



**REPORT**

**OF THE**

**PLANNING AND BUDGETING COMMITTEE**

**ON THE**

**CUSTOMS AND EXCISE (AMENDMENT) BILL, N.A.B. No. 43 OF 2021**

**FOR THE**

**FIRST SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY**

*Printed by the National Assembly of Zambia*

**REPORT**

**OF THE**

**PLANNING AND BUDGETING COMMITTEE**

**ON THE**

**CUSTOMS AND EXCISE (AMENDMENT) BILL, N.A.B. No. 43 OF 2021**

**FOR THE**

**FIRST SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY**

## **TABLE OF CONTENTS**

<b>Item</b>	<b>Page No</b>
1. Composition of the Committee	1
2. Functions of the Committee	1
3. Meetings of the Committee	1
4. Procedure adopted by the Committee	1
5. Background	1
6. Objects of the Bill	2
7. Salient Provisions of the Bill	2
8. Concerns by Stakeholders	6
9. Committee's Observations and Recommendations	9
10. Conclusion	10
Appendix I – List of National Assembly Officials	12
Appendix II – List of Witnesses	13

# **REPORT OF THE PLANNING AND BUDGETING COMMITTEE ON THE CUSTOMS AND EXCISE (AMENDMENT) BILL, N.A.B No 43 OF 2021, FOR THE FIRST SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY**

The Committee consisted of:

Mr F C Chaatila, MP, (Chairperson); Ms J C Chisenga, MP (Vice-Chairperson); Mr M B E Sampa, MP; Mr M Jamba, MP; Amb. R K Kalimi, MP; Mr K Simunji, MP; Mr B Kambita, MP; Mr G Chonde, MP; Mr D Mung'andu, MP; and Ms M C Chonya, MP.

The Honourable Mr Speaker  
National Assembly  
Parliament Buildings  
P O Box 31299  
**LUSAKA**

Madam

The Committee has the honour to present its Report on the Customs and Excise (Amendment) Bill, N.A.B No. 43 of 2021 referred to it by the House on Friday, 10<sup>th</sup> December, 2021.

## **2. FUNCTIONS OF THE COMMITTEE**

In addition to any other duties conferred upon it by the Honourable Madam Speaker, or any other Order of the House, the Committee is mandated to examine Money Bills, including the Excess Expenditure and Supplementary Appropriation Bills.

## **3. MEETINGS OF THE COMMITTEE**

The Committee held five meetings to consider the Customs and Excise (Amendment) Bill, N.A.B No. 43 of 2021.

## **4. PROCEDURE ADOPTED BY THE COMMITTEE**

In order to acquaint itself with the ramifications of the Bill, the Committee sought both written and oral submissions from different stakeholders and examined in detail all submissions presented to it. The list of witnesses who submitted comments and appeared before the Committee is at Appendix II of this Report.

## **5. BACKGROUND**

The Bill sought to amend the Customs and Excise Act, Chapter 322 of the Laws of Zambia, in order to align the First Schedule to the 2022 Harmonised Commodity Description and Coding System of the World Customs Organisation. Further, the

Bill sought to revise the rates of customs and excise duty payable on certain goods; revise the list of goods to be subjected to surtax at importation; and remove the export duty on maize.

## **6. OBJECTS OF THE BILL**

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

- (a) align the First Schedule to the 2022 Harmonised Commodity Description and Coding System of the World Customs Organisation;
- (b) revise the rates of Customs and Excise duty payable on certain goods;
- (c) revise the list of goods to be subject to surtax at importation;
- (d) remove the export duty on maize; and
- (e) provide for matters connected with, or incidental to, the foregoing.

## **7. SALIENT PROVISIONS OF THE BILL**

The salient provisions of the Customs and Excise (Amendment) N.A.B No. 43 of 2021, were as set out hereunder.

### **Clause 1 – Short Title and Commencement**

The clause was meant to provide for the title and the commencement of the Act. The Act was intended to commence on 1<sup>st</sup> January, 2022.

### **Clause 2 – Amendment of Section 34**

The clause sought to reduce the amount of time within which goods could remain within the customs premises from forty-eight hours to eight hours so as to reduce congestion at the borders.

