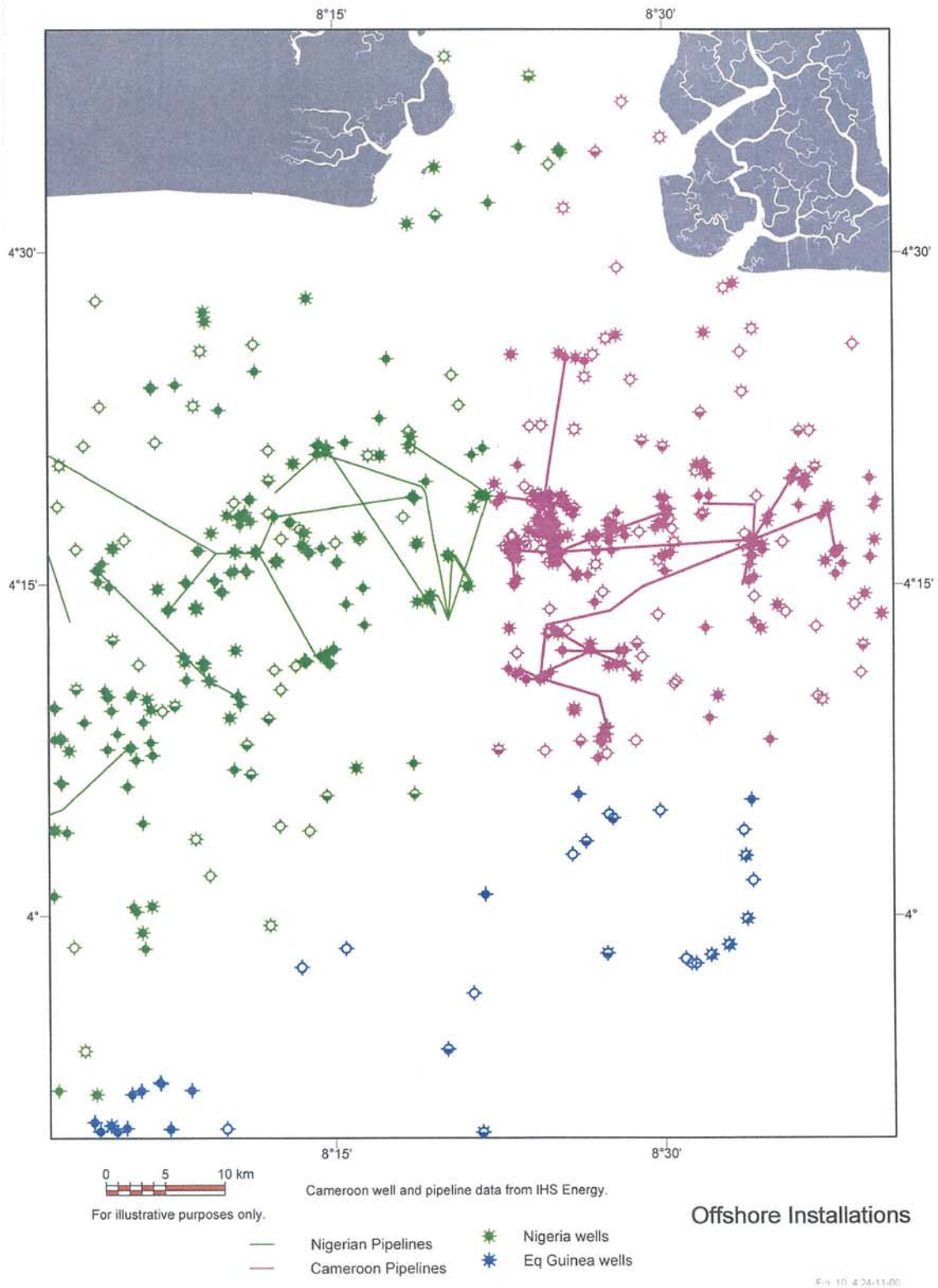
Fig. 10.4


8°15'
8°30'
4°30'
4°15'
4°
0 5 10 km
For illustrative purposes only.
Cameroon well and pipeline data from IHS Energy.
Offshore Installations
Nigerian Pipelines
Cameroon Pipelines
Nigeria wells
Eq Guinea wells

