

**REPORTS OF INTERNATIONAL  
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES  
ARBITRALES**

**Arbitration between Great Britain and Portugal as regards questions relative  
to the delimitation of their spheres of influence  
in East Africa (Manica plateau)**

30 January 1897

VOLUME XXVIII pp. 283-322

**PART XXIII**

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as regards questions relative to the delimitation of their  
spheres of influence in East Africa (Manica plateau)**

**Decision of 30 January 1897**

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**Arbitrage entre la Grande-Bretagne et le Portugal sur les  
questions relatives à la délimitation de leurs sphères d'influence  
respectives en Afrique de l'Est (Plateau de Manica)**

**Décision du 30 janvier 1897**



ARBITRATION BETWEEN GREAT BRITAIN AND PORTUGAL AS  
REGARDS QUESTIONS RELATIVE TO THE DELIMITATION OF  
THEIR SPHERES OF INFLUENCE IN EAST AFRICA (MANICA  
PLATEAU), DECISION OF 30 JANUARY 1897\*

ARBITRAGE ENTRE LA GRANDE-BRETAGNE ET LE PORTUGAL  
SUR LES QUESTIONS RELATIVES À LA DÉLIMITATION DE LEURS  
SPHÈRES D'INFLUENCE RESPECTIVES EN AFRIQUE DE L'EST  
(PLATEAU DE MANICA), DÉCISION DU 30 JANVIER 1897\*\*

Interpretation of the delimitation of border during the demarcation process – problem of implementing a delimitation provision of a treaty which has several official languages – delimitation of African territories was made in Europe with only a vague and imperfect knowledge of the topography, the actual configuration and without an accurate map – the general principles in matter of delimitation of frontier shall not be substituted for a delimitation made in a treaty – recourse to the opinion of an independent expert specially qualified in questions of geography and topography – Treaty between Portugal and United Kingdom of 11 June 1891.

Interpretation of treaty – importance of preparatory work in order to determine the intention of the negotiators – the formula “plateau for the United Kingdom and slope for Portugal” is a guiding rule clearly accepted during the preparatory work of the conventional delimitation – for legal interpretation of a contract, the expressions must be taken in the sense the most in accordance with the intentions of the parties who have arranged it and most favourable to the aim of the contract – in the diplomatic and technical language of the delimitation convention, “to follow a river” means to follow upstream as well as to follow downstream – geographical expressions should be taken in their broader sense.

International frontier – reliance on a natural line which follows the edge of the plateau to separate the table and the slope of the plateau – straight lines drawn between natural points don't constitute a natural line – in certain cases, a line though technically accurate which contains too many inflections is difficult to define accurately on the ground and so a more practical one should be established – it would be contrary to the principles of justice if Portugal could reacquire part of the territory in exchange for which it had accepted previously a significant parcel of territory as compensation from United Kingdom. Having accepted by treaty the territory as equitable compensation, Portugal cannot be permitted to raise objection, in particular without justification.

Interprétation de la délimitation de la frontière durant la procédure de démarcation – problème lors de la mise en œuvre d'une disposition conventionnelle établissant la délimitation frontalière, qui a été rédigée en plusieurs langues faisant toutes également foi – la délimitation des territoires africains a été effectuée depuis l'Europe avec une connaissance vague et imparfaite de la topographie, de la configuration réelle et sans carte pertinente – les principes généraux en matière de délimitation de frontière ne doivent pas être substitués à la délimitation agréée par voie

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\* Reprinted from John Basset Moore, *History and Digest of the International Arbitrations to Which the United States has been a Party*, vol.V, Washington, 1898, Government Printing Office, p.4985.

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conventionnelle – recours à l'opinion d'un expert indépendant hautement qualifié en matière de géographie et de topographie – Traité entre le Portugal et le Royaume-Uni du 11 juin 1891.

Interprétation conventionnelle – importance des travaux préparatoires afin de déterminer les intentions des Parties lors des négociations – la formule «le plateau pour le Royaume-Uni et le versant pour le Portugal» est une règle qui a été clairement admise lors des travaux préparatoires du Traité de délimitation – pour ce qui est de l'interprétation juridique d'un contrat, les expressions doivent être comprises dans le sens qui correspond le mieux aux intentions des Parties qui en sont à l'origine et le plus favorable aux objectifs dudit contrat – dans le langage diplomatique et technique du Traité de délimitation, «suivre un fleuve» signifie le suivre en amont, comme en aval – les expressions géographiques doivent être comprises dans leur sens le plus large.

Frontière internationale – elle doit être une ligne naturelle suivant le bord du plateau qui sépare la table du versant – des lignes droites tracées entre des points naturels ne constituent pas une ligne naturelle – dans certains cas, une ligne techniquement correcte, mais qui comporte de trop nombreux points d'inflexion, est difficile à démarquer précisément sur le terrain, et une ligne plus pratique doit être établie – il serait contraire au principe de la justice si le Portugal pouvait récupérer une partie du territoire en échange duquel il a précédemment accepté une large portion de territoire à titre de compensation de la part du Royaume-Uni. Le Portugal, après avoir accepté par traité le territoire comme compensation équitable, ne doit pas être autorisé à soulever d'objection à ce sujet, qui plus est lorsqu'il le fait sans aucune justification.

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We, Paul-Honoré Vigliani, late chief president of the court of cassation of Florence, minister of state and senator of the Kingdom of Italy, arbitrator between Great Britain and Portugal as regards questions relative to the delimitation of their spheres of influence in east Africa;

Considering the, declaration signed in London on the 7th January, 1895, by Lord Kimberley and M. Luiz de Soveral, which contains the reference to the arbitrator (“Acte de Compromis”), the tenor of which is as follows:

On the 11th June 1891 a treaty was signed between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and his Most Faithful Majesty the King of Portugal and the Algarves, which treaty settled the question of the boundaries of their possessions and spheres of influence in eastern and central Africa.

Article II. of this treaty contains the demarcation of the boundary to the south of the Zambezi; that is to say, from the point on the bank of this river opposite the mouth of the Aroangoa, or Loangwa, as far as the point where the boundary of Swaiziland intersects the river Maputo.

Differences having arisen with regard to the meaning of certain phrases in the said article, the two governments have decided to have recourse to the arbitration of his Excellency M. Paul-Honoré Vigliani, formerly first president of the “Cour de Cassation,” senator, and minister of state of the Kingdom of Italy.

They do not, however, propose that the whole of the above-mentioned line should be submitted to the arbitration.

The boundary to the south of the Zambezi may be considered as divided into three sections:

1. From the Zambezi as far as 18° 30' south latitude.
2. From 18° 30' south latitude to a point where the rivers Sabi and Lunde, or Lunte, meet.
3. From this point to the river Maputo.

It is not considered necessary to submit to arbitration the line defined in sections 1 and 3; the differences only concern the second section.

The negotiations took place in London. The text of the treaty was drawn up in English, and initialed by the Marquess of Salisbury, then minister for foreign affairs, and by M. de Soveral, Portuguese minister. The treaty, having been compared with the copy initialed in London, was signed at Lisbon by Count Valbom, Portuguese minister for foreign affairs, and by Sir George Petre, Her Britannic Majesty's minister at Lisbon.

That portion of the article which deals with the second section of the boundary is drawn up in the following terms:

“Thence (i.e., from the intersection of the thirty-third degree of longitude east of Greenwich by the parallel of latitude 18° 30' south) it follows the upper part of the eastern slope of the Manica plateau southwards to the center of the main channel of the Sabi, follows that channel to its confluence with the Lunte. \* \* \*

It is understood that in tracing the frontier along the slope of the plateau no territory west of longitude 32° 30' east of Greenwich shall be comprised in the Portuguese sphere, and no territory east of longitude 33° east of Greenwich shall be comprised in the British sphere. The line shall, however, if necessary, be deflected so as to leave Mutassa in the British sphere and Massi-Kessi in the Portuguese sphere.”

The following are the terms, in English and Portuguese:

\* \* \* “Thence it follows the upper part of the eastern slope of the Manica plateau southwards to the centre of the main channel of Sabi, follows that channel to its confluence with the Lunte, whence it strikes direct to the northeastern point of the frontier of the South African Republic, and follows the eastern frontier of the republic and the frontier of Swaziland to the river Maputo.

\* \* \* “D’abi acompanha a crista da vertente oriental do plan-alto de Manica na sua direcção sul até á linha media do eito principal do Save, seguindo por elle até á sua confluencia com o Lunde, d’onde corta direito ao extremo nordeste da fronteira da Republica Sul Africana, continuando pelas fronteiras orientaes d’esta republica, e da Swazilandia até ao Rio Maputo.

It is understood that in tracing the frontier along the slope of the plateau no territory west of longitude  $32^{\circ} 30'$  east of Greenwich shall be comprised in the Portuguese sphere, and no territory east of longitude  $33^{\circ}$  east of Greenwich shall be comprised in the British sphere. The line shall, however, if necessary, be deflected so as to leave Mutassa in the British sphere and Massi-Kessi in the Portuguese sphere."

Fica entendido ao traçar a fronteira ao longo da crista do planalto, nenhum territorio a oeste do meridiano de  $32^{\circ} 30'$  de longitude leste de Greenwich será comprehendido na esphera Portugueza, e que nenhum territorio a leste do meridiano de  $33^{\circ}$  de longitude leste de Greenwich ficará comprehendido na esphera Britannica. Esta linha soffrerá comtudo, sendo necessario, a inflexão bastante para que Mutassa fique na esphera Britannica, e Macequeze na esphera Portugueza."

In the month of June 1892, the commissioners of the two governments endeavored to trace the boundary line according to the above-mentioned stipulations, but a difference having arisen between them, the settlement was referred to their governments. Direct negotiations between the ministry for foreign affairs of Lisbon and the foreign office have taken place; but all prospect of arriving at an understanding having appeared impossible, the two governments have decided to have recourse to arbitration.

These diplomatic negotiations and the technical labors of the commissioners have left the question of demarcation in the following position:

1. As regards the territory comprised between the parallel  $18^{\circ} 30'$  and a point situated at a distance of a few miles to the south of the Chimanimani Pass, each commissioner has proposed a boundary line, and each Government has adopted the line proposed by the commissioner; whence a difference of opinions has arisen which they have not yet found means of reconciling.
2. As regards the territory comprised between a point situated at a distance of a few miles to the south of the Chimanimani Pass and the parallel  $20^{\circ} 42' 17''$  of south latitude, the British commissioner and a delegate of the Portuguese commissioner, as far as he was authorized, have agreed upon a boundary line, the examination of which by the two governments has remained unfinished.
3. As regards the territory which extends from the parallel  $20^{\circ} 42' 17''$  of south latitude as far as the point where the rivers Sabi and Lunte meet, no project of demarcation has been discussed between the two governments.

