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DOMESTIC

EAST AFR. PROT.  
No. 34604

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REC'D  
SEP 28 1899

Institutional  
No.  
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Supt.  
Previous Paper

(Subject.)

German E. Africa Co and Jost's claims to land at Wita.

Transmits copy Note to German Ch. d'affaires

respecting -

It was not proposed to make a grant to Jost  
as the German E. Africa Co claim had been disposed of.

(Minutes.)

*Handwritten signature*

Copy to Comr. LF m/v  
dated on 32274

11/28/99  
atome

Handwritten notes in left margin

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34604 583

FOREIGN OFFICE, 28-SEP-05

September 26th, 1905.

Sir:-

*70*  
With reference to your letter 32274/1905 of the 20th instant, I am directed by the Marquess of Lansdowne to transmit to you, to be laid before Mr. Secretary Lyttelton, a copy of a note to the German Charge d'Affaires respecting the claims of German subjects to the ownership of land in Witu.

*no staff*  
I am to state, with reference to the second paragraph of your letter, that Lord Lansdowne did not propose that a grant should be made to Mr. Tost until the claim of the German East Africa Company had been disposed of.

I am,

Sir,

Your most obedient,

humble Servant,

*J. Campbell*

Under Secretary of State,  
Colonial Office.

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29 SEP 95

FOREIGN OFFICE.

September 26th, 1905.

Sir:-

With reference to your notes of September 28th and April 20th last, I have the honour to inform you that His Majesty's Government have now received a report from His Majesty's Commissioner for the East Africa Protectorate respecting the claims of the German East Africa Company to certain property in the Sultanate of Witu and the desire of Mr. Baile Tost that his right to cultivate a piece of land forming part of the property claimed by the German East Africa Company might be recognized by the local British Authorities.

In view of the length of time during which Mr. Tost has been in occupation of the land cultivated by him His Majesty's Government are willing to allow him to continue in possession and will if desired regularize his position by giving him a grant of the land

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masterfi,

So., So.,

in question. It must however be understood that this action would be taken purely ex gratia and would in no way constitute an admission of the justice of Mr. Tost's claim, nor can His Majesty's Government allow it in any way to be regarded as an admission of the title of the German East Africa Company to the land they are now claiming.

As to this latter claim His Majesty's Government feel themselves unable after careful consideration of Sir D. Stewart's report, to admit the justice of the Company's demands without an exhaustive enquiry into the facts of the case and a thorough examination of the documents on which their claim is based.

From the investigations which have so far been possible, it appears that there is little in favour of the Company's claim beyond paper transfers and the following points to which I desire to call your special attention, have also been raised:-

It is stated:-

(1) That the Sultan of Witu was never entitled

to

to make a grant of some of the land now claimed by the German East Africa Company, because that land belonged to the people of Lamu, who were subject to the Sultan of Zanzibar and not to the Sultan of Witu.

(2) That the original agreement was modified by a subsequent agreement.

(3) That the document approving the transfer of the land by Mr. Denhardt to Prince Hohenlohe-Langenburg was only signed by Fumo Bakari, Sultan Ahmed's son-in-law and successor, and that this was done during the life of Sultan Ahmed who alone has the right to sign such documents.

(4) That possession of the land was never taken by Mr. Denhardt or his successors and that according to Mohammedan law, which applies to the land, it would revert to the original owners if possession were not taken within a limited period.

His Majesty's Government are of opinion that such questions as these can only be satisfactorily settled by examination before the Law Courts, and I have accordingly

Accordingly the honour to suggest that the German East Africa Company should be advised to bring an action to recover possession of the land in the High Court at Mombasa. If the Company succeed in establishing their claim, the Court will no doubt order possession of the land to be granted to them.

I have the honour to be,  
with high consideration,

Sir,

Your most obedient,

humble servant,