The Conference of Berlin and British 'New' Imperialism, 1884-85*

Wang Shih-tsung(王世宗)

I. Introduction: Great Britain vis-à-vis the Conference of Berlin

The European Powers' policy in Africa assumed massive proportions in the early 1880s, greatly sharpening imperial competition overseas. As Lord Salisbury witnessed: 'When I left the Foreign Office in 1880, nobody thought about Africa. When I returned to it in 1885, the nations of Europe were almost quarreling with each other as to the various portions of Africa which they could obtain.'[1] Many a politician then expressed anxiety over the intensification of imperial competition and rivalries as a result of growing power politics in Europe; but none of them showed timidity or suggested cautious self-abnegation in face of such a game involving national prestige.[2]

* 本研究承行政院國家科學委員會補助(NSC 87-2411-H-002-025)，謹此致謝。

[1] Quoted in Jean Stengers, 'The Scramble: Effect of French African Activity', in R. F. Betts ed., *The Scramble for Africa: Causes and Dimensions of Empire* (Lexington, Mass.: D. C. Heath, 1972), 65.

[2] Jeles Ferry, the French premier, so asserted in 1885 that France should be prepared to do what all the other powers do, and said: 'Since the policy of colonial expansion is the dominant driving force which is carrying away all the European powers we must play our part.' Meanwhile the British Prime Minister, W. E. Gladstone, wrote to Queen Victoria about a system now taking shape of annexations 'intended to forestall the colonizing efforts

Under such circumstances the Conference of Berlin was held, not in order to put an end to the chaos, but to study the possibility of a universally agreed rule regarding African colonization.

Referred to as the 'West African Conference' in the British, French, and German documents, the Berlin Conference took place from 15 November 1884 to 26 February 1885 involving 14 countries - roughly all the states of Europe except Switzerland, along with Turkey and the United States - following intensified colonial rivalries in West Africa. Although highly valued by contemporaries, it has long been ignored by modern scholars because of the ineffectiveness of its resolutions in history. Called by Bismarck in collaboration with the French Government, the meeting, held in the same rooms in which the Congress of 1878 sat, was aimed 'to obviate the misunderstanding and disputes which might in future arise from new acts of occupation on the coast of Africa.'[3] There were three series of invitations: the first, issued on 8 October 1884, comprised Britain, Spain, Portugal, Belgium, Holland, and the US; the second (on 18 October) less important powers in regard to African affairs, that is, Russia, Austria, Italy, Denmark and Sweden; and finally Turkey, who was invited after she, under protest, claimed that the discussion would affect her rights in Africa. Rumour had it that Bismarck's intention in involving so many nations with little or no direct interest in the issues to be discussed was to cover up his political purpose in the conference.[4] This was not entirely fictitious, though direct evidence was (and is) lacking. According to Bismarck's intimation to Baro de Courcel (the French Ambassador to Berlin) in early October, the reason for inviting the

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of other country,' in regard of which his government was not to stand as an idle onlooker. *Ibid.*, 73, 74.

[3] Language of the 'General Act of the Conference of Berlin'. See F. L. Israel ed., *Major Peace Treaties of Modern History 1648-1967* (New York: McGraw-Hill, 1967), 1081.

[4] J. S. Reeves, *The International Beginnings of the Congo Free State* (Baltimore: Johns Hopkins University Studies, 1894), 30-31.

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second series of powers was 'in order to give the greatest validity possible to the resolutions of the conference.'[5] That argument was persuasive so long as the invitations were so made as to gather together as many as possible powers who had little or no interest in the colonization of Africa. Anyway, if the Berlin Conference was not so important an assembly as was the Berlin Congress of 1878, it was at least a much more representative one; and that satisfied Britain, who desired that the engagements taken in the Conference should be binding not only on all the signatory powers but on those not represented.[6] Therefore the Act in consequence of the meeting was not so much an ordinary treaty as a permanent part of international law: there was no provision for its denunciation.[7]

Until 1884 the Powers in Africa were Britain, France and Portugal only. Though claiming vast land, Portugal's influence in Africa was thin, with most of her 'territories' actually free of troops and bureaucrats. Out of British and Portuguese distrust of French and Belgian ambitions in Central Africa and of recent German handsome gains in Africa,[8] the Anglo-Portuguese

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[5] See S. E. Crowe, *The Berlin West African Conference 1884-1885* (London: Longmans, 1942), 221. In mid-October, however, Bismarck told the British Government that the invitation was extended because of Italy's protest. See PRO (Public Record Office, London), FO403/46/42, Granville to Malet, 18 October 1884.

[6] PRO, FO84/1813/43, Granville to Plessen, 8 October 1884; FO84/1818/166, Malet to Granville, 23 December 1884.

[7] FO (Foreign Office) Confidential Print 14172*, Memorandum by Sir Erle Richards, ? December 1918, in Kenneth Bourne and D. C. Watt eds., *British Documents on Foreign Affairs: Reports and Papers from the Foreign Office Confidential Print* (Maryland: University Publications of America, Inc., 1987), Pt. II, S. I, vol. 7, 61.

[8] The Germans proclaimed a protectorate over Angra Pequena (bordering on the British Cape Colony) in March 1884; on 5 July Togoland (adjacent to the British possessions on the Gold Coast) was placed under the German protection; and on 14 July the Cameroons Protectorate was established, allowing Germany to nose into the Congo basin or the Niger. By the end of 1884, Germany had gained a firm foothold in East Africa, too; and during the sessions of the Conference, Bismarck announced another German protectorate over East Africa.

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Treaty was signed on 26 February 1884 (less than two months after they had set up a joint commission for controlling the navigation of the Congo), which had in view an alliance of the old colonial powers to prevent the expansion of the new. Partly in answer to Belgium's appeal for help, France then protested and Germany intervened, proposing an international conference for introducing into Africa 'the principles of equality and community of interests' that had long been successfully pursued in the Far East.[9] Three bases of discussion - freedom of commerce, freedom of navigation, and the formalities of valid annexation of territory - were put forward before the meeting by the two powers.[10] In view of such oppositions, Britain nullified the Anglo-Portuguese Treaty and turned to the Conference of Berlin for the solution of the problem, not very grudgingly,[11] although, as it was seen there and then, the Conference was initiated by a Franco-German collaboration against British adventure in the African continent.

Lord Granville, the British Foreign Secretary, was formally told of the German plans on 8 October 1884, and replied this very day accepting in

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[9] PRO, FO403/46/2, Bismarck to Munster, 7 June 1884. Some argue that the proposal for a Congo conference originated with the Portuguese government, and not with the German. See PRO, FO403/46/8, Ampthill to Granville, 25 July 1884.

[10] Plessen to Granville, 8 October 1884. Quoted in *The Times*, 21 November 1884. Documents in *Die Grosse Politik*, III, throw light on Bismarck's maneuver and the way in which he and Ferry agreed in advance of the formal meeting. See P. T. Moon, *Imperialism and World Politics* (New York: MacMillan, 1930), 83.

[11] Granville to Gladstone, 12 October 1884. Quoted in Agatha Ramm ed., *The Political Correspondence of Mr. Gladstone and Lord Granville, 1876-86* (Oxford: Clarendon Press, 1962), 278; PRO, FO403/46/24, Granville to Malet, 14 October 1884; Granville to Sir Henry Ponsonby, 12 October 1884, in G. E. Buckle ed., *The Letters of Queen Victoria*, 2nd S., vol. III (London: John Murray, 1928), 550. For Further discussion see A. B. Keith, *The Belgian Congo and the Berlin Act* (Oxford: Clarendon Press, 1919), 55. It would be indiscreet, though not entirely groundless, to conclude that had Britain not been trapped in Egypt, Bismarck would not have been able to persuade her to attend the Berlin Conference. For such viewpoints see Robin Law, 'Imperialism and Partition', *The Journal of African History*, vol. 24, no. 1 (1983), 102.

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principle a conference at Berlin, though he asked for further explanation of all the points which were to be treated at the conference, before sending his formal acceptance. The British obviously did not feel disposed to hurry.[12] According to the Under-Secretary of State for Foreign Affairs, Sir Charles W. Dilke, Lord Granville had been frightened by Baron Plessen, the German Ambassador to London, coming to invite him to a conference at Berlin, but he had been much relieved on finding that it was only about the Congo.[13] Aversion to internationalization of the Niger, the British self-assumed sphere of interest in Africa, led to much hostility to the proposed conference at Berlin from certain sections of the English public, exhibited on some leading articles of the press. Britain's attitude towards the impending conference was rather ambivalent. 'The Conference is too good a thing for us to be lost, but we cannot accept France and Germany having apparently come to an agreement,' Granville wrote to the Prime Minister, Mr. Gladstone on 12 October.[14] Some government officials worried that the Conference would militate against British paramount position in Africa,[15] but some considered it good for advancing British commerce. Anyway, after understanding that this occasion offered an opportunity for giving a general and formal sanction to the aforesaid important principles and for discussing various details bearing upon the colonization and commerce of Africa, the Gladstone Government accepted the Germans' invitation, much to Bismarck's relief.[16]

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[12] Waddington to Ferry, 10 October 1884, in R. J. Gavin and J. A. Betley eds., *The Scramble for Africa: Documents on the Berlin West African Conference and Related Subjects, 1884-1885* (Ibadan, Nigeria: Ibadan University Press, 1973), 347.

