



Treaty Series No. 14 (1938)

## EXCHANGES OF NOTES

between His Majesty's Government in the United Kingdom  
and the Portuguese Government

regarding the

## BOUNDARY BETWEEN TANGANYIKA TERRITORY AND MOZAMBIQUE

Lisbon, May 11, 1936, and December 28, 1937

*Presented by the Secretary of State for Foreign Affairs  
to Parliament by Command of His Majesty*

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EXCHANGES OF NOTES BETWEEN HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND THE PORTUGUESE GOVERNMENT REGARDING THE BOUNDARY BETWEEN TANGANYIKA TERRITORY AND MOZAMBIQUE.

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*Lisbon, May 11, 1936, and December 28, 1937.*

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No. 1.

*Sir C. Wingfield to Dr. A. Monteiro.*

*British Embassy,*

M. le Ministre,

*Lisbon, May 11, 1936.*

IN accordance with instructions from His Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to inform your Excellency that, with the view of clarifying the existing position as regards sovereignty over islands situated in the River Rovuma, and of defining more clearly the boundary between the Tanganyika Territory and Mozambique as laid down in paragraph 2 of the preamble to the Mandate for East Africa, His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland are willing, subject to the approval of the Council of the League of Nations, to conclude with the Government of the Portuguese Republic an agreement in the following terms:—

(1) All the islands of the Rovuma River situated between the confluence of the River Domoni with the Rovuma River and the mouth of the latter belong to Portugal.

All the islands situated above the said confluence are part of the Tanganyika Territory.

For the purpose of this agreement there shall be considered as islands only those which emerge when the river is in full flood and which contain land vegetation and rock or firm soil and are not shifting sandbanks.

(2) Throughout the course of the River Rovuma in those places where there are no islands, the boundary shall follow the thalweg, even when the position of the latter is changed by a natural alteration in the bed of the river. By thalweg is understood the line of minimum level along the river bed.

In places in the river where the channel between the islands and the bank belonging to the other territory does not contain the thalweg of the river, the boundary shall follow the thalweg of that subsidiary channel until it meets the thalweg of the River Rovuma.

(3) Should the bed of the river undergo any alteration in the sense of clause (2) of this agreement, the Government of the territory

prejudiced thereby shall have the right, which shall expire at the end of four years, to divert the river into its old bed, or, if this proves impracticable, to compensation on terms to be agreed upon with the Government benefited. But, even in the event of the diversion being practicable, either of the Contracting Parties may, if it prefers, agree upon compensation with the Government of the other territory. In the absence of agreement the Contracting Governments will submit the point in dispute to arbitration by the Permanent Court of International Justice.

(4) Freedom of navigation in the River Rovuma, without distinction of nationality, shall be maintained in accordance with the treaties and conventions in force.

(5) In order to supply their needs the inhabitants of both banks shall have the right over the whole breadth of the river to draw water, to fish and to remove saliferous sand for the purpose of extracting salt therefrom.

(6) The local authorities shall conclude whatever agreements may be necessary in order that the inhabitants on both banks may be granted such facilities as are possible with regard to hunting, fishing and the collection of salt in the neighbourhood of the river, without prejudice to the existing sovereign rights and in such measure as may, in the circumstances, be permissible without inconvenience to the two Administrations concerned.

(7) The present agreement shall not take effect until it has been submitted to the Council of the League of Nations and the approval of the Council has been notified to the Contracting Governments. It shall thereafter come into force on a date to be agreed upon between the two Governments.<sup>(1)</sup>

2. If the Portuguese Government approve of this proposal, I would suggest that the present note and your Excellency's reply embodying their acceptance of the foregoing provisions be regarded as constituting a formal agreement in this matter between the two Governments.

I avail, &c.

CHARLES WINGFIELD.

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No. 2.

*Dr. A. Monteiro to Sir C. Wingfield.*

*Ministério dos Negócios Estrangeiros,  
Direcção Geral dos  
Negócios Políticos e Económicos,*

Sr. Embaixador,

*Lisboa, 11 de Maio de 1936.*

TENHO a honra de acusar recepção da Nota de V. Ex<sup>a</sup> desta data àcêrca das ilhas do Rio Rovuma e de confirmar que o Governo da República Portuguesa e o Governo de Sua Majestade no Reino Unido

(<sup>1</sup>) See Nos. 3 and 4.

da Grã Bretanha e Norte da Irlanda, animados do desejo de definirem a fronteira entre a Colônia de Moçambique e o território de Tanganika, tal como se acha delimitado no parágrafo 2° do preâmbulo do Mandato da Africa Oriental, sob reserva da aprovação do Conselho da Sociedade das Nações, convencionaram o seguinte :

(1) Tôdas as ilhas do Rio Rovuma que se encontram a juzante da confluência do Rio Domoni com o Rio Rovuma até à foz dêste último pertencem a Portugal. Tôdas as ilhas que ficam a montante da referida confluência pertencerão ao território de Tanganika. Para os efeitos desta convenção considerar-se-ão ilhas apenas aquelas que emergem na época de maior caudal e que tenham vegetação terrestre e solo rochoso ou consistente e que não sejam restingas de areia movediça.

