

The Berlin Conference, 1885

International government document



OVERVIEW

This 1885 conference among European powers that had colonies in Africa, with representatives from the United States and other nations as well, settled differences over administration of Africa's Congo region. It also set up policies for the colonization of the rest of Africa. (By 1914 European nations controlled 90 percent of the African continent.) Excerpts from the General Act of the conference follow. The United States did not ratify the act.

GUIDED READING As you read, consider the following questions:

- Why do you think the United States did not ratify the act?
 - How does this act address the issue of the slave trade?
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General Act of the Conference at Berlin of the Plenipotentiaries of Great Britain, Austria-Hungary, Belgium, Denmark, France, Germany, Italy, the Netherlands, Portugal, Russia, Spain, Sweden and Norway [and the United States] dealing with Africa.

Chapter I.

Declaration relative to Freedom of Trade in the Basin of the Congo, its Mouths and circumjacent Regions, with other Provisions connected therewith.

I.

The trade of all nations shall enjoy complete freedom—

1) In all the regions forming the basin of the Congo and its outlets. This basin is bounded by the watersheds (or mountain ridges) of the adjacent basins, namely, in particular, those of the Niari, the Ogowé, the Schari, and the Nile, on the north; by the eastern watershed line of the affluents of Lake Tanganyika on the east; and by the watersheds of the basins of the Zambesi and the Logé on the south. It therefore comprises all the regions watered by the Congo and its affluents, including Lake Tanganyika, with its eastern tributaries.

2) In the maritime zone extending along the Atlantic Ocean from the parallel situated in 2° 30' of south latitude to the mouth of the Logé.

The northern boundary will follow the parallel situated in 2° 30' from the coast to the point where it meets the geographical basin of the Congo,

avoiding the basin of the Ogowé, to which the provisions of the present Act do not apply.

The southern boundary will follow the course of the Logé to its source, and thence pass eastwards till it joins the geographical basin of the Congo.

3) In the zone stretching eastwards from the Congo Basin, as above defined, to the Indian Ocean from 5 degrees of north latitude to the mouth of the Zambesi in the south, from which point the line of demarcation will ascend the Zambesi to 5 miles above its confluence with the Shiré, and then follow the watershed between the affluents of Lake Nyassa and those of the Zambesi, till at last it reaches the watershed between the waters of the Zambesi and the Congo.

It is expressly recognized that in extending the principle of free trade to this eastern zone the Conference Powers only undertake engagements for themselves, and that in the territories belonging to an independent Sovereign State this principle shall only be applicable in so far as it is approved by each State. But the Powers agree to use their good offices with the Governments established on the African shore of the Indian Ocean for the purpose of obtaining such approval, and in any case of securing the most favourable conditions to the transit (traffic) of all nations.

II.

All flags, without distinction of nationality, shall have free access to the whole of the coast-line of the territories above enumerated, to the rivers there running into the sea, to all the waters of the Congo and its affluents, including the lakes, and to all the ports situated on the banks of these waters, as well as to all canals which may in future be constructed with intent to unite the watercourses or lakes within the entire area of the territories described in Article I. Those trading under such flags may engage in all sorts of transport, and carry on the coasting trade by sea and river, as well as boat traffic, on the same footing as if they were subjects.

III.

Wares, of whatever origin, imported into these regions, under whatsoever flag, by sea or river, or overland, shall be subject to no other taxes than such as may be levied as fair compensation for expenditure in the interests of trade, and which for this reason must be equally borne by the subjects themselves and by foreigners of all nationalities. All differential dues on vessels, as well as on merchandize, are forbidden.

IV.

Merchandize imported into these regions shall remain free from import and transit dues.

The Powers reserve to themselves to determine after the lapse of twenty years whether this freedom of import shall be retained or not.

V.

No Power which exercises or shall exercise sovereign rights in the above-mentioned regions shall be allowed to grant therein a monopoly or favour of any kind in matters of trade.

Foreigners, without distinction, shall enjoy protection of their persons and property, as well as the right of acquiring and transferring movable and immovable possessions; and national rights and treatment in the exercise of their professions.

VI.

All the Powers exercising sovereign rights or influence in the aforesaid territories bind themselves to watch over the preservation of the native tribes, and to care for the improvement of the conditions of their moral and material well-being and to help in suppressing slavery, and especially the Slave Trade. They shall, without distinction of creed or nation, protect and favour all religious, scientific, or charitable institutions and undertakings created and organized for the above ends, or which aim at instructing the natives and bringing home to them the blessings of civilization.

