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ADS-00 NSAE-00 NSCE-00 OES-09 OMB-01 PA-01 PM-00
PRS-01 P-01 SNP-00 SP-00 SS-00 TRSE-00 T-00
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AMEMBASSY PORT OF SPAIN
AMEMBASSY CARACAS

C O N F I D E N T I A L GEORGETOWN 002405

E.O. 12356: OADR
TAGS: PBTS, EPET, NS, GY
SUBJECT: GUYANA AND SURINAME FAIL TO AGREE ON OIL EXPLORATION IN DISPUTED OFFSHORE AREA

P GEORGETOWN 1537

1. CONFIDENTIAL ENTIRE TEXT.

2. AT A JULY 13 MEETING, AMBASSADOR AND POLOFF ASKED FOREIGN MINISTER CLEMENT ROHEE WHETHER THE

CONFIDENTIAL

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PAGE 02 GEORGE 02405 212030Z
GUYANA-SURINAME DISPUTE OVER THEIR MARITIME BOUNDARY HAD BEEN RAISED DURING PRESIDENT JAGAN'S JUNE VISIT TO SURINAME. ROHEE SAID THAT GUYANESE HAD RAISED IT NOT ONLY DURING THE JAGAN VISIT, BUT WITH SURINAME'S FOREIGN MINISTER MUNGRA AT THE OASGA IN BELEM, AND WITH THE HEAD OF THE SURINAME DELEGATION TO THE GUYANA-SURINAME COOPERATION COUNCIL MEETING IN GEORGETOWN. UNFORTUNATELY, ROHEE SAID, STATEMENTS BY BOTH SIDES TO THE PRESS THAT DISCUSSIONS OF BOUNDARY PROBLEMS HAD BEEN POSITIVE AND PRODUCTIVE WERE UNFOUNDED.

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3. DURING THE JAGAN VISIT, HE, MINISTER OF TRADE, INDUSTRY AND TOURISM SHREE CHAN, AND JUNIOR MINISTER OF FINANCE JAGDEO MET WITH SURINAMESE OFFICIALS AT THE FOREIGN MINISTRY TO DRAFT THE JOINT COMMUNIQUE. THE GUYANESE HAD PROPOSED LANGUAGE EXPRESSING THE INTEREST OF BOTH PARTIES IN "JOINTLY EXPLORING AND EXPLOITING NATURAL RESOURCES IN THE AREA OF OVERLAP." THE SURINAMESE OBJECTED TO ONLY ONE WORD, "OVERLAP," INSISTING ON "DISPUTE." THE DISCUSSION OF THIS ONE WORD, ROHEE SAID, DELAYED ISSUANCE OF THE COMMUNIQUE BY FOUR HOURS.

4. ROHEE SAID HE POINTED OUT TO THE SURINAMESE THAT IN 1990 OR 1991, CEDRIC GRANT, HIS PREDECESSOR AS FOREIGN MINISTER, AND THE PREVIOUS SURINAME AMBASSADOR HAD SIGNED A MEMORANDUM OF UNDERSTANDING ON THE MARITIME BOUNDARY ISSUE THAT USED THE PHRASE "AREA OF OVERLAP" REPEATEDLY. HE LOCATED A COPY OF THE MOU IN THE FILES OF GUYANA'S EMBASSY IN PARAMARIBO AND SHOWED IT TO MUNGRA. MUNGRA RESPONDED THAT THE MOU HAD NO

VALIDITY BECAUSE IT HAD NEVER BEEN APPROVED BY THE SURINAMESE PARLIAMENT.

5. ROHEE ARGUED THAT THE SIGNATURE OF THE SURINAMESE AMBASSADOR COMMITTED THE SG TO THE MOU. HE SAID THAT AT THE TIME THE MOU WAS SIGNED THE "HINDUSTANI PARTY" (PROGRESSIVE REFORMED PARTY) TO WHICH MUNGRA BELONGS WAS PART OF A THREE-PARTY GOVERNING COALITION. HE SAID THAT THE PRESIDENT AT THE TIME, ALSO A MEMBER OF MUNGRA'S PARTY, MUST HAVE GIVEN PERMISSION FOR HIS AMBASSADOR TO SIGN. MUNGRA RESPONDED THAT THAT WAS THE REASON THE PRESIDENT HAS REMOVED FROM OFFICE AND AMBASSADOR COLLADA RECALLED.

6. IN THE END, THE COG AND SG AGREED TO DISAGREE. THE COG WOULD NOT ACCEPT "AREA OF DISPUTE" AND THE SG WOULD NOT ACCEPT "OVERLAP." ROHEE AND MUNGRA DID AGREE, INFORMALLY, THAT THEY WOULD MEET AGAIN IN AN EFFORT TO WORK OUT A SOLUTION, NOT TO THE WHOLE DISPUTE, BUT TO THE IMMEDIATE PROBLEM OF OIL EXPLORATION CONCESSIONS IN THE DISPUTED OR OVERLAPPING AREA.

7. AMBASSADOR TOLD ROHEE MOBIL HAD INFORMED HIM THAT IT HAD BEEN UNSUCCESSFUL IN OBTAINING PARTNERS FOR DRILLING

IN ITS POMEROON CONCESSION OFFSHORE WESTERN GUYANA, AND THEREFORE HAD PROBABLY BY NOW WRITTEN THE GOG SURRENDFRING ITS RIGHT TO THAT CONCESSION. HOWEVER, M' 'L REMAINED INTERESTED IN OBTAINING A CONCESSION OFF G. ANA'S CORENTYNE COAST, AND WAS NOW TALKING TO TEXACO AND TOTAL. IF THOSE TALKS ARE SUCCESSFUL, THE THREE WILL APPLY TO THE COG FOR A SEISMIC STUDY CONCESSION

CONFIDENTIAL

CONFIDENTIAL

PAGE 04 GEORGE 02405 212030Z
WHICH WOULD OVERLAP THE ONE GRANTED BY THE SG TO PECTIN.

8. ROHEE SAID HE THOUGHT IT WAS IN PECTIN'S INTEREST TO REACH AN ACCOMODATION WITH MOBIL. THE AMBASSADOR SAID MOBIL HAD TOLD HIM THEY HAD TRIED TO REACH AN AGREEMENT WITH PECTIN, BUT TO NO AVAIL. ACCORDING TO MOBIL, SHELL HAD DRILLED A WELL YEARS AGO UNDER A GOG CONCESSION IN AN AREA WELL TO THE WEST OF MOBIL'S AREA OF INTEREST, AND PART OF PECTIN'S CONCESSION LIES TO THE WEST OF THAT SHELL DRY HOLE AS WELL. FOR THIS AND OTHER REASONS, MOBIL'S LAWYERS BELIEVE THEY WOULD BE ON SOUND LEGAL GROUNDS IN EXPLORING THE AREA IN QUESTIION ON THE BASIS OF A CONCESSION GRANTED BY THE GOG.

9. ROHEE GAVE NO INDICATION AS TO WHETHER THE COG WOULD I 'ACT GRANT A CONCESSION TO MOBIL THAT OVERLAPS THE ON. GRANTED BY THE SG TO PECTIN. JONES

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Minutes of a meeting held at Marlborough House, Room 6, London, on 23rd June, 1966, between officials of the Governments of Guyana and Surinam to discuss the border between the two countries.

For Surinam:

1. Dr. Einaar, Minister Plenipotentiary.
2. Dr. F.E. Essed.
3. Mr. Panday.
4. Mr. Soemita.
5. Mr. D.G.A. Findlay.
6. Dr. Calorl
7. Dr. C. Ooft.
8. Dr. Lim-Apo.

With Miss Von Skell, Interpreter.

For Guyana:

1. Sir Lionel Luckhoo, C.B.E., Q.C.
2. Mr. M. Shahabuddeen, Q.C.
3. Mr. Frank John, of the Guyana Diplomatic Corps. (Observer).

