

**1982 UNITED NATIONS CONVENTION
ON THE LAW OF THE SEA**

**IN THE DISPUTE CONCERNING
THE MARITIME BOUNDARY
BETWEEN GUYANA AND SURINAME**

GUYANA v SURINAME

**NOTIFICATION UNDER ARTICLE 287
AND ANNEX VII, ARTICLE 1 OF UNCLOS**

**AND THE STATEMENT OF CLAIM
AND GROUNDS ON WHICH IT IS BASED**

24 FEBRUARY 2004

1982 UNCLOS-ANNEX VII ARBITRATION

NOTIFICATION AND STATEMENT OF CLAIM

1. Pursuant to Articles 286 and 287 of the 1982 *United Nations Convention on the Law of the Sea* (“UNCLOS”), and in accordance with the requirements of Article 1 of Annex VII thereto, Guyana hereby gives written notification to Suriname that, having failed to reach a settlement after successive negotiations and exchanges of views as contemplated by Part XV of UNCLOS, it has elected to submit the dispute concerning the delimitation of its maritime boundary with Suriname to the arbitral procedure provided for in Annex VII of UNCLOS. A statement of claim and the grounds on which it is based accompany this notification, as required by Article 1 of Annex VII.
2. In accordance with the requirements of Annex VII, Article 3(b), Guyana hereby appoints Professor Thomas M. Franck as a member of the arbitral tribunal.

SUBJECT MATTER OF THE DISPUTE

3. The dispute relates to Suriname’s violation of Guyana’s territorial integrity and sovereign rights and its repeated refusal to conclude an equitable and peaceful delimitation of its maritime boundary with Guyana in accordance with the principles of international law contained in UNCLOS. The United Kingdom and the Netherlands, the former colonial powers administering the territory of Guyana and Suriname respectively, did not conclude an agreement on delimitation of their adjacent maritime boundaries in the Corentyne

offshore area (i.e. a maritime zone extending in a north-easterly direction from the mouth of the Corentyne River). Since at least 1958, Guyana has exercised peaceful, continuous, and uncontested jurisdiction over that part of the Corentyne offshore area that forms the extent of its claim in the present proceeding; namely, a line emanating from the Guyana-Suriname land terminus bearing no less than 34° east of true north.

4. Since its independence in 1975, Suriname has consistently rejected attempts by Guyana to negotiate a reasonable settlement in accordance with well-established principles of international law. Instead, it has insisted on an arbitrary and wholly unjustified line bearing 10° east of true north. Suriname has even rejected Guyanese proposals to designate the disputed area as a Special Zone for Sustainable Development to be jointly managed by both States pending settlement of the maritime boundary.
5. In recent years, Suriname has manifested a particularly belligerent attitude towards Guyana. In particular, on 3 to 4 June 2000, its armed forces expelled a civilian rig that was engaged in exploratory activities well within a maritime zone wherein Guyana had granted oil exploration licenses, enforced its fisheries regulations, and otherwise exercised uncontested jurisdiction since at least 1958. The prospective discovery of hydro-carbon deposits in this zone has led to extortionate demands by Suriname that would deny Guyana a substantial portion of its maritime zone. Suriname's hostile conduct combined with its rejection of both a principled settlement and a provisional joint development zone, has threatened international peace and security, undermined foreign investment in Guyana's vital energy sector, and effectively prevented Guyana from developing its natural resources for the benefit of its people.
6. The dispute concerns the interpretation and application of certain provisions of UNCLOS with respect to the maritime boundary dispute, as specified in

this Statement of Claim. In particular, Guyana considers that violations of UNCLOS arise from *inter alia*:

- (1) Suriname's violation of Guyana's territorial integrity and sovereign rights in the territorial sea, exclusive economic zone ("EEZ"), and continental shelf, such rights being based on peaceful, continuous, and uncontested exercise of jurisdiction over the relevant maritime zone, and additionally based on equitable delimitation in the overall geographic context of the Guyana-Suriname coastal areas and maritime zones, in accordance with established principles of international law under Articles 15, 74, and 83 of UNCLOS, resulting in a boundary delimited by a line emanating from the Guyana-Suriname land terminus bearing no less than 34° east of true north;
- (2) Suriname's use of armed force contrary to its obligations under Article 279 to settle disputes by peaceful means in accordance with the UN Charter; and
- (3) Suriname's arbitrary rejection of a provisional joint development zone contrary to Articles 74(3) and 83(3) obligating States Parties to make every effort to enter into provisional arrangements of a practical nature pending agreement on delimitation of the EEZ and continental shelf respectively.

