

1921

KENYA

C.O.
41611

FROM

O.A.G.

SECRET

DATE

13TH JULY 1921

REF

18 JG 21

NOTIFY

OR CIRCULATION :-

SUBJECT

Mr.

JUBALAND

Mr.

CESSION TO ITALY

Mr.

Mr. Grindle

Reports as to Marehan rights to water holes at EL WAK. Efforts of Italians to get larger areas for Marehan at expense of the Gurre should be strongly resisted. Views with suspicion proposal to cut out clause by which Italians undertake to prevent Somalis crossing the frontier.

Sir H. Lambert

Sir H. Road

Sir G. Fiddes

Mr. Wood

Mr. Churchill

Previous Paper

MINUTES

W.O.

40922

circ

See minutes 5, & from
Lieut. N. M. ... attached

...
MIS

3 Nov 21

Take from ...

W.O.

40923

circ

20 Sept 21
Meeting (2 copies) 2 Sept 21 P.M.
to 20
and 100 com 5th Oct 21 all W.O.
40922

Subsequent Paper

W.O.
40923

Mr. Batterby.

Para 7. of Notley's despatch of 13 July.

I consider the proviso suggested is necessary - it ~~is~~ ^{is} definitely guide to Administration Officers is not laid down the tribes will always be migrating further and further Southwardwards to new pastures and water: this must be checked at the outset by instructions and limitations which can be clearly explained.

I don't think any shorter or simpler provision will be adequate as a safeguard against trespass -

Para 8. If I accepted this omission I was wrong. Words should, I think, be inserted to cover the point made by Col. Notley, making it obligatory with the Italians to prevent Smahs crossing, and not leaving the whole onus on us

EN 29 VIII 21

Sir E. Northey:

Despatch herewith just received from the G.A.G. with regard to the Jubaland Convention.

Paragraph 2: Our misunderstanding. We knew that the Marehan had no water rights at El Wak but we had understood that some other Tribes which will pass Italy under the Agreement had water rights there. As this is not so, the difficulties raised in our despatch of the 14th June fall to the ground. ✓

Paragraph 7: If we are to have any addition at all granting the border tribes some latitude in regard to grazing pending the appointment of the Commission, it would seem desirable to have a separate Clause in the Convention to provide for this interim arrangement. May we have your views on this? The Italian proposal plus Notley's addition makes a somewhat long and complicated Clause. Can you suggest any simpler provision to get round the difficulty?

Paragraph 8: The provision as to preventing Somalis from crossing the Frontier was omitted from the Italian draft enclosed in Foreign Office letter of the 6th April, and sent to you in our despatch of the 14th April, and it would appear from your reply to this despatch of the 26th May that you accepted this omission. As you know, we are now working on the Italian revised draft and not on the original British draft. It is not too late, I take it, to insert some words to cover the point in the Italian revised draft as our reply to the Italian Ambassador (see draft below) has not yet gone. May we have your views?

(18860)

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(30207)

5/15

21

Sir G. Hartley:

Despatch herewith just received from the S.A.G. with regard to the proposed Concession in Paragraph 7. Our misunderstanding. We knew that the Marzen had no water rights at El Wak but we had understood that some other Tribes which will pass to Italy under the Agreement had water rights there. As this is not so, the difficulties raised in our despatch of the 14th April fall to the ground.

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(16660)

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(30807)

COLONY AND PROTECTORATE OF KENYA.

GOVERNMENT HOUSE
NAIROBI,
KENYA, EAST AFRICA

No. SECRET.

13th July 1921.

44541
REC-18 0621

Sir,

To
25207
Gov
30807
Gov
33706
Gov
38111

With reference to your Secret despatch of the 4th of June on the subject of proposed cession of Jubaland to Italy, I have the honour to refer you to my despatches Secret of the 26th of May, paragraph 2, Confidential of the 31st of May, and Secret of the 5th of July, paragraph 3.

To 15207

2. The statement contained in paragraph 2 of your despatch of the 4th of June that some of the tribes who will pass to Italy have watered at El Wak from time immemorial is not in accordance with the facts. It is only in recent years that the Marehan have been allowed a partial right even to the rain water holes at Dumasa and Fino (situated on the Provincial Boundary). Their claim to the permanent water at El Wak not only has never been tacitly recognised but has been strongly resisted.

3. The grant to the Italians of even one well at El Wak was opposed by the officers administering that area as it would bring the Marehan nearer to El Wak than was considered advisable. It was accepted eventually in order to allow the Italians to place an advance post there to control their people and to prevent the Marehan encroaching. It was never intended

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

intended to serve as a watering place for the
 Marchan in the dry weather.

4. It is this last point which must be considered. Where the tribes range during the rainy season is of less importance provided that the subjects of each Power are forced to withdraw away from the Frontier with the approach of the dry season instead of gravitating towards it. It was definitely with this object that the proposed new Frontier line was drawn so as to have no permanent wells on or near the line. The one well granted at El Wak was so granted, as I have pointed out, to allow of a military post but not of watering facilities for the Marchan.

