

**Small files: Somalia
1957-1961, Syria 1957: Small
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HS L 179:190



Dag Hammarskjöld's saml.

L 179:190

Somalia

2 Dec. 1958

- Memorandum: Somalia under Italian administration frontier between the Territory and Ethiopia.
- Short comments by D.H. and D. Proftich.

Protitel

Here is the memo which
does not give any new infor-
mation & all. Please return.

H7

You are right, there is no new
information nor any indication regarding
their own attitude.

2 dec. 1958

Protitel

MEMORANDUM

SOMALIA UNDER ITALIAN ADMINISTRATION
FRONTIER BETWEEN THE TERRITORY AND ETHIOPIA

1. Reference sources:

a) Agreement signed in 1897 between Italy and Ethiopia.

b) Treaty signed in 1908 between Italy and Ethiopia.

c) Resolution 289 C (IV) of November 21, 1949, which directed the Interim

Committee "to study the procedure to be adopted to delimit the boundaries of the former Italian colony in so far as they are not already fixed by international agreement, and report with conclusions to the Fifth regular session of the General Assembly".

d) Resolution 392 (V) of December 15, 1950, recommended inter alia:

"That the portion of its boundaries with British Somaliland, as well as with Ethiopia, not already delimited by international agreement be delimited by bilateral negotiations between the Ethiopian Government and the Administering Authority in respect of the boundaries with Ethiopia;

- in order to resolve any and all differences arising in the course of such negotiations, the respective parties to each bilateral negotiation agree, on the request of the other party, to a procedure of mediation by a United Nations mediator to be appointed by the Secretary-General and, further, in the event of the inability of the parties to accept the recommendations of the mediator, to a procedure of arbitration".

e) Resolutions 854 (IX) of 14 December 1954, 947 (X) of 15 December 1955, 1068 (XI) of 26 February 1956 and 1213 (XII) of 14 December 1957.

2. In accordance with the last of the above mentioned resolutions, which recommended:

- a) that the arbitration tribunal be set up, consisting of three jurists, one appointed by Italy, one by Ethiopia and one by agreement between the jurists appointed by the former;
- b) that such Tribunal delimit the frontier in accordance with terms of reference to be agreed upon between the two Governments with the assistance of an independent person to be appointed by agreement between them;

the following jurists have been appointed :

- Mr. Plinio BOLLA, of Swiss nationality, by Italy on February 3, 1958;
- Mr. Milos RADOJKOVIC, of Yugoslav nationality, by Ethiopia, on May 13, 1958;
- Mr. Eric CASTREN, of Finnish nationality, as third member of the Tribunal;

No agreement has so far been reached, however, on the terms of reference.

3. a) On June 19, 1958 the Italian Government, after having consulted with Somali Government, submitted to the Ethiopian Government a draft Arbitration Compromise, Article 3 of which reads as follows :

" The Arbitration Tribunal shall examine the question and shall reach its award in conformity with all international agreements related thereto, as well as with the interests and welfare of the people in accordance with the resolutions adopted by the United Nations on the matter."

b) On July 28, 1958 the Ethiopian Government rejected the Italian draft, submitting one of their own, in relation to which the Somali Government confirmed the opinion expressed when it had examined the Italian draft.

The Ethiopian draft calls for the following observations:

- from a general point of view, it provides for too detailed and cumbersome a procedure, implying a drastic limitation to the Tribunal's activity and freedom of action. It even sets a date at which the Tribunal must terminate its proceed-

ings and communicate its award (art.7)

- from a specific point of view, it merges into one ~~of~~ the two distinct phases of negotiation provided for in Resolution 1213, in relation to the "terms of reference". Namely:

- a) definition of the terms of reference with the assistance of an independent person, which should be arrived at through direct negotiations;
- b) actual delimitation of the frontier on the basis of the terms of reference thus agreed upon, which should be entrusted to arbitration.

The Ethiopian position on the matter, as clearly stated in the draft submitted by the Ethiopian Government (art.1), is that "the contracting Parties recognize the exclusive and controlling validity of the Convention (of 16 May 1908, between Ethiopia and Italy) for delimiting on the ground the frontier between Ethiopia and the Trust Territory".

Therefore, no reference could be made to any other international agreement, relevant thereto, or to the principles of the United Nations.

4. It may be noted that consistently with this position the Ethiopian Government has objected to the nomination of the Secretary-General of the U.N. as "independent person" or to a selection of an "independent person" by the Secretary General, in view of the circumstance, as stated, that the "phrase ""independent person"" could scarcely apply to U.N. personnel, were it only for the consideration, amongst others, that by the terms of the same Resolution (1213, XII) the two negotiating parties are to report to the General Assembly at its 13th session".