In these circumstances, the two governments have agreed to request the arbitrator to take into consideration the documents, the reports of the negotiations, and the results of the technical labors, to weigh the arguments of the two governments, based upon their respective opinions, and to decide on the line which shall separate the Portuguese sphere of influence from that of Great Britain from the parallel  $18^{\circ} 30'$  to the point of confluence of the Lunte and Sabi.

In faith of which the undersigned, duly authorized by their respective governments, have signed the present declaration, to which they have affixed the seals of their arms.

Done at London, on the 7th January 1895.

KIMBERLEY.

LUIZ DE SOVERAL

After our acceptance of the functions of arbitrator, it was agreed between us and the two governments that the arbitration proceedings should take place at Florence, and that the documents relating to the arbitration should be drawn up in French.

We then invited each of the two governments to submit to us a memorandum setting forth its claim, with documents to support it, and a geographical map\* showing the line of frontier claimed; and we reserved the right to ask them, after the examination of these documents, to send to us technical delegates instructed to furnish us with such information and explanations as would be useful for a thorough comprehension of the facts and localities connected with the questions to be decided.

For the drawing up of the reports of the proceedings and other work connected with the arbitration, we appointed as our secretary the Marquis Alexandre Corsi, professor of international law at the University of Pisa.

After the examination of the case presented by the Government of Great Britain on the 16th March, 1896 together with five maps, of which the one marked D shows the line of frontier claimed by Great Britain.

The conclusions of this case are as follows:

As regards the first section of the boundary in dispute —

1. That the watershed between the basin of the Sabi on the one side and those of the Pungwe and the Busi on the other, proposed as the boundary by M. du Bocage, was definitely rejected during the negotiations which preceded the conclusion of the convention.
2. That a large addition of territory was assigned to Portugal north of the Zambezi, in return for the abandonment by her of the claim to the watershed.
3. That the plateau mentioned in Article II. of the Anglo-Portuguese convention actually exists much as it is shown on maps published prior to the conclusion of that convention, though its eastern escarpment is in places less sharply defined than it was then supposed to be.

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\* Secretariat note: None of the maps mentioned in the award are reproduced here in.

4. That the British claim leaves the plateau, as was intended, within the British sphere, and the whole of the slope connecting it with the plain within the Portuguese sphere.

5. That the line of the British claim, following the upper edge of the plateau and drawn across the mouths of the ravines, is in accordance with the text of the convention and is exactly coincident with that in the minds of the British and Portuguese negotiators.

6. That the deflection round Massi-Kessi of the line of the British claim amply meets the requirements of the case.

As regards the second section of the boundary —

7. That the line agreed to by Major Leveson and Captain d'Andrade is the line that should be adopted.

As regards the third section of the boundary —

8. That till the Sabi is reached the boundary must run southwards between the limits  $32^{\circ} 30'$  and  $33^{\circ}$  of longitude east of Greenwich.

9. That it is immaterial as regards compliance with the text and spirit of the convention whether the boundary follows the Sabi up or down stream, that river merely serving as a connecting link by means of which to reach its confluence with the Lunte, which had been selected as a fixed point, whence the line was to be carried to the northeastern corner of the South African Republic.

After the examination, also, of the case presented on the 10th June 1896, in the name of the Portuguese Government, with a volume of the White Book and three maps, of which the one marked C shows the line claimed.

The conclusions of this case are as follows:

1. That the frontier from latitude  $18^{\circ} 30'$  south of the defile of the Chimanimani should follow the line proposed by the Portuguese commissioner.

2. That southwards from Chimanimani to Mapungwana the frontier may follow the line proposed by the British commissioner and accepted by the Portuguese technical delegate, Freire d'Andrade.

3. That between Mapungwana and latitude about  $20^{\circ} 30'$  south, the project of delimitation agreed to between the British commissioner and the Portuguese delegate should be rectified, the frontier to run from Mapungwana by Mount Xerinda towards the mountain situated on the above-mentioned parallel between the basins of the Zona and the Chinica.

4. That as the plateau does not exist south of latitude  $20^{\circ} 30'$  south, it appears just and reasonable that from this parallel the frontier should run

to the Save by Mounts Mero and Zunone and the River Lacati, following after this the course of the Save to its junction with the Lunde.

At our invitation the two governments sent to Florence and placed at our disposal their delegates, viz: Major Julian John Levenson, on the part of Great Britain; his excellency the Councillor Antonio Ennes, and Captain Alfred Freire d'Andrade, for Portugal.

The delegates of the two governments after having, on the 16th and 18th of June, been made acquainted reciprocally with the cases and the maps having reference to them, laid before us fully, in a series of meetings which took place in our presence, and of which minutes were drawn up, the circumstances and arguments in support of the claims of their respective governments; and in their discussions they furnished us with the most careful and detailed information and explanations which we deemed it useful to ask them as to the doubts and difficulties which the nature and unexpected configuration of the mountainous and irregular plateau of Manica place in the way of an exact and literal application of the text of Article II. of the convention of the 11th June 1891 to the territory to be delimited.

In the course of these discussions there were presented to us on the 9th July 1896 "Observations on the British Case," by M. Ennes and Captain d'Andrade, and "Notes on the Portuguese Case," by Major Levenson, and, further, "Observations on the British Counter Case," by Captain d'Andrade, as well as some replies in manuscript submitted by one side, and by the other illustrative maps and sections prepared before the close of the meetings by Captain d'Andrade; also a topographical map, submitted on the 14th July by Major Levenson, modifying two small parts of the first section of the frontier claimed by his government.

Lastly, after the conclusion of the meetings on the 17th August, Major Levenson submitted to us his "final observations," and M. Freire d'Andrade caused to be transmitted to us on the 21st August 1896 his "conclusions". All printed documents were communicated by our secretary to each of the delegates, the exchange of each one from one party to the other being as far as possible contemporaneous. The manuscripts and maps were at the same time placed at their disposal.

I. *Preliminary questions.* — During the study of the documents, and during the discussions, certain preliminary questions presented themselves in the first place to our examination. They have reference to the text of the treaty of the 11th June 1891.

It is pointed out in the joint memorandum ("Acte de Compromis") that the treaty was originally drawn up in English and initialed on the 14th May 1891 by the Marquess of Salisbury, secretary of state for foreign affairs of Great Britain, and M. Luiz de Soveral, Portuguese minister plenipotentiary in London; that after this the Portuguese text having been compared with the English text initialed in London, the double English and Portuguese text was

signed at Lisbon by Count de Valbom, minister for foreign affairs in Portugal, and Sir George Petre, Her Britannic Majesty's minister at Lisbon, on the 11th June 1891.

These circumstances are confirmed in the cases of the two governments (*Vide* Part I. of the English Case, and the Portuguese Case, p. 43). It has nowhere been declared which of the two texts, the English or the Portuguese, should be considered the original of the treaty.

It results therefrom that each of the two texts contained in the protocol signed at Lisbon on the 11th June 1891 may aspire to the honor of being considered the original, whilst the English text initialed in London constitutes properly the first minute. In any case there can be no doubt that each of the two should serve equally for the interpretation of the treaty.

To the double text of the original there has been added in the joint memorandum ("Acte de Compromis") a French version of Article II. of the treaty, the use of this language having been agreed to for the arbitration proceedings. But as following this French translation the double English and Portuguese text has been reproduced therein, it is to be imagined that the high contracting parties considered this version as being in all respects equivalent to the double text of the original.

Nevertheless, the use of two languages in the drawing up of the document could easily cause, as actually happened, namely, in the scientific world at Lisbon, doubts and differences of opinion in its interpretation, and this has been one of the principal causes of the necessity for recourse to arbitration (British Case, paragraph 1).

The principal questions were: (1) What was the meaning of the expression "Plateau de Manica?" (2) What was the signification of the words, "la partie supérieure du versant oriental" ("the upper part of the eastern slope — a crista da vertente oriental")? (3) What was understood by the word "plateau", as used in opposition to the words "pente" or "versant"? (4) If these last words, "pente" and "versant," were used as synonymous, what is the surface (*table, terrace, or esplanade*) of the plateau properly so called? What is the *pente* or *versant* [slope], and what is the *bord* or *escarpement* [edge]? (5) Is the expression "vers le sud" in the French version equivalent to "southwards" in the English text and to "na direcção sul" in the Portuguese text, and do these three expressions signify a direction due south or simply *towards the south*, between the east and the west? (6) Lastly, does the expression "follows the channel" (of the Save) signify indifferently follows that river down or up stream, or does it necessarily signify *follows downstream*?

All these doubts, and the discussions of which they were the subject, were brought before the arbitrator by means of the cases of the two parties, and in the discussions of their delegates. But it may happily be affirmed that after loyal explanations these doubts have now lost all importance.

In fact, the parties have been led by their declarations to recognize that by the expression "Plateau of Manica" the negotiators of the convention of 1891, putting aside the much more restricted definition of geographers, were of one opinion, and had clearly the intention to include not only the administrative district of Manica, bounded by the rivers Munene and Sucuwa, but all the territory which extends south of the Zambezi from latitude 18° 30' to the confluence of the Save with the Lunte — that is to say, the whole region, the delimitation of which was traced out by the Anglo-Portuguese Commission, and which forms the subject of discussion before the arbitrator.

It is in reality to the whole extent of this territory, formed by a series of highlands connected with the ancient plateau of Manica, that the geographical maps published in the two countries interested at the time when the treaty was drawn up, applied the designation "plateau" of Manica in reference both to the text of Article II. and to the intention of the negotiators.

The Portuguese Government, in its case (p. 70), with a loyalty which does honor to it, has made the following declaration:

"It is thus incontestable that the Portuguese negotiator had admitted that the plateau did not terminate at latitude 19°, and if his proposal of the 19th April had not proved this with sufficient evidence the demonstration would have been completed by the telegraphic instructions which he transmitted subsequently to the minister in London and which are published in the White Book of 1891, p. 196, document No. 200. This document alone settles the question. 'As a last attempt', said M. du Bocage, 'it would be well to propose to divide the plateau by latitude 20°, leaving to us the southern portion'. What was this *plateau* which reached latitude 20° and extended even beyond it to the south? Evidently it was that of Manica, as there never was any question of any other during the course of the negotiations."

This frank declaration, which is strengthened in the Portuguese memorandum by other observations and deductions of great value, leaves no doubt that the plateau of Manica, to which the treaty of 1891 refers, is not at all merely the small country of Manica of ancient geographers, but that it includes all the high ground between latitude 18° 30' and the confluence of the Save with the Lunte — that is to say, all the ancient kingdom or Plateau of Manica, together with the *plateau covered with grass* and the other *2,000 to 4,000 feet above the level of the sea* (? [sic], but the actual words on the map are: *Plateau between 3,000 and 4,000*. — Tr.), which are to be seen in continuation of the Plateau of Manica on Mr. Maund's map, which was certainly under the eyes of the negotiators (British Case, par. 20).

