

1921

KENYA

30807

540

DATE

26TH MAY 1921

GVERNOR MONTHEY

SECRET

Recd
21 JUN 21

CIRCULATION :-

SUBJECT
JUBALAND

SESSION OF TERRITORY TO ITALY

Submits detailed comments on draft of proposed Convention. Enquires as to transfer of the Bajun Islands.

Mr. Grindle

Mr. H. Lambert

Mr. H. Read

Mr. G. Fisher

Mr. Wood

Mr. Churchill

Previous Paper

MINUTES

Gov. 29641

See H. Read's

Clearly the best way to deal with this is for Mr. Spaulding to walk in & see to discuss probably in his first instance as we did hope - and if you come I propose to send a copy of this & of 29671 to Mr. Walker & ask him to arrange a time for a reference

WRS.

25.6.21

Signe

WRS.

H. R. B.

25/6/21

Subsequent Paper

Gov. 55706

Copy of minutes

25.6.21

Mr. Bottomley.

Now see letter from Mr. Sperling attached, enclosing draft of a note to the Italian Ambassador, the lines of which we agreed upon at our Conference. *And more than 100 copies*

As regards Article II, I agreed to have a fresh copy of the map made showing the proposed international boundary from Malka Re to Dumasa, co-incident with the provincial boundary as in our present map, the boundary from Malka Re northwards following the River Daura and not crossing it, and showing the provincial boundaries throughout in green, not partly in green and partly in red. The Foreign Office suggest that it would be convenient if 50 copies can be made, as the Italians are sure to want a considerable number.

Article V. As the Kismayu area is approximately one-twelfth of the whole, it seemed to us reasonable to ask the Italians for an annual sum of £1,000.

As regards the lump sum payable, the Foreign Office representatives thought that it was reasonable to ask *(£100,000 should be determined)* on the basis of 25 years purchase, viz. to ask for £25,000. Their view is that it will be better to ask, in the first place, for rather more than we expect to get, and that if we ask for £25,000 in the first place

shall see
place we probably ~~cannot~~ get it.

Article II. See 29671 and 33717 as to amendment of Schedule.

I have suggested various alterations in pencil in the draft, which should be returned to Mr. Sperling with such alterations as you may finally approve, asking him to send it to us officially, when approved by the Foreign Office, for our official ~~approval~~; and to put the thing on a proper official footing, we should now write officially to the Foreign Office, sending copies of 30807, 29671, 33717, and 33933, [we need not actually send again copies of 30807 and 29671, but can explain that copies have been sent semi-officially] saying that the most convenient plan appears to be to settle the terms of the note which must now be addressed to the Italian Ambassador, by semi-official consultation between the Departments.

*Para 3 of Giovanni's despatch
lines to the Ambassador
to the effect of saying anything
to the Italian Ambassador
we can give him
in a Commission.*

*We might
send the F.O.
Mr. Bottomley's
suggested amendments
to have a 5-0
decision after
the 11th.*

*Not
20. 11. 21.*

*Sir H. Lytton
I agree & have no
comments on Mr. Bottomley's
pencil alterations.
As regards the map
(see Mr. Bottomley's letter
herewith) - in his hand*

be drawn along the
provincial boundary as
far as (near) Elts Eilla
Kada which should be
taken as defining the
"Central well" for the
purpose of fixing Elbeas
(practically at the vertical
cross I have made) and
so the meridian.

I hope to write to
Col. J. G. accordingly
[to be read to all to
show these hopes to
Sir E. Northey before anything
goes to the Italian
Ambassador]

Yes. This
is quite certainly
to be done
K. J. P.

Wed 21.7.21

When the F.O. send us
the 3pts. of the Note or
agreement for comment, Sir
Rustey & Co. see the paper,
especially with regard to
Art. 7 & 8 of the agreement.
otherwise, as proposed.

at once.

K. J. P.

25/11/21

8 HOUR PERMISSION
RECORD OF F. I. O.

be drawn along the
provincial boundaries
for as (near) Siles Silla
Kada which should be
taken as defining the
"Central well" for the
purpose of fixing Siles
(practically at the pencil
cross I have made) and
so the meridian.

I hope to write to
Col. Jack accordingly
[I shall be able to
show these papers to
Sir E Northey before anything
goes to the Italian
Ambassador]

Yes. This
is quite certainly
to be done
R. J. H.

Wed 21. 7. 21

When the 7th and as
the 3rd of the Note &
Agreement for convenience of
Rustey & Co. on the paper,
especially with refer to
Art: 7 & 8 of the agreement
otherwise as proposed.

at once.
R. J. H.
25/7/21

PHOTOGRAPHY
HOLT PERMISSION
RECORD OF

542
July 13/21

Mr. Batterbee

I fear it will be im-
possible to get this draft &
new text of the Jubaland
petition into more con-
cise shape in time to
suit your convenience.

I therefore send it over as
stands. Malbin is going
to elaborate the draft about
nationality article, be-
cause, as he rightly observes,

the Italians never saw the
text as we sent it to
Northey

for review

RSpenning

Registry No.

513

F.O.

