

United Nations
**GENERAL
ASSEMBLY**

THIRTEENTH SESSION
Official Records



**FOURTH COMMITTEE 836th
MEETING**

Tuesday 9 December 1958,
at 10.55 a.m.

NEW YORK

CONTENTS

	<u>Page</u>
Agenda item 36:	
Information from Non-Self-Governing Territories transmitted under Article 73 e of the Charter: reports of the Secretary-General and of the Committee on Information from Non-Self-Governing Territories (<i>continued</i>):	
(e) Report of the Secretary-General on developments connected with the association of Non-Self-Governing Territories with the European Economic Community	
General debate and consideration of draft resolutions (<i>concluded</i>)	511
Agenda item 37:	
Question of the renewal of the Committee on Information from Non-Self-Governing Territories: report of the Committee on Information from Non-Self-Governing Territories (<i>continued</i>)	511
Agenda item 39:	
Question of South West Africa (<i>continued</i>):	
(d) Election of three members of the Committee on South West Africa.	512
Agenda item 41:	
Question of the frontier between the Trust Territory of Somaliland under Italian administration and Ethiopia: reports of the Governments of Ethiopia and of Italy	512

Chairman: Mr. Frederick H. BOLAND (Ireland).

AGENDA ITEM 36

Information from Non-Self-Governing Territories transmitted under Article 73 e of the Charter: reports of the Secretary-General and of the Committee on Information from Non-Self-Governing Territories (A/3806, A/3807, A/3808, A/3809/Rev.1 and Add.1, A/3810, A/3811 and Add.1, A/3812 and Add.1, A/3813 and Add.1, A/3814, A/3815 and Add.1, A/3816, A/3837) (*continued*):

(e) Report of the Secretary-General on developments connected with the association of Non-Self-Governing Territories with the European Economic Community (A/3916/Rev.1)

GENERAL DEBATE AND CONSIDERATION OF DRAFT RESOLUTIONS (A/C.4/L.574/REV.1, A/C.4/L.575) (*concluded*)

1. Mr. KOSCZIUSKO-MORIZET (France), speaking on behalf of the delegations of Belgium, the Netherlands, Luxembourg and his own, as well as of the Federal Republic of Germany, wished to explain his vote on the Brazilian draft resolution on the economic development of Non-Self-Governing Territories (A/C.4/L.574/Rev.1). In view of the bonds of friendship which linked France and Brazil his delegation had been prepared to abstain in the vote, even though it considered the operative paragraph to be superfluous

since the policy to which it referred had been in operation for a number of years. The adoption of the amendment presented by Iraq had, however, changed the character of the resolution and he had therefore been obliged to vote against it.

2. He had already explained (835th meeting, para. 27) his delegation's attitude with regard to the joint draft resolution concerning the effects of the European Economic Community on the development of certain Non-Self-Governing Territories (A/C.4/L.575) and would not repeat what he had said on the subject.

3. Mr. Usman SASTROAMIDJOJO (Indonesia) said that his delegation was in general agreement with the basic principles underlying the Brazilian draft resolution (A/C.4/L.574/Rev.1). He had been obliged, however, to reserve his delegation's position with regard to the fourth preambular paragraph and the operative paragraph because he had felt that they made the fulfilment of the objectives of Article 73 dependent upon measures adopted by the Administering Members. After the adoption of the two amendments submitted by Iraq, however, his delegation had been able to vote in favour of the draft resolution.

4. Mr. EL-RIFAI (Jordan) and Mr. RAHNEMA (Iran) explained that their delegations had been unable to be present at the time of the vote on the Brazilian draft resolution and the joint draft resolution. Had they been present they would have voted in favour of those texts.

AGENDA ITEM 37

Question of the renewal of the Committee on Information from Non-Self-Governing Territories: report of the Committee on Information from Non-Self-Governing Territories (A/3837) (*continued*)

5. Mr. PACHACHI (Iraq) said that he had voted in favour of draft resolution B submitted by the Committee on Information in its report (A/3837, part one, annex II), although, as he had indicated in his statement during the general debate (823rd meeting, para. 10), his delegation considered the Committee's terms of reference to be too restrictive. For example, he would have preferred some mention to be made in operative paragraph 6 of the draft resolution of the Committee's right to appraise economic and social policies in relation to the attainment by the Non-Self-Governing Territories of the objectives of Article 73 b of the Charter. He realized, however, that the resolution was the result of a compromise and he considered that the Committee should be continued because, despite its restrictive terms of reference, it had been able to perform valuable tasks for the General Assembly and for the benefit of the Non-Self-Governing Territories.

