

1925

KENYA

C.O.
10372
5 MAR 25

41

FROM *Gov*
Comptroller 153

DATE
4th Feb, 1925

FOR CIRCULATION -

Mr. Allen *7/3*
Mr. Bottomley
Mr.
Asst. U.S. of S.

Duty on petroleum

Perm. U.S. of S.
Part. U.S. of S.
Secretary of State.

*Send copy memo. by
Coll. of Customs in
reply to contentions of
the British Imperial Oil
Co. (South Africa), Ltd*

Previous Paper

MINUTES

*M.I. 46975
26*

This question was referred to in the despatch sent on O.H.C. 51722/24 (in bundle below). But as the Gov had heard the views of Uganda and T.I. before drafting this reply, the question may be dealt with on its merits.

I cannot reconcile the statement in para 2 of the memo, that "it happened that cheap illuminating oil was imported in bulk" before the Ord. of 1922, with that in para 3 that the B.I.O. Co. had a bulk kerosine installation at Kilindini when the duty was charged at a flat rate, and that "for many years"; unless it means that the ^{copy} bulk installation was only

*To P.F. Dept. (C.S.A.) for - 25 MAR 1925
Recd 282 (with copy of) - 25 MAR 1925*

Subsequent Paper

M.I. 16230

used for the cheap illuminating oil. If that is so, surely if there ^{cannot be} ~~has been~~ any thing in the extra cost due to handling in bulk a few of the boys would have resorted to bulk in fact, all petroleum before 1922, & the duty was charged at a flat rate.

As to para 4 of the memorandum, the statement which I prepared in 46975/4, bears out the Walsh contention that the flat rate is the more usual, at any rate in the British Empire.

I think the Lord Goshens should be upheld for the following reasons

1. The possibility of creating a monopoly in favour of the B.I.O. by a flat rate of importation is given a preferential duty.

2. The fact that the 1923 Ordinance only goes back to previous practice after the experience of the other practice under the Ordinance of 1922.

3. The fact that the Coy possessed facilities for bulk installation before the differential duty was imposed in 1922. This of course, would not affect the general question, but it does bear on the fact that the Coy's particular complaint that they introduced

As regards law, this is a flat rate, & package tax, but packages containing kerosene oil are treated in the package tax.

W.A.

bulk storage for Benzine solely because of the difficulties of transport.

I read also in form the Coy's ref.

(Circular of 8.10.25 (46975)) that the matter has been carefully considered in consultation ^{by the} with the D. O. A. G. Kenya, Uganda & T.T. who consider that the present flat rate of duty should be maintained & that S.G.S. ~~is not~~ ^{is not} prepared ~~has no reason to dissent from their view~~ ^{to request the D. O. A. to amend the existing rate of tariff.}

I understand their dept. & observe that the views of Uganda & T.T. were obtained before it was written, & that in the circumstances S.G.S. has ~~not~~ caused the Coy. to be informed ^{as above} ~~as above~~ but that if the matter should be further considered at the Conference ~~held~~ ^{held} suggested a dept. O.T.T. a closed with S.G.S. dept. Conf. of 29 Jan 25, S.G.S. will no doubt be informed. And am O.A.G. to communicate S.G.S. decision to Uganda & T.T.

It is necessary to quote as in 15 Sec. 9.3.25.

The shipping's minute within shows that recommendation between bulk & case oil was only introduced in 27/4/22 & abolished a few years - it is therefore rather a strong case for the Company to claim to be

the present temporary change. In the minutes of 27/10/21
 on 11/9/24 we expressed the view that the
 prevalence of any must-read in the present
 but they had incurred expense in advance
 of the old arrangement continuing in the
 present it is sufficient to point out that
 this letter of the 8th has 1921 (see note
 in before the introduction of the denomination)
 to be said "reference to many years past
 has endeavored to secure at Bombay a
 site for the provision of storage for benzene"
 the papers show clearly that storage in bulk
 was intended.

55910/21

It is unlikely the Customs Conference
 will recommend any change, & in any case,
 the result is safe for the Dept to refuse to pass
 the matter, without writing the words of the
 Conference.

As proposed by the Dept considered,
 but add to the letter to the Company a
 paragraph pointing out that the discriminatory
 rates of duty attached to the 1 Jan 1922
 were not introduced on the 27 Sep 1922 &
 that in their letter of the 8th has 1921 they
 stated as at X above.