CRAVATH, SWAINE & MOORE LLP

WORLDWIDE PLAZA
825 EIGHTH AVENUE
NEW YORK, NY 10019-7475

TELEPHONE: (212) 474-1000
FACSIMILE: (212) 474-3700

CITYPOINT
ONE ROPEMAKER STREET
LONDON EC2Y 9HR
TELEPHONE: 44-20-7453-1000
FACSIMILE: 44-20-7860-1150

WRITER'S DIRECT DIAL NUMBER

(212) 474-1404

GEORGE J. GILLESPIE, III
THOMAS R. BROME
ROBERT D. JOFFE
ALLEN FINKELSON
RONALD S. ROLFE
PAUL C. SAUNDERS
DOUGLAS D. BROADWATER
ALAN C. STEPHENSON
MAX R. SHULMAN
STUART W. GOLD
JOHN W. WHITE
JOHN E. BEERBOWER
EVAN R. CHESLER
PATRICIA GEOGHEGAN
D. COLLIER KIRKHAM
MICHAEL L. SCHLER
KRIS F. HEINZELMAN
B. ROBBINS KIESSLING
ROGER D. TURNER
PHILIP A. GELSTON
RORY O. MILLSON
NEIL P. WESTREICH
FRANCIS P. BARRON
RICHARD W. CLARY
WILLIAM P. ROGERS, JR.

JAMES D. COOPER
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GREGORY M. SHAW
PETER S. WILSON
JAMES C. VARDELL, III
ROBERT H. BARON
KEVIN J. GREHAN
W. CLAYTON JOHNSON
STEPHEN S. MADSEN
C. ALLEN PARKER
MARC S. ROSENBERG
WILLIAM B. BRANNAN
SUSAN WEBSTER
TIMOTHY G. MASSAD
DAVID MERCADO
ROWAN D. WILSON
JOHN T. GAFFNEY
PETER T. BARBUR
SANDRA C. GOLDSTEIN
PAUL MICHALSKI
THOMAS G. RAFFERTY
MICHAEL S. GOLDMAN
RICHARD HALL
ELIZABETH L. GRAYER

JULIE A. NORTH
ANDREW W. NEEDHAM
STEPHEN L. BURNS
KATHERINE B. FORREST
KEITH R. HUMMEL
DANIEL SLIFKIN
JEFFREY A. SMITH
ROBERT I. TOWNSEND, III
WILLIAM J. WHELAN, III
SCOTT A. BARSHAY
PHILIP J. BOECKMAN
ROGER G. BROOKS
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THOMAS E. DUNN
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JAMES C. WOOLERY
DAVID R. MARRIOTT
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GEORGE A. STEPHANAKIS
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GARY A. BORNSTEIN
TIMOTHY G. CAMERON
KARIN A. DEMASI
LIZABETH ANN R. EISEN
DAVID S. FINKELSTEIN
DAVID GREENWALD
RACHEL G. SKAISTIS
PAUL H. ZUMBRO

SPECIAL COUNSEL
SAMUEL C. BUTLER
THOMAS D. BARR

OF COUNSEL
ROBERT ROSENMAN
CHRISTINE BESHAR

November 8, 2005

Guyana v. Suriname

Dear Paul:

Pursuant to Ordering Paragraph No. 3 of the Tribunal's Order No. 1 and the fourteenth "Whereas" clause of the Tribunal's Order No. 4, Suriname hereby requests that Guyana produce forthwith the following documents and files to counsel for Suriname:

1. Guyana's minutes of the Marlborough House Meeting between representatives of Guyana and Suriname held in London in June 1966 and all notes taken by representatives of Guyana at that meeting. An entire section of Guyana's Memorial is devoted to what happened at that meeting. See Memorial of Guyana, pp. 38-40. Annex 69 in Volume 2 of Guyana's Memorial sets forth minutes from that meeting. However, as we noted during the Tribunal's session in The Hague last summer, those minutes were prepared by Suriname, not by Guyana. Since the Marlborough House meeting is obviously of great significance, we believe that the Tribunal and we should see Guyana's own minutes from that meeting.