As to the true signification of the expression "partie supérieure" ("the upper part" — "a crista") of the eastern slope, the parties came easily to the agreement that in the treaty it can have no other meaning than that of the *line* along which, and generally in a well-defined manner, the plateau commences to descend towards the plain; or, in fact, it is the *upper edge* which separates the table (or surface) from the slope of the plateau, and not the upper portion of the slope of the plateau, situated above the line of its mean altitude. It is

precisely along this line or edge that the frontier is to be traced (British Case, par. 21, and Notes of the British Delegate, par. 19; Portuguese Case, pp. 71, 72, and 73). The words “il suit” (“it follows” — “acompanha”) would lose their proper signification if, instead of referring to a line which is to be followed as much as possible, they referred to a zone susceptible in its turn of being delimited by other boundaries.

This interpretation, which is certainly in conformity with the spirit of the convention, renders the two texts identical, and causes to disappear all difference between the expressions “upper part” and “crista” of the slope. They can not express, and do not in fact express, anything but a line, and this line could not be any but that which separates the table from the slope (“*pente ou versant*”) of the plateau.

The disputes as to the signification of the words “plateau,” “terrace,” or “*esplanade of the plateau* — and edge or escarpment” of the plateau — were brought to an end by the definitions which were adopted, and were accepted by both parties.

Thus, the Portuguese delegate, Captain d’Andrade, gave us an exact and complete definition, applicable in general to all plateaux, in the following terms: “A vast extent of ground which dominates in a manner clearly defined on one or more sides the regions which surround it, and which is connected with these regions by slopes the inclination of which is greater than that of the plateau itself.” A similar definition has been proposed by the British delegate in the British Case (par. 37), on the authority of the illustrious geographer, M. Élysée Réclus, and other very distinguished writers on this subject are not at variance with it.

It is therefore not necessary, according to modern geography, that the surface of a plateau should be an even and regular plain, as its name would appear to imply; but it may be, and even is, very often uneven, irregular, broken, covered with mountains, peaks, and hills, crossed by valleys, cut up by deep ravines, furrowed by rivers and streams, of which some have no exit from its surface or table, whilst others flow down its slopes and are of necessity cut by the edges of the slopes themselves.

Such is the configuration of the so-called Plateau of Manica. It is known as one of the most irregular and most mountainous. M. Réclus, adopting the description of the engineer Kuss, who has recently explored this region, and to whom the cases of both parties refer, informs us that it is a *group of mountains*, having the appearance of a plateau (E. Réclus, “La Terre”, Paris, 1888, Vol. XIII., pp. 618, 619).

Every plateau has its *table* or *esplanade* and its *slope* (“*pente ou versant*”).

There is an agreement to call *table* or *esplanade* all the ground which, though inclined and uneven on account of the existence of mountains or hills, maintains a pretty constant and uniform elevation above the level of the surrounding country, and where the waters flow more or less rapidly on the

more or less inclined surface, in their natural direction, ending their course there sometimes by forming lakes, but more frequently discharging themselves over the slopes.

It is agreed to consider the *pente* or *versant* (*slope*) of the plateau (these two words having been used synonymously) all the steep sloping ground which connects the table of the plateau with the adjacent plain. As the plateau, according to its most correct definition, can slope to one side or the other, it is evident that a mere inclination is not sufficient to determine the commencement of the slope; it must be well marked and general.

This line which separates the *table* of the plateau from its slope — that is to say, that which marks the extremity of the table and the commencement of the slope (“*pente ou versant*”) — is given the name of “edge” or “crest of the slope”. Taken in this sense, “*la partie supérieure du versant*,” of which mention is made in Article II of the treaty, is synonymous with the expressions “upper part of the slope” and “*crista da vertente*”.

The English expression “southwards,” which one finds in the same article, is not to be understood as meaning due south, but should be taken in a broader sense as in the direction of the southern side or pretty nearly towards the south. In this sense it is accepted by both parties and is perfectly adapted to the article above mentioned; according to which the frontier from latitude  $18^{\circ} 30'$  to the Sabi, confined between longitude  $32^{\circ} 30'$  and  $33^{\circ}$ , and having to follow the sinuous inflexions of the eastern edge of the plateau, cannot run in a straight line to the south, but has to bend sometimes to the southeast, at others to the southwest. (*Vide* Portuguese Case, p. 82, and Levenson’s notes, No. 31)

As to the last question, whether, when in a conversation on delimitation one says, *follow a waterway*, it must necessarily mean *follow downstream*; as the two parties continue to disagree, we reserve the solution for the latter part of our award.

Having thus eliminated the question which we qualified as preliminary, we will now proceed to examine the two lines of frontier claimed by the parties.

II. *General conditions with reference to the frontier according to Article II. of the treaty.* — We must begin by acknowledging the rules laid down by the convention of the 11th June 1891, for the delimitation of Manica.

Article II of this convention lays down that the frontier on leaving the intersection of longitude  $33^{\circ}$  east of Greenwich by the parallel of latitude  $18^{\circ} 30'$  —

- (a) Follows southwards the upper part of the eastern slope of the plateau of Manica;
- (b) As far as the centre of the principal channel of the Sabí;
- (c) Then follows this channel to the point where it meets the Lunde;

(d) In tracing the frontier along the slope of the plateau no territory west of longitude 32° 30' east of Greenwich shall be included in the Portuguese sphere, nor any territory east of longitude 33° east of Greenwich in the British sphere;

(e) If necessary the line shall be deflected so as to leave Mutassa in the British sphere and Massi-Kessi in the Portuguese sphere.

The final result of the delimitation should be that the whole of the *plateau* — that is to say, the table or esplanade — should be adjudged to Great Britain, and all the slope (“*la pente* ou le versant oriental”) should be reserved to Portugal.

The fundamental rule is not written in the treaty; but it has been admitted by those who drew it up as a natural consequence, and is an essential and necessary condition, as the Marquess of Salisbury declared in a clear and characteristic formula in his reply to M. de Soveral on the 22nd April 1891: “The plateau for us” (Great Britain) “and the slope for you” (Portugal).

This reply was transmitted by M. de Soveral in his dispatch of the 22nd April to his government, which acknowledged it (*vide* Portuguese White Book of 1891, p. 188), and which not only did not protest against this proposition, but did not suggest any expressions to prove that it had other intentions.

Besides, the Geographical Society of Lisbon, having some time afterwards raised doubts with reference to this, Privy Councillor Ennes, Portuguese commissioner for the settlement of questions relative to the convention, undertook to dissipate them by declaring in a letter which he addressed on the 25th January 1894, to the president of the society (*vide* British Case, par. 19) that “the idea was to partition Manicaland so that the plateau — or to be more precise, the esplanade — should remain in the British sphere, whilst the slope should be in the Portuguese sphere.”

There therefore remains no doubt that the formula “the plateau for Great Britain and the slope for Portugal” has been clearly admitted as a guiding rule for the delimitation of Manicaland according to the treaty of 1891.

Now, we shall see how these rules have been applied and interpreted by the two governments.

What we have said of the mountainous and irregular configuration of the high mass to which the name of Plateau of Manica has been given, and the circumstance that the persons who arranged its delimitation from London and Lisbon could only have a very vague and imperfect knowledge of it, are sufficient to explain the serious differences of opinion which arose when it came to the point of applying Article II. of the treaty to ground, which presented at every moment surprises, unknown features, and topographical conditions far removed from what was expected and supposed, both by the authors of the treaty and the delimitation commission.

The greatest spirit of conciliation would barely have sufficed to overcome all the causes of disagreement. This good spirit, it must be confessed, was not altogether wanting, and its effects may be seen in the part — and not a small one either — of the line of demarcation about which an agreement was arrived at between Major Levenson and Captain Freire d'Andrade. The difference of opinion, however, notwithstanding lengthy negotiations, remains as regards the first and most important part of the frontier as well as regards other portions.

In order to settle all the points connected with the questions which have arisen, we propose to follow the order adopted in the joint note of reference (“Acte de Compromis”). We will therefore divide the line submitted to our arbitration into three sections, viz:

1. From the intersection of latitude  $18^{\circ} 30'$  south by longitude  $33^{\circ}$  east of Greenwich to a point situated on this meridian at a distance of a few miles south of the defile of Chimanimani. In this section each government has adopted the line proposed by its commissioner during the work of delimitation and claims it before the arbitrator.
2. From the southern extremity of the first section to the point where the edge of the slope of the plateau cuts longitude  $32^{\circ} 30'$  east of Greenwich. This section having been agreed to by the commissioners of the two governments, Great Britain asks that it should be adopted in its entirety. Portugal accepts the line agreed to in part only; for the remainder she proposes another line.
3. From the point at which the second section ends to the confluence of the rivers Save and Lunde. As regards this third section no proposal for delimitation having been discussed between the parties, Great Britain in its memorandum claims a line which would run southwards to the centre of the main channel of the Save, and would then follow this channel upstream to its confluence with the Lunde. The direction in which the line should be drawn is left to the decision of the arbitrator, but in no case must it extend to the west beyond longitude  $32^{\circ} 30'$  and to the east beyond longitude  $33^{\circ}$ . Portugal refuses this line, and claims for special reasons another, which, departing from the rules established by the treaty, would run westwards to the Save.

No geographical map was annexed to the treaty nor to the joint memorandum, and in our opinion there is none which can be adopted as a sure and complete proof of the intentions of the negotiators of the treaty.

Not even can the map published by Mr. Maund in the “Proceedings of the Royal Geographical Society” and submitted by England, lettered A, and which forms the object of the third English conclusion, be considered as a map which was recognized as being accurate, especially as regards its details, during the negotiations.

Lastly, during the arbitration proceedings no map was produced which was recognized as being entirely accurate by both parties. They discussed much about the importance and accuracy of their maps, but unfortunately these discussions did not lead to any decided conclusion as to the value to be given to one of these maps more than to the other as regards the various features of the frontier.

It is an inconvenience much to be regretted, for in the absence of a solid and constant basis for discussion we are obliged to follow minutely the two parties through the arguments which they brought forward, and to seek section by section the intentions of the negotiators to make these arguments fit in with the text of the treaty and the facts established by the examination and comparison which we have made of these different maps, and by the impartial observations of a third expert.

III. *First section of the frontier.* — In undertaking the examination of the lines claimed by the high contracting parties in the first section, we observe, first, that in this section (which is the most important and the most contested, on account of the value attached to the territory) the two governments, not having succeeded in coming to an agreement, either during or after the work done by the delimitation commissioners, now claim lines quite distinct and very distant from each other.