Draft

July

1921

Italian Ambassador

G. E.

I have the honour to state that I have now received the observations of the Governor of Kenya Colony on G. E.'s notes of March 24 & May 14 last with regard to the proposed transfer of Jubaland to Italy and I transmit to G. E. herewith a revised draft of the Convention containing the modifications indicated as desirable. General Northey with his personal knowledge of the district in question

As regards Article 1 it has been ascertained that the most easterly well of practical

Draft Treaty

Schedule of Govt buildings etc
as amended in 1917

Mrs Walker

practical utility in the area
of El Wak is the well of
Alberon. This well is accor-
dingly specified by name in
the text of the article in
order to avoid the possibility
of future misunderstan-
dings. In this connection
I should observe that the
proposed international fron-
tier coincides with the ^{present}
provincial boundary. The
letter was drawn for the
express purpose of dividing
the district of the Marehan
on that of the Gurre, and
it has long been the settled
policy of the British Ad-
ministration not to allow
the Marehan to cross into
the territory of the Gurre,
whose needs the remain-
ing wells of the El Wak
area are indispensable.

Registry No.

Draft.

F.O.,

192

In the same Article the words
"which shall fall within the
territory to be transferred to
Italy" are added after
"Dick's Head", as they would
appear to be included more
appropriately in the main
article defining the bound-
ary rather than in Art. 3.

Article 2. A new map is
being prepared in which cor-
rection will be made of
the error at the northern
end of the frontier, to
which attention was called
by G. 2.

Article 3. Modified in
accordance with the altera-
tions in article 1.

Article 4. H. M. G. feel
that they must [require] the

the cancellation of the Treaty of Commerce between Italy and Zanzibar of May 23, 1885, as one of the conditions of the transfer of Jubaland. [Not only is it] proposed to transfer to Italy a larger area than that originally mentioned, an area including Ras Kiambone to which the Italian Govt attach some importance, [but the Treaty of 1885 is one of a series which is really indefensible as between civilized administrations.]
Moreover the ^{Convention} Treaty of St Germain-en-Laye of Sep. 10, 1919, has now been ratified by France, Belgium and Great Britain and is therefore now in force as regards Zanzibar. Italian subjects will therefore enjoy the advantages of that Convention as soon as it is ratified by Italy.

to this conclusion
to some in mind
Considerably
[it is a matter of
and of Army comes only
to the transfer of
and in the conditions
the Treaty of 1885
institutions in
Convention of St Germain
of Sep 10, 1919,
and has ratified
Belgium & GB, etc
by Italy. Italian
and subjects
to have applied
as British subjects
has of this Convention
then appear to be
for a new Convention

the cancellation of the Treaty of Commerce between Italy and Langibar of May 28, 1885, - as one of the conditions of the transfer of Jubaland. [Not only is it] proposed to transfer to Italy a larger area than that originally mentioned, an area including Ras Kiambone to which the Italian Govt attach some importance, [but the Treaty of 1885 is one of a series which is really indefensible as between civilized administrations.]

Moreover the ^{Convention} Treaty of St Germain-en-Laye of Sep. 10, 1919, has now been ratified by France, Belgium and Great Britain and is therefore now in force as regards Langibar. Italian subjects will therefore enjoy the advantages of that Convention as soon as it is ratified by Italy.

In this connection it
 be borne in mind that
 Considerably
 [It is suggested
 that the transfer of this
 area in the conditions
 of the Treaty of 1885 is
 inconsistent with the
 Convention of St Germain
 of Sep. 10, 1919, which
 has been ratified by
 Belgium & GB, & is
 by Italy. Italian
 subjects -
 to have rights
 as British subjects
 as of this Convention
 than appear to be
 for a small amount

Articles 7 and 9 have been redrafted. The subject of the articles as now drafted is to provide that in general British subjects resident in the transferred territories shall be entitled to remain there without losing their British nationality, while British protected persons will acquire Italian nationality, subject to a right to retain their existing status ^{in countries} subject to their withdrawing from the transferred territories. Inasmuch, however, as the annexation of the colony of Kenya had the effect of conferring the status of British subjects on Somalis and other natives resident in Jubaland outside the Sultan's deminions, and it is considered proper that such persons should not be entitled to retain their British nationality if they desire to remain in the transferred territories, ⁴² provision has been made accordingly so that they will be treated in the same way as British protected persons. The wording of the article follows that which has been adopted in the nationality articles in the treaties of peace.

* This has been done by the
 Lt. Col. ...
 ✓

Registry No.

546

F.O.,

192

Draft

Article 5. The sum of £1,000 per annum has been inserted as representing the value of the revenue which will be lost to the Sultan of Zanzibar and the lump sum mentioned in the second paragraph is calculated at 25 years purchase.

Article 6 no change.

~~Article 7, with which is now incorporated article 9.~~

The text is amended to meet the changed situation which has now arisen through the annexation by H.M.G. of Kenya Colony, whereby those Somalis and other natives who reside in Jubaland outside

1st draft A attached
2nd draft B of 4th March

11/11

Registry No.

547

F.O.

192

Draft

in addition to the
any complete houses
state "independ of
it is necessary to
the right of
holder

twelve land grants in the transferred territory [which were issued at ^{various} times when there ^{was} ~~concessions~~ had no reason to suppose that there would be any change in the administration or in the conditions of tenure].

