

5
6

C. S. O.

SGA/WHA/3 # 3

| | |
|-------------|----------------------------|
| 0 4 6 5 / F | 0 4 6 5 / F |
| ===== | |

(Formerly)

SUBJECT:

CUSTOMS LEGISLATION

Whale Oil Duty.

| <u>Number & Year.</u> | <u>CONNECTED FILES.</u> |
|---------------------------|---|
| 0465 | Customs Legislation (and sub-files) |
| D/1/49/III | Collection and refund of duty on whale oil. |
| D/6/47 | Export duties on whale and seal products. |

DECODE.

TELEGRAM SENT.

From SECRETARY OF STATE to GOVERNOR

Despatched : 23.7.52. Time : 1155 Received : 24.7.52. Time : 0845

CONFIDENTIAL.

No 88. Following from Harrison begins:-

Pesca.

Governor saw Ryan in Montevideo and informed him that Government would probably terminate lease if company

- (a) payed the balance of 1951 export tax "under protest" as at present apparently instructed to do by the Argentine Government
- (b) failing pay as yet or
- (c) cease operations for one season for other than economic factor beyond company's control and in that event Governor would require to be properly satisfied.

2. Governor asks that you consult Webb regarding possible amendment Customs Tariff Ordinance so as to provide that operative holding up shipment oil pays tax at the rates that have been payable during season in which oil obtained.

3. Such amendment has not yet been fully considered here and no repeat no action for its enactment beyond obtaining the legal advice in meanwhile. Ends.

SECRETARY OF STATE

Reply at 4

Cypher-M.L.C.
SS

Y.H.

P.136. - *above*

I informed you the other day that Pesca's Manager in S.Georgia states that payment has been made in London.

With regard to para 2 - I don't like the proposal at all - who is to determine whether operative is holding up - or unable to effect shipment. It also smacks of cutting off our noses to spite our face - if operator holds up it is to get a better market from which we in turn would benefit. If such legislation went through then Company could export a small quantity in one season sell at a ridiculously low price thereby paying the minimum duty on the whole take.

Please also see p.135 - *in D/3/47*

(Intld).F.M.B.
7/8

2

C.S.

Ref. 134 - in D/3/47

There is I think a precedent where S/S granted an extension to his beloved Salvesens which we should not omit to refer to. (218) - (228) on D/5/36 possibly.

2. Pse also p.u. with copy of convention referred to in para (1) of (34)

3. Why has (134) taken such a long time to appear?

Ref. 136 - in D/3/47

4. We should check up with C/Agents if Pesca have paid (up in full and if there was any question of protest (A.C.S.G. (should also be asked about this).

5. As regards the other suggestion, I am inclined to agree with you. Pse. spk. and I will write to Sir Miles Clifford on the next mail.

(Intld)C.C.
10/8

Y.H.

A above.

Precedent is from p.207 onwards of D/5/36 attached. You will note extension was granted by us not S.of.S. although he put the case forward for concession. It appears we were at fault in not drawing attention of S.of S. to the International Agreement.

Relevant portion of convention is at p.22 of enclosure 19 of file D/10/47 attached and amendment at para d. p.83 same file.

134 was delayed by me in face of more urgent matter.

(Intld)J.E.B.
11/8

C.S.

I don't agree with x above as S/S forwarded the refs.to us in (80) D/10/47. Drafts at cover to issue.

(Intld)C.C.
12/8

A.C.S.

Above F.N.A. & file back to me in d.c.

(Intld)J.E.B.
12/8

A

D/3/47

B
Action in
D/1/49/III
(Intld)J.E.B.

X

D/3/47

Y.H.

You wish to address Sir Miles re p.136.

Pesxa have paid their a/s duty without reservation.

(Intld)J.E.B.
13/8

C.S.

