

1934

1934

CC-53-1250

... presented properly, ... is not i court ye. I

The Customs Tariff Ordinance.

Previous

3069/53.

Subsequent

81819/71/54

sure.

Room 309 28/7

Room 309 30/7

in Cliffe 4/8

in Cliffe 8/9

Room 309

297 1/11

Room 309 27/11

in Cliffe 5/11

in Cliffe 5/11

297 15/11

147

23246

Board of Trade

27 July 1930

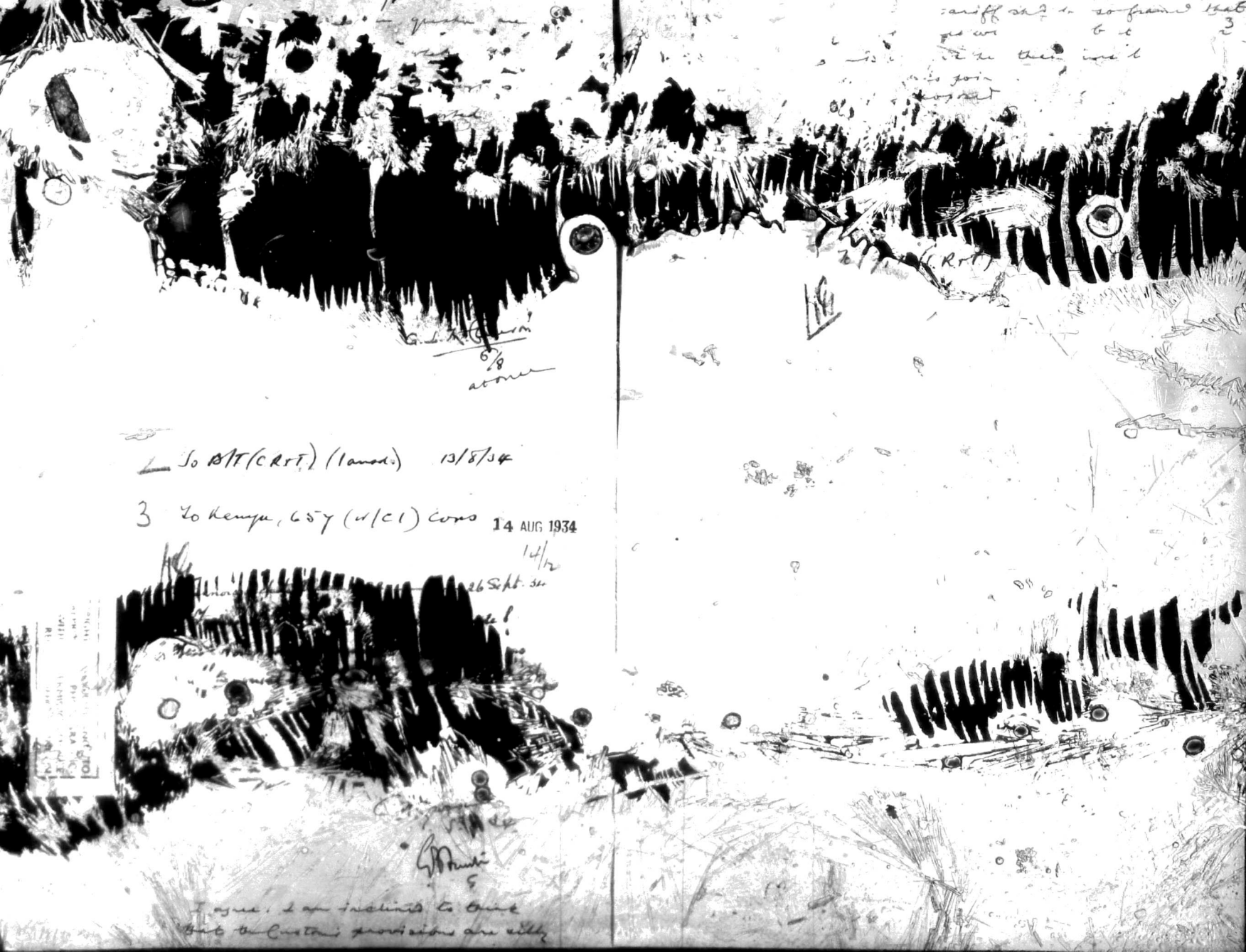
I thought I had never got Justice here. They all belong to the same tariff, it is a question of 15%... such... together with their appropriate initial equipment. Free

The General Note published with Order No 1 of 1930 says "Integral parts of an article which is liable to an ad valorem duty, or is free of duty, imported for replacement purposes, or as spare parts, shall be liable to the same rate of duty as the article itself, or free of duty, as the case may be, unless they are specifically excluded, or provided for elsewhere in the tariff"

It is... to... that a... the most valuation... should also be imported.