2. Copies of all agreements between Guyana and CGX. In its Memorial, Guyana purports to include a copy of the CGX Agreement as one of its annexes (Memorial of Guyana, Annex 157, Volume 3); Counter-Memorial of Suriname, Paragraph 7.8, p.108. However, the document submitted by Guyana is not the complete agreement with CGX. We believe that we and the Tribunal should be permitted to see complete copies of all agreements between Guyana and CGX, including the additional agreement referred to by Suriname in its Counter-Memorial.

3. All correspondence and communications between any representative of Guyana and any representative of CGX concerning or relating to any activities in the

maritime area in dispute. CGX's activities in the area in dispute are at the heart of Guyana's Submission No. 2.

4. The Memorandum of Elucidation (or a document with a similar title) that introduced the bill that led to the 1977 Maritime Boundaries Act of Guyana. That Act is discussed in Paragraph 4.13 of Guyana's Memorial.

We believe that no legitimate issue can be raised with respect to the relevance of those four categories of documents and there can be no dispute that they exist and can be readily located. We ask that Guyana make those documents available to us at its earliest opportunity.

Sincerely,

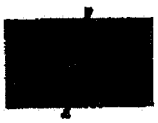
Paul Saunders

Paul C. Saunders

Paul S. Reichler, Esq.
Foley Hoag LLP
1875 K Street, N.W. (Suite 800)
Washington, DC 20006-1238

32A

VIA FAX



FOLEY
HOAG LLP
ATTORNEYS AT LAW

Paul S. Reichler
Washington, DC Office
202.223.1200
preichler@foleyhoag.com

January 18, 2006

VIA FACSIMILE: (212) 474-3700

Paul C. Saunders, Esquire
Cravath, Swaine & Moore, LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019-7475

Re: Guyana v. Suriname

Dear Paul:

I write in continuation of our correspondence concerning production of documents , namely yours of 8 November 2005 and 9 January 2006 and ours of 10 November 2005.

In your letter of 8 November 2005 you asked specifically for:

> "1. Guyana's minutes of the Marlborough House Meeting between representatives of Guyana and Suriname held in London in June 1966 and all notes taken by representatives of Guyana at that meeting. An entire section of Guyana's Memorial is devoted to what happened at that meeting. See Memorial of Guyana, pp. 38-40. Annex 69 in Volume 2 of Guyana's Memorial sets forth minutes from that meeting. However, as we noted during the Tribunal's session in The Hague last summer, those minutes were prepared by Suriname, not by Guyana. Since the Marlborough House meeting is obviously of great significance, we believe that the Tribunal and we should see Guyana's own minutes from that meeting".

In my reply of 10 November 2005, I advised you that Guyana had already searched for and was unable to find any minutes or notes taken by Guyanese representatives at the June 1966 Marlborough House meeting, but that, in light of your request, Guyana would undertake another search.

I am glad to be able to tell you that, as a result of our additional search, Guyana has found in the files of its High Commission in London a copy of a document entitled *Minutes of a meeting held at Marlborough House, Room 6, London, on 23rd June, between officials of the Governments of Guyana and Suriname to discuss the border*

1875 K Street, NW / Suite 800 / Washington, DC 20006-1238 / TEL: 202.223.1200 / FAX: 202.785.6687
Foley Hoag LLP BOSTON WASHINGTON, DC www.foleyhoag.com

between the two countries. These appear to be the minutes taken by Guyana's representatives at the meeting. Apart from these minutes, we have not found any "notes" taken by representatives of Guyana at the meeting. The minutes were prepared, we believe, by Guyana's principal representative at the meeting, Mr. M. Shahabudeen, Q.C., then Guyana's Solicitor General. I am enclosing a copy herewith.

