

Briefing Paper

The Case for Somaliland's International Recognition as an Independent State



**Ministry of Foreign Affairs
Hargeisa
August 2002**

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**THE SOMALILAND PROTECTORATE CONSTITUTIONAL CONFERENCE
HELD IN LONDON IN MAY, 1960.**

**THE SOMALILAND DELEGATION PROPOSED THAT THE DATE OF INDEPENDENCE BE THE TWENTY-SIXTH
OF JUNE, 1960. THE SECRETARY OF STATE SAID THAT THIS WOULD BE ACCEPTABLE.
SIGNED THIS 12TH DAY OF MAY 1960.**

**The Delegation from Somaliland Protectorate: Mohamed Haji Ibrahim Egal, Ahmed Haji Dualeh, Ali Gerad
Jama, Haji Ibrahim Nur.**

From the colonial office: Iain Macleod, D. B. Hall, H. C. F. Wilks (Secretary)

Foreword

Somaliland's existence as an independent state is both historical fact and today's reality. Established as a British Protectorate in 1884, the State of Somaliland was granted independence on 26 June 1960. The young country's subsequent, hopeful union with Somalia ended in disaster: a ten-year civil war in which the military regime perpetrated war crimes and acts of genocide against Somaliland's people.

In 1991, Somaliland's political and traditional leaders declared the 1960 union null and void and reclaimed the country's independence. At the time, the challenges of reconstruction were daunting: tens of thousands of people had been killed and over half a million driven from their homes. Government institutions had collapsed, infrastructure – including 90% of the capital city – had been destroyed, and over one million land mines littered the countryside.

Little more than ten years later, Somaliland is a country of hope and determination. Mines have been removed from the soil and refugees have returned to their homes. Tens of thousands of dwellings have been rebuilt and major economic infrastructure has been repaired. And foreign investors are increasingly taking interest in doing business in Somaliland.

Above all, Somaliland today is building a society founded on peace, justice and the rule of law. In 2003 we will complete our long and difficult transition from a traditional, clan-based political system to a stable multi-party democracy by holding the first general elections to take place on Somaliland's soil for over 30 years. The good relations we enjoy with neighbouring states are the cornerstone of our foreign policy, which envisions a more stable and prosperous Horn of Africa.

Our commitment to the peace and stability of the region includes unreserved respect for the unity and territorial integrity of states. We stand neither for secession, nor for the revision of Africa's borders: Somaliland was among the first African states to be free from colonial rule, and our demand for recognition implies full respect of the borders received at the moment of independence. We are by no means the first African state to have entered a voluntary union with another and subsequently withdrawn intact: Egypt, Senegal and Gambia have all done likewise. Nor is Somaliland the first African colonial entity to have asserted its independence from another: Eritrea and the Sahrawi Republic are today both full members of the African Union.

Finally, the people of Somaliland have made a clear choice. In May 2001, an overwhelming majority of Somalilanders reaffirmed their support for independence in a constitutional referendum. Those below voting age – a majority, given the demographics of this country – have no memory of the united Somali Democratic Republic and no interest in reviving it. No pleas, pressure or promises on the part of the international community can alter these basic facts.

Independence for Somaliland is no longer a hope, but a reality; there is no turning back the clock. What remains is for the international community to come to terms with that reality and to arrive at the only possible conclusion: recognition of Somaliland as a rightful member of the world community of nations.

*H. E. Dahir Rayale Kahin
President of Republic of Somaliland.*

Historical Background

The State of Somaliland received its independence from Great Britain on 26 June 1960, by Royal Proclamation of Her Majesty Queen Elizabeth II (See Annex A). In accordance with United Nations procedures pertaining to decolonisation, the documents establishing the transfer of sovereignty were deposited with the United Nations. The new State of Somaliland was immediately recognized by other UN member states, including the five permanent members of the Security Council.

On July 1st, 1960, Somaliland and Somalia declared their union as the Somali Republic. The merger was intended to pave the way for unification under a single flag of all the Somali territories: Somaliland, Somalia, The French Somali Coast (Djibouti), the Northern Frontier District (NFD) of Kenya and the "Ogaden" region of Ethiopia.

Despite their common Somali heritage, Somaliland and Somalia approached the merger as very different countries, with distinct institutional, legal, linguistic and political arrangements. The links between them were negligible: in 1960 less than one percent of Somaliland's commerce was with Somalia and few Somalilanders had ever seen the new capital, Mogadishu.

To the extent that support existed in Somaliland for unification, it was directed mainly at the retrieval of the Haud area: the rich traditional pastures of the clans of Somaliland that the British had surrendered to Ethiopian control in 1956. Much of Somaliland's export livestock came from these territories, which were considered vital to Somaliland's interests. Merger with Somalia was perceived in Somaliland as a first step towards realization of the "Greater Somali" project: a necessary, but not sufficient, condition for the return of the Haud from Ethiopia.

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The "Greater Somali" vision was never realized. In 1963, Kenya obtained its independence from Britain, retaining control of the chiefly Somali-inhabited territory of the Northern Frontier District. In 1977, the French Territory of Afars and Issas (formerly the French Somali Coast) voted in a referendum for independence as the Republic of Djibouti rather than join Somalia. And in 1978 Ethiopia's crushing defeat of the Somali army spelt the end of Somali designs on the Ogaden region. The collapse of the "Greater Somali" dream left the narrow "Somaliland-Somalia" version of Somali unity devoid of any meaning.

The Illusion of Unity

On 27 June 1960, the day after independence, the Somaliland legislature passed the *Union of Somaliland and Somalia Law*. This was intended to lay the foundation for the legal and political union of the two territories. However, since the authorized representative of Somalia never signed this treaty, it remained without force in the south. Meanwhile, the legislature of Somalia approved on July 1st a significantly different document entitled *Atto di Unione* (Act of Union). This latter document was never signed in Somaliland. The new Somali Republic was thus declared without a valid Act of Union having been enacted.

In order to compensate for this fundamental legal lacuna, the new National Assembly repealed the *Union of Somaliland and Somalia Law* and introduced a new Act of Union on 31 January 1961, to come into force retroactively from 1 July 1960. However, since Mogadishu-based National Assembly did not yet have jurisdiction in the State of Somaliland, the act of repealing was not effective in both parts of the new Somali Republic.

In June 1961, a referendum was held on the proposed unitary Constitution. A "yes" vote in both the "Northern Region" and the "Southern Region" (as Somaliland and Somalia were now respectively called) could have provided a sounder legal basis for the union, but this was not the case.

Political leaders in Somaliland campaigned against the proposed Constitution and voter turnout there was low. Of the slightly more than 100,000 ballots cast in Somaliland, 53% voted "no." The poll was nevertheless carried by 1.7 million affirmative votes in Somalia. The total number of ballots cast in the "Southern Region" (Somalia) was approximately three times the estimated number of eligible voters¹, indicating serious irregularities. Somaliland's "no" vote was overwhelmed by a flood of fraudulent ballots.

The results of the constitutional referendum failed to resolve the new Somali Republic's fundamental statutory law. The legal existence of two separate Somali states was confirmed in March 1963 when a group of Somaliland military officers was brought before the Mogadishu Supreme Court on charges of treason. The British judge presiding over the case dismissed the charges on the grounds that there was no Act of Union between Somaliland and Somalia, the alleged offence having taken place in Somaliland.

In sum, the de facto union between Somaliland and Somalia fell short of the legal requirements mandated by domestic and international law. Only the recognition of other states testified to the existence of the Somali Republic as a unified state. From a legal perspective, the unity of the Somali Republic was an illusion.

Dictatorship and rebellion

Popular faith that an effective and equitable union could be achieved sustained the illusion of Somali unity only briefly. By 1981, Somaliland's subordinate status in the union entered a downward spiral into outright oppression and persecution. Somalilanders were incrementally deprived of basic human, commercial and political rights. Arbitrary arrest, detention and execution by the security forces became commonplace. Resistance by the Somali National Movement (SNM) triggered an indiscriminate

¹ The total population of Somalia was estimated at 1.23 million in 1953. since women and children were not allowed to vote, the number of eligible voters in the Southern Region at the time of the referendum could not have exceeded 500,000.

