendment of section 41

The amendment of section 41 prohibited the importation of alcohol with an alcoholic content of above 80 percent for production purposes.

Clause 7–Amendment of section 55

This clause sought to amend section 55(3) of the principal Act by making it a requirement for the application for renewal of a licence for a bonded warehouse to be made at least ninety days before the expiry of the licence.

Clause 8–Amendment of section 58

Clause 8 sought to amend section 58(4) by adding tobacco cutragon the list of goods that qualified for an allowance when assessing duty in respect of a deficiency as may be prescribed where an officer was satisfied that the deficiency was not wilfully or negligently caused.

Clause 9–Amendment of section 69

Clause 9 sought to amend section 69, by the insertion of a new subsection requiring a monetary deposit or security guarantee to be made where the goods removed from a warehouse were for purposes of export in bond.

Clause 10–Repeal and replacement of section 144

Clause 10 repealed and replaced section 144 of the principal Act by imposing a penalty on, among others, a person in possession of a customs seal without the authority of the Commissioner General and who willfully removed, defaced or altered a customs seal.

Clause 11–Amendment of section 145

Clause 11 amended section 145 of the principal Act by the insertion of two new subsections in order to mandate a person in charge of a ship, aircraft or vehicle to disclose to a customs officer,

all the points on the ship, aircraft or vehicle, where a customs seal may be placed. It further provided a penalty to be paid by a person who contravened the subsection.

Clause 12—Repeal and replacement of section 171B

The amendment intended to repeal section 171B so as to revise the conditions on which the Commissioner General may remit a duty, fine or interest due, and which was not recoverable under the principal Act.

Clause 13—Amendment of section 188A

The clause amended section 188A by the deletion of the words “electronic fiscal device” wherever the words appeared and substituting them with the words “electronic invoicing system,” as the Authority intended to migrate to electronic invoicing system.

Clause 14—Amendment of the First Schedule

Clause 14 sought to amend the first schedule of the principal Act, by amending Chapters 22, 73, 85, 73, 86, 87 and 96.

Clause 15—Amendment of the Second Schedule

Clause 15 sought to amend the second schedule of the principal Act, by amending the following headings, 1, 6(3); 7, 9 and 14.

Clause 16—Amendment of Fourth Schedule

Clause 16 sought to amend part 1 of the fourth schedule of the principal Act

Clause 17—Amendment of Fifth Schedule

The amendment of the fifth schedule of the principal Act was intended to delete the word “transaction” and substituting it with the word “customs” in paragraph 3(1).

Clause 18 – Amendment of the Sixth Schedule

Clause 18 sought to amend the sixth schedule of the principal Act, in paragraph 1, by deleting subparagraph (2) relating to determination of the value of **undentured** alcohol.

PART II

3.0 VIEWS OF STAKEHOLDERS

Most stakeholders who appeared before the Committee supported the Bill, but in doing so, raised some concerns as outlined below.

Clause 9 Amendment of section 69

Stakeholders welcomed the proposed amendment which sought to introduce a security deposit or bond guarantee on all exports from a bonded warehouse in order to curb possible revenue leakages on goods that might be consumed in Zambia despite being declared as exports from bonded warehouses. However, they were of the view that the Bill did not specify the mechanisms, parameters or standards to be used to determine the security deposit or bond. Stakeholders submitted that without the specifications, it would be prone to abuse by implementers.

Clause 12 Repeal and substitution of section 171 B

Some stakeholders feared that the amendment would provide an escape route from taking over of assets and liabilities at the time of privatisation. They were of the view that this might encourage inclusion of provisions in contracts for not taking over liabilities. Therefore, stakeholders proposed that where companies were privatised, the buyers should assume both the assets and liabilities. However, where this was impractical, a separate company should be created to hold separate toxic assets from non-toxic and the two companies should be dealt with separately.

Clause 14 Amendment of the First Schedule (Customs Schedule)

(i) Chapter 86

With regard to the removal of the 10 per cent customs duty on the importation of rolling stock, including wagons and locomotives, stakeholders welcomed the proposal but wondered why the Government decided to remove the customs duty. They noted that the amendment was intended to attract investment in the railway subsector and enable Government to accomplish its goal of shifting the transportation of 30 per cent of heavy and bulk cargo to rail from road, in line with Statutory Instrument No. 7 of 2018. However, the Government already enjoyed tax rebates from other suppliers and hence the move would result into loss of revenue.

Other stakeholders expressed concern that the continued investment in locomotives, which used coal as opposed to electric powered locomotives was in conflict with the drive for a more environmentally friendly means of transport.

Some stakeholders noted that while removal of 10 per cent customs duty on importation of rolling stock including wagons and locomotives would spur investor interest, there was urgent need to rehabilitate the rail infrastructure without which the 10 per cent would be an incentive in futility.