In fact, Great Britain claims a line which, according to a definition given by the British commissioner in a first memorandum, dated the 29th April 1893 (*vide* Portuguese Case, p. 38), “is in parts the crest line of mountains, in others a line joining the summits of the eastern peaks of the ranges which run out eastwards from the main watershed,” and more particularly as regards the district between Mount Vumba and the Mabata Mountains, the British commissioner declares that his frontier “is a line running nearly due south, and joining the well-defined eastern edges of the mountainous spurs which project in an easterly direction.” (*Vide* minutes of the meeting held on the 27th June 1892, reproduced in the Portuguese Case, p. 22.)

The principal mountains attained by the British line after leaving latitude 18° 30' are Panga, Gorongue, Shuara, Vengo, Saddle Hill, Vumba, a peak north of the river Mazongue (2,350 feet), another peak on the Mussapa River (5,100 feet), and the col of Chimanimani. All these points of different altitudes are connected by straight lines, which the British commissioner justifies by the observation that straight lines between well-defined natural points form, in his opinion, a good practical frontier.

The Portuguese commissioner objects to this line —

1. That it is not a natural line; that it does not follow any edge marked on the ground, that [it] is all artificial, drawn on the map with a ruler, and not in accordance with the nature of the plateau.

2. That it does not reach the highest points of the mountains where it passes them; that it crosses the edges of the spurs which project towards the east rather than the general mass of the plateau, and that, in consequence, it crosses the eastern slope.
3. That in drawing straight lines which connect the chains and spurs of the mountains or the peaks, many water courses, mouths of ravines, and broad and deep valleys like that of the Inhamucarara are cut, and also that it is not continuous, as it projects often onto the slope, and descends sometimes to low ground, notably between Vumba and Chimanimani.
4. That such a line cannot be in accordance with Article II. of the treaty, which requires a natural line traced along the upper part or edge of the slope of the plateau.
5. That a straight line may be, in the abstract and as a general rule, a good frontier, but that it is not admissible in [the] case in which another direction has been laid down in a convention.
6. Lastly, that the deflection which the line makes to include Massi-Kessi in the Portuguese sphere does not leave round this village, as it should in accordance with the spirit of the convention, an extent of territory sufficient for the development of its commercial and industrial life, as well as for its military defence.

After these objections had been made, the British delegate, in a map which he submitted at the meeting of the 14th July, bearing his signature of that date, introduced into his line two small modifications, one of which changes the point of departure from latitude  $18^{\circ} 30'$ , from which it ascends to a peak on the northern spur of Mount Panga, and the other does away with a detour towards Shiromiro between Mount Shuara and Mount Vengo, which did not appear justifiable.

The Portuguese line follows quite a different direction. It is traced along the crest of the high mountains which form the watershed between the basin of the Save and the basins of the Pungwe and the Busi, and, starting from Mount Samanga, it follows the watershed to Chimanimani. The Portuguese commissioner maintains that this line coincides with the edge of the eastern slope of the plateau. The table or esplanade would thus remain to the west of, and the slope to the east of, the watershed.

He points out, besides, that the frontier claimed by Portugal passes through the highest points of the plateau without descending into the valleys or cutting them or their rivers; that east of this line the ground falls, and numerous water courses run from it towards the plain with a rapidity which is in some cases torrential; that it is precisely the declivity of the ground and the direction of the rivers which determine the commencement of the incline and the edge of the slope.

Great Britain objects to the watershed line for the following reasons:

1. It has the fault of confounding the most elevated crest line of the plateau with the edge of its slope and supposes that one cannot find the edge till one reaches the summit of its highest chains of mountains, whilst all the mountain chains of Manica, whether turned towards the east or towards the west, form part of the mountainous plateau.
2. The country immediately east of the line of watershed being composed of mountain chains, and being furrowed by rivers and deep valleys, in accordance with the nature of a mountainous plateau, does not represent a slope, of which it has not the characteristics. It is true that more or less rapid streams flow through it, but the great irregularity and inequality of the table of the plateau suffice to explain the more or less rapid flow of its rivers, and to prove that they traverse the table or surface of the plateau before reaching its edge, which necessarily cuts them. Also, as it is here a question of a mountainous table, it can easily be conceived that it should have a certain inclination before reaching the beginning of its slope, which would be recognized by having a well-defined and general fall.
3. What is more essential is that the watershed as frontier is in no way in conformity with the text of the convention, which makes no mention of it, even indirectly. The silence of the convention on so important a point is of the greatest value, for it must be remembered that a watershed is such a very usual frontier line, and so excellent a one in a mountainous country, that if the high contracting parties had wished to adopt it they would have made explicit mention of it, as they have done in Article I. of the same convention, in which the watershed is mentioned as the frontier in certain parts north of the Zambezi.

But there is more than the silence of the convention; there is a formal refusal by Great Britain. During the course of the negotiations the watershed was proposed as the frontier line in the draft which M. du Bocage, minister of Portugal, submitted on the 19th April 1891; and it was refused by the Marquis of Salisbury, the British minister, who insisted on his draft of the 3rd of that month, which contained the proposal of the edge of the eastern slope as the frontier line. This refusal suffices to exclude the possibility that the Marquis of Salisbury, at the time of the conclusion of the treaty, considered the watershed and the 33rd meridian as identical, for between the two lines (no matter what may have been the idea expressed by mistake in Lord Salisbury's dispatch of the 4th February 1891) there exists a difference of several miles.

So that Portugal invokes to no purpose the expressions contained in that document, and all the more so because she rejected the proposal to follow approximately the 33rd degree of east longitude, which was the principal object of the conversation reported in the above-mentioned dispatch of the 4th February.

Besides this, it is to be observed that it was on purpose to assure to Great Britain the strip of territory between the watershed and the line of the edge of the eastern slope that Lord Salisbury increased from 18,000 to 60,000 square kilom. the compensation or rectification north of the Zambezi offered to Portugal, which she accepted (British Case, par. 17).

4. If one agrees with Portugal that the whole portion of the plateau of Manica situated east of the watershed is an *eastern* slope, the portion situated west of this watershed could, with equal reason, be called *western* slope, seeing that the watershed cuts in two the mountainous table which stretches as well to the west as to the east. From this there would result the absurd consequence that the plateau of Manica would have no table, as it would be entirely absorbed by its two slopes.

Portugal always based its defense on the existence of a great stretch of territory west of the watershed, referring to its maps, which show the River Odzi in the Strait ("détroit") of Umtali (Mutari Port) at a distance of 40 kilom. from that town. But during the course of the discussions Major Leveson proved, and Captain d'Andrade was unable to dispute, that the Odzi is only separated from Umtali by a distance of about 15 kilom. (Major Leveson's final observations, note to No. 7).

The extent of the plateau west of the line of the watershed is therefore not so very considerable, and this line is only a central crest of the plateau, the table of which necessarily stretches out on both sides, to the east as well as to the west.

IV. *Examination of the report of the third expert.* — In presence of such a difference of opinion as to the meaning and exactitude of the maps submitted by the two parties — in view of the arguments of an essentially technical character which they deduced from them, all our efforts to render possible an amicable settlement having proved ineffectual — in order to reassure our conscience, we recognized the extreme propriety of having recourse, with the consent of the two parties, to the opinion of an expert specially qualified in questions of geography and topography.

For this purpose we addressed ourselves to the management of the Military Geographical Institute of Italy, situated at Florence, and, following the advice given to us, appointed as expert the Chevalier Raphael Vinaj, major of the general staff and chief of the topographical division of the above-mentioned institute. We communicated to him all the documents and maps which had been presented in the name of the two parties, as well as the minutes of the meetings, and we submitted to him the following questions:

What is, from the intersection of latitude 18° 30' by longitude 33° east of Greenwich to the col of Chimanimani, the frontier line which follows the upper part of the eastern slope of the plateau of Manica, according to Article II. of the treaty of delimitation of the 11th June 1891? Is it altogether, or in part, the line drawn on the Map D of the British Government? Is it entirely, or

in part, the line drawn on the Map C of the Portuguese Government? Is it altogether, or in part, some other line?

In the last case, what is the line which, with reference to the maps mentioned, should be drawn so as to be in conformity with Article II. of the treaty of the 11th June 1891?

In submitting these questions in our letter of the 10th October 1896, we invited him to bear in mind the following:

1. That the watershed, having been proposed by Portugal and refused by Great Britain during the negotiations, and not having been admitted in the text of the treaty, could not be approved as the frontier line agreed to between the high contracting parties, except in so far as it should be found to coincide with the upper part of the eastern slope and the other provisions of Article II of the treaty.

2. That from the documents exchanged during the negotiations it appears that the high contracting parties had agreed that the delimitation should be carried out in such a manner as, according to the expression used by Lord Salisbury, to leave the plateau to Great Britain and the slope to Portugal.

The expert, having carefully completed his task, submitted to us a report, dated 19th December 1896, which proved to us how well founded were the doubts which we had conceived as to the justice of each of the lines claimed as regards the text of the treaty and the avowed intentions of the parties.

We consider it right to give it in some detail, in order that the conclusions may be understood.

After having examined with the greatest diligence the various characteristics of plateaux, upper and lower slopes (called by geographers *reclining or upright "couchés ou debout"*), and their escarpments, and the various acceptations of these words in science, in the practical study of localities, and in the documents submitted for arbitration, Major Vinaj lays down as the basis of his decision the following four postulates or geographical principles:

1. The upper part *or table* of a plateau, as it is accepted in the largest sense of the word by modern geographers, can be the more irregular the more extensive it is; that is to say, that it may include peaks, mountains, and mountain chains, and that it may be furrowed by valleys and even by deep ravines.

2. The division between the upper part *or table* of a plateau and its slopes (taken in the sense of the surfaces which unite the plateau to the low-lying region, that is to say, that part of the general slope which is distinguished by the name of "upright slope" or "versant debout") can in general be formed by a line (an edge or crest more or less well marked) beyond

which the ground falls more rapidly and in a well-defined manner towards the lower region.

3. The continuity of this line may be broken by valleys or ravines which are the prolongation of those which furrow the plateau and produce real notches.

4. The surface which forms the slope is not necessarily always even and regular, but may also be composed of various formations, by chains at angles to the longitudinal run of the edge of the plateau, or by valleys and chains parallel to it, which grow gradually lower, and this variety of regular and irregular slopes may be found in one and the same plateau, especially if it is of considerable extent.

Then Major Vinaj, proceeding to examine the questions submitted to him, adopts, as regards the first question, the conclusions, which he says are identical, of the two commissioners, according to which the frontier should follow the line which constitutes the edge or crest which defines the separation of the table of the plateau from its eastern slope.