[13] See Stephen Gwynn and G. M. Tuckwell, *The Life of Sir Charles Dilke* (London: John Murray, 1917), vol. II, 85.

[14] Granville to Gladstone, 12 October 1884, in *The Political Correspondence of Mr. Gladstone and Lord Granville*, vol. II, 278. Also cf. PRO, FO403/46/24, Granville to Malet, 14 October 1884.

[15] PRO, FO84/1814, C. L. Hill Minute on Colonial Office Memorandum, 10 November 1884.

[16] Bismarck had assumed that Britain would probably refuse to join the meeting. See W. J.

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But until after the opening of the conference, the British Government still knew little about the real motives of Germany and her co-organizer, France.

Although a pledge of secrecy was given by all the participant powers in regard to the proceedings of the Conference, the purposes of the Conference were clearly stated - to guarantee free trade and navigation on the Congo and the Niger, to suppress slavery and the slave trade, and to establish certain uniform rules with reference to future occupations on the African coast. This, said Bismarck in the opening ceremony, constituted the positive aim of the Conference; and negatively it would not concern itself with existing questions of sovereignty.[17] In consequence, the Final Act of Berlin comprises six chapters - all out of touch with the present territorial controversies - (1) a declaration relative to freedom of trade in the Congo; (2) a declaration relative to the Slave Trade; (3) a declaration relative to the neutrality of the Congo; (4) an act of navigation for the Congo; (5) an act of navigation for the Niger; (6) a declaration introducing into international relations certain uniform rules with reference to future occupations on the coast of Africa. But, as an English reporter at the meeting observed, since questions of sovereignty had been expressly excluded from the agenda, 'some ingenious method of settling such questions extramurally' had to be devised.[18] Not surprisingly, territorial arrangements which were made outside the Conference among the powers were the important result. Thereupon, Britain's sovereignty over southern Nigeria (the Lower and Middle Niger), French claims to the north bank of the Congo, and the Congo Free State (with access to the sea), under Belgian control, were universally recognized; while on the other hand, French claims to parts of the Congo and of Nigeria

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Mommsen, 'Bismarck, the Concert of Europe, and the Future of West Africa 1883-1885', in Stig Forster and others eds., *Bismarck, Europe, and Africa: The Berlin Conference 1884-1885 and the Onset of Partition* (London: Oxford University Press, 1988), 163.

[17] *The Times*, 17, November 1884, p. 5, 'The West African Conference'.

[18] *The Times*, 20 November 1884, p. 5, 'The West African Conference'.

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and Portugal's assertions over the estuary of the Congo were ignored. All these acts, within and without the Conference, were steps leading to a great change in European (particularly, British) imperialism, which resulted in the actual partition of Africa, and forced Britain, the biggest colonial power, to react in a new way to foreign competitions.

II. The Principle of 'Effective Occupation' and the Creation of 'Sub-Colonies'

The Berlin Act of 1885 created new principles of international law (as was realized by the negotiators and contemporaries); one of which was the definition of the law of occupation. To regulate future colonization the Conference of Berlin established the principle that occupation of African territory had to be effective to be legal. Article XXXV of the Act prescribes that the signatory powers 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.'[19] The then recognized modes of acquiring new territory were (1) conquest; (2)cession; and (3)occupancy or settlement. It was to the latter of these modes of acquisition that the third basis was intended to apply. Formerly almost any symbolic occupation (such as the raising of a flag) was considered enough for a valid claim of territory; and heretofore such claims were usually exceedingly broad and far-reaching. Now a recognized right to 'unoccupied' territory was only due to corporeal possession: the establishment of control and the continued maintenance of law and order were required. Hence the importance of a powerful local government. It is obvious that the Berlin Conference was intended to formulate a general rule of international law upon this controversial subject. Consequently a 'Draft of an International Declaration Regarding Occupation of Territories' was issued by the Institute

[19] F. L. Israel, *op. cit.*, 1098.

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of International Law in 1888, proposing that the act of taking possession should be carried out 'by the establishment of a responsible local power, provided with sufficient means to maintain order and assure the regular exercise of its authority within the limits of the occupied territory.'[20] The requirement that the territories claimed must be effectively occupied would, to a certain extent, prevent general or wholesale annexations, therefore alleviating imperial competition.[21]

However, effective occupation was difficult in practice due to many reasons, among which was the recalcitrance of the natives. The partition of Africa thus became rather theoretical, a partition which took place only on paper. The result was that the powers' sovereignty over the African continent was based almost entirely on treaty rights, on a few scraps of paper obtained from the native chiefs, often in a questionable manner. Although it was doubted whether the consent of the natives was necessary to the validity of the annexation,[22] the principle of the 'voluntary consent of the natives', propounded by the American delegate in the conference, was tacitly approved. After the postulation of the principle of 'effective occupation' at the Berlin Conference, a large number of agreements entered into with the African chiefs were produced by the European powers as they were anxious to display documentary evidence to each other for their territorial claims or spheres of action respectively. In the course of Africa's partition, territorial titles were generally based upon the 'consent' of the native chieftains; while few were assumed on the strength of the 'right of conquest'. And the treaties usually involved more far-reaching and more specific surrenders of right on

[20] C. G. Fenwick, *International Law* (New York: Appleton-Century-Crofts, 1948), 349.

[21] But, as P. T. Moon points out, it should not be taken too seriously, as 'occupation' need not mean more than building a fort of the rudest kind to control a vast area. See P. T. Moon, *op. cit.*, 85.

[22] PRO, FO403/46/41*, Memorandum by Sir E. Hertslet on the Formalities Necessary for the Effective Annexation of Territory, 18 October 1884.

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the part of the natives than those in the days of informal empire. In places where colonies or protectorates were ultimately established the powers relied on agreements with the natives and stuck to spheres of influence without effecting a real change in local politics until the close of the century.[23] However, events proved that the treaties did not suffice to bring the natives under control: it was force that made the final settlement. In the last analysis, as Captain James Cook said, 'the position of every power in Africa rested on "effective occupation" backed by force.'[24]

Spheres of influence and protectorate were among the most important political institutions of modern colonialism. Both were the product of treaties, and, therefore, had their origin in international law, though in essence these doctrines were more political than legal. It can be seen that the very idea of a sphere of influence implies potentially the protectorate.[25] A sphere of influence is, where possible, usually the prelude to a protectorate, and a protectorate to a colony. The events after the Berlin Conference had brought within each empire territories where an elaborate system of government would be premature. Since a provisional supervision of affairs was all that had been wanted at the time, a number of territories called protectorates resulted. As a rule, the protectorate, directed by a chief commissioner and a staff, was intended to be transitional, with a view to changing it into an annexation, as had been most of the cases in Central Africa. Spheres of influence, like protectorates, were a device for preventing a major war in the scramble for colonies. The notion of a sphere of influence is very old; but in politics it was popularized by the Berlin Act. The term *spheres of influence* first came into general use with the partition of Africa during the late nineteenth century. Actually it was an invention by the Conference of Berlin.

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[23] D. K. Fieldhouse, *Economics and Empire 1830-1914* (London: Macmillan, 1984), 467.

[24] Quoted in K. O. Dike, 'The Development of European-West African Relations and the Partition of Africa', in R. F. Betts, *op. cit.*, 133.

[25] P. S. Reinsch, *Colonial Government* (New York: Macmillan, 1926), 110.

A new departure in diplomacy, the conception of a sphere of influence was indicated in Article VI of the Berlin Act, in which the exercise of 'sovereign rights or influence' is alluded to.[26] And the 1885 agreement between Britain and Germany regarding their territories on the Gulf of Guinea was the first international arrangement to employ the principle of sphere of influence, though in its language the term 'sphere of action' was actually used instead.[27] After this pattern a great number of similar agreements were concluded between the powers during the late nineteenth and early twentieth centuries, particularly regarding their interests in China.

In the conference it was agreed that in future any power that effectively occupied African territory and duly notified the other powers could justly claim the right to its possession. Hence silence on the part of the other signatory power meant acquiescence in the claim made. Article XXXIV stipulates:

> *'Any power which henceforth takes possession of a tract of land on the coasts of the African Continent...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...to make good any claims of their own.'*[28]

This gave a right signal to the powers for partitioning Africa. In conformity with the above understanding, the powers had notified to the others the various protectorates which they had assumed on the coast. The obligation imposed on the powers to give notice of their acquisitions led to numerous agreements and treaties among the European states for defining their respective spheres of influence. In some cases the powers did not bother to enter into an engagement with the natives, and considered a notification to

[26] F. L. Israel, *op. cit.*, 1086.
[27] *British Parliamentary Papers*, 1884-85 LV, Granville to Munster, 29 April 1885, p. 553.
[28] F. L. Israel, *op. cit.*, 1097-98.

