Proc.
No. 85
1914

PROCLAMATION

By His Excellency the High Commissioner.

No. 85 of 1914.

WHEREAS it is expedient to provide for the imposition of duties of Customs upon goods imported into the territory of the Bechuanaland Protectorate (herein after referred to as the territory) and to empower the High Commissioner to enter into agreements relating to Customs with the Government of any country in South Africa being a portion of the British Dominions or under the protection of the Crown and to give legal effect to such agreements:

Now therefore under and by virtue of the powers in me vested, I do hereby declare, proclaim and make known as follows:—

1. Subject to the exemptions and to any suspensions, rebates and conditions permitted or provided by or under the authority of this Proclamation and subject also to the provisions of any law relating to the management of Customs, there shall be charged, levied, collected and paid Customs duties in respect of goods imported into the territory according to the tariff set out in the First Schedule to this Proclamation.

2. The goods described in Class V of the said First Schedule shall be admitted into the territory free of Customs duty.

3. In respect of any goods which, being grown, produced or manufactured in the United Kingdom are imported therefrom for consumption in the territory, a rebate of Customs duties shall be allowed as follows:—

(a) in the case of goods charged with Customs duty under Class I, in the First Schedule to this Proclamation, the rebate shall be the amount or percentage shown in the third column thereof opposite the particular item charged;

(b) in the case of goods charged with Customs duties under any other class in that Schedule the rebate shall be as and when indicated by note at the end of the particular class:

Provided that—

(i) the manufactured goods in respect of which the rebate shall be allowed shall be bona fide manufactured in the United Kingdom; and

(ii) in the event of any question arising as to whether any goods are entitled to any such rebate the decision of the Resident Commissioner shall be final.

4. Such a rebate as is provided in the last preceding section shall be allowed *mutatis mutandis* under the circumstances and conditions in that section described, in respect of goods which are grown, produced or manufactured in any British Possession or Protectorate in which an equivalent rebate is allowed reciprocally in respect of goods imported into that Possession or Protectorate from the territory. Proc. No. 85 1914

The particular British Possession or Protectorate in respect of which such a rebate may be allowed under this section shall be from time to time notified by the High Commissioner by notice in the *Gazette*, together with the date as from which the rebate will take effect.

5. A rebate of Customs duty shall be allowed in respect of the following goods:—

(*a*) Wines and spirits for the use of the Resident Commissioner;

(b) goods for the use of the members of His Majesty's regular naval or military forces;

(*c*) soap or other like substances for use in connection with the industry of wool washing.

In the case of goods mentioned in paragraph (*b*) an allowance per member may be made in lieu of the rebate.

6. The High Commissioner may from time to time by notice in the *Gazette* declare—

(*a*) that when goods which have been imported into the territory are exported therefrom to a country specified in the notice a rebate shall be allowed or a refund made of the duty which was levied on the importation;

(*b*) that when any article manufactured in the territory is exported therefrom, a rebate shall be allowed or a refund made of the duty in respect of materials (whether raw, semi-manufactured or manufactured) used in the manufacture of that article;

(*c*) that there may be allowed a rebate or refund of the duty which would be payable in respect of articles (not being private wearing apparel or effects, food or drink, or tobacco in any form) for the official or private use of consuls who are subjects of the Governments represented by them and are not engaged in any other business, profession or occupation in the territory;

(*d*) that, in respect of bona fide samples imported by commercial travellers or by representatives of foreign business undertakings, a refund shall be made of the duty paid upon the export of those samples;

(*e*) that, in respect of goods not intended for consumption in the territory but imported thereinto by bona

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fide tourists for their own personal use while touring therein, a refund shall be made of the duty paid upon the export of those goods.

7. For the purpose of estimating the amount of Customs duty whenever levied on goods *ad valorem* and for the purpose of the declarations and oaths which may at any time be required by law or regulation in relation to the question of such duty, the value for purposes of duty of those goods shall be taken to be the true current value for home consumption in the open market of similar goods in the principal markets of the country from which and at the time at which the goods were imported, including carriage to the port of shipment and the cost of packing and packages, but not including agents' commission when such commission does not exceed five per cent.: Provided that in no case shall the value for purposes of duty, as in this section defined, be less than the cost of the goods to the importer at the port of shipment.