It is in the search for this line of separation that the disagreement between the two commissioners shows itself. It therefore becomes necessary to examine bit by bit the two lines claimed. The reasons which justify this opinion having been developed and discussed at length by the commissioners in their written production, and orally at the meetings, he confines himself to summing up those which he considers of most importance.

As regards the modified British line, he remarks that, with the exception of the first portion from 18° 30' to Mount Venga, and the last portion close to Chimanimani, it is almost an artificial line, which is only justified by the preference which the British commissioner gives to straight lines between well-defined natural points.

But this preference not having been sanctioned by an agreement, which would have been permissible under Article VII. of the treaty, it is necessary to confine one's self to investigating whether it is in conformity with Article II. And he is of opinion that it is not so, because it does not follow any natural topographical feature, such as the edge of the slope; but that, connecting by straight lines points with project, sometimes considerably, on to the surface which sinks and forms the slope, it often cuts the latter, and descends even occasionally to the region which may be described as that of the lowlands below the plateau. He deduces therefrom that the British line between Mount Venga and the height marked 5,100 feet on the left bank of the Little Mussapa (Map D) is not in conformity with Article II. of the treaty.

As regards the Portuguese line, the expert remarks that it follows throughout, except in the modified northern portion (*vide* minutes of the meetings of the 13th and 14th July), the crest of the chain which forms the real watershed of the region of this section. As a rule, the edge of a plateau does

not coincide with the watershed, as would appear even from the definition of a plateau given by Captain d'Andrade (*vide* section 1, "preliminary questions"), except in cases where from the watershed the ground, falls in a marked and almost uniform manner, or falls gradually, even with short detached spurs, or with parallel chains and valleys, towards the low ground.

Now, these conditions, after a careful examination of the maps and surveys, both English and Portuguese, are only realized in two places, viz, around the basin in which Massi-Kessi is situated and between Inyamatumba and a point situated due west of Mount Guzane (Portuguese map) on the left bank of the Little Mussapa.

The watershed chain, which is highest, especially in the southern portion, includes almost everywhere the most pronounced elevations of the country, and, except in the two places above mentioned, is surrounded, not only to the west, but also to the east, by a district remarkably elevated, especially in its northern portion above Mount Venga, in which in reality are found the highest summits.

The claim to trace the delimitation for the whole length of this section exactly along the crest of the watershed does not appear to be in conformity with the definition of the plateau and of the slope given by Captain d'Andrade, because one would come to consider as slope all the ground inclined towards one direction, whilst, according to this definition, the table of the plateau may be inclined and the edge of its slope not commence till the point where the inclination of the ground becomes well marked and general.

And one can not maintain that this crest coincides throughout the section with the edge of the eastern slope, because along the greater portion of it, immediately beyond the crest, there is also to the east a gentle slope, which at a certain point in its fall becomes much steeper (Mount Vumba-Inyamatumba), and which constitutes, therefore, what Colonel de la Noë («Les Formes du Terrain», Paris, 1888) has called the *upright* ("debout" or lower slope, in opposition to the *reclining* ("couché") or upper slope, which still forms part of the table of the plateau.

Therefore neither is the Portuguese line in its entirety in accordance with Article II. of the treaty.

Thus, having reached the examination of the last question, the expert, with the assistance of a series of sections at intervals of 2' 30", drawn as carefully as possible from the maps, and with the remark that certain elements necessary for this kind of work were wanting, shows that the line which is in conformity with the treaty is in part different from either of the lines claimed by the two governments. He divides it into four parts, and traces it as follows:

*First part.* — Starting from latitude 18° 30' south, near the confluence of the Garura and the Honde, which corresponds with the narrow gorge between Mount Mahemasemika and the northern spur of Panga on the British map, and immediately below the point marked 760 meters, a little above the said

parallel on the Portuguese map, the line ascends to the summit of the above-mentioned spur to Panga. Then, on the British map it runs to the southeast (point marked 3,890 feet) and crosses the River Inhamucarara to the height marked 6,740 feet north of Gorongoe, whilst according to the Portuguese map it runs from Panga to the southeast (point marked 1,257 meters) and crosses the Inhamucarara to the height north of Gorongoe (1,810 meters). Thence it follows the crest of the Gorongoe by Mount Shuara (5,540 feet, British map) to Mount Venga or Vengo (British and Portuguese maps).

This part of the section may be justified by observing that the basin of the Honde from its sources to the gorge, well defined by the spur of Mahemasemika on the north and that of Panga on the south, forms part of the plateau, because its general altitude is very considerable, and it is inclosed by an extensive and elevated country which evidently forms part of the plateau. The gorge whence the Honde issues must be considered as a true notch in the edge of the plateau, after which the slope descends by an almost uniform gradient to the region of the River Pungwe.

Descending to the east from the Portuguese line there is no general slope, but the ground after a certain fall ascends again towards the very elevated region of Panga and Gorongoe. Thus it is only beyond this last mountain that the true eastern slope of the plateau commences with a pretty steep inclination.

The mountain masses Pungwa-Panga and Venga-Shuara-Gorongoe can not be looked upon as parallel chains forming an integral part of the eastern slope, because their elevation and importance, as well as the general elevation of the lands and valleys which they inclose, show evidently that they still belong to the surface of the plateau.

And in fact the upper valley of the Inhamucarara, inclosed by these two chains, cannot be considered as a water course of the eastern slope, because, independently of its general elevation, owing to its narrow and little practicable bed, it has altogether the appearance of a true and deep notch in the table of the plateau; and its direction north-northeast is very different from the eastern direction of the slope.

The objection that this line starts from a very low point on latitude  $18^{\circ} 30'$ , and that this point at first sight does not appear to be situated on the edge or crest one is in search of, is of no weight, because it happens by chance that latitude  $18^{\circ} 30'$  corresponds exactly with one of the deepest notches, which causes the edge to be noncontinuous.

*Second part.* — Leaving Mount Venga it follows the crest which runs towards the west-northwest and towards the point marked 6,200 feet on Gomoriyangani (British map), or to the east of the point marked 1,620 meters on Mabonde (Portuguese map). Thence, on the British map it follows the line coloured blue, which, following the crest of the above-mentioned Gomoriyangani, reaches Mount Snuta (5,570 feet), Mount Chenadombue (4,700 feet), and the height marked 4,510 feet, and the sources of the Menini,

where the col is marked 3,750, by which the road called by the name of "Selous Road" passes; whilst on the Portuguese map it follows the crest of Mabonde, reaches Mugudo, Lapulare (1,600 meters), Chitumbo (1,530 meters), and passes to the east of Bumbuli, to a point where the spur of Ihamazire projects towards the west. From this point, describing the arc of a circle with its concavity nearly towards the northeast, it joins the spur which runs towards Mount Vumba (or Serra Chitumba on the Portuguese map), cutting the upper valley of the Munene or Menini.

The justification of this part of the line is as follows: It circles round the region of Massi-Kessi from Mount Venga to Mount Vumba, leaving thus in the Portuguese sphere the upper valleys of the Revue, Zambusi, and Menini, which, being more open and separated by narrow spurs with a steeper fall, form part of the eastern slope.

The spurs between the Revue and its affluent, the Chua, the one which projects from Chenadombue and finishes at Saddle Hill (British map) or Maritza (Portuguese map), and the one called Clarke's Hill may be classed among the spurs mentioned in the fourth postulate above referred to, and must be considered as forming part of the slope.

Lastly, the proposed line starting from the col marked 3,750 feet on the British map runs towards Vumba, because to its right and to the south of the valley of the Menini there is such a general increase in the elevation of the ground that it must be considered as belonging to the plateau.

*Third part.* — Leaving Vumba the line makes several bends, so as to follow southwards the crest of the steepest slope. It crosses the upper valleys of the Zombi or Zombe, of the Mazongwe or Zomoe, reaches Mount Matura at the point marked 4,495 feet (British map), where is situated the trigonometrical point which is shown on the Portuguese map at a distance of 2,500 meters west of the point marked 596 meters on the prolongation of the Serra Chaura, and then continues, crossing the upper valleys of the Mangwene and Pambe or Ihamatoca, of the Litanti or Bonde, and of the Inyamangwene, to the eastern extremity of Mount Inyamatumba at the point marked 4,650 feet (British map); that is to say, to the southwest of Chabua (Portuguese map).

This part of the section is justified by the remark that between it and the Portuguese line there is included all the high ground which commences a little south of the Menini, and in which are found the upper valleys and drainage areas of the above-mentioned torrents, and which without doubt forms part of the table of the plateau, whilst the whole way along this line there is an échelon or sensible change of slope which marks the true edge, at which the eastern slope, properly so called, commences. On looking attentively at the British map D one easily perceives the characteristic difference of the ground situated between the streams Zombi, Mazongwe, Mangwene, &c., and that included between the narrow spurs of Saddle Hill and Clarke's Hill, and between the Revue, Zambusi, and Menini, which belong to the slope.

*Fourth part.* — From Mount Inyamatumba the line, ascending a spur of this chain towards the west, again rejoins the Portuguese line, and follows it along Mount Kokoboudira (British map), or Choanda (Portuguese map), to the point marked 1,500 meters (Portuguese map); that is to say, to the northwest of the point marked 5,100 feet (British map). From this point, turning towards the east, it crosses the upper valley of the Little Mussapa, and reaches Mount Guzane (Portuguese map), rejoining, after cutting off the angle made by the English line, longitude  $33^{\circ}$  east of Greenwich, and following it to Chimanimani, after having crossed the Great Mussapa.

This last part of the line proposed is justified as follows:

The same reasons for which the Revue, the Zambusi, and the Menini were acknowledged as water courses of the slope, force one to the conclusion that the Mangwingi (British map), or Munhinga (Portuguese map), can not be a water course of the plateau. The same must be said of the other torrents farther to the south, as far as the Little Mussapa, with the exception, however, of the last mentioned; because the upper valleys of the Little and the Great Mussapa form part of a region much more elevated, and which belongs to the plateau by the admission of both parties. The line once having reached the 33rd meridian follows it to the south in accordance with the stipulation of Article II. of the convention, which forbids that the line should cross this meridian for the benefit of Great Britain.

The learned and careful report of the honorable expert has thus wrought into relief all that is improper in the lines of the two governments, and in rectifying them has proposed to us a third line, which, having been examined by us with the greatest care, and compared with those of the two parties, appears to us to be exempt from the faults which have always been evident to us in both of them, and which prevented us from pronouncing ourselves in favour of one or the other.

We have in fact, in the proposal of the expert, a natural line, which, in its tortuous course, conforms as far as possible to the mountainous configuration of the plateau, and which, following the heights which define it and form its eastern slope, runs along the upper part or edge of this slope. It therefore only cuts those water courses and valleys which, in consequence of the elevation of the ground, must form part of the table of the plateau; and it leaves in the slope the others, which have a lower altitude and steeper gradient.