6. His delegation had served on the Committee for some years and was standing for re-election as a

representative of the ten Arab States, which felt that they were entitled to a seat on the Committee because of their vital interest in the welfare of the Non-Self-Governing Territories.

7. Mr. KOSCIUSKO-MORIZET (France) said that he had abstained in the vote on draft resolution B submitted by the Committee on Information because his delegation doubted the legality of that Committee and moreover was not convinced of its usefulness, especially since the establishment of regional economic commissions in almost every part of the world.

8. Mr. OSMAN (United Arab Republic) said he had voted in favour of the renewal of the Committee on Information because his delegation believed that its existence was a contribution to the fulfilment of the concept of the "sacred trust" and that the Committee had done constructive and useful work.

AGENDA ITEM 39

Question of South West Africa (continued):

(d) Election of three members of the Committee on South West Africa

9. The CHAIRMAN said that, as the delegations of Mexico, Pakistan and the United States of America had expressed a wish to retire from the Committee on South West Africa, three new members would have to be elected. The election would be held the following day.

10. Mr. ESPINOSA Y PRIETO (Mexico) explained that his delegation's decision to withdraw from the Committee was due to his desire to comply with the system by which each year the three most senior members of the Committee withdrew. His delegation had been glad to serve for some five years on that Committee, which it regarded as one of the most constructive and objective organs of the United Nations.

11. Mr. Irving SALOMON (United States of America) said that his delegation's reason for deciding to cease its membership of the Committee on South West Africa was the same as that explained by the representative of Mexico. While his delegation had been glad to serve on the Committee, it felt that rotation was necessary for the Committee's proper functioning.

AGENDA ITEM 41

Question of the frontier between the Trust Territory of Somaliland under Italian administration and Ethiopia: reports of the Governments of Ethiopia and of Italy (A/4030, A/4031)

12. The CHAIRMAN recalled that at the previous session the General Assembly had recommended in resolution 1213 (XII) the establishment of an arbitration tribunal consisting of three jurists, one to be appointed by Ethiopia, one by Italy and one by agreement between the jurists so appointed or, failing agreement, by His Majesty, the King of Norway, to delimit the frontier, and had requested the Governments of Ethiopia and of Italy to report to the General Assembly at its thirteenth session on the measures taken by them to give effect to the resolution.

13. The report of the Italian Government (A/4030) and that of the Ethiopian Government (A/4031) had now been distributed.

14. Mr. ALEMAYEHOU (Ethiopia) said that before making his general statement he wished to refer to the report of the Italian Government (A/4030), which had just been distributed to the members of the Committee. While he had not had time to study the document, he had noted with surprise that the usual diplomatic courtesies had not been observed, since the Ethiopian Government had not been informed by the Italian Government of its intention to publish certain diplomatic correspondence relating to the implementation of General Assembly resolution 1213 (XII). The Ethiopian delegation welcomed the publication of the documents on condition that all the correspondence should be published. The Italian representative had, however, omitted such important notes as those of 25 August 1958 and 2 September 1958 from the Ethiopian Government. His delegation would therefore be obliged to exercise its right to circulate to the members of the Committee those documents which the Italian Government had chosen to exclude from its report.

15. The question of the delimitation of the frontier between Ethiopia and Somaliland under Italian administration was by no means a new one. That was not, however, the responsibility of the Ethiopian Government, which had constantly sought the delimitation of the frontier as a protection against persistent reversals of position preparatory to the formulation of new demands. The tactics adopted by Italy sixty years previously had continued to characterize the attitude with which Ethiopia had been confronted throughout the intervening years.