Dr. Einaar, Minister Plenipotentiary:

Sir Lionel, I am very glad to be here again to continue the discussion about our problems. I am sure that we will be able to solve it in a peaceful way since we have been neighbours for centuries. I do hope that you and the Commission will steer the way which will bring us to a good understanding. May I introduce the members of my delegation. (Dr. Einaar does so and then withdraws.)

Sir Lionel:

We welcome this opportunity to have a free and frank exchange of views. The members of my delegation are myself, Mr. M. Shahabddeen, my Solicitor General, and Mr. Frank John who is attached to our mission to the United Nations and is presently passing through London. I would like to welcome you most heartily to London. It is a happy augury for us that after a long period of years with a very close association Surinam is the first country to hold a conference with Guyana after Independence.

Perhaps some preliminary questions to which we should address our minds are (i) whether we shall continue to meet in the same place, and (ii) the times of working. Perhaps 10.30 a.m. to 1 p.m. and 2.30 p.m. to 5 p.m., and then see whether we should continue later in the evenings. You may now consider opening your case. For ourselves we desire to be informal about these discussions and not to regard them as a stiff collar affair.

Dr. Essed:

Thank you for your kind welcome. I would like to express my gratitude for the fact that you have stressed the friendship and amity between the two countries. We are very glad and proud that we are the first to have an international conference with our neighbours, the now

3

Independent Guyana. I myself see in this and feel the significance of good friendship and relations and friendship and progress in years to come. The fact that we have come to discuss the border does not mean that we have come to discuss matters that separate us. On the contrary, the function of a border is the function of a community and therefore does not have a dividing sense, but a sense of getting people closer together.

On the above matter I should like to state in the line of a good understanding that we should like to see the border divided exactly on a basis to technical principles, so that we can come to a pure understanding. This is the reason why we have asked for the border to be surveyed and a border register be established. I have a feeling that on your side there are certain commentaries on the matter and I should be pleased to know them.

Sir Lionel:

I was hoping, Dr. Essed, that we would have two or three distinct aspects dealing with (1) the triangle,

(2) rights in the river,

(3) and the continental shelf to be divided and demarcated. These are the three primary aspects of the boundary at this meeting.

Dr. Essed:

We had suggested in an agenda for this discussion that this commission occupy itself with the exact delimitation of the border.

Sir Lionel:

We never saw the agenda.

Dr. Essed:

It was submitted to the Foreign Office in February this year. It was for (1) the establishment of the west sea boundary of Suriname across

the territorial sea and the continental shelf;

(2) the principles for demarcating the west boundary of Surinam, i.e., the west bank of the Corentyne;

(3) the composition of a mixed boundary commission for the demarcation of the boundary in question.

Sir Lionel:

Agreed. We spent two days arguing with Venezuela over an agenda which was then put aside. You put forward your case, then we will reply.

Dr. Essed:

Asks for permission to confer with members of his delegation. Requests Mr. Calor to give his views.

Dr. Calor:

In general the part in the Atlantic ocean consists of

(1) the territorial sea, and

(2) the continental shelf.

In order to draw the border line between the two countries it is necessary to know from which point this line will extend. It is necessary we communicate to you the intersection of the base line of the colony, because this base line divides the inland water from the territorial sea. This line demarcates the territorial sea just as the west line demarcates the land. At the point at which this line intersects the left bank there begins the demarcation of the territorial sea.

Dr. Essed:

This point we will show on the maps.

Dr. Calor:

In the territorial sea and the continental shelf the border line,

5

according to us, runs more or less parallel to the valley of the river. This valley continues at the bottom of the sea and continental shelf and runs approximately 10° east. This line follows the border line in the territorial sea and continental shelf.

Dr. Essed:

These points of view have within them the possibility of coming to an agreement rapidly. We believe that a great part of the world look at this as a possible point of conflict. We believe that together with Guyana we can come to a conclusion - a solution of the problem agreeable to both sides. We would be proud if we can show this to the world.

Sir Lionel:

May I enquire if Dr. Calor is a surveyor?

Dr. Essed:

Yes! This line closes the river. The left bank is the border between Guyana and Surinam. It follows the valley of the Corentyne.

Mr. Shahabuddeen:

I think it would be useful if we looked back at how the 10° line was established.

I have before me an aide memoire from the Netherlands Government of 4th August 1951. Para.3 proposed that at the mouth of the Corentyne the frontier should be demarcated along a line running from a point 6° 23" Lat. north and 57° 8'10" Lat. est in a direction pointing to the right of north 28° and continuing up to the point where this line meets the outer limit of the territorial waters and from there in an easterly direction following the outer limit of the territorial waters.

The original proposal was not for a 10° but for a 28° line. This

shows that the line was not intended to have any application beyond the territorial sea, i.e., the line was not to continue into the contiguous zone or the continental shelf. We accepted the original proposal. It seems that what afterwards happened was that the mixed Dutch and British Commission, which laid down the two concrete markers in 1936 on the left bank, thought that a boundary based on a 28° line would intersect the channel and therefore would result in difficulties in controlling it, for example, with respect to the establishment of buoys. The commission accordingly agreed that it would be more convenient to establish a 10° line.

Seen against this background the 10° line does not assist us to delim the frontier in the sea. In such circumstances we should explore the applicable principles of general international law. I have in mind the Geneva Convention of 1958 on the Continental Shelf, article 6(1), and the Geneva Convention of 1958 on to Territorial Sea, articles 12 and 24(3). These provisions in general provided for demarcation in the continental shelf and contiguous zone in accordance with the principle of equidistance. The application of these principles would result in a line running generally at 33°-34° east of true North, which is not vastly different from the 28° line proposed by the Hague in 1931.

I understand that the Geneva Conventions, to which I have referred, have been ratified and indeed have been invoked by the Hague in their dispute with Germany and U.K. regarding certain rights in the North Sea. I have before me an agreement concluded between the Netherlands and the U.K. relating to the delimitation of the Continental Shelf on the North Sea between the two countries. This was an agreement expressly based on the principle of equidistance. More to the point, in 1958 the Hague itself

proposed that the delimitation of our continental shelf should be effected in accordance with the same principle.

It is true that under the provisions of the Geneva Conventions to which I referred there are some exceptions to the equidistance principle. There are two general cases:- Where

(i) the parties have by agreement decided on some other principle, and

(ii) where there are special historical circumstances justifying a different rule.

Regarding exception (i) we have not got any agreement for the application of any rule other than the equidistance rule. Regarding exception (2) we say that against the background relating to the fixing of the 10° line, it cannot fairly be said that there are any circumstances justifying the application of any rule other than the rule of equidistance.

We will show later that at one stage we had advanced a claim of right to a boundary on the river fixed according to thalweg principles. In the 1930's we agreed to withdraw that claim and to recognize Dutch sovereignty over the whole river in consideration for the recognition by the Hague of our sovereignty over the New River Triangle. If that agreement is acceptable to you then some useful purpose would be served by establishing a closing line over the mouth of the river. In this case we would, however, propose for your consideration, that the closing line should not be drawn as high as suggested by you. We suggest that it would accord with the realities of the situation if the closing line were to be drawn across the two points of the river where there is the first noticeable constriction, i.e., from Bluff Point on the Surinam side to Anamorisi Creek on our side. These two points indicate the

real beginning of the river. The closing point as proposed by you is outside of the river proper. If the understanding reached in the 1930's relating to your recognition of our sovereignty over the New River Triangle and to our recognition of your sovereignty over the Corentyne is acceptable to you, then we say we do not need the boundary on the thalweg which you have now proposed. In that case what we propose is the safe-guarding of certain existing rights of user which we have over the boundary rivers.

Dr. Essed:

Clearly there is a misunderstanding. Surinam would never have proposed such a thalweg. An aide memoire was attached to our draft Treaty clearly stating that Britain suggested the thalweg as a border. This is information which reached us through diplomatic channels and we acted on that.

Mr. Shahabuddeen:

We have no record on our side of the suggestion having originated from Britain, but possibly my papers are incomplete.

Dr. Essed:

In the aide memoire it is stated that this was done only as a result of a suggestion by the British. If there was no such proposal, it is void.

