

1924

KENYA

224

C.O.
47851
10 OCT 24

PARLIAMENTARY GOVERNMENT
S.O.

Date
9th October 1924.

SESSION OF JUBALAND.

Fwdg eight copies of draft of Bill entitled
"The Anglo-Italian Treaty (East African Territor-
ies) Act, 1924". Comments on provisions.

Mr.
Mr. *L. F. Fisher*
Asst. U.S. of S. *W. B. Tolson*

Pres^{id} U.S. of S.
Pres^{id} U.S. of S.
Secretary of State.

Previous Paper

FO
40803
24 K

40803/45213/24 X/Bar.

MINUTES

1. We had not seen the Treaty
When we wrote to the Treasury on
27295, but if the Treasury had
forwarded to Council the copy
of the draft (which was considered
on June 7th) which we sent to them
there would have been no the conference
of course we ought to have called
if a draft (or copy) had

2. Reference to Parliamentary
approval was omitted because
the Italian delegates said it
could be regarded in study as
going

Subsequent Paper

26
45799

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giving a copy to
British Consular [It was
made clear at the time, &
has been laid down in
writing since, that ratification
depended on that approval.]

It could have stood out
in this & several other
points, but that was not
the spirit in which the
negotiations were instituted.
With the knowledge of
Parliamentary approval
on 20/24/87/11

If you are able

form of the bill we will
check the annexes.

10/11/10 24

H. Bottomley,

in the form of the
Bill

but you may also indicate

any amendments you

would like to make in a

manuscript form of the

OFFICE OF THE PARLIAMENTARY COUNSEL.

WHITEHALL,

S.W.

9th October, 1924.

47851

10 OCT 24

Dear Risley,

I have drafted a Bill for the approval by Parliament of the Anglo-Italian Treaty, and send you eight copies herewith.

In accordance with the instructions contained in the Colonial Office letter of the 5th August, 1924, to the Treasury, I have set out the whole of the Treaty in the Schedule. I observe in the same letter a statement that the cession of Jubaland is provided for by a Convention dated the 7th June. I have seen no copy of this Convention and have assumed that it is incorporated in the Treaty of the 15th July, of which you were kind enough to send me copies on the 30th Sept., and it is therefore this Treaty, and not the Convention, which is scheduled to the Bill.

The Colonial Office letter further states that "Mr. Thomas presumes that the lines of the Bill will follow those of the Anglo-German Agreement Act, 1890." There is, however, one very substantial difference between the Heligoland Agreement and the present Treaty: the Agreement of 1890 stated in terms that the cession of Heligoland was "subject to the assent of the British Parliament" (just as the Anglo-French Treaty of 1919 provided that that Treaty should be submitted to Parliament for approval before ratification by His Majesty), but as far as I can see there is no express provision in the present Treaty to make its operation contingent on the assent of Parliament. It therefore

OFFICE OF THE PARLIAMENTARY COUNSEL,
WHITEHALL, S.W. 1.

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30th September, 1924.

Dear Risley,

We have received instructions from the Treasury to prepare a Bill to confirm the Convention providing for the session of Jubaland to Italy, but I cannot get any further without a copy of the Convention. Would you, therefore, be kind enough to take steps to have two copies of it furnished to me?

Yours truly
W. E. John-Henry

Sir John Risley, K.C.M.G., C.B., K.C.,
Colonial Office.

[14 & 15 GEO. 5.] *Anglo-Italian Treaty*
(East African Territories)

DRAFT

OF A

B I L L

TO

Approve a Treaty between His Majesty and
the King of Italy.

WHEREAS His Majesty the King and His Majesty A.D. 1924.
the King of Italy have concluded the Treaty set
out in the Schedule to this Act:

And whereas the said Treaty has not yet been
5 ratified:

And whereas it is expedient that the approval of
Parliament should be given to the said Treaty:

Be it, therefore, enacted by the King's most Excellent
Majesty, by and with the advice and consent of the
10 Lords Spiritual and Temporal, and Commons, in this
present Parliament assembled, and by the authority of
the same, as follows:—

1. The approval of Parliament is hereby given to Assent to
the said Treaty, and it shall be lawful for His Majesty Treaty.
15 to make such Orders in Council and to do all such things
as appear to him to be necessary or proper for carrying
the said Treaty into effect.