17/3/25
 The for...
 as to the B.S. Oil Co's interest of...
 Oct. 18. 3. 25

Before Sept. 17 1922, the free list into Kenya
 and Uganda included: (Table III (20) G.O.
 No. 1 of 1910)

A.

"Empty bags (other than paper bags) and crates
 for flour, manure, produce, sugar, wool, coal and
 minerals, and bagging and sackings of paper
 and binding twine."

The Ordinance of 1922 (Table VI 16, article
 of the Customs Report 1922) provided -

"Materials (other than paper and paper bags)
 intended for the packing of produce."

The fact that it was necessary in
 the G.O. of Dec. 1923, specially to provide
 for the placing of receptacles for petrol on
 the free list, strengthens the presumption
 that before 1922 they were not regarded
 as exempted under A above - [as presumed]

intended ^{for} "produce" (which I take to be
the produce of the country) nor "minerals".

I have the info drafted para 3 of the letter
to the Govt for revision, but it does not
seem for sure to say definitely at
least that Customs duties was or
was not changed on petrol lines before
122004. Cf Franklin in vol.
likely to receive her.

G.J.
21.3.25

The position prior to 27th Sep 1922 is
rather obscure & any detailed argument
founded on it would be dangerous.

^{Entirely} Apparent that this is in its own then chargeable
& duty, but we cannot say that this even
if full we not also chargeable & that
both & case importers were not an
equal in this respect. I was therefore
inclined to suggest that mention of the
point should be omitted in writing
to the Company.

10/21
23/3/25

Mr. Allen.

I think the following answers your question:-

X
Sachlan

(a) & (b) - There appears to have been no specific duty on oil prior to the 27th September 1922 (the dated when Ordee. 13 of 1922 came into force) It is presumed, therefore, to have come under the General ad val. rate which was 20 %.

The Customs Tariff Ordinance 1922 (No. 13 of 1922) which came into force on the 27th September, 1922 imposed the following duties :-

Sched.1	Motor Spirit namely, benzine, benzoline		
Item.24.	naphtha (not potable) gasoline, natalite petrol, and petroleum spirit generally	per Imp. Gall	sh. cts.
	(a) in bulk		0 . 20
	(b) in tins, drums, or other receptacles. - do.-		0 . 30
	Oils, Minerals, illuminating or burning		
	(1) in bulk -do-		0 . 14
	(2) in tins, drums, or other receptacles. -do-		0 . 20

only when imported full.

Receptacles admitted duty free (vide Table VI Item 7.)

Materials in cases 20% (adval)

(c) - By the Customs Tariff Ordinance 1923 (No 36 of 1923) which came into operation on the 1st January, 1924 the following duties were imposed.

Table I	Motor Spirit, namely benzine etc.etc.		
Item 25.	and petroleum spirit generally.	Per. Imp. Gall.	Sh. C.
			0 . 30
Item.26	Oils, Mineral, Illuminating or burning	- do -	0 . 20.

Free Tins material in cases free Jdy 1/6/3

X The Trade Report is the most convenient form of the Tariff existing in 1921 & 1922.

Q. Before 1922. there was no duty on Petrol, which was on the free list. See at foot of page 5, 12 Annual Trade Report (1918/1919) the point is not material to the present case.

the Highway

As regards heavy import duties
on oil will you kindly confirm from
the laws

- (a) that in 1921 & 1922 there was no
discrimination as regards duty between
oil in bulk & oil in packages (tins or
cases): what was the rate?
- (b) that as from 1 Jan 1923 there were
3 duties: (i) a lower duty on bulk oil
(ii) a higher duty on case oil (iii) a duty on
material for cases — what were the
rates?
- (c) that as from 1 Jan 1924 there has
been (still is) a flat rate for bulk
oil & package oil at the rate for
package oil under (a).

11/11/25
11/3/25

Case

1921

A Free

Peter & Free

20%

leaf had ~~the~~ 20% in

1922

li. he call

3 Oct. he call.

full ^{time} ~~receiv~~ free

1924

3 Oct

3 Oct

free

Tim free

Refer.

1/6/25/394

46

Avenue 6820

ST HELENS COURT,
LEADENHALL STREET,
LONDON, E.C.3.

16th January, 1925.

Dear Sir,

Acting on Sir George Macdonogh's instructions, I opened your letter to him of the 14th instant, and beg to acknowledge the same with thanks. I am passing the information contained therein to the department concerned. Sir George will I know be most grateful if you will let him have any further information on the subject in course of time.