We may add that this line is a just application of the treaty, as it does not adopt as frontier the watershed except in those places where it is proved that it coincides with the edge of the plateau, which is in conformity with the letter and spirit of Article II.

So we see that in its *ensemble* this line encroaches neither on the surface of the plateau nor on that of the slope, but that it fulfills, as far as the irregularity of Manica allows, and as is possible with the maps submitted, the

final object of the delimitation, summed up in the words “the plateau for Great Britain and the slope for Portugal”.

Furthermore, this line leaves in the Portuguese sphere the whole district of Massi-Kessi, running along the summits of a kind of mountainous amphitheatre, which seems to have been made by nature as a territorial limit and rampart towards the west.

The aspirations of Portugal with respect to this had an insufficient guarantee in the text of the treaty, and the intentions of the negotiators were not clearly enough manifested to serve as a basis for a judicial decision. But we have, nevertheless, recognized that these aspirations find their foundation in a happy correspondence between a line traced by nature and the inspirations of equity.

For all these reasons the line proposed by the expert appears to us to possess all the characteristics required by Article II. in the frontier between the spheres of influence of the two countries, and seems to be the only one which is in conformity with the letter and spirit of the treaty. Consequently, we should be inclined to adopt it in its entirety with full conviction.

But on reflection we find that the trace of the line proposed by the expert from Mount Vumba to Inyamatumba, though technically accurate, might, owing to its numerous inflections and the difficulty of defining accurately its course on maps giving so little detail, whether it be on account of their small scale or the rapid system of survey adopted, easily give rise, on ground as irregular as it is, to doubts and differences of opinion which should be carefully avoided.

In consequence of this we considered it desirable to ask the same expert to point out to us in this locality a better-defined and more practical line.

In accordance with our invitation, of which he recognized the opportuneness, the expert pointed out slight modifications which might be introduced into his trace, substituting some nearly straight and better-defined lines for the natural inflections of the edge of the slope, but in a manner so that the extent of ground which each party gets by the substitution of straight lines for the rigorous demarcation of the edge remains almost equivalent.

He proposes, in consequence, that from Mount Vumba the frontier shall run in a straight line to a trigonometrical point situated between 4 and 5 kilom. to the east of the watershed (Serra Chaura), and from this point that it should continue in a straight line to a point marked 4650 at the eastern extremity of Inyamatumba. Thence it would follow this mountain and rejoin the line already proposed.

These modifications appearing to us to be in accordance with the aim of rendering the delimitation easier, more practical, and better defined, we have made our decision accord with them.

Following the division adopted in the joint note of reference, we add, to complete the first section of the frontier, that after Chimanimani the frontier continues to follow, without doubt, the 33rd meridian to the point marked A on the British map, some miles south of the defile of Chimanimani.

V. *Second section of the frontier.* — The joint note of reference informs us that, as regards the second section of the frontier, an agreement was entered into between Major Leveson, the British commissioner, and Captain d'Andrade, the delegate of the Portuguese commissioner, on the very ground which they were to delimit.

This agreement is admitted in the cases which the two parties have presented to us, but with this difference, the British Government maintains it, and claims the adoption of the whole of it, whilst the Portuguese Government, basing itself on Article 15 of the regulations for the execution of the delimitation signed at Mozambique on the 24th October 1891 by the commissioners of the two countries, insists that the acceptance of the agreement signed by Captain d'Andrade, the technical delegate, could not be definitive and obligatory on him, unless he gave it his approval, which he did not do before the arbitration.

In fact, it is not for the first time in the case presented to the arbitrator that the Portuguese commissioner declared that Portugal approves the Leveson-d'Andrade agreement, *even in part only*, viz., from Chimanimani to Mapungwana (Portuguese Case, p. 98).

In support of this partial approval the Portuguese commissioner remarks that in the portion which he has accepted the delimitation agreed to is exactly in conformity with article II. of the treaty until about latitude 20°; that south of this parallel, till about latitude 20° 30', the relief of the ground is so irregular that it is difficult to apply to it the rules of article II.; that *the table and the slope* of the plateau are there so badly marked, on account of the irregularity of the river system and the absence of well-defined general lines in the configuration of the ground, that it is almost impossible to determine with precision what is the line which separates them — that is to say what is the edge of the eastern slope. It was only by a spirit of conciliation, according to him, that the serious questions which presented themselves in the delimitation were eliminated, because “the ground lends itself to be *interpreted* in different ways” (Portuguese Case, p. 93). Lastly, in this portion, the line agreed to, even in the opinion of those who traced it, does not follow the crest of the slope (*vide* observations on the British Counter Case, No. 32, *et seq.*), so that here the rules of Article II. were only followed as far as it was possible.

In other words, though this demarcation may, perhaps, not be absolutely correct, the Portuguese Government acknowledges that the ground in this instance does not admit of any other, the accuracy of which would be less open to dispute.

But it thinks the same can not be said of the prolongation of the line from Mapungwana to latitude  $20^{\circ} 42' 17''$ , and it therefore rejects this last part of the agreement, and proposes to substitute for it a new line which would follow the mountains of Xerinda to Mount Zuzunye, and which, passing through the altitudes marked 990, 1,150, and 960 meters, which separate the basin of the Zona from that of the Chinica, would be naturally determined by the orographical relief. This line, Portugal adds (Observations on the British Case, No. 68), avoids the useless detour made by the line agreed to, which, from Mapungwana, runs toward the southeast across the Inhamazi, to reach a height marked 1,100 meters, and then descends to altitudes of 670 and 760 meters. And, whilst it is almost rectilinear, it preserves a mean altitude of 1,110 meters, and has a greater regularity than that of the line agreed to.

The British Government, as we have said, claims the maintenance of the whole of the agreement, according to which the line, having reached Mapungwana (point marked H on the British map), makes a sharp angle, turns to the southeast, and runs straight to a well-marked hill east of the river Zoma, or Zona, and then continues to a point situated on the range which separates the valley of the Zoma from that of the Sheneyka, or Chinica, after which, turning almost due west, it runs in a straight line to the summit of Mount Zuzunye.

Against the adoption of the rectification claimed by Portugal, Great Britain advances two objections — one legal and the other technical.

The legal objection consists in the special character of the Levenson-d'Andrade agreement. It is admitted on both sides that this agreement, taken as a whole, represents a transaction discussed and accepted on the ground itself in consequence of mutual concessions by technical experts who had acquired a personal knowledge of the localities, and were very competent to form an opinion of their topographical characteristics.

The above-quoted description which Portugal has given of the very irregular and hilly country which the line agreed to traverses to Mapungwana enables us to understand clearly how much give-and-take was necessary to enable this line to be traced. The British commissioner declares that, in the desire to arrive at an immediate solution, he decided to accept the modifications of his first proposals suggested by Captain d'Andrade, though he felt convinced that the first line corresponded more accurately to the terms of Article II. of the treaty.

The extent of the concessions made by the British commissioner is shown on the British map D, on which the dotted red line represents the frontier at first proposed by him in those places where it does not coincide with the line agreed to, viz, from C to K. One sees from this map that the portion *accepted* by the Portuguese delegate is very important; he declares himself, in his case (p. 93), that it is *the greater portion of the delimitation* which was agreed to. It is just there that the largest concessions were made to him; of these concessions he wishes to take advantage.

Besides, the manner in which this compromise was effected is explained to us even by Captain d'Andrade in terms which it may be useful to quote: "The Leveson-d'Andrade line" (says he, at No. 100 of Observations on the British Case), "was traced by making mutual concessions; there was the Leveson line and the d'Andrade line, and after prolonged discussions on the ground, in order to afford proof of a spirit of conciliation on both sides, the line above mentioned was determined on, though each was persuaded that his line was more in conformity with the text of the convention."

The language of the delegates of the two governments affords evidence, therefore, that the whole line agreed to was the result of a compromise or of a transaction which could not be repudiated without going against the intentions of its authors, and without wounding justice at the expense of one or the other of the parties. Of this agreement one must say that it must be taken in its entirety or dropped altogether. Portugal, which accepts the greater part which is to its advantage, can not reject the other to the disadvantage of Great Britain without evidently disturbing the balance of justice and deranging the equilibrium between the parties.

The want of full powers as regards the Delegate d'Andrade, to which Portugal calls our attention in many memoranda which are included in its case, even if it were proved in an irrefutable manner, could not be accepted as an argument in favor of Portugal, except in the event of that power rejecting the agreement altogether and proposing a new line in lieu of the whole of the one agreed to.

But Portugal pretends that in this matter it only makes its line conform to the convention.

Great Britain contests this statement by the second objection, which we have described as technical. Its delegate at No. 15 of his *final observations* remarks that the Portuguese line from Mapungwana to Mount Zuzunye, *is, it is true, a natural crest line, but it is a crest situated on the plateau and not the edge of the plateau.* On examining the English map D one sees in fact that the slope from this crest to the northwest towards the Umswilizi is much more rapid than the general slope on the other side towards the southeast and the district of the Umswilizi (or Moussurize), which river, even according to Captain d'Andrade, is without doubt a true river of the plateau. (Observations on the British Counter Case No. 68.)

The Portuguese Government seeks here, it would appear, as in the first section, for the edge of the slope on the most prominent heights, and again confounds a crest line of the plateau with the crest or edge of its slope. If the line of the eastern edge descends to a lower altitude in this locality, it is the natural effect of the gradual depression of the whole plateau of Manica, which is seen to the west of the line on proceeding southward from the Lusitu. This general inclination of the country and of the table of the plateau itself must not be confused with the slope ("pente ou versant") which becomes lower naturally with the lowering of the plateau.

One must have before one, besides, the avowal of the parties (to which we have already drawn attention) that this section of the line is the result of mutual concessions, so that if in its course there should be some features not altogether regular or in conformity with the exact application of Article II. of the treaty, these irregularities compensate each other reciprocally; and if beyond Mapungwana there is some advantage for Great Britain, Portugal has, on the other hand, large compensation in the concessions which were made to it in the much greater portion which precedes Mapungwana and in that which follows [*sic?*].

We consider, then, well founded the two objections of Great Britain. Though they be essentially distinct they afford mutual support to each other, and the two together bring us to the conclusion that the partial acceptance of the agreement, together with the modification proposed by Portugal between the point *H* and the point *M*, is as contrary to the principles of justice as to the rules of Article II. of the treaty. For this reason the agreement ought, in our opinion, to be maintained as far as Mount Zuzunye.

As regards the last part of this section to the point *O*, we will discuss it when we examine the third section, to which this part was united during the discussion by the delegates.

VI. *Third section of the frontier.* — The line once carried by the delegates of the two governments to the summit of Mount Zuzunye, a great divergence of opinion arises as to the interpretation and application of the convention to the ground which remains to be delimited before the Save is reached.

