FIJI REVENUE AND CUSTOMS SERVICE

STANDARD INTERPRETATION GUIDELINE 2024-14

CUSTOMS (PROHIBITED IMPORTS AND EXPORTS) REGULATIONS 1986 – PROHIBITION ON USED TYRES

This Standard Interpretation Guideline ("SIG") sets out Fiji Revenue and Customs Services' ("FRCS") operational practice in relation to the prohibition of used tyres.

It is issued with the authority of the Comptroller of Customs and Excise (the Comptroller), who is also the Chief Executive Officer ("CEO") of FRCS.

Legislative references in this SIG are to the Customs (Prohibited Imports and Exports) Regulations 1986, unless otherwise stated.

This SIG replaces SIG 2020-48 (Importation of Used Tyres) and is in effect from 1 August 2020 and may need to be reviewed in the event of any relevant legislative amendments.

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PURPOSE

1. The purpose of this SIG is to provide practical guidance on the CEO's interpretation regarding the prohibition of used tyres in Fiji.

INTRODUCTION

2. In efforts to ensure the sustainability of the environment, prohibitions on the importation of used tyres were introduced in the 2020/2021 National Budget Announcement. Subsequently, the duty rates for brand new tyres were reduced to support this policy.

3. This SIG will begin by explaining the policy and its limitations together with its exceptions.

4. The examples used throughout this SIG are merely illustrative. They do not cover the infinite number of factual scenarios that may arise. The relevant legislative provisions must be considered and applied to each case on its particular facts. That is, conclusions should not be drawn by determining whether the facts of a particulars case may be analogous with examples, but rather on the basis of applying the correct tests established by the law.

5. The full text of the legislative provisions is contained in the Appendix.

LEGISLATIVE ANALYSIS

6. The prohibition in used tyres is provided for in Item 20, Schedule 2 of the Customs (Prohibited Imports and Exports) Regulations 1986.

7. Goods listed under Schedule 2 of the Customs (Prohibited Imports and Exports) Regulations 1986 are deemed to be prohibited unless the conditions, restrictions or requirements listed in column 3 are complied with.

(Column 1) **Item No.**	(Column 2) **Description of Goods**	(Column 3) **Conditions, Restrictions or Requirements**
20	Used tyres 4012.11.00; 4012.12.00; 4012.13.00; 4012.19.00; 4012.20.00; 4012.90.00; 8708.70.10	The importer must obtain the approval of the Comptroller for the importation of tyre casing. The importer must be an existing approved manufacturer of retreaded tyres.

8. Column 1 provides for the item number (20) in the list of goods prohibited under Schedule 2 of the Customs (Prohibited Imports and Exports) Regulations 1986.

9. Column 2 of this provision specifies that the importation of all types of used tyres are prohibited.

10. The used tyres identified fall under the following tariff classifications:

Tariff Classification	Description
4012.11.00	retreaded tyres used on motor cars (including station wagons and racing cars)
4012.12.00	retreaded tyres used on buses or lorries
4012.13.00	retreaded tyres used on aircraft
4012.19.00	other retreaded tyres
4012.20.00	used pneumatic tyres
4012.90.00	solid or cushion tyres
8708.70.10	wheels fitted with tyres

10.1 Retreaded tyres are tyres from which the worn tread has been removed from the tyre carcass and to which a new tread has been created by either:

i. a tread that is moulded from unvulcanised rubber onto the tyre carcass or

ii. a vulcanised tread that is attached to the tyre carcass by a vulcanised rubber strip.

10.2 Pneumatic tyres are the most used tyres on motor vehicles, these are hollow and filled with compressed air to give it structure and traction.

10.3 Solid tyres are used on wheeled toys and mobile articles of furniture while cushion tyres are solid tyres with a sealed internal air space.

10.4 Wheels fitted with tyres refers to an assembled wheel whereby the tyre is mounted on a rim.

11. The application of this regulation is specific to goods presented as used tyres or used wheels with tyres during the time of importation.

Example 1
Tyre Co. is engaged in the wholesale of tyres. Will Tyre Co. be eligible for the importation of used tyres?

CEO's Position:
No, the importation of used tyres for wholesale, resale or for any other commercial or personal distribution purposes is prohibited unless imported by an existing retreading company.

Example 2
Jun is importing a used motor vehicle for personal use. Does this regulation affect the tyres fitted onto the motor vehicle?

CEO's Position:
During the time of importation, it is presented as a complete used motor vehicle and shall be classified as such during customs clearance process. This regulation does not affect the four tyres that are typically fitted onto the used motor vehicle for the purpose of mobility and the spare tyre that is attached or stored in the designated compartment.

TREATMENT OF SPARE TYRES

12. Spare tyres are usually temporarily fitted to or stored in a designated compartment to be used as a replacement in case one of the tyres go flat, has a blowout or due to any other incident. As such, spare tyres (wheels fitted with tyres) presented with the vehicle and forms part of the initial manufacturer's specifications are treated as part of the vehicle at the time of importation.