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government response and, in 1988, an escalation to full-scale civil war: government bombing and shelling of major towns killed an estimated 50,000 – 60,000 people, mainly civilians. Before the SNM victory in February 1991, as many as 100,000 may have died and over 500,000 were systematically driven from their homes.

The Barre government's objectives in the North involved a combination of genocide and ethnic cleansing. The effectiveness of the guerrilla fighters and the reluctance of the Somaliland population to lend support to the regime's war effort meant that these objectives were never fully achieved. Nevertheless, evidence of systematic atrocities and war-crimes, well-documented by various governments and international organizations, leaves no doubt as to the Somali government's ultimate goal.²

Declaration of independence: 18 May 1991

In January 1991, the Barre government collapsed and the SNM took power in the North. As the struggle for power in southern Somalia degenerated rapidly into civil war, the SNM leadership abandoned hopes that an acceptable government could be established in Mogadishu and withdrew its forces from the battle for the capital. In April 1991, the SNM convened a peace conference of the northern clans at Burao. Almost simultaneously, the unilateral declaration of a new government in Mogadishu persuaded Somalilanders that a just and equitable political settlement was no longer possible. Popular protests throughout Somaliland and mounting public anger left the delegates at the Burao conference no choice: on 18 May 1991 they declared the dissolution of the 1960 union and the restoration of Somaliland as a sovereign state.

² Evidence of war crimes has been documented by the US Department of State, Amnesty International and Africa Watch. The Committee for the Investigation of War Crimes, established in 1995, has since identified dozens of mass burial sites containing thousands of victims, compiled hundred of hours of witness testimony and identified over 200 individuals with alleged responsibility for the atrocities.

Somaliland's Case for International Recognition³

Since the declaration of independence in 1991, Somaliland has worked ceaselessly to demonstrate compliance with the basic requirements for statehood established in international law, namely:

- a permanent population;
- a defined territory;
- a stable system of government;
- capacity to enter into relations with other states.

Territory and Population.

Somaliland comprises the territory, boundaries and people of the former British Somaliland Protectorate, defined by the following international instruments (see Annex B):

- The Anglo-French Treaty of 1888
- The Anglo-Italian Protocol of 1894
- The Anglo-Ethiopian Treaty of 1897

Somaliland's borders are in fact better established in international law than those of Somalia, whose border with Ethiopia remains an undefined and undemarcated provisional boundary.

System of Government

Somaliland's system of government is defined under the 2001 Constitution as being based on peace, co-operation, democracy and plurality of political parties. Specifically, the Constitution establishes a presidential executive branch, a bicameral parliament, and an independent

³ Detailed legal arguments in support of Somaliland's legal recognition may be found in Carroll, A. and Rajagopal, B, The Case for the Independent Statehood of Somaliland. American University Journal of International Law and Politics, Vol.8:653. 1993.

judiciary. The Constitution further stipulates that political representation is to be determined through regular, free and fair elections.

Since 1991, Somaliland has experienced two peaceful changes of government, in 1993 and 1996. In accordance with the provisional National Charter, these were accomplished by electoral colleges of clan elders rather than by general elections. In May 2002, upon the death of President Mohamed Haji Ibrahim Egal, Vice President, Dahir Rayale Kahin took office as interim President pending elections, in accordance with the Constitution.

The holding of local and general elections before the expiry of the current government's term of office will complete Somaliland's transition to a stable, multi-party democracy.

Relations with Other States

The Republic of Somaliland maintains representation in various foreign countries and is signatory to a variety of bilateral and multilateral agreements. In accordance with the Constitution, which requires the Government "to endeavour to replace the long standing hostility between the countries in the Horn of Africa with better understanding and closer relations", Somaliland has signed agreements of co-operation with the neighbouring states of Ethiopia and Djibouti, and intends to do so with Somalia as soon as a representative government is established in that country.

Somaliland has entered into bilateral agreements on specific issues with several European governments. The Government is also party to a number of multilateral agreements involving the specialized agencies of the United Nations system, and has entered into contracts with large private, international corporations.

Additional Requirements for the Achievement of Statehood

In addition to the four classic criteria applied to the determination of statehood, Somaliland is frequently called upon by foreign governments and international organizations to meet additional requirements, namely:

- Conformity with Charter of the African Union
- Public support for independence
- Economic viability

Conformity with the Charter of the African Union

Somaliland's declaration of independence is predicated upon the territory's prior existence as a recognized, independent state, and is therefore consistent with the Constitutive Act of the African Union (Article 4.b.), which affirms the Union's "respect of borders existing on achievement of independence." Somaliland's borders on achievement of independence were those of the British Somaliland Protectorate, not the Somali Democratic Republic. Somaliland's independent status therefore represents the dissolution of a voluntary union between sovereign states, not an act of secession.

The precursor to the African Union, the Organization of African Unity (OAU), consistently permitted states to retrieve their sovereignty following an unsuccessful union: Egypt, Gambia, and Senegal have all been party to voluntary political mergers that they have subsequently revoked. In the cases of Eritrea and the Sahrawi Republic, the OAU has even admitted former colonial entities that – unlike Somaliland – never enjoyed independent statehood.

Somaliland's demand for recognition is thus consistent with both the letter of the AU Charter and the spirit in which it has historically been applied. Somaliland is analogous neither with secessionist movements in other African countries, nor with autonomous regional administrations in Somalia, none of which have ever possessed sovereign status. Somaliland's independence thus in no way threatens the stability of other African countries. To the contrary, Somaliland is bound by its Constitution to respect the unity and territorial integrity of other States, including Somalia.

Public support for independence

Somaliland's demand for independence is consistent with the right to self-determination entrenched in the Charters of the African Union and the United Nations. This right was freely and democratically expressed on 31 May 2001 by the people of Somaliland, who voted overwhelmingly in favour of a new Constitution that affirms Somaliland's sovereignty and independence (see **Annex D**).

Of 1.18 million ballots cast, 1.15 million (97.9%) approved the new Constitution (see **Annex E**) in a process described by international observers as having been conducted "openly, fairly, honestly and largely in accordance with internationally recognized election procedures."

The report of the observation team estimates that two-thirds (66%) of those eligible actually turned out to vote, meaning that the total "yes" votes cast were equivalent to approximately 65% of eligible voters. The report further concludes that there appeared to be "no basis for questioning the final results of the referendum, or any reason to cast doubt on the integrity of its outcome."

Opponents of Somaliland's independence have attempted to disqualify the referendum on the grounds that both parts of the former Somali

Republic should vote on the issue. This is tantamount to asking the population of Ethiopia to vote on the question of Eritrea's independence or the Canadian people to vote on the sovereignty of Quebec, and thus totally unacceptable.

In view of the outcome of the referendum, the Government of Somaliland has no mandate to compromise on the issue of Somaliland's independence. As in any other democracy, the future modification of Somaliland's sovereign status would require endorsement by referendum and the approval of an absolute majority in Parliament.

Economic viability

Somaliland's territory covers an area of 137,600 square kilometers with the population of approximately 3 million inhabitants. The economy is predominantly pastoral, with livestock exports representing approximately US\$170 million each year (a Saudi Arabian ban on livestock from the Horn has reduced this figure for the past two years). A coastline of 850 kilometres supports a thriving fishing industry and high quality frankincense represents a third major export item. Deposits of gemstones, minerals, natural gas and oil have been identified but are not currently under exploitation.

Over the past decade, Somaliland has established a functioning government, rebuilt over 100,000 homes, repaired much damaged infrastructure, absorbed the return of nearly 500,000 returnees, and hosted tens of thousands of refugees from Somalia. All this has been achieved in the absence of significant foreign assistance and within a balanced budget.

Somaliland is proud of its hard-won self-reliance. Few countries on the continent could expect to survive in the absence of foreign aid, let alone match Somaliland's achievements. However, with access to bilateral and multilateral aid, much more could have been achieved, much faster, and a sound policy for long-term economic and social development could have been put in place.