### **Clause 3 – Amendment of Section 77**

The amendment was intended to remove the surtax exemption schedule. This amendment was as a result of the introduction of the consolidated surtax schedule under the fourth schedule of the principal Act that reflected the surtax rates for goods subject to surtax.

### **Clause 4 – Amendment of Section 84C**

This amendment was intended to introduce a time limit within which an advance tariff ruling could be made and accepted prior to importation. An Advance Tariff Ruling (ATR) was an advice on the classification of goods provided by Customs upon written application by an importer or exporter prior to the importation or exportation of the goods. Customs required adequate time to determine appropriate tariff classification of goods.

Currently, there was no time limit within which an application for an advance tariff ruling could be submitted prior to the arrival of the goods.

### **Clause 5 – Amendment of the First Schedule: Customs Tariff**

This amendment was generally intended to align the First Schedule to the 2022 Harmonised Commodity Description and Coding System of the World Customs Organisation. However, there were specific policy intentions as tabulated below:

- i. **Chapter 1** was amended by removing the 5 percent customs duty on the importation of breeding stock for dairy and beef cattle, and breeding stock for chickens. These measures were intended to support the livestock subsector.
- ii. **Chapter 10** was amended by the creation of a new HS Code for popcorn. The measure was intended to separate the HS classification of popcorn from similar products, such as maize.
- iii. **Chapter 32** was amended by removing 5 percent customs duty applicable on filler master batch. This measure was intended to improve competitiveness and efficiency of the local manufacturers of plastic products.
- iv. **Chapter 40** was amended by harmonising the customs duty rate applicable on tyres for lorries, buses, construction and agricultural machinery to 15 percent from 40 percent or K5 per kg whichever was greater. The measure was intended to reduce the input cost in the agriculture and construction sectors.
- v. **Chapter 55** was amended by :
  - (a) increasing the customs duty rate on yarn made from acrylic fibre of HS codes 5509.11.00, 5509.12.00 and 5509.22.00 from 5 percent to 25 percent;
  - (b) increasing the customs duty rate on yarn made from acrylic fibre of HS codes 5509.32.00, 5509.32.00 and 5511.10.00 from 15 percent to 25 percent.

These measures were meant to promote the growth of the domestic textile industry and create employment.

- (vi) **Chapter 69** was amended by increasing the customs duty rate on floor and wall tiles from 15 percent to 25 percent. This measure was intended to increase domestic production of floor and wall tiles and create employment.

## **Clause 6 – Amendment of the Second Schedule: Excise Tariff**

### **(i) Chapter 22** was amended by :-

- (a) Adjusting the specific excise duty rate applicable on opaque beer under subheading 2203.00.10 from 15 ngwee per litre to 50 ngwee per litre. The current rate was implemented ten years ago and had never been reviewed. Therefore, the measure was aimed at adjusting this specific excise duty for inflation; and
- (b) Reducing the Excise duty rate applicable on spirits, liqueurs and other spirituous beverages, manufactured using ethanol, to 60 percent from 125 percent. Currently, excise duty of spirits, liqueurs and other spirituous beverages, manufactured using imported ethanol was charged at 60 percent on the selling price as opposed to the Ethanol content. However, Excise duty on ethanol as an input was at the rate of 125 percent whether the product was imported or uplifted locally. Section 108 (2) of the Customs and Excise Act, provided for a claim of excise duty on inputs in the manufacture of goods that were themselves subject to excise duty. Despite the law providing for this relief, the specific challenge was that the rate of 125 percent on Ethanol at importation was higher than 60 percent charged on the selling price. This resulted in working capital being held up until the product was sold.

### **(ii) Chapter 24** was amended as follows:

- (a) increase of excise duty on unmanufactured tobacco, tobacco refuse, smoking tobacco whether or not containing tobacco substitutes, water pipe tobacco and cut rag from k240 per kg to k355 per kg; and
- (b) increase specific excise duty rate on cigarettes from k302 per mille to k355 per mille.

These measures were intended to adjust the specific duty rates for inflation.

### **(iii) Chapter 27** was amended by the introduction of excise duty on coal at 5 percent. This measure was intended to discourage the use of coal which was harmful to the environment.