8. Anything to the contrary notwithstanding in this Proclamation contained, the following provisions shall be in force in respect of the charging, levying, collection and payment of Customs duty:—

(1) In the case of goods imported into the territory, of a class or kind made or produced in the territory, if the export or actual selling price to an importer in the territory be less than the true current value (as defined in this Proclamation) of the same goods when sold for home consumption in the usual and ordinary course in the country from which they were exported to the territory at the time of their exportation thereto, there may in addition to the duties otherwise prescribed, be charged, levied, collected and paid on those goods on importation into the territory a special Customs duty (or dumping duty) equal to the difference between the said selling price of the goods for export and the true current value thereof for home consumption as defined in this Proclamation: Provided that the special Customs duty (or dumping duty) shall not in any case exceed fifteen per cent. *ad valorem*.

(2) When a bounty is granted in the country of origin on any goods, of a class or kind made or produced in the territory an additional Customs duty equal to the amount of such bounty may be charged, levied, and collected upon the importation of those goods into the territory.

(3) The goods in respect of which there may be charged, levied and collected any special (or dumping) Customs duty under sub-section (1) or any additional

Customs duty under sub-section (2) shall be from time to time determined by the High Commissioner and notified by him by notice in the *Gazette*, together with the date as from which such his determination shall take effect: Provided that such date shall not be less than six weeks after the publication of the notice. Proc. No. 85 1914

9. Whenever goods are imported into the territory under such circumstances or conditions as render it difficult to determine the value thereof for purposes of duty because—

(*a*) those goods are not sold for use or consumption in the country of origin or production; or

(*b*) a hiring of those goods or the right of using the same, but not the right of property therein, is sold or given; or

(*c*) any royalty imposed on those goods is uncertain or is not from other causes a reliable means of estimating the value of the goods; or

(*d*) those goods are usually or exclusively sold by or to agents or by subscription; or

(*e*) those goods are sold or imported in or under any other unusual or peculiar manner or conditions,

the Director may determine the value of those goods for purposes of duty, and the value so determined shall, unless otherwise provided, and subject always to the right of appeal to the Resident Commissioner, be the value upon which the duty on those goods shall be computed and levied.

10. (1) Subject to the provisions of this Proclamation there shall be levied and paid to the proper officer in respect of

(*a*) spirits;

(*b*) beer;

manufactured in the Union of South Africa or in any British Possession or Protectorate in South Africa the Government of which has entered into a Customs agreement with the Government of the Union on importation into the territory in substitution for any duties on spirits and beer specified in the First Schedule to this Proclamation Customs duties in accordance with the tariff set out in the Second Schedule to this Proclamation subject to the rebates of duty specified in Part II of that Schedule and to the rebates in the case of beer, which may be permitted by the regulations made under this section.

(2) In the interpretation of this Proclamation

(*a*) "wine brandy" (cognac type) means the distillate resulting solely from the distillation of wine the volatile constituents of which distillate (except water) are derived entirely from the wine, provided the distillate is not distilled at higher than twenty-two degrees overproof and such volatile constituents include not less than 125 parts of higher alcohols calculated as amyl alcohol and 300 parts of total secondary constituents per 100,000 parts of alcohol;

(b) "dop brandy" means the unrectified distillate resulting from the distillation solely of grape husks and water; the volatile constituents of which distillate (except pure water used for reducing the strength thereof) are derived entirely from the above-named materials; provided that the alcohol strength of such dop brandy be not lower than 25 degrees under-proof.

(3) Notwithstanding anything contained in this section

(a) spirits manufactured in the Union of South Africa in stock in the Union of South Africa on the 30th day of June 1913 shall, if the proper officer is satisfied that the same are certified to be or are returned as wine brandy under the Excise Duties Amendment Act 1909 of the Cape of Good Hope, pay on importation into the territory Customs duty at the rate of 5s. per imperial proof gallon;

(b) spirits manufactured in the Union of South Africa distilled from wine and classed as wine brandy under the provisions of the Excise Duties Amendment Act 1909 of the Cape of Good Hope, before the 1st day of January, 1914, shall only be liable on importation into the territory to the Customs duty of 5s. per imperial proof gallon.

(4) The High Commissioner may from time to time by notice in the *Gazette* make alter and repeal regulations not inconsistent with this section as to all or any of the following matters, namely—

(a) the conditions under which the rebates of duty specified in the Second Schedule to this Proclamation shall be allowed;

(b) the conditions under which a rebate of the whole or any part of the Customs duties shall be allowed in respect of

(i) beer exported from the territory;

(ii) beer for the use of His Majesty's regular naval and military forces in the territory;

(iii) beer brewed wholly or in part from materials produced or grown in the Union of South Africa or in any country the Government of which has entered into a Customs Agreement with the Union.