As regards the other document requests contained in your letter of 8 November 2005, I am enclosing copies of the agreements between Guyana and CGX, as you requested in paragraph 2 of your letter; copies of correspondence between Guyana and CGX concerning or relating to activities by CGX in the maritime area in dispute, as requested in paragraph 3 of your letter; and a copy of the "Explanatory Memorandum" that accompanied the passage of Guyana's Maritime Boundaries Act in 1977, as requested in paragraph 4 of your letter.

Guyana has now responded in full to paragraphs 1,2 and 4 of your request for documents, and will continue to search for additional documents (beyond those enclosed herewith) in response to paragraph 3.

On the subject of documents, at this time Guyana would like to make the following requests for documents in the possession of, or under the control of, Suriname:

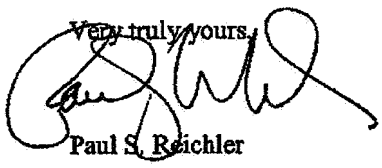
1. The chart used by Suriname in its Counter-Memorial to derive basepoints to construct the provisional equidistance line, referred to in Annex 68 to the Counter-Memorial as "NL 2218" whose publication date is given as "June 2005," and all prior versions of chart NL 2218.

2. All documents constituting or relating to communications or correspondence between Suriname (including the Suriname Maritime Agency) and any third party (including the Netherlands Hydrographic Office) concerning or pertaining to the production, preparation or interpretation of the June 2005 version of NL 2218, or concerning or pertaining to any information (including aerial or satellite images or photography) reflected in the June 2005 version of NL 2218 or upon which said chart was based.

Please let me know at your earliest convenience when Guyana might expect to receive these documents. Guyana requires them in the preparation of its Reply, which we are currently drafting, and which we presently intend to submit to the Tribunal on or before the 15 March 2006 due date.

Thank you very much for your cooperation in this matter.

Very truly yours,



Paul S. Reichler

cc: The President
HE Judge Dolliver Nelson
International Tribunal for the Law of the Sea

In Care of:
Ms. Anne Joyce, Registrar

CRAVATH, SWAINE & MOORE LLP

WORLDWIDE PLAZA
825 EIGHTH AVENUE
NEW YORK, NY 10019-7475

TELEPHONE: (212) 474-1000
FACSIMILE: (212) 474-3700

CITYPOINT
ONE ROPEMAKER STREET
LONDON EC2Y 9HR
TELEPHONE: 44-20-7453-1000
FACSIMILE: 44-20-7860-1150

WRITER'S DIRECT DIAL NUMBER

(212) 474-1404

THOMAS R. BROME
ROBERT D. JOFFE
ALLEN FINKELSON
RONALD S. ROLFE
PAUL C. SAUNDERS
DOUGLAS D. BROADWATER
ALAN C. STEPHENSON
MAX R. SHULMAN
STUART W. GOLD
JOHN W. WHITE
JOHN E. BEERBOWER
EVAN R. CHESLER
PATRICIA GEOGHEGAN
D. COLLIER KIRKHAM
MICHAEL L. SCHLER
KRIS F. HEINZELMAN
B. ROBBINS KIESSLING
ROGER D. TURNER
PHILIP A. GELSTON
RORY O. MILLSON
NEIL P. WESTREICH
FRANCIS P. BARRON
RICHARD W. CLARY
WILLIAM P. ROGERS, JR.
JAMES D. COOPER

STEPHEN L. GORDON
DANIEL L. MOSLEY
GREGORY M. SHAW
PETER S. WILSON
JAMES C. VARDELL, II
ROBERT H. BARON
KEVIN J. GREHAN
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C. ALLEN PARKER
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TIMOTHY G. CAMERON
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LIZABETHANN R. EISEN
DAVID S. FINKELSTEIN
DAVID GREENWALD
RACHEL G. SKAISTIS
PAUL H. ZUMBRO
JOEL F. HEROLD
ERIC W. HILFERS
GEORGE F. SCHOEN
ERIK R. TAVZEL