THE FACTS

7. Despite several attempts, Guyana and Suriname, and their colonial predecessors the United Kingdom and the Netherlands, have never concluded an agreement on the delimitation of their adjacent maritime boundary in the Corentyne offshore area. Negotiations over a boundary treaty were commenced by the United Kingdom and the Netherlands in 1931 but failed to

produce an agreement on maritime delimitation. In particular, there was no consideration of either the EEZ or the continental shelf, these being concepts that emerged after World War II.

8. The 1954 British Guiana (Alteration of Boundaries) Order in Council extended the boundaries of the Colony of British Guiana to include the area of the continental shelf. A 1961 British draft treaty had proposed a maritime boundary line bearing 34° east of true north in the continental shelf. This line constituted the eastern boundary of the area comprised under oil exploration license No. 204 issued previously on 15 May 1958 to California Oil Company (British Guiana) Ltd. and extended under various licenses until 1965. This boundary was in turn reproduced in oil exploration license No. 205 that was issued to Guyana Shell Ltd. on 11 August 1965 and extended until 1975, and in the various licenses that were granted between 1972 and 1975 to Oxoco, and between 1972 and 1975 to Major Crude Oil Company. Throughout this period, the Netherlands and Suriname never contested Guyana's right to grant licenses in this part of the maritime zone.
9. Between September 1974 and April 1975, Shell drilled a well, Abary I, within its concession area, in close proximity to the 34° line. Again, the Netherlands and Suriname did not lodge a protest or otherwise object.
10. In addition to the granting of oil licenses from 1958 onwards, Guyana has also consistently enforced its fisheries regulations in the relevant Corentyne offshore area for a considerable time period. Fishing trawlers that have failed to obtain licenses from Guyana have faced seizure, imposition of fines, or other enforcement measures, including but not limited to the following years: 1977, 1983, 1984, 1985, 1988, 1989, 1990, 1991, 1992, 1993, 1995, 1996, 1998, 1999, 2000, 2002 and 2003. In addition to Surinamese fishing trawlers, the nationality of other trawlers includes but is not limited to: Barbados, South Korea, St. Vincent and the Grenadines, Trinidad and Tobago, and Venezuela.

11. On 25 November 1975, at the time of Suriname's independence, the Prime Minister of the Netherlands, J.M. den Uyl, addressed a letter to Surinamese Prime Minister H.A.E. Arron. The letter was prepared in response to Prime Minister Arron's request for an indication of the exact boundaries of Suriname upon its handover by the Netherlands. With respect to Suriname's maritime zone, the letter stated that the boundary line runs in a direction 10° east of true north in the territorial sea, but that this line does not extend to the continental shelf. The letter provided no explanation or justification for application of the 10° boundary line in the territorial sea. Notwithstanding this assertion, Guyana continued to exercise uncontested jurisdiction throughout the maritime zone at the 34° line.

12. On 25 August 1989, during the meeting of President Hoyte of Guyana with President Shankar of Suriname in Paramaribo, the two Presidents agreed that "pending settlement of the Border Question, the representatives of the Agencies responsible for Petroleum Development within the two countries, should agree on modalities which would ensure that the opportunities available within the said area can be jointly utilised by the two countries." In February 1991, following this agreement, Guyana and Suriname signed a Memorandum of Understanding (MOU) in which they agreed to allow petroleum exploration in maritime zones jointly claimed by the parties pending final settlement of the maritime boundary. The MOU stipulated that a 1988 license granted to Lasmo/BHP by Guyana and other concessions shall be fully respected and not disturbed. It provided furthermore that the parties would meet to conclude discussions on the modalities and mechanisms to be observed for treatment of the maritime zone pending final settlement of the maritime boundary. Despite the Hoyte-Shankar agreement and related MOU, and despite Guyana's best efforts and repeated willingness to establish a provisional joint development zone, Suriname consistently refused to conclude an agreement.

