

GOVERNMENT OF ZAMBIA

ACT

No. 11 of 2004

Date of Assent: 2nd September, 2004

An Act to amend the Customs and Excise

[8th September, 2004

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Customs and Excise (Amendment) (No. 2) Act, 2004, and shall be read as one with the Customs and Excise Act, in this Act referred to as the principal Act.

Short title

Cap. 322

2. The principal Act is amended by the repeal of Part VII A and the substitution therefor of the following Part:

Repeal and replacement of Part VII A

PART VII A

SAFEGUARD MEASURES

80A. In this Part unless the context other requires—

Interpretation of Part VII A

“domestic industry” means—

(a) the producers as a whole of a product within the Republic which are like or directly competitive with the investigated product; and

(b) producers operating within the Republic whose collective output of products which are like or directly competitive with the investigated product constitute a major proportion of the total domestic production of those products;

“safeguard investigation” means an investigation into whether increased imports of the investigated product have caused serious injury to the domestic industry; and

“safeguard measure” means the temporary imposition of customs tariffs or quantitative restrictions or a combination thereof in response to an affirmative determination in a safeguard investigation to prevent or remedy serious injury to the domestic industry; and

“safeguard measures” shall be construed accordingly.

Application
of safeguard
measures
Cap. 421

80B. (1) Where the Minister responsible for commerce, trade and industry determines pursuant to section *four M* of the Control of Goods Act to impose provisional safeguard measures, the Minister, shall, in consultation with the Minister responsible for commerce, trade and industry, by statutory order, effect a provisional increase in customs tariffs on any goods entered for consumption on or after the date of such statutory order.

(2) The statutory order referred to in subsection (1) shall state—

- (a) the rate of increase in customs tariffs;
- (b) the proposed date of application of the provisional safeguard measures; and
- (c) the proposed duration of the provisional safeguard measures.

(3) Subject to subsection (4), where the Minister imposes provisional safeguard measures on any goods under subsection (1), the owner or importer of such goods shall lodge with the Customs Division a monetary deposit equivalent to the duties due at the rate of the increased customs tariffs.

(4) Notwithstanding the provisions of subsection (3) the owner or importer of the goods referred to in subsection (1) may guarantee the provisional increased tariffs with sufficient security approved by the Commissioner-General.

Refund and
releases

Cap. 421

80C. (1) Where provisional safeguard measures have been imposed pursuant to section *eighty B* and the subsequent safeguard investigations conducted pursuant to section *four K* of the Control of Goods Act, do not result in a determination that the conditions for imposing definitive safeguard measures exist, the monetary deposit paid as increased customs tariffs and any security lodged with the Customs Division in accordance with subsection (3) of section *eighty B*, shall be refunded or released, as the case may be within a period of not more than sixty days from the date of the claim.

Cap. 421

(2) Where safeguard investigations conducted pursuant to section *four K* of the Control of Goods Act result in a determination that the conditions for imposing definitive safeguard measures exist the monetary deposit paid as increased customs tariffs and any security lodged with the Customs Division shall be converted into tax due under this Act.

80D (1) Where safeguard investigations conducted pursuant to section *four K* of the Control of Goods Act have resulted in a determination to impose, extend or liberalize a definitive safeguard measure, and an increase in customs tariff is to be imposed as part of the definitive safeguard measure, the Minister, shall, in consultation with the Minister responsible for commerce, trade and industry, by statutory order, implement the definitive safeguard measure.

Imposition,
extension or
liberalization
of definite
safeguard
measures
Cap. 421

(2) The statutory order referred in subsection (1) shall prescribe—

- (a) the rate of increase in customs tariffs;
- (b) the proposed date of application of the definitive safeguard measure;
- (c) the proposed duration of the definitive safeguard measure; and
- (d) the names of the developing countries exempted from the definite safeguard measure.

(3) Where the period specified under paragraph (c) of subsection (2) is longer than one year, including the period of the provisional safeguard measure, the Minister shall prescribe a time schedule for the progressive liberalization of the definite safeguard measure.

80E. The provisions of this Act in respect of agreements, suspensions, rebates, refunds, drawbacks or remissions of duty shall not apply to any safeguard measures imposed by the Minister pursuant to sections *eighty B* or *eighty D* unless such application is, in each case, specifically approved by the Minister, by statutory instrument.

Provisions of
the Act with
respect to
safeguard
measures

80F. The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Part and for prescribing anything which by this Act is required to be prescribed.

Regulations