SPECIAL COUNSEL
SAMUEL C. BUTLER
GEORGE J. GILLESPIE, III
THOMAS D. BARR

OF COUNSEL
ROBERT ROSENMAN
CHRISTINE BESHAR

March 2, 2006

Guyana v. Suriname

Dear Paul:

In my letter of November 8, 2005, I requested that Guyana produce certain documents to us, including

> "All correspondence and communications between any representative of Guyana and any representative of CGX concerning or relating to any activities in the maritime area in dispute."

Although Guyana has produced some correspondence between its representatives and CGX, the most recent document is dated April 19, 2000. That would mean that Guyana does not have a single written communication with CGX concerning the incident described in Chapter 10 of Guyana's Memorial, which occurred on June 3, 2000, whether before the incident, during the incident or at any time thereafter.[1] We find it quite strange that no such written communications relating to the incident that is featured so prominently in Guyana's Memorial exist. Could you please look again for such documents? I wish to be clear that our request for such communications would include communications with any representative of CGX, whether an employee or a subcontractor. For example, if the drill rig described in Chapter 10 or its escort vessels were being

[1] Annex 164 of Guyana's Memorial contains CGX's Morning Report for "3-4 June 2000". That report refers specifically to communications between CGX and representatives of Guyana about the incident. It seems strange that there is no writing the reflects the substance of those communications.

operated for CGX by a subcontractor, we would expect any communications with such an entity to be included in our request and your search.

Thank for your prompt attention to this request.

Sincerely,

Paul C. Saunders

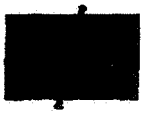
Paul S. Reichler, Esq.
Foley Hoag LLP
1875 K Street, N.W. (Suite 800)
Washington, DC 20006-1238

32A

VIA FAX AND FEDERAL EXPRESS

Copy to: Ms. Anne Joyce, Registrar
Permanent Court of Arbitration
Peace Palace
2517 KJ The Hague
THE NETHERLANDS

VIA FAX AND FEDERAL EXPRESS



FOLEY
HOAG LLP
ATTORNEYS AT LAW

Paul S. Reichler
Washington, DC Office
202.223.1200
preichler@foleyhoag.com

March 6, 2006

VIA FACSIMILE: (212) 474-3700

Paul C. Saunders, Esquire
Cravath, Swaine & Moore, LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019-7475

Re: Guyana v. Suriname

Dear Paul:

In response to your letter of March 2, 2006, I hereby reconfirm to you that Guyana has responded in full to your requests for documents, including your request for correspondence between "any representative of Guyana and any representative of CGX concerning or relating to any activities in the maritime area in dispute."

In fact, Guyana has gone well beyond any obligation it might have to respond to this request for documents. Guyana has not only produced documents in its own possession, but has taken the initiative to obtain from CGX the documents in CGX's possession that would be responsive to your request and to produce them to you.

This is without prejudice to Guyana's right to limit its production to documents in its own possession, custody or control, and does not create a precedent for Guyana undertaking to obtain documents from CGX or any other third party in response to any future requests for documents.

Annex 164 of Guyana's Memorial, to which you refer in your March 2 letter, states that CGX "contacted shore base personnel, R&B legal department, US Embassy security officer in Guyana and CGX representative in Guyana, Dr. Dookie." None of these are representatives of Guyana. Moreover, Annex 164 does not state that these were written communications, and in any event Guyana has no documents pertaining to them.

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There is a reference in Annex 164 to the boarding of the *Terry Tide* by members of the Guyana Coast Guard, and the arrival on the rig of a Brigadier and an assistant. But there is no reference to any written communications with these representatives of Guyana, and Guyana has none.

Best regards.