16. The policy of territorial encroachment pursued by Italy in the early years of the century had compelled Ethiopia in self-protection to conclude what had been recognized as the basic international agreement establishing the frontier, the Italo-Ethiopian Convention of 16 May 1908. Nevertheless, the fact that that fundamental convention, as the Italian Government had recognized, completely delineated the frontier at all points had not prevented the Italian Government from encroaching by force of arms upon Ethiopian territory, against Ethiopia's protests and resistance, culminating in the 1935-1936 Italo-Ethiopian War.

17. He had alluded to those earlier events because they threw a vivid light upon the attitudes and tactics with which Ethiopia had been faced in the period under review. Moreover, the arbitration recommended in General Assembly resolution 1213 (XII) was in fact the second arbitration with Italy concerning the same boundary convention, the same territory and the same problems, and it had been the Italian Government itself which during the recent negotiations had insisted upon reverting to the documents and the arguments developed in connexion with the first arbitration, which had taken place twenty-three years previously.

18. One further point that he would like to stress was that in view of the previous difficulties encountered in respect of the application of the 1908 Convention, the Ethiopian delegation to the United Nations had urged nearly ten years previously, when it had been decided to place Somaliland under Italian trusteeship, that the problem of frontier delimitation should be settled before Italy took up its functions in that Territory.^{1/} The fact that that request had been rejected

^{1/} See Official Records of the General Assembly, Fourth Session, Plenary Meetings, 250th meeting.

was not the responsibility of the Ethiopian Government.

19. The events that had taken place had shown continued opposition by the Italian Government to direct negotiations with Ethiopia, as recommended by General Assembly resolution 392 (V), and to arbitration as recommended by General Assembly resolution 1213 (XII).

20. With regard to the first of those resolutions, one of the greatest difficulties which had beset the question was the fact that the Italian Government had always opposed such direct negotiations with Ethiopia and had constantly sought to substitute, under the guise of mediation, the imposition of a new frontier contrary to the terms of the admittedly valid frontier Convention of 1908. In that connexion he drew attention to the fact, as recorded by the Italian memorandum of 30 September 1954,^{2/} that the Italian Government had opposed direct negotiations in accordance with General Assembly resolution 392 (V), although the "new Italy" which had emerged since the Second World War had had no occasion for previous negotiations with Ethiopia. At that time the Italian Government had expressed the opinion that the matter could be settled more promptly if it were referred to a mediator appointed by the United Nations and assisted by two delegations representing Italy and Ethiopia respectively. There had thus been a change in attitude on the part of the Italian Government. Before the war, that Government had regarded Somaliland as its own territory and had resisted all suggestions at the League of Nations for mediation or any other solution that would impair its full liberty of action. Now that the territory was no longer Italy's, it was convenient that the delimitation of the frontier should be imposed by a decision of a third party, naturally with the "assistance" of Italy. However that might be, subsequent events had clearly revealed persistent opposition to any direct talks with Ethiopia, coupled with the attempt, under the guise of mediation, to impose a political settlement.

21. In 1956 direct negotiations had finally begun, but after only two months the Italian Government had proposed that they should be suspended for the purpose of consultations. It had been only at the insistence of the Ethiopian Government that Italy had reluctantly agreed to resume conferences in September 1956. Scarcely had the talks recommenced than they had again been broken off at the request of the Italian Government. At that stage, when only half of the frontier had been discussed, a member of the Italian delegation had asked the Fourth Committee to recommend that the negotiations should be terminated and that the Assembly should decide upon the nomination of a mediator.^{3/} The General Assembly had not, however, concurred with Italy's request and in resolution 1068 (XI) it had called for continuation of the direct talks rather than a procedure of mediation. It had thus become possible during the year 1957 to discuss the second half of the frontier. Following that discussion, however, the Italian delegation had declined to continue the conversations concerning the frontier generally, in the light of the previous discussions on the northern and the southern halves with

a view to reaching a general settlement in accordance with the 1908 Convention. At the twelfth session of the General Assembly the Italian representative had declared to the Committee (734th meeting) that all possibilities offered by bilateral conversations had been taken advantage of, unfortunately in vain, and that it seemed that it would be equally vain to insist on that course.

