



## REPUBLIC OF NAMIBIA

### MINISTRY OF FINANCE

#### OFFICE OF THE EXECUTIVE DIRECTOR

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#### MEDIA RELEASE

#### **SUBJECT: DETENTION OF IMPORTED GOODS BY CUSTOMS AND EXCISE OFFICIALS**

**Windhoek, 09 October 2019** – There has been a public outcry that Customs and Excise officials are persistently confiscating the imported goods mainly from China and other Asian countries.

The Ministry of Finance wishes to clarify that the detention of imported parcels and other goods is part of the enforcement of Intellectual Property Rights Act and World Trade Organization (WTO) Treaty on Trade Related Aspects of Intellectual Property Rights to which Namibia is party to. This Treaty provides for agreements that relate to border measures that are required to be taken for providing protection against infringement of property rights at all entry points.

It is on this basis that the Ministry of Finance (Customs and Excise Directorate) with other stakeholders, will jointly intensify the enforcement of the law on the clearance of export and import parcels to ensure that goods imported and exported conform to the requirements of Intellectual property rights and also to ensure that duties and taxes are dully paid.

It is important to note that section 123 (1) (b) of the Namibia Customs and Excise Act, (Act No. 20 of 1998) as amended prohibits counterfeit goods and reads "*unlawful reproduction of any item or article, if such reproduction is prohibited from import under any law relating to copyright; shall be imported into Namibia, unless in terms of a permit issued by the Permanent Secretary (Executive Director in the Ministry of Industrialization).*" Additionally, section 123 (3) of the Namibia Customs and Excise Act, (Act No. 20 of 1998) as amended reads as follows" *The Permanent Secretary (Executive Director in the Ministry of Finance) may by rule prohibit or restrict the coastwise carriage or the transit carriage through Namibia of any goods referred to in subsection (1), or of any other goods in respect of any such prohibition or restriction which he or she deems necessary in the public interest"*

The Customs and Excise Office has access to the Business and Intellectual Property Authority (BIPA) database which lists companies and trademarks that are registered as right holders in



Namibia. Equally so, we do have collaboration and coordination with the international brand holders' representatives for verification of authenticity of branded goods.

It is on that basis that Customs and Excise officials take action to ensure that suspected infringing goods are verified for authenticity before they are released to the rightful owner, or confiscated if found to be counterfeit.

The verification process takes 10 working days. If it is found that the goods are counterfeit, the right holder provides an affidavit to substantiate the claim with the support of registration from BIPA. Thereafter the client (person importing goods) is also given 14 working days to make an objection in writing to the Commissioner for Customs and Excise. In addition, the client is also allowed to request for an extension of 14 days if the initial 14 days are not sufficient. Failure to do so will construe that the client has accepted the outcome of the verification process.

There has also been questions as to why non-branded items are being removed from the parcels. We wish to point out that if a parcel is opened and non-branded clothing are found, customs procedures will apply and thereafter the items will be released to the owner. However non-branded items such as medicines, cream, chemicals, detergents etc. that do not conform to health requirements as mandated by the Namibia Medicine Regulatory Council (NMRC) cannot be released due to health reasons. These items are impounded by Customs and Excise officials and later on destroyed.

The Ministry of Finance therefore wishes to inform the public that the control and verification mechanisms that are being put in place is not to confiscate people's goods but to enforce the law and clearing procedures, by removing counterfeit products and to ensure that taxes and duties are paid.

It should also be noted that the smuggling of counterfeit products is a serious crime which can lead to either heavy administrative fines or application of the Criminal Procedure Act (Act No. 51 of 1997). Our officials are not confiscating items for their personal gains, but it is an official action to strengthen clearance mechanisms.

We urge the public at large as well as importers and exporters to acquaint themselves with the Customs and Excise import, export and transit requirements and procedures before trading in, importing or exporting goods.

In case of any grievance faced in the implementation of the law by our Customs and Excise Officials, an official complaint can be written, addressed to the Acting Commissioner for Customs and Excise: Ms. Jacqueline Gawanas, Email: [Jacqueline.gawanas@mof.gov.na](mailto:Jacqueline.gawanas@mof.gov.na), Ministry of Finance, Windhoek.

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