Article 9 how incorporated in Art. 7

Article 10 no change

Article 11 no change in the text. The Governor of Kenya Colony has however caused a valuation to be made of the ^{land} ~~the~~

removable Govt property, of which A schedule is attached,

the Dominions of the Sultan of Zanzibar have now assumed the status of British Subjects

The new text provides that the native races, other than Somalis, e.g. the Wagosha & Bajun islanders shall be transferred to Italy with the territory

Article 8 as regards the first paragraph. H.M.G. adhere to the wording of their former draft, which is now inserted. In any case they would be unable to accept the word "permit" as proposed in G's draft, because they have ascertained that there are some ^{houses}

A. 2628

houses

copy in Johnston's Office
see Johnston's Office
see file

30907
35717
A. 4734

Registry No.

547

F.O.

192

Draft.

and H. N. G. suggest that the Italian Govt should acquire the items mentioned for the sum of £19,295, and the wireless station at Kismayu for £2,964, being the bare cost of the material & its erection.

H. N. G. would welcome an assurance that provision will be made by the Italian Govt for the upkeep of the small cemetery at Kismayu and the Jenner memorial.

Art. 12. It appears improbable that the international frontier will ever be demarcated from end to end and waterholes will probably

18095

In view of the fact that the cost of building the plant has increased since it was a consideration in your offer. The reports to order from London & London State the fact that some early information these buildings are under Italian Govt. and the fact that they are not being so well preserved as they should be.

They are advised to accept boundary line as laid on the ground as they have the intention of the fact that the boundary has not been demarcated from end to end and waterholes will probably be

be discovered near the presumed line whose possession must be de-

the treaty entail an survey, which the Italian Govt will doubtless be as anxious to avoid as H. N. G.

A modification of the second

Second sentence of the article
is proposed to meet these
conditions.

*Review Draft*Draft Agreement for Transfer of the Territory
Of Jubaland to Italy.-----
Article I.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, in his own name and on his own behalf and, by virtue of his protectorate over Zanzibar, in the name and on behalf of His Highness the Sultan of Zanzibar, so far as the latter may be concerned, transfers to His Majesty the King of Italy all sovereign rights and titles over that portion of African territory lying between the present Italian colony of Southern Somaliland and a new boundary-line determined as follows: from the confluence of the rivers Ganale and Daua, along the course of the Daua up-stream to the southern point of the small southerly bend of the latter river in the vicinity of Malka Re; thence in a south-westerly direction in a straight line to the centre of the pool of Dunesa; thence in a south-westerly direction in a straight line towards Eilla Kalla (which remains in British territory) to such meridian east of Greenwich as shall leave in Italian territory the well of Elberu; thence along the same meridian southwards until it reaches the boundary between the provinces of Jubaland and Tanaland; thence along that provincial boundary to the coast at Ras Kiambone (Dick's Head), which shall fall within the territory to be transferred to Italy.

Article 2.

The above boundary is shown on the attached map + and all references in the above description of the boundary are to this map.

+ The map hitherto referred to is replaced by a new map, the Italian Government having pointed out that a small portion of Abyssinian territory was, through a typographical error, included in the transferred territory.

Article 3.

Whenever it may be impossible to find the places named on the map their positions shall be accepted as shown by the line traced on the map, it being agreed that the boundary-line from the confluence of the Ganale and Daua rivers as far as the well of Elberu shall coincide as far as Malka He with the present political boundary of Ethiopia and thereafter with the present boundary between the Northern Frontier province and that of Jubaland (district of Serenli) i.e., as far as the well of Elberu which shall be included in the territory to be ceded to Italy; shall then follow in a southerly direction the meridian of that well, and shall over the last section coincide with the boundary between the province of Jubalana, and that of Tanaland as far as Ras Kiambone (Duck's Head).

Article 4.

The Italian Government agree to the cancellation of the Treaty of Commerce between Italy and Zanzibar of May 28th 1885.

In accordance with the provisions of the Convention of St. German-en-Laye of September 10th, 1919, which the Italian Government undertake to ratify as soon as possible Italian subjects established in the Protectorate of Zanzibar shall enjoy the same rights and privileges and receive the same treatment as British subjects.

Article 6.

The Italian Government shall indemnify the Government of His Highness the Sultan of Zanzibar, for any loss of net revenue arising out of the present transfer of territory, and shall pay to the latter, as an indemnity which shall in no wise represent a tribute implying any survival of sovereignty the annual sum of £1,000, representing the proportionate share of the annuity which has hitherto been paid by the British Government to the Government of Zanzibar.

The Italian Government shall be entitled at any time to effect the discharge of any obligation undertaken under the preceding paragraph by means of the payment of a lump sum of £25,000 to the Government of His Highness the Sultan of Zanzibar. The Government of his Britannic Majesty undertakes to use its good offices in order to obtain acceptance of that sum on the part of the Government of His Highness the Sultan of Zanzibar.

Article 6.

The Italian Government undertakes that if it shall at any time desire to abandon all or any part of the territory transferred to it as above, it shall offer the same to the British Government upon such terms as may be just.

In the event of any differences between the two Governments as to the terms of transfer, the question shall be referred to arbitration in accordance with the provisions laid down by the League of Nations.

Article 6.

The Italian Government undertakes that if it shall at any time desire to abandon all or any part of the territory transferred to it as above, it shall offer the same to the British Government, upon such terms as may be just.