Mr. Shahabuddeen:

It is not void as it is a matter before us for discussion.

Dr. Essed:

The situation is such that there have been proposals by Britain to which we reacted and our reactions were rejected.

4 Mr. Shahabuddeen:

Possibly I do not have all the relevant material before me. If the river boundary were to be established on the thalweg there would be no need for a closing line.

Dr. Essed:

The river must end some where. There must be a closing line.

Dr. Calor:

The base line must be drawn by both countries. Since Surinam has the whole river, it determines this line.

Mr. Shahabuddeen:

I would like to put this to Dr. Essed. If the boundary is to be established on the thalweg, we cannot say that Surinam will then have sovereignty over the whole river.

Dr. Essed:

Perhaps it would be possible to get back to the main line of discussion. The technical question as to the necessity of a closing line is absolutely independent from the place where the line is to be drawn. This line is defined as the spot at which the river ends and the territory starts. One must know at which point the territorial water ends. We would not like in this discussion to enter into the necessity of having this line. I should like to bring the discussion back to the point (1) - the western seabed of Surinam - which we agreed on the agenda. To round off the discussion on point (1) Dr. Calor has elaborated on his point that we establish a line demarcating the continental shelf. Where should the boundary in the west sea begin, according to you?

Mr. Shahabuddeen:

On the assumption that you accept the understanding reached in the 1930's, to which I have referred, we propose, as we have done in our revised draft treaty submitted to you, that the line of delimitation should originate from the point at which the 10° line intersects the low water mark line on the coast. From that point you proposed in 1958 that the line should be drawn outwards into the sea in accordance with the principle of equidistance, giving a line running in a general direction 33°-34° east of true North, which compares with the 28° line which you proposed in 1931. We accept your 1958 proposal. I would add this - the general direction of the valley of the river does not appear to us to be a very relevant consideration in delimiting the boundary in the sea itself, i.e., outside of the river proper. This sums up my arguments on this point.

Dr. Essed:

Before Dr. Calor speaks, I should like to ask if you have a copy of the Geneva Conventions with you.

[Copy given to Dr. Essed.]

I should like to make one small remark on my part. You spoke of two exceptions to the rule for the fixing of the boundary line. I do not see exceptions in those points, but rather general rules. Only the rules not applicable to the equidistance rule are involved. In mentioning there exceptions you spoke of historical circumstances. It does not mention special historic title or special historic circumstances, but historic circumstances or special circumstances.

Dr. Calor:

I wish to explain further the application of the 10°

rule. In searching for the direction of the border line, as has been stated by Dr. Essed, the general rule applied is that a border line must be determined between two parts of the country in accordance with the geographical circumstances, which have to be taken into account. I should like to point to Guyana's border with Brazil - the geographical circumstance there is a hill which causes water to run on one side to Guyana and on the other to Brazil. The geographical circumstance determines entirely the border line that runs along the line whichdetermines the separation of the river flow. This is normally the general rule which determines the border line between two parts of the world. In determining boundaries the geographical circumstances always have primary importance. The boundary between Guyana and Brazil is an example, also the border line between Surinam and Brazil is a primary part in the delimitation of the border line. Regarding the border line and territorial water of Surinam and Guyana we have first importance given to geographical reality. At one point there is the valley of the river which, just as a hill top points upwards - a geological reality, the river bends downwards. /top Just as the hill/is followed, so should the line parallel to the valley be followed. This is an indication of a geographical consideration with us. This is what we follow. If you cut off the geographical reality entirely, then for the delimitation of the border line in general there are no rules for determining the border line left but arbitrary ones.

I should like to go into the article you mentioned and I should like ~~you~~ to point out that the equidistance is not a general rule. I have read and studied the debates which preceded the making of the Conventions: It appears that only an emergency solution was contempl ted in the very article in which there is talk of failing agreement between two

states. The article cannot establish equidistance as the general rule. That rule was intended for cases in which two countries are in a position of such hostility at each other that only an emergency solution can be used.

Dr. Essed:

I would like to add that the equidistance line is not a general rule. There are exceptions. The general rule is the geographical and natural reality, and if nothing is evident of the geographical situation then we will use the equidistance line. That is why the provisions of this paragraph do not apply. If there is no special circumstance then we apply equidistance. This is the way we approach the problem. These points were seen in the preceding debates. That is why in stating our case we mentioned that the 10^{o} line is only an indication of the geographical reality. This is what you also brought forward about intersections of the channel - an indication that the geographical circumstances also play their role in this determination. The point of this discussion is to explain why we approach the problem in this way.

We are here as friends, and this is relevant as to the question whether or not we should go into your point about the attitude that the Dutch Commonwealth has taken during the deliberation between the European part of the Dutch Commonwealth and Germany.

Mr. Shahabuddeen:

I referred glancingly to the Geneva Conventions without actually reading particular words. This was because I did not consider this the appropriate forum to enter into any detailed analysis of these conventions. I do not wish to do so now except by way of brief reply to the points of construction raised. I am indebted to Dr. Calor for informing me of the

13

debates preceding the making of the Conventions, but possibly the divergence in points of view is attributable to our differing legal approaches to the interpretation of the conventions; we are no doubt conditioned by our own peculiar legal systems. For what it is worth, it might interest you to know that when we interpret a legal document we generally confine ourselves to the actual words used in settling the results of the debates. This is our usual rule - it may not be yours - but the reason for it is that in debates of that kind all manner of different points of view are ventilated. And therefore the only safe guide as to what was eventually agreed is what was recorded in writing.

Article 12 of the Convention on the Territorial Sea reads as follows. (Article read). It consists from our point of view of a general rule followed by a proviso. In our law the proviso is the part of the provision which cuts away from the general rule.

Article 24 of the Convention on the Contiguous Zone reads as follows (Article read). In this rule relating to the contiguous zone there is no reference to historic title.

Dr. Calor:

There are three conventions; put them all up.

Mr. Shahabuddeen:

It may assist if I am allowed to present our case as I think right. Assuming but not conceding that the directionof the valley of the river is a special circumstance, this is so only in relation to the territorial sea. We do not see any geographical significance in the river valley beyond the limits of the territorial sea. For example, suppose the valley of the river had turned west and followed our coast

/2 to the west, would you have claimed this as a special circumstance giving the Dutch sovereignty over the sea all along our west sea coast? (Dr. Calor says yes). We certainly would not, and it seems that we would be fortified in this position by the circumstance that the Convention relating to the Contiguous Zone (which is immediately next to the Territorial Zone) does not allow circumstances of this kind to be regarded as special circumstances. If, therefore, the valley of the river cannot be regarded as a special circumstance in respect to the contiguous zone, we cannot see it being so regarded in relation to the continental shelf. Even if the valley of the river may be relevant in determining the frontier up to the territorial sea, it cannot have any reasonable significance in the contiguous zone and 100 miles out to the continental shelf. Every river has a valley, but I do not know that this constitutes a special circumstance. In fact, we would argue and put for your consideration that previous negotiations reflect a recognition on the part of the Netherlands that the direction of the river valley constitutes no special circumstance, and this is why in 1958 (after the Geneva Conventions) the Hague proposed that the delimitation of the contiguous zone and the continental shelf should indeed be determined in accordance with the principle of equidistance. It is inconceivable that if the Hague regarded the direction of the valley as a special circumstance they would not have said so soon after the Conventions were made. We say with respect that to project the river valley beyond the river proper to a 100 miles out to the continental shelf is an artificial procedure which fails to

/s bring us to grip with the realities of the situation.

15

As I said, we are merely putting to you the reasons on our side. We are not dogmatic about them; on the contrary, we hope to have the benefit of your criticisms of them. We welcome any interpretations you wish to advance with a free and open mind and hope to come to a satisfactory agreement and to report the results to our government. But until we are so persuaded this is our stand and these are our reasons.