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the other powers sufficient for their territorial claims. Declaring their spheres of influence in haste, the powers often demarcated vaguely by lines of longitude and latitude, without regard to actual geographical and tribal limits. This left a bitter legacy to the modern states of Africa in their tasks of nation-building. Whereas the duty to give notice for a good claim to new territory had its benefit as well: the provision did help to prevent any one power from excessive or universal land-seizure, for the notification enabled the other power to protest and/or to take a countermeasure, i.e., making equivalent annexations.[29]

Since the Conference of Berlin, largely on account of the French insistence, had refused to deal with territorial acquisitions other than the African coasts, some tacit understanding concerning the colonization of the hinterland had to be reached among the powers. Raised by the commissioners of the US but not sanctioned officially or strictly defined in the conference, the doctrine of the 'hinterland' (backcountry) was gradually accepted as a rule of the game by the signatory powers to the effect that any power taking possessions on the coastland had prior rights to the area lying inland from the coast. This was to avoid the problems that the colonizers of the interior of the Americas had encountered before. This theory contended that the occupation of the sea-coast entitled a nation to the possession of the inland territory contiguous to her initial coastal settlements, and of the navigable rivers included within it. It was agreed, as what the British had suggested, that when a nation had 'discovered' a country, and duly notified its 'discovery', it had a right to assume sovereignty over the whole country within those *natural* (hence *reasonable* rather than *indefinite*) boundaries which were essential to the integrity and security of its settlement.[30] As the

[29] P. T. Moon, *op. cit.*, 85.

[30] PRO, FO403/46/41*, Memorandum by Sir E. Hertslet on the Formalities Necessary for the Effective annexation of Territory, 18 October 1884. It cannot be, as some suggest, that by the doctrine of the hinterland any power who possessed a strip of coast lands was entitled

Berlin Act had rendered impossible the maintenance of stupendous claims to the inland province, the powers had to secure their proper share through international treaties. Although not occupied in the technical sense (and in practice the extension of governmental power in the inland was slow), the interior zones were recognized, through bilateral agreements or negotiations (and acquiesced by third states), as constituting 'spheres of influence' or 'spheres of interest' of the colonizing power based on the coastal possession. In fact, however, the hinterland usually soon assumed the character of colonial territory and normally formed a large part of the new colony proclaimed at a later date. By the end of the nineteenth century international treaties between Britain, France, Germany, Italy and Portugal had definitely determined the distribution among them of the interior boundaries of Africa. In this manner Africa was partitioned peacefully, and superficially, as the powers claimed territories far beyond the areas under their real jurisdiction or control.

III. The Berlin General Act and the New World Order

It is no wonder that some colonists (e.g., Emile Banning, the adviser to King Leopold II of Belgium[31]) viewed European expansion in Africa as a peaceful civilizing mission, and the Conference of Berlin as a productive meeting. Those who tend to justify the conference frequently point out that it did much to keep the imperial ambitions of the powers within limits by internationally coordinated action. It is argued that unless the rabid greed for territorial acquisition could be moderated or regulated, and some kind of balance of power reached among the European nations, a major war would

to claim the exclusive right to exercise influence for an *indefinite* distance land. See P. S. Reinsch, *op. cit.*, 104.

[31] Emile Banning's *Partage Politique de L'Afrique*, published in 1888, is chiefly a justification of the Berlin Conference, which he attended as a Belgian delegate. Cf. Emile Banning, 'The Peaceful Penetration of Africa', in R. F. Betts, *op. cit.*, 3-8.

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result from colonial collisions. Credit is also given to the chapters on the principles of free trade and free navigation in the Berlin Act for allaying the international tensions rising from economic protectionism. Indeed, the Conference of Berlin took a very important step in the establishment of the 'open door' policy by declaring the rules of free commerce, free navigation and neutrality for the conventional Congo basin (Chapters I, III, and IV), and by recognizing the Congo Free State. As the conference focussed on the matters of West Africa, it was expressly recognized that in extending the principle of free trade to the eastern zone, the conference powers only undertook engagements for themselves, and that in the territories belonging to an independent sovereign state this principle should only be applicable in so far as it was approved by each state. But the Powers agreed 'to use their good offices' with the governments established on the eastern shore for the purpose of obtaining such approval, and in any case of securing the most favourable conditions to the transit of all nations.[32] That could be called the 'spirit of Berlin'. Peace was the best reward of the Berlin Conference. The partition was orderly: it was arranged without war. And the requirements of effective occupation and notification were met in the succeeding years by the powers in colonizing not only the coastland but also the interior.

By placing the Congo basin under certain international supervision (The International Association was the mandatory of the Congo Free State and represented its Government.[33]), and prescribing for it the open door rules, the Conference of Berlin brought about the idea of mandate. As Lloyd George said, there existed 'no large difference between the mandatory principle and the principles laid down by the Berlin Conference.'[34] The Berlin Act

[32] Article I of the General Act of the Conference of Berlin. See F. L. Israel, *op. cit.*, 1085.

[33] PRO, FO84/1816/165, Memorandum by Sir Julian Pauncefote on the Recognition of the International Association, 2 December 1884.

[34] Quoted in W. R. Louis, 'The Ear of the Mandates System and the Non-European World', in Hedley Bull and Adam Watson eds., *The Expansion of International Society* (Oxford:

embodied the nineteenth-century humanitarians' demands; it put forward a doctrine of trusteeship for the natives of Africa, as the powers agreed to 'watch over the preservation of the native tribes and to care for the improvement of their moral and material well being, and to help in suppressing slavery, and especially the Slave Trade.'[35] The responsibilities of the colonizing power as a trustee for the welfare and development of dependent peoples were first set forth in the Berlin Act, then formulated more clearly by the Brussels Conference of 1890 and the Algeciras Conference of 1906. The idea was realized in the mandate system established by the League of Nations in 1919, and promoted further under the United Nations Trusteeship System after the Second World War, and survives today in the form of foreign aids given by developed countries to the under-developed.

The significance of the Berlin Conference has often been underestimated or exaggerated. Scholars like S. E. Crowe and F. H. Hinsley belittle the effects of the meeting, proposing that its regulations failed of their purposes.[36] The argument that the Conference regulated, if not directly introduced, the partition of Africa evokes much controversy. Although the conference did not, as Sir Julian Pauncefote (the British Permanent Under-Secretary of Foreign Affairs) had expected, 'end in smoke',[37] the regulations of the Berlin Act have some serious weaknesses and limitations. First of all, the signatories were required to notify the other powers about acquisitions of territory *after*, not *before*, the taking of possession. And the requirement was seen rather an act of courtesy than a rule of law.[38] Secondly, the provision of

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Clarendon Press, 1984), 204.

[35] F. L. Israel, *op. cit.*, 1086.

[36] See S. E. Crowe, *op. cit.*, 3 & 5; and F. H. Hinsley, *Power and the Pursuit of Peace* (Cambridge: Cambridge University Press, 1963), 256.

[37] PRO, FO84/1814, Minute by Pauncefote, 30 October 1884.

[38] *British Parliamentary Papers*, 1884-85 LV, Malet to Granville, 21 February 1885, p. 121.

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'effective occupation' applied only to future acquisitions, not to existing territories; and only to coastal areas (most of which had already then been claimed and seized), not to inland colonies. It related only to full colonies, not to protectorates or spheres of influence. The force of the stipulation was obviously minimized so as to avoid rising controversial questions (such as conflicting claims of sovereign rights); and in practice, nothing would be required to render effective new acquisition on the African continent except notification of the fact to the other powers. Thus, international duties on the African coasts remained in effect such as they had been hitherto understood, as Sir Edward Malet, the British representative, reported to his government.[39] And since the later partition was concerned mainly with the interior of the continent, it is arguable that the Berlin Conference had little effect on it.[40] The clauses of the Berlin Act, liable to different interpretations, soon proved too vague to be workable. Moreover, failing to obtain the European powers' endorsement of the idea that the African native chiefs had rights in international law, the US government had declined to ratify the Act.

Historians differ, as has been shown, as to whether the Berlin Act of 1885 actually triggered the partition of Africa, or whether the scramble started in West Africa. Sir Charles W. Dilke once said that it was the Berlin Conference that 'virtually settled the whole future of the Dark Continent.'[41] So imprecise is the comment that it cannot help to ease the controversy. The popular belief at that time was that the Conference partitioned Africa, somehow. There is little doubt that the law of occupation laid down by the Berlin Conference prepared the way for the vigorous competition for African colonies in the following two decades; and the first five years of which

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[39] PRO, FO403/49/36, Malet to Granville, 7 January 1885; also cf. *British Parliamentary Papers*, 1884-85 LV, same to same, 21 February 1885, p. 121.

[40] D. K. Fieldhouse, *The Colonial Empires: A Comparative Survey from the Eighteenth Century* (London: Macmillan, 1991), 213.

[41] Stephen Gwynn and G. M. Tuckwell, *op. cit.*, vol. II, 85.