In the event of any differences between the two Governments as to the terms of transfer, the question shall be referred to arbitration in accordance with the provisions laid down by the League of Nations.

Article 7.

British subjects, other than those persons who have become British Subjects by the annexation of the Colony of Kenya, resident at the date of the coming into force of the present agreement in the territory transferred under Article 1 shall be at liberty to retain their British nationality without being called upon to withdraw from the said territory or to part with their property.

In the event of their desiring to withdraw from the transferred territory they shall be at liberty to do so within 12 months from the coming into force of the present agreement. They shall be entitled to carry with them their movable property of every description without payment of export or import duties of any kind. They will be entitled to retain their immovable property in the transferred territory.

British protected persons and British subjects who have become such by the annexation of the Colony of Kenya resident in the transferred territory, will acquire Italian nationality and cease to be British protected persons and British subjects respectively. Provided, however, that such persons, not being Somalis, or belonging to the native races of the area transferred, shall have the right to retain their existing nationality on condition that they withdraw from the transferred territory within twelve months from the coming

into force of the present agreement. In that event they will be entitled to carry with them their movable property of every description without payment of export or import duties of any kind. They will be entitled to retain their immovable property in the transferred territory.

Article 8.

All concessions or rights to properties in the above territories which have been recognized as valid by the former Government and are held by private persons or corporations at the date of the transfer of those territories shall be recognized as valid by the Italian Government, to whom shall be transferred all rights and obligations of the former Government under the said concessions.

It is agreed that the concessions and property rights shall be exercised in accordance with the general laws and regulations in force in the Italian colony of Italian Somaliland, and that the Italian Government may impose on the concessionaires and proprietors all limitations necessary for the execution of works of general utility, without this imposition entitling these subjects to compensation or indemnity greater than that to which Italian subjects would be entitled in similar cases.

Article 9.

(Note. Superseded by Article 7, above.)

Article 10.

(See 11 of the English proposal).

All treaties conventions and agreements between the Government of His Britannic Majesty and the Government of His Highness the Sultan of Zanzibar and the Government of His Majesty the King of Italy, applicable to the Italian colony of Italian Somaliland, and at present in force, shall be extended to the territory now transferred in accordance with the present agreement.

(Article 12 of the English proposal has been cancelled; see article 4 of the present draft.)

Article 11.

(See 13, 14 and 15 of the English proposal).

The two Governments of the British Colony of Kenya and of the Italian Colony of Southern Somaliland shall come to the necessary agreements with regard to the special conditions of time and place for evacuation by the English troops of the territory to be transferred and the entry of Italian garrison troops; they shall settle the conditions of transfer to the Italian Government of the Government buildings existing within the territory which the latter might wish to acquire from the British Government and of the wireless telegraph installations at Kisimayo and Serenli. The Italian Government binds itself to respect the rights of Sudanese pensioners remaining at Yosti, in accordance with the general laws and regulations of the Italian Colony of Southern Somaliland.

Article 12.

(See 10. of the English proposal).

The manner in which the present agreement shall be carried out shall be settled on the spot by British and Italian officials appointed for the purpose by the two Governments of Kenya Colony and Italian Somaliland. Until the whole boundary shall have been demarcated by an accurate survey, the officials thus appointed shall be empowered to decide, provided an agreement can be reached, under which Government villages of local importance situated near the proposed boundary shall come. In the event of an agreement not being reached, the points in dispute shall be settled by an accurate survey in accordance with the line described in Article 1.

AFRICA.

[March 31.]

CONFIDENTIAL.

SECTION 1.

A 2257/12/60.]

No. 1.

Signor de Martino to Earl Curzon. (Received March 31.)

(Translation.)

My Lord,

Italian Embassy, London, March 24, 1921.

IN accordance with instructions which have just reached me, I have the honour to submit to your Lordship some alterations which the Italian Government would like to see made in the draft agreement for transfer to Italy of various territories in Jubaland, handed to Signor Baccari by Mr. Sperling on the 9th March, 1920.

In order to make the explanation easier and more clear, I have the honour to transmit to your Lordship a draft agreement containing the alterations which the Italian Government proposes should be made in the British draft.

The reasons which induce the Italian Government to make these alterations are set forth in the memorandum also transmitted.

With the request that your Lordship would be so good as to inform me of the views of the British Government on the above question.

I have, &c.

G. DE MARTINO.

Enclosure 1 in No. 1.

Draft Agreement for Transfer of the Territory of Jubaland to Italy.

(Translation.)

ARTICLE 1.

HIS Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, in his own name and on his own behalf and by virtue of his protectorate over Zanzibar, in the name and on behalf of His Highness the Sultan of Zanzibar, so far as the latter may be concerned, transfers to His Majesty the King of Italy all sovereign rights and titles over that portion of African territory lying between the present Italian colony of Southern Somaliland and a new boundary line determined as follows: from the confluence of the rivers Ganale and Daua, along the course of the Daua up-stream to the southern point of the small southerly bend of the latter river in the vicinity of Malka Re; thence in a south-south-westerly direction in a straight line to the centre of the pool of Dumasa; thence in a south-westerly direction in a straight line towards Eilla Kalla to such meridian east of Greenwich as shall leave in Italian territory the most easterly well of practical utility in the area of El Wak; thence along the same meridian southwards until it reaches the boundary between the provinces of Jubaland and Tanaland; thence along that provincial boundary to the coast at Ras Kiambone (Dick's Head).