Christian missionaries, scientists, and explorers, with their followers, property, and collections, shall likewise be the objects of especial protection.

Freedom of conscience and religious toleration are expressly guaranteed to the natives, no less than to subjects and to foreigners. The free and public exercise of all forms of Divine worship, and the right to build edifices for religious purposes, and to organize religious Missions belonging to all creeds, shall not be limited or fettered in any way whatsoever.

VII.

The Convention of the Universal Postal Union, as revised at Paris the 1st June, 1878, shall be applied to the Conventional basin of the Congo.

The Powers who therein do or shall exercise rights of sovereignty or Protectorate engage, as soon as circumstances permit them, to take the measures necessary for the carrying out of the preceding provision.

VIII.

In all parts of the territory had in view by the present Declaration, where no Power shall exercise rights of sovereignty or Protectorate, the International Navigation Commission of the Congo, instituted in virtue of Article XVII, shall be charged with supervising the application of the principles proclaimed and perpetuated ("consacrés") by this Declaration.

In all cases of difference arising relative to the application of the principles established by the present Declaration, the Governments concerned may agree to appeal to the good offices of the International Commission, by submitting to it an examination of the facts which shall have occasioned these differences.

Chapter II.

Declaration relative to the Slave Trade.

IX.

Seeing that trading in slaves is forbidden in conformity with the principles of international law as recognized by the Signatory Powers, and seeing also that the operations, which, by sea or land, furnish slaves to trade, ought likewise to be regarded as forbidden, the Powers which do or shall exercise sovereign rights or influence in the territories forming the Conventional basin of the Congo declare that these territories may not serve as a market or means of transit for the trade in slaves, of whatever race they may be. Each of the Powers binds itself to employ all the means at its disposal for putting an end to this trade and for punishing those who engage in it.

Chapter III.

*Declaration relative to the Neutrality of the Territories
comprised in the Conventional Basin of the Congo.*

X.

In order to give a new guarantee of security to trade and industry, and to encourage, by the maintenance of peace, the development of civilization in the countries mentioned in Article I, and placed under the free trade system, the High Signatory Parties to the present Act, and those who shall hereafter adopt it, bind themselves to respect the neutrality of the territories, or portions of territories, belonging to the said countries, comprising therein the territorial waters, so long as the Powers which exercise or shall exercise the rights of sovereignty or Protectorate over those territories, using their option of proclaiming themselves neutral, shall fulfil the duties which neutrality requires.

XI.

In case a Power exercising rights of sovereignty or Protectorate in the countries mentioned in Article I, and placed under the free trade system, shall be involved in a war, then the High Signatory Parties to the present Act, and those who shall hereafter adopt it, bind themselves to lend their good offices in order that the territories belonging to this Power and comprised in the Conventional free trade zone shall, by the common consent of this Power and of the other belligerent or belligerents, be placed during the war under the rule of neutrality, and considered as belonging to a non-belligerent State, the belligerents thenceforth abstaining from extending hostilities to the territories thus neutralized, and from using them as a base for warlike operations.

XII.

In case a serious disagreement originating on the subject of, or in the limits of, the territories mentioned in Article I, and placed under the free trade system, shall arise between any Signatory Powers of the present Act, or the Powers which may become parties to it, these Powers bind themselves, before appealing to arms, to have recourse to the mediation of one or more of the friendly Powers.

In a similar case the same Powers reserve to themselves the option of having recourse to arbitration.

Chapter IV. Act of Navigation for the Congo.

XIII.

The navigation of the Congo, without excepting any of its branches or outlets, is, and shall remain, free for the merchant-ships of all nations equally, whether carrying cargo or ballast, for the transport of goods or passengers. It shall be regulated by the provisions of this Act of Navigation, and by the rules to be made in pursuance thereof.

In the exercise of this navigation the subjects and flags of all nations shall in all respects be treated on a footing of perfect equality, not only for the direct navigation from the open sea to the inland ports of the Congo, and *vice versa*, but also for the great and small coasting trade, and for boat traffic on the course of the river.

Consequently, on all the course and mouths of the Congo there will be no distinction made between the subjects of Riverain States and those of non-Riverain States, and no exclusive privilege of navigation will be conceded to Companies, Corporations, or private persons whatsoever.

These provisions are recognized by the Signatory Powers as becoming henceforth a part of international law.

XIV.

The navigation of the Congo shall not be subject to any restriction or obligation which is not expressly stipulated by the present Act. It shall not be exposed to any landing dues, to any station or depôt tax, or to any charge for breaking bulk, or for compulsory entry into port.

