

DESPATCH

EAST AFR. PROT.
No 13504

C.O.
13504

No. 10
1907
ch. 22.
previous Paper.

(Subject.)

Nairobi Customs House Commission

Report of Impediments on articles purchased Locally.

For copy letter from Ch. of Customs regarding that in future agreements a clause may be inserted limiting exemption to those free importations made by communities, it stating that exemptions from Customs duty are not subject to the Berlin Act.

~~Mr. Con~~
Mr. Contarles

Concern that under 27 of the Contract they are entitled to the revision of duty on goods purchased as well as their importation so that it would be well to conform and arrangements to future to goods actually imported by exemption, & in contract. Clauses in the latter case as they justify such contracts. I do not think that the grant of this exemption is a

Copy drawn and signed
London 22nd of May 1907
13504
1907

monopoly or favour in matter of trade
within the meaning of article 5 of
the Berlin Act. because this is
having a monopoly of the supply
of a commodity in the whole district
is not in competition with anyone.
If there is any infringement it is
rather in the highest part of the
monopoly of supply. But a mono-
poly is practically a monopoly
element of any scheme of the kind.
Advise the Comrs accordingly

18/4

In answer to

I have some doubt whether
this might not be held to be a
favour in trade but on the whole
I think not. I think the words
mean a favour in the matter
of a right to trade.

otherwise I agree therefore

HBC
18/4

but I think that we ought
to resist this attempt to obtain
what is called a "refusal" of

duty on articles purchased
 locally. It does not seem
 to me that the agreement
 can be made to bear
 such an interpretation as
 this. It was obviously
 intended to ~~be~~ apply only
 to stores imported by the
 Company for the purposes
 of their undertaking. If,
 however, W. Cox thinks
 that under the letter of
 the agreement we are
 bound to pay to the
 Company some amount
 to represent the amount
 originally paid as customs
 duty, I think that we
 should tell the Treasury
 that we are so advised
 and that, if they consent,
 we propose to authorize
 the local Govt. to pay from
 a fiscal point of view
 such an arrangement as

the the suspension of Government
from the payment of customs
duties, for the very great
objection; and it is very
important that we should
have allowed that a clause
to be put into the agreement.

Wm. H. C.
at once

The the exemption of Government
from the payment of Customs
Duties; from the very great
obligation; and it is very
important that we should
have allowed that a clause
to be put into the present

Act of
Parliament

C. O.

13504

Customs Office,

Nairobi, 16 APR 07

March 2nd 1907.

EAST AFRICA PROTECTORATE:

No. 110

(Incl. A)

My Lord,

I have the honour to transmit herewith a copy of a letter from the Chief of Customs respecting the refund of import duty to the Nairobi Electric Lighting and Power Company on articles locally purchased by them.

2. The Crown Advocate has ruled that the terms of their agreement clearly entitle the Company to a refund and Mr. Marsden accordingly asks that in future such documents should contain a clause limiting the remission to bona fide importations made by the concessionaires themselves. He also states, by Your Lordship will perceive from the last paragraph of his letter, that exemptions from Customs duty are technical breaches of

H. M. Principal Secretary of State

for the Colonies,

Downing Street,

LONDON, E.W.

C. O.

13504

Chief Post Office,

Nairobi, 16 APR 07

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EAST AFRICA PROTECTORATE:

No. 110

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H. M. Principal Secretary of State

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for the Colonies,

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the Berlin Act.

As the tracing of import duty paid on goods purchased in order to make refunds involve much labour to the Customs Department, I would venture to recommend Mr. Marsden's proposals to Your Lordship's favourable consideration.

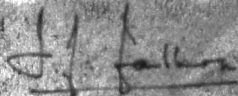
I have the honour to be,

With the highest respect,

My Lord,

Your Lordship's most obedient,

Humble servant,



Acting Commissioner.

INCLOSURE

In Despatch No. 110 of *11th Dec 1907*

C. O.
13504
16 APR 07

Custom House,

Mombasa, Kenya, 1907.

I have the honour to invite your attention to recent correspondence which has taken place in reference to the Nairobi Electric Power and Lighting Company, who under their agreement claim that all material used in the construction of the Light is exempt from duty whether imported by themselves direct or by other people and then sold to them locally.

1. I am of opinion that it was the intention of the Colonial Office only to exempt from duty those articles actually imported by the Nairobi Electric Power and Lighting Company, and not to allow drawbacks on articles bought by them locally which had previously paid duty and so to speak passed into consumption, such as those on which they now claim.

2. The principle was laid down formerly by the Foreign Office that if the Uganda Railway made local purchases they cannot claim such rebates of duty, and that if refused to the Uganda Railway cannot consistently be allowed to a private company.

3. The necessity for local purchases may sometimes arise through unforeseen causes, such as the rule, due to want of forethought.

4. I would suggest that, in future when concessions are given to exempt material from duty, it may be clearly laid down that such exemption only applies to bona fide importations by the Concessionaires and does not extend

J. JACKSON, Esq., P. O., M. G.
Acting Commissioner,
Nairobi.

legal purchases.

6. The Nairobi Electric Power and Lighting Company are carrying this exemption to such an extreme that they are now asking to be exempted from duty on a few picks and shovels bought in Nairobi.

7. I respectfully beg to point out that the granting of such exemptions of Customs duty to private Companies is a technical breach of the Berlin Act which forbids the granting of favours or privileges in the matter of trade.

I have &c., &c.,

Sd/- A. HARRIS

Chief of Customs.

Comer
19504

L.A.P. 193

DRAFT.

The Secretary
Treasury

Ans'd 10/039

Issued
30th April '07

MINUTE.

- Mr. Ellis ~~10/29/07~~
- Mr. ~~_____~~
- Mr. Anthonis
- Mr. Cox
- Mr. Lucas
- Mr. Graham
- Sir M. O'Malley
- Mr. Churchill
- The Earl of Elgin

Sir I am directed by the
 Lord of Elgin to transmit
 to you herewith before the
 L.C. of the Treasury the
 accompanying copy of a
 despatch from the O.A.B. of
 the L.A.P. on the sub-
 ject of the claim of
 the El Kairouan Western
 Lighting & Power Co.
 for refund of Customs
 duties on goods pro-
 ceeded by them locally
 for the construction of
 their works &c.
 2 Copies of the Compro
 mentioned, and I am

O.A.B. to P.P.P. No. 1000

Dept of Finance

to say that H.L. is advised
that under ch. 27 of
the Act the Co. are
entitled that entitled
to the refund which they
claim, and that accor-
dingly, if T.L. consents,
he proposes to instruct
the local Govt. to make
the refund.

At the same time Lord
Byng considers that such
a privilege is very in-
convenient, yet proposes
that, if in any future
amendment exemption from
Customs duties is allowed,
it shall be strictly con-
fined to goods actually
imported by the
comprisoners.

Byng