...the... that the... for the... should have the... as a... for...

Com. Genl. to P. for... that is being done... 3/7/30



arriff sh... to frame that  
to get  
3  
to join  
to get

- 1 To B/T (CRRT) (lamed.) 13/8/34
- 3 To Kempu, GSY (w/ci) Cons 14 AUG 1934

14/12  
26 Sept. 34

RECEIVED  
OFFICE  
OF THE  
SECRETARY  
OF DEFENSE  
WASHINGTON  
D. C.

I agree, I am inclined to think  
but the Customs provisions are silly

2/14/34  
Sir,  
Sir G. Tomkinson  
Sir C. B. Botley.  
Sir J. Shuckburgh.  
Permi. U.S. of S.  
Parly. U.S. of S.  
Secretary of State.

**DRAFT.**

The Asst. Secretary,  
Commercial Relations  
and Treaties Dept.  
Board of Trade.

7-600-26-9-34 (N<sup>o</sup> 4)  
(with enclosures)

I refer to the letter  
from the Dept of the Bd of  
August, I am etc to transmit

to you, for the information

of the Board of Trade, a

copy of a despatch with

enclosures, from the Governor

of Nigeria, regarding the



transmitting  
 a copy of a letter from the said firm regarding  
 representations by Messrs. Morris, Henty and Gardner  
 Limited, concerning the Customs Tariff treatment of  
 L.W. engines imported into Kenya.

2. The representations refer to two Gardner engines  
 which were imported as spares supplementary to a shipment  
 of thirteen motor buses having similar engines and their  
 power unit.

3. The motor buses were classified for tariff purposes  
 under item 61(b) of the Customs Tariff Ordinance 1950 which  
 provides as follows:-

"Motor and steam lorries of a carrying capacity  
 of 3,000 lb. and over, and chassis thereof, n.e.e.,  
 together with their appropriate initial equipment

two spare engines in their case for special importation. The Commissioner of Customs' reply dated the 2nd of June, 1954, upholding the ruling previously given that the circumstances affecting their importation did not remove them from classification under Tariff item No. 63.

5. You will observe that the point at issue was never the liability or non-liability to duty of a Gardner engine, but merely whether the expression "appropriate initial equipment" in Tariff item No. 61(b) could be stretched to cover two spare engines supplied on consignment in connection with a shipment of vehicles. I am advised that the Commissioner of Customs' decision was based on a commonsense interpretation of the relative Tariff items.

6. I can find no evidence that the Kenya Bus Services have ever been misled as to the tariff interpretations applied to Gardner engines. These engines when imported as stationary units fall within the ratings under Tariff item No. 57 and I understand that it was in regard to the stationary units that the Collector of Customs gave a provisional expression of opinion at the interview which took place on the 11th of December. When the Collector had ascertained that the engines referred to were especially designed for transport purposes he informed the Importers that they were liable to duty.

7. I enclose herewith copies of correspondence exchanged between the Overseas Motor Transport Company Limited, and the then Commissioner of Customs in 1952, from which it will

...the ...  
...the ...  
...the ...

I have the honour to be,  
Sir,

Your most obedient, humble servant,  
1790

Amherst

GOVERNOR'S DEPUTY.

Overseas Transport Co., (S.A.)

(S.A.)

100, Market Street

Box No. 100

Mombasa

I regret the part owing to illness, I have not written to you earlier with reference to the interview. You were good enough to give Commander Hare and myself in Mombasa.

We shall be writing to you separately from London on the question of the general importation of Gardner Heavy Oil Engines, but, as the case of these two engines must be decided soon, I would now put up to you again, as I have already done verbally, the suggestion that these two engines should, in any case, receive special treatment.