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witnessed the height of the scramble. It seemed natural that effective occupation of the coastline led to effective occupation of the inland, which led to a partition of the continent.[42] Indeed, the meeting was taken, to a great extent, by its participants and contemporaries to be an occasion for negotiating a dismemberment of the African continent.[43] The conference undoubtedly served the momentous initiative for partitioning Africa. In other words, 'it was the issues raised in anticipation that precipitated partitions.'[44] At least the 'indirect good' done was that it helped the various powers to understand each other's demand, and to coordinate their viewpoints. Though the regulations laid down at Berlin proved ineffective in the later process of partition, the conference was a significant step for introducing international law into the Powers' colonization of Africa. Hence the legitimation of European expansion overseas. The conference, however, did not itself partition Africa; and there is general agreement among modern historians that it did not cause partition. As has been said, the agenda excluded the questions of territorial sovereignty, which were dealt with outside the formal meetings. And the partition was effected not by the conclusions of the conference, but by bilateral agreements in a number of years between the powers after (and before) the sessions. The Conference of Berlin was certainly relative to the partition of Africa, but it was not necessarily the cause for such an outcome. 'Only after the Conference closes its doors,' so *The Times* correspondent at Berlin commented, 'will it be seen what "the

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[42] Imanuel Geiss, 'Free Trade, Internationalization of the Congo Basin, and the Principle of Effective Occupation', in Stig Forster et al., *op. cit.*, 279.

[43] *The Times* correspondent reported on 21 January 1885 (p. 5) : 'One characteristic feature of the Chancellor's entertainment yesterday to the members of the Conference was the menu, which took the artistic form of a map of Africa (giving prominence to the Congo and the Niger), held up by a negro, and surrounded with palms and other exotic plants.'

[44] Ronald Robinson, 'The Conference in Berlin and the Future in Africa 1884-1885', in Stig Forster et al., *op. cit.*, 32.

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scramble for Africa" really means.'[45]

IV. The British Reactions to the Berlin Scheme

In 1865 the House of Commons' Select Committee on Africa issued a report advocating limited governmental activities in West Africa.[46] In 1882 the Colonial Office reemphasize the policy of 1865.[47] On the other hand, the English traders in Africa were actively agitating for government support for their enterprises. The debate on government's role in the exploration of Africa lasted for a long time in Gladstone's cabinet. Until 1883 the Colonial Office and the Treasury were firmly against any extension of governmental responsibilities in West Africa.[48] The Prime Minister himself had no desire for more annexations; nor did Lord Granville, the Foreign Secretary, care about the political future of the Congo. But the Foreign Office were divided in its counsels. Some of the permanent officials (such as T. V. Lister, the Assistant Under-Secretary at the Foreign Office) were gradually converted to the opinion that 'to keep France back [was] a national necessity'.[49] Eventually government's responsibility for the defence of British commercial interests was acknowledged. Thus, in November 1884 the Government consented that prominent persons practically acquainted with British West African trade would be present in Berlin during the conference on behalf of

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[45] *The Times*, 5 December 1884, 'The West African Conference', p. 5.

[46] *British Parliamentary Papers*, 1865 V, 3-15.

[47] PRO, CO806/203, Minute by A. W. L. Hemming, 19 March 1882. Quoted in Robin Brooke-Smith, *The Scramble for Africa* (London: Macmillan, 1987), 12.

[48] PRO, FO84/1654, R. G. W. Herbert (Permanent Under-Secretary at the Colonial Office) to the Foreign Office, 3 May 1883: 'The responsibilities of Her Majesty's Government on the West African Coast are already very heavy, and Lord Kimberley (the Colonial Secretary) is of the opinion that it is very undesirable to add to them.' Cf. also PRO, CO806/203, Minute by Meade, 18 March 1883. Quoted in Robin Brooke-Smith, op. cit., 24.

[49] James Hutton (the President of the Manchester Chamber of Commerce) to F.O. Quoted in M. E. Chamberlain, *The Scramble for Africa* (Harlow, Essex: Longman, 1989), 57.

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important commercial interests in North of England.[50]

Britain's diplomatic deployment at Berlin looked unusual. The deliberative body at the conference comprised two categories of members: plenipotentiaries and associates. Some powers were represented by several plenipotentiaries (Germany had four, Belgium, Portugal and the United States two each.), while Britain had only one. But, on the other hand, the English associates were more numerous than those of any other powers;[51] and much important work were done by this secondary class of negotiators. As few of the senior diplomats were aware of actual conditions in Africa, they had to rely on their advisors. It was said that no stronger staff of experts had ever represented Britain abroad before. The popular demand apparently held sway over British policy at the Berlin Conference. But no less true is the fact that British public opinion, like the Whitehall, was not eager for territorial acquisitions in Africa. 'We want trade, not territory,' was the Whig journal *Economists* declaration over the question of the Congo and the Niger brought up by Germany at the conference.[52] That the British were not very concerned about territorial gains was evidenced by the very small number of questions being raised over the progress of the conference held at Berlin during its sessions, which were widely supposed to be intended for Africa's partition. And there was not even a general debate about the conference's objects and its results.[53]

Britain's aim at the Berlin Conference was, according to Sir E. Malet, to

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[50] *Hansard's Parliamentary Debates*, 3rd S., vol. 293, 10 November 1884, p. 1372.

[51] Sir Edward Malet, the Plenipotentiary, was assisted by R. H. Meade, the Assistant Under-Secretary at the Colonial Office; Mr. H. Perey Anderson, the Superintendent of the African Department of the Foreign Office at Paris; Mr. J. A. Crowe, the Commercial Attaché for Europe; Mr. A. W. Hemming, the Principal Clerk at the Colonial Office.

[52] *Economist*, 29 November 1884, p. 1442. Quoted in Elfi Bendikat, 'The Berlin Conference in the German, French, and British Press', in Stig Forster et al., *op. cit.*, 384.

[53] The lack of public interest in the Berlin Conference was also explicable by the fact that in 1884 and 1885 the public was absorbed in the discussion of the Franchise Bill, the crisis in Ireland and in Afghanistan, and the Gordon mission to the Sudan.

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prevent 'the anarchy and lawlessness which must have resulted from the influx of traders of all nations into countries under no recognized form of government.'[54] Britain was quite willing to see the Congo question internationalized and the African continent neutralized since.[55] 'It is only because it is free that it thrives,' so the British commercial circles cried.[56] But the question of neutrality involved many points of difficulty.[57] So Britain was satisfied that the Berlin Act provided for free trade in the widest sense in the 'Conventional Basin' of the Congo (which, much larger than the geographical basin, met Britain's 'liberal interpretation' of the Congo Basin[58]) and free navigation of the rivers. As these principles - ever adopted in the Treaty of Vienna of 1815 - benefited most the stronger industrial powers, such as Britain and Germany, the less industrially powerful nations like France and Portugal were trying to restrict their application. Thus, on the matter of the principle of liberal economy the British and the Germans

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[54] Quoted in Ronald Hyam, *Britain's Imperial Century, 1815-1914* (London: Macmillan, 1993), 231.

[55] PRO, FO84/1817/296, Granville to Malet, 16 December 1884. The Foreign Secretary wrote: 'Her Majesty's Government will be prepared to accept the extension of the principle of neutrality over the widest area which may meet the concurrence of all the Powers in [the] Conference.' It has been pointed out that Britain's motive behind the Anglo-Portuguese Treaty of February 1884 had been to prevent the French from achieving supremacy in the Congo, and so she was quite willing to see the Congo question internationalized. See M. E. Chamberlain, *op. cit.*, 55. The Treaty was severely condemned in Britain because, in order to get rid of France, it proposed to concede the sovereignty of the Congo to Portugal. At Berlin a chief member of the British delegation, Perry Anderson, proposed to recognize French and Belgian claims on the Congo and the new German possessions in return for their consent for the British Niger protectorate and the principle of free trade on the Congo.

[56] *British Parliamentary Papers*, 1884 LVI, The Manchester Chamber of Commerce to Lord Granville, 5 March 1884, p. 89.

[57] For details see A. B. Keith, *op. cit.*, 294-96.

[58] PRO, FO84/1815/216, Granville to Malet, 24 November 1884. Some endeavours had been made during the conference to enlarge the scope of the proceedings, by including the commercial as well as the geographical area of the Congo and its tributaries.

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cooperated, while France and Germany became antagonistic. That is to say, in the interest of English commerce, Britain would see with comfort Germany pursuing an active colonial policy in Africa; and both would see France as a common enemy in exploring that continent.[59] Miss Crowe in her classical book on the Berlin Conference shows that the Franco-German *entente* established before the conference disintegrated when the meeting was proceeding, until it ended in something like an Anglo-German understanding, a proof of which is the Anglo-German agreement regarding their respective spheres of influence in Africa reached during mid-1885.[60] Gladstone had hoped that the provisions concerning freedom both of navigation and commerce, which formed the first and second bases of discussion, might be applied, not only to the Congo and Niger, but, as far as circumstances would permit, to all the African rivers, including the Suez Canal.[61] In endeavouring to secure the liberty of commerce in the Congo basin itself, Britain had particularly taken care to secure the same liberty for the coast-line, (especially the whole line between the limits of the Gaboon Colony and those of the Province of Angola). Indeed, it has been pointed out that, the most obvious defect about the Berlin Act was the limited spheres of its operation, and that the constriction of the area for free trading was owing to Britain's failure to protect her commerce on West Africa.[62] (NB British Africa was a free-trade area for most of the colonial period, except during wartime.) And Britain had tried, with partial success, to make these clauses

[59] Herbert Bismarck to Prince Bismarck, 16 June 1884. Quoted in R. J. Gavin and J. A. Betley, *op. cit.*, 389. Also cf. PRO, FO84/1820/128, Granville to Count Munster, 22 January 1885.