ARTICLE 2.

The above boundary is shown on the attached map,* and all references in the above description of the boundary are to this map.

ARTICLE 3.

Whenever it may be impossible to find the places named on the map, then positions shall be accepted as shown by the line traced on the map, it being agreed that the boundary line from the confluence of the Ganale and Daua rivers as far as the most easterly well of practical utility of the El Wak group shall coincide as far as Malka Re with the present political boundary of Ethiopia and therefore with the present boundary between the Northern Frontier province and that of Jubaland (district of

* Not reproduced.

ARTICLE 9

British subjects and protected persons resident or trading in the ceded territory, and not belonging to the native races thereof, shall be entitled to withdraw from such territory within twelve months, taking with them their personal property of every description, without payment of any import or export duties of any kind.

(Article 10 of the English proposal has been cancelled, being incorporated in article 4 of the present draft.)

ARTICLE 10.

(See 11 of the English proposal.)

All treaties, conventions and agreements between the Government of His Britannic Majesty and the Government of His Highness the Sultan of Zanzibar and the Government of His Majesty the King of Italy, applicable to the Italian colony of Italian Somaliland, and at present in force, shall be extended to the territory now transferred in accordance with the present agreement.

(Article 12 of the English proposal has been cancelled; see article 4 of the present draft.)

ARTICLE 11.

(See 13, 14 and 15 of the English proposal.)

The two Governments of the British colony of Kenya and of the Italian colony of Southern Somaliland shall come to the necessary agreements with regard to the special conditions of time and place for evacuation by the English troops of the territory to be transferred and the entry of Italian garrison troops; they shall settle the conditions of transfer to the Italian Government of the Government buildings existing within the territory which the latter might wish to acquire from the British Government, and of the wireless telegraph installations at Kisimayo and Serendi. The Italian Government binds itself to respect the rights of Soudanese pensioners remaining at Yonti, in accordance with the general laws and regulations of the Italian colony of Southern Somaliland.

Amended
Substituted
2/11
2/78

ARTICLE 12.

(See 16 of the English proposal.)

The manner in which the present agreement shall be carried out shall be settled on the spot by British and Italian officials appointed for the purpose by the two Governments of Kenya Colony and Italian Somaliland. ~~When the new frontier is fixed according to the line described in article 1 of the present agreement, the requirements for existence and communication of the population inhabiting the regions adjoining the same shall be taken into account.~~

Substituted
Navy

Enclosure 2 in No. 1.

Memorandum explaining the Alterations proposed by the Italian Government to the Draft Agreement (handed to M Bacari on March 9, 1920, by Mr. Sperling) for Transfer to Italy of various Territories in Jubaland.

(Translation.)

Article 1.—The text of the preamble of the draft agreement has been altered for the purpose of making clear that in the present negotiations Great Britain is acting not only as protecting Power of the Sultanate of Zanzibar, but also on behalf of the latter, and that therefore all rights of sovereignty which His Highness the Sultan holds over the ceded territory shall be transferred to Italy. It is the more necessary to make this point very clear, as "protected persons" are improperly referred to in the agreement proposed by the British Government, whereas it is obvious that there will only be Italian subjects in the territory ceded to Italy, all traces of dominion by the Sultan or of British protection disappearing from the moment when such territory becomes part of Italian Somaliland.

Nothing has been altered in the textual description of the new boundary line, that proposed by the British Government being clear. It is nevertheless desirable to point

out that the group of wells of El Wak has not been surveyed nor the extent thereof exactly defined, and that the position of the most easterly well of the El Wak group will therefore have to be defined in due course, as it will practically become a fundamental point of the new boundary line.

Article 2.—It would appear to be well to make the following alterations in the map submitted by the British Government, viz. :—

- (a.) Alteration of the boundary from Unsi to Malka Re, as the boundary marked on the said map crosses to the left bank of the river on Abyssinian territory.
- (b.) Indication of Eilla Kalla (Del Gado) well as the one appearing to be the most eastern well of the El Wak group, subject to a more exact survey on the spot.
- (c.) Completion of the administrative boundary line between Jubaland and Tanaland which, by a clerical omission, has not been marked in red on the map submitted by the British Government, in such manner that the new political boundary between the two regions should coincide with the present administrative boundary, all Cape Kiamba thus remaining within territory to be transferred to Italy.

As the line has not yet been completely traced, it is agreed that it cannot override the textual description, but should be incorporated in the same.

Article 3.—For the reasons given above, it has been considered proper to propose the alteration of article 3, in accordance with the reservation contained in the above-mentioned correspondence, so as to observe local requirements in tracing the new boundary.

Article 4.—As the Italian Government cannot alone cancel the Treaty of Commerce with Zanzibar without finding itself in a position inferior to that of other Governments which have not renounced the same, it suggests that this cancellation should be conditional on cancellation by all the other States who have treaties of commerce with Zanzibar.

Article 5.—The alterations have been made for the purpose of making clear

- (a.) That the reference to the Sultan of Zanzibar only refers to the Sultan of Zanzibar.
- (b.) That the reference to the said Sultan should only have reference to the existence of any remaining sovereignty.

