

FROM THE SECRETARY OF STATE FOR THE COLONIES

TO BRITISH GUIANA (O.A.G.)

Cypher (O.T.P.)

PMD 138/30/04

Sent 18th June, 1957.

22.00 hrs.

IMMEDIATE

SECRET

No. 198.

Your telegrams Nos. 224 and 225.

Following from Kennedy. *C.O.*

Begins.

Oil.

We agree in principle to grant of licence to the Californian Company which should conform as far as possible to the Model form in your Petroleum (Prospecting and Winning) Regulations 1940.

2. Total area applied for is very large and you may like to know that we are now revising Model Regulations and Licence and Lease forms with a view *inter alia* to reducing total area granted to any one company. Object is to avoid any appearance of monopoly and to encourage competition particularly in present conditions when search for oil is being intensified. We should therefore wish you to endeavour to secure a reduction in the area in view of the fact that the Company will eventually be entitled to half the licensed area under mining leases which might be beyond their capacity to exploit within a reasonable time.

3. Royalty should be 12½% *ad valorem*.

4. Normal taxation arrangements should apply, but company may ask for "percentage depletion allowance" on American model particularly as they have been granted a modified form of this allowance in Trinidad in respect of marine operations. We hope you will consult us before committing yourself to grant of such an allowance.

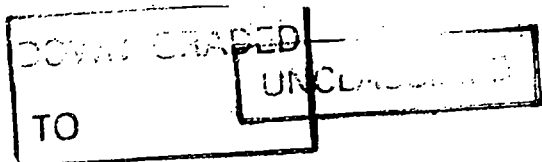
5. As regards definition of areas, I am afraid definition in your telegram No. 225 seems to us objectionable in the areas bordering upon the Venezuelan and Surinam territorial waters and continental shelves. The International Law Commission's Draft Articles on the law of the sea provide as follows:

Article 14

The boundary of the territorial sea between two adjacent states shall be determined by agreement between them. In the absence of such agreement and unless another boundary line is justified by special circumstances, the boundary is drawn by application of the principle of equidistance from the nearest

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point on the base-line from which the breadth of the territorial sea of each country is measured.

Article 72(2).

Where the same continental shelf is adjacent to the territories of two adjacent states, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the baseline from which the breadth of the territorial sea of each of the two countries is measured.

6. The baseline referred to in these Articles is of course normally the line of low water mark on the coast. These articles lay down principles acceptable to H.M.G. and they have considerable authority although the principles they contain may not yet have acquired the status of customary international law and the articles have not been embodied in any multilateral convention. We think that it would be quite wrong for British Guiana to purport to grant licences over an area which fell the wrong side of a line drawn in accordance with those articles, and indeed, in case the other states concerned could show existence of special circumstances it would probably be wise to err on the side of caution in determining the area to be covered by the licence.

7. The line in the north-west runs due north and south and appears to extend well into the area which Venezuela could claim as its territorial waters and continental shelf in accordance with the principle of equidistance from the baseline. That in the south-east appears at first sight to be more reasonable but will require looking at more carefully on Admiralty charts since the projection of the international land boundary is not the correct principle to apply.

8. We are consulting Admiralty and Foreign Office to see if suitable lines which would be in accordance with the International Law Commission's principles can be suggested, and I will telegraph again as soon as possible.

9. In the meantime, we agree that for present purposes, precise designation will have to be avoided. We are however, not clear that your suggested reference to British Guiana territorial waters would meet the case since this would cover only the area within three miles of low water mark, or baselines across estuaries and bays where such baselines are permissible.

10. Nevertheless, this is as far as we are able to go at short notice and pending final outcome of references to Admiralty and Foreign Office. And we must ask, having regard to the need for caution mentioned in paragraph 5 above that, for the time being, the area to be covered by the licences should stop a little short (say 5 miles) of boundary lines for territorial waters between Venezuela on the one side and Surinam on the other drawn in accordance with the International Law Commission's Articles quoted above.