## **Clause 7 – Amendment of the Third Schedule: Motor Vehicles and Cycles Specific duty Schedule**

This measure was intended generally to align the Third Schedule to the 2022 Harmonised Commodity Description and Coding System of the World Customs Organisation.

## **Clause 8 – Amendment of the Fourth Schedule: Surtax Schedule**

- (i) **Chapter 1** was amended by removing 5 percent surtax on breeding stock for dairy and beef cattle of subheading 0102.21.20. This measure was intended to support the livestock subsector.
- (ii) **Chapter 5** was amended by removing 5 percent surtax on bovine semen of subheading 0511.10.00. This measure was intended to increase the domestic production of cattle and thereby increase the supply of meat and meat products on the domestic market.
- (iii) **Chapter 55** was amended by the introduction of 5 percent surtax on yarn made from acrylic fibre of subheadings 5509.11.00, 5509.12.00, 5509.21.00 and 5509.22.00. This measure was intended to promote the growth of the domestic textile industry and create employment.
- (iv) **Chapter 61** was amended by the introduction of 5 percent surtax on knitted or crocheted jerseys, pullovers, cardigans, waistcoats and similar articles of subheadings 6110.11.00, 6110.12.00, 6110.19.00, 6110.20.00, 6110.30.00 and 6110.90.00. This measure was intended to promote domestic value addition and job creation in the textile industry.
- (v) **Chapter 63** was amended by
  - a. the introduction of 10 percent surtax on imported cement bags. The measure was intended to encourage the use of locally manufactured cement bags as there was sufficient domestic capacity; and
  - b. increasing surtax on Flexible Intermediate Bulk Containers (FIBC), of man-made textile materials from 5 percent to 20 percent. The measure was intended to encourage the use of locally manufactured FIBC bags.
- (vi) **Chapter 69** was amended by the introduction of 5 percent on imported floor and wall tiles. This measure was intended to promote the use of locally manufactured floor and wall tiles.
- (vii) **Chapter 70** was amended by the introduction of 5 percent surtax on glass of subheadings 7005.10.00, 7005.21.00, 7005.29.00 and 7005.30.00. This measure was intended to support local manufacturers of glass and glass products.



### **Clause 9 – Amendment of the Sixth Schedule: Export Schedule**

The amendment was intended to provide for the value, for excise duty purposes, of spirits, liqueurs and other spirituous beverages, manufactured using ethanol to be determined on the basis of the value of the ethanol content.

### **Clause 10 – Amendment of the Ninth Schedule: Export Schedule**

The ninth schedule was amended by the removal of 10 percent export duty on maize. This measure was intended to stimulate domestic production of maize and enhance the competitiveness of maize export, thereby improving the incomes of farmers.

## **8. CONCERNS BY STAKEHOLDERS**

Most stakeholders who appeared before the Committee supported the Bill but raised various concerns as outlined below.

### **Clause 5 – Amendment of the First Schedule: Customs Tariff**

With regards to Chapter 34, stakeholders in the detergent manufacturing industry expressed concern on the introduction of 5% import duties on critical raw materials such as Linear Alkyl Benzene Sulphonic Acid. They submitted that Linear Alkyl Benzene Sulphonic Acid was an important raw material in the production of detergents. Unfortunately, the raw material was not produced locally; therefore, the introduction of an import duty would increase the cost of production, making local detergents less competitive against imported ones. Hence, the measure was a counter to Governments efforts for industrialization and job creation as most companies in this subsector were at risk of closure because of the measure.

Stakeholders raised concern with regards to Chapter 36 which was amended to provide for the removal of the proposed 5% surtax for key mining HS codes such as various explosives and dynamites. They were of the view that the surtax was an additional cost on mining investment and would further deter capital spent by new and existing mines.

Stakeholders also raised concern with regards to Chapters 71, 72, 73 and 74 which were amended to provide for the removal of the proposed 5% surtax for key mining HS codes such as various metals including steel products. They were of the view that the surtax was an additional cost on mining investment and would further deter capital spent by new and existing mines.