Annex A

Royal Proclamation awarding independence to Somaliland

**Supplement No. 1 to the Somaliland Protectorate Gazette
Vol XX. No. 30, dated 25th June, 1960
Containing a Royal Proclamation and an Order in Council**

BY THE QUEEN
A PROCLAMATION
TERMINATING HER MAJESTY'S PROTECTION
OVER THE SOMALILAND PROTECTORATE

Whereas the territories in Africa known as the Somaliland Protectorate are under Our protection:

And whereas by treaty, grant, usage, sufferance and other lawful means We have power and jurisdiction in the Somaliland Protectorate:

And Whereas it is intended that the Somaliland Protectorate shall become an independent country on the twenty-sixth day of June, 1960 (hereinafter referred to as "the appointed day"):

Now, therefore, We do hereby, by and with the advice of Our Privy Council, proclaim and declare that, as from the beginning of the appointed day, Our protection over the territories known as the Somaliland Protectorate shall cease, and all treaties and agreements in force immediately before the appointed day between Us for Our Government of the United Kingdom of Great Britain and Northern Ireland and any of the Tribes of the said territories, all Our obligations existing immediately before that day towards the said territories and all functions, powers, rights, authority or jurisdiction exercisable by Us immediately before that day in or in relation to the said territories by treaty, grant, usage, sufferance or otherwise, shall lapse.

Given at Our Court at Buckingham Palace, the twenty-third day of June, in the year of our Lord one thousand nine hundred and sixty, and in the ninth year of Our Reign.

ELIZABETH R.

STATUTORY INSTRUMENTS

**1960. No. 1060
EAST AFRICA**

The Somaliland Order in Council, 1960
Made --- --- --- 23rd June, 1960
Laid before Parliament 24th June, 1960
Coming into Operation immediately before
26th June, 1960

At the Court at Buckingham Palace, the 23rd day of June, 1960.

Present,

The Queen's Most Excellent Majesty in Council Whereas it is intended that the territories known as the Somaliland Protectorate (hereinafter referred to as "Somaliland") shall become an independent country on the 26th day of June, 1960 (hereinafter referred to as "the appointed day"):

And Whereas Her Majesty has by Proclamation, declared that, as from the beginning of the appointed day, Her protection over Somaliland shall cease and all functions, powers, rights, authority or jurisdiction exercisable by Her immediately before that day in or in relation to Somaliland shall lapse:

And Whereas it is accordingly expedient to make new provision for the Government of Somaliland:

Now, therefore, Her Majesty by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890 (a), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order and it is hereby ordered, as follows:-

1. -(1) This Order may be cited as the Somaliland Order in Council, 1960.

(2) This Order shall come into operation immediately before the appointed day.

2. The Constitution set out in the Annex to this Order shall have the force of law in Somaliland.

3. —(1) The Somaliland Orders in Council, 1929 to 1955 (b), the Somaliland (Constitution) Order in Council, 1960 (c) and the Somaliland (Constitution) (Amendment) Order in Council, 1960 (d), are revoked.

(2) The Somaliland Protectorate Order in Council, 1909 (a) (which relates to appeals from the High Court of Somaliland to the Judicial Committee of Her Majesty's Privy Council) is revoked.

(b) The Eastern African Court of Appeal shall cease to be a Court of Appeal for the Courts of Somaliland and accordingly the Eastern African Court of Appeal Order in Council, 1950 (b), as amended (c), is hereby amended by the deletion of any reference therein to Somaliland, and the Appeals to the Court of Appeal Ordinance, 1950 (d), and the Appeals to the Court of Appeal (Amendment) Ordinance, 1957 (e), of Somaliland are revoked.

(c) Any appeal ---

(i) to the Judicial Committee of Her Majesty's Privy Council or to the Eastern African Court of Appeal from a judgment of the High Court of Somaliland, or

(ii) to the said Judicial Committee from a judgment of the Eastern African Court of Appeal given in any appeal from a judgment of the High Court of Somaliland,

that is pending or part heard on the coming into operation of this order shall abate.

(d) In the preceding paragraph "judgment" includes decree, order, conviction, sentence and decision.

(3) Save as provided in paragraph (c) of the last foregoing subsection, nothing in the foregoing provisions of this section shall prejudice anything done under or by virtue of any of the instruments and laws revoked or amended thereby and in particular the continued operation of any law made thereunder.

W. G. AGNEW.

Annex B

Treaties establishing Somaliland's boundaries

No 290]

GREAT BRITAIN AND ITALY. [5 May, 1894
[Spheres of Influence in Regions of Gulf of Aden.]

No. 290. — *AGREEMENT* between Great Britain and Italy defining their respective Spheres of Influence in Eastern Africa. (Somali, &c.) Rome, 5th May, 1894.

"In order to complete the delimitation of the spheres of influence of Great Britain and Italy in Eastern Africa, which formed the subject of the Protocols signed at Rome on the 24th March (No. 288), and the 15th April, 1891 (No. 289), the Undersigned, authorized by their respective Governments, have agreed as follows:-

[Here follow the names of the Plenipotentiaries]

Boundary. Spheres of Influence.

"1. The boundary of the spheres of influence of Great Britain and of Italy in the regions of the Gulf of Aden shall be constituted by a line which, starting from Gildessa and running towards the 8th degree of north latitude, skirts the north-east frontier of the territories of the Girrihi, Bertiri, and Rer Ali tribes, leaving to the right the villages of Gildessa, Darmi, Gig-giga, and Milmil. On reaching the 8th degree of north latitude the line follows that parallel as far as its intersection with the 48th degree of longitude east of Greenwich. It then runs to the intersection of the 9th degree of north latitude with the 49th degree of longitude east of Greenwich, and follows that meridian of longitude to the sea.*

FRANCIS CLARE FORD.
FRANCESCO CRISPI

* See Map facing p.952

¹ The Chief of the Ogaden tribe placed his country under British protection by Agreement signed on the 1st September, 1896, see p. 387.

2 Feb., 1888.]

GREAT BRITAIN AND FRANCE.
[Gulf of Tadjourra. Somali Coast.]

[No. 225

No. 225. – AGREEMENT between British and French Governments with regard to the Gulf of Tadjourra and the Somali Coast, 2nd/9th February, 1888.*

(1.) *M. Waddington to the Marquis of Salisbury.*
(Translation.)

London, February 2, 1888.

M. le Marquis,

The Government of the French Republic and the Government of Her Britannic Majesty being desirous of arriving at an agreement with regard to their respective rights in the Gulf of Tadjourra, and on the Somali Coast, I have had the honour to address your Lordship on this subject on several occasions. After a friendly interchange of views we yesterday agreed on the following arrangement:

1. The Protectorates exercised, or to be exercised, by France and Great Britain shall be separated by a straight line starting from a point on the coast situated opposite the wells of Hadou, and leading through the said wells to Abassouen; from Abassouen the line shall follow the caravan road as far as Bia-Kabouba, and from this latter point it shall follow the caravan route from Zeyla to Harrar, passing by Gildessa. It is expressly agreed that the use of the wells of Hadou shall be common to both parties.

2. The Government of Her Britannic Majesty recognise the Protectorate of France over the coasts of the Gulf of Tadjourra, including the group of the Mushah Islands and the Islet of Bab, situated in the gulf, as well as over the inhabitants, tribes, and fractions of tribes situated to the west of the line above mentioned.

The Government of the French Republic recognise the Protectorate of Great Britain over the coast to the east of the above line as far as Bender Ziadeh,¹ as well as over the inhabitants, tribes, and fractions of tribes situated to the east of the same line.

3. The two Governments engage to abstain from any action or intervention, the Government of the Republic to the east of the above line, the Government of Her Britannic Majesty to the west of the same line.

4. The two Governments engage not to endeavour to annex Harrar, nor to place it under their protectorate. In taking this engagement the two Governments

do not renounce the right of opposing attempts on the part of any other Power to acquire or assert any rights over Harrar.

5. It is expressly understood that the caravan route from Zeyla to Harrar, by way of Gildessa, shall remain open throughout its extent to the commerce of the two nations as well as to that of the natives.

6. The two Governments engage to take all necessary measures to prevent the slave trade, and the importation of gunpowder and arms in the territories subject to their authority.

