

EAST AFR. PROT.
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RECD
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21.

Treaty bet. Germany & Tanganyika

1910

18 Feb.
previous Paper.

Calls attention to Mr. Clarke's despatch of Dec. 29, 1909 to F.O. relating to proposed new treaty, which is a matter of vital concern to East Africa in view of the mainland dominions of the Sultan of Zanzibar & Pemba, Mozambique, etc. Asks to be consulted before any final decision is taken.

5597
202

To F.O. cons 244 Mch
copy of the foregoing Conf. 24 Mch

Mr. Fiddes
The Point referred to is the 1st section of the despatch: in one of those monthly batches included in the monthly batches which we receive from the F.O. for transmission to the Gov^{rs} of the S. A.

Partth. It was the custom of the F.O. under their adminⁿ to send out ^{the} batches of their African prints to the O.A.F.S. The practice was dropped by us for a time, but, upon the urgent representations of Sir H. Bell, it was restarted.

With regard to the 6th para: the Germans bought out the Sultan for £2,000,000; we are paying rent for our portion at the rate of £17,000 a year

W.P. 109-1, 10,000
110, A.G.E.W.
subsequent Paper.
10/10/1910

year.

I think that the best plan will
 be to write to the F.O. with refer-
 to ³⁰ 38264/104 + previous correspondence
 saying that the file has called
 attention to the new Treaty which it
 is understood the Yangtze for-
 to conclude with Germany on the expiration
 of the old Treaty in 1911 - + there-
 unto in the sense of para: 2-5 of
 the Decree, but without making any refer-
 to Mr. Clarke - + copy of our l^r to
 the Gov^t for info. D.T. ?

H. J. R.

15/III

Pr. 16

July 16.3

17.3

17. III

7674
GOVERNMENT HOUSE,
NAIROBI, 14 MAR 10
BRITISH EAST AFRICA.

February 18th 1910.

EAST AFRICA PROTECTORATE.

CONFIDENTIAL

No. 21

My Lord,

I have the honour to refer to Section 1 of the East Africa Confidential Print, dated the 1st ultimo and numbered [34] containing Mr. Clarke's despatch No. 290 of December 9th 1909 to His Majesty's Principal Secretary of State for Foreign Affairs with its enclosures.

2. The despatch in question relates to the proposed new Treaty between Zanzibar and Germany which is a matter of intimate and vital concern to the Government of this Protectorate in its capacity as the authority administering the mainland dominions of His Highness the Sultan.

3. Your Lordship is well aware of the difficulties which have hitherto hampered us in the development of this region owing to the Treaty rights claimed and exercised by the subjects of Foreign Powers. In particular the establishment of Municipal Government at Mombasa, with which is closely connected the important question of its water-supply, has been retarded by considerations arising from the existence of these treaty rights.

THE RIGHT HONOURABLE

THE EARL OF CREWE, K.G.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON, S.W.

30
5597
I would refer Your Lordship to the correspondence on the subject ending with Your Lordship's despatch Confidential of February 23rd 1909, enclosing a letter from the Foreign Office, in which the expiry of the Treaty between Germany and Zanzibar is expressly referred to as affording a good opportunity for re-opening the matter.

4. I would venture therefore to ask that before any final decision is arrived at in regard to the provisions of the proposed new Treaty I may be given a chance of perusing the draft and of submitting for consideration such recommendations as may appear to myself and my advisers to be in the interests of this Protectorate.

5. I quite agree with Mr. Clarke in thinking that we should now be justified in asking for much more favourable terms than we were prepared to accept in 1906 when the Treaty still had several years to run and we were ready to make sacrifices in order to terminate the more vexatious disabilities under which we were then labouring. We are now in a far stronger position and in my opinion we certainly ought to make the most of it.

6. There is but little doubt that the whole situation will never be entirely satisfactory until the nominal and vexatious suzerainty of the Sultan of Zanzibar is done away with. He is at present claiming large estates in the Protectorate which I presume in similar cases fell to the Crown in German East Africa.

7. It has always been the custom for the

Governments

Governments of the British East African Protectorates to consult each other in matters seriously affecting their common interests. In such a vital matter for this Colony it would have appeared desirable for His Majesty's Consul General of the Zanzibar Protectorate to have consulted this Government.

I have the honour to be
Your Lordship's humble,
obedient servant,


GOVERNOR.

Gov/7674/E.A.P.

Downing Street,

DRAFT.

24 March, 1910.

Ans'd 10/19/10
Jm

The Under Secretary of State,

FOREIGN OFFICE.

MINUTE.

Sir,

Mr. Batterbee 19/3

Mr. Butler. 2/

Mr. Read 22 (30269 09)

Mr. Fiddes. 22

Mr. Just.

[Handwritten signature]

Mr. Cox.

Sir C. Lucas.

Sir F. Hopwood.

Col. Seely.

Lord Crewe.

With reference to your letter No.

30579/09 of the 10th of September last, I

am directed by the Earl of Crewe to request

you to inform Secretary Sir E. Grey that

the Governor of the East Africa Protectorate

has called attention to the new treaty,

which it is understood that the Government

of Zanzibar propose to conclude with

Germany at the expiration of the present

treaty in 1911.