It is further suggested that the Italian Government should reserve to itself all liberty of action with regard to the said territory, and should be entitled to demand indemnity.

It is further suggested that the British Government might be advised to consider the provisions of the covenant of the League of Nations.

Article 10 assumes the position of a treaty, and it is suggested that the British subjects residing in the territory should be entitled to the same treatment as the Italian subjects.

Article 9.—It was considered that the Italian Government should be empowered to impose on the proprietors all limitations which might be considered necessary for the execution of works of general utility (irrigation, barrages, &c.) without this imposition entitling to the right of compensation or special indemnity, other than the rights granted to all Italian subjects in similar cases.

Article 9.—The Italian Government considers it necessary to specify that by "protected persons" the natives of the territory to be transferred should not be understood.

In the draft transmitted herewith it was considered expedient to cancel article 10 of the agreement proposed by the British Government, not only because article 4 of the said draft refers to the substitution (in place of the Treaty of Commerce) of a convention which shall retain the stipulation regarding commercial and industrial rights, but also because the British agreement speaks of political rights, whereas, it is obvious that those rights cannot be granted to Italian subjects only, and that foreign subjects cannot be excluded from those particular measures to which they are ordinarily subject.

Article 10.—No alteration has been made to the British proposal.

In consideration of the fact that, in consequence of the extent assumed during the course of negotiations by the territory to be transferred to Italy, it would be less necessary for the Government of British East Africa to use the port of Kisimayo (as all the inhabitants of the right bank of the Juba are to come under Italian sovereignty), and that the British Government would furthermore be assured within the ports and waterways of the territory to be transferred to Italy of the treatment provided for by the conventions of Saint-Germain, the Italian Government proposes that article 12 of the Foreign Office draft should be done away with, referring to the transfer to the British Government of the rights now granted to Italy in the port of Kisimayo.

Article 11.—This article includes 13, 14, and 15 of the British proposal with regard to garrisons, Government buildings, the Sudanese pensioners of Yonti, and wireless installations, it being suggested that settlement of these matters should be left to the local Governments. (With regard to this question, the Italian Government expresses the wish that instructions might be sent to the Government of British East Africa to the effect that an equitable rather than a strictly financial estimate should be made of the works and buildings, the value of which is known to be small and which are in bad condition.)

Article 12.—In this article it was thought well to add that, when fixing the frontier-line and settling other particulars of the agreement, account should be taken of the requirements for existence and for communication of the territory on the vicinity of that frontier.

London, March 24, 1911.

Cuba (1921) 564

Lawrence

Albion 9.0

Taunton

2 July 1921.

My dear Beckwith

When you are

1. As to the map will you be good
enough to give the necessary instructions
to the boys - you will know the right
man to get hold of better than any one.
I should think it would be a good thing
to have a proof before you are. Think of
it and see there is no mistake. I
wonder if you have seen the map myself
before coming on board, but Swift &
Co. have the book.

2. About the question of water holes
will you please look very carefully at
revised article in your book & the
Station Ambassador on this point
- as to which I feel doubtful.

You are an expert on these matters

NA - 1st of 11
6/21

No. SECRET.

30807
21

26th May 1921.

Sir,

to
16660

I have the honour to acknowledge the receipt of your Secret despatch of April 14th and to transmit the following comments on the draft of the proposed Convention for the cession to Italy of part of Jubaland.

2. Article I.

The phrase "the most easterly well of practical utility" is undoubtedly too vague. The main issue is a native problem. El Wak is essentially a Gurre area and the Marehan whose main tendency is to move westwards must be prevented from obtaining access to wells sufficient for watering their cattle. The intention is, therefore, to include in Italian territory a small well which will serve for an Italian post but which is insufficient for the watering of Somali cattle. Any desire on the part of the Italian Government to provide at El Wak water for Marehan stock must be prevented at all costs, for endless trouble with the Gurre will otherwise ensue.

I am making enquiries to discover the name of a suitable well and will transmit this information by telegraph. The Italians must not be allowed to include Gilla Kalla in the transferred territory as that is the main well of the system and

THE RIGHT HONOURABLE
WINSTON CHURCHILL, P.C., M.P.
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.

must remain in the possession of the Gurre.

It seems to me essential that the most easterly well shall be defined by name, in order to avoid disagreement when the Boundary Commission visits the area. The principle should be that, in order that Gurre interests may be safeguarded, the minimum area is to be given away which will be acceptable to the Italian Government. This will make the boundary some way east of Eilla Kalla.

Article II.

Note (a). The map is incorrect and should be altered. The Northern Frontier District boundary does not cross the Dana River.

Note (b). There is the strongest objection to altering the map so as to make Eilla Kalla appear as "the most easterly well."

Note (c). I have no objection.

Article III.

The Italian alteration in this Article should be opposed. There is no objection to the small alteration suggested in the vicinity of Malka Re; but in the El Wak area, the alteration may conflict with Article I. The Italian draft makes the boundary follow the Provincial boundary, as shown on the map (vide Article II) as far as the most easterly well of practical utility of the El Wak group. This apparently takes it to Eilla Kalla and any form of words which could possibly be so construed is objectionable.