7. The Government of Her Britannic Majesty engage to treat with consideration (“bienveillance”) those persons, whether chiefs or members of the tribes placed under their Protectorate, who had previously adopted the French Protectorate. The Government of the Republic, on their part, take the same engagement with regard to the persons and tribes placed henceforth under their Protectorate.

I shall be grateful if, in acknowledging the receipt of this note, your Lordship will record officially the Agreement which we have concluded in the names of our respective Governments.

Accept, &c.,

WADDINGTON.

* See Notes on Somaliland Protectorate (British and French Spheres of Influence). P. 410

¹ See Clause 6 of Memorandum in Exchange of Notes between Great Britain and Italy of 19th March, 1907, as to geographical position of Bender Ziadeh, p. 962.

(2.) *The Marquis of Salisbury to M. Waddington.*
Foreign Office, February 9, 1888.

M. l' Ambassadeur,

I have the honour to acknowledge the receipt of your Excellency's note of the 2nd instant, reciting the arrangement upon which we have agreed with regard to the respective rights of Great Britain and France in the Gulf of Tadjourra and on the Somali Coast.

The provisions of this arrangement are as follows:-

1. The Protectorates exercised, or to be exercised, by Great Britain and France shall be separated by a straight line starting from a point on the coast opposite to the wells of Hadou and passing through the said wells to Abassouen; from Abassouen the line shall follow the caravan road as far as Bia-Kabouba, and from this latter point it shall follow the caravan road from Zeyla to Harrar, passing through Gildessa. It is expressly agreed that the use of the wells of Hadou shall be common to both parties.

2. Her Britannic Majesty's Government recognise the Protectorate of France over the coasts of the Gulf of Tadjourra, including the Group of the Mushah Islands and the Islet of Bab, situated in the gulf, as well as over the inhabitants, tribes and fractions of tribes situated to the west of the line above mentioned.

The Government of the French Republic recognise the Protectorate of Great Britain over the coast to the east of the above line as far as Bender Ziadeh,* as well as over the inhabitants, tribes, and fractions of tribes situated to the east of the same line.

3. The two Governments pledge themselves to abstain from taking any action or exercising any intervention, the Government of the Republic to the east of the above line, Her Britannic Majesty's Government to the west of the same line.

4. The two Governments engage not to endeavour to annex Harrar.

* See Clause 6 of Memorandum in Exchange of Notes between Great Britain and Italy of 19th March, 1907, as to geographical position of Bender Ziadeh, p. 962.

3 June 1884.]

ABYSSINIA, &C.
(Great Britain, Ethiopia and Egypt, Bogos, &c.)

[No. 98

No. 97. – Treaty, Great Britain and Abyssinia. 2nd November 1849

On the 2nd November, 1849, a Treaty of Friendship and Commerce was concluded between Great Britain and the King of Abyssinia and his successors. The boundaries of Abyssinia were not defined, and the Treaty was terminated by the war between this country and Abyssinia in 1868, which resulted in the death of King Theodore.

No. 98 –TREATY. Great Britain, Ethiopia, and Egypt. Signed at Adowa, 3rd June, 1884.

On the 3rd June, 1884, a Treaty was concluded between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, His Majesty Johannis Negoosa Neguat of Ethiopia and its Dependencies, and His Highness the Khedive of Egypt, for the settlement of differences between Egypt and Abyssinia.

The following is an epitome of its provisions:-

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Majesty Johannis, made by the Almighty King of Sion, Negoosa Negust of Ethiopia and its Dependencies, and His Highness Mahomed Towfik, Khedive of Egypt being desirous of settling the differences which exist between the said Johannis, Negoosa Negust of Ethiopia and Mahomed Towfik, Khedive of Egypt, and of establishing an everlasting peace between them, have agreed to conclude a Treaty for this purpose, which shall be binding on themselves, their heirs, and successors; and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India having appointed as her Representative Rear-Admiral Sir. William Hewett, Comander-in-Chief of Her Majesty's ships of war in the East Indies, and His Majesty the Negoosa Negust of Ethiopia, acting on his own behalf, and His Highness the

Khedive of Egypt, having appointed as his Representative His Excellency Mason Bey, Governor of Massowah, they have agreed upon and concluded the following articles:-

Art. I. --- Free Transit for all Goods through Massowah to and from Abyssinia.

Restoration of Bogos to Ethiopia.

Art. II. -On and after the 1st day of September, 1884, corresponding to the 8th day of Maskaram, 1877, the country called Bogos shall be restored to His Majesty the Negoosa Negust; and when the troops of His Highness the Khedive shall have left the garrisons of Kassaia Amedib, and Sanhit, the buildings in the Bogos country, which now belong to His Highness the Khedive, together with all the stores and ammunition.

No. 99.] **ABYSSINIA AND GREAT BRITAIN.** [14 May, 1897
(Frontiers, Somali Coast Protectorate]

The ammunitions of war which shall then remain in the said buildings, shall be delivered to and become the property of His Majesty the Negoosa Negust.

Ar. III. - Withdrawal of Troops of Khedive from Kassala, Amedib, and Sanhit.

Art. IV. - Appointment of Aboonas for Ethiopia by the Negoosa Negust.

Art. V. - Extradition of Criminals

Differences between the Negoosa Negust and the Khedive to be referred to Her Britanic Majesty.

Art. VI. - His Majesty the Negoosa Negust agrees to refer all differences with His Highness the Khedive which may arise, after the signing of this Treaty to Her Britannic Majesty for settlement

Art VII. - Ratifications.

(King's Seal.)
(L.S.) W. Hewett.
(L.S.) Mason.

Adowa, 3rd June, 1884.

Anglo-Ethiopian Treaty.

No. 99. - TREATY between Great Britain and Ethiopia (Frontiers of British Protectorate on Somali Coast). Signed by the Emperor Menelek II, and by Her Majesty's Envoy, at Adis Abbaba, 14th May, 1897.

[Ratified by the Queen, 28th July, 1897.]

[English version.]

Her Majesty Victoria, by the grace of God, Queen of Great Britain and Ireland, Empress of India, and His Majesty Menelek II, by the grace of God King of Kings of Ethiopia, being desirous of strengthening and rendering more effective and profitable the ancient friendship which has existed between their respective kingdoms;

Her Majesty Queen Victoria having appointed as her Special Envoy and Representative to His Majesty the Emperor Menelek II, James Rennel Rodd Esq., Companion of the Most Distinguished Order of St. Michael and St. George whose full powers have been found in due and proper form, and His Majesty the Emperor Menelek, negotiating in his own name as King of Kings of Ethiopia they have agreed upon and do conclude the following Articles, which shall be binding on themselves, their heirs, and successors:-

Art. I - Freedom of Intercourse.

Accepted and enjoyed British protection in the districts excluded from the limits of the British Protectorate on the Somali Coast, as recognized by your Majesty to bring to your knowledge the desire of Her Majesty the Queen to receive from your Majesty an assurance that it will be your special care that these tribes receive equitable treatment, and are thus no losers by this transfer of suzerainty.

In expressing the hope that your Majesty will enable me to give this assurance, I have &c.

RENNELL RODD

The Emperor Menelek to Mr. Rodd.
(Translation)

The Conquering Lion of the Tribe of Judah, Menelek II, by the grace of god, King of Kings of Ethiopia, to Mr. Renell Rodd, Envoy of the Kingdom of England.

Peace be unto you.

Your letter, written in Genbot 1899, respecting the Somalis, has reached me. With regard to the question you have put to me, I give you the assurance that the Somalis who may by boundary arrangements become subjects of Ethiopia shall be well treated and have orderly government.

Written at Adis Abbaba, the 6th Genbot, 1889 (14th May, 1897.)
(Seal of His Majesty the Emperor Menelek II.)

The Emperor Menelek to Mr. Rodd.
(Translation.)

From Menelek II, by the grace of God, King of Kings of Ethiopia Conquering Lion of the tribe of Judah

May this reach James Rennell Rodd.