22. Having called for the end of all direct conversations with Ethiopia on the ground that the possibilities they offered had been exhausted and having sought to rule out negotiations on the basis of the 1908 Convention, the Italian delegation had asserted in the Committee (737th meeting) during the twelfth session that it was true that the Convention was regarded as a basis for discussions but that it was not the only basis and that there were other agreements which could have been discussed. Thus the Italian delegation had made it clear that in the opinion of its Government the negotiations, which had been but fragmentary and incomplete, had exhausted all possibilities of direct negotiation with Ethiopia and should be abandoned. Yet in its report to the eleventh session of the General Assembly (A/3463) the Italian Government had asserted that its delegation to the Italo-Ethiopian Boundary Commission had expressed agreement with Ethiopia regarding the complete validity of the Convention and that the two delegations had decided that the Convention should constitute the basis of negotiations for delimiting the frontier. He stressed that the wording had been "the basis" rather than "a basis". The Italian Government's report to the twelfth session (A/3754 and Add.1) had confirmed that position. At the meeting of the Boundary Commission held on 5 August 1957 the Italian Government had even gone so far as to say that its delegation would be entitled to avoid continuing discussions upon a question which had already been discussed between the two Governments half a century earlier and settled in its final and proper form through the 1908 Convention. It had thus, in effect, stated that the Convention was the only possible basis for negotiations.

23. The fact that despite the Italian Government's persistent opposition to direct talks with Ethiopia agreement had been reached on certain important points during the two years of negotiation was in itself a considerable achievement. When the negotiations with Italy had finally begun the Ethiopian Government, in the interests of expediting a settlement, had proposed a political solution. On 12 July 1957 the Italian delegation to the Boundary Commission had rejected that proposal on a juridical ground, thereby placing Italy on record as recognizing, together with Ethiopia, that the negotiations undertaken in accordance with the terms of General Assembly resolution 392 (V) were juridical in character. That first point of concurrence between the two delegations had been emphasized by the agreement that the discussions were to be based exclusively on the provisions of the 1908 Convention. Secondly, the Italian delegation's statement on 29 July 1957 that its legal interpretation of the Convention embraced all conceivable factors that might otherwise be involved coincided with the Ethiopian delegation's view that there were no other, non-juridical questions to be settled. A third point of agreement was that the delimitation called for in resolution 392 (V) entailed, in effect, the procedure of interpreting the Convention; that had been indicated

^{2/} See A/C.4/277.

^{3/} See Official Records of the General Assembly, Eleventh Session, Fourth Committee, 642nd meeting.

by the Italian delegation's statement in the Boundary Commission on 12 March 1956 that such a delimitation would be impossible until agreement had been reached on the interpretation of the Convention, and its further statement of 23 August 1957 concurring in Ethiopia's view that the purpose of the negotiations was not to redraft the Convention but rather to apply its provisions. A fourth point of agreement had been the recognition that *de facto* situations were to be excluded, as confirmed in the Italian report to the eleventh session of the General Assembly (A/3463). Finally, it had been acknowledged that international agreements concluded by Italy with third parties were not binding on Ethiopia, as indicated by the Italian representative on the Boundary Commission when he had said on 19 March 1956 that to assert that such agreements should control the work of the Commission would be inconsistent with recognition of the validity of the Convention.

24. The issues which the negotiations had failed to resolve were those relating to certain localities and tribal limits specifically mentioned in the Convention, the interpretation of words appearing in that document and broad evidentiary problems concerning the juridical value of certain documents invoked by one side or the other. It was the settlement of those issues that General Assembly resolution 392 (V) had provided for. As the negotiations had admittedly been of a juridical nature and had involved exclusively the interpretation of the 1908 Convention, and as the issues left unsolved were by the same token exclusively juridical, the General Assembly had decided to recommend the juridical procedure of arbitration rather than a political solution as desired by the Italian Government. To that end it had provided for a tribunal of jurists to decide the matter in accordance with terms of reference to be agreed upon by the two parties. The Italian delegation to the United Nations had itself recognized that the arbitration procedure proposed in General Assembly resolution 1213 (XII) was a juridical and not a political procedure.