As I informed you, these two engines were intended to form part of the original shipment of 13 buses, and were considered both by ourselves and by the manufacturers as part of the appropriate initial equipment of this shipment. Actually, they were not shipped at the same time, owing to certain unavoidable delay at Gardners' factory.

I would remind you that this was the first shipment of Fuel Oil Motor Engines and Chassis fitted with these engines which had ever been made to this country, and it was quite uncertain how successful they would be. It was, therefore, considered necessary both by ourselves and the manufacturers, that two complete units should be available on the spot in case of possible breakdown.

So much was the case that, as mentioned to you at our interview, when asking for tenders for our buses from the various manufacturers in Great Britain, we specified in our terms of reference that the manufacturer must state his willingness to supply two engines with the shipment, these two engines not to be paid for by us, but to be sent out on consignment as an essential standby. This was agreed to by the manufacturers, as an entirely appropriate provision in the matter.

It is only fair to state that we have agreed that the manufacturer should be notified in advance of the fact that the two engines are to be sent out on consignment as an essential standby. This was agreed to by the manufacturers, as an entirely appropriate provision in the matter.

Yours truly,  
KENYA BUS SERVICES LTD.

Sd/-.....

Managing Director





KENYA

No 492

The Commissioner for Customs,  
Nairobi.STREET  
GOVERNMENT

NAIROBI

Dear Sir,

Proposed Nairobi Bus Service.

As you are aware, the question of establishing a Municipal Bus Service is under consideration between the Nairobi Municipality and my Company.

The possibility of such service was seriously discussed two years ago, and it was then considered that if it were run Municipally a heavy loss would have to be faced for the first five years, or alternatively that a substantial subsidy would have to be given to a private Company. In the present general financial condition, a cash subsidy is hardly a practicable proposition, in spite of the fact that if, by means of such a subsidy, a satisfactory service were established, there would undoubtedly be a decrease in the cost of living in Nairobi to the benefit of the community in general.

We suggest that, though a cash subsidy is for the time not feasible, practical help might be given, without loss to the revenue of the Colony by way of remission of duty on the essential commodities for operating a Bus service.

It is understood that the buses themselves would come under the heading of Motor Lorries and would in any case, be free of duty. The essential commodities referred to, would therefore be:-

Spare parts  
Fuel and Oil  
Tyres  
Tickets and Conductor's equipment.

Of/-

- 2 -

of these, the most important, of course, is fuel and it is not too much to say that on the basis of present normal rates of their own industry item it is not appropriate to raise the price of fuel to a level which is not reasonable. In the month of May, 1954, in which they

We anticipate being able to make a favorable contract in London with a petrol Company, but even so, some concession in duty charges would be necessary to bring down the price to an economic level. We submit that such a concession could be given without loss to the revenue of the country, for the following reason.

We anticipate that for the first year, the consumption of Petrol on the limited service at present proposed would be about 43,000 gallons. A bus service creates new traffic, and a great deal of the bus traffic would be on the part of people who, at present, only travel occasionally. But it is reasonable to assume that the use of private cars would be somewhat restricted, and that, therefore, less petrol would be used in private cars than in Nairobi at present.

We suggest that a decrease amounting to 25% of the bus consumption i.e. 11,000 gallons is a reasonable safe figure to assume.

If then, a remission of say 50% of the present tax were granted there would still remain a considerable total increase in revenue which would be absent if a Bus Service were not established. The same arguments apply to the other commodities mentioned, though the sums involved are smaller.

I put this case forward not with the  
increasing profits but to decrease them  
to make the establishment of a bus service a  
proposition.

Yours truly,

Sgt. ?

OVERSEAS MOTOR TRANSPORT CO. LTD.

Sadly

both may 1/34

which such importations are put, the only exception being in respect of goods imported by or on behalf of, and remaining the property of Government, Municipalities, Native District Councils etc. are chargeable with duty on importation in accordance with the rates specified in the Tariff schedules. This being the case, a special rebate of Customs duties leviable on goods imported for the purpose of inaugurating and maintaining a bus service in a particular area is scarcely practicable, as discrimination of this sort would involve the acceptance of a principle which might be applied with equal or greater force to many municipal and other activities of a localised nature, to the ultimate detriment of the Revenues of the Central Government. On these grounds I should not be prepared to support your application for specially favourable treatment in respect of the importations in question.