With regard to Chapters 40, 55, 69 and 88, Stakeholders submitted that given that trade taxes were barriers to international trade, removing and reducing duty on several products was commendable. Overall, the revisions (both upward and downward) to customs duty rates were aimed at protecting and promoting key sectors of the economy, including clean energy (solar), livestock, local manufacturing, textile, tourism, and agro-processing, among others. Therefore, the proposed amendments could unlock the growth potential of these key sectors, thereby stimulating economic growth and contributing to job creation.

However, stakeholders raised concerns that the move to increase duty on yarn and ceramics was protectionist and could negatively impact consumers through higher product prices. Moreover, empirical evidence in support of such protectionist policy measures was weak and mixed. Therefore, stakeholders were of the view that the Government needed to proceed with caution, supplementing the protectionist policies with evidence-backed policies. They stated that potential policy options included creating an enabling environment for businesses and improving the macroeconomic environment.

#### **Clause 6 – Amendment of the Second Schedule: Excise Tariff**

Under Chapter 22, most stakeholders were not in support of the increase in excise duty on unpackaged opaque beer from 0.15 kwacha per litre to 1 kwacha per litre. They expressed concern that unpackaged opaque beer was the most affordable form of opaque beer on the market and commanded a higher share of the market than the packaged offerings. Implementing a higher tax rate on this category would alienate many low-income consumers and deny them access to products they could afford. This would lead to the substitution of these products by cheaper illicit homemade brews such as “kachasu”. Further, a higher tax rate on unpackaged opaque beer would make it more difficult for compliant players to compete in the opaque beer sector as they would not be able to match the price.

Furthermore, stakeholders raised concern that increasing the specific excise duty on opaque beer to 50 ngwee per litre from 15 ngwee per litre represented more than a 230% increase in excise duty payments which was a steep increase to bare. This increase would lead to some of the big players in opaque beer to close, due to their current losses being compounded with an increase in excise duty.

With regards to Chapter 24, Stakeholders raised concern that the proposed additions to Chapter 24 were unclear and ambiguous. They said the proposed additions would result in interpretative challenges when classifying goods, specifically, tobacco free nicotine products under the newly created HS heading 2404. Certain “traditional tobacco products” might be subject to misclassification or incorrect transposition as an unintended consequence of the proposed changes to Chapter 24. They proposed that:-

- (a) To avoid confusion and to ensure subheading 2404.11 was applied properly, the Zambia Revenue Authority needed to consider streamlining the subheading into two 8-digit item categories for the final roll out of “products intended for inhalation without combustion: containing tobacco or reconstituted tobacco” (2404.11.10 – Unfinished form or otherwise in form or packaging differing from form or packaging for the ultimate consumer; 2404.11.13 – Other);
- (b) To avoid confusion and to ensure subheading 2404.12 was applied properly, ZRA needed to consider streamlining the subheading to include two 8-digit item categories for the final rollout as included as follows (2404.12.10 – Cartridges and refills, filled or electronic cigarettes

containing nicotine substitutes; 2404.12.20 – Preparations containing nicotine substitutes for use in cartridges and refills for electronic cigarettes).

- (c) In order to provide clearly defined and precise subheadings for the classification of goods in terms of subheading 2404.19, the following further subheadings were proposed. (2404.19.10 – Cartridges and refills, filled or electronic cigarettes containing nicotine substitutes; 2404.19.20 – Preparations containing nicotine substitutes for use in cartridges and refills for electronic cigarettes; 2404.19.90 – Other tobacco substitutes). For oral application (2404.91.10 – Non tobacco nicotine pouches; 2404.91.20 – Other)

Under Chapter 27, Stakeholders raised concern that an increase in excise duty on coal would lead to an increase in the cost of electricity, and subsequently, lead to an increase in the cost of production.

### **Clause 8- Amendment of the Fourth Schedule: Surtax Schedule**

With regard to Chapter 55, Stakeholders raised concern that the Harmonised System (HS) Code 5509.21.00 (single yarn) had not been included. They suggested that HS Code 5509.21.00 (single yarn) should be added to the list in order to address possibilities of using the HS Code as it was similar to the other HS Codes listed on the customs duty rate column.