25. In conformity with the recommendations in General Assembly resolutions 392 (V) and 1213 (XII) the Ethiopian Government had endeavoured to prepare draft terms of reference providing for reference to an arbitration tribunal of the issues arising out of the negotiations. Firstly, its draft *compromis* (A/4030, annex VII) took account of the recognition by both parties of the exclusive and controlling validity of the 1908 Convention and acknowledged that the problem of delimitation involved the juridical procedure of interpreting that document. Secondly, it recognized the agreement reached that all problems relating to the matter, whether juridical, political or otherwise, had already been settled by the Convention. Thirdly, it provided for the exclusion of *de facto* considerations. Fourthly, it noted the principle that agreements concluded by Italy with third Powers should be excluded. Fifthly, it took into account the geographical problems left unsolved by the negotiations relating to the interpretation of the Convention and the evidentiary problems concerning the juridical value to be attributed to documents invoked by either side. Sixthly, it expressed the view that it would be helpful if both sides were to agree upon basic rules of procedure. Finally, it included suggestions designed to prevent delays similar to those which had characterized ear-

lier efforts to settle the frontier problem. In other words, the Ethiopian Government had tried simply to provide for the establishment of the juridical procedure of arbitration along the lines frequently followed in the past.

26. The Italian Government, on the other hand, had now reversed itself, for in its draft *compromis* (A/4030, annex VI) it refused to recognize any juridical basis for arbitration and sought to void the terms of reference of all juridical content in favour of an exclusively political formula. It not only made no reference to the Convention but in its explanatory notes objected to the fact that the Ethiopian draft *compromis* referred to it. Furthermore, the Italian draft *compromis* and the accompanying explanatory notes excluded all reference to the issues arising out of the negotiations, despite the recommendation in General Assembly resolution 392 (V), and at the same time provided for the introduction of issues which Italy had agreed to exclude and of matters which had not been brought up during the negotiations at all. Those documents, together with the statements made to the Committee by the Italian representative at the twelfth session, left no doubt concerning the intentions of the Italian Government.

27. With regard to the introduction of issues which it had been agreed to exclude, he recalled that at the twelfth session the Italian representative, having referred to other agreements which he had then wished to invoke, had been evasive when specifically asked what those agreements were. The answer was now to be found in the Italian draft *compromis* and explanatory notes, where the introduction of agreements concluded by Italy with third Powers for the purpose of dismembering Ethiopia was provided for by a phrase the intent of which was to evade the legal connotation of the word "agreement" by using the vague expression "*atti internazionali*" (international acts). The Ethiopian representative had given the Committee a partial list of those "*atti internazionali*" at its 737th meeting, held during the twelfth session.

28. The new documents, moreover, sought to make a political problem out of what was basically the problem of settling juridical issues by juridical procedures. The draft *compromis* and explanatory notes made that objective clear by substituting the vague concept of subject matter for issues concerning delimitation. Because it was desired that even that concept should have only the broadest connotations, the explanatory notes expressed objection to any definition or precision in regard to the subject matter. Another phrase in the Italian draft *compromis* that revealed the intention to introduce new and purely political questions was the vague reference to "interests and well-being". Finally, the Italian Government, in accordance with its desire to void the terms of reference of their juridical content, had declared in its note of 16 October 1958 (A/4030, annex IX) that the *compromis* should contain no agreed rules of procedure. In view of the position taken on the matter of procedure by the Italian member of the International Law Commission when discussing the model draft on arbitral procedure on 13 May 1958,⁴ that was a remarkable objection. It could thus be seen that in the Italian Gov-

⁴/ See *Yearbook of the International Law Commission*, 1958, vol. I (United Nations publication, Sales No.: 58. V.I, Vol.I), 442nd meeting.

ernment's opinion the terms of reference should include no issues, no basic law or even principles to be applied, no rules of procedure and no means for arriving at decisions. Finally, the Italian Government was so strongly opposed to the settlement of the problem on the basis of legal concepts that it even objected to the Ethiopian proposal that the "independent person" mentioned in General Assembly resolution 1213 (XII), who was to assist in negotiating the terms of reference, should be a jurist and had rejected the names of five eminent jurists from Scandinavian countries proposed by the Ethiopian Government. The latter had recently proposed five additional names, bringing its proposals to a total of ten names representing four nationalities.