2. This Act may be cited as the Anglo-Italian Short title.
Treaty (East African Territories) Act, 1924.

A.D. 1924

SCHEDULE

TREATY BETWEEN THE UNITED KINGDOM AND ITALY
REGULATING CERTAIN QUESTIONS CONCERNING THE
BOUNDARIES OF THEIR RESPECTIVE TERRITORIES IN
EAST AFRICA. 5

Signed at London, July 15, 1924.

His Majesty the King of the United Kingdom of Great
Britain and Ireland and of the British Dominions beyond the
Seas, Emperor of India, and His Majesty the King of Italy,
desiring to regulate, in a spirit of goodwill, certain questions
concerning the boundaries of their respective territories in East
Africa, have named as their plenipotentiaries: 10

HIS MAJESTY THE KING OF THE UNITED KING-
DOM OF GREAT BRITAIN AND IRELAND AND OF THE
BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR
OF INDIA: 15

The Right Honourable James Ramsay MacDonald,
M.P., His Prime Minister and Principal Secretary of
State for Foreign Affairs.

AND HIS MAJESTY THE KING OF ITALY 20

His Excellency Il Marchese della Torretta dei Principi
di Lampedusa, His Ambassador Extraordinary and
Plenipotentiary at the Court of St. James.

Who, having exhibited their respective full powers found in
good and due form, have agreed as follows: 25

ARTICLE 1.

His Britannic Majesty, 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 title over that portion of
African territory lying between the present Italian colony of
Southern Somalia and a new boundary line to be determined
as follows: 30

From the confluence of the rivers Ganale and Dawa, along
the course of the Dawa up-stream to the southern point of the
small southerly bend of the latter river in the vicinity of Malka
R6; thence in a south-westerly direction in a straight line to the

A.D. 1924.

centre of the pool of Dufassa; 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 El Heru; thence along the
same meridian southwards until it reaches the boundary between
the provinces of Jubaland and Tassaland; thence along that
provincial boundary to a point due north of the point on the
coast due west of the southernmost of the four islets in the
immediate vicinity of Ras Kiambone (Dick's Head); thence due
southwards to such point on the coast. Ras Kiambone (Dick's
Head) and the four islets above mentioned shall fall within the
territory to be transferred to Italy.

In the event, however, of it being found by the Commission
referred to in Article 12 that the well of El Heru does not contain
water either sufficient or suitable for the maintenance at that
point of an Italian frontier post, then the line, as between El
Heru and Eilla Kalla, shall be so drawn by the Commission as to
include in Italian territory the neighbouring well of El Shama.

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.

In the event of differences between the text and the map,
the text will prevail.

ARTICLE 3.

The Italian Government agree to the cancellation of the
Treaty of Commerce between Italy and Zanzibar of the 23rd May
1885.

In accordance with the provisions of the Convention of
Saint-Germain-en-Laye of the 10th September 1919, Italian
subjects in the protectorate of Zanzibar shall enjoy the same
rights and privileges and receive the same treatment as British
subjects.

ARTICLE 4.

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
40,000,000 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

Anglo-Italian Treaty (14 & 15 GEO. 5.)
(East African Territories).

f 25,000 /
A.D. 1924 preceding paragraph by means of the payment of a lump sum of 25,000 to the Government of His Highness the Sultan of Zanzibar.

ARTICLE 5.

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 such procedure as the Council of the League of Nations may prescribe.

ARTICLE 6.

British subjects, other than those persons who have become British subjects by the annexation of the colony of Kenya, ordinarily resident at the date of the coming into force of the present convention in the territory transferred under Article 1, shall, unless within six months of the coming into force of the present convention they opt for Italian nationality, 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 not opting for Italian nationality and of their desiring to withdraw from the transferred territory, they shall be at liberty to do so within twelve months from the coming into force of the present convention.

British-protected persons and British subjects who have become such by the annexation of the Colony of Kenya, ordinarily 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 convention.

The same right is conferred on such a number of Somalis who are separated from their families by the new frontier as the wells and pasturage in the territory defined in the Annex to this Article can support, having regard to the present and reasonable future requirements of the tribes or sections of tribes already there, provided that such persons must be individually registered before they are allowed to cross into British territory. The Commission referred to in Article 12 shall decide as to the number in this respect of the said wells and pasturages and as to the number of the persons who may avail themselves of this right.

