

DOMESTIC

EAST AFR. PROT.  
38174

REGD  
REGD 24 NOV 09

Individual  
Receipt  
1909  
23 Nov  
Previous Paper  
54976

Shipping of Channel at mouth of Jubah River

Submits details from point of view of international law. ~~has~~ definite info is necessary in present case. Suggest that in accounting books at mouth of new channel care sh. be taken not to give Italian port any reason for complaint re diversion of boats from the old channel.

~~W. Fisher~~  
W. Fisher

Copy to Govt for info, calling attention particularly to the penultimate paragraph.

W.F.S.

Dec 3.

B.R. 12/12

W. Fisher

So process

4/2/12

11/12/11

atome P. 6

R

C. O.  
38174  
REC'D  
NOV 24 09

In any further communication on this subject, please quote  
No. 38279/09.  
and address  
The Under-Secretary of State,  
Foreign Office,

FOREIGN OFFICE

November 23 . 1909.

401

Secretary Sir E. Grey has had under his consideration your letter 32461 of the 15th. ultimo respecting a shifting of the channel at the mouth of the Juba river.

Sir E. Grey to state, for the information of Earl of Crewe, that in his opinion a change of the course of a river, in violation of international law, of the boundary between two States, is not a change of the boundary at the demarcation point. The determination to indicate, depends upon the character of the change in its course. If the change is a sudden one by which a new channel is cut through the territory of one of the riparian Powers and the old channel is entirely abandoned the rule, as laid down by Calvo and supported by other writers, is that the old bed continues to form the line of the boundary. If the change is a gradual one the boundary

Under Secretary of State,  
Colonial Office.

boundary varies with the channel even though there should be an accretion of soil on one bank and a diminution on the other.

An instance of application being given in the case of a sudden change of channel to the general principles mentioned above is to be found in the Convention between the United States of America and Mexico of November 12th. 1884 relative to the Boundary formed by the rivers Colorado and Grande (see Moore's International Law, Volume I, page 760)

In the present case Sir E. Grey considers that more definite information is desirable but the change seems to have been of a sudden description as the river is leaving its old channel which is showing a tendency to silt up. It appears to Sir E. Grey therefore that His Majesty's Government would be justified in claiming that the boundary line should follow the old bed and that the spot of sand, now forming an island should remain British territory.

I am however to suggest for Lord Crewe's consideration that in executing works at the mouth of the new channel

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I am however to suggest for Lord Crewe's consideration that in executing works at the mouth of the new

channel care should be taken not to give the Italian Government any reason to complain that water is being diverted from the old channel by this means.

In the event of the Italian Government maintaining in the case now under discussion that the boundary should follow the new channel, His Lordship will no doubt further consider whether as a matter of general policy it may not be worth while to alter the frontier as an act of courtesy and grace, while upholding the general principle of international law stated above.

I am,

Sir,

Your most obedient,

humble Servant,

*W. Langley*

F.O.  
3574/09  
EAP

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DRAFT

EAP Conf.

for  
Gironard

MINUTE. 6/12

Mr. Noall 8/12  
Mr. Butler 8/12

Mr. Pildes.

Mr. Just.

Mr. Cox.

Sir C. Lucas.

Sir F. Hopwood.

Col. Seely.

Lord Crewe.

9 Dec 09.

Sir,

With refer to [redacted]  
deat of the 29<sup>th</sup> of Oct. I  
have the honour to transmit  
to you for your info, the  
accompanying copy of a  
let from the F.O respecting  
the shifting of the channel at  
the mouth of the Jubba River.  
2. I would call your  
attention more particularly

~~F.O. 20 Nov~~