I have been looking at the Customs Order (5) of 1948 and there it shows that the duty is assessed "on the average" price per ton for the season of first grade oil"

2. Does this apply to S.Georgia 1st grade oil or the world market?
3. There may be papers shewing the intention behind the law and C/Customs views shld.also be sought.
4. It seems that this meets our objections about token sales (unless all companies agree to market a token amount in a bad season), The crux of the matter is whether we want some cash in every year. If not then it seems better to let them hold upsales as they are in a better position than we are to guess the market.
5. This problem shld.be pursued on a separate file.

(Intld)C.C.
13/8

J.S.

*Duty is assessed on average price obtained for the oil exported in a season. - not World Market.
Pl. see pp. 148.149 of D/6/47 vol II attached.*

The practice in this respect being the one we have recently advised F.P.C. as being the intention of Legislature regarding Duty on Wool.

*J.S.B.
19/8.*

C.S.

- 1) Draft telegram to s/s at work to come.
- 2) Draft letter to Sir Miles Clifton at work for consideration by you & C/Customs.
 - a) x/ on para 5 is presumably correct?
 - b) Can either of you think of any other advantages of the amendment other than those listed at x/.
- 3) I want this to go on this mail.

*J.S.B.
20/8*

DECODE.

TELEGRAM SENT.

From GOVERNOR to SECRETARY OF STATE

Despatched: 23.8.52. Time: 1030. Received: Time:

CONFIDENTIAL.

No 121. Your telegram No 88. Pesca.

Pesca have now paid balance 1951 export tax
without "protest!"

2. Action being taken on your paragraph 2.

OFFICER ADMINISTERING THE GOVERNMENT

GTC
SS

GOVERNMENT HOUSE,
STANLEY, FALKLAND ISLANDS.
22nd August, 1952.

Dear Sir Miles,

Whale Oil Tax and Pesca.

1A. Harrison, in Confidential Telegram No. 88 from the Secretary of State, stated that you wished us to consult Sir Henry Webb with a view to amending the Customs Tariff Order so as to provide that any Company holding up oil shipments would pay tax at the rate of the season during which the oil was obtained.

I have discussed this with Briscoe and before proceeding I felt that I would like to bring to your notice one or two possible shags which have occurred to us.

If the amendment is introduced we are in danger of losing revenue. A Whaling Company would presumably only hold up oil in order to get a better price later and if they are made to pay tax at the current season's rate, we are assuming that our guess with regard to market prices is better than theirs - which is improbable.

Of course if only one company holds up shipment we might prefer to rely on the majority decision, but we also might be faced with the problem of two or all three of them holding it up.

In this latter event not only would we have no price data on which to base our tax, but worse still, we might find that all three companies had conspired to sell only a token quantity of first grade oil at a very low figure in order to pay a negligible tax when they exported the bulk in the following season.

There is, however, another difficulty which may arise with the law as it stands at present.

Rumour has it that Salvesens may export their oil from South Georgia and hold it up in store in England until the market improves.

Provided that the other Companies sell that season, Salvesens are, of course, liable for tax but if all three Companies export and hold up sale in England or Europe we are again faced with the difficulty of having no data on which to assess taxation.

Briscoe's suggestion is that we should revert to a fixed annual tax related to, but not necessarily based on, the previous season's market.

Sir Miles Clifford, K.B.E., C.M.G., E.D.,
East India Club,
16, St. James's Square,
LONDON, S.W. 1.

b.

This is certainly the simplest solution but unless we keep to the same figure over a period of years it is going to lead to annual bickering and argument with the Companies.

This idea also presupposes that the market is going to remain reasonably steady.

Alternatively the law might be amended so as to charge export tax at the ruling rate when the oil is actually marketed. This might mean that we had to wait a year or two for our tax but it would counter the trick of all three Companies making only a token sales in any one year.

To sum up, I suggest

- (a) We maintain the "status quo" so long as the price continues to fluctuate and we allow oil held up in South Georgia to be taxed at the rate of the season when it was exported.
- (b) When the market steadies we introduce a fixed tax.
- (c) If the Companies appear to be trying any of the somewhat tortuous tricks which I have visualised, then we amend the law to provide for taxation at the rate when the oil was actually marketed.

Yours sincerely,

(Sd) Colin Campbell

Paul 13/11