29. The Italian Government's reversal of its stand had delayed the finding of a solution to the frontier problem and a further delay had been caused by its silence during the past several months on the question of negotiating the terms of reference as provided in General Assembly resolution 1213 (XII). Since April 1958 the Ethiopian Government had repeatedly requested the Italian Government to designate representatives to take part in those negotiations. The Ethiopian Government had sought to withhold communication of its draft compromis until the Italian Government had designated such representatives. When it had become apparent that their designation would be delayed still further it had decided in July to transmit its draft compromis to the Italian Embassy. Finally the Italian Embassy, in a note dated 29 October 1958 (A/4030, annex XII), had replied that it had been authorized all along to negotiate with regard to the terms of reference. Hence it was difficult to understand the long silence of the Embassy with regard to the designation of representatives for that purpose, its professed ignorance of the fact that it had been in possession of the Ethiopian Government's comments on the Italian draft compromis for two months and the reasons why it had failed during all that time to offer its comments on the Ethiopian draft compromis.

30. Ethiopia was asking for only the application of the delimitation article of an admittedly valid and applicable boundary convention, for the precise purpose of delimiting the frontier as provided for in General Assembly resolutions 392 (V) and 1213 (XII). If delimitations of frontiers were to be attacked because they followed the provisions of applicable boundary treaties, frontiers everywhere would be subject to revisionist manoeuvres. The Ethiopian Government had no other interest in that question than to see it settled promptly and thereby to contribute to the promotion of the best possible relations and co-operation with the future independent State of Somaliland. Hence it had consistently sought delimitation of the frontier on the ground. That was in conformity with the objective pursued by Ethiopia ever since the time of the Emperor Menelik, an objective reaffirmed during the first arbitration proceedings with Italy in 1935 and in the United Nations during the past decade.

31. In conclusion he stated that the fundamental significance of the frontier problem and of the precedent which it might set for Ethiopia and other nations did not obscure the importance which his country attached to the promotion of close understanding and co-operation with the future State of Somaliland. There had

already been encouraging signs of the development of such co-operation in the recent visit of high-ranking Somali officials to Addis Ababa and the results achieved on that occasion. He hoped that the question of the frontier might be a bridge to understanding and co-operation rather than a barrier between the two countries.

32. Mr. VITELLI (Italy) said that he would study the statement made by the Ethiopian representative and reply to it in the course of the debate. With regard to the preliminary statement made by that representative, concerning the diplomatic correspondence attached to the Italian Government's report, Mr. Vitelli said that he also would wish to submit pertinent information to the Committee.

33. Members of the Committee had had an opportunity to examine his Government's report (A/4030) and he hoped that they had reached the conclusion that Italy had left no stone unturned in its endeavours to reach a satisfactory solution. In fairness to the Government of Ethiopia, he would add that the lessening of the area of disagreement since the previous year was partly due to that Government's realization of the importance and urgency of the problem. He wished that that had been the spirit in which the Ethiopian Government had approached the whole of the procedure recommended in General Assembly resolution 1213 (XII). At the 822nd meeting of the Committee, the representative of Ethiopia had said that the African peoples were looking for guidance to Ethiopia as the oldest independent country in that continent. He would appeal to Ethiopia to show the same spirit of understanding in connexion with the particular problem which was before the Committee. Such an attitude could find no better expression than a whole-hearted compliance with the recommendations in General Assembly resolution 1213 (XII); the people of Somaliland were surely entitled to the same consideration as the other African peoples.

34. He had referred to a lessening of the area of disagreement. In fact, a fully fledged arbitration tribunal had been set up and had been waiting for several months, theoretically because the parties had been unable to agree. His Government's report, however, brought out the fact that it had made repeated attempts at conciliation and that the Somali Government had shown an understanding attitude. His Government had found it hard to understand the reasons for the inability of the Ethiopian Government to accept the various proposals made concerning the "independent person" who was to assist in the definition of the terms of reference. Nevertheless, it had recently made further proposals with a view to overcoming the difficulty. One such proposal had been that the person in question should be chosen from among the names appearing on the panel for inquiry and conciliation provided for in General Assembly resolution 268 D (III). Another had been that the provisions of article 8 of the model rules on arbitral procedures proposed by the International Law Commission^{5/} should be adopted. His delegation regretted that the Ethiopian Government had been unable to agree on any of his Government's endeavours to implement General Assembly resolution 1213 (XII).

