

UNITED NATIONS

GENERAL  
ASSEMBLY



Distr.  
LIMITED

A/CN.4/L.205  
28 May 1974

Original: ENGLISH

INTERNATIONAL LAW COMMISSION  
Twenty-sixth session  
5 May - 26 July 1974

SUCCESSION OF STATES IN RESPECT OF TREATIES

Letter dated 15 May 1974, from the Counsellor,  
Chargé d'Affaires, a.i., of the Permanent Mission of Ethiopia  
to the United Nations addressed to the Secretary-General

Excellency,

I have the honour to refer to the report of the International Law Commission on the work of its twenty-fourth session and, in particular, to its commentary on the text of its draft articles on the succession of States in respect of treaties relating to boundary regimes (Official Records of the General Assembly, Twenty-seventh session, Supplement No. 10 (A/8710/Rev.1)).

Referring to the grazing provisions of the 1897 Anglo-Ethiopian Agreement relating to the boundary between Ethiopia and the former British Somaliland Protectorate, the Commission, in its commentary to draft articles 29 and 30, states that Ethiopia "declined to recognize that the ancillary provisions, which constituted one of the conditions of that settlement, would remain binding upon it."<sup>1/</sup> In that same commentary, the Commission also mentions that Somalia has denounced the Agreement "in response to Ethiopia's unilateral withdrawal of the grazing provisions . . . ."<sup>2/</sup> The Government of Ethiopia takes exception to these passages in the Commission's commentary.

In clarifying the position of my Government, I would like to inform you that at no time has the Government of Ethiopia stated that it is not bound by the grazing arrangements of the 1897 Anglo-Ethiopian Agreement. Neither has it taken any action to withdraw those arrangements. The Government of Ethiopia has at all times been consistent in its position that the boundary clauses as well as the grazing provisions of the 1897 Anglo-Ethiopian Agreement remain valid and that they are binding upon both Ethiopia and Somalia.

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<sup>1/</sup> Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 10 (A/8710/Rev.1), paragraph (12) of the commentary to draft articles 29 and 30, p. 81.

<sup>2/</sup> Ibid., p. 80. The text of the sentence as it appears in the Commission's report reads as follows: "Somalia does not seem to have claimed that, as a successor State, it was ipso jure freed from any obligation to respect the boundaries established by treaties concluded by its predecessor State though it did denounce the 1897 Anglo-Ethiopian Treaty in response to Ethiopia's unilateral withdrawal of the grazing rights mentioned below." (2 p.)

Furthermore, the Commission refers to the view of the United Kingdom expressed following the termination of its responsibilities for the Protectorate that the boundary and the grazing provisions of the 1897 Anglo-Ethiopian Agreement remain in force but that only the "special arrangement" of the 1954 Anglo-Ethiopian Agreement would lapse. Such also has been and still is the position of the Government of Ethiopia.

The Government of Ethiopia, prior to the termination of the Somaliland Protectorate, had notified the Government of the United Kingdom that the "special arrangement" of the 1954 Agreement would automatically come to an end. That notification has been considered as an official expression of the position of the Government of Ethiopia that all the provisions of the 1897 Agreement together with the grazing arrangements remain valid and unimpaired. No subsequent events have taken place to warrant any suggestion to the effect that the Government of Ethiopia has terminated the grazing arrangements.

I would be grateful if you kindly transmit the foregoing observations of my Government to the International Law Commission and I wish to express the hope that the Commission will take into account those observations in preparing its commentary to articles 29 and 30 in its final report on the succession of States in respect of treaties.

Accept, Excellency, the assurances of my highest consideration.

(Signed) Yilma Tadesse  
Counsellor  
Chargé d'Affaires, a.i.