2. The Governor points out that the

proposed new Treaty is a matter of intimate

and

[Handwritten notes:]
Conf 24 March
to the for...
27

opportunity of reopening the matter.

Lord Cromer concurs in Sir P.

3. ~~Sir P. Girouard requests therefore~~

Girouard's views + would ask
that before any final decision is arrived

at in regard to the provisions of the proposed new Treaty, he may be given an opportunity of perusing the draft and of submitting for consideration such recommendations as may appear ~~to himself and his~~

~~advisers~~ to be in the interests of the Protectorate. *Joc* ~~the~~

~~He considers that the Zanzibar~~

the Zanzibar Govt

~~Government~~ would now be justified in asking

for far more favourable terms than they were prepared to accept in 1906, when the present Treaty had still several years to run and the Zanzibar Government were ready to make sacrifices in order to terminate the more vexatious disabilities under which they were then labouring. In Sir P.

Girouard's opinion the situation has now greatly changed; the Zanzibar Government are in a far stronger position and should

make the best use they can of their oppor-
tunities.

I am, etc.,

PROPOSED TREATY BETWEEN ZANZIBAR
AND GERMANY.

Draft of Main Treaty

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 the name of His Highness the Sultan of Zanzibar, of the one part, and His Majesty the German Emperor, King of Prussia, in the name of the German Empire, of the other part, have agreed to substitute for the Treaty of Friendship, Commerce, and Navigation concluded between the Sultan of Zanzibar and the German Empire on the 20th December, 1885, which expires in July 1911, the following treaty:—

ARTICLE I.

There shall be between the island dominions of the Sultan of Zanzibar and the German Empire reciprocal freedom of commerce and navigation.

The subjects of the Sultan of Zanzibar and Germans shall have liberty freely to come, with their ships and cargoes, to all places and ports in the dominions of the German Empire and the island dominions of the Sultan of Zanzibar respectively, to which native subjects are or may be permitted to come, and shall enjoy the same rights, privileges, liberties, favours, immunities, and exemptions in matters of commerce and navigation as are or may be enjoyed by native subjects, or by the subjects or citizens of the most favoured nation. Subjects of His Britannic Majesty are, however, for the purposes of this article, not to be considered in Zanzibar as subjects or citizens of a foreign State.

The subjects of the Sultan of Zanzibar and Germans shall not be subject in such territories in respect of their persons or property, or in respect of their commerce or industry, to any taxes, whether general or local, or to imposts or obligations of any kind whatever, other or greater than those which are or may be imposed upon native subjects.

ARTICLE 5.

If a German dies and leaves property in the island dominions of His Highness the Sultan of Zanzibar, his estate, so far as it lies in those dominions, shall be administered by the same court which, in a similar case, would administer the estate of a European subject of the protecting Power, Great Britain.

If the heirs or executors of the German testator are absent, or if he possessed a German domicile, the residue of his estate shall, on the conclusion of the local proceedings for the administration of the estate, be handed over to the German consul, who shall deal with it according to German law.

In so far as the representatives of a third country enjoy further rights in respect of the estates of their deceased nationals, these rights shall also be enjoyed by the German consuls.

ARTICLE 6.

[An article to be drafted by Mr. Clarke, putting all matters (dhows, &c.) covered by articles 35, 36, and 37 of the Brussels Act into the hands of the local authorities.]

ARTICLE 7.

The provisions of the present treaty with regard to Germany shall be applicable to all the territories of the German Empire, except in regard to matters of customs referred to in articles 1 and 2, in which regard they shall be applicable also to territories which are at present or may in the future be united to Germany in a Customs Union.

ARTICLE 8.

The relations between the mainland dominions of the Sultan of Zanzibar and the German Empire shall be regulated in the same manner as those between the British East Africa Protectorate and the German Empire.

ARTICLE 9.

The present treaty shall be ratified as soon as possible, and shall come into force two months from the date of the exchange of ratifications. On the same day the Treaty of Friendship, Commerce and Navigation concluded on the

ports of His Highness the Sultan of Zanzibar unless such vessels are engaged in trading operations in those ports.

ARTICLE 3.

Subjects of His Highness the Sultan of Zanzibar who were permanently established in German East Africa at the time when German East Africa became part of the German Empire shall be treated as natives of German East Africa, in so far as they have not ceased to be subjects of German East Africa according to the legal dispositions there in force.

On the other hand, subjects of His Highness the Sultan of Zanzibar who had been permanently established in the present territories of His Highness the Sultan at the time when German East Africa became part of the German Empire shall be regarded as subjects of His Highness the Sultan, in so far as they have not ceased to be so according to the laws prevailing in Zanzibar.

ARTICLE 4.

The natives of German East Africa shall, in the territories of His Highness the Sultan of Zanzibar, be subject to the same law courts as the Germans.

ARTICLE 5.

The same rights, privileges, and liberties as those extended to natives of German East Africa shall be enjoyed in the territories of His Highness the Sultan by the inhabitants of other dependencies of Germany.

[The question of extradition is being dealt with separately.]

ARTICLE 6.

The present treaty shall be ratified as soon as possible, and shall come into force two months after the exchange of ratifications. It shall remain in force as long as the treaty of this date between His Britannic Majesty, in the name of His Highness the Sultan of Zanzibar, and His Majesty the German Emperor, and shall cease when the latter ceases.