



REPUBLIC OF NAURU

# Customs Tariff Bill 2014

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Bill No. 17 of 2014

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A Bill for an Act to repeal the Customs (Duty Rates Act) 2010

Certified [ ]

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**REPUBLIC OF NAURU**

**CUSTOMS TARIFF ACT 2014**

**Act No. .... of 2014**

An Act to repeal the Customs (Duty Rates Act) 2010

**BE IT ENACTED** by the Parliament of Nauru as follows:

**1 Short Title and commencement**

- (1) This Act may be cited as the Customs Tariff Act 2014.
- (2) This Act commences on 1 October 2014.

**2 Definitions**

- (1) In this Act, unless the context otherwise requires-

**‘Bulk cargo container’** means an article of transport equipment, being a lift van, movable tank, or other similar structure,-

- (a) of a permanent character and accordingly strong enough to be suitable for repeated use; and
- (b) specially designed to facilitate the carriage of goods by one or more modes of transport, without immediate repacking; and
- (c) fitted with devices permitting its ready handling and its transfer from one mode of transport to another; and
- (d) so designed as to be easy to fill and empty; and
- (e) having an internal volume of one cubic meter or more-

and includes the normal accessories and equipment of the container, when imported with the container and used exclusively with it, but does not include any vehicle, or any

ordinary packing case, crate, box or other similar article used for packing.

**‘Chief Collector of Customs’** means the person holding office in accordance with section 4(2) of the Customs Act as the Chief Collector of Customs;

**‘Customs or the Customs’** has the meaning given to it by section 2 of the Customs Act 2014;

**‘Customs Value or Value’** in relation to any goods, means Customs value of those goods determined in accordance with the Second Schedule of the Customs Act 2014;

**‘Duty’** means any duty imposed on goods under any of the provisions of this Act;

**‘Goods’** has the meaning given to it by section 2 of the Customs Act 2014;

**‘imported’** has the meaning given to it by section 2 of the Customs Act 2014;

**‘importer’** has the same meaning set out in section 2 of the Customs Act 2014;

**‘manufacturing area’** has the meaning given to it by section 2 of the Customs Act 2014;

**‘Minister’** means the Minister responsible for Customs;

**‘Normal Tariff’** means the rates of duty and the exemptions from duty specified in the column headed **‘Normal Tariff’** in the Tariff; and includes any modification or amendment as made from time to time;

**‘Preferential Tariff’** means the rates of duty, specified in the column headed **‘Preferential Tariff’** in the Tariff;

**‘prescribed’** in relation to forms includes prescribed by the Chief Collector;

**‘rate of duty’** includes the term Free;

**‘ship’** means any kind of vessel used in navigation, not propelled by oars only;

**‘shipment’** includes loading into an aircraft; and **‘to ship’** and cognate expressions have corresponding meanings;

**'Standard Tariff'** means Standard Tariff comprised in Part 1 of the Tariff;

**'Tariff'** means the Tariff of the Republic of Nauru as set out in the 2014 Tariff document from time to time amended, modified, or revoked and replaced;

**'Tariff Heading or Headings'** means the headings of the Tariff (printed in bold type), being a heading of the Harmonised system established by the International Convention on the Harmonised Commodity Description and Coding System s identified by 4 digits;

**'Tariff Item'** means a Tariff item of the Standard tariff identified by 8 digits and it's corresponding heading;

**'Tariff Subheading',** or **'subheading',** means a subheading appearing in the standard tariff and identified by 6 digits or not identified by any number;

**'Working Tariff Document'** means the document maintained under that name by the person holding office under the Custom's Act 2014 as the Chief Collector of Custom.

### **3 The Tariff**

- (1) Duties must be levied, collected, and paid in accordance with the Tariff, or with a transitional safeguard measure or a provisional transitional safeguard measure, as the case may require, on goods to which this subsection applies.
- (2) Subsection (1) applies to goods that, after the commencement of this Act, are—
  - (a) imported into Republic; or
  - (b) entered for home consumption; or
  - (c) entered for delivery to a manufacturing area.
- (3) Subsection (1) is subject to the provisions of this Act.