Yours faithfully,

Stella A. W. Allen

Private Secretary to Sir George Macdonogh.

The Hon. W.G.A. Ormsby-Jore
Colonial Office,
Downing Street,
S.W.1.

469757 Kenya 24
70
47
14th January, 1925.

My Dear General,

I have your letter of the 9th of January about the Customs Duties on Petroleum products in Kenya. When the letter of the 3rd of October from the British Imperial Oil Company was received, despatches were sent out to the various Governors in East Africa, and their replies have not yet come in. We must wait and see what they say.

If it is then decided to make the change you desire, it will be possible to bring it into effect on the next occasion when the Customs Tariff laws come up for review. You will understand, I am sure, that it is necessary to avoid too frequent changes in the tariff, and, indeed, where a Customs Union is involved, as in this case, there is a good deal of difficulty in getting the necessary legislation passed in the three Dependencies concerned, especially as two of them have Legislative Councils.

Yours sincerely,

KENYA.
No. 153.



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

C. 3
10372
5 MAR 25

4th February, 1925.

Sir,

With reference to Colonial Office

M. I. 46975

Confidential despatch of the 1st November, relative to the alteration in the assessment of the duty on petroleum in bulk and in packets, I have the honour to transmit for your information a memorandum which has been prepared by the Commissioner of Customs in reply to the contentions of the British Imperial Oil Company (South Africa) Limited.

Memorandum
dated 9-12-24.

2. The Acting Governor of the Uganda Protectorate has signified his agreement with the views expressed in this memorandum, and the Acting Governor of the Tanganyika Territory considers that the object of the tariff should be to enable both bulk oil and case oil ~~importers~~ to compete in the local market on equal terms. This the present tariff enables them to do, and I am in full concord with the view of the Customs Conference of 1923 that the continuation of differential rates of duty could have only one result, viz: the establishment of a monopoly in oil supplies such as existed some years ago to the disadvantage of the consumer.

I have the honour to be,

Sir,

Your most obedient, humble servant,

R. A. Comyns

GOVERNOR.

THE RIGHT HONOURABLE
LIEUTENANT COLONEL
L. C. M. S. AMERY, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W.

9th December 4.

**THE HONOURABLE
THE COLONIAL SECRETARY,
NAIROBI.**

**ASSESSMENT OF DUTY ON PETROLEUM AND
MOTOR SPIRIT.**

Re: Your No. B. 22599/6/4/68 of 5.12.24.

The reasons for the unanimous recommendations of the Customs Conference 1923 in regard to the basis of assessment of duty on kerosine and motor spirit are given on page 5 Appendix E of their Report. Their note on this item of the Tariff is as follows:-

"Representations were read from various Oil Companies regarding the differentiation between the duty charged on motor spirit in bulk and in tins as at heading 24 (a) and (b) Table I Customs Tariff Ordinance 1922. The Conference is of the opinion that no sound reason can be adduced for such differentiation other than the fact that duty is collected on the materials and receptacles required for packing imported bulk spirit for distribution (see item 3 Table IV Customs Tariff Ordinance 1922) in order to remedy this anomaly it was decided to charge the same rate of duty for motor spirit whether imported in bulk or in tins, drums or other receptacles and to transfer the heading levying duty on the packing materials i.e. item 3 Table IV Customs Tariff Ordinance 1922 to the free list (see heading 10 Table V Appendix B)."

The whole question was most carefully considered by the members of the Customs Conference who had all the relevant facts placed before them. In general principles it was thought that as all Customs duties ultimately fall on the consumer, the rate should be based on the quantity imported without reference to the particular manner

in which it is introduced into the country. It was realized that the importation of oil in bulk possessed certain definite advantages as regards costs and the employment of local labour in packing but in view of the fact that the relatively small quantity of oil consumed in the territories rendered it in the highest degree ^{impracticable} ~~impossible~~ that more than one bulk installation could function as a paying proposition for some years to come, it was thought that the continuation of differential rates of duty could only have one result viz. the establishment of a monopoly in oil supplies such as existed in this country some years ago to the great disadvantage of the consuming public. (vide file 11901).