Dr. Essed:

I believe at the end of your statement you mentioned a large point of agreement between us. On our side we will try to explain to you the general point of departure of Surinam on this matter. The fact that you have different point of view on the interpretation of an article will not be an exception. The interpretation can also be explained that you as a lawyer see the matter different from technicians. I, as a technical adviser, should be told to determine the border line and territorial water in the Geneva Convention. As a technician I start out by measuring the geographical difference, then I would start determining the equidistance with instruments. This is about my point as to what is a main point and what is a secondary point. I should like now to give the floor to Dr. Calor.

Dr. Calor:

We are at an informal discussion to speak of our points of view in this matter. In our exchange of these thoughts we should like to consider the pure reality over this matter and in this free discussion we do not base our points of view and considerations on those of the Hague. We give Surinam's point of view and it is of great importance to the Guyana Government that it should know Surinam's point of view.

Dr. Essed:

I consider this point of great importance in discussing. I hope our position has been made clear.

Mr. Shahabuddeen:

I assure you that the views of Surinam are most welcome to us. We cannot, however, divorce the problem from its past. So much of the negotiations were handled by the Hague that while we are deeply indebted for the views of Surinam itself we cannot help but take account of the ways in which the problem has been affected by the manner in which it has been dealt with by the Hague in the past, especially having regard to the fact that the Hague was the competent authority to deal with the matter. That is why we think that some assistance is to be derived from the fact that the Hague in 1958 proposed that the lateral boundary in the seas should be delimited in accordance with the principle of equidistance. That is why we also think that further assistance is to be gained from the fact that the Hague invoked the same principle in its recent dispute with Germany and the United Kingdom. We do not wish to be understood as in any way insensitive to the fact that Surinam has a mind of her own. All we say is that in assessing the views put forward by Surinam it seems impossible for us not to consider them in the context of the past negotiations. We believe it to be the case that when Surinam becomes completely independent she will be regarded as having inherited the problem as it has been affected by the way in which it was handled by the Hague. Subject to this we welcome Surinam's views.

Sir Lionel Luckhoo:

From what was said at the last conferenceon April 20th of this

11

year I understand the position to be that the Dutch Realm Government consists of three Units, of which Surinam is one. May I now suggest we adjourn for lunch.

Adjourned 12,35 a.m.

Resumed 3105 p.m.

Dr. Essed:

I desire to follow on the points ended this morning. We are still occupied with the discussion of the boundary line between Surinam and Guyana. As a result of some points stated, I am giving the floor to our legal representative, Dr. Ooft.

Dr. Ooft:

I should like to mention one point. It is indeed true what you said, but there is an additional point that every part of the Kingdom has rights pertaining to itself, and this is so to our mind in respect of the determination of the boundary line between Surinam and Guyana. In order to make this point sure at the start of the official discussion no member representative of the Dutch Government remained. If the question arises whether the Kingdom is bound by agreement and the Guyana Delegation can state its case in terms of any agreements reached pertaining solely to Surinam, I do not find it inadmissable to consider such documents relating to the triangle. It follows as a result that we would not want to discuss other matters not pertaining to Surinam, e.g., Germany.

I should like to make certain points on the discussions of the interpretation of the Geneva Conventions. I would agree entirely that each country has its own views on the interpretation of the Conventions, but I want to limit such interpretation to the country itself. As far as

international law is concerned one should reach a common interpretation. The settlement of international disputes always involves interpretation of international public law. Reference has been made to and there has been some discussion of documents exchanged in 1930. First, as far as the border question is concerned, for Surinam there are no agreements which would be legally reached.

Mr. Shahabuddeen:

Possibly I did not understand, but are you saying that there are no agreements binding Surinam?.

Dr. Essed:

Dr. Ooft states that in the 1930's the diplomatic discussions did not result in any international treaty.

Mr. Shahabuddeen:

I fully appreciate what has been said. Surinam is entitled to her own point of view. Reference has been made to the autonomous status of Surinam. Whatever may be the present constitutional position we feel we cannot disregard the actions of the Hague at a time when the Hague was the only authority responsible for the external affairs of Surinam. The 1930 understanding to which I have referred wasmade at a time when the Hague was solely responsible for the external affairs of Surinam. Perhaps the matter might be seen better if the positions were reversed, in which case it might be considered neither right nor proper for us to disregard the significance of the actions taken by the British Government. We feel, as a matter of international law and simple propriety that it would be wrong for us to do so, for a nation which emerges into independence does not emerge from out of a vacuum, but generally succeeds to whatever

problems were created by the metropolitan power, and as we see it/would be unsatisfactory for such problems to be regarded as disembowelled from the actions taken by the metropolitan power. The point which I seek to derive from this is that when in 1958 the Hague suggested that/continental shelf should be delimited in accordance with the principle of equidistance and not with reference to any alleged special circumstances, the Hague was at that time solely responsible for the external affairs of Surinam.

Dr. Essed:

Perhaps I should point out that Dr. Ooft was speaking with reference to the documents exchanged in 1930-1931 and not with reference to the 1958 proposal by the Hague for the delimitation of the continental shelf in accordance with the equidistance principle.

Sir Lionel Luckhoo:

We have listened to your aspects and points of view on the matter and we have given you ours as we see it. We have duly noted your points of view and we will take them into account when we are reporting the results to our Government.

Dr. Ooft:

I agree entirely with what you said concerning what we inherited from the Netherlands. We certainly know how to treat these. We would like to repeat the point that there has never been a treaty. Had there been such a treaty or agreement we would not have been sitting here around this table. The sooner we reach an agreement it will be for Surinam to conclude the treaty with Guyana, and not the Hague.

Dr. Essed:

May I add further to what Sir Lionel has mentioned previously.

So far as point No.1 is concerned we haveheard each other's points of view. We have in large part understood your position with respect to the western boundary from the starting point of the border in the sea. This point is not entirely clear yet but will become clear as we continue. As far as construction of the present linois concerned according to international law the starting point of this line must be where there is a noticeable difference in the general direction of the coastline - that this starting point could be reached as the point marking the end of the river and the beginning of the sea. It is clear that if the full direction of the coastline is looked at it will be seen to suggest the closing line which we have proposed; but this is a technical point and in closing off point (i) I would request you to listen to Mr. Findlay.

Mr. Findlay:

I emphasize that in the course of the years no treaty or agreement has been reached. In 1930 no international agreement was reached. We do not want to be un-friendly, but over the case of Venezuela where there was an international agreement there have nevertheless been subsequent discussions over the border .

Mr. Shahabuddeen:

I opened my arguments on this phase by saying that one of the reasons why the equidistance principle under the Geneva Conventions applied was because we had no agreement on the continental shelf and the contiguous zone. If the discussion is limited to the continental shelf and the contiguous zone, I reiterate my position that there is no relevant agreement. I would however have to reserve my arguments on the point as to whether any binding agreement was reached so far as the triangle

and the river are concerned. We can develop this when we reach those points.

Dr. Essed:

We do not wish that there should be any misunderstanding that Surinam in its present constitutional position is aware of the past and that the country has a past history. We do not wish to refute any international agreements. We are aware of the fact that the Geneva Conventions brought about an international agreement. Our discussions concerned only the question as to whether any binding agreement was ever reached. It is clear that we have not come here to refute such agreements. We honour international agreements.

Perhaps we may now move on to point 2 on the agenda. Point 1 concerned the west con boundary. Point 2 concerns the delimitation of the western land boundary of Surinam.

Mr. Shanabuddeen:

We feel it would be convenient if we followed the sequence with which we commenced. You state your views and we will reply. Thereafter you may make further observations.

Dr. Essed:

I want to state that when we wrote down this point we did not think there would be any particular discussions about this matter, because the west bank is the border between Surinam and Guyana. We never heard that there would have been any objections by Guyana. Our pointsof view as to the source of demarcation differ. Concerning the name of the upper part of the river the question for discussion is known as the triangle question and resolves itself into the question as to what is the true source of the Corentyne.

The two remaining points concerning the boundary and the New River Triangle are closely inter-related and we would find it convenient to deal with them together. If therefore you would pass on to the 3rd point (as there is little you wish to say on the river boundary itself) we shall reply to both points and you can then give further comments on our observations.