### **4 Enforcement of Tariff**

- (1) The enforcement and collection of duties payable under this Act shall be a function of Customs.

- (2) Part 3, Part 4, Part 6, Part , Part 9, Part 10, Part 11, Part 12, Part 13, Part 14, Part 15, Part 16, and Part 17, of the Customs Act 2014 shall apply to the administration of the Tariff and the enforcement, collection, and payment of duties payable under this Act.

## **5 Value of goods for the purpose of applying Tariff**

Except as otherwise expressly provided in this Act, the value of any imported goods for the purposes of applying the Tariff shall be the Customs value of the goods.

## **6 Duty payable under the Tariff**

- (1) Subject to this Act, the duty (if any) payable under the Normal Tariff shall be paid on all goods imported into the Republic or entered for home consumption or entered for delivery to a manufacturing area
- (2) Despite Subsection (1) the Chief Collector may approve a duty concession or exemption of duty Subject to section 12 or Part 2 of the Tariff.

## **7 Anti-Dumping duty for protection of local industry**

- (1) In any of the cases specified in this section, there may, in addition to any other duties of Customs, be imposed on goods imported into the Republic a special duty of Customs (referred to as anti-dumping duty).
- (2) A dumping duty may be levied in any of the cases following, namely:
  - (a) In the case of goods imported into the Republic of a class or kind produced in the Republic if the actual selling price of the goods to an importer in the Republic is less than the current domestic value of such goods determined in accordance with the provisions of the Customs Act 2014 ;
  - (b) In the case of goods imported into the Republic if the actual selling price of the goods to an importer in the Republic is, in the opinion of the Cabinet, less than the cost of production (including a reasonable profit) of similar goods in the country of origin or the country of export to the Republic as at the time of export.

- (3) The rate of amount of dumping duty levied under this section shall be determined as follows:
- (a) In the case of goods to which subsection (2) (a) applies, the dumping duty shall be an amount to be determined by the Cabinet, not exceeding the difference between the actual selling price of the goods and the current domestic value of such goods;
  - (b) In the case of goods to which subsection (2) (b) applies, the dumping duty shall be an amount, to be determined by the Cabinet, not exceeding the difference between the actual selling price of the goods and the cost of production (including a reasonable profit) of similar goods in the country of origin or the country of exportation to the Republic as at the time of such exportation.
- (4) For the purposes of this section the actual selling price of any goods shall be deemed not to exceed the amount payable in accordance with usual commercial practice by the importer or purchaser in respect of those goods, exclusive of any charges that are not taken into account in determining the current domestic value of goods in accordance with the Customs Act 2014. In every such case the amount payable in respect of any goods shall be ascertained as if the parties had agreed that payment for those goods should be made in the Republic. If in relation to this section any question arises as to whether or not any payment is in accordance with the usual commercial practice, it shall be determined by the Cabinet.
- (5) If at any time it appears to the Cabinet that the payment of any dumping duty is being evaded or avoided by the importation of any goods otherwise than on sale or in any other manner, he or she may determine, for the purposes of this section, the actual selling price of the goods, the cost of production, or the current domestic value thereof, the dumping duty may be levied accordingly.
- (6) In all cases where dumping duty may be levied under this section such duty shall be levied, collected and paid, save where the Cabinet may otherwise specially direct on the ground that the imposition of such duty is not required in the public interest.

## **8 Incorporation of provisions by reference in Regulations**

- (1) Regulations made under section 12 or Orders made under section 18 may incorporate by reference any provisions set out in:

- (a) an international trade agreement to which the Republic is a party (for example, a free trade agreement); or
  - (b) another document made to give effect to such an agreement.
- (2) The incorporated provisions:
- (a) are the provisions as they exist at the time that the Regulation is made; and
  - (b) form part of the Regulation for all purposes and have legal effect accordingly.

**9 Effect of amendments to, or replacement of, provisions incorporated by reference**

An amendment to, or replacement of, provisions incorporated under section 8 has legal effect as part of the Regulation only if the Regulation made states that the particular amendment or replacement has that effect.