2. The rates of duty in force prior to the enactment of the Customs Tariff Ordinance, 1922, made no differentiation between bulk and packed oils, varying rates of duty only being charged during 1923 under the Customs Tariff Ordinance, 1922. These varying rates were based on the actual value of kerosine oil imported in bulk and in tins respectively a lower rate of duty being charged on the bulk kerosine oil because it happened that cheap illuminating oil (Crown Brand) only was imported in bulk. That the practice of importing only cheap oil in bulk would continue was extremely doubtful and to that extent the specific rates recommended by the Customs Conference in 1921 and imposed by the Customs Tariff Ordinance, 1922, were unsound.

3. As regards the statement of the British Imperial Oil Company that they would not have embarked upon their

in which it is introduced into the country. It was realized that the importation of oil in bulk possessed certain definite advantages as regards costs and the employment of local labour in packing but in view of the fact that the relatively small quantity of oil consumed in the territories rendered it in the highest degree ^{impracticable} ~~impossible~~ that more than one bulk installation could function as a paying proposition for some years to come, it was thought that the continuation of differential rates of duty could only have one result viz. the establishment of a monopoly in oil supplies such as existed in this country some years ago to the great disadvantage of the consuming public. (vide file 11901).

2. The rates of duty in force prior to the enactment of the Customs Tariff Ordinance, 1922, made no differentiation between bulk and packed oils, varying rates of duty only being charged during 1923 under the Customs Tariff Ordinance, 1922. These varying rates were based on the actual value of kerosine oil imported in bulk and in tins respectively a lower rate of duty being charged on the bulk kerosine oil because it happened that cheap illuminating oil (Crown Brand) only was imported in bulk. That the practice of importing only cheap oil in bulk would continue was extremely doubtful and to that extent the specific rates recommended by the Customs Conference in 1921 and imposed by the Customs Tariff Ordinance, 1922, were unsound.

3. As regards the statement of the British Imperial Oil Company that they would not have embarked upon their

bulk installation scheme if they had reason to suppose that the discriminatory rates would be altered, I have no definite information on the subject but strongly incline to the opinion that a reference to your files will show that the scheme was in contemplation long before the differential rates of duty were enforced for the year 1923. A further indication that the settled policy of this Company is to distribute their oil in bulk for packing in the country of consumption lies in the fact that for many years they have possessed a bulk kerosine installation at Kilindini which was erected when duty was charged at a flat rate.

4. The contention that differential rates of duty are charged in most other countries does not accord with the particulars given in the current issue of Kelly's Tariffs of the world as a flat rate of duty is charged in Barbados, Virgin Islands, St. Lucia, Mauritius, Federated Malay States, Gold Coast Nigeria and many other countries. In Newfoundland the reverse process operates as kerosine oil imported into that country is chargeable with a flat rate of duty of cents 5 per gallon except when imported in wooden barrels, in which case it is exempted from import duty. It is possible that in the Union of South Africa some differentiation may be found advisable as the consumption is enormous and for this reason the establishment of a monopoly would be extremely difficult but in the East African Dependencies the position is entirely different and for the reasons given I strongly recommend that no differentiation should be made.

Ind

90 10372/25 Kenya

C. 11
22 MAR
24

SB

25 March 25.

DRAFT.

Sir

I have to ack. the receipt

of Sir Robert Courydon's ~~copy~~ despatch no 153, of the 4th of February, on the subject of the representations made by the British Imperial Oil ^{Co.} (South Africa) Co., Ltd., with regard to the alteration in the Customs duties on petroleum entering Kenya, Uganda and the T.T.

2. I note that Sir Robert Courydon had obtained the views of the O.S. A.G. of Uganda and the T.T. before writing his despatch, and in the circumstances I have caused the copy to be informed that

Kenya
Conf No 282
A.G.

MINUTE.

- Mr. Seal 21.3.25
- Mr. Allen 23/3
- Mr. Bottomley 23/3
- Mr. Strachey 23/3
- Sir O. Davis.
- Sir G. Grindle.
- Sir H. Road.
- Sir J. Maudslayi Smith.
- Mr. O'Mo.
- Lord Arnold.
- Mr. Thomas.

for revision
B.I. Co. (SA)
App hereunder

I see no reason to dissent from the ~~local~~
view of the local ~~authorities~~, that the existing
flat rates of duty should be maintained.

I enclose ^{for your info.} a copy of the letter which has
been sent to them.