Dr. Essed:

The question concerning the 3rd point is a simple question of actual agreement except as to the composition of the committee, i.e,, who technically would be members of this committee, This is the matter we are concerned with. If you want to discuss this point, we are agreeable.

Mr. Shahabuddeen:

May be there is a misunderstanding.

Dr. Essed:

In all the history of Surinam and Guyana I know of no claim by Guyana to the river. The sovereignty of the river has for a long time rested in Surinam. This position depends upon treaties which have always been honoured by both countries. I would very much regret the position based on an international treaty to be brought up for discussion so suddenly and without any previous diplomatic agreement. I do not believe it is the intention of Guyana to contradict the agreement of 1799.

Sir Lionel:

There are two points. The first point relates to which boundary will be used in respect of the river.....

Dr. Essed:

This is a new question. In the international treaty between

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both parties it is provided that the western bank of the Corentyne forms the boundary of both countries. Guyana has never made any claim to the river.

Dr. Findlay:

I do not know whether the treaties referred to are known to you.

Mr. Shahabuddeen:

I am aware of the agreement of 1799.

Dr. Findlay:

I have in mind that agreement as confirmed by a law of Berbice of 1800.

Mr. Shahabuddeen:

I know of these documents. The first point which I would like to make is that we did in fact at one stage advance a claim to a boundary on the thalweg of the river.

Dr. Essed:

Was this claim contrary to the agreement?.

Mr. Shahabuddeen:

We do not regard it as contrary to the agreement. I wish to emphasise that we are not here today to repeat that claim. This is so, however, only because we consider that in 1931 a binding arrangement was arrived at between the United Kingdom and the Netherlands, whereby we withdrew our claim to a boundary on the thalweg in consideration for a similar withdrawal by the Netherlands of their claim to the New River Triangle. We are content today to proceed on that understanding. We do not now intend to reopen our claims to a boundary on the thalweg, save for the very limited purpose of showing that you likewise are not now at liberty to reopen your claims to the New River triangle. If you like, I

will develop this phase of my argument. I think I have said enough to show you that from our point of view the two points are closely interrelated and cannot be dealt with without reference to each other.

You do not seem to be aware that we did at one stage lay claim to a boundary on the thalweg and it may therefore be useful to go into the background just a little. If I spend some time over it, I hope I shall be forgiven. I refer to the relevant correspondence between the Netherlands and Great Britain and shall let them speak. I have before me a Netherlands aide memoire dated 2nd August, 1927, which refers to the claim which we advanced to a boundary on the thalweg. The aide memoire is itself undated but was handed in on the 2nd August, 1929, by the Netherlands Minister to the British Foreign Office. It is a long document and I shall only cite the relevant parts. The first part relates to the history of the matter and deals with the relevant treaty. The 3rd paragraph is the relevant one as it refers to our claim to a boundary on the thalweg. The aide memoire rejects our claim to a boundary on the thalweg, but this is not important. What is important in the aide memoire from our point of view is that it discloses the existence of the claim, a circumstance which apparently was not known to your side. As for the 1799 agreement itself, our contention has always been that nothing in it was inconsistent with our claim to a frontier along the thalweg. This aide memoire went on to suggest that negotiations be set in train for the conclusion of a treaty, so as to avoid future misunderstandings.

I now cite a British document - a letter of the 18th October, 1930, from the Foreign Office to the Netherlands Minister. I pause to observe that these documents contain relevant matters to which I do not

25 find it necessary to refer. I mention this because I do not wish it to be afterwards thought that relevant material was suppressed. (Extracts /the from letter given). That is with reference to/triangle. In a word you withdrew your claim to the triangle and we withdrew our claim to a boundary on the thalweg.

There is a further document, an aide memoire of the 4th August, 1931, delivered by the Netherlands Government to the British Foreign Office (Extracts from document quoted). Paragraph (1) of that document is very important, as it shows a recognition on the part of the Dutch that we were conceeding their claims to the whole of the river only in consideration of their recognition of the Kutari as the true boundary in the lower Corentyne. Both claims were therefore withdrawn in 1931, that is to say, e recognised your territorial sovereignty over the river itself while you recognised our territorial sovereignty over the triangle. In paragraph 2 of its reply of the 6th February, 1932, the British Government expressed gratification with the Dutch proposal.

I refer again to the aide memoire of 4th August, 1931. Paragraph 4 in my respectful submission is evidence of the recognition on the part of the Dutch that we did have and exercise certain rights over the river and that the intention was that these rights were to be only safeguarded under the proposed treaty, as distinct from being conferred by the treaty. This was so because the rights in question already existed. You may know of an aide memoire of the 6th February 1933 (passages cited). We may not have general rights, but we have always exercised these limited rights of user.

Our position on these aspects is fortified by the statement made

in 1913 by the Netherlands Minister of Foreign Affairs, (Statement quoted). I pause to stress that in 1913 the appropriate Minister, namely, the Minister of Foreign Affairs, recognised two things:

(1) that the border was along the Corentyne - Kutari, and

(2) that these rivers were subject to the existence of certain definite rights of user in favour of Guyana.

I would like to make the point that even if our claim to a boundary on the thalweg was entirely without substance, this was irrelevant to the validity of the 1931 settlement which in our view resulted in a binding understanding that has since been acted upon. I now propose to relate the 1799 Agreement to that claim.

Dr. Essed:

We would like to enter into this part of your statement if you agree.

Mr. Lim Apo:

As a first remark I should like to compliment you on the clear and exact way in which you stated your case. I consider it an honour that in this matter I disagree with you. I should like to follow on the point you mentioned relating to a claim being made in the 1930's to a boundary on the thalweg. In our view that claim was without any substance or foundation in law. You will agree with me that a claim can only be called a claim if there is a legal foundation to have it on. I believe that any claim in the 1930's lacked any such legal foundation. I should like to point out that the 1799 treaty was confirmed in 1813 at the Peace Treaty of Paris. From then on not only British lawyers accepted the fact that the left bank was the western boundary, but in addition to that (and you as a lawyer would know this)

the local laws of what was then British Guiana unconditionally accepted that the border was based on the Treaty. I want to point out that at least this border is being recognised. I want to stress very much that these facts were stressed before 1930 as well as after 1930. It would not be in accordance with reason and reality to bring up again a point which has been agreed upon by treaty and confirmed by laws of the land. I do not think it should be brought up again. You will therefore not be surprised if Surinam is not willing to reconsider discussing it. In fact this border has been settled by treaty.

Regarding the statement made in 1913 by the Dutch Foreign Minister, I would like to point out that it is not known to you that after the reply from the Minister Parliament took a different point of view of the matter and it does not seem appropriate and proper that such a statement made under such circumstances should now be used to support the suggested agreement. I would point out the proposition that history shows that there are many countries in which such a/situation exists and international law accepts these conditions clearly. To sum up, do not be surprised if Surinam is not willing to accept in this matter any reopening of the question of the western bank of the Corentyne forming the border. In our view this problem should not be brought up either by itself or in correlation with any other.

Mr. Shahabuddeen:-

At the cost of some repetition I would emphasize that we are not here today to advance any claim to a border on the thalweg. All we are concerned to show is that we did at one time assert a claim to the thalweg. On your side you may consider that claim to be unfounded, but that in our view is not relevant. The significant fact is that the claim was made and that

it was agreed between the two metropolitan powers that the claim should be withdrawn in consideration of your claims to the triangle being also withdrawn. This is not the correct forum for entering into legal arguments as to whether the fact that a claim was without foundation can affect the juristic significance of a compromise relating to such a claim. I presume that Dutch law is the same as English law in this respect, namely, that when two parties settle a claim it is generally not afterwards open to either party to challenge the settlement on the ground that the claim of one party or the other was without legal foundation; and I think the position is the same in public international law.