For the British Government, on leaving the summit of Mount Zuzunye (point marked *M* on the map D), the line crosses the valley of the Umswilizi to a high point on the watershed which separates the valley of the Nyamgamba from that of other affluents of the Umswilizi (which are all rivers of the plateau), and follows the line of the agreement to the point *O* where it meets the meridian  $32^{\circ} 30'$ .

This small part of the frontier is the last section of the line agreed to by Major Leveson and Captain d'Andrade, and one must in consequence apply to it all the remarks which we have made above on the indivisibility of the proposed agreement as a bilateral transaction which admits of no alteration. The appreciable fall of the whole plateau in this part and its deviation to the southwest naturally cause the line, which runs along its eastern edge, to bend toward the west as far as meridian  $32^{\circ} 30'$ ; then stopping at this meridian, fixed as the extreme western limit by Article II., it follows it to the Save, leaving in the Portuguese sphere all the territory situated east of the aforesaid meridian.

We consider it opportune to remark here, that the agreement having caused the line to recede to the west, the result is that in its course from the point *M* to the point *N*, it causes to be included in the Portuguese sphere the triangle *LMN*, the importance of which is seen on the Map D, and the whole

of which triangle forms part of the district of the Umswilizi, which is situated on the plateau. This is, then, another considerable concession to the advantage of Portugal.

The English line taken as a whole in this last section would be in conformity with the conditions required by the treaty, viz, that the direction towards the south follows the deviations of the edge of the plateau, and the limitation of the parallel [*?sic*]  $32^{\circ} 30'$  to the west.

The Portuguese Government, on the contrary, considers itself authorized by the configuration of the country in this part to follow quite another direction, and deviate from the conditions laid down in the treaty.

Taking as a basis the supposition that the depression of the country between the latitude of Mount Zuzunye and the channel of the Save is so marked that the Plateau of Manica and its slope cease altogether to the south, the deduction is drawn that the frontier can no longer follow its eastern edge towards the south. There arises, says Portugal, a case not foreseen, or omitted in the treaty, for the treaty supposes that the plateau is prolonged southwards to the Save. From that moment the rules laid down in Article II. cease to be applicable, and they must be supplemented by having recourse to the general principles of diplomatic interpretation, according to which when in a delimitation convention it is stated that a line has to go from one point to another, without specifying the course, it must proceed there straight by the shortest route.

In applying this rule to the supposed case the Portuguese commissioner maintains that the frontier being unable to run *southwards* to the Save as required by the treaty, it must proceed thither westwards by the shortest route, so as to follow the course of the river downstream to its confluence with the Lunde. He adds that this would be in conformity not only with the intention of the negotiators, who only had in view to leave all the plateau to Great Britain, but also with the principles of justice and equity, which militate [*?sic*] in favor of Portugal, and lastly with the expression used in the treaty, "follows this channel to its confluence with the Lunde," as *follow a water course*, according to him, signifies rather *follow downstream* than *upstream*, which the English line would do.

Rejecting on account of these arguments the line proposed by Great Britain, Portugal considers it *just and rational* that the frontier from about  $20^{\circ} 30'$  should run to the Save by Mounts Nero and Zuzunye and by the River Lacati, following thence the course of the Save to its confluence with the Lunde.

And as this line would extend beyond  $32^{\circ} 30'$ , an endeavor is made to overcome this difficulty by remarking "that the meridians  $33^{\circ}$  to the east and  $32^{\circ} 30'$  to the west only figure in the treaty as limits which the frontier in its course must not cross so long as it is a case of tracing it along the edge of the eastern slope of the plateau; hence, he concludes, these limits count for

nothing in the delimitation of a country in which the plateau and the slope are wanting." (Portuguese Case, p. 97)

The reasoning, of which we have above given a summary, appears to us rather specious than solid, and to be founded really neither on fact nor on right. Two questions are raised by it taken as a whole: (1) Whether the Plateau of Manica really ceases to exist in the south before reaching the Save; (2) whether if the answer be in the affirmative the deductions drawn therefrom are legitimate.

1. We will commence by remarking that the topographical officers who settled in agreement the frontier from the point *M*, the summit of Mount Zuzunye, to the point *O*, where the edge cuts  $32^{\circ} 30'$ , must have recognized in this stretch the existence of the plateau and the slope, which was a necessary condition of the line adopted.

Major Leveson remarks (No. 30 of his Notes) that the supposition of the treaty that the slope of the plateau, without ceasing to be an eastern slope extended to the Save, was perfectly justified by Mr. Maund's map, in which it will be seen that the edge of the plateau after having crossed meridian  $32^{\circ} 30'$  runs in a direction nearly southwest to the Save; and that, in fact, the examination of the ground proved that the general deflection west of this meridian given to the edge on this map is not very inaccurate. He adds that he does not in any way admit that the plateau ceases to exist south of Mount Zuzunye, as this mountain is situated, he says, to the east even of the great watershed, and precedes [*sic?*] the triangle *LMN*, the whole of which is included in the district of the Umswilizi (or Moussurise) which river, by the admission of Captain d'Andrade, even as we have already remarked, is a true river of the plateau.

The considerable diminution of elevation of the high lands of Manica before reaching the Save is, according to Portugal, a proof that the plateau has ceased to exist and that its place has been taken by the plain; but while recognizing the diminution in altitude we are of opinion that it is not sufficient to do away with the characteristics of the plateau. In the first place, it must not be forgotten that the Plateau of Manica (like the plateaux of Africa in general), by the admission of the parties and according to the observations of geographers and travellers, is highest to the east and falls gradually to the south and west; but this natural fall does not deprive plateaux of their characteristics. In fact, the British delegate, whilst acknowledging that the portion of the Plateau of Manica south of the latitude of the intersection of its edge by  $32^{\circ} 30'$  is less elevated than the country farther to the north, maintains that this does not prevent its being still considered as part of the table of the plateau. He explains and supports strongly this proposition by remarking that the diminution in the general altitude of the country to the west on proceeding southwards from the Lusitu is caused by the gradual lowering of the whole plateau from Mapungwana, and by the manner in which, on approaching the Limpopo, it recedes towards the southwest; but this general

inclination of the ground does not justify one in seeing in it an exterior slope — that is to say, a slope connecting the plateau with the plain — and much less the commencement of the plain.

It is admitted by geographers that the surface of an elevated district may have a general slope of this kind without necessarily ceasing on that account to be a plateau. The authority of M. Élysee Réclus furnishes an example of this in his work already referred to (“La Terre”, Vol. I., 2nd edition, p. 137), in which he informs us that “the greater portion of the high lands of Africa are of little elevation, and their slopes offer an easy means of access; thus the plateaux of Cape Colony, the mean altitude of which in the south is barely 200 meters, rise by degrees towards the north to an altitude of 600 to 1,000 meters above the level of the sea”.

This observation is perfectly applicable to the high lands of Manica, which undoubtedly rise in the north to more than 1,000 meters, whilst in the south a little before arriving at the Wave, their altitude is not more than 300 meters. (Observations on the British Counter Case, No. 12, and conclusions of the Portuguese delegate, No. 4)

One more observation will complete this demonstration. It is generally acknowledged, even by Captain d’Andrade (Observations on the British Case, No. 71) that “the definition of ‘plateaux’ is susceptible of a certain elasticity on account of the somewhat unrestricted use made of the word”. Geography, then, does not fix any *minimum* for its altitude. This *minimum* depends on the country which surrounds it and on the particular conditions of each region. We have just called attention to the fact that, according to the evidence of M. Réclus, 200 meters are sufficient to constitute a plateau in Africa. This opinion we find shared by M. Ritter (mentioned among other writers in the Portuguese Case, p. 48), who considers an elevation of 500 feet (about 160 meters) as being the lowest limit of the level of a plateau. Also Captain d’Andrade, in his Conclusions (No. 4), acknowledges that according to Réclus there may be a plateau of an altitude of 50 meters, and that according to the illustrious Italian geographer, Marinelli, the minimum altitude of a plateau is 200 meters (Marinelli “La Terra”, Vol. I., p. 302).

In our case the rule of legal interpretation, according to which the expressions made use of in a contract must be taken in the sense most in accordance with the intentions of the parties who have arranged it and the most favorable to the aim of the contract, obliges us to give to the word “plateau” the broadest possible signification — that is to say, to require only the minimum normal altitude — so as to be able to affirm its existence as far as the Save, as the high contracting parties had supposed, and so as thus to render possible the application of the text of Article II. of the treaty. Following thus, from the legal point of view, an universal rule of interpretation, and from the technical point of view the opinion of the most illustrious geographers to whom the two parties have made reference, we come to the conclusion that the Plateau of Manica, though it falls gradually

towards the south and becomes reduced to the smallest proportions, preserves, nevertheless, a sufficient elevation (as was supposed by the authors of the treaty) for it to be admitted that it exists right to the Save.

2. Lastly, to examine the question under all its aspects, we will suppose, with Portugal, that the plateau, contrary to the anticipation of the authors of the treaty, comes to an end at a distance more or less great before reaching the Save. The consequences which would result would certainly not be those which Portugal tries to deduce therefrom.

The direction that the line must have towards the south would not cease, and the limits of the meridians, within which it must maintain its course, would remain the same; therefore, one can not even say that there has been proved to exist a case that was not foreseen, or a gap in the convention.

In fact, as regards the direction of the line towards the south, it is sufficient to reflect that it is the only one which is laid down in Article II. of the treaty as a general rule for the tracing of the whole of the frontier between  $18^{\circ} 30'$  and the Save. The words "southwards to the centre" of the English text, as well as the words "na sua direcção sul ate á linha media" of the Portuguese text, signify "towards the south to the centre," and not merely "towards the Sabi". (*Vide* Major Leveson's Observations, No. 18) It is true that the article says at the same time "follows the upper part of the eastern slope of the plateau"; but by these words it was not intended to convey that the line should only run towards the south, provided it could, and as far as it could, follow the edge of the slope, as the Portuguese delegate makes out, but simply that the frontier in running southwards to the Save should follow the naturally tortuous course of the edge and not proceed there direct in a straight line.

This is evidently only a condition imposed on the trace and not on the direction of the line, which must, before everything, run towards the south; only in running southwards to the Save it must follow the edge of the eastern slope; but if the edge, which is supposed by the treaty to extend to the channel of the Save, comes to an end before reaching there, this flexibility of the trace comes necessarily to an end at the same time as the edge, as a condition which has been fulfilled; and from the point where the edge finishes, the line, freed from all restraint, must run straight to the Save, according to the general rule of its direction towards the south, to the application of which, moreover, no obstacle presents itself. But it must not pass to the east beyond longitude  $33^{\circ}$ , nor to the west beyond longitude  $32^{\circ} 30'$ , for the reasons which we are now about to explain.

