An Act to introduce a new Customs Tariff incorporating Customs duties and Import Levies

(6 November 1980)

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title - (1) This Act may be cited as the Customs Tariff Act 1980.
   (2) This Act shall come into force on a day to be publicly notified by the Minister of Customs.

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

   "Bulk cargo container" means an article of transport equipment, being a lift van, mobile 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
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(c) Fitted with devices permitting its ready handling and its transfer from one mode of transport to another:

(d) So designed as to be easy to fill and empty; and

(e) Having an internal volume of one cubic metre or more.

(f) 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 ordinarily packing case, crate, box or other similar:

(g) Any liquid used for packing:

"Customs duty" or "import duty" means any duty payable on the importation thereof and includes any duty payable under the provisions of this Act as if it were payable on the importation thereof and includes any duty payable under the provisions of this Act as if it were payable on the importation thereof, whether or not such an importation thereof is subject to any international nomenclature; or

(h) By revoking, suspending, or amending any provisions of the Tariff, or by inserting any new heading, subheading, item, or item number, or title, in which manner he thinks necessary for the purpose of ensuring that the Tariff remains applicable to manufactured articles.

5. Alteration to nomenclature - The High Commissioner may from time to time, by Order in Executive Council, amend the Tariff:

(a) By revoking, or amending any heading, subheading, item, or item number, or title of any part, section, chapter, or subchapter of the Tariff, or by inserting any new headings, subheadings, items, item numbers, or titles, in which manner he thinks necessary for the purpose of ensuring that the Tariff remains applicable to manufactured articles.

(b) By revoking, suspending, or amending any provisions of the Tariff, or by inserting any new provision in the Tariff, for the purpose of ensuring that the Tariff remains applicable to manufactured articles.

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PART II - CUSTOMS DUTIES

6. Determination relating to certain goods - (1) In respect of any subheading of the Tariff, the provisions of this Act as if such subheading were a separate heading and if it is treated as such subheading for the purposes of this Act, the Minister may from time to time, by notice in the Gazette, determine the goods that may be imported under the subheading, and in so doing may determine the conditions under which such goods may be imported into the Cook Islands.

(2) Any notice under this section may from time to time, in like manner be revoked or recalled.

7. Power to alter duties - The High Commissioner may, from time to time, by Order in Executive Council, reduce or increase any one or all of the rates of duty imposed by the Tariff.

8. Dumping Duty - (1) Subject to the provisions of this section, in any of the cases specified in the subsection (2) of this section, the Minister may from time to time, by notice in the Gazette, determine the conditions under which such goods may be imported into the Cook Islands.

(2) Any notice under this section may from time to time, in like manner be revoked or recalled.

(a) If the actual selling price of the goods to any importer is less than their current domestic value determined in accordance with the provisions of the Customs Act 1913:

(b) If the actual selling price of the goods to any importer is in the opinion of the Minister less than the cost of production, with a reasonable profit added thereto, of similar goods in the country of exportation to the Cook Islands at the time of such exportation:

(c) If the Minister is satisfied that, because of the association in business or a compensatory arrangement between the exporter and the importer or a third party, the goods are being sold on the open market in the Cook Islands at a loss, or a profit lower than that normally made on the open market of identical or equivalent goods.
(3) The rate or amount of dumping duty levied under this section shall be determined as follows:

(a) In the case of goods to which paragraph (a) of subsection (2) of this section applies, the dumping duty shall be an amount to be determined by the Minister, not exceeding the difference between the actual selling price of the goods and their current domestic value:

(b) In the case of goods to which paragraph (b) of subsection (2) of this section applies, the dumping duty shall be an amount to be determined by the Minister, not exceeding the difference between the actual selling price of the goods and the cost of production, with a reasonable profit added thereon, of similar goods in the country of origin or the country of exportation to the Cook Islands at the time of such exportation:

(c) In the case of goods which paragraph (c) of subsection (2) of this section applies, the dumping duty shall be an amount to be determined by the Minister, not exceeding the difference between the price at which the goods are being sold on the open market in the Cook Islands and such selling price as the Minister may determine, having regard to the profit margin normally made by an independent seller in the Cook Islands on sales of identical or equivalent goods to an independent purchaser.

(4) For the purposes of paragraphs (a) and (b) of subsection (2) and paragraphs (a) and (b) of subsection (3) of this section, the actual selling price of the goods shall be deemed not to exceed the value of the goods in accordance with the usual commercial practice by the amount payable in accordance with the Customs Act 1913.

(5) For the purposes of paragraph (c) of subsection (2) and paragraph (c) of subsection (3) of this section the goods referred to in paragraphs (a) and (b) of the said subsections may be imported into the Cook Islands.

(6) If at any time it appears to the Minister that the payment of any duty is being evaded or avoided by the importation of any goods otherwise than on sale or in any other manner, he may, for the purposes of this section, determine the actual selling price of the goods, and the rate of dumping duty may be levied accordingly.

(7) For the purposes of this section, 2 persons shall be deemed to be associated in business with each other if, whether directly or indirectly, either of them has any interest in the business of the other, or both have a common interest in any business or property, or some third person has an interest in the business or property or both of them.

(8) Notwithstanding anything in this section, a Collector of Customs shall have the right to require and take security for the payment of any revenue which may become due under this section and, until the required security is given pursuant to Part IV of the Customs Act 1913, he may refuse to pass any entry or to do any other act in the execution of his office in relation to any matter in respect of which the security is required.