**10 Proof of provisions incorporated by reference**

- (1) A copy of the provisions incorporated under section 8, including any amendment to, or replacement of, the provisions, must be –
  - (a) certified as a correct copy of the provisions by the Chief Collector; and
  - (b) retained by the Chief Collector .
- (2) The production in proceedings of a certified copy of the provisions is, in the absence of proof to the contrary, sufficient evidence of the incorporation in the Regulation of the provisions.

**11 Access to provisions incorporated by reference**

- (1) The Chief Collector must—
  - (a) ensure that copies of any provisions incorporated under section 8 are available for inspection during working hours, free of charge, at places specified in a notice given under paragraph (d); and



- (b) ensure that copies of the provisions are published on an Internet site that is, so far as practicable, publicly available free of charge; and
- (c) ensure that copies of the provisions are available for purchase at a reasonable price at places specified in a notice given under paragraph (d); and
- (d) give a public notice stating that—
  - (i) the provisions are incorporated in a particular Order or Regulation and the date on which the Order or Regulation was made; and
  - (ii) copies of the provisions are available (at all reasonable times) for inspection during working hours, free of charge, at specified places; and
  - (iii) copies of the provisions are available on a specified Internet site; and
  - (iv) copies of the provisions can be purchased at specified places.
- (2) A failure to comply with this section does not invalidate an Order or Regulation that incorporates provisions under section 8.

## **12 Alterations and modifications of Tariff**

- (1) The Cabinet may, make regulations.
- (2) The regulations may:
  - (a) alter the existing Tariff in whole or in part;
  - (b) may impose duty on any good; and
  - (c) create concessions (Part 2); and
  - (d) exemptions from duty (Part 3).
- (3) The Cabinet may make Regulations imposing a duty rate higher than the duty rate specified in the Tariff, if it is satisfied that it is necessary or advisable:
  - (a) in the public interest; or

- (b) is in conformity with the Republic's international obligations.
- (4) Regulations made under this section may relate generally to all goods or to goods of any specified class or classes or to goods imported from any specified country or from any specified person.

**13 Certification of 2014 Tariff Document**

- (1) The Chief Collector must, by the close of 1 October 2014:
  - (a) certify a copy of the Working Tariff Document; and
  - (b) retain that copy.
- (2) Before certifying a copy of the Working Tariff Document under subsection (1), the Chief Collector must be satisfied that the copy is or includes a full and accurate copy of the contents of Schedule 1 as in force at the close of 1 October 2014.

**14 Access to Tariff**

- (1) The Chief Collector must:
  - (a) ensure that copies of the documents referred to in subsection (2) are published on an Internet site that is, so far as practicable, publicly available free of charge; and
  - (b) ensure that copies of the documents referred to in subsection (2) are available for purchase at a reasonable price.
- (2) The documents are:
  - (a) the 2014 Tariff Document;
  - (b) the Tariff as from time to time amended, modified, or revoked and replaced; and
  - (c) Orders or Regulations amending or modifying the Tariff made under section 12 or 17.
- (3) Every version of the Tariff referred to in subsection (2)(b) and published or made available under subsection (1) must—

- (a) indicate that it is the Tariff as in force at the beginning of a stated date; and
- (b) list all Acts and Orders that are enacted on or after 1 October 2014 that amend, modify, revoke, or revoke and replace some or all of the Tariff.

**15 Judicial notice of Tariff**

Judicial notice must be taken by all courts and persons acting judicially of the Tariff.

**16 Evidence of Tariff**

Every copy of the documents referred to in section 14 (2) purporting to be published or made available under the authority of the Chief Collector is, unless the contrary is shown, deemed—

- (a) to be a correct copy of the document; and
- (b) to have been so published or made available.