Very truly yours,

Paul S. Reichler

cc: The President
HE Judge Dolliver Nelson
International Tribunal for the Law of the Sea

In Care of:
Ms. Anne Joyce, Registrar

Ministry of Defence

Hydrographic Office
Hydrographer

Visiting address:
Van der Burchlaan 31
Postal address:
P.O. Box 90701
2509 LS THE HAGUE
The Netherlands
www.hydro.nl
info@hydro.nl

Author:
I.A. Elema
Telephone +31 70 3162800
Fax +31 70 3162843

The production of the June 2005 edition of chart NL 2218

Status	Final
Date	11 August 2006

Ministry of Defence

Hydrographic Office
Hydrographer

Title	The production of the June 2005 edition of
Status	Final
Date	11 August 2006

This Annex explains when and how the hydrographic and cartographic work for the 2005 edition of nautical chart NL 2218 was carried out. The nautical chart is produced in accordance with the requirements for the safety of navigation, the primary purpose of nautical charts.

1. New edition of chart NL2218

On the basis of a 2000 Memorandum of Understanding (MoU) between Maritime Authority Suriname (MAS) and the Netherlands Hydrographic Office (NLHO), the two hydrographic organizations agreed on the terms of cooperation to produce, amongst others, a new edition of NL 2218. In this MoU MAS agrees to take care of gathering information, on which basis the Netherlands Hydrographic Office produces the chart. NL 2218 (2005) replaces a version of the same chart published in 1969. NL 2218 (1969) was cancelled by means of Notice to Mariners week 25 of 2005. At the same time the temporary chart SUR 1 (ed.1995) was cancelled.

2. Hydrographic work

The hydrographic survey work on NL 2218 (2005) started some years earlier than the cartographic production date. The MAS gathered depth information in and around the Suriname river with a ship-based echo sounder in 2002, 2003, and 2004. The dates and locations covered by these surveys are shown in the source diagram on the face of NL 2218 (2005). That source diagram is reproduced below at Figure 1. The source diagram shows that area "c", which covers the area up to the low-water line along of Vissers Bank was charted on the basis of survey information gathered in 2002. The surveys along the coast took place in an area in which changes in coastal configuration take place due to sling mud transportation by the Guyana current from the mouth of the Amazon River. Vissers Bank, and the rest of Suriname's coast, is subject to the slow migration of these massive mud banks. The presence of these mud banks complicates survey work along the coast. During the surveys for chart NL 2218, depth measurements were performed by the MAS with an echo sounder working at lower frequencies. The surveys of the MAS stopped where presence of the approximately 2 meter thick layer of sling mud hampered them from sailing any further towards the coast.

3. Cartographic work

NLHO started the production of chart NL 2218 from 2003 onwards, when survey data and additional information of the MAS was received. A nautical chart contains information about the depth and location of features that could pose a hazard to maritime navigation. The low-water line is the zero meter depth contour.

Ministry of Defence

Title	The production of the June 2005 edition of	**Hydrographic Office**
Status	Final	Hydrographer
Date	11 August 2006	

The new low-water line in NL 2218 is determined by the interpretation of the hydrographic surveys of the MAS. Some drying heights were taken from chart NL 2014, edition 1990.
The exact location of the low-water line is not known. The safest (for the shipping) estimate based on available survey data is visualized by a dashed line (in accordance with International Hydrographic Organization (IHO) publication M4/411.2 (inadequate survey data)).
The coastline as visualized in NL 2218 is partly generated from aerial photos and partly taken from chart NL 2014 (referenced in geodetic datum PSAD56). All data is transformed to geodetic datum WGS84.