Further, Stakeholders raised concern that HS Code 5511.10.00 (of synthetic staple fibers) had not been included on the surtax list. They stated that including HS Code 5511.10.00 (Of synthetic staple fibres) on the surtax list reduced the risk of fraud as similar products of the HS Codes 5509.31.00 (Single yarn), 5509.32.00 (multiple (folded) or cabled yarn), 5509.11.00 (Single yarn), 5509.12.00 (multiple (folded) or cabled yarn), 5509.21.00 (single yarn) and 5509.22.00 (-Multiple (folded) or cabled yarn, - containing 85% or more by weight of acrylic or madacrylic staple fiber) were included. Therefore, not including 5511.10.00 (of synthetic staple fibers) on the surtax list would provide fraudulent people with an opportunity to import different commodities on a wrong HS Code. Further, they were of the view that it appeared that the surtax was used as a revenue measure other than for protection of local goods and as a result some goods not locally made seemed to be on the surtax schedule.

### **Clause 10 – Amendment of the Ninth Schedule: Export Schedule**

Stakeholders raised concern regarding the removal of 10 percent Export Duty on Maize effective 1<sup>st</sup> November 2021. They were of the view that the competitiveness of maize prices was determined by the cost of inputs. The existence of the export market was dependent on the market conditions prevailing in the neighbouring countries. The 10 % export duty on maize was intended to discourage exports of raw materials and encourage value addition. By removing the 10 % export duty on maize as a primary product, the Government was negating its value addition and diversification agenda. They noted that the measure should not be adopted. However, on the contrary, other

stakeholders welcomed the proposal and contended that the measure was aimed at stimulating domestic production of maize and that it would enhance the competitiveness of maize exports, thereby improving the incomes of farmers.

## **9. COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS**

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

### **i. Clause 5- Amendment of the First Schedule: Customs Tariff**

The Committee notes the introduction of 5% import duties on critical raw materials such as Linear Alkyl Benzene Sulphonic Acid which is an important raw material in the production of detergents. The Committee is of the view that the introduction of an import duty will subsequently increase the cost of production, thereby making it difficult for locally manufactured detergents to compete with imported detergents. In this regard, the Committee recommends that the 5% import duty should not be imposed on Linear Alkyl Benzene Sulphonic Acid in order to ensure that locally manufactured detergents are able to compete with imported ones.

### **ii. Clause 6 Amendment of the Second Schedule: Excise Tariff**

- a) The Committee notes that unpackaged opaque beer is the most accessible form of regulated alcoholic beverage on the market for the poor in communities in Zambia. Implementing a higher tax rate on this category will alienate many low-income consumers and deny them access to products they can afford. The Committee is concerned that if unpackaged opaque beer becomes very expensive and unaffordable, consumers will substitute this beer for illicit homemade brews which could adversely affect their health. The Committee, therefore, recommends that the current tax rate of 15 ngwee per litre on unpackaged opaque beer be maintained to ensure that unpackaged opaque beer is not unduly taxed out of the market.
- b) The Committee notes that the current excise duty rate of 15 ngwee per litre on opaque beer was implemented ten years ago and has never been reviewed. It also notes that this measure is aimed at adjusting this specific excise duty for inflation. However, the Committee is concerned that the increase in excise duty from 15 ngwee per litre to 50 ngwee per litre will drastically increase production costs and may result in adverse effects such as laying off employees. In this regard, the Committee recommends that the proposed excise duty rate on opaque beer should be reduced in order to protect local manufacturers in the economy.

### **iii. Clause 8- Amendment of the Fourth Schedule: Surtax Schedule**

The Committee observes that some goods that are not locally available seem to be included on the surtax schedule. This can result in an increase in the cost of

production of locally manufactured goods and make them uncompetitive to imported goods. This will subsequently lead to closure of local manufacturing businesses due to failure of their products to compete with imported goods. The Committee, therefore, recommends that the Government should undertake a study to ascertain which goods are available locally and therefore form the basis of a surtax.