**17 Alteration to nomenclature**

- (1) The Cabinet may, by Order amend the Tariff-
  - (a) by revoking, or amending any heading, heading number, subheading, item, or item number, or the title of any part, section, chapter, or subchapter of the Tariff, or by inserting any new headings, heading number, subheading, item, item number, or title, in which manner he thinks necessary for the purpose of ensuring that the Tariff conforms to any international nomenclature; or
  - (b) by revoking, suspending, or amending any provisions of the notes forming part of the Tariff, or inserting any new provision in the notes, for the purpose of ensuring the proper operation of the Tariff; or
  - (c) by revoking, suspending, or amending any statistical requirement of the Tariff.
- (2) Notwithstanding anything in subsection (1) (c) of this section, the Cabinet may, by public notice, revoke, suspend, or amend any statistical requirement of the Tariff.

**18 Regulations may be retrospective**

- (1) A Regulation made under this Act may have retrospective effect by:
  - (a) exempting any goods from duty; or
  - (b) reducing the rate or amount of duty payable on any goods.
- (2) If a Regulation has retrospective effect, refunds of duty must be made only in respect of goods entered for home consumption within the period of 6 months immediately preceding the date the Regulation came into effect.

**19 Power of the Chief Collector to prescribe forms**

For the purposes of this Act—

- (a) the Chief Collector may from time to time prescribe any forms the Chief Collector deems necessary:
- (b) the production of any document under the hand of the Chief Collector purporting to be a prescribed form or an extract from a prescribed form or a copy of any such form or extract shall in all Courts and in all proceedings be sufficient evidence of the fact that the form was prescribed; and all Courts shall in all proceedings take judicial notice of the signature of the Chief Collector either to the prescribed form or to any such extract or copy.

**20 Chief Collector may undertake transitional safeguard investigation**

- (1) The Chief Collector may undertake a transitional safeguard investigation to ascertain whether goods that have been subject to tariff reduction or removal after the entry into force of a free trade agreement—
  - (a) are being imported in increased quantities (in absolute terms or relative to domestic production); and
  - (b) are causing, or threatening to cause, serious injury to an industry producing a like or directly competitive good.

- (2) The Chief Collector may undertake a transitional safeguard investigation—
  - (a) either—
    - (i) after receiving a written request by or on behalf of an industry concerned, if the Chief Collector is satisfied that the request contains evidence to justify the investigation; or
    - (ii) on his or her own initiative; and
  - (b) only if the relevant free trade agreement provides for the application of a transitional safeguard measure.

## **21 Investigative procedures**

- (1) Before any transitional safeguard investigation, the Chief Collector must specify standing instructions for the conduct of transitional safeguard investigations that—
  - (a) are consistent with the Republic's international obligations; and
  - (b) include the following matters:
    - (i) the provision of public notice of the investigation; and
    - (ii) an opportunity for interested parties to respond to submissions of other parties; and
    - (iii) the treatment of confidential material provided by interested parties.
- (2) The Chief Collector may amend the procedures specified under subsection (1).
- (3) An amendment to the procedures does not apply to an investigation being undertaken when the amendment comes into force, unless the amendment specifies otherwise.
- (4) The Chief Collector must publish the procedures, and any amendments to the procedures, by public notice.

## **22 Regulations relating to goods temporarily imported and drawbacks of duty**

The Cabinet may from time to time, make regulations—

- (a) declaring specified goods or classes of goods subject to duty under this Act to be goods in respect of which the provisions of section 130 of the Customs Act 2014 shall not be applied; or
- (b) declaring specified goods or classes of goods subject to duty under this Act to be goods in respect of which the provisions of section 131 of the Customs Act 2014 shall not be applied.

**23 Transitional provisions**

- (1) All regulations and bylaws made under the Customs (Rates of Duty) Act 2010 continue in force as if made under this Act
- (2) Every reference to the Customs (Rates of Duty) Act 2010 in any enactment, in force at the commencement of this Act to the Customs Tariff shall be read as if it were a reference to the Tariff and the Customs Tariff Act 2014.

**24 Repeals**

- (1) The Customs (Duty Rates) Act 2010 is repealed.
- (2) The rates of duty made under the Customs (Rates of Duty) Act 2010 are repealed and replaced by the Duty rates set out in The Tariff.

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**SCHEDULES**

**Schedule 1 - The Tariff**