Clause 15 Amendment of the Second Schedule (Excise Schedule)

(i) Chapter 20 - Heading 1

While the proposed amendment to increase specific excise duty to K0.6 from K0.3 on non-alcoholic beverages goods under heading 20.09 would increase revenue mobilisation,

stakeholders raised concern that the amendment would be counter-productive to the growth of the non-alcoholic industry as it would increase costs.

(ii) Chapter 22 – Heading 6(3)

Stakeholders noted that the proposed amendment was intended to harmonise the rate with similar alcohol to avoid misclassification. However, they noted with serious concern that the proposed amendment further sought to change the excise valuation method for spirits, liquors to be determined on market prices rather than the subsisting method of basing it on the costs of input. The Committee was further informed that the impact of the proposal would result in increased cost of production as tax would be levied on inputs of production which were all factored into the market price. They submitted that this would result into a double taxation.

The Committee was also informed that producers of alcohol suffered unfair competition from those selling imported alcohol who often paid negligible duty.

(iii) Chapter 87 –Heading 14

Stakeholders welcomed the proposed amendment to reduce customs duty on hybrid and electric motor vehicles to incentivise environmentally friendly transportation. However, they expressed concern that while the removal of duty on electric vehicles would reduce the importation of fuel powered vehicles, the reduction of duty to 25 per cent from 30 per cent on hybrid vehicles would defeat the incentive to focus on importation of electric vehicles.

Clause 16 – Amendment of the Fourth Schedule (Surtax Schedule)

With regard to the proposal to increase excise duty to 30 per cent on imported floor and wall tiles, stakeholders submitted that, while the amendment was intended to promote the use of locally manufactured floor and wall tiles, they were of the view that this would affect negatively most of the businesses who traded in imported tiles and employed more people in comparison to one company, which would benefit from the surtax.

4.0 COMMITTEE’S ENGAGEMENT WITH THE MINISTER OF FINANCE AND NATIONAL PLANNING

The Minister of Finance and National Planning appeared before the Committee to clarify matters that had arisen during the Committee’s interaction with stakeholders. The Minister informed the Committee that the 2024 National Budget had a number of pronouncements underpinned in the Money Bills. The focus of the Money Bills was to provide for incentives to expand the productive sectors of the economy and to also rise resources to fund Government’s expenditure needs.

The Minister provided clarification on issues set out hereunder.

(i) Multi-Facility Economic Zones

The Minister clarified that all businesses operating in the country benefited from different types of incentives offered by the Government. He further explained that the increase in Customs Duty incentives accessible by a developer in the Multi-Facility Economic Zones to 15 years from 5 years was meant to encourage more investors to set base in the Zones. With regard to offering incentives to business pursuing industrial activities but lacked capacity to go into the Economic Zones, he explained that there were other types of incentives which the Government had offered and that Government would continue to promote such industries.

PART III

5.0 COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Having considered the concerns raised by stakeholders, the Committee makes the observations and recommendations as outlined below.

(i) Clause 9 Amendment of section 69

The Committee observes that the proposed amendment is progressive as it will help to curb possible revenue leakages on goods that might be consumed in Zambia despite being declared as exports from bonded warehouses. However, the Committee notes that the Bill has not specified how the security deposit of bond guarantee will be determined. In this regard, to avert abuse by the implementers, the Committee recommends that the Bill should specify in percentage terms or specified value, among others, on how the security deposit will be determined.

(ii) Clause 12 Repeal and substitution of section 171 B

The Committee observes with concern that the proposed amendment will empower the Minister of Finance and National Planning on the recommendation of the Commissioner General to write off liabilities for a privatised company, if the debt is incurred before privatisation or unless the contract of sale stipulates that the company's liabilities will be carried over by the new owners. The Committee is of the view that this may be an escape route from taking over the liabilities at the time of privatisation.

The Committee, therefore, recommends that where companies are privatised, the buyers should assume all liabilities. However, where this is impractical, a separate company should be created to hold separate toxic assets from non-toxic and the two companies should be dealt with separately.

(iii) Clause 14 Amendment of the First Schedule (Customs Schedule)

The Committee observes that the removal of the 10 per cent customs duty on the importation of rolling stock, including wagons and locomotives will promote investment in the railway subsector and enhance the efficiency and competitiveness of Zambia's railway subsector. This notwithstanding, the Committee observes with concern that the railway infrastructure requires

urgent rehabilitation to have value for money from the proposed incentive. Additionally, the Committee notes that the continued investment in locomotives which are coal powered as opposed to electric powered locomotives is in conflict with the drive for a more environmentally friendly means of transport.