Peace be unto you

With reference to the Treaty which we have written in the Amharic and English languages at Adis Abbaba, as I have no interpreter with me who understands the English language well enough to compare the English and Amharic versions, if by any possibility in the future there should ever be found any misunderstanding between the Amharic and English versions in any of the Articles of this Treaty, let this translation, which is written in the French language, and which I enclose this letter, be the witness between us, and if you accept this proposal send me word of your acceptance by letter.

Dated 7th Genbot, 1899 (14th May, 1897).

(Seal of His Majesty the Emperor Menelek II.)

Mr. Rodd to Emperor Menelek.

Your Majesty, Adis Abbaba, 14th May, 1897.

I HAVE the honour to acknowledge the receipt of your Majesty's letter inclosing the French translation of the Treaty which we are to sign this day in English and Amharic, and I agree, on behalf of my Government, to the proposal of your Majesty, that in case a divergency of opinion should arise hereafter as to the correct interpretation to be given either to the English or Amharic text, the French translation, which has been agreed to on both sides as adequate, should be accepted as furnishing a solution of the matter under dispute.

In recording this assurance, I have, &c.

RENNELL RODD.

Mr. Rodd to Ras Makunan.

Peace be unto you. Harrar, 4th June, 1897 (28 Genbot, 1889).

AFTER friendly discussion with your Excellency, I have understood that His Majesty the Emperor of Ethiopia will recognize as frontier of the British Protectorate on the Somali Coast the line which, starting from the sea at the point fixed in the Agreement between Great Britain and France on the 9th February, 1888 (No. 225), opposite the wells of Hadou, follows the caravan-road, described in that Agreement, through Abbassouen till it reaches the hill of Somadou. From this point on the road the line is traced by the Saw mountains and the hill of Egu to Moga Medir; from Moga Medir it is traced by Eylinta Kaddo to Arran Arrhe, near the intersection of latitude 44^o east of Greenwich with longitude 9^o north. From this point a straight line is drawn to the intersection of 47^o east of Greenwich with 8^o north. From here the line will follow the frontier laid down in the Anglo-Italian Protocol of the 5th May, 1894 (No. 290) until it reaches the sea.

The tribes occupying either side of the line shall have the right to use the grazing grounds on the other side, but during their migrations, it is understood that they shall be subject to the jurisdiction of the territorial authority. Free access to the nearest wells is equally reserved to the tribes occupying either side of the line.

This understanding, in accordance with Art. II of the Treaty signed on the 14th May, 1897 (7th Genbot, 1889), by His Majesty the Emperor Menelek and Mr. Rennell Rodd, at Adis Abbaba, must be approved by the two High Contracting Parties.

I have, &c.

RENNELL RODD.

Ras Makunan to Mr. Rodd
(Translation)

Sent from Ras Makunan, Governor of Harrar and its dependencies:

May this reach the Honourable Mr. Rennell Rodd, Envoy of the British Kingdom.

I INFORM you to-day that, after long friendly discussion, the boundary of the British Somali Protectorate upon which we have agreed is as follows:-

Starting from the sea-shore opposite the wells of Hadou (as on which the French and the English Governments agreed in February 1888) (No. 225), it follows the caravan-road by Abbassouen till Mount Somadou; from Mount Somadou to Mount Saw; from Mount Saw to Mount Egu; from Mount Egu to Moga Medir; starting from Moga Medir, it goes in a direct line to Eylinta Kaddo and Arran Arrbe on 44° east of Greenwich and 9° north, and again in a direct line until 47° east and 8° north. After this the boundary follows the line on which the English and Italians agreed on the 5th May, 1894 (No. 290), until the sea.

The subjects of both the Contracting Parties are at liberty to cross their frontiers and graze their cattle, but these people, in every place where they go, must obey the Governor of the country in which they are, and the wells which are in the neighbourhood shall remain open for the two parties.

These two letters on which we have agreed, according to Art. II of the Treaty of His Majesty the Emperor of Ethiopia and Mr. Rennell Rodd of the 7th Genbot, 1889 (14th May, 1897), the two Sovereigns having seen them, if they approve them, shall be sealed again (ratified).

Written at Harrar, the 28th Genbot, 1889 (4th June, 1897).

RAS MAKUNAN.

30 Aug. 1897.]

ABYSSINIA AND GREAT BRITAIN
[frontiers, Soudan, Ethiopia, Eritrea.]

[No. 99

RATIFICATION OF TREATY.

Mr. Rodd to the Emperor Menelek II.

Cairo, 30th August, 1897.

From Mr. Rennell Rodd, Special Envoy of Her Majesty Queen Victoria, to His Majesty Menelek II, by the grace of God, King of Kings of Ethiopia.

Peace be unto your Majesty.

I HAVE the honour to announce that The Queen, my gracious Sovereign, has been pleased to approve and ratify the Treaty which I had the honour to sign with your Majesty on the 14th May last.

Her Majesty has also been pleased to approve of the arrangement which, in accordance with the terms of Art. II of the Treaty, was agreed upon between Ras Makunan, as Representative of your Majesty, and myself by exchange of notes relative to the frontier of the British Protectorate in the Somali Coast; and it is presumed by Her Majesty's Government that your Majesty has also approved of it, as they have received no notification to the contrary.

The notes exchanged have accordingly been annexed to the Treaty which has received ratification, signifying Her Majesty's approval of all these documents.

I have now the honour to return herewith the copy of the Treaty intrusted to me by your Majesty, with its ratification in due form.

When I shall have received from your Majesty a letter signifying that this Treaty, thus ratified and approved, has come safely to your Majesty's hands, it will be made public by the Government of the Queen, that all her subjects may observe and abide by it, and that it may strengthen the ties of friendship between our countries, and increase the feelings of esteem and good-will towards your Majesty which the reception of the British Mission in Ethiopia has awakened in my country.

I pray that your Majesty's life and health may long be preserved, and that your people may have peace and prosperity.

RENNELL RODD.

**Annex C
Exchange of Letters**

The following Exchanges of Letters have been deposited with the United Nations in respect of Somaliland's Independence

358 United Nations – Treaty Series

No 5349. Exchange of letters constitutes an Agreement between the government of the United Kingdom of Great Britain and Northern Ireland and the Government of Somaliland providing that, should the government of Somaliland be a party to any agreement transferring jurisdiction over the territory of Somaliland to any other government such agreement should provide that the obligations of the government of Somaliland in respect of certain specified instrument are transferred to that other government Hargeisa, 26 June 1960.

I

Mr. T. E. Bromley to the Members of the Council of Ministers of Somaliland-

BRITISH CONSULATE-GENERAL

Your Excellencies,

Hargeisa, June 1960

I have the honour to ask you to confirm on behalf of the Government of Somaliland that, should they in any way be a party to any agreement for, or any inline having the effect of, transferring, or confirming the transfer of, jurisdiction territory of the Government of Somaliland, to any other Government such again or instrument shall provide that the obligations of the Government of Somaliland in respect of the following instruments are transferred to, and accepted by other Government, namely:

- (a) The interim agreement between the government of the United Kingdom, Great Britain and Northern Ireland and the government of Somali United Kingdom Aid Mission:
- (b) The Public Officers Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Somaliland.
- (c) The Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Somaliland regarding interim arrangements in respect of the Somaliland Scouts.
- (d) The lease entered into on the 12th of April, 1960, between the Government the Somaliland Protectorate and the Minister of Works of the United Kingdom.

I have the honour to propose that this letter and Your Excellencies' reply to the confirmation aforesaid should constitute an Agreement between the two governments.

II

The Council of Ministers of Somaliland to Mr. T. E. Bromley

THE COUNCIL OF MINISTERS OF SOMALILAND

Your Excellency,

Hargeisa, June :

We have the honour to acknowledge the receipt of your letter of to-day which reads as follows:

[See letter f]

On behalf of the Government of Somaliland, we have pleasure in giving confirmation for which your letter asks and agree that Your Excellency's letter this reply shall constitute an agreement between the two Governments.

Please accept, &c.

Signed
Mohamed Ibrahim Egal
A. Dualeh
A. G. Jama
Ibr Noor.