[60] Cf. W. R. Louis, 'Great Britain and German Expansion in Africa, 1884-1919', in Prosser Gifford and W. R. Louis eds., *Britain and Germany in Africa* (New Haven: Yale University Press, 1967), 9; and Peter Duignan and L. H. Gann eds., *Colonialism in Africa 1870-1960* (Cambridge: Cambridge University Press, 1973), vol. IV, 'Introduction', 8-9.

[61] PRO, FO84/1813/43, Granville to Plessen, 8 October 1884; FO84/1814/223, Granville to Malet, 7 November 1884.

[62] A. B. Keith, *op. cit.*, 282.

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stand in the broadest sense: though compensatory taxes were not concealed, the British amendment for insuring equal treatment of foreign traders was accepted. In Africa Britain obviously favoured an extension of the free trade principle as wide as possible, and that consideration ultimately outweighed the pursuit of any specific interest.

As for the Niger, since the British held treaty rights and trade monopoly over that region (the Gladstone Government had finished its hectic treaty-making activities on the Niger only a few days before the conference began), they could lay claim to a privileged status (something like a protectorate) over the Niger, and rightfully reject applying there provisions similar to those on the Congo.[63] Such an attitude was even more justifiable in view of the different physical conditions existing between the Congo and the Niger. For the purposes of navigation the Niger was not an 'international river'.[64] To the British Government's surprise, the conference, from the start of its sessions, seemed to agree to Britain's standpoint over the differences between the Niger and the Congo in terms of international relations.[65] But Britain was still prepared to promise the powers free navigation on the same basis as in the Congo.[66] In fact the British Government was not at first unwilling to allow in the Niger all the provisions proposed on the Congo, but after a second thought Britain considered it necessary to make specific reservation in regard to her special position in that valley. She then decided to appear as 'the Niger power'.[67] Britain was ready to guarantee the principles of free

[63] *British and Foreign State Papers*, 1883-84, vol. 75, Granville to Malet, 17 October 1884, p. 1024.

[64] PRO, FO403/48/61, Memorandum by Mr. Anderson on the Niger Question, 2 December 1884.

[65] R. J. Gavin and J. A. Betley, *op. cit.*, xxv.

[66] PRO, FO403/47/28, Granville to Malet, 7 November 1884.

[67] PRO, FO403/46/26-2, Memorandum by H. P. Anderson on the West African Conference, 14 October 1884; *Hansard's Parliamentary Debates*, 3rd S., vol. 239, 'West African Conference', 24 October 1884, p.150. Gladstone and Lord Derby, his Colonial Secretary, had at first favoured the internationalization of the Niger, but they then gave in under the

commerce and navigation, but she maintained that surveillance over the exercise of these principles should not, like the case in the Congo, be carried out by an International Commission, that being the duty and privilege of England as the chief, if not the sole, proprietary power on the Lower Niger.[68] Britain's predominant position in the Niger was recognized at the Conference, so was the stipulation of free navigation on that river agreed to by her. Apart from commercial considerations, rising dissatisfaction of Gladstone's right-wing and radical cabinet members (e.g., Lord Kimberley, the Colonial Secretary, and Joseph Chamberlain, the President of the Board of Trade) with the Government's liberal policy in Africa was the reason behind the Britain's assumption of a more exclusive maneuver on the Niger. Although the Gladstone Government decided not to allow any internationalization of the Niger, the Liberals still had no intention of turning it into a British colony.[69]

Of the three bases of negotiation, it was the third, which laid down the principle of effective occupation, that made the greatest impact upon British overseas policy. In the opinion of Britain, deliberations at Berlin should not be confined to commercial interests, but she was much anxious about what decisions might be come to as to the subject of territorial possessions.[70] 'Real Occupation', said Gabriel Hanotaux, the French Minister of Foreign Affairs (1894-98), at the turn of the century, appeared to 'the only practical means of preventing difficulties and conflicts.'[71] This could be; but it

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pressure from the other cabinet members.

[68] Opening address of Sir E. Malet. Quoted in *The Times*, 17 November 1884, p. 5.

[69] Ronald Robinson and John Gallagher, *Africa and the Victorians* (New York: St. Martins, 1961), 177-80; and J. D. Hargreaves, *Prelude to the Partition of West Africa* (London: Macmillan, 1970), 335.

[70] PRO, Cab37/13/44, Proposed Draft of Despatch from Granville to Malet, ? November 1884; and FO84/1814, C. L. Hill Minute on Colonial Office Memorandum, 10, November 1884.

[71] Quoted in L. A. C. Raphael, *The Cape-to-Cairo Dream: A Study in British Imperialism* (New York: Cambridge University Press, 1936), 313.

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certainly was not peace that the promoters had in mind when they put the formula forth at Berlin in 1884. When the proposition was made for arriving at 'an agreement as to the formalities to be observed in order that fresh occupations on the African coasts should be considered effective', it caused much confusion to the British Government.[72] Indeed, it was somewhat difficult to know exactly what was meant by this expression. Before the meeting, Britain had realized it was the most delicate of all the proposed points of discussion, and she had asked for precise clarification of it. On being pressed by the British Government for explanation, Germany explained that this meant only the principles laid down by the jurists and judges of all states. Britain welcomed it as far as it was to aim at laying down some regular course of proceeding to be followed in the annexation of new territories, seeing that the recent acquisitions made by France and Germany were often done in an underhand manner.

But it caused Britain anxiety when it was understood to be intended to put an end to the idea of informal empire, which the British had pursued hitherto as far as possible when they extended their influence overseas, particularly in Central Africa. In pursuit of a system of indirect rule in imperial policy, the British Government sometimes also recognized the claims made by the other powers to sovereignty over territory which was not in their actual occupation. Now the new rules of the game proposed by Germany in the conference issued a great challenge to the traditional British practice. In asking for a more concrete standard and a more equal footing, it was a newcomer in the imperial competition contesting the claims to territorial titles of the old colonizer.[73] It was anti-British in origin. As T. V.

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[72] PRO, FO84/1814/27, Memorandum by A. W. L. Hemming (C.O.), 16 October 1884.

[73] Hedley Bull, 'European States and African Political Communities', Hedley Butt and Adam Watson eds., *The Expansion of International Society* (Oxford: Clarendon Press, 1984), 110; and S. E. Crowe, *op. cit.*, 178. The doctrine that territorial title was to base upon corporeal occupation had been used by England in the early seventeenth century as a

Lister believed, the principle of effective occupation was originally started as a protest against what Germany considered to be the 'shilly-shally proceedings of England' regarding Angra Pequena.[74] Unfortunately, or fortunately, France, an ally to Germany in the conference, occupied a position quite like Britain's in Africa. (Indeed, France had consented to cooperate with Bismarck in summoning the Berlin Conference on condition that the territorial issue be excluded from its agenda.) Taking this into account, Bismarck had to make concessions. Hence when the declaration of the principle of effective occupation had to be drafted both Germany and France perceived that it might prove inconvenient to their designs in Africa, and therefore tried to minimize its effects.[75] The result was that the language of the declaration concerning the jurisdiction and duties of occupying powers was vague.

Before the rules of effective occupation were finally decided upon, Britain was not at first disinclined to welcome the general application of these rules. While Germany was content to apply them to the coasts, Britain raised a question as to whether it could not be extended to the whole of the African Continent, as she saw that if confined to such a very small extent of territory, it would be of very little practical utility.[76] Without knowing the full implications of the restriction of the proposal, the British Foreign Office entertained strong suspicion that under the cover of the apparently limited scope of the project, a wide and extensive application of the rules regarding effective occupation would result from an arbitrary interpretation of the word 'coasts' when inland definitions were purposely left vague.[77] When satisfied

latecomer in the Americas, to contest the claims of Spanish and Portuguese imperialists.

[74] PRO, FO84/1820, Minute by T. V. Lister, 18 January 1885.

[75] PRO, FO84/1820, Malet to Granville, 18 January 1885.

[76] PRO, FO84/1819/230, Granville to Malet, 14 January 1885; Gladstone to Granville, 12 December 1884, quoted in Agatha Ramm, *op. cit.*, vol. II, 295.

[77] S. E. Crowe, *op. cit.*, 181-82. Another explanation given by Ms. Crowe is that the full implications of the restriction to the rule of effective occupation were 'only realized half-

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by Germany's definition of the word 'coasts' (as 'territories bordering on the sea') and when the realization was growing that any attempt to regulate rules for effective occupation in the whole of the African continent would involve great difficulties and complicate the question of colonization, the British Government withdrew its proposal. Clearly the object of this declaration in its final form had been to minimise a delicate subject in regard of European balance of power.