In view of the foregoing, the Committee recommends that considering that the Government has implemented an open access to the rail infrastructure, the Government should focus its efforts on rehabilitating the railway infrastructure and call on board the private sector to invest in the locomotives. Additionally, in light of a shift towards a more environmentally friendly means of transport, the Government should consider investing in electric trains.

(iv) Clause 15 Amendment of the Second Schedule (Excise Schedule)

(a) Chapter 22 – Heading 6(3)

The Committee observes that the proposed amendment may increase the cost of doing business for the manufacturers of alcohol as they will have a double tax. The Committee further observes with concern that these companies suffer from unfair competition from merchandisers of imported alcohol who often sell at a lower market price as they often do not pay the due duty due.

In light of the above, the Committee recommends that the Government should reconsider the proposed excise valuation method or the excise valuation must be on the basis of alcohol content which provides a harmonised excise framework across alcohol products. Further, the Committee strongly recommends that the Government must ensure that enforcement activities by the Zambia Revenue Authority are heightened to abate smuggling.

(b) Chapter 86

The Committee observes that the proposed amendment to reduce customs duty on hybrid and electric motor vehicles will provide an incentive for the importation of environmentally friendly vehicles. The Committee further observes that the reduction of duty to 25 per cent from 30 percent on hybrid vehicles will encourage importation of vehicles that are both fuel and electric powered. In this regard, the Committee urges the Government to prioritise investing in infrastructure which can support the importation of electric powered vehicles. The Committee further urges the Government to develop a policy which will give timelines for gradual transitioning from fuel powered to electric powered vehicles.

While acknowledging that electric vehicles are still too expensive for the ordinary Zambian to import, the Committee recommends that the Government should instead focus more on encouraging importation of electric powered vehicles as opposed to implementing both policies concurrently.

(v) Clause 16 – Amendment of the Fourth Schedule (Surtax Schedule)

The Committee observes that the increase in excise duty to 30 per cent from 5 per cent on imported floor and wall tiles is progressive as it is intended to promote the use of locally manufactured floor and wall tiles. However, the Committee is concerned with the sharp increase

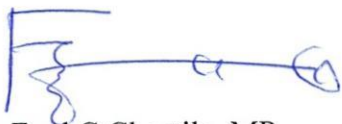
in the rate which will affect negatively merchandisers of imported tiles who employ a number of Zambians in their shops. The Committee, therefore, recommends that the Government should continue to incentivise the local manufactures, while the increase of excise duty to discourage importation should be gradual.

5.0 CONCLUSION

The Committee notes that the amendments to the *Customs and Excise Act, Chapter 322 of the Laws of Zambia*, are aimed at stimulating investment, competitiveness and efficiency in priority sectors, among them, agriculture, transport and manufacturing.

The Committee is, therefore, in support of the proposed amendments in the Bill, as they are intended to give effect to “Unlocking Economic Potential,” to some of the pronouncements made in the 2024 National Budget and are part of the basis on which revenue collection would be anchored.

We have the honour to be, Madam Speaker, the Planning and Budgeting Committee mandated to scrutinise the Customs and Excise (Amendment) Bill, N.A.B. No. 25 of 2023, for the Third Session of the Thirteenth National Assembly.



Mr Fred C Chaatila, MP
CHAIRPERSON

December, 2023
LUSAKA

APPENDIX I– List of National Assembly Officials

Mr Stephen Chiwota, Director (Financial Committees)
Mr Fitzgerald Kateshi, Director, (Parliamentary Budget Office)
Mrs Angela M Banda, Acting Deputy Director (Financial Committees)
Ms Chitalu R Mulenga, Senior Committee Clerk (FC2)
Mr Ferdinand Chikambwe, Senior Budget Analyst -Revenue
Mr Elijah I C Chilimboyi, Committee Clerk
Mr Emmanuel Bwalya, Committee Clerk
Mr Maambo Chilobya, Research Officer
Mr Philip Mwiinga, Budget Analyst
Mrs Rachael M Kanyumbu, Administrative Assistant
Mr Danny Lupiya, Committee Assistant
Mr Muyembi Kantumoya, Parliamentary Messenger

APPENDIX II– List of Witnesses

Airtel Networks Zambia PLC
Anti-Corruption Commission
Bank of Zambia
Bankers Association of Zambia
Competition and Consumer Protection Commission
Centre for Trade Policy and Development
Consumer Unity Trust Society
Copperbelt University
Financial Sector Deepening Zambia
Minister of Finance and National Planning
Ministry of Justice
Ministry of Commerce, Trade and Industry
Zambia Revenue Authority
Zambia Information and Communications Technology
Zambia Institute of Chartered Accountants
Zambia Chamber of Commerce and Industry
Zambia Institute for Policy Analysis and Research
Zambia Association of Manufacturers