This is the only rational interpretation, the only one that is in conformity with the text of Article II., and with the intentions of its authors.

The objection that the text supposes the plateau to extend to the Save can in no way shake this conviction.

The authors of the treaty, by the admission of the parties, had only an imperfect knowledge of the plateau which they delimited. Now, even if they did make a mistake, this mistake, which does not affect one of the essential conditions, but only the flexibility of the line to be traced, cannot make any difference as to its final direction towards the south, which can and must be followed notwithstanding.

Further, this conviction held by the negotiators that the plateau extended to the Save, though erroneous, would furnish evident proof that by the words "*the frontier follows southwards the upper part of the eastern slope to the Save,*" they meant simply that the frontier runs southwards to the Save *throughout its length*, which expression for them was identical with the extent of the edge.

As regards the limitation of longitude  $32^{\circ} 30'$ , we are of opinion that Portugal would not have the right to free itself from it by supposing that the plateau ceased before the Save was reached.

If one seeks the cause of and the reasons for this limitation, one easily understands that it is entirely independent of the continuity of the edge as far as the Save.

It appears from the history of the negotiations which preceded the drawing up of the treaty that the Marquess of Salisbury had first proposed to make longitude  $33^{\circ}$  the frontier from  $18^{\circ} 30'$  to the Save; that Portugal, not having accepted this proposal, nevertheless declared through its minister, M. du Bocage, that it could agree to  $32^{\circ} 30'$  as a dividing line, provided that attention were paid to the modifications required by the geographical conditions. (British Case, para. 13) The two proposals reduced the difference between the two lines to the strip of territory comprised between longitudes  $32^{\circ} 30'$  and  $33^{\circ}$ . It was, then, in order to reconcile this difference that Lord Salisbury submitted a kind of compromise which instituted as frontier line the upper part or edge of the eastern slope from  $18^{\circ} 30'$  to the confluence of the Save with the Lunde.

This means of conciliation was accepted by Portugal, and adopted in Article II. of the treaty.

But, foreseeing naturally that the edge of an irregular mountainous plateau, like that of Manica, would be tortuous in its development, the negotiators deemed it necessary to lay down that the frontier, whilst following the sinuous course of the edge, should never extend beyond the limit proposed by the two parties, viz, meridian  $33^{\circ}$  to the east, proposed by England, and meridian  $32^{\circ} 30'$  to the west, proposed by Portugal.

Thus the line came to be, so to say, shut in the groove bounded by the two meridians, with the double object that it should not leave the strip of territory in dispute, or assign to either party more than it had asked for.

It is precisely this which was agreed to in the following paragraph of Article II.: "It is understood that in tracing the frontier along the above slope of the plateau no territory west of longitude 32° 30' shall be included," &c. This line, then, *throughout* its length can not extend beyond the limits above mentioned; if it is mentioned that its trace is along the slope this is only for the simple reason above mentioned, that the negotiators of the treaty were fully persuaded that the edge of the slope extended as well as the line towards the Save. If by chance it has been found that the edge comes to an end before reaching the river, this circumstance does not do away with the *raison d'être* of the limit of the two meridians, and does not prevent the line, when running straight to the Save after the supposed cessation of the edge, from remaining in the groove which the parties fixed for it by expressions which contain a clear and absolute prohibition.

The impossibility of tracing the line between those limits (as has been observed by the British delegate) would be the only reason which could be invoked for overstepping them; but such impossibility is so far from having been proved that it has not even been alleged by Portugal.

The only effect which the cessation of the plateau before reaching the Save can have to the advantage of Portugal is to give to the Portuguese sphere its greatest possible breadth towards the west by extending it till it reaches 32° 30', the extreme limit. Just as Great Britain immediately south of Chimanimani has acknowledged that it can not follow the plateau in its detour beyond 33°, so Portugal has no right to follow the slope ("le versant ou la pente") or the plain beyond 32° 30' in face of the explicit prohibition in the treaty.

Finally, it must not be forgotten that Great Britain, to make sure that the frontier should not cross 32° 30' and should not trespass on its sphere beyond this limit, made, as we have already more than once remarked, the concession of a large extent of territory north of the Zambezi to Portugal to indemnify it for the loss which it would sustain on the plateau of Manica. Now, it would be contrary to the principles of justice that Portugal in crossing this limit should take back part of the territory in exchange for which it had accepted the above-mentioned compensation. It is true as regards this concession, or, it would be better to say, this arrangement, that Portugal did not fail to raise objections both as to the value and the rights of Great Britain as regards the ceded territory. But we must repeat that we have already had occasion to remark that Portugal, after having accepted by the treaty this territory as equitable compensation, can not be permitted to raise objections, for which besides it has furnished no justification, having confined itself to simple allegations.

There remains only the last argument of Portugal deduced from the phrase "the frontier follows the channel of the Save to the point where it meets the Lunde," which is held to signify that the frontier reaches the Save *above* its confluence with the Lunde, and that consequently it must reach it before its

(the Save's) arrival at the Lunde. This argument is destroyed by the fact that, according to the convention, the line being obliged to enter the Save before reaching meridian  $32^{\circ} 30'$ , this meridian intersecting the Save below its confluence with the Lunde, it must necessarily have been understood that to reach the confluence of the Lunde the Save would have to be ascended.

But apart from the question whether the expression "to follow a river upstream" be rigorously accurate from a philological point of view, it is certain that in the diplomatic and technical language of the delimitation convention, to follow a river, or stream, is made use of with the meaning to follow *upstream* as well as to follow downstream.

The British delegate furnished in his notes (No. 3) a proof of this by quoting the act of delimitation of the Turco-Greek frontier signed at Constantinople by the Mixed European Commission on the 15th (27th) November 1891 (*sic*: should be 1881). (See Vol. III of the *N. Raccolta dei Trattati e delle Convenzioni fra il Regno d'Italia e i Governi Esteri*, Turin, 1890, pp. 99, *et seq.*, Articles I. and II. of the convention referred to, where evidently the words "suit" (follows) and "suivre" (follow) the *thalweg* of a river are used to signify follow *upstream*).

Many other examples could be quoted, but this is superfluous, once the Portuguese delegate has himself declared in his observations on the British Counter Case (No. 32 *h*) that even if the natural interpretation of the words "to follow a river" is to follow it *downstream* "this is not absolutely necessary".

To sum up, we are of opinion that the pretension of Portugal to lay aside Article II. of the convention beyond Mount Zuzunye and to substitute for it general principles in matters of delimitation is justified neither by fact nor by right, and that the line which should be adopted in this section is that traced on the British map D, and which had been agreed to by the delegates of the two governments as far as the point at which it meets  $32^{\circ} 30'$ . That the line should be continued thence along this meridian to the Save is a necessary consequence of this.

For these reasons:

We declare that according to Article II. of the treaty signed at Lisbon on the 11th June 1891 the line which should separate the spheres of influence of Great Britain and Portugal in Eastern Africa south of the Zambezi, from latitude  $18^{\circ} 30'$  to the confluence of the Save (or Sabi) with the Lunde (or Lunte) should be drawn as follows:

1. As regards the first section of the frontier in dispute, according to the designation used in the joint note of reference ("Compromis") the line on leaving the point where latitude  $18^{\circ} 30'$  intersects longitude  $33^{\circ}$  east of Greenwich runs due west to a point situated at the intersection of  $18^{\circ} 30'$  by a straight line drawn from the *stone pinnacle* on the crest of Mahemasemika (or Massimique) and a height on the northern spur of

Mount Panga, marked 6,340 feet. From this point of intersection on the parallel of latitude it ascends in a straight line to the above-mentioned point marked 6,340 feet; then, after following the watershed to a point marked 6,504 feet, it runs in a straight line to the summit of Mount Panga (6,970). From this point it runs in a straight line to the point marked 3,890 feet, and thence it runs also in a straight line, crossing the River Inyamkarara (or Inhamucarara) to the point marked 6,740 feet, situated to the north of Mount Gorongoe.

After this it follows the watershed, passing through the points marked 4,960 feet and 4,650 feet, till it reaches the summit of Mount Shuara or Chuara (5,540 feet), and then, following the watershed between the Inyamkarara and the Shimezi or Chimeza (3,700 feet), reaches the trigonometrical point marked on Mount Venga or Vengo (5,550 feet).

From Mount Venga it follows the watershed between the upper valley of the Inyamkarara and the Revué, and subsequently that between the Revué and the Odzi, as far as the point at which the spur branches off which forms the watershed between the Menini (or Munene) and the Zombi (or Zombe), whence it follows the crest of this spur to Mount Vumba (4,950 feet).

From Mount Vumba it runs in a straight line to the trigonometrical point situated on the Serra Chaura between 4 and 5 kilom. east of the main watershed, and thence in a straight line to a point situated at the eastern extremity of Serra Inyamatumba (4,650 feet).

From there it follows the watershed, which incloses on the north of the valley of the Mangwingi (or Munhinga), till it rejoins the main watershed between the Save and Revué. It follows this watershed to the point where the small spur branches off which incloses on the north the upper valley of the Little Mussapa (or Mussapa Pegueno), and runs along the crest of this spur to the point marked 5,100 feet, whence it runs due east, crossing the Little Mussapa, and reaching the crest of the eastern slope of Mount Guzane, which it follows till it meets the meridian of longitude  $33^{\circ}$  east of Greenwich; after this it follows this meridian, crossing the Great Mussapa (defile of Chimanimani) till it reaches the point marked A on the map hereto annexed.

2. As regards the second section of the frontier, which is comprised between the end of the preceding section and the point where the upper part of the eastern slope of the plateau cuts longitude  $32^{\circ} 30'$  east of Greenwich, the boundary follows the line shown on the map hereto annexed by the letters A, B, C, V, E, F, C, H, I, J, L, M, N, O, meeting the meridian  $32^{\circ} 30'$  at about latitude  $20^{\circ} 42' 17''$ .

3. As to the third section, which concerns the territory which extends from the intersection of the edge of the eastern slope by  $32^{\circ} 30'$  in latitude about  $20^{\circ} 42' 17''$  to the point at which the Rivers Save and

Lunde meet, the line, following the aforesaid meridian  $32^{\circ} 30'$ , runs in a straight line to the center of the main channel of the Save, and then ascends this channel to its confluence with the Lunde, where the frontier submitted to our arbitration comes to an end.

A map, on which the line of delimitation in conformity with our decision has been drawn and which has been signed by us and bears our seal, is annexed to each of the originals of our award, of which it forms an integral part.

Done at Florence, in duplicate, this 30th day of January 1897.

[L. S.]

PAUL HONORÉ VIGLIANI.

ALEXANDRE CORSI, *Secretary*.