Another suggestion, made by Sir Edward Malet himself, was that an approximate definition of the limits of the territory occupied or taken under protection should accompany the notification of annexation, to prevent unreasonable or wanton extension of any given settlement. In general, the British agreed that if a nation had made an occupation, it had the right to assume sovereignty over the adjacent 'vacant' territory which was necessary to the integrity of the settlement.[78] The British proposal was vetoed by the other powers, again.[79] (It was finally adopted in 1888.) Like the above case, this result turned out to be to the interest of Britain, who sought to limit rather than to extend the acquisitions made by means of settlement and the assumption of sovereignty over territory contiguous to the settlement.

Britain was however successful in securing the conference's assurance

way through the whole discussion, and even then not by all the responsible people concerned (including Granville).' (182) This was unlikely the case, as no forceful evidence presents itself.

[78] PRO, FO84/1819/230, Granville to Malet, 14 January 1885.

[79] The opinion of the Commission was adverse to the proposal that notification should be accompanied by an approximate definition of boundaries. Objection was made by France and Portugal on the ground of the difficulty which an occupying power would experience in fixing boundaries in a notification which was to accompany act of occupation; by Germany, from the opposite point of view, on the ground that it would be safer that an occupying power should not define at all than that it should give a vaguely approximate definition, and subsequently found claims on the contention that no objection had been made by the powers at the time of the original notification; by Austria and Russia, on the ground that notification of occupation implied an approximate definition of the territory occupied. See PRO, FO84/1918/257, Malet to Granville, 15 January 1885.

that the principle of effective occupation would apply only to future, not to present acquisitions. This action revealed again the fact that Britain was most anxious among the powers to reduce the effect of the new rules of African colonization. If '*occupations noubelles*' was to mean annexations subsequent to the conference, the decisions would have but little practical effect, as there were few places left on the coasts; but if '*noubelles*' was interpreted to include recent occupations, the protectorates newly established by the British in the Oil River would become a point of dispute.[80] As a last resort to check the other powers' wild expansion of territorial right, another British demand for a further alteration in the notification clause was satisfied, which denied that recognition by the other nations certainly ensued from notification by an occupying power.

The most important amendment made by Britain to the bases of discussion in the Berlin Conference was the proposal, formulated by a 'Little Englander', Lord Selborne, the Lord Chancellor, for a distinction between 'annexation' and 'protectorate'. In line with the British traditional policy of informal influence, it was made to exempt Britain in her African possessions from the obligations of direct government imposed by the regulations of effective occupation.[81] The distinctions between colony and protectorate were important because they were of a constitutional character. Not merely were the annexations much more costly than the protectorates, but the former had a very different legal status from the latter. To take the British Empire as an example, slavery and slave trade were prohibited in the colonies, to which British law automatically applied, but things were not similar in the protectorates, where the British exercised influence only behind the scenes. That, however, was not the case with France or Germany, who, in

[80] PRO, FO403/46/26, Minute by T. V. Lister on the West African Conference, 14 October 1884; see also PRO, FO84/1814/6, Malet to Granville 23 October 1884.

[81] PRO, FO403/49/73, Note by the Lord Chancellor, 11 January 1885; and FO84/1820/155, Selborne to Pauncefote, 23 1885.

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comparison, practised direct imperialism and treated the differences between protectorate and annexation as purely nominal. By protectorate, Lord Selborne said, they meant 'annexation under another name.'[82] As Lord Selborne believed, the inevitable effect of the general application of the principle of effective occupation would be to turn every protectorate into an annexation. Confronted with opposition from most of the cabinet members (especially from the Colonial Office) who were anxious to win Germany's goodwill towards the British position in Egypt, he had sympathy in this argument from the Prime Minister and the Law officers.[83] A long series of discussion among the ministers then followed, making the members of the conference sit in fretful and almost indignant inaction. Such pusillanimous irresolution had never been seen in the meeting. 'It almost seems as if it will take ten months to come to a decision on the third point in the programme of the conference... The Congress of Vienna sat six months, but the West African Conference threatens to sit six years,' a journalist at Berlin reported.[84]

Finally, the Foreign Office triumphed over the Colonial Office, as was usual the case in the quarrels involving both foreign and colonial policies;[85]

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[82] PRO, FO84/1820, Selborne to Pauncefote, 23 January 1885. Also cf. Forg Fisch, 'Africa as *Terra Nullius*: The Berlin Conference and International Law', in Stig Forster et al., *op. cit.*, 352-53.

[83] PRO, FO403/49/184, Memorandum by Sir W. V. Harcourt, 24 January 1885; FO84/1819/154, Note by Lord Chancellor, 3 January 1885; and FO403/49/52, Instructions to Sir E. Malet on the Third Basis, 9 January 1885. Gladstone seemed not to agree to buy Bismarck's support regarding Egypt at the expense of concessions on the part of Britain to Germany's demands at the Berlin Conference. He wrote to the Colonial Secretary: '...Any language at Berlin appearing to convey sympathy with [colonial alarmism] might at this moment do extraordinary mischief to us at our one really vulnerable point, Egypt.' Gladstone to Lord Derby, 24 December 1884, quoted in H. C. G. Matthew ed., *The Gladstone Diaries*, vol. XI (Oxford: Clarendon Press, 1990), 264.

[84] *The Times*, 26 January 1885, 'The West African Conference', p. 5.

[85] Luke Trainor, 'Policy-Making at the Colonial Office: Rovert Meade, the Berlin Conference and New Guinea 1884-85', *The Journal of Imperial and Commonwealth*

the British Government rallied behind the Lord Chancellor's position, and Malet was instructed to ask for the omission of the word 'protectorate' from the jurisdiction clause of the declaration.[86] Britain was of the opinion that if it was necessary to define the obligations arising from a protectorate, it should be done by a separate paragraph. The result was a complete British triumph, when Bismarck, to many people's surprise, finally conceded: the rules of effective occupation, in a complete conformity with the views of England, were vaguely and loosely defined, and more importantly, not applicable to the keeping of a protectorate. In the Berlin Act, occupations and protectorates, though mentioned in the same paragraph, are kept distinct; and the obligations imposed by the conference were no greater than were already admitted and acted upon in the existing British protectorates. Sir Edward Malet really gained more than the minimum that the British representative had been directed to contend for, when the German Government surprisingly dropped some of her previous objections to the rules as recast by Britain.

So was the difference between jurisdiction and authority noticed and emphasized, with the word 'authority', instead of the more definite term 'jurisdiction' being used in the rules regarding protectorates. At Berlin France and Germany argued that 'protectorate' implied jurisdiction, but in the resolutions it was stipulated that only in the case of an annexation was the occupying power required to establish a jurisdiction necessary for the maintenance of law and order; while in the case of a protectorate the protecting power was demanded merely to exercise authority for

History, vol. VI, no. 2 (January 1978), 135; also cf. W. J. Mommsen, 'Bismarck, the Concert of Europe, and the Future of West Africa, 1883-1885', in Stig Forster et al., *op. cit.*, 167.

[86] PRO, FO403/49/84, Granville to Malet, 13 January 1885, FO84/1819/230, Granville to Malet, 14 January 1885.

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administering justice.[87] That Britain refused to apply jurisdiction to protectorates was indicative of her rejection of the principle of effective occupation.[88] Now that the word 'jurisdiction' had given place to 'authority', much greater freedom of action was left for the protecting power.[89] Besides, Britain had for long held that declaring a protectorate entailed no power or obligation except towards the subjects of the dominant state; but the conference powers advocated that it conferred jurisdiction over the subjects of the protecting power and of other nationalities as well as over the natives. The Berlin Act actually provided (in Articles XXX-XXXII) Britain and France and the future protecting states with extensive assumption of local governmental power.[90]

As for the question of humanitarian requirements, the British representative, Sir Edward Malet, took the lead at the inauguration of the conference to remind the powers of the moral obligation incurred by the western states who, in the absence of Africans, were about to make decisions that would have tremendous impacts on the African people.[91] The motive behind this seemingly altruistic attempt of shifting the matter of European power politics to that of Euro-African relations was to secure a policy as

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[87] PRO, FO84/1819/129, Malet to Granville, 7 January 1885.

[88] M. R. Louis, 'The Berlin Congo Conference', in Prosser Gifford and W. R. Louis eds., *France and Britain in Africa: Imperial Rivalry and Colonial Rule* (London: Yale University Press, 1971), 211.

[89] PRO, FO84/1820/155, Selborne to Pauncefote, 23 January 1885; FO403/49/127, Malet to Granville, 17 January 12885; and H. C. G. Matthew ed., *The Gladstone Diaries*, vol. XI, 20 January, 1885, pp. 279-80.

[90] Article XXX of the Act says: 'Great Britain undertakes to protect foreign merchants and all the trading nationalities on those portions of the Niger which are or may be under her sovereignty or protection as if they were her own subjects.' And Article XXXII says: 'Each of the other Signatory Powers binds itself in the same way in case it should ever exercise in the future rights of sovereignty or protection...' See F. L. Israel, *op. cit.*, 1097.