Anglo-Italian Treaty [14 & 15 GEO. 5.]
(East African Territories)

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ARTICLE 5

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 difference between the two Governments as to the terms of transfer, the question shall be referred to arbitration in accordance with such procedure as the Council of the League of Nations may prescribe.

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Persons who withdraw from the transferred territory under this Article shall be entitled to carry with them their movable property of every description without payment of export duties of any kind. They shall not be subject of such property be subject to import duties of any kind in the Colony of Kenya. They shall be entitled to retain their immovable property in the transferred territory.

Annex

The territory lying within a straight line from the Lorian Swamp to Saddi: a straight line from Saddi to El Beru; the line defined in Article 1 from El Beru to its junction with the Jubaland frontier; and a straight line from the said junction to the Lorian Swamp.

ARTICLE 7

All concessions or rights to properties in the above territories which have been recognised 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 recognised 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, upon granting to such persons the same compensation or indemnity as that to which Italian subjects would be entitled in similar cases.

ARTICLE 8

All treaties, conventions and agreements between the Government of His Britannic Majesty 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 9

The two Governments undertake that they will respectively endeavour to prevent any migration of Somalis or other natives across the frontier defined in Article 1.

If, however, the inquiries of the Commission referred to in Article 12 show that in the neighbourhood of the sector of the new frontier running from El Beru to the Jubaland-Tanaland boundary there exists a shortage of pasture for the tribes situated

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on the Italian side of the frontier, and if these inquiries also show that during the rainy season there is on the British side of that sector and in the region bounded on the east by the new frontier and on the west by the line Goochi-Ribba-El-Tulli-Lakola-Too- 5
Guda-Ramaguda more pasturage available than is required for the tribes in British territory, then the Commission will have power to decide that for a certain period, not less than five years, Somalis or other natives of the transferred territory may during the rainy season cross the boundary to such a distance and in such numbers as the Commission may prescribe, it being under- 10
stood that in no case shall such Somalis or natives be allowed to pass to the west of the line Goochi-Ribba-El-Tulli-Lakola-Too-
Guda-Ramaguda. The decisions of the Commission shall be carried into effect by the authorities concerned, and at the end 15
of the period so prescribed the position will be reconsidered in a friendly spirit in the light of the experience gained and of the requirements at that time of the tribes in British territory.

ARTICLE 10.

The two Governments shall come to the necessary agreements with regard to the special conditions of time and place 20
for evacuation by the British troops of the territory to be transferred and the entry of Italian troops; they shall settle in consultation with the local authorities the conditions of transfer to the Italian Government of the Government buildings existing within the territory which the latter may wish to acquire from 25
the British Government and of the wireless telegraph installation at Kismayu.

The Italian Government agrees to respect the rights of Sudanese pensioners remaining at Fonte, in accordance with the general laws and regulations of the Italian colony of Southern 30
Somaliland, and to make provision for the up-keep of the cemetery at Kismayu and the Jenner memorial.

ARTICLE 11.

The two Governments agree to consult together with a view to framing and putting into force reciprocal measures for the 35
control of the illicit ivory traffic across the frontier defined in Article 1 of the present convention.

ARTICLE 12.

The manner in which the present agreement shall be carried out shall be settled on the spot by a commission composed of 40
British and Italian officials appointed for the purpose by the two Governments. Until the whole boundary shall have been

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on the Italian side of the frontier, and if these inquiries also show that during the rainy season there is on the British side of that sector and in the region bounded on the east by the new frontier and on the west by the line Goochi-Ribba-El-Tulli-Lakola-Toor Guda-Ramaguda more pasturage available than is required for the tribes in British territory, then the Commission will have power to decide that for a certain period, not less than five years, Somalis or other natives of the transferred territory may during the rainy season cross the boundary to such a distance and in such numbers as the Commission may prescribe, it being understood that in no case shall such Somalis or natives be allowed to pass to the west of the line Goochi-Ribba-El-Tulli-Lakola-Toor Guda-Ramaguda. The decisions of the Commission shall be carried into effect by the authorities concerned, and at the end of the period so prescribed the position will be reconsidered in a friendly spirit in the light of the experience gained and of the requirements at that time of the tribes in British territory.