Captain F.P.J. de Haan
Hydrographer RNLN

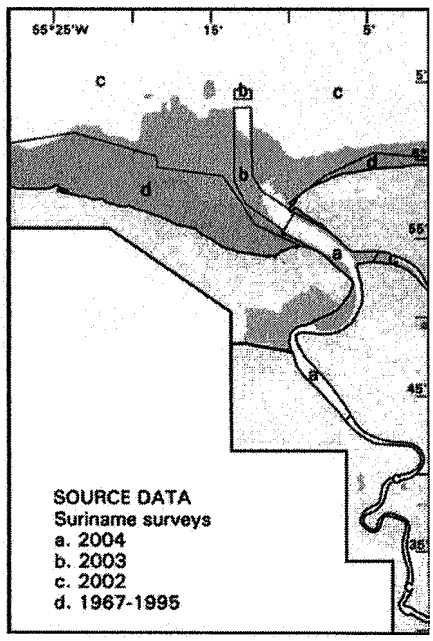

Figure 1, source diagram June 2005 edition of chart NL 2218

The Constitutional Position of Suriname within the Kingdom of the Netherlands Between 15 December 1954 and 25 November 1975

1. This Memorandum provides background information concerning the constitutional position of Suriname within the Kingdom of the Netherlands between the entry into force of the Charter for the Kingdom of the Netherlands[1] (15 December 1954) and the attaining of independence by Suriname (on 25 November 1975).[2] The Memorandum focuses on the role of Suriname during that period in the negotiating of international agreements that would apply to the territory of Suriname.

2. Suriname ceased to be a colony on 15 December 1954.[3] On that day Suriname became integrated in the Kingdom of the Netherlands as one of its three constituent parts ("countries"), the other two being the Netherlands and the Netherlands Antilles[4]. As a result of that new status, Suriname was deleted by the United Nations from the list of non-self-governing territories about which the administering states had a duty to report to the Secretary-General of the United Nations under Article 73(e) of the UN Charter, in supervision of the implementation of their right of self-determination.[5]

3. Under the Charter for the Kingdom of the Netherlands ("the Charter"), the countries are fully autonomous for their internal affairs.[6] Consequently, Suriname had full autonomy with respect to, e.g., its natural resources policy.

4. The matters for which exclusively the Kingdom was competent (called "Kingdom affairs") are listed exhaustively in Article 3, paragraph 1 of the Charter. The main ones were:

(a) maintenance of the independence and the defense of the Kingdom;

(b) foreign relations;

---

[1] *Statuut voor het Koninkrijk der Nederlanden.* The term "*Statuut*" is sometimes translated into English as "Statute", and the term "*Koninkrijk*" is sometimes translated as "Realm". However, in the unofficial translation provided by the Netherlands Government the terms "Charter" and "Kingdom" are used, and these will be used in this Memorandum.

[2] On the developments leading to the 1954 Charter and the consequences of the new constitutional order for the international position of the Kingdom of the Netherlands, see H.F. van Panhuys, "The international aspects of the reconstruction of the Kingdom of the Netherlands in 1954", V *Nederlands Tijdschrift voorInternationaal Recht* 1958, pp.1-31.

[3] Arguably, Suriname ceased to be a colony already in 1950 under the so-called "Interim Orders" when it achieved a large measure of self-government. See Van Panhuys, op. cit. n. 2, pp. 9-10.

[4] The Netherlands Antilles, in turn, consisted of six Island Territories. On 1 January 1986, the Island Territory of Aruba became separate from the Netherlands Antilles and attained the status of "country". Since by that time Suriname had left the Kingdom of the Netherlands, from 1 January 1986 on the Kingdom again consisted of three countries.

[5] UNGA Res. 748 (VIII) of 15 December 1955. Guyana was deleted from this list in 1966 upon attaining independence.

[6] See the Preamble and Article 41(1) of the Charter.

(c) Netherlands nationality;

(d) the nationality of seagoing ships.

5. The exclusive competence of the Kingdom in respect of foreign relations meant that the Netherlands Ministry of Foreign Affairs was in effect an organ of the Kingdom, not of one of the separate countries of the Kingdom. Although located in The Hague, it was always expected to take into consideration in the formulation and execution of its "Kingdom" policies the interests of all three countries of the Kingdom. Its officials thus worked for all three countries. In practice, its officials were often very much occupied by matters peculiar to one of the "overseas" parts of the Kingdom.