The draft should be amended so as to make it clear that the boundary follows near the Provincial boundary towards Eilla Kalla only to such meridian as shall leave in Italian territory the easterly well of the El Wak area, which is to be specified by name. The form of words in Article I should therefore read "thence (i.e., from Dumaga) in a south westerly direction to well in the area of El Wak: thence along the meridian of such well..." and the draft..

draft of Article III should conform in every detail to that given in Article I without phraseological variation.

I take this opportunity of observing that a clerical error has been made in para 9 of Article III when the word "therefore" should read "thereafter."

567

Article IV.

I am in general agreement with the remarks you make regarding the Treaty of 1885. This Treaty is one of the series of commercial treaties whose abrogation is eminently desirable and it appears to be important that Italy should be compelled, in consideration of the cession of Jubaland, to renounce all the privileges which she enjoys under that Treaty. I understand that each nation concerned has expressed its willingness to renounce its special privileges when the others do so, but that, until that time, it maintains them by virtue of this condition.

By renouncing her rights Italy will only lose the objectionable privileges conferred by the Zanzibar treaties which are really indefensible as between civilized nations. She will retain the privileges conferred by the Berlin and Brussels Acts and, when the revising Convention of St. Germain becomes operative, she will obtain the privileges conferred by that Convention.

I am therefore, of opinion that, in consideration of the cession of Jubaland, Italy should be constrained to surrender its objectionable privileges. In this way, the first nation would be dislodged from enjoying these privileges and the other nations concerned would then have no valid reason for retaining them.

I am advised that in view of the general treaties there appears to be no reason for a new Convention with Italy.

Article V.

There is no objection, that I can see, to the

insertion of the word "nett" before "revenue," and there is equally no object in the proposed insertion. 568

The area of the Sultan's dominions in Kenya Protectorate is approximately 1600 square miles plus 160 square miles near Kismayu. Outside Townships, the Seyidie land is more valuable than the Kismayu area, Mombasa and Lamu are certainly more important towns, but Kismayu has a significance as the only suitable port for the Juba area. My estimate of the proportion of rent paid to the Sultan of Zanzibar in respect of the Kismayu is therefore £500 per annum, or one-twentysecond of the value, the area being approximately one twelfth of the Sultan's dominions. The rent suggested is approximately five cents per acre.

In calculating the lump sum payable, a more difficult problem has to be faced. The rent for the Mainland Dominions was fixed before land values rose and probably represents less than one per cent of the capital value of the land. I believe, however, that the Sultan has no power to increase the rent and consider that the capital value should therefore be determined on the basis of 2%. I suggest that a sum of £20,000 be regarded as the capital value of the Sultan's dominions around Kismayu.

Articles VII and IX.

By the annexation of the Colony of Kenya, I am advised that these Somali persons who were resident at the date of the annexation of the Colony of Kenya, resident at the date of....."

honour
as follows:

"(a). British protected persons and British subjects who have become British subjects by the annexation of the Colony of Kenya, resident at the date of....."

(b). British protected persons and British subjects who have become such by the annexation of the Colony..

Colony of Kenya, resident in the transferred territory, will acquire Italian nationality and cease to be British protected persons and British subjects respectively. Provided, however, that such persons, not being Somalis, or belonging to the native races of the area transferred, shall have the right...

The above provisions satisfactorily cover the case of British European and Asiatic subjects, and provide that the native races other than Somalis, e.g., the Wagosu and the Bajun Islanders shall be transferred to Italy with the territory. It is important that the Somalis should not be permitted to withdraw from the transferred territory, and, inasmuch as the status of Somalis as natives of Africa or Asia is one that is frequently in dispute, I have thought it advisable to maintain the specific reference to them in section (b).

Article VIII.

I agree that the British draft on this point is preferable. A statement of the land grants made in Jubaland by this Government is appended. In addition to the grants referred to in this list, a number of Temporary Occupation Licences have been granted in townships, representing a revenue of some £80 per annum.

LAND GRANTS IN JUBALAND.

No.	Area acres.	Owner.	Tenure.	Term.	Rental.
23.	1500.	Messrs Newland Tarl-Leasehold ton and Co.		99 Yrs. from 2/10/11.	180/-
24.	2100.	Messrs Rayne & Bell.	"	99 Yrs. from 3/7/10.	252/-
25.	2100.	P.H. Clarke.	"	" " 1/7/10.	252/-
26.	2100.	Powysland Plantations. (B.E.A. Ltd.)	"	" " 1/10/11.	252/-
28.	2100.	Count Gignola, (Italian)	"	" " 1/7/10.	252/-
29.	1000.	Count Frankenstein. (Italian)	"	" " 1/7/10.	120/-
30.	5000.	E.A. Cotton Growers Association.	"	" " 1/7/11.	900/-
32.	12.	C.B.E. Gabriel.	"	" " 1/1/12.	36/-
37.	1.5	Jubaland Club.	"	" " "	-

355. 14772. C.S.M. Gabriel & Others " " 1/7/19. 1776/72.

2 plots (Gobmen) Emperor Navigation Co. " 99 years lease promised.

Plot at Kismayu. Emperor Navigation Co. " 99 years lease promised.

- x Lease not yet completed.
- xx Survey not yet effected.

570

Article XI.