(2) No curso do Rio Rovuma onde não haja ilhas, a fronteira seguirá o thalweg, ainda quando êste sofra mudança provocada pela alteração natural do leito do rio. Entender-se-á por thalweg a linha de nível mínimo ao longo do leito do rio. Nos pontos do rio onde o canal entre as ilhas e a margem pertencente ao outro território não contenha o thalweg do rio, a fronteira seguirá o thalweg dêsse canal até encontrar o thalweg do Rio Rovuma.

(3) Se o leito do rio sofrer alguma alteração nos termos da cláusula (2) dêste acôrdo, o Governo do território lesado terá o direito, que prescreverá ao fim de 4 anos, de fazer voltar o rio ao seu antigo leito, ou, se isso fôr impraticável, a uma compensação a convencionar com o Governo beneficiado. Mesmo na hipótese do desvio ser viável, qualquer das Partes Contratantes poderá, se assim preferir, convencionar uma compensação com o Governo do outro território. Em caso de divergência os Governos contratantes submeterão o ponto de divergência a arbitragem do Tribunal Permanente de Justiça Internacional.

(4) A liberdade de navegação no Rio Rovuma, sem distinção de nacionalidade, será mantida em conformidade com os tratados e convenções em vigor.

(5) Para suprir as suas necessidades os habitantes das duas margens do rio gosarão em tôda a largura dêste do direito de tomar água, de pescar e de recolher areias salinas para delas extrair sal.

(6) As autoridades locais celebrarão os acôrdos necessários para que aos habitantes das duas margens sejam concedidas as possíveis facilidades relativamente ao exercício da caça, pesca e colheita de sal nas proximidades do rio, sem prejuízo dos direitos de soberania de uma e outra parte e na medida em que as circunstâncias permitam fazê-lo sem inconveniente para as duas Administrações interessadas.

(7) A presente Convenção não entrará em vigor sem que tenha sido submetida ao Conselho da Sociedade das Nações e sem que a aprovação do Conselho tenha sido notificada aos Governos contratantes. Depois de aprovada, conforme fica estipulado, a Convenção entrará em vigor na data a fixar pelos dois Governos.

2. Como V. Ex<sup>a</sup> propõe na sua Nota desta data a presente Nota e a de V. Ex<sup>a</sup> a que respondo ficarão constituindo o acôrdo formal dos dois Governos sôbre esta matéria.

Aproveito, &c.

ARMINDO MONTEIRO.

(Translation.)

*Ministry for Foreign Affairs,  
General Department of Political and  
Economic Affairs,*

*Lisbon, May 11, 1936.*

Your Excellency,

I have the honour to acknowledge receipt of your note of to-day's date regarding the islands situated in the River Rovuma, and to confirm that the Government of the Portuguese Republic and His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland, with a view to defining the boundary between the colony of Mozambique and the Tanganyika Territory, as laid down in paragraph 2 of the preamble to the Mandate for East Africa, and subject to the approval of the Council of the League of Nations, have agreed as follows:—

(1) All the islands of the Rovuma River situated between the confluence of the River Domoni with the Rovuma River and the mouth of the latter belong to Portugal.

All the islands situated above the said confluence are part of the Tanganyika Territory. For the purpose of this agreement there shall be considered as islands only those which emerge when the river is in full flood and which contain land vegetation and rock or firm soil and are not shifting sandbanks.

(2) Throughout the course of the River Rovuma in those places where there are no islands, the boundary shall follow the thalweg, even when the position of the latter is changed by a natural alteration in the bed of the river. By thalweg is understood the line of minimum level along the river bed.

In places in the river where the channel between the islands and the bank belonging to the other territory does not contain the thalweg of the river, the boundary shall follow the thalweg of that channel until it meets the thalweg of the River Rovuma.

(3) Should the bed of the river undergo any alteration in the sense of clause (2) of this agreement, the Government of the territory prejudiced thereby shall have the right, which shall expire at the end of four years, to divert the river into its old bed, or, if this proves impracticable, to compensation on terms to be agreed upon with the Government benefited. But, even in the event of the diversion being practicable, either of the Contracting Parties may, if it prefers, agree upon compensation with the Government of the other territory. In the absence of agreement the Contracting Governments will submit the point in dispute to arbitration by the Permanent Court of International Justice.