AS regards the individual items mentioned by you-

MOTOR BUSES - If of a carrying capacity of 3000 lbs and over these vehicles would be treated similarly to the regulations...  
 the regulations you will...  
 a very sufficient...  
 the total shipment...  
 taken from...

You

2nd June

Posters The Kenya  
P.O. Box 256,  
Nairobi, Kenya.

the number of passenger

carriage would be classified as measuring

I have to acknowledge the receipt of  
item 73 of the tariff and the exemption from duty  
of 10% ad valorem.

RIGHTS are chargeable with duty at 20% ad  
valorem. If printed locally, the paper from which they  
are manufactured could secure admittance under Item 139  
(b) at the rate of 10% ad valorem.

These charges appear to me to be  
reasonable.

I am, Dear Sirs,

Your obedient servant,

Sgd. G. WALSH.

Commissioner of Customs,  
Kenya and Uganda.

Mr. *Committee*  
Mr. *Frederick J.*  
Mr. *Parkinson*  
Sir G. Tomkinson  
Sir C. Bottomley.  
Sir J. Shuckburgh  
Permt. U.S. of S.  
Privy. U.S. of S.  
Secretary of State.

25246/Sir

10 VICTORIA  
LONDON.  
P.O. BOX  
14 JUNE 1

RECEIVED  
R 8-AUG  
1934

14 August 1934

Answered by Note

DRAFT

Kenya  
No 657  
for.

~~27 July 1934~~  
~~W. P. ...~~

I have etc to transmit  
to you a copy of a letter  
from the Board of Trade  
regarding representations  
made by Messrs Morris  
Kent & Gardner, Ltd.  
concerning the Customs  
tariff treatment of  
L.W. engines imported  
into Kenya.

I shall be glad to  
receive your observations  
on the matter in  
due course.

Yours etc

FURTHER ACTION.

(Sgd.) P. CUNLIFFE-LISTER

23246/24

C. O.

*James C. West*  
*Frederick*

Mr. Parsons  
Sir G. Thomson  
Sir C. Bottomley  
Sir J. Shuckburgh  
Pres. U.S. of S.  
Par. U.S. of S.  
Secretary of State.

13 August 1954

Sir,  
I am etc. to acknowledge

DRAFT.  
The Assistant Secretary,  
Commercial Relations &  
Practices Dept.  
Board of Trade

① the receipt of your letter  
of the 27<sup>th</sup> of July  
(Reference C.R. 4399/24),  
regarding the representations  
made by Messrs. Norris,  
Healy and Gardner, Ltd.,  
concerning the Customs  
duty treatment of  
L.W. engines imported  
into Kenya.

FURTHER ACTION.

2. I am to request you  
to inform the Board of  
Trade that a copy of  
your letter, with enclosure,  
is being sent to the  
Finance



Journal of Kenya for the  
Month, and that  
further communication will  
be sent to you on  
receipt of the previous  
reply.

I am etc.

(Signed) J. E. W FLOOD

ASSISTANT SECRETARY  
The following letters and numbers should be quoted:-  
P.T. 4699/84  
Telegraphic Address:  
COLASTA, PARL. LONDON.  
Telephone No.: Whitehall 5140.

JOHN EDGAR BELMONT AND COMPANY  
DEPARTMENT,  
BOARD OF TRADE,  
GREAT GEORGE STREET,  
LONDON, S.W.1.

27th July, 1934.

RECEIVED  
28 JUL 1934

Sir,

I am directed by the Board of Trade to transmit herewith a copy of a letter, with enclosure, which has been received in the Department of Overseas Trade from Messrs. Norris, Henty and Gardners Limited, of London concerning the Customs tariff treatment of L.W. engines imported into Kenya Colony. These engines are supplied for motor vehicles of a carrying capacity of 3,000 lbs. and over and such vehicles, when imported into Kenya Colony, are admitted duty free under tariff item 61(b).

In the general notes published as part of Ordinance No.1/33 (page 640 of the Kenya Official Gazette of April 17th, 1930) it is provided that "integral parts of an article which is liable to an ad valorem duty or is free of duty, imported for replacement of any part of the article, shall be liable to the same rate of duty as the article to be replaced."