No. 5346

**United Kingdom of Great Britain
And Northern Ireland
And
Somaliland**

Interim Agreement for a United Kingdom aid mission, signed at Hargeisa, on 26 June 1960

Official text: English.

Registered by the United Kingdom of Great Britain and Northern Ireland on 13 September 1960.

Royaume-Uni De Grande-Bretagne
Et D'Irlande Du Nord
Et
Somaliland

Accord provisoire relatif a une mission d'aide, du Royaume-Uni. Signe a Hargeisa, le 26 juin 1960

Texte Officiel anglais.

Enregistre par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 13 septembre 1960.

No. 5346. interim agreement between the government of the United Kingdom of Great Britain and Northern Ireland and the government of Somaliland for a United Kingdom aid mission. signed at Hargeisa, on 26 June 1960.

The government of the United Kingdom of Great Britain and Northern Ireland
and the Government of Somaliland;

Have agreed as follows:

Article I

In this Agreement—

- (a) "the appointed day" means the 26th of June, 1960;
- (b) "an officer who was the substantive holder of an office" means an officer who is not domiciled in Somaliland and who, before the appointed day, was the substantive holder, whether on a contract or on pensionable terms, of an office in the Public Service of Somaliland being a person-
 - (i) who was selected for or offered appointment to the Public Service of Somaliland by one of Her Britannic Majesty's Secretaries of State; or
 - (ii) Whose appointment was approved by one of Her Britannic Majesty's Secretaries of state; or
 - (iii) Who had entered into an agreement with the Crown Agents for Oversea Governments and Administrations to serve in any such office; or

- (iv) Who (although not an officer within sub-paragraphs (i), (ii), or (iii) of this paragraph) is or has been a member of Her Britannic Majesty's Overseas Civil Service or Her Britannic Majesty's Overseas Judiciary;

(c) "pension" means

- (i) any pension, gratuity or compensation payable by the Government of Somaliland to or in respect of any officer including any increase of pension; and
- (ii) any pension including any increase of pension payable to the widow or child of an officer and any contributions repayable and interest payable to an officer under any law providing for payment of pensions to widows and children of officers;

- (d) "compensation" means any compensation, gratuity or retiring allowance or benefit that may be granted under regulations made under section 62 of the Somaliland (Constitution) Order in Council, 1960;

- (e) "Conditions of service" means the laws, rules, regulations, orders and other instruments that regulate the terms of service of an officer including, without prejudice to the generality of the foregoing, provision relating to his tenure of office, transfer, promotion, disciplinary control, salary (including salary scales), pension, compensation, allowances, quarters, leave and passages.

Article II

- (1) The Government of the United Kingdom, at the request of the Government of Somaliland, shall arrange for the appointment of officers to be available for civilian employment in the Public Service of Somaliland for a period not exceeding six months from the coming into force of this Agreement.
- (2) The Government of Somaliland has requested the Government of the United Kingdom to arrange for the appointment of officers to

be available for the offices shown in the first and second columns of the Schedule¹ attached to this agreement and the Government of the United Kingdom propose, subject to the agreement of the officers shown in the third column of the said Schedule.

- (3) Officers so appointed shall remain members of the Public Service of Somaliland.

Article III

- (1) the conditions of service applicable to an officer who was the substantive holder of an office appointed in pursuance of Article II of this Agreement shall be not less favourable than those which were applicable to him immediately before that date.
- (2) The particular and without prejudice to the generality of the provisions of paragraph (1) of this Article, such an officer shall receive emoluments, the net value, in sterling, of which calculated at the official rate of exchange prevailing on the appointed day after deduction of any direct taxation on such emoluments payable to the Government of Somaliland, shall be not less than the net value so calculated of the emoluments payable to him immediately before the appointed day.

Article IV

The entitlement of an officer appointed in pursuance of Article II of this Agreement to any compensation shall not be affected by his appointment or otherwise by the provisions of this Agreement.

Article V

- (1) The appointment of an officer in pursuance of Article II of this Agreement may be terminated only by the Government of the United Kingdom;

- (2) Subject to the provisions of paragraph (1) of this Article, disciplinary control (including the right to suspend from duty) over any such officer shall be exercised by the Government of Somaliland;
- (3) Any such officer who is subjected to disciplinary measures by the Government of Somaliland and who is aggrieved by a decision of that Government representative in Somaliland to Her Britannic Majesty's Secretary of State for the Colonies and in the event of the latter supporting such representations and the resultant dispute not being amicably disposed of, such dispute shall be submitted to an Arbitral Tribunal. The Tribunal shall consist of three persons, two of whom shall be nominated respectively by the Government of Somaliland and by the Government of the United Kingdom and the third who shall be the Chairman shall be nominated by the former two members of the Tribunal, but such third member of the Tribunal shall not be a citizen of Somaliland nor a citizen of the United Kingdom and Colonies. The Somaliland Government and the Government of the United Kingdom shall be bound by the Award of such Tribunal;
- (4) The Government of Somaliland will ensure that any legislation necessary to implement the provisions of this Article will be enacted.

Article VI

The Government of the United Kingdom shall, on behalf of the Government of Somaliland, undertake the payment of the emoluments of officers appointed in accordance with Article II of this Agreement, and of all pensions and compensation payable by the Government of Somaliland during the period of six months from the appointed day.

Article VII

The Government of The United Kingdom shall account to the Government of Somaliland for all payments made under this Agreement.

Article VII

This Agreement of the United Kingdom shall account to the Government of Somaliland for all payments made under this Agreement.

Article VIII

This Agreement shall come into force on the date of its signature. IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed the present Agreement.

DONE in duplicate at Hargeisa, this 26th day of June, 1960, in the English language.

For the Government
Of the United Kingdom of Great
Britain and Northern Ireland;

T. E. Brromely

For the Government
of Somaliland:
M.I.Egal
A. Dualeh
A.G.Jama
Ibr Noor

United Kingdom of Great Britain
And Northern Ireland
And
Somaliland

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United Nations – Treaty Series

1960

No : 5347. Public officers agreement between the government of the United Kingdom of Great Britain and Northern Ireland and the government of Somaliland. signed at Hargeisa, on 26 June 1960.

Public Officers Agreement. Signed at Hargeisa, on 26 June 1960

Official text: English.

Registered by the United Kingdom of Great Britain and Northern Ireland on 13 September 1960.

Accord relatif aux fonctionnaires. Signé à Hargeisa, le 26 Juin 1960

Texte Officiel anglais.

Enregistre par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 13 September 1960.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Somaliland have agreed as follows:-

Article I

In this Agreement:-

- (a) "the appointed day" means the 26th of June, 1960;
- (b) "Officer" means an officer who is not domiciled in Somaliland and who, before the appointed day, was the substantive holder of a pensionable office in the Public Service of Somaliland, being a person—
 - (i) who was selected for or offered appointment to the Public Service of Somaliland by one of Her Britannic Majesty's Secretaries of State; or
 - (ii) whose appointment was approved by one of Her Britannic Majesty's Secretaries of State; or
 - (iii) Who had entered into an agreement with the Crown Agents for Oversea Governments and Administrations to serve in any such office; or
 - (iv) Who (although not an officer falling within sub-paragraphs (i), (ii), or (iii) of this paragraph) is or has been a member of Her Britannic Majesty's Overseas Civil Service or Her Britannic Majesty's Overseas Judiciary.

(C) "Pension" means—

- (i) any pension, gratuity, compensation, disturbance grant or other like retirement benefit payable by the Government of Somaliland to or in respect of any officer including any increase of pension; and
 - (ii) any pension including any increase of pension, payable to the widow or child of an officer and any contributions repayable and interest payable to an officer under any law providing for payment of pensions to widows and children of officers.
- (c) "Substantive holder" in relation to any office includes a person serving in that office on probation but does not include a person (other than a person serving under a probationary agreement) serving in that office for a specified term under a contract.

Article II

- (1) An Officer who does not cease to be in the Public Service of Somaliland before the appointed day shall be entitled to conditions of service not less favourable than those applicable to him immediately before the appointed day.
- (2) In this Article the expression "conditions of service" means the laws, rules, regulations, orders and other instruments that regulate the terms of service of an officer including, without prejudice to the generality of the foregoing, provisions relating to his tenure of office, transfer, promotion, disciplinary control, salary (including salary scales), pension, allowances, quarters, leave and passages.