6. Under the Charter, each country had its own government (Council of Ministers and Parliament). The Kingdom had its own "Council of Ministers of the Kingdom", but not its own parliament. All "Kingdom affairs" were to be dealt with in the Council of Ministers of the Kingdom. This Council consisted during the period 1954-1975 of the ministers of the Netherlands and the Ministers Plenipotentiary appointed by the Governments of Suriname and the Netherlands Antilles (one each).[7]

7. The conclusion of international agreements was by definition a Kingdom affair. All international agreements were therefore formally concluded by the Kingdom, even if they affected exclusively one of the countries of the Kingdom. Articles 24-28 of the Charter contained the provisions governing this issue.

8. Article 24 of the Charter provided that international agreements "which affect [Suriname] shall be submitted to the representative assembly of [Suriname]". This meant that such agreements needed the approval of Suriname's parliament (the *Staten van Suriname*).

9. Article 25 provided that Suriname could not be bound to an international economic or financial agreement if the Government of Suriname (having indicated the reasons for considering that this would be detrimental to it), had declared that Suriname should not be bound by it. If the Government of Suriname communicated its wish for the conclusion of an international economic or financial agreement that applies solely to it, the Government of the Kingdom was required to assist in the conclusion of such an agreement, unless that would be inconsistent with the country's ties with the Kingdom.

10. Article 27 provided that Suriname should be consulted in the preparation of agreements with other States that affect them.

---

[7] Article 7 of the Charter. All references to provisions of the Charter in this Memorandum are to those as they read during the period that Suriname was a constituent part of the Kingdom of the Netherlands. The Charter was subsequently amended in 1975, 1985 and 1994.

11. Article 28 provided for the possibility that Suriname could accede to membership of an international organization on the basis of an agreement concluded by the Kingdom. Suriname became a member or associate member of several international organizations.

12. Taken together, these provisions of the Charter had the effect that Suriname could prevent any agreement concluded by the Kingdom from becoming binding on the territory of Suriname, and that it had to be consulted in the preparation of international agreements affecting it, in particular in negotiating agreements that would apply exclusively to its territory. In the practice that developed soon after 1954, this meant that Suriname's officials were involved from an early stage in the negotiations of such agreements and that when the agreement exclusively concerned Suriname, its Government would have the lead in the negotiations.

13. This happened with respect to the negotiations on the territorial dispute with Guyana in the period since around 1960. It was on this basis also that, for example, Suriname attended as an observer (and separate from its participation in the delegation of the Kingdom of the Netherlands) the third session of the Third UN Conference on the Law of the Sea 1975 prior to its independence.[8]

14. A good example of the practice of the Kingdom with respect to the negotiation and conclusion of treaties exclusively concerning one of the countries is offered by the Agreement for the establishment of the Surinam-Guyana Commission, concluded on 7 and 8 February 1971.[9] The agreement was signed by the Minister-President of Suriname for the Government of Suriname, acting on behalf of the Kingdom of The Netherlands.

15. Under the constitutional arrangements in place after 1954, Suriname would in matters relating to its boundaries always be negotiating on behalf of the Kingdom of the Netherlands, and all agreements would formally require also the approval of the parliaments of the Netherlands and the Netherlands Antilles,[10] but that would in practice always remain a formality. The role of the Kingdom Ministry of Foreign Affairs was restricted to ensuring that in the negotiations the interests of the other two countries and the Kingdom as a whole would not be negatively affected.[11] One of those interests concerned the uniform interpretation of international law.[12]

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[8] See paragraph 10 and the Appendix to the Final Act of UNCLOS III.
[9] UNTS No 11411; see Annex 10 to Suriname's Memorandum on Preliminary Objections.
[10] Article 24 of the Charter.
[11] Article 41(2) of the Charter.
[12] In general on the treaty practice of the Kingdom of the Netherlands and in particular in relation to its overseas parts, see H.H.M. Sondaal, "Some features of Dutch treaty practice", XIX *Netherlands Yearbook of International Law* 1988, pp. 179-257, in particular pp. 229-237.