5. The Marchan country as recognised to-day is comparatively well watered: in the Gurre country the only two absolutely permanent supplies are the Daua River and El Wak. I repeat that every attempt by the Italian Government to get larger areas for the Marchan at the expense of the Gurre should be most strongly resisted.

6. With regard to the alteration proposed by the Italian Government in Article 12 of their draft Convention I agree that the Joint Commission should have authority to decide on the ownership of points near the new Frontier of local importance, but I consider that such Commission should be appointed at the earliest opportunity. I disagree with the suggestion that the tribes should be allowed a permanent right of crossing the Frontier. Such an understanding in the Treaty with Abyssinia has led to much trouble in the past though in that case it was essential. In this case it is not. The second paragraph of the proposed addition by the Italian Government

3.

Government to Article 12 of their Draft should therefore be not accepted.

7. Pending the appointment of the Commission it is obvious that some latitude must be allowed the tribes, or rather the officers whose duty it will be to administer the tribes, in deciding where such may graze, but I consider that the first paragraph of the addition proposed is too vague as it stands. It would allow the tribes which are being ceded (in particular the Marehan) to cross the Frontier into areas which have never been recognised as theirs and our officers would be powerless to drive them back. The following provisos should be added to the addition if it is to stand:- "provided that such latitude shall in no case be construed to extend to permission to reside outside their own area during the dry season and further that on the Daua River, Melka Re shall be regarded as a fixed point at which such latitude shall not be allowed; that in the neighbourhood of El Wak all the rain pools to the North East known as the Wanti Pools and all the permanent wells of the El Wak area except El Beru shall be regarded as Gurre ground to which tribes subject to Italy shall have no right of access: that such tribes shall not be allowed to range as far West as Goochi, Ribba, Lakola, Ibar Guda and similarly tribes subject to Great Britain shall not be allowed to range as far East as Maddoli, Kasanguri, El Hargusu, Galja, Tubhi."

8. I view with suspicion the proposal to cut out of the draft Convention the clauses by which the Italian Government undertakes to prevent the Somalies crossing

crossing the Frontier. I propose an alternative
modifying the original Clause 14 of the British
draft to read:- "and that they will endeavour to
prevent any migration of Somalies into British
territory either while the evacuation of British
Troops is taking place or in the future", in place
of the words "and to see that the Somalies do not
cross the new Frontier as the Protectorate troops
move out".

I have the honour to be,

Sir,

Your humble obedient servant,

W. K. Lockhart

ACTING GOVERNOR.

1/9

DRAFT.

Secretary of State,
FOREIGN OFFICE.

Downing Street,
2 August, 1921.

MINUTE.

Mr. Batterbee. *to see 21*

Mr.

Mr. Orinille. *31/10*

Sir H. Lambert.

Sir H. Road.

Sir G. Fildes.

Mrs. Wood.

Mr. Churchill.

Sir,

With reference to previous correspondence, I am etc., to transmit to you to be laid before the Marquess Curzon of Kedleston the enclosed copy of a despatch from the Officer Administering the Government of Kenya with regard to the proposed Jubaland convention.

2. As regards paragraph 2 of Colonel Notley's despatch I am to observe that the statement referred to was due to a misunderstanding in this department. The Secretary of State was aware that the Marehan had no water rights at El Wak but ^{he had} it is understood that some other tribes which ^{will have} were passed to Italy under the agreement had water rights there. ~~That~~ it now appears is not correct, and that being so the difficulties raised on this account fall to the ground.

3. As regards paragraph 6 and 7 of the despatch Sir E. Northey who is now on leave in this country concurs in the view expressed by Colonel Notley. He considers that the proviso suggested in paragraph 7 is necessary, and that if some definite guide to administrative officers is not laid down the ^{troops} ~~troops~~ will always be migrating further and further south westwards to new pastures and water. In Sir E. Northey's opinion this must be checked at the outset by instructions and limitations which can be clearly explained. He does not think that any provision shorter or simpler than that suggested by Colonel Notley would be adequate as a safeguard against trespass.

4. As regards paragraph 8 Sir E. Northey on further consideration is not prepared to accept the omission from the convention of the clauses imposing on the Italian Government the duty of preventing the Somalis crossing the frontier. It will be remembered that the original British draft contained provision to this effect, ^{but this} ~~which~~ was omitted in the Italian draft and that Sir E. Northey made no comment on this point in his despatch of the 26th of May. Sir E. Northey considers that words should be inserted to cover the point made by Colonel Notley, ^{making} ~~making~~ it obligatory on the Italians to prevent Somalis from crossing so as not to leave the whole area on the British administration.

5 Jan 28 1897

(3007)

DRAFT.

MINUTE.

- Mr.
- Mr.
- Mr.
- Mr. Grenville.
- Mr. B. Lambert.
- Mr. H. Bland.
- Mr. G. Fiddes.
- Mr. A. J. A. J.
- Lord Milner.

Les deux copies, la question des limites au Somali en vue de la mise à la disposition déjà prévue à la Nation Ambassadeur de l'Inde à l'occasion d'un intermédiaire confirmé en la même manière en faveur

L
 (Signed) G. GRENVILLE