13. Guyana granted further licenses for petroleum exploration to Maxus (Repsol/AGIP) and to Century Guyana Ltd. in November 1997, CGX Energy Inc. in June 1998, and Esso E & P Guyana (Exxon) in June 1999.
14. From 1998, when its license was issued, CGX Energy Inc., a Canadian company, explored its concession area on the Corentyne Block in the Guyanese continental shelf, between approximately 24° and 33° east of true north. CGX conducted seismic testing throughout the area from April 1999 with the full knowledge of and without any hindrance by Suriname. On 25 May 1999, CGX completed initial seismic testing which indicated anomalies potentially containing significant quantities of oil in CGX's concession area. Further testing and core sampling was required in order to determine if oil exists and whether it is commercially viable, in which case it would require a period of at least one year to start exploiting the deposits. The prospect of this discovery changed Suriname's posture towards Guyana.
15. On 11 May 2000, Suriname, expressed concern that Guyana was engaging in exploration/exploitation activities "within the territory of Suriname." In response, on 17 May 2000, Guyana noted that the exploration activities were in Guyana's maritime zone, that the resources of this area should be explored and exploited for the benefit of the people of both countries, and that a meeting of the Guyana and Suriname National Border Commissions should convene at the earliest opportunity to deliberate on issues relating to the Corentyne offshore area.
16. On 31 May 2000, Suriname notified Guyana that the exploratory activities in the Corentyne offshore area were "illegal." On 2 June 2000, Guyana responded by reiterating its claims to the maritime zone and reaffirming its willingness to engage in dialogue either at the bilateral or multilateral level with a view to resolving this issue. In particular, Guyana extended an

invitation to Suriname to send a high level delegation to Georgetown within twenty-four hours in order to commence dialogue.

17. On 3 June 2000, the *C.E. Thornton*, a United States-registered rig operated by CGX, was proceeding to drill an exploratory well to obtain core samples from the sea floor in the areas where seismic testing had indicated anomalies. The rig was situated toward the western end of the concession area, approximately 24° east of true north, a considerable distance within the maritime zone in which Guyana had granted uncontested licenses since 1958, and in close proximity to where Shell had drilled the Abary I well in 1974-75. While the rig was installing its supports on the sea floor, a Surinamese air force plane appeared and conducted an over-flight. Thereafter, two Surinamese gunboats manoeuvred alongside the rig. The rig and its support vessel, the *Terry Tide*, were ordered to leave the area in 12 hours or face “the consequences”. Because of this clear threat of armed force, and fearing serious harm to its personnel and property, CGX decided to comply with the Surinamese order. The rig raised its supports the following morning on 4 June and prepared to leave the area. As the CGX vessels were leaving, a Surinamese air force plane appeared and circled the rig, followed by the Suriname navy vessel, *RSS Gramorgu*, which circled the rig and its support vessel. After this intimidating conduct, the Surinamese gunboat escorted the CGX vessels out of the area.
18. On 3 June 2000, Guyana lodged a strong protest with Suriname for violating Guyana’s airspace and territorial waters. Guyana also protested Suriname’s intimidating and hostile conduct against the CGX vessels and demanded that they be permitted to continue their exploratory activities. Guyana was particularly surprised that such belligerent actions took place while there were on-going consultations at the highest political level with a view to defusing the situation and finding a mutually acceptable date and venue for a meeting between the two parties. Guyana reaffirmed its commitment to friendly relations and called for the immediate reconvening and reinvigoration of

bilateral negotiations through meetings of the Guyana-Suriname National Border Commissions. Various Member States of the Caribbean Community (CARICOM), of which both Guyana and Suriname are members, also rejected armed aggression as a means of resolving the maritime boundary dispute and encouraged the resumption of bilateral negotiations or other means of peaceful dispute settlement.

19. Guyana and Suriname convened a Special Ministerial meeting in Port of Spain, Trinidad and Tobago, on 6 June 2000. They agreed that a Joint Technical Committee should meet immediately, and further agreed to Joint Meetings of their respective National Border Commissions. In the months that followed, a series of related bilateral meetings took place with a view to resolving the dispute in light of Suriname's actions against the CGX vessels. The Joint Technical Committee held a meeting in Georgetown on 13 and 14 June 2000. There was also a Special Ministerial Meeting in Paramaribo on 18 June 2000.

20. After an eighteen-month hiatus, a Joint Meeting of the Border Commission was held in Paramaribo on 17 January 2002. This was followed by a State visit by the President of Guyana to Suriname on 28 to 29 January 2002. A Joint Declaration was issued at the conclusion of this meeting, requesting the National Border Commissions of Guyana and Suriname "to look at best practices and modalities that could assist the governments in the taking of a decision regarding an eventual joint exploration." On 31 May 2002, the Joint National Border Sub-Commission held its first meeting in Georgetown, followed by further meetings in Paramaribo on 23 to 25 July and on 25 to 26 October 2002. These meetings failed to produce an agreement. Contrary to the express terms of the Joint Declaration, Suriname introduced new demands that undermined the negotiations.