In all the extent of the Congo the ships and goods in process of transit on the river shall be submitted to no transit dues, whatever their starting-place or destination.

There shall be levied no maritime or river toll based on the mere fact of navigation, nor any tax on goods aboard of ships. There shall only be levied taxes or duties having the character of an equivalent for services rendered to navigation itself, to wit:—

1) Harbour dues on certain local establishments, such as wharves, warehouses, &c., if actually used.

The tariff of such dues shall be framed according to the cost of constructing and maintaining the said local establishments; and it will be applied without regard to whence vessels come or what they are loaded with.

2) Pilot dues for those stretches of the river where it may be necessary to establish properly-qualified pilots.

The tariff of these dues shall be fixed and calculated in proportion to the service rendered.

3) Charges raised to cover technical and administrative expenses incurred in the general interest of navigation, including lighthouse, beacon, and buoy duties.

The last-mentioned dues shall be based on the tonnage of vessels as shown by the ship's papers, and in accordance with the rules adopted on the Lower Danube.

The tariffs by which the various dues and taxes enumerated in the three preceding paragraphs shall be levied shall not involve any differential treatment, and shall be officially published at each port.

The Powers reserve to themselves to consider, after the lapse of five years, whether it may be necessary to revise, by common accord, the above-mentioned tariffs.

XV.

The affluents of the Congo shall in all respects be subject to the same rules as the river of which they are tributaries.

And the same rules shall apply to the streams and river as well as the lakes and canals in the territories defined in paragraphs 2 and 3 of Article I.

At the same time the powers of the International Commission of the Congo will not extend to the said rivers, streams, lakes, and canals, unless with the assent of the States under whose sovereignty they are placed. It is well understood, also, that with regard to the territories mentioned in paragraph 3 of Article I the consent of the Sovereign States owning these territories is reserved.

XVI.

The roads, railways, or lateral canals which may be constructed with the special object of obviating the innavigability or correcting the imperfection of the river route on certain sections of the course of the Congo, its affluents, and other water-ways placed under a similar system, as laid down in Article XV, shall be considered in their quality of means of communication as dependencies of this river, and as equally open to the traffic of all nations.

And, as on the river itself, so there shall be collected on these roads, railways, and canals only tolls calculated on the cost of construction, maintenance, and management, and on the profits due to the promoters.

As regards the tariff of these tolls, strangers and the natives of the respective territories shall be treated on a footing of perfect equality.

XVII.

There is instituted an International Commission, charged with the execution of the provisions of the present Act of Navigation.

The Signatory Powers of this Act, as well as those who may subsequently adhere to it, may always be represented on the said Commission, each by one Delegate. But no Delegate shall have more than one vote at his disposal, even in the case of his representing several Governments.

This Delegate will be directly paid by his Government. As for the various agents and employés of the International Commission, their remuneration shall be charged to the amount of the dues collected in conformity with paragraphs 2 and 3 of Article XIV.

The particulars of the said remuneration, as well as the number, grade, and powers of the agents and employés, shall be entered in the returns to be sent yearly to the Governments represented on the International Commission.

XVIII.

The members of the International Commission, as well as its appointed agents, are invested with the privilege of inviolability in the exercise of their functions. The same guarantee shall apply to the offices and archives of the Commission.

XIX.

The International Commission for the Navigation of the Congo shall be constituted as soon as five of the Signatory Powers of the present General Act shall have appointed their Delegates. And, pending the constitution of the Commission, the nomination of these Delegates shall be notified to the Imperial Government of Germany, which will see to it that the necessary steps are taken to summon the meeting of the Commission.

The Commission will at once draw up navigation, river police, pilot, and quarantine rules.

These rules, as well as the tariffs to be framed by the Commission, shall, before coming into force, be submitted for approval to the Powers represented on the Commission. The Powers interested will have to communicate their views with as little delay as possible.

Any infringement of these rules will be checked by the agents of the International Commission wherever it exercises direct authority, and elsewhere by the Riverain Power.

In the case of an abuse of power, or of an act of injustice, on the part of any agent or employé of the International Commission, the individual who considers himself to be aggrieved in his person or rights may apply to the Consular Agent of his country. The latter will examine his complaint, and if

he finds it *prima facie* reasonable he will then be entitled to bring it before the Commission. At his instance then, the Commission, represented by at least three of its members, shall, in conjunction with him, inquire into the conduct of its agent or employé. Should the Consular Agent look upon the decision of the Commission as raising questions of law ("objections de droit"), he will report on the subject to his Government, which may then have recourse to the Powers represented on the Commission, and invite them to agree as to the instructions to be given to the Commission.