13. For those car models that have provisions for a spare tyre, only one used tyre per importation of a used vehicle will be allowed unless the specifications indicate otherwise.

14. The spare tyre must be of a specification that allows it to be used as and when needed and will not require modifications. Therefore, only wheels fitted with tyres shall be considered as spare tyres.

Example 3
Car World has imported a used motor vehicle. The motor vehicle does not have provisions for a spare tyre but instead it is provided with a portable pump. Car World has decided to import a used tyre with the motor vehicle. Will the used tyre be permissible for importation considering Car World is intending the use it as a spare?

CEO's Position:
No, the manufacturers specifications of the vehicle does not make provision in the motor vehicle for a spare tyre. Therefore, the used tyre imported with the motor vehicle will not qualify as a spare tyre and shall be deemed prohibited.

MANUFACTURERS OF RETREADED TYRES

15. Column 3 of Item 20 specifies that the importation of used tyre casings is permissible provided it is imported by existing companies engaged in the retread of tyres and prior approval is granted by the Comptroller.

16. The tyre casing is the layer beneath the tyre-tread. Essentially, tyre casings are the foundation upon which the tread sits. The tyre casing is the body of the tyre and includes components such as the bead, sidewall, body ply and inner liner.

17. Re-treaded tyre manufacturers utilise used tyres as a raw material for scrapping leftover tread and use the casing for re-treading.

18. New companies will not be granted permission to import used tyres. Existing companies approved for retreading tyre will continue to import used tyres solely for the purpose of retreading.

19. The tyres shall not be used in its state for direct retail, wholesale, or any other purpose outside of retreading.

TREATMENT OF PROHIBITED GOODS

20. The importation of used tyres not meeting the conditions, restrictions or requirements listed in column 3 of this provision shall be deemed prohibited.

21. All prohibited goods and restricted goods dealt with contrary to any condition regulating their importation, exportation and or carriage coastwise shall be liable to forfeiture and may be seized or detained[1].

22. Forfeiture of goods occurs where it has been established that an offense has been committed in relation to the imported and exported goods under any Customs laws causing the entitlement of the goods by the owner to be transferred to the State.

23. Additionally, goods seized by Customs as being liable to forfeiture shall be delivered to the custody of the Comptroller and may be sold or disposed of by the Comptroller in the prescribed manner[2].

24. For the purpose of used tyres or tyre casings deemed prohibited, the importer shall bear the costs related to the disposal and supervision by FRCS officers. For wheels fitted with tyres deemed prohibited, the rims may be returned to the importer upon payment of duties and necessary fees and the tyre shall be seized by FRCS for disposal.

    Example 4
    There is a shipment of 5 vehicles consigned to an importer. Upon arrival, one motor vehicle was loaded with 5 used tyres (wheels fitted with tyres) intended as spares for the other vehicles.

    CEO's Position:
    Only one used tyre per vehicle would be allowed provided that the used spare tyre is loaded within the used vehicle imported. More than one spare tyre loaded in one vehicle would not be allowed (even though the used tyres may be for the other used vehicles imported).

    Additionally, the motor vehicle found to be in carriage of the prohibited tyres will be refused gate out until the goods have been formally detained and delivered to the custody of FRCS for disposal in the appropriate manner.

25. Any person found guilty of contravening these Regulations shall be liable to a fine not exceeding $25,000, and any goods forming the subject matter of any such contravention shall be liable to forfeiture[3].

26. For further information and clarification regarding this SIG, please email us at tipu@frcs.org.fj

[1] Section 129(2) (b) of the Customs Act 1986
[2] Section 159 of the Customs Act 1986
[3] Regulation 15 of the Customs (Prohibited Imports and Exports) Regulations 1986

APPENDIX: LEGISLATION

A. SECTION 129 (2) (b) OF THE CUSTOMS ACT 1986

(2) The following goods are liable to forfeiture and may be seized or detained as foresaid – ..

(b) all prohibited goods and any restricted goods which are dealt with contrary to any condition regulating their importation, exportation or carriage coastwise;

B. SECTION 159 OF THE CUSTOMS ACT 1986

All goods which are seized as being liable to forfeiture under the provisions of this Act shall be delivered into the custody of the Comptroller and may be sold or otherwise disposed of by the Comptroller in the prescribed manner, provided that it shall be lawful for the Minister to direct that, in lieu of being sold, such goods shall be reserved for the civil service.

C. REGULATION 15 OF THE CUSTOMS PROHIBITED (IMPORTS AND EXPORTS) REGULATIONS 1986

A person who contravenes any provision of these Regulations or who contravenes any of the conditions for the time being specified in a licence issued pursuant to these Regulations or specified in the Schedules to these Regulations shall be guilty of an offence and shall be liable to a fine not exceeding $25,000, and any goods forming the subject matter of any such contravention shall be liable to forfeiture.

D. ITEM 2O OF SCHEDULE 2 TO THE CUSTOMS (PROHIBITED IMPORTS AND EXPORTS) REGULATIONS 1986

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