21. There were also significant diplomatic efforts at the multilateral level. In particular, at their XXI Heads of Government Conference during July 2000, the Presidents and Prime Ministers of CARICOM issued a “Statement on Guyana and Suriname.” In it they “affirmed the vital importance of settling this dispute by peaceful means in accordance with the spirit of the Treaty of Chaguaramas and the need to ensure that the benefits of existing resources in the area redound to the benefit of their respective peoples.” To this end, the Heads of Government of CARICOM offered the good offices of the Prime Minister of Jamaica. The Presidents of Guyana and Suriname agreed to meet in Jamaica within seven days “in order to expedite a resolution of outstanding differences which have recently arisen.” They also “agreed to determine a modality for exploiting the benefits of the exploratory drilling activities to be undertaken in the disputed area”. The meeting was held from 14 to 17 July 2000 at Montego Bay, Jamaica, but it failed to produce agreement between Guyana and Suriname despite extensive discussions and strenuous efforts by the Prime Minister of Jamaica who chaired the Meeting. Suriname consistently rejected proposals for the resumption of exploration and refused to consider the establishment of a provisional regime for joint development of the maritime area.

22. Despite Guyana’s and CARICOM’s genuine efforts to resolve the dispute amicably, the flurry of diplomatic activity and bilateral meetings failed to yield any results. Suriname insisted on maritime delimitation based on a line running 10° east of true north, though it offered no justification whatsoever for its position. It rejected all suggestions to delimit the maritime zone based on the principles of international law contained in UNCLOS. Suriname even rejected repeated offers to establish a Special Zone for Sustainable Development in order to allow for joint exploration and exploitation pending settlement of the maritime boundary. In short, Suriname made clear that it would not compromise, and that it was willing to use force to prevent Guyana

from exploring and exploiting the natural resources in its EEZ and continental shelf.

23. This impasse further discouraged foreign investment in Guyana's vital energy sector and denied Guyana the discovery of potential natural resources that are critical to the development of its national economy and the well-being of its people. The continuation of the impasse created by Suriname's intransigent and hostile posture exacted a heavy cost for foreign companies such as CGX that have had to deal with running costs and raising capital without any foreseeable prospect of resuming exploratory activities in the concession area.
24. On 21 December 2002, the Foreign Minister of Guyana indicated publicly that while Guyana was exploring every possible avenue of diplomacy to resolve the Guyana-Suriname dispute, if these efforts fail, "bringing the matter to an international tribunal may be a last resort."

GROUND ON WHICH GUYANA'S CLAIMS ARE BASED

25. Guyana claims that Suriname, by failing to negotiate in good faith and using armed force to assert a boundary line of 10° east of true north that is wholly without merit, has violated Guyana's territorial integrity and sovereign rights:

First, Guyana's rights to the maritime zone in the Corentyne offshore area is based on peaceful, continuous, and uncontested exercise of jurisdiction since at least 1958, through expressions of State authority including but not limited to the granting of multiple licenses for petroleum exploration and the consistent enforcement of fisheries regulations, both over a significant time period, by which it has acquired, in accordance with established principles of international law referred to in Articles 15, 74, and 83 of UNCLOS respectively, a maritime boundary delimited by a line emanating from the Guyana-Suriname land terminus bearing at an angle

not less than 34° east of true north for a distance of 12 nautical miles in the territorial sea, and thereafter to the outer edge of the continental shelf or to a distance of 200 nautical miles where the outer edge of the continental margin does not extend up to that distance;

Second, application of the established principles of international law with respect to equitable delimitation between States with adjacent coasts, referred to in Articles 15, 74, and 83 of UNCLOS respectively, in the overall geographic context of the Guyana-Suriname coastal areas and maritime zones, results in a maritime boundary similar to that derived from Guyana's historic title as referred to above.

26. Guyana further claims that Suriname, by using and continuing to use threats of armed force to expel the CGX rig and prevent further exploration activities, has violated Article 279 of UNCLOS requiring States Parties to settle disputes concerning the interpretation or application of the international law of the sea by peaceful means in accordance with the UN Charter. Suriname's hostile actions are particularly unjustified because Guyana has continuously called for and sought to achieve a negotiated settlement of the maritime boundary and the establishment of a provisional joint development zone until such a settlement could be achieved.
27. Guyana additionally claims that by rejecting its repeated offers to establish a provisional joint development zone, Suriname has violated Articles 74(3) and 83(3) of UNCLOS, which provide that pending agreement as to delimitation of the EEZ and continental shelf respectively, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement.