[91] *British Parliamentary Papers*, 1884-85 LV, Protocol no. 1. Malet said: 'I cannot forget that the natives are not represented amongst us, and that the decisions of the Conference will, nevertheless, have an extreme importance for them.'

liberal as possible for the exploration of Africa. If that effort was fruitless as a means of preserving British paramount position in Africa, it served Britain's purpose of behaving herself like a champion of human rights. By raising the questions at Berlin of the slave trade and the liquor traffic, Britain had won a moral victory in the international crusades against racial abuses.[92]

V. Conclusion : The Balance Sheet for Britain and Her Fresh Departure in Imperial Enterprise

Altogether, it would be seen that as far as the matter of annexation was concerned, the Berlin Conference imposed upon Britain no new burden or obligations except the duty of notification - a formality which always had been courteously observed; while with respect to protectorates, it left her exactly as she had been before, except that it further increased her (and all the other protecting powers') legal power. It should be noted that Germany would reap the advantage of this regulation perhaps even more than Britain at that time, as all the possessions Germany had hitherto taken had the form of protectorate - a term susceptible of very diverse application. In months before the Berlin Conference Germany had proclaimed many annexations appropriated in the most dubious manner; and during the sessions Bismarck announced his government's protectorate over many parts of East Africa obtained by Karl Peters and other German adventurers. However, in consequence of the prescription of the effective occupation principle the vague territorial claims of former times had been clarified soon, and the powers began to advance their control on the spot as never before.

The convoking of the Berlin Conference was widely regarded as a setback for Great Britain in the age of the New Imperialism. A meeting on

[92] For details see Suzanne Miers, 'Humanitarianism at Berlin: Myth or Reality?', and L. H. Gann, 'The Berlin Conference and the Humanitarian Conscience', in Stig Forster et al, *op cit.*, 333-45 and 321-31.

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colonization was not in itself necessarily detrimental to Britain, as the biggest imperial power, but the conduction of the meeting under the control of Germany and France obviously militated against the development of British influence overseas. 'It is possible,' T. V. Lister, the Under-Secretary of the Foreign Office, wrote before the conference opened, 'that the proposed conference may produce results advantageous to British trade and colonization, but it is quite certain that it has not been planned with any such object.'[93] Britain was sitting at a conference which she did not convene, and of which she was nevertheless chiefly to bear the brunt. 'The real object of the Conference, in fact...is to show England and the world generally that she...is entirely, radically, and irremediably isolated,' a conference observer commented.[94] The conference originated to a great extent in an attempt on the part of the Franco-German alliance to destroy Britain's influence on the Congo and the Niger, which offer the most important access to the interior of central Africa.[95] To contemporaries, especially to the British people, the British Government had shown great firmness and ability in successfully defending British interests in the Niger; while on the other hand, there was a feeling that there had been a diplomatic failure about Britain's situation on the Congo. Some Englishmen who understood that the British position in Africa was and would be virtually unchallenged and matchless, thought that by acquiescing in the meeting of the Berlin Conference, by recognizing the International Association, and by submitting the whole basin of the Congo and its tributaries to a European council, Britain had yielded enough. To them, even the enlargement of the scope of the free trade principle in Africa was harmful to English interests. Briefly, they considered that nullifying the Anglo-Portuguese Agreement of 1884 and turning to Berlin for the solution

[93] PRO, FO403/46/26, Minute by T. V. Lister on the West African Conference, 14 Octover 1884.

[94] *The Times*, 18 November 1884, p. 5.

[95] M. E. Chamberlain, *The Scramble for Africa* (Harlow, Essex: Longman, 1989), 55.

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of the African affairs in question was the most injudicious decision Britain had made. Many of them believed that had the treaty with Portugal been ratified and carried out, in despite of the French and German protests, the Congo basin, together with a large part of West African coast, would have been added to the British Empire.[96]

Yet, in view of the fact that Britain was facing an almost universal hostility towards her position in Africa at the beginning of the Berlin Conference, she emerged finally with remarkable success. The Congo settlement was not unacceptable to the British Government, as has been shown above. Although there was a widespread feeling in Britain that there had been some failure of diplomacy as regards the Congo basin, it cannot be said that she lost it, since Britain had never wanted to take it. In view of Britain's humble and only wish then to keep the Congo free from French superiority, she was victorious. On the Niger question, the resolution was favourable to Britain, and much hailed in that country. So after Britain's predominant position had been recognized, she accepted the rules of free navigation on that river.

And the introduction into the international law of the system of 'sphere of influence' by the conference was a resounding triumph scored by Britain, in the beginning at least. If it is not arguable - as some otherwise believe it surely is - that the conception of a 'sphere of influence' was invented by British Foreign Office,[97] it is beyond all doubt that it was Britain that cherished this scheme more than any other powers, for Britain preferred indirect control and peaceful and gradual penetration to formal government. To Britain's taste, spheres of influence were a device used to designate those

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[96] *Quarterly Review*, vol. 159, no. 317, January 1885, 'The Congo and the Berlin Conference', 186-88; and *ibid.*, vol. 204, no. 406, January 1906, 'The Congo Question', 48.

[97] F. D. Lugard, *The Dual Mandate in British Tropical Africa* (London: William Blackwood, 1929), 12.

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regions over which an outside power claimed exclusive right or predominant influence or interest (i.e., hegemony) with the intention of subsequently gaining more definite control. Sphere of influence was convenient as offering territorial claims against other colonizing powers, without the necessity of immediate occupation. However, it must be noted that in the intensified competition for possessions in Africa in the 1890s, this practice was giving way to the proclamation of protectorates or colonies.

As for the question of effective occupation, Britain's views prevailed, though not necessarily at the cost of Germany's interests. 'I trust,' Malet commented in his final report at the close of the conference, 'that England at least, who...did not yield any point which she considered to be essential, will have no reason to be dissatisfied with the substantial results;' 'Dangerous definitions had been avoided.'[98] At the conference the British mission, which triumphant critics in Berlin at first described as 'an English pilgrimage to Canossa',[99] finally emerged from a difficult position without loosing any important interests or dignity. It is said that Bismarck soon lost his interest in the conference (his only role being to open and close it) because it became clear right from the start that the conference could not realize Germany's dream of forming a colonial alliance of continental powers against the British.[100] Britain's power was not failing in the 1880s, before or after the conference. And the British press was generally positive in assessing the

[98] *British Parliamentary Papers*, 1884-85 LV, Malet to Granville, 21 February 1885, p. 125.

[99] Lord Edmond Fitzmaurice, *The Life of Granville George Leveson Gower, Second Earl Granville* (London: Longmans, Green, & Co., 1905), vol. II, 375. The phrase 'to go to Canossa' was coined by Bismarck in the *Kulturkampf*, meaning to submit to the demands of the Roman Catholic Church.

[100] W. J. Mommsen., *op. cit.*, 169. Another historian, H. L. Wesseling, explains Bismarck's disinterest by pointing out that the political discourse of the conference was not that of power politics but of international law. See Wesseling, 'The Berlin Conference and the Expansion of Europe: A Conclusion', in Stig Forster et al., *op. cit.*, 527-28. Britain, as the strongest imperial power, would ultimately became the one who benefited most from the establishment of a set of universal regulations in respect of Africa's colonization.

conference as a whole.[101] *The Times*, for instance, hailed it as a triumph for the English principle of free trade.[102] As it was a victory of economic liberalism, it was a victory to the British; the more so when, as some understand, the conference powers concerned themselves more with commerce than with political power.[103] And therefore the Berlin Act is sometimes considered to be the most remarkable achievement in Lord Granville's long tenure of British Foreign Office (1870-74, 1880-85).[104]

As Gladstone observed in January 1885, the Conference of Berlin was based upon 'the demands now rife...for a system of annexations intended to forestall the colonizing efforts of other countries,' to which he was 'firmly opposed.'[105] But by this remark Gladstone was more isolated than thought-provoking. Lord Derby, the Colonial Secretary, had grasped the rhythm of the times when, at the same time, he urged the government to occupy the coastland between Natal and the Cape and between St. Lucia and Natal, in order to make British possessions in South Africa a continuous line of coast, although he agreed the scramble for colonies was 'somewhat ridiculous'. The Berlin Conference, even if it was not intended to partition Africa among the powers, was widely supposed by the public to have the inevitable dismemberment in view. Still the Prime Minister took strong objection to it; he told his Foreign Secretary: 'Generally, considering what we have got I am against entering into a scramble for the remainder.'[106] Obviously, while

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[101] For further see Elfi Bendikat, 'The Berlin Conference in the German, French,, and British Press', in Stig Forster et al., *op. cit.*, 394.

[102] *The Times*, 18 February 1885, p. 9.

[103] Imanuel Geiss, 'Free Trade, Internationalization of the Congo Basin, and the Principle of Effective Occupation', in Stig Forster et al., *op. cit.*, 264, 270-72.

[104] Lord Edmond Fitzmaurice, *op. cit.*, vol. II, 375.

[105] Quoted in Jean Stengers, 'The Scramble: Effect of French African Activity', in R. F. Betts ed., *The Scramble for Africa: Causes and Dimensions of Empire* (Lexington, Mass.: D. C. Heath, 1972), 74.

[106] Gladstone to Granville, 28 December 1884, in *The Political Correspondence of Mr. Gladstone and Lord Granville*, vol. II, 304.