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The two Governments shall come to the necessary agreements with regard to the special conditions of time and place for evacuation by the British troops of the territory to be transferred and the entry of Italian troops; they shall settle in consultation with the local authorities the conditions of transfer to the Italian Government of the Government buildings existing within the territory which the latter may wish to acquire from the British Government and of the wireless telegraph installation at Kismayu.

The Italian Government agrees to respect the rights of Sudanese pensioners remaining at Yonta, in accordance with the general laws and regulations of the Italian colony of Southern Somaliland, and to make provision for the up-keep of the cemetery at Kismayu and the Jenner memorial.

ARTICLE 11.

The two Governments agree to consult together with a view to framing and putting into force reciprocal measures for the control of the illicit ivory traffic across the frontier defined in Article 1 of the present convention.

ARTICLE 12.

The manner in which the present agreement shall be carried out shall be settled on the spot by a commission composed of British and Italian officials appointed for the purpose by the two Governments. Until the whole boundary shall have been

Downing Street,

20 October, 1924.

For signature by Sir J. Rieley.



Dear Graham Harrison,

I have your letter of the 9th October, enclosing the draft Bill for the approval of Parliament to the Anglo-Italian Treaty.

DRAFT.

W.M. GRAHAM HARRISON, ESQ., C.B.

We agree to the draft Bill

and we have checked the Schedule. I

MINUTE.return ^a ~~the~~ corrected copy.

Mr. Bottomley 16.10.24

Mr.

Mr. Sir J. Rieley 17/10/24

Sir C. Davis.

X Sir G. Grindal 17/10

Sir H. Read.

Sir J. Masterion Smith.

Lord Arnold.

Mr. Thomas.

The first three corrections

are made so that the Schedule may ~~be~~

agreed with the Treaty. I may

mention that the sterling mark was

used in preference to the final ^{two}

(e.g. £1000 and not 1000l.)

in order that there might be no

confusion between the ^{pound} sterling

and the lira. The last correction,

(in ^{line 12} ~~222~~ of page 5) ^{puts right} ~~looks like~~ a

printer's error in the Treaty. There

^{can} ~~would~~ be no objection to this obvious

correction, particularly as the word

'Tanalani'

'Tanaland' was correctly spelt in the Italian version of the Treaty.

With regard to your letter, I

fear we must own up to a mistake in referring to the Convention of the 7th

June in our letter to the Treasury.

That was a draft Convention, agreed

upon by representatives of the two

Governments ~~on the 7th June~~ as the

basis of the Treaty. I think that,

if the Treasury had forwarded to you

~~the~~ copy of the draft Convention which

we sent to them, there would have

been no confusion. We had not at

that time copies of the Treaty itself.

On the question of the

approval of Parliament, the matter was

put by the Foreign Office to the Law

Officers in 1922, and they were advised

that parliamentary approval was

desirable, if not necessary, in a

matter in which the cession of His

Majesty's territory was involved. The

draft Convention, which formed the

'Fasaland' was correctly spelt in the Italian version of the Treaty.

With regard to your letter, I fear we must own up to a mistake in referring to the Convention of the 7th June in our letter to the Treasury.

That was a draft Convention, agreed upon by representatives of the two Governments on the 7th June, as the basis of the Treaty. I think that, if the Treasury had forwarded to you

the copy of the draft Convention which we sent to them, there would have been no confusion. We had not at that time copies of the Treaty itself.

On the question of the approval of Parliament, the matter was put by the Foreign Office to the Law Officers in 1922, and they were advised that parliamentary approval was desirable, if not necessary, in a matter in which the cession of His Majesty's territory was involved. The draft Convention, which formed the basis

basis of the discussions at the beginning of June, contained express provision, (as in the case of Heligoland) for the consent of the British Parliament. But this was omitted from the agreed draft at the instance of the Italian representatives, who considered that it would be regarded in Italy as giving an opportunity for Great Britain to avoid its commitments. It was ~~made~~ *clear then, and has since been finally* explained to the Italian Government that, though not expressed in the Treaty, parliamentary approval would *in fact* be required before the Treaty could be ratified.

(Sa) John Astley