JURISDICTION

28. Guyana and Suriname are both parties to UNCLOS, having ratified the Convention on 16 November 1993 and 9 July 1998 respectively. Part XV of UNCLOS establishes a regime for the settlement of disputes concerning the interpretation and application of the Convention. Article 279 requires parties to seek a solution by peaceful means in accordance with the UN Charter. Article 283(1) further requires that when a dispute arises between States Parties, the parties should proceed expeditiously to an exchange of views regarding its settlement by negotiation or other peaceful means. Despite Suriname's recourse to armed force, Guyana has complied with the requirements of Part XV in good faith. Indeed, Guyana has exhausted possibilities of settlement by negotiation and elects compulsory arbitration only as a last resort, though this is by no means a condition precedent for initiation of the present arbitral proceedings.
29. As Guyana and Suriname have failed to settle the dispute between them by peaceful means of their own choice, Article 281(1) allows recourse to procedures provided for in Part XV, including compulsory procedures entailing binding decisions under Section 2 of that Part. Article 286 allows these compulsory procedures to be initiated by any party to the dispute to the court or tribunal having jurisdiction under Section 2.
30. Article 287 governs the choice of compulsory procedures. Article 287(1) allows a State Party, by means of a written declaration, to choose one or more of the means for the settlement of disputes listed in the paragraph, which includes recourse to an arbitral tribunal under Annex VII. Since Guyana and Suriname have made no declarations pursuant to Article 287(1), they are deemed by operation of Article 287(3) to have accepted arbitration in accordance with Annex VII.

31. It is further noted that Article 298 governing optional exceptions to applicability of Section 2 does not apply since neither Guyana nor Suriname has declared in writing that it does not accept any one or more of the compulsory procedures referred to in Article 287.
32. Therefore, in conformity with Article 286, Guyana submits its dispute with Suriname concerning the delimitation of their maritime boundary to an arbitral tribunal (“Tribunal”) constituted in accordance with Annex VII, which has jurisdiction over the dispute in accordance with Article 288(1).

RELIEF SOUGHT

33. For these reasons, Guyana requests the Tribunal:
- (1) to delimit the maritime boundary between Guyana and Suriname in a line emanating from the Guyana-Suriname land terminus bearing at an angle not less than 34° east of true north for a distance of 12 nautical miles in the territorial sea, and thereafter to the outer edge of the continental shelf or to a distance of 200 nautical miles where the outer edge of the continental margin does not extend up to that distance;
 - (2) to order and declare that Suriname, by use of armed force against the territorial integrity of Guyana and against its nationals, agents, and others lawfully present in its territory, has breached its obligations under the 1982 Convention and under general international law to settle disputes by peaceful means, for which internationally wrongful acts it is under an obligation to compensate for the damage caused thereby, including but not limited to the consequent loss of foreign investment and other economic benefits accruing from unhindered exploration and exploitation of natural resources and other activities in

Guyana's maritime zone, and to give satisfaction for the injury caused by such acts insofar as it cannot be made good by compensation;

- (3) to order and declare that Suriname, by failing, pending agreement as to delimitation of the maritime boundary, to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement, has breached its obligations under the 1982 Convention and under general international law, for which internationally wrongful act it is under an obligation to compensate for the damage caused thereby, including but not limited to the consequent loss of foreign investment and other economic benefits accruing from exploration and exploitation of natural resources and other activities in Guyana's maritime zone, and to give satisfaction for the injury caused by such acts insofar as it cannot be made good by compensation.

PROVISIONAL MEASURES

34. Pending the constitution of the Tribunal, Guyana seeks provisional measures from the International Tribunal for the Law of the Sea ("ITLOS"), in accordance with Article 290, paragraphs (1) and (5) of UNCLOS.
35. In particular, Guyana requests the following provisional measures having immediate effect, namely, that Suriname shall, pending the decision of the Tribunal:
 - (1) refrain from any threat or use of armed force in the maritime zone under dispute or any other measures that would aggravate, prolong, or render more difficult the solution of the dispute submitted to the Annex VII Tribunal;

- (2) refrain from any conduct in the nature of reprisals against Guyana or its nationals, including in particular its fisher-folk, in retaliation for Guyana's recourse to the compulsory procedures under the 1982 Convention;
- (3) refrain from any conduct that would impede the resumption of exploration or other similar activities in the maritime zone under dispute; and
- (4) refrain from any conduct that would impede the exploitation of oil deposits, once discovered, subject to equitable provisional arrangements of a practical nature as prescribed by ITLOS, such as a joint or international authority that would maintain all revenues in trust for the parties pending settlement of the dispute.

OTHER MATTERS

- 36. Guyana reserves the right to supplement and/or amend its claim and the relief sought as necessary, and to make such other requests from the arbitral tribunal and/or ITLOS as may be necessary to preserve its rights under UNCLOS.

Respectfully submitted,

Hon. Samuel R. Insanally
Minister of Foreign Affairs
Republic of Guyana
Agent

Sir Shridath S. Ramphal
Mr. Paul S. Reichler
Mr. Payam Akhavan
Co-Agents

24 February 2004