35. With regard to the complex question of the terms of reference, the basic difference of approach was

^{5/} See Official Records of the General Assembly, Thirteenth Session, Supplement No. 9, para. 22.

well brought out by comparing article III of the Italian draft compromis, reproduced in annex VI of his Government's report, with article I of the Ethiopian draft, reproduced in annex VII. Such a comparison suggested that the two Governments placed a quite different interpretation on General Assembly resolution 1213 (XII) as a whole. That resolution contained a recommendation to the two parties to establish an arbitration tribunal and to agree on the terms of reference in accordance with which the tribunal would delimit the frontier. If, for argument's sake, his Government had accepted the Ethiopian draft proposal, there would have been no need for an arbitration tribunal, for there would have been nothing left for it to decide upon. The Italian draft, prepared in agreement with the Somali Government and in the spirit and the letter of resolution 1213 (XII), had embodied the idea that the tribunal should have complete latitude not only to establish its rules of procedure but to determine the international agreements and principles by which it should be guided in reaching its decision. The Ethiopian draft, on the other hand, narrowed the task of the arbitrators down to the mere interpretation of the Convention of 16 May 1908; the actual delimitation of the frontier would in that case have remained outside the scope of the tribunal's task. The General Assembly, however, had suggested the establishment of a tribunal to carry out the actual work of delimitation and not to make a decision on the matter dependent on an interpretation of the 1908 Convention.

36. The failure of direct negotiations was primarily due, not to the inability of the two parties to agree on the controlling validity of the interpretation of the 1908 Convention, but to the inability of the Ethiopian Government to accede to the suggestion that an equitable agreement could only be reached after consideration of all relevant international agreements and after taking into account the welfare of the peoples concerned.

37. With regard to the relevance of other international agreements, article IV, paragraph A, subparagraph (7), of the Ethiopian draft compromis referred to the exact point of tri-junction of the frontiers between Ethiopia, the Trust Territory and the Somaliland Protectorate. That surely was an instance where a third party was involved and where the tribunal was bound to take into account the relevant international agreement; moreover, it was a recognized principle in international arbitration procedure that the tribunal should be given an opportunity to consider all available documentation. Again, it was provided in article XVI of the Ethiopian draft that the award should become binding upon the parties, inter alia upon its ratification "by the duly constituted authorities of the local government of the territory now known as the Trust Territory"; but by making the award dependent upon ratification by the two parties the functions of the tribunal would become those of a mediator rather than an arbitrator. Moreover, article X, paragraph E, of the Ethiopian draft specifically excluded the representative of any third party from being heard by the tribunal.

38. The chances of reaching an equitable solution would inevitably be limited by restricting the functions of the tribunal to the mere interpretation of the 1908 Convention. That Convention, although no doubt it contained useful elements, was not the only international

agreement having a bearing on the frontier question. Furthermore, no satisfactory decision could be reached which did not take into account the interests and welfare of the people concerned and failed to comply with the principles of the Charter. A frontier was more than a mere line; it was the indispensable precondition of friendly co-operation between two countries. If that requirement were not met, the problem would remain unsolved.

39. In conclusion, he would refer the Committee to paragraph 14 of his Government's report, which summed up his Government's attitude to the whole question.

40. Mr. FARAH ALI OMAR (Italy), Minister of Economic Affairs of the Government of Somalia, thanked the Committee for allowing him to place before it the views of the Somali Government and people and paid a tribute to the guidance exercised by the United Nations through the United Nations Advisory Council for the Trust Territory of Somaliland under Italian Administration and to the work of the Administering Authority. Somaliland had achieved further progress in setting up free democratic institutions; elections to all municipal councils had been held under universal suffrage on 20 October 1958 and, for the first time in the history of Somaliland, women had participated in the vote. The progress of the Somali people, however, was imperilled by the uncertainty arising from the failure to solve the frontier problem.