Reference has been made to the well-known fact that there are many similar rivers in the world. The document from which I quoted however did not relate to the whole world. All it said was that this kind of river was unknown in South America. Even if your interpretation of the 1799 agreement is correct, it is I think the case that public international law in general recognises rights of user over boundary rivers. More fundamentally we never agreed with the assumption on your side that the 1799 agreement was concerned with/river. We respectfully submit for your consideration that the treaty was only concerned with land. Perhaps a dispatch in 1794 from Van Batenburg, who was then the Governor of Berbice, would assist us. In that dispatch Van Batenburg argued that Surinam did not lawfully extend to Devil's Creek. He pointed to the fact that the limits of Surinam were then the same as the limits defined in the charter under which King Charles II granted that colony to Lord Willoughby. In that charter King Charles placed the western boundary of Surinam at one mile west of the Coppename river, that is to say, Surinam did not extend across the Corentyne, and in fact Surinam could not derive any

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lawful title beyond one mile west of the Coppename river. Van Batenburg's despatch is dated 23rd March 1794 and it was addressed to the Right Hon. Directors of the colony of Berbice residing at Amsterdam.

It is against this background that we should see the agreement which was made five years later in 1799. It is important to note that no reply was given to the Governor refuting his arguments as to Devil's Creek not being the correct boundary. If one turns to the 1799 agreement between the two provincial Governors - Van Batenburg of Berbice and Frederici of Surinam - one observes that the 3rd article specifically stated that none of the islands situated in the river Corentyne should be included in that cession. I emphasize again that I do not think this is the appropriate place to go into the legal aspects of the matter, but I believe that in the jurisprudence of both Holland and England an inference could be drawn to the effect that the 1799 agreement was concerned with the land only, and in particular was not made on any assumption that the river itself belonged to Surinam; for if there was any such assumption the islands would have belonged to Surinam without any need for expressly saying so. So for these reasons although we fully recognise the 1799 agreement, it seems to us that a serious question of interpretation was at all times involved as to whether the agreement gave room for the formulation of the claim which we made to a boundary on the thalweg.

I was not aware of the criticisms made in the Dutch Parliament of the statement made by the Dutch Foreign Minister in 1913 and I am grateful to my learned colleague for drawing them to my notice. I feel unable however to agree that these criticisms deprived the Foreign Minister's statement of all significance on the plane of international law. We are not here today to press any claim to a boundary on the thalweg. This is so,

however, only because we feel that our claims to such a boundary have been firmly exchanged against your claims to the triangle. This is one reason why we cannot discard entirely the Dutch Foreign Minister's reference to the existence of British rights of user over the river. That statement was made way back in 1913, and despite the subsequent criticisms in Parliament we find that 20 years later article 5(4) of the draft treaty was expressly drafted so as to safeguard those existing rights and not to confer them afresh. The Dutch made several amendments to the draft treaty but not to that particular provision. As I mentioned before the object of that paragraph was to safeguard our existing rights of user over the river and not to confer them afresh as if we did not have them before. In view of these circumstances you may well consider that the statement of the Foreign Minister in 1913 could not have been without some substance. These are my observations on the river itself.

Sir Lionel:

I would stress our point that we are not here to reopen or reassert any rights in relationto a boundary on the thalweg. We have pointed out that we have for a long time been recognising a border based on the settlement reached between the two parties concerned, namely, the triangle and the west bank of the Corentyne.

Dr. Essed:

I understand your recognition of the west bank of the Corentyne as the border is based on the diplomatic discussions of 1931.

Sir Lionel:

Yes, we regard it as binding.

Dr. Essed:

But in that settlement the treaty of 1799 is not being recognised.

Sir Lionel:

Our interpretation of the treaty of 1799 is not the same as yours.

Mr. Shahabuddeen:

May I interpose one point at this stage. On your side it seems to be assumed that the 1799 Agreement was concerned with fixing a frontier That is not so. Governor Van Battenburg was claiming the land across the Corentyne on the East. What the agreement did was to settle the claim by giving to Berbice all the land from Devil's Creek up to the left bank. But the left bank itself was not spoken of as a frontier in the technical sense. The relevant provision of the Agreement said "that the west sea coast of the River Corentyne, up to The Devil's Creek, besides the west bank of the said River, hitherto considered as belonging to the Government of the Colony of Surinam, be declared and acknowledged henceforth to belong to the Government of the Colony of Berbice". In effect, therefore, the Agreement placed the land up to the west bank under the jurisdiction of Berbice. Later in the Agreement it had to be specifically provided that the islands in the river should not be included in that cession of land but should always be acknowledged as belonging to the Government of the colony of Surinam. To sum it up, the Agreement was concerned with the allocation of land. It was not a frontier agreement as is generally known in international law.

Sir Lionel:

It is for this reason that we are here trying to reach some form of resolving the matter. We are here to hear your point of view and to report to our Prime Minister.

Dr. Essed:

We are already exchanging points of view and I realise that the intention is not that we should continue these discussions for ever. I am asking permission to allow members of this delegation to state their views.

Mr. Lim Apo:

I desire to make three small observations. I would point out

that the phrases cited by my learned friend from the Agreement of 1799 stated explicitly that the territory west of the Corentyne up to Devils Creek belonged to Surinam - that is to say that Van Battenburg had recognised the Surinam claim supposedly made in 1794 and despite his earlier objection. Secondly, I desire to point out that it is not correct that any claim was made to a boundary on the thalweg of the river before 1931 or 1929, but the fact is that in 1929 the west bank of the Corentyne was recognised for 131 years as the boundary. I would also like to point out that the settlement in respect of the islands in the river was merely inserted by way of making an explicit provision in that respect and does not suggest that the river itself did not entirely belong to Surinam. On the contrary, the fact that explicit provision was made for the islands to be regarded as Surinam territory confirms the fact that the river itself was so regarded. There are many rivers such as this in existence in Europe. The Corentyne River is a national river, and there could therefore be no legal claims to a frontier on the thalweg.

I should like to make certain observations on the supposed agreement of 1931 which arose through diplomatic discussions. These discussions were certainly held with a view to reaching a settlement, but such deliberations can never be binding on any party as no treaty has been signed. Further, even if such a treaty were signed, it would have had to be ratified. Therefore, there could never be any case of a legal boundary agreement having been reached in 1931.

Since 1949 this point has been made by the Netherlands Government to Great Britain. On the 13th April, 1956, the Dutch Minister of Foreign Affairs told the British Ambassador that there was not any obligation to accept the British point of view on this matter. We feel therefore that the question whether the west bank of the Corentyne constitutes the boundary is not a question which by itself or related to any other can ~~be brought up for discussion.~~

was on that account of no force. He has referred to the fact that there was no ratification. Our answer to that, if we had to address our mind to /was it, might be that the question of constitutional procedure / a domestic matter for the Dutch, and that any non-observance of that procedure did not necessarily have any effect on the international plane. We could show from the correspondence that the 1931 understanding was really intended to lead to the demarcation of the frontier between our two countries and Brazil The fixing of the tri-junction point followed from the 1931 understanding. From the records it is very clear in our submission that the fixing of the tri-junction point was to take effect forthwith and without need for ratification or treaty. The tri-junction point, as you know, has been made the corder stone of the frontier arrangements between the Netherlands and Brazil and the United Kingdom and Brazil. If you start with the 1931 understanding it leads to the fixing of the tri-junction point and to the two bilateral treaties which were intended to be made between the Netherlands and Brazil and the United Kingdom and Brazil relating to the border in that area. Our contention is that no further formalities were intended in respect of the agreement reached as to the principles on which the tri-junction point should be fixed.

Dr. Esned:

There is of course no official agreement between Surinam and Brazil relating to the tri-junction point.

Mr. Shahabuddeen:

I withdraw any observations which might have suggested that there was such an agreement, but I still contend that the fixing of the tri-junction point was a matter specially related to Brazil and intended to take effect without necessarily awaiting the execution of the anticipated bilateral treaties in question. I would add that even if you were right in the view that the 1931 understanding lacked full legal formalities, we on our part should be very unhappy to have what was a firm understanding disregarded on the purely technical grounds that it was not followed by /or ratification/by a formal treaty. We desire to remind you that we are dealing with large issues. On our side we approach the conference table

be brought up for discussion.

Mr. Shahabuddeen:

It seems that unfortunately I did not succeed in communicating the precise reason and limitations within which reference was made to the question of the left bank.