Chapter V.

Act of Navigation for the Niger.

XXVI.

The navigation of the Niger, without excepting any of its branches and outlets, is and shall remain entirely free for the merchant ships of all nations equally, whether with cargo or ballast, for the transportation of goods and passengers. It shall be regulated by the provisions of this Act of Navigation, and by the rules to be made in pursuance of this Act.

In the exercise of this navigation the subjects and flags of all nations shall be treated, in all circumstances, on a footing of perfect equality, not only for the direct navigation from the open sea to the inland ports of the Niger, and *vice versa*, but for the great and small coasting trade, and for boat trade on the course of the river.

Consequently, on all the course and mouths of the Niger there will be no distinction made between the subjects of the Riverain States and those of non-Riverain States; and no exclusive privilege of navigation will be conceded to Companies, Corporations, or private persons.

These provisions are recognized by the Signatory Powers as forming henceforth a part of international law.

XXVII.

The navigation of the Niger shall not be subject to any restriction or obligation based merely on the fact of navigation.

It shall not be exposed to any obligation in regard to landing-station or depôt, or for breaking bulk, or for compulsory entry into port.

In all the extent of the Niger the ships and goods in process of transit on the river shall be submitted to no transit dues, whatever their starting-place or destination.

No maritime or river toll shall be levied based on the sole fact of navigation, nor any tax on goods on board of ships. There shall only be collected taxes or duties which shall be an equivalent for services rendered to navigation itself. The Tariff of these taxes or duties shall not warrant any differential treatment.

Chapter VI.

Declaration relative to the essential Conditions to be observed in order that new Occupations on the Coasts of the African Continent may be held to be effective.

XXXIV.

Any Power which henceforth takes possession of a tract of land on the coasts of the African Continent outside of its present possessions, or which, being hitherto without such possessions, shall acquire them, as well as the Power which assumes a Protectorate there, shall accompany the respective act with a notification thereof, addressed to the other Signatory Powers of the present Act, in order to enable them, if need be, to make good any claims of their own.

XXXV.

The Signatory Powers of the present Act recognize the obligation to insure the establishment of authority in the regions occupied by them on the coasts of the African Continent sufficient to protect existing rights, and, as the case may be, freedom of trade and of transit under the conditions agreed upon.

Chapter VII.

General Dispositions.

XXXVI.

The Signatory Powers of the present General Act reserve to themselves to introduce into it subsequently, and by common accord, such modifications and improvements as experience may show to be expedient.

XXXVII.

The Powers who have not signed the present General Act shall be free to adhere to its provisions by a separate instrument.

The adhesion of each Power shall be notified in diplomatic form to the Government of the German Empire, and by it in turn to all the other Signatory or adhering Powers.

Such adhesion shall carry with it full acceptance of all the obligations as well as admission to all the advantages stipulated by the present General Act.

XXXVIII.

The present General Act shall be ratified with as little delay as possible, the same in no case to exceed a year.

It will come into force for each Power from the date of its ratification by that Power.

Meanwhile, the Signatory Powers of the present General Act bind themselves not to take any steps contrary to its provisions.

Each Power will address its ratification to the Government of the German Empire, by which notice of the fact will be given to all the other Signatory Powers of the present Act.

The ratifications of all the Powers will be deposited in the archives of the Government of the German Empire. When all the ratifications shall have been sent in, there will be drawn up a Deposit Act, in the shape of a Protocol, to be signed by the Representatives of all the Powers which have taken part in the Conference of Berlin, and of which a certified copy will be sent to each of those Powers.

In testimony whereof the several Plenipotentiaries have signed the present General Act and have affixed thereto their seals.

Done at Berlin, the 26th day of February, 1885.

(L.S.) EDWARD B. MALET.

(L.S.) V. BISMARCK.

(L.S.) BUSCH.

(L.S.) V. KUSSEROW.

(L.S.) SZCHÉNÉYI.

(L.S.) COMTE AUGUSTE VAN DER STRATEN-PONTHOZ.

(L.S.) BARON LAMBERMONT.

(L.S.) E. VIND.

(L.S.) COMTE DE BENOMAR.

(L.S.) JOHN A. KASSON.

(L.S.) H. S. SANFORD.

(L.S.) ALPH. DE COURCEL.

(L.S.) LAUNAY.

(L.S.) F. P. VAN DER HOEVEN.

(L.S.) MARQUIS DE PENAFIEL.

(L.S.) A. DE SERPA PIMENTEL.

(L.S.) COMTE P. KAPNIST.

(L.S.) GILLIS BILDT.

(L.S.) SAID.