41. He would not deal with the various stages through which the problem had passed but would confine himself to General Assembly resolution 1213 (XII). That resolution recommended inter alia the establishment of an arbitration tribunal. Although the Somali Government had frequently pointed out to the Committee that the procedure of mediation mentioned in General Assembly resolution 393 (V) should not be ruled out altogether, it had nevertheless accepted the arbitration procedure. It had agreed to the choice of Mr. Plinio Bolla, the Swiss jurist, as an arbitrator. It had subsequently approved the draft compromis later submitted by the Italian Government, article III of which covered the terms of reference of the tribunal.

42. Unfortunately, the draft compromis proposed by the Ethiopian Government limited the terms of reference to the literal interpretation of articles I to IV, inclusive, of the Italo-Ethiopian Convention of 16 May 1908. Furthermore, the Ethiopian Government had rejected the Italian Government's choice of the "independent person". The Somali Government had given further proof of its good will by agreeing to the appointment of the third arbitrator and by stating its readiness to accept certain other proposals in connexion with the choice of the "independent person". It had raised no objection to the question of the Somali-Ethiopian frontier being discussed with reference to international treaties which had in fact brought about the colonial partition of the Somali territories and had been negotiated without any consultation of the Somali people.

43. The Somali Government firmly rejected the proposition that the arbitration tribunal's decision must be taken on the basis of a literal interpretation of articles I to IV of the Italo-Ethiopian Convention of 16 May 1908 without reference to any other treaty. Such a proposition was inconsistent with juridical

reality. As an example, he would refer to article IV, paragraph A, sub-paragraph (7) of the Ethiopian proposal, which referred to the exact point of tri-junction of the frontiers between Ethiopia, the Trust Territory and the Somaliland Protectorate. Such a geographical point could only be determined as a result of a tripartite agreement or of a series of interdependent bilateral agreements from which it would be possible to infer the readiness of the three countries to choose and accept a given point. In the case in point no tripartite agreement existed but there was a series of bilateral agreements. It was clear therefore that in such a matter the tribunal could not be confined beforehand to the consideration of only one bilateral agreement—the Italo-Ethiopian Convention of 1908, as suggested in the Ethiopian draft.

44. The agreement between Italy and the United Kingdom signed in London on 1 June 1931 fixed the western terminal point of the frontier between Somaliland and the Somaliland Protectorate at the point of intersection of longitude 47 degrees east and latitude 8 degrees north. The Ethiopian Government, however, basing itself exclusively on its interpretation of the 1908 Convention, claimed that that point and the adjacent south-eastern territories belonged to it, and the boundary point in question and the neighbouring territories were now in Ethiopian hands, in accordance with the Anglo-Ethiopian agreement of 29 November 1954. There was no way in which the arbitration tribunal could decide that matter except by examining and interpreting all the relevant international treaties. In the opinion of the Somali Government, it would also be necessary to decide whether the Anglo-Ethiopian treaty in question was consistent with previous international border agreements. It was surely obvious that the Somali Government was adopting a legally correct

attitude in asking that the terms of reference should refer to all relevant international conventions.

45. Furthermore, apart from the interpretation of treaties which the Somali Government and people would be entitled to reject as being the expression of colonial relationships, an equitable solution of the question of the frontier between Ethiopia and Somaliland required that due consideration should be given to the interests and welfare of the population, in accordance with the principles of the United Nations. That was a point which he had already made during the twelfth session, at the Committee's 738th meeting, and which had been repeatedly reaffirmed both in the reports of the visiting missions sent by the United Nations to Somaliland and in many debates on the frontier question which had taken place in the General Assembly.

46. He would once more ask the Committee to consider the gravity of the problem and the need for a just solution to be found in the course of the current session, which was the last at which a practical decision could be reached before 2 December 1960, the date appointed for the independence of Somaliland. The Somali Government was ready to accept any formula which might lead to a solution, not excluding a possible recourse to direct consultation of the peoples concerned, to which he had referred at the 738th meeting.

47. Mr. ALEMAYEHOU (Ethiopia) said that the statements made by the previous speaker and by the Italian representative called for observations and comments by him. He would reserve the right to make them at a later stage in the debate.

The meeting rose at 1 p.m.