3. You will no doubt ^{communicate} ~~inform me~~

^(in line with me)
~~however~~ in the event of the matter having
been further discussed at the ^{Customs} conference
recently held at Dar - Es - Salaam

(and refer
keep com
pulling)

~~which was suggested in my despatch to the
O. A. C. of the T. T. a copy of which was
enclosed with my Conf. despatch of the
24th of Jan^y last.~~

4. I have to request that you
will inform the O. A. C. of Usanda
and the T. T. of my decision in this
matter.

Shaveroy

(Secretary of State)

(signed)

Woomasthy Goo

I see no reason to dissent from the ~~local~~
view of the local Govts. that the existing
flat rate of duty should be maintained.

I enclose ^{for you info} the letter which has
been sent to them.

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^(rather with me)
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^{Customs}

been further discussed at the conference
recently held at Dar - Es -

~~which was suggested in our report to the~~

~~Saladin~~

~~O. A. G. of the T. T. a copy of which was~~

~~enclosed with our Conf' report of the~~

~~29th of Jan^y last.~~

(and refer
back com
putting)

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and the T. T. of my decision in this
matter.

Shaverz

Secretary of State)

(signed)

Woomashy Goo

Draft

- Mr. Seal 21.3.25
- Mr. Allen 27/3
- Mr. Bottomley 23/3
- Mr. Strachey 23/3
- Sir J. Shackburgh
- Sir C. Davis
- Sir G. Grindle
- Sir J. ~~Clouston~~ ^{W. Lambert} Smith
- Mr. Ormsby-Gore
- Mr. Amery

No 10372/25 Kenya.

St

DRAFT.

25 March 1925.

British Imperial Office,
 (South Africa) Bldg.,
 St. Helen's Court
 Gt. St. Helen's,
 E.C.

25/3/25
 282 St. Helen's Court
 copy to Gen

With reference to the letter from
 this Dept. No 46975/1924, of the 8th of
 October, 1924, I am eli. to inform
 you that the representations contained
 in your letter of the 3rd of October, with
 regard to the alteration in the assessment
 of Customs duties on petroleum
 entering Kenya, Uganda and
 the T.T., have been carefully
 considered by in consultation by
 the Officers Administering the Gov'ts
 of Kenya, Uganda and) concerned.
 one of the opinions
 who consider that the existing flat

cons on
 Genl. will
 write with to
 Gen. Macdonagh
 substance of this letter?
 main of letter for Mr. Allen
 attached.
 ? different in the Genl.
 Note for that as Mr. has
 reached the C.
 2 Mr. to read
 done
 27/3

rate of duty should be maintained.
The S. of S. sees no reason to dissent
from the views of the local Governments.

2. I am ~~to point~~ further to
state that the discriminatory rates
of duty which were abolished on the
1st of January, 1922, were only
introduced ^{into Kenya} by the ~~Kenya~~ Customs
Duties Ordinance of the 27th of September,
1922, and into Uganda and the
I. I. by corresponding Ordinances
of approximately the same date.
The S. of S. observes, however, that in
a letter from your Company to this
Dept. ~~to~~ (G. A. S.) of the 8th of November,
1921, it was stated that you
had for many years ~~been~~ been
endeavouring to secure at Mombasa a
site for the provision of storage for
Benzene.

3. I am to add that it would
appear that, before the introduction

(Signed) O. STRACHEY

See further in the
attached to 10372
as to this point

rate of duty should be maintained.
The S. & S. sees no reason to dissent
from the views of the local Governments.

2. I am ~~to point~~ further to
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1st of January, 1924, were only
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I. I. by corresponding Ordinances
of approximately the same date.

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a letter from your Comptroller to this
Dept. ~~to~~ (G. A. S.) of the 8 of November,
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had for many years ~~be~~ had been
endeavouring to secure at Tombasa a
site for the provision of storage for
Benzene.

3. I am to add that it would
appear that, before the introduction

Signed) C. STRACHEY

See further note
attached to
as to this para
10372

Japan to omit
 this para. but
 the note which
 is inserted is to
 packing materials.
 it refers to
 actual receipts.

Of the revised tariff in September, 1922, packing materials for petroleum were not exempted from Customs duties in the territories concerned. It would appear, therefore, that with the abolition of the duty of on such materials as from the 1st of January 1924, importers of bulk petroleum are ~~now~~ in a ~~far~~ more favourable situation in this respect, than as compared with importers of petroleum in cases, etc. than before the introduction of Customs duties on petroleum.