*Ans 2*

*Kenya (3)*

*Encl  
Not  
14/7/34*

London, E.C.4.

25th May, 1934.

The Comptroller-General,  
Department of Overseas Trade,  
35, Old Queen Street,  
Westminster,  
LONDON. S. W. 1.

Sir,

IMPORT DUTY - KENYA COLONY.

We take this opportunity of enclosing copy of a letter which we have quite recently received from our Agents in Nairobi, from which you will see that they are experiencing some little difficulty in so far as Custom's duties are concerned on the transport engines that we are sending into their territory.

Furthermore, the ruling that has quite recently been given, seem to be contrary to the views expressed during Mr. Denholm's interview with one of the Collectors of Customs, during his stay there in December last.

We do not know what machinery, if any, you have in motion for combatting a position of this nature, but if there is any way in which our joint efforts may ease the position of our Agents we shall be only too pleased if you would give us full particulars of same.

Thanking you in anticipation of your early reply,

(Sgd) Chas. H. Lyell

For NORRIS, HENRY & GARDNER

OVERSEAS MOTOR TRANSPORT CO. (E.A.) LTD.,

Sadler Street,  
P.O. Box 26,  
NAIROBI.

BY AIR MAIL.

10th May, 1934.

Messrs. Norris, Henty & Gardner, Ltd.,  
115, Queen Victoria Street,  
E. C. 4.

Dear Sirs,

IMPORT DUTY ON L.W. ENGINES FOR TRANSPORT PURPOSES.

We very much regret having to report to you that the Commissioner of Customs has now decided that all single unit L.W. engines for transport purposes are liable to a duty of 15 per cent. This is the more disconcerting in view of the fact that, when Mr. Denholm was out here in December last, the writer arranged an interview between the Collector of Customs in Nairobi, Mr. Denholm and himself, to discuss the status of L.W. engines in so far as their dutiable status, under the local Customs Ordinance was concerned.

This interview took place on the 11th of December, 1933, when the Collector of Customs gave his ruling that these engines were not subject to duty. However, since the arrival of the two ALW engines for the Kenya Bus Services, the subject has been reviewed and referred to the Commissioner of Customs at Mombasa, who has decided that these engines are liable to 15 per cent import duty on their C.I.F. cost.

We have used every argument that we can muster to try and have this decision rescinded but so far without avail.

There would appear to have been an error in the drafting of the ordinance in that, whilst lorries with a load capacity of 3,000 lbs. and over are permitted to enter the country duty free, spare parts for such lorries must pay 15 per cent duty. In this connection, lorries whose load capacity is under the above mentioned figure, are subject to 15 per cent duty as well as spare parts for them.

We have pointed out that the LW engines can, by no manner of means be regarded as "spare parts", but are definite complete units but, apparently, as long as they are imported by themselves, and not as the original equipment of a commercial chassis, they are subject to duty.

At the moment of writing we have received the above information from the Collector of Customs, Nairobi, verbally, and are now awaiting written confirmation from the Commissioner himself before we can make any further efforts to induce him to change his mind. As you will no doubt realise, the position for us is serious, in that the initial cost of the LW engine is high, and an extra 15 per cent on the C.I.F. value will make it even harder to affect sales.

Owing to the Customs Union between ourselves and the two adjoining territories of Uganda and Tanganyika, this matter must apparently be delayed until the next meeting of representatives of the three countries, to discuss amendments to the Tariff Ordinance, is held. As far as we can gather, this may be anything up to 12 months from now. We would, therefore, solicit your help in the matter, and suggest that the most practical way of applying it would be by representations from your good selves direct to the Department of Overseas Trade.

We trust that we have given you a sufficiently complete report on the position to enable you to take this matter up; if not, will you kindly advise us?

The matter is all the more serious to us in that we have committed ourselves to definite quotations for these engines to various Government Departments and private concerns. Whilst engines for the former escape duty, those for the latter are dutiable. The position is all the more aggravated in view of the Collector of Customs decision, given to us in Mr. Denholm's presence last December.

Confirmation of this letter has been forwarded to you today by surface mail.

Trusting you will use your best endeavours to help us to get the Tariff altered, we remain,

Yours faithfully,

OVERSEAS MOTOR TRANSPORT CO. (E.A.) LTD.

(Sgd) C.A. Hooper.

Sales Director.