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Gladstone classed Britain as a 'satisfied country', his colleagues and countrymen disagreed. In December 1884 he complained to Lord Granville that the tone of the memorandum prepared in regard of the conference by the Foreign Office people and other officials disquieted him, because in many places it savoured much of 'annexationism'. It, for example, laid down that Britain was to seek 'compensation' on the East Coast of Africa for 'concurring in measures *equal for all*' on the West Coast. On the other hand, Gladstone was inclined to procure the application on the East Coast of the principles which were to apply on the West. He said: 'Either I am very blind, or you and the other ministers concurring in the Draft dispatch must have reasons in your minds outside what are here presented.'[107] In this case, both were true.

However, to defend national interests Britain was becoming more active and aggressive in imperial enterprise during and after the conference. In the presence of the scramble for Africa, Britain was forced into action. For her, it might not be a question of the acquisition of territory; but it no doubt was a question of securing herself in a paramount position. After 1885 British policy in the Delta became more coherent and persistent. In 1886 the British government granted a charter to Sir George Goldie's (George Goldie Taubman, 1846-1925, founder of the National African Company) renamed Royal Niger Company, and in the next three years it chartered another two great companies for the exploitation of its possessions. Between April 1884 and September 1888 nearly 170 treaties in the so-called 'Treaty Form No. 5' were signed with African chiefs to establish or consolidate British influence on many African tribes. By the time the Berlin Conference was sitting, Goldie had procured the privileges of the British on the Lower Niger by buying out his French competitors; and E. H. Hewett, the British consul in the Oil River, had made a number of treaties with local chiefs in the Delta to

[107] *Ibid.*, 294-95, Gladstone to Granville, 12 December 1884.

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secure British primacy there. All these achievements were accepted at the conference as evidence of British predominance in both regions. Britain declared a protectorate on Somaliland in 1884, during the period of the Berlin Conference.

In June the next year Britain reached agreement, in terms of the Berlin Act, with Germany for dividing their 'spheres of action' on the Gulf of Guinea; subsequently a British protectorate was proclaimed there. And when confronted with the obligations in her paramountcies along the east coast imposed by the principle of effective occupation, Britain began to contemplate an Anglo-German partition of East Africa. From 1886 the principles adopted in the above agreement were applied to their protectorates on the east coast. The Anglo-German Treaty of August 1886 settled the boundaries of Cameroon; and their agreement of July 1890 fixed the boundaries of the East African spheres, with the British protectorate over Zanzibar and the Sultanate of Vitu formally recognized. In the mean time, Britain began to push her influence northwards from the Cape. She annexed Bechuanaland and Nigeria in 1885, Rhodesia in 1889, Nyasaland in 1893. Besides, Britain entered into an agreement with France in 1890 respecting Algeria, the Niger, Sokoto, and Madagascar; in 1898, respecting their spheres of influence in the Niger region; and in 1899, respecting the delimitation of the Eastern Sudan. And she concluded treaties fixing spheres of influence with Portgual in 1890, and with Italy in the next year. The British provided their new regions with full machinery of government, unlike what they had been used to do.

Nevertheless, the British Government under Gladstone and Salisbury still hesitated to assume a policy of direct control until the early 1890s. For example, the Niger Coast Protectorate had been placed under the supervision of the Foreign Office, rather than of the Colonial Office until 1893, when a formal government was established in order to meet the growing needs of British commercial expansion. By and large the spheres of influence and

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protectorates proclaimed by Britain in the 1880s and early 1890s were not turned into formal colonies until much later. And in some cases chartered companies were invited to run them to avoid direct imperialism from the Whitehall. This too seemed to comply with the traditional policy - formal rule succeeding a long period of peaceful penetration. And to the newly established British protectorates in Africa, Britain offered to apply the provisions of the Fifth Article of the Berlin Act, which secures protections to the persons and treatment of foreigners as to settlement or access to the markets.[108]

But after all the British Government had to come to terms with the new phase of imperialism after the Berlin Conference, assuming a more forward and masterful policy by and by. As Granville 'complained' to Count Munster, the German Ambassador in Paris, at the close of the conference: 'Her Majesty's Government are not desirous to add unnecessarily to the vast colonial possessions of this country...But the recent and sudden development of the interests of other countries in territorial acquisitions on the African coasts has made it necessary for Her Majesty's Government to take precautions lest their existing rights should be injured.'[109] In the immediate aftermath of the conference, Britain was compelled to make her occupation of the Lower Niger and the Oil Rivers 'effective', good for her perhaps. It may be arguable that the British did not, and could not, try to defend the concept of informal empire, which had always been indefensible in international law.[110] However, setting aside her former opposition to a

[108] Lord Granville to Count Munster, 16 May 1885. Quoted in E. Hertslet, *Map of Africa by Treaty* (London: H. M. Stationery, 1909), vol. III, 872. The second paragraph of the Fifth Article of the Act runs: 'Foreigners, without distinction, shall enjoy protection of their person 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.' See F. L. Israel, *op. cit.*, 1086.

[109] PRO, FO84/1820/128, Granville to Munster, 22 January 1885.

[110] G. N. Sanderson, 'The European Partititon of Africa: Coincidence or Conjuncture', *The*

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wide extension of the effective occupation principle, Britain now adopted it as the only criterion for deciding the issue of sovereign right. Instructing the British minister at Lisbon in 1887 over the question of territorial title, Lord Salisbury, the Conservative Prime Minister, said:

> *'It has now been admitted on principle by all parties to the Act of Berlin, that a claim of sovereignty in Africa can only be maintained by real occupation of the territory claimed. You will make a formal protest against any claims not founded on occupation, and you will say that Her Majesty's Government cannot recognize Portuguese sovereignty in territories not occupied by her in sufficient strength to maintain order, protect foreigners, and control the natives.'*[111]

This passage constitutes an interesting reminder of how much had changed in British imperial plan since the abortive treaty with Portugal of 1884.

Obviously, Britain had found, not too late, that the best way to keep her superiority in overseas expansion was to set up the rules of the game (i.e. international law) and make all the participants keep to them. Britain would have more to lose in international anarchy than under a set of new regulations even unfavourable to her imperial strategy in the first instance. It is always the stronger that calls for the justice of the proceedings and emphasizes codes of conduct. Britain now realized that her traditional policy of unofficial influence based upon peculiar and subtle factors which she was not in a position to command.[112] Clearly Britain had no less interest than the other powers in avoiding a paper partition of Africa. By adopting the principle of effective occupation, Britain was giving away her 'Monroe

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Journal of Imperial and Commonwealth History, vol. III, no. 1 (October, 1974), 31; and Roland Oliver and G. N. Sanderson eds., *The Cambridge History of Africa*, vol. 6: from 1870 to 1905 (Cambridge: Cambridge University Press, 1985), 133.

[111] Quoted in F. D. Lugard, *op. cit.*, 13.

[112] John Flint, 'Chartered Companies and the Transition from Informal Sway to Colonial Rule in Africa', in Stig Forster et al., *op. cit.*, 74.

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Doctrine for Africa',[113] but at the same time she was able to safeguard her supremacy in Africa by preventing the other powers from wantonly grabbing lands with symbolic acts or loose contracts with natives. Britain could not go her own way, for good.

In spite of the attitude adopted at Berlin, Britain soon became ready after 1885 to resort to the resolutions of the conference in regard of matters of colonization. Thus in the African Order in Council in 1892, the British government asserted that according to the Berlin Act, 'the *establishment of authority* in protected territory was an obligation resting upon the respective Protecting Powers.'[114] To take a step further, it presumed that the protecting power could by its authority, impose legislation upon, or establish its jurisdiction over, protected countries - a standpoint which the British had strenuously opposed at the Berlin Conference. Clearly, those days were gone when Britain had dominated the greater part of Africa 'without being put to the inconvenience of protectorates or anything of that sort.'[115] In fact, no power could now rely on unofficial influence, except in such special cases as Britain in Egypt and in South Africa.[116] In contrast to Britain's great reluctance before the Berlin Conference to take forward moves in Africa, the

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[113] Writing to Lord Granville from Berlin during the conference, Sir E. Malet begged for the government's acceptance of the modified wording of the article on 'protection'. He explained: 'The refusal on our part would look as if we were resolved to maintain the Dog in the manger policy of simply giving Protection for the purpose of keeping other Powers out of certain territories which we cannot use ourselves, but do not like anyone else to use.' Malet then suggested: 'We shall have to abandon this pretension (if we have it) sooner or later, and this is an opportunity which ought not to be lost because it will form a precedent in which we can act when we are inconveniently pressed to take places that we do not want.' See PRO, FO343/6/47, Malet to Granville, 17 January 1885.

[114] *British and Foreign State Papers*, 1891-92, vol. 84, 'British Order in Council', p. 290.

[115] Lord Salisbury in the House of Lords, 10 July 1890. Quoted in Lady Gwendolen Cecil, *Life of Robert Marquis of Salisbury*, vol. IV (London: Hodder and Stoughton, 1932), 226.

[116] G. N. Sanderson, 'British Informal Empire, Imperial Ambitions, Defensive Strategies, and the Anglo-Portuguese Treaty of February 1884', in Stig Forster et al., *op. cit.*, 213.

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modification of British imperial policy after 1885 - towards a system of direct rule based on territorial conquest - was an unhappy compromise of, if not a setback for, the Victorian minds.

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