Article III

An officer who does not cease to be in the Public Service of Somaliland before the appointed day shall be entitled to retire and his eligibility and that of his widow, children, dependants and personal representatives to receive a pension shall be governed by the laws, regulations, and administrative directions in force immediately before the appointed day or by such other laws, regulations and administrative directions made thereafter that are not less favourable; and pensions shall be granted and paid to such officers and other persons accordingly.

Article IV

Pensions of officers who have ceased to be in the Public Service of Somaliland before the appointed day or to the widow, children dependants or personal representatives of such persons shall be granted and paid or, if granted before that date, shall continue to be paid, in accordance with the laws, regulations, and administrative directions governing those pensions immediately before that date or in accordance with such other laws, regulations and administrative directions made thereafter that are not less favourable.

Article V

- (1) Pensions paid outside Somaliland on or after the appointed day shall be paid in sterling and shall be calculated at the official rate of exchange prevailing on that date between the pound sterling and the currency in use in Somaliland notwithstanding any variation in that rate.
- (2) Every officer who has been granted or is being paid a pension before the appointed day shall exercise within six months of that date an option as to whether his pension and any pension that may in due course become payable to his widow, children, dependants or personal representatives, shall be paid in Somaliland or outside Somaliland; provided that where no option is exercised in respect of a pension in payment within six months after that date an option shall be deemed to have been exercised for the payment of the pension either in Somaliland or outside Somaliland according to where it was being paid on that date.
- (3) In every other case, an officer eligible for a pension shall exercise before the award of his pension an option as to whether his pension and any pension that may become payable to his widow, children, dependants or personal representatives, shall be paid in Somaliland or outside Somaliland-
- (4) Where, upon the death of an officer, a pension becomes payable to his widow, children, or any dependent, or to his personal representatives, an option as to whether the pension shall be paid in Somaliland or outside Somaliland-
 - (a) may be exercised within one year of the death of that officer by the pensioner; and

- (b) may be exercised, be substituted for the option (if any) exercised by that officer under paragraph (2) or paragraph (3) of this Article.
- (5) An option exercised by notice in writing; and
 - (a) shall be exercised by notice in writing; and
 - (b) shall be deemed to have been exercised on the date on which the notice is received.
- (6) In this Article "pensioner" means the person entitled to the payment of a pension or (if that person is a minor) means his or her lawful guardian.

Article VI

Where any person is entitled to exercise an option under or relating to any law, regulation or administrative direction governing pensions, he shall for the purposes of this Agreement be deemed in exercising the option to have exercised it in the way more favourable to him.

Article VII

This agreement shall come into force on the date of its signature.
IN WITNESS WHEREOF THE UNDERSIGNED, being duly authorised thereto, have signed the present Agreement.
DONE in duplicate at Hargeisa, this 26th day of June, 1960, in the English language.

For the Government
Of the United Kingdom of Great
Britain and Northern Ireland;

T. E. Bromely

For the Government
of Somaliland:
M.I.Egal
A. Dualeh
A.G.Jama
Ibr Noor

No. 5349

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
AND
SOMALILAND**

Exchange of letters constituting an agreement providing that, should the government of Somaliland be a party to any agreement transferring jurisdiction over the Territory of Somaliland to any other Government, such agreement should provide that the obligations of the Government of Somaliland in respect of certain specified instruments are transferred to that other Government.
Hargeisa, 26 June 1960

Official text: English.

Registered by the United Kingdom of Great Britain and Northern Ireland on 13 september 1960.

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
Et
SOMALIE**

Echange de lettres constituant un accord disposant qu'aucas ou le Gouvernement de la Somalie serait partie a un accord portant tranfert de juridiction sur le territoire de la Somalie a tout autre Government, ledit accord devra stipuler le transfert a cet autre Gouvernement des obligations du Gouvernement de la Somalie touchant certains instruments determines. Hargeisa, 26 Juin 1960.

Texte Officiel anglais.

Enregistere par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 13 September 1960.

Annex D

Observers' Report on Somaliland's Constitutional Referendum

Overall, it is the opinion of the Initiative and Referendum Institute that the constitutional referendum held on May 31, 2001, in Somaliland was conducted openly, fairly, honestly, and largely in accordance with internationally recognized election procedures. However, it must be noted that no national election, no matter where in the world, is conducted without allegations and instances of irregularities, mismanagement, human error or fraud. The referendum in Somaliland is no exception to this rule, but from our observations, the Institute cannot see any basis for questioning the final results of the referendum, or any reason to cast doubt on the integrity of its outcome.

Given the financial and logistical limitations challenging the Somaliland government – particularly because there have not been any elections in the country for more than 40 years – the Institute's delegation commends the Somaliland government on the great lengths it went to ensuring a peaceful referendum, free from violence and widespread abuses or fraud. Based on our observations, the Institute finds that the Somaliland constitutional referendum was conducted in a legitimate and open manner, and in most instance, followed the pre-established election procedures mandated by Somaliland law.

While finding the referendum to have been conducted fairly, the Institute's delegation stresses that it takes no position – directly or indirectly, explicitly or implicitly – supporting or opposing the contents of the Somaliland constitution or Somaliland Independence and its quest for international recognition.

Though it is the Institute's official position that the referendum, overall, was conducted fairly, election irregularities and instances of possible fraud should not be overlooked.

As stated earlier in this report, due to the small size of the Institute's delegation, the team was limited in its ability to observe a large number of polling stations and ballot counting locations. In the locations that were observed, the Institute did see instances of deviations from election procedures, unexplained irregularities, and to a much lesser extent, minor instances of what could be

perceived as fraud. However, irregularities and procedural deviations were de minimus, and the occurrences of fraud were insignificant and very rare. Although there is ample room for improvement, the Institute strongly believes that based on observations, these negligible deviations and irregularities did not undermine the integrity or legitimacy of the referendum, and in no way would have challenged the overall outcome of the vote.

Most of the irregularities and procedural deviations that were observed are items that could easily be corrected prior to the next national election. Specifically, polling station workers frequently would pre-stamp ballots, a deviation from the election procedure. Because of the long lines of voters waiting to vote in the hot sun, there was an understandable effort by polling station workers to hasten the voting registration process, including pre-stamping ballots. The ballots, however, should have been stamped one at a time, and handed to a voter right before entering the voting booth.

In observing the ballot counting, there were perhaps three or four instances where observers found what appeared to be dozens of ballots "Stuffed" into a "Yes" ballot box as if entered all in one instance, instead of votes cast individually. These instances can be attributed to an over-zealous polling station worker, or an individual swiping a pile of pre-stamped ballots while the polling station worker was not watching. At most, it is our opinion that this may have affected no more than 50 to 100 votes, and that the pre-stamping of ballots may have contributed to this.

Another irregularity suggested both by the team's first-hand observations and by our analysis of the results is an inconsistent poll closing time. Observers witnessed first-hand polling places that stayed open after the designated closing time even when lines had dissipated as well as ballot boxes arriving at counting stations at times that meant they must have left the polling place before 4:00 pm – well before polling should have closed. Further, perusal of the results shows a number of polling places used the number of ballots the polling place was allocated. We suspect that a significant number of polling places simply stayed open until they run out of ballots, whether that was earlier or later than the official poll closing time. Although we have no reason to believe that this significantly impacted the results of the referendum, we would recommend that

this problem be avoided in the future by providing all polling places with ample ballots to stay open all day and ensuring that they close according to regulations so as to provide all regions an equal opportunity to vote.

Another problem the team observed was the process of discerning a voter's age. Several members of the team noted a number of questionable instances in which some underage Somalilanders may have been allowed to vote. By speaking with some underage Somalilanders, observers learned that some had illegally voted in the referendum, though this seemed to have occurred without any regularity. Without birth records or identification, this was not unexpected. Indeed, there were many instances when polling station workers turned away underage voters. More importantly, no eligible voters were observed being turned away from voting because of their opposition to the constitution, Somaliland independence, or the administration of President Egal. There did not appear to be significant numbers of ineligible people voting, and those eligible to vote could do so freely.