**iv. Clause 10- Amendment of the Ninth Schedule: Export Schedule**

The Committee supports this amendment because trade restrictions elicit various economic distortions, including price fluctuations, low investment and productivity in the agriculture sector. The Committee notes that this measure aims to stimulate domestic production of maize and enhance the competitiveness of maize exports, thereby improving the incomes of farmers. However, it is concerned that by removing the 10 % export duty on maize as a primary product, the Government is negating its value addition and diversification agenda. The Committee, therefore, urges the Government to ensure that it encourages the export of maize in its finished form (mealie meal) instead of exporting a raw product (maize) and later import it as a finished good (mealie meal) at a higher price. Further, the policy should be implemented in a phased manner to avoid triggering a food security crisis.

**10. CONCLUSION**

The Committee notes that the proposed changes to the Customs and Excise Act are meant to stimulate investment, competitiveness, and efficiency in priority sectors, notably, agriculture, manufacturing, and tourism. The Committee is therefore in support of the proposed amendments in the Bill as they are intended to give effect to some of the pronouncements made in the 2022 budget and are part of the basis on which revenue collection would be anchored.

The Committee wishes to pay tribute to all stakeholders who appeared before it and tendered both oral and written submissions. It also wishes to thank you, Madam Speaker and the Office of the Clerk of the National Assembly for the guidance and support rendered during its deliberations.

We have the honour to be, Madam, the Planning and Budgeting Committee mandated to consider the Customs and Excise (Amendment) N.A.B No. 43 of 2021.

Mr F C Chaatila, MP  
**(Chairperson)**

Ms J C Chisenga, MP  
**(Vice Chairperson)**

Mr M B E Sampa, MP  
**(Member)**

The Committee wishes to pay tribute to all stakeholders who appeared before it and tendered both oral and written submissions. It also wishes to thank you, Madam Speaker and the Office of the Clerk of the National Assembly for the guidance and support rendered during its deliberations.

We have the honour to be, Madam, the Planning and Budgeting Committee mandated to consider the Income Tax (Amendment) N.A.B No. 41 of 2021.

Mr F C Chaatila, MP  
**(Chairperson)**

Ms J C Chisenga, MP  
**(Vice Chairperson)**

Mr M B E Sampa, MP  
**(Member)**

Mr M Jamba, MP  
**(Member)**

Amb. R K Kalimi, MP  
**(Member)**

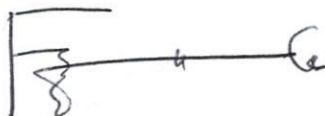
Mr K Simunji, MP  
**(Member)**

Mr B Kambita, MP  
**(Member)**

Mr G Chonde, MP  
**(Member)**

Mr D Mung'andu, MP  
**(Member)**

Ms M C Chonya, MP  
**Member**



Mr F C Chaatila, MP  
**CHAIRPERSON**

December, 2021  
**LUSAKA**

## **APPENDIX I – List of National Assembly Officials**

Mr F Kateshi, Principal Clerk – Parliamentary Budget Office  
Mr F Nabulyato, Deputy Principal Clerk of Committees (SC)  
Mr H Mulenga, Deputy Principal Clerk of Committees (FC)  
Mr S Mtambo, Deputy Principal Clerk- Parliamentary Budget Office  
Mrs C K Mumba, Senior Committee Clerk (FC)  
Mrs M E Z Banda, Committee Clerk  
Mrs E K Zgambo, Committee Clerk  
Mr F Chikambwe, Revenue Analyst  
Ms L Chilala, Typist  
Mr D Lupiya, Parliamentary Messenger

## **APPENDIX II – LIST OF WITNESSES**

Ministry of Finance and National Planning  
Ministry of Justice  
Ministry of Commerce, Trade and Industry  
Ministry of Mines and Minerals Development  
Ministry of Agriculture  
Bank of Zambia  
Bankers Association of Zambia  
Zambia Revenue Authority  
National Breweries  
Chambers of Mines of Zambia  
Zambia Congress of Trade Unions (ZCTU)  
Zambia Chamber of Commerce and Industry (ZACCI)  
Zambia Association of Manufacturers (ZAM)  
National Economic Advisory Council (NEAC)  
Zambia Institute of Chartered Accounts (ZICA)  
Zambia Institute of Policy Analysis and Research (ZIPAR)