Dr. Essed:

Two members of my delegation wish to advance certain small points following on what Dr. Lim Apo has said.

Dr. Ooft:

You have several times quoted from certain documents. One quotation was from "An Aide Memoire" of August 4, 1931. I would read it in English. It will be noticed that the Foreign Office answered that the British Government "are gratified to learn that the Netherlands Government are prepared to regard....." All the quoted instances could in the same fashion be refuted. As I put these two arguments together I would like to consider further those two statements relating to the proposal for the exchange of our two claims. The Foreign Office makes it appear as though the Netherlands had offered to recognise their claims in the river in exchange for their recognition of Dutch sovereignty over the whole river. That suggestion is not supported by the Communications from the Dutch side.

Mr. Findlay:

We have, with the French, a similar type of problem and by way of solution it was decided to determine which was the main river. Likewise we propose that we proceed to take measurements to determine whether the New River or the Kutari is the true continuation of the Corentyne.

Mr. Shahabuddeen:

We would like to defer consideration of your suggestion for joint measurements of the river flow until we have fully considered the problem as to whether what I have referred to as the 1931 understanding can properly be re-opened. My learned friend Dr. Lim-Apo has made the point that that understanding was not followed by a formal treaty. That is so, but I respectfully decline to accede to his conclusion that the understanding

with open minds ready to weigh and assess the substance of the matter and without temptation to seek refuge in technicalities. I do not think there can be any dispute that, until the submission of the Dutch draft in 1962, all previous negotiations proceeded on the assumption that the left bank would be the boundary and that the triangle would be British territory in accordance with the 1931 understanding. Should it now be sought to reverse that understanding and all the subsequent negotiations based on it, this I feel would be considered by us as somewhat unfortunate.

With reference to the Aide Memoire of the 4th August, it was suggested by Dr. Ooft that the British Government was making it appear as if it was the Dutch Government which was proposing a mutual abandonment of claims. I would remind my friend of the background to the situation. In 1929 the Dutch Government referred to our claim to a boundary on the thalweg and rejected it. In our reply we reasserted the claim. It was the Dutch who then proposed a treaty so as to avoid further misunderstanding. On the 18th October, 1930, we offered recognition of the Dutch claim to a boundary on the left bank in consideration for their recognition of ours to the triangle. While it is true that the proposal came from us it is impossible to disregard the fact that the Dutch did reply to us accepting the proposal in their memorandum of 4th August, 1931, and that the initiative for the treaty came from them. I therefore do not agree entirely with my friend across the table in his suggestion that the Dutch were not parties to the proposal.

For the purposes of record I would like briefly to list the various statements made by Dutch Ministers from time to time in recognition of our title to the triangle. You are no doubt aware of the correspondence exchanged in 1900 and of the speeches made by your Minister in 1913 and 1923. I refer also to the speeches made by the Minister of Colonies on the 27th March 1924, on the 28th April 1925, and on 23rd June, 1925. I refer further to the statements made on the 24th February, 1927 and on the 23rd June, 1927. You are no doubt aware of the Rules which were agreed upon

and in accordance with which the Mixed Boundary Commission was to fix the tri-junction point.

Dr. Essed:

I request that you complete the list by adding the statement made in 1956 by the Dutch Minister of Foreign Affairs to the effect that the previous statementsdid not mean that Surinam or the Netherlands had discarded the New River Triangle. That was the last position taken by the Dutch Ministry of Foreign Affairs and I should like to see that statement at the end of your list!.

I should now like to say something very brief. In this sphere where we are exchanging our thoughts I would be glad that you should see as a basis the Agreement of 1799 in which it was stated to which point Surinam rights extended and from where British rights commenced. It is impossible to give to this Agreement an interpretation which conflicts with that upon which the Agreement has been the basis for friendship and cooperation between our two countries for so many years. Let us not reduce this basis to insignificance. As compared with this, what happened in 1930 could not have been more than a single instance. Let us therefore return to the 1799 Agreement which, as we understand it, has remained from 1799 to 1966 the binding element of the relations between Surinam and Guyana.

Sir Lionel:

We propose to send to our Government a report of thesd proceedings. We hope that the cordial relationship between the two countries will be retained. We are glad that we have had an opportunity to meet with you and to exchange our ideas on the subject. If there are any other aspects you would like to bring to our attention we should be very glad to hear them. What we have heard so far has been very useful. I am grateful to my esteemed friend who will be reporting personally to our Prime Minister, with the record of this night's proceedings. I expect that any further meeting will really be at another level. We desire to express satisfaction

with the meeting, and would be grateful if you would convey to your Prime Minister our compliments.

Dr. Essed:

I am grateful for the kind words you have stated and I agree exactly. We understand that you on your side will draw up a report and that we on our part will also draw up a report of this meeting, and that we will send these to each other. These reports will include what has been said by us and you. We have not finished our talks. We propose that our next discussion will take place in the Hague. It would be a great pleasure for us to receive you as our guests. In the meanwhile, I should like to thank you and the members of your delegation for having given us a lot of material to think about.

G U Y A N A

BORDER DISPUTE

Between:

GUYANA

v.

SURINAM

OFFICIAL LEVEL MEETING

ASG/017/89

The Embassy of the Republic of Suriname presents its compliments to the Ministry of Foreign Affairs of the Co-operative Republic of Guyana and has the honour to acknowledge receipt of the latter's note of January 11, 1989 (no reference number).

The Embassy wishes to advise that the contents of the note has been brought to the attention of the Ministry of Foreign Affairs of Suriname and other relevant authorities.

The Embassy would like also to draw the Ministry's attention to the fact that the western sea boundary of the Republic of Suriname is formed by the line N 10° E drawn from latitude 5° 59' 53" and longitude 57° 08' 51" W.

The Embassy, however, has made its inquiries and is fully prepared to provide any information regarding granting of any contract to oil companies in any area offshore close to the western sea boundary of the Republic of Suriname as stated above.

The Embassy of the Republic of Suriname avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Co-operative Republic of Guyana the assurances of its highest consideration.

Georgetown, January 23, 1989

Embassy of the Republic of Suriname
Georgetown

Ministry of Foreign Affairs
Takuba Lodge
South Road
Georgetown

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JOINT PRESS STATEMENT

The President of the Republic of Suriname, His Excellency Johannes Kraag met and held discussions with the President of the Co-operative Republic of Guyana, His Excellency Hugh Desmond Hoyte, S.C., at Skeldon, Corentyne, Guyana, on February 7, 1991.

2. The two Presidents reviewed the global situation and in particular regretted the circumstances that resulted in the outbreak of the war in the Gulf. They expressed concern over its impact on developing, oil-importing countries. In this regard, they noted the negative consequences of the increase in oil prices on the economy of their respective countries. They called for an early and peaceful resolution of the conflict.

3. President Kraag took the opportunity to apprise President Hoyte of recent developments in Suriname. President Hoyte expressed the hope that the people of Suriname would continue in their efforts to develop their society in a political climate that is conducive to progress and national well-being.

4. Presidents Kraag and Hoyte also discussed areas relating to bilateral cooperation between their two countries and reiterated the need to sustain the momentum of such cooperation. They considered subjects dealt with under the Cooperation Council which was established in July 1989. They in particular, reviewed progress in the areas of petroleum development and drug cooperation.

5. To this end, it was agreed that a meeting of the Cooperation Council would be convened in April this year in Georgetown. It was also agreed that a team from the appropriate agency in Suriname, armed with full authority to settle the issue, would visit Guyana during the month of February this year to conclude discussions on the modalities for the treatment of natural resources in the area of overlap between Guyana and Suriname. The Presidents decided that a team from Guyana would visit Suriname at a convenient date to discuss the implementation of the agreement signed between Guyana and Suriname in July 1989, for cooperation in the prevention, control and suppression of the illicit production, traffic and consumption of narcotics and pyschotropic substances.