Additionally, the team observed only two or three instances of people attempting to vote more than once. In a few instances, the polling stations were not diligent at painting the backs of hands of people who had voted, due in part to inattention to the procedures and the confusion resulting from long lines of people waiting to vote. Indeed, the indelible ink was not difficult to wash off. Still, we do not believe that multiple voting was a problem, and when it occurred, it seems to have been very rare, and in our opinion would not have impacted the results in any significant way.

Another area that should be addressed in future elections is voter privacy. The degree of privacy for voters in the voting booth varied from polling station to polling station, with some polling stations not having, in our opinion, effective privacy. In many instances, there was limited privacy because the ballot boxes were not securely shielded from the view of others. Indeed, on several occasions, it wasn't that difficult for the observers – and Somalilanders themselves – to see how a voter cast his or her ballot. Given the overwhelming support for the constitution and independence, a lack of privacy could possibly have prevented someone opposed to the constitution or independence from feeling free to cast a "No" vote for fear of pressure or reprisal. However, at most of the polling

stations, the voting booths were sufficiently curtained or designed to allow for privacy.

In summation, the irregularities discussed in this report, however benign, can sometimes cast doubt on an election, and allow for an appearance of illegitimacy. However, given that no election has been held in Somaliland in four decades, such irregularities are to be expected and should not, in our opinion, cast doubt on the legitimacy of this election.

More importantly, the referendum was conducted peacefully and without violence. Except for one instance, observers did not see the government, or individual Somalilanders, pressuring others on how to vote or whether to vote, nor did anyone suppress the opinions and speech of those opposed to the constitution or independence. In fact, every observer noted that there was an overwhelming sense of joy, passion and excitement for the opportunity to vote and the prospects of independence. Observers witnessed impromptu singing and dancing outside the polling stations, underscoring that for the vast majority of voters in Somaliland, the referendum – in and of itself – was cause for celebration.

Not only can election irregularities cast doubt on an election, in some cases the actual vote outcome itself can raise questions of the legitimacy of an election. It is unfortunate, but the reality is that throughout the world, when a candidate for office or a ballot question receives near-unanimous approval, the legitimacy of the election is often questioned and in this election where 97 percent approved the constitution and only three percent opposed it that point is proven. However, Institute observations and understanding of the election can help place this overwhelming vote in context. Approximately two-thirds (66 percent) of those eligible voted, while a third did not vote. With only 600 polling stations in a country the size of Florida, getting to a polling station on a hot day may not have been easy, particularly for nomads who make up a large part of the voting population, and therefore could help account for the 34 percent that did not vote.

More importantly, the 97 percent was attributed in part to, in our opinion, a highly emotional desire for a free and independent Somaliland. After years of civil war, famine, bombardment and destruction by the south, the voters' passion

for separating from Somalia was distinctly palpable. Rather than an endorsement of the various provisions of the constitution, this was a clarion call for independence based on Institute observations. Every observer was struck by the voters' passion and enthusiasm for this referendum.

Furthermore, it is possible that those who did not vote were showing their opposition by exercising their right not to vote or go to the polls at all, and there were some anecdotal reports to support this "culture of abstention". For example, in the LasAnode district in Sool, a region where, according to the election results, there was the most opposition, voter turnout was 31 percent lower than the national average. In fact, one counting district in Sol recorded that not a single "No" vote was cast, while another station recorded a total of merely 105 votes cast, a fraction of what most other polling stations around the country reported. Of the 14 polling stations in Las Anod, there were only 7,261 votes cast altogether, further indicating slight voter turnout in this region. Indeed, in the last election held in Somaliland 40 years ago to ratify the union between Somaliland and Somalia, there was little support for such unification in Somaliland, and only about 100,000 people in Somaliland cast votes in that election, as most boycotted that referendum altogether. It is possible that many of those who didn't vote this time were likewise boycotting this referendum.

The opposition, however, was not unified around one issue. Some were opposed to Somaliland breaking away from Somalia, while others supported Somaliland independence, but were opposed to the current administration of President Egal. In short, even if one assumes that the 34 percent of the Somaliland eligible voters that did not vote in the referendum were opposed to the Constitution, independence, or the current administration, nonetheless, there was nearly 66 percent of the eligible voters who clearly supported the constitution and independence.

Given the limitations of a ten-person delegation, it cannot be said unequivocally that no other instances of fraud or irregularities occurred. As noted earlier, no election is conducted without a certain degree of irregularities. However, based on these observations, the Institute concludes that, on the whole, the constitutional referendum held on May 31, 2001, was conducted fairly, freely, and openly, and largely adhered to the election procedures set down by the

Somaliland parliament and in accordance with Internationally accepted standards.

Accordingly, this final report of the Initiative and Referendum Institute is respectfully submitted as of this date.

Dennis Polhill
Chairman of the Board
Initiative and Referendum Institute

M. Dane Waters
President and Founder
Initiative & Referendum

7/07/01
Date

7/07/01
Date

List of Election Observers

Sasha Bruce
David Byrd
Derek Cressman
Scott Kohlhaas
Dennis Polhill

Alexander Mundt
Allison Puranik
Stacie Rumenap
Adrian Schmid
David McCuan

Annex E
Official Results of the Constitutional Referendum

THE REPUBLIC OF SOMALILAND
SUPREME COURT

MS.GMS.G-7/134/2001

13/06/2001

SUBJECT: Decision Relating to the Approval and Declaration of the Outcome of the Vote on the Constitution of the Republic of Somaliland

THE COURT:

HAVING SEEN:

Article 125 of the Interim Constitution of the Republic of Somaliland, which authorizes the promulgation of a law that will enable the holding of a referendum.

HAVING SEEN:

Article 130 of the same Constitution, which makes it clear that the implementation of the Constitution shall begin after the outcome of the referendum, has been approved.

HAVING SEEN:

The copies of the Registers set out in Article 40 (4) and Article 42 (3) of the Law of the Referendum on the Constitution, No: 16/2000 of 12/11/2000; and the fact that no complaints have been received.

HAVING PROPERLY:

Examined and concluded that, on the whole, the voting activities of the referendum at the districts of the Republic of Somaliland conformed to the above mentioned Articles of the Referendum Law.

HAVING CONCLUDED:

that the total of the Referendum results of the Districts was:

1. The total number of persons who registered themselves = 1,188,7467.
2. The total number of persons who voted in the Districts of the land was = 1,187,833
3. The number of proper votes cast = 1,183,242.
4. The number of improper votes cast = 4,591
5. The total number of votes which approved of the Constitution (YES) = 1,148,940
6. The total number of votes which rejected the Constitution (NO) = 34,302.

HAVING SEEN:

The discussions and the detailed examination of the results of the Referendum and its related activities.

HAVING CONSIDERED

Article 46 of the Law of the Referendum on the Constitution, and the above-mentioned matters.

HAS DECIDED:

1. that The result of the Referendum on the Constitution of the Republic of Somaliland shows clearly that the Somaliland nation has indicated its wish to approve the Constitution by a vote of **1,147,949**, which equates to 97%; with the number of votes rejecting the Constitution being = **34,302**, which equates to 3%.
2. That in view of the Referendum held on 31/05/2001, the interim Constitution of the Republic of Somaliland shall, as from 13/06/2001, be approved formally and shall be implemented forthwith in the Republic of Somaliland.
3. This decision was promulgated today, Wednesday, 13/06/2001, at 11.00 am.

THE MEMBERS OF THE COURT

- | | | |
|---------------------------------|----------|--------|
| 1. Osman Hussain Khayre | Chairman | Signed |
| 2. Sheikh Mohamad Hassan Dualeh | Member | Signed |
| 3. Shawqi Elmi Ali | Member | Signed |
| 4. Mohamad Yusuf Ainan | Member | Signed |
| 5. Sheikh Mohamad Abdi Naleyeh | Member | Signed |

The details of the results of the Referendum of the Constitution which took place in the Republic of Somaliland is attached to this Decision.

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