The regulations may provide penalties for a contravention thereof or failure to comply therewith, not exceeding one hundred pounds, which may be recovered at the suit of the proper officer by action in the Court of an Assistant Commissioner. The article in respect of which the contravention or default has been committed may in the discretion of the proper officer be forfeited.

11. Nothing in this Proclamation or in any other law relating to Customs contained shall be deemed to authorize any person within the limits of the territory to manufacture or distil spirits of any kind or description whatsoever.

12. The High Commissioner may enter into an agreement with the Government of any country in South Africa, being a portion of the British Dominions or under the protection of the Crown, providing

(*a*) that goods grown, produced, or manufactured in the territory shall be admitted into that country free of Customs duty, and that goods grown, produced or manufactured in that country shall be admitted into the territory free of Customs duty;

(*b*) that one party to the agreement shall collect on behalf of the other party the Customs duties imposed in respect of goods which, having been imported into its country, are removed into the country of the other party;

(*c*) for the payment of Customs duties or of any amount in commutation of such duties;

(*d*) for the payment of charges for collection of duties;

(*e*) that in the event of an Excise duty or surtax being imposed on any goods grown, produced, or manufactured in the territory or imported thereinto, a corresponding duty or surtax may be levied on like goods, which, having been grown, produced or manufactured in or imported into the country of the other party to the agreement, are imported into the territory;

and any such agreement shall be published in the *Gazette* and shall have legal effect in the territory.

Any such agreement entered into by the High Commissioner before the taking effect of this Proclamation which might lawfully have been entered into under this section shall have legal effect in the territory in accordance with the terms thereof until varied or rescinded by a further agreement made under this section.

13. (1) All the provisions of the Bechuanaland Protectorate Customs Proposed Duties Procedure Proclamation 1914 as amended by Proclamation No. 29 of 1914, of the Bechuanaland Protectorate Spirits and Beer Proposed Duties Procedure Proclamation 1914 and of the Bechuanaland Protectorate Cus-

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toms Management Proclamation 1914 shall be deemed to be incorporated in this Proclamation.

(2) In the interpretation of section *one* of Proclamation No. 29 of 1914 as read with this Proclamation and the regulations made thereunder, "an agreement for the sale or delivery of an article" shall include an agreement for the hiring of that article and the expressions "seller" and "purchaser" shall correspondingly be construed as including the person by whom and the person to whom the article is hired.

(3) Any expression to which a meaning has been assigned in and for the purposes of the Bechuanaland Protectorate Customs Management Proclamation 1914 shall, when used in this Proclamation or any regulations made thereunder bear that meaning, unless the context otherwise requires.

14. The High Commissioner may from time to time by notice in the *Gazette* make alter or revoke regulations, not inconsistent with this Proclamation or any other law, as to all or any of the following matters, namely,

(*a*) the conditions under which goods the duties in respect whereof are suspended under the authority of this Proclamation may be imported into, or removed from one place to another within the territory;

(*b*) the conditions under which rebates which may be allowed or refunds which may be made by or under the authority of this Proclamation shall be allowed;

(*c*) the conditions under which removal from or into the territory may take place of goods which are subject to any agreement made under this Proclamation with the Government of any country;

(*d*) the conditions under which the transit through the territory may take place of goods the importation of which into the territory is prohibited or restricted under any law;

and generally for the better carrying out of the objects and purposes of this Proclamation.

The regulations may provide penalties for the contravention thereof or failure to comply therewith not exceeding the penalties mentioned in section *fifty-nine* of the Bechuanaland Protectorate Customs Management Proclamation 1914 incorporated in this Proclamation.

15. The laws specified in the third schedule to this Proclamation are hereby repealed to the extent set out in the third column thereof.

16. This Proclamation may be cited for all purposes as the Bechuanaland Protectorate Customs Tariff Proclamation 1914 and shall have force and take effect.

(*a*) as regards any goods on which Customs duty is hereby increased on the first day of May 1914;

(*b*) in other respects on the date of its publication in the *Gazette*. Proc. No. 85 1914

GOD SAVE THE KING.

Given under my Hand and Seal at Johannesburg this Seventeenth day of December, One thousand Nine hundred and Fourteen.

BUXTON,
High Commissioner.

By Command of His Excellency the
High Commissioner.

C. H. RODWELL,
Imperial Secretary.

(Schedules not printed.)