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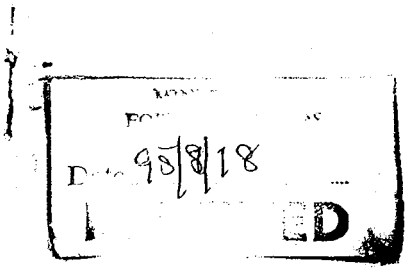
6. With regard to Regional Programming under the Lome IV Convention, the two sides reached a decision that a technical team from Suriname should meet with its Guyanese counterparts in order to discuss aspects of joint projects under this scheme.

7. President Kraag extended his sincere appreciation to President Hoyte for having received him and thanked the Government and people of the Co-operative Republic of Guyana for the warm welcome and hospitality extended to him and his delegation.

February 7, 1991.



REPORT ON THE INAUGURAL MEETING OF THE BORDER COMMISSIONS OF GUYANA AND SURINAME
Paramaribo, Suriname - May 17-18, 1995.

The Inaugural Meeting of the Border Commissions of Guyana and Suriname was held in Paramaribo Suriname from May 17-18, 1995. Guyana was represented at the Meeting by Mr. Ralph Ramkarran and Mr. Neville Bissember Jr., the Chairman and Secretary respectively of the Guyana Border Commission. A list of the Members of the Suriname Border Commission, which is chaired by Mr. Ramdat Misier, a former President of Suriname, is at Appendix I.

On arrival at Zanderij Airport the Guyana Delegation was met by Ms. Haley of the Guyana Embassy. The Delegation was introduced to the Chairman of the Suriname Border Commission who said that the 5 p.m. meeting was a departure from their normal working hours, which are from 7 a.m. to 3 p.m. The Delegation was given a new Tentative Programme, which was unchanged except for the inclusion of a courtesy call on the Suriname Foreign Minister Mr. Subhas Mungra, just prior to the Meeting.

At the appointed time however, Minister Mungra entered the Conference Room and proceeded to make a welcome Address, in the presence of members of the Press Corps. The Foreign Minister departed after making his Address, and the Meeting started immediately, against the backdrop of a map of Suriname depicting

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the Corentyne River and the New River Triangle as the territory of Suriname.

The Meeting proceeded without an Agenda being finalised; no attempt was made to address the issues of the Titles of the Meeting, nor of the accompanying documentation, as had been raised in our Diplomatic Note to the Surinamese dated May 16. Neither was the inclusion of new members on the Suriname side - notably Ambassador Guda - formally notified in advance.

Mr. Misier made some opening remarks (see Appendix II), which were more substantive than the Minister's welcome address. Of particular significance in these remarks was the statement that the sovereignty of the Corentyne River was not 'a subject of discussion', and that Suriname intended to 'take the same standpoint' in relation to the offshore area. However the Suriname Chairman in his remarks did anticipate some discussion on the 'consequences of the fact that the river is a national river'.

Mr. Ramkarran in turn replied with some opening remarks (see Appendix III). In so doing, the Guyana Chairman took the

.../3

opportunity to place on record the fact that Guyana intends to discuss aspects of the Border as they relate to the Corentyne River. Thereafter an attempt was made to finalise the Agenda; however it was agreed that this would be done simultaneously with the discussion of the Agenda Items.

The outcome of the Meeting is reflected in the Agreed Minutes which were prepared for the consideration of the Foreign Ministers of the two countries (see Appendix IM). Of significance are the following items:

4.2, on the preparation of Minutes: it was agreed that the Minutes would only record those decisions which are taken in the Meeting;, and

4.4, on the Terms of Reference: the terms of reference, in so far as they are confined to the London Conference of June 1966, were formally endorsed by the Meeting.

At the request of the Guyana side, it was agreed to tentatively schedule the next Meeting of the Border Commissions for November 1995 in Georgetown.

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General Comments

Lunch with Mr. Cor Pigot, Member of the Suriname Border Commission and former Minister of Education.

The Guyana Delegation sat down to lunch alone with Mr. Pigot on Thursday, May 18, at the invitation of the latter. Mr. Pigot was more expansive in his conversation than when he was in the company of the other Commission members. The following were his comments:

* On the political/economic situation: Mr. Pigot said that the Structural Adjustment Programme was having a severe effect on the working class. He said that a lot of these people had lost faith in the Government, especially since they had previously been well "looked after" by the Bouterse Regime. Because the hardship had put the record of a democratically-elected government at stake, the Government of the Netherlands intended to provide a substantial aid package, to allow the Suriname Government to provide economic "hand-outs" to the disadvantaged, in an attempt to counter Bouterse's anti-government propaganda. Mr. Pigot referred to Bouterse as a murderer who had wrecked the economy, and who had succeeded in alienating many intellectuals, by his usurpation of democracy.

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* On Bouterse's electioneering: I asked Mr. Pigot for an assessment of Bouterse's statement at a recent rally, that the old maps excluding the New River Triangle from the territory of Suriname, should be destroyed.

In a long-winded explanation, Mr. Pigot explained that Bouterse had taken the Venitiaan Administration to task, for behaving as if it was seriously contemplating a return to a form of constitutional relationship with The Hague - in a word, recolonisation. He said that Bouterse had given a fiery speech, which had played to the nationalistic feelings of the electorate.

I told Mr. Pigot that I was unaware that there was also an ensuing debate about re-establishing a political-legal link with the former Colonial Master. I then again asked the question about the maps.

Mr. Pigot said that Bouterse had accused the Government of indecisiveness on the border question; he said that Bouterse was fond of referring to President Venitiaan as being always dressed in his pajamas, that is, asleep and incapable of making decisions.

.../6

The statement about destroying the old maps was therefore a calculated response to the Government's tardy handling of the territorial issue (this assessment served to put in perspective the Foreign Minister's preference for a welcome statement before the Press, and also the prominence which the Suriname media gave to the Meeting). Mr. Pigot is clearly one who would like to see Bouterse's role circumscribed in any post-election coalition.

Conversation with Suriname Minister of Public Works Mr. Ranjitsing.

While awaiting the departure of our flight, Ms. Haley introduced the Guyana delegation to the Minister of Public Works Mr. Ranjitsing. Upon hearing of the purpose of our visit, Mr. Ranjitsing gave us a small lecture on the border issue, particularly the aspect of the offshore area; he said that he had an in-depth knowledge of the matter from his University days. He added that our people were getting impatient, and that we should try to develop our offshore natural resources.

Mr. Ranjitsing felt that the U.N. Convention on the Law of the Sea could be of assistance to the two countries, when

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discussing the border. Knowing that the Convention favours delimitation on the basis of equidistance, I encouraged him by saying that Suriname had not yet ratified the Convention. The Minister replied that the Convention was before Parliament; I told him that it had been there for some time. He acknowledged this, but said that as Suriname had signed the Convention, the country had committed itself to the provisions thereof.

I found the Minister's statement to be very significant, particularly as it has implications for that country's position on the Convention as a whole, and on the equidistance principle in particular. Indeed because of his professed knowledge of the issue, his comments were somewhat in contrast with the attempt by the Chairman the day before to limit any discussion on the border, in so far as it relates to the offshore area.

Mr. Ranjitsing was anxious to know if Guyana had given out any forest concessions recently. I told him that there were four outstanding applications for forest concessions, but that no decision had been made as yet. I told him that these applications were understandable, as investors like the Berjaya Company and Mr.

.../8

Vincent Tan would hardly have looked at the map of the world and contemplated investment in Suriname alone.

I added that the Government had been asked by the U.K. to forego the granting of these concessions, but it was my understanding that there was shortly to be some movement on them. I explained to him that the U.K. was concerned about our lack of forest monitoring capability, but said that this concern was being addressed. I reminded the Minister about what he said about the impatience of our people; I remarked that the same people in the North who were urging us to develop our economies, were also imploring us to forego the exploitation of our natural resources.

The Minister agreed that the task before both Guyana and Suriname was to strike a balance between economic development and environmental conservation. This also had to be distinguished from the preservation of the environment, which connoted the maintenance of the status quo in both the economy and the environment.

Neville J. Bissember Jr.
Secretary
Guyana Border Commission.
May 22, 1995.