(4) Freedom of navigation in the River Rovuma, without distinction of nationality, shall be maintained in accordance with the treaties and conventions in force.

(5) In order to supply their needs the inhabitants of both banks shall have the right over the whole breadth of the river to draw water, to fish and to remove saliferous sand for the purpose of extracting salt therefrom.

(6) The local authorities shall conclude whatever agreements may be necessary in order that the inhabitants on both banks may be granted such facilities as are possible with regard to hunting, fishing and the collection of salt in the neighbourhood of the river, without prejudice to the existing sovereign rights and in such measure as may, in the circumstances, be permissible without inconvenience to the two Administrations concerned.

(7) The present agreement shall not take effect until it has been submitted to the Council of the League of Nations, and the approval of the Council has been notified to the Contracting Governments. It shall thereafter come into force on a date to be agreed upon between the two Governments.

2. As your Excellency proposes in the note of to-day's date, the present note and that to which it replies will be regarded as constituting a formal agreement in this matter between the two Governments.

I have, &c.

ARMINDO MONTEIRO.

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No. 3.

*Sir W. Selby to Dr. Antonio de Oliveira Salazar.*

*British Embassy,*

M. le Ministre,

*Lisbon, December 28, 1937.*

THE Council of the League of Nations has now approved the agreement of the 11th May, 1936,<sup>(?)</sup> between His Majesty's Government in the United Kingdom and the Government of Portugal regarding the sovereignty over the islands situated in the River Rovuma and the boundary between the Tanganyika Territory and Mozambique, and have so notified the Contracting Governments.

2. In accordance with sub-paragraph (7) of the notes constituting the agreement which were exchanged by their Excellencies Sir Charles Wingfield and Dr. Armindo Monteiro on the above-mentioned date, I have the honour, by direction of His Majesty's Principal Secretary of State for Foreign Affairs, to propose that the agreement should

(?) Nos. 1 and 2.

enter into force with effect from the 1st February, 1938, and that the present note and your Excellency's reply should be regarded as constituting a formal agreement in this sense between the two Governments.

I avail, &c.

W. SELBY.

No. 4.

*Dr. Antonio de Oliveira Salazar to Sir W. Selby.*

*Ministério dos Negócios Estrangeiros,  
Direcção Geral dos  
Negócios Políticos e Económicos,  
Lisboa, 28 de Dezembro de 1937.*

Sr. Embaixador,

EM resposta à Nota de V.Exa. em data de hoje cabe-me a honra de comunicar a V.Exa. que tendo tomado conhecimento da aprovação pelo Conselho da Sociedade das Nações do Acôrdo de 11 de Maio de 1936 entre Portugal e a Gran Bretanha relativo às ilhas situadas no Rio Rovuma e à delimitação da fronteira entre Moçambique e o território de Tanganica, como consta da acta da 2ª sessão da 98ª reunião do Conselho realizada em 14 de Setembro de 1937, e de harmonia com o disposto na alínea 7ª do No. 1 daquelas Notas trocadas entre S.Exas. Dr. Armindo Monteiro como Ministro dos Negócios Estrangeiros de Portugal e Sir Charles Wingfield como Embaixador de Sua Magestade Britânica, o Govêrno Português concorda com a data de 1 de Fevereiro de 1938 proposta por V.Exa. para a entrada em vigor do referido Acôrdo. Nesta conformidade a presente Nota e a de V.Exa. a que respondo, constituem o compromisso formal dos dois Governos para o efeito da entrada em vigor do citado Acôrdo.

Aproveito, &c.

ANTONIO SALAZAR.

(Translation.)

*Ministry for Foreign Affairs,  
Directorate-General of Political and  
Economic Affairs,  
Lisbon, December 28, 1937.*

M. l'Ambassadeur,

In reply to your Excellency's Note of to-day's date I have the honour to inform your Excellency that, having taken note of the approval by the Council of the League of Nations of the Agreement of the 11th May, 1936, between Portugal and Great Britain regarding the islands situated in the River Rovuma and the demarcation of the boundary between Mozambique and the Tanganyika Territory, as manifested in the decision of the Second Session of the

98th meeting of the Council, which took place on the 14th September, 1937, and in accordance with sub-paragraph (7) of the first paragraph of the Notes exchanged between their Excellencies Dr. Armindo Monteiro, as Portuguese Minister for Foreign Affairs, and Sir Charles Wingfield, as His Britannic Majesty's Ambassador, the Portuguese Government agree with the date, the 1st February, 1938, proposed by your Excellency for the entry into force of the Agreement in question. The present Note and that of your Excellency to which it is a reply accordingly constitute a formal agreement between the two Governments for the purpose of the entry into force of the said Agreement.

I avail, &c.

ANTONIO SALAZAR.