I attach a schedule showing Government works and buildings in Jubaland together with an approximate estimate of their value. Removable Government stores are not included in the Schedule. The total estimated value is £19,295 and I suggest that this figure be submitted to the Italian Government.

An engagement should be invited for the upkeep of the small cemetery at Kismayu and for the maintenance of the Jenner Memorial. I presume that this memorial should remain at Kismayu unless application is made by those sentimentally interested for its removal to British territory.

The capital cost of material for the Wireless Telegraph Station was as follows:-

Installation for 1½ K.W. Station.....	£ 967.
Two sectional steel masts.....	£1,300.
Oil Engine.....	£ 110.
Shipping and overhead charges.....	£ 213.
Expenses of erection.....	£ 374.
Total.....	£2,964.

In assessing the present value of the plant, I am influenced by the following considerations:-

(a) The second hand wireless plant would be a greater asset to Kenya than a credit from the Italian Government for its purchase as second hand material.

(b) The plant was bought before prices rose and it is most improbable that a similar plant could be obtained for the

sum.

was agreed upon.

(c) The plant at Kismayu forms one of a set intended to establish communication by wireless in the Northern Frontier.

(d) This scheme has had to be delayed for lack of funds.

(e) Wireless plant and instruments quickly become obsolete and it may be inadvisable to add the Kismayu set to those already in store if there is no prospect of immediate erection.

I am therefore inclined to recommend that this plant be offered to the Italian Government for the bare cost of material and its erection viz £2,964. I am aware that this sum does not allow any percentage for depreciation, but in view of the increase in the cost of material since the plant was purchased I consider the sum stated to be an equitable offer.

The buildings attached to the Kismayu wireless station are included in the attached statement at a value of Fls.60,000.

Article XII.

I am advised that the proposed boundary line does not bisect any tribe, except in so far as there will be sections of Somalis on both sides of the line. It is hoped that division of sections may also be avoided, but the line as drawn, passes through uncharted country, and I consider that the Commission should have power to deviate from it, or decide whether certain water holes shall be regarded as British or Italian.

It appears improbable that the boundary will ever be accurately demarcated from end to end, and unless it is so defined by marks on the ground, there will probably be waterholes near the presumed line whose possession must be decided..

... should be empowered ...
... agreed ...
... must be

572

I would, however, point out that strict adherence to the letter will entail expensive survey which should be avoided if possible. I therefore suggest the following addition to the Italian draft of Article XIII:-

'Until the whole boundary shall have been demarcated by an accurate survey, the officials thus appointed shall be empowered to decide, provided an agreement can be reached, under which Government water holes of local importance situated near the proposed boundary shall come. In the event of an agreement not being found possible, the points in dispute shall be settled by an accurate survey in accordance with the lines described in Article I.'

3. I presume that the transfer to Italy as far southwest as Ras Kiambone entails the transfer of the Bajun Islands which fall within the territorial waters of the transferred territory, and recommend that they should be transferred with the remainder of the territory.

I have the honour to be,

Sir,

Your most obedient servant,

Edward L. Northey

GOVERNOR.

LIST AND APPROXIMATE VALUE OF GOVERNMENT BUILDINGS IN JEBELAID.

573

	Approx. Value. Pis.
<u>KISMAYU.</u>	
Medical Officer's House.	8,000.
Fort including Jail and Hospital.	20,000.
Civil Stores.	2,000.
Customs House and quarters.	10,000.
Dispensary and buildings.	5,000.
A.D.C's House (recently purchased)	2,400.
Wireless Station (Buildings only).	60,000.
Market.	500.
Quarters for clerk.	1,000.
Police Lines.	3,000.
Pier and crane.	5,000.
Water supply (condenser, Tanks, and Pumps).	5,000.
Jenner Memorial Cemetery.	} Not valued.

GOBWEI.

Military Lines, corrugated iron buildings.	
2 each 74.0 x 10.0	1,480.
1 72.0 x 10.0	720.
1 68.0 x 8.0	544.
1 102.0 x 36.0	3,672.
1 13.0 x 6.0	78.
1 34.0 x 6.0	204.
Dispensary and quarters.	3,000.
Quay and Customs House.	2,000.

YONTE.

Two Officers' Bungalows and out-buildings (one pulled down and materials bundled)	10,000.
Officers' Mess.	2,000.
Orderly Room.	1,500.
3 Askari lines.	2,400.
1 ditto without iron.	500.
3 Outhouses.	1,200.

139,788
Carried forward

Brought forward.

Fls. 12,000

SERENLI.

13,498
574

Large boma of barbed wire and thorns.
Makuti huts for about 100 men.
One store building in old boma.

3,500.

ALEXANDRA, (Asaha).

A.D.C.'s House, Office, etc.

6,000

AFMADU.

Temporary Wattle and daub buildings.

1,000.

Roads, &c.

Trolley line from Kismayu to Mbuguni
about 3 1/2 miles; and rolling stock
consisting of two converted Ford tractors
two bogie trucks and one tank truck.

6,850.

Road from Kismayu to Gobwen, 9 miles,
mostly in bad condition.

4,500.

Road from Mbuyuni (end of trolley line)
to Gobwen.

2,400.

Road from Mbuyuni to Afmadu, 87 miles
motor road, in good condition.

18,000.

18,000.

130,948

Total Florins 130,948.
