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appropriate box

(BN 1081/7)

FOREIGN OFFICE, S.W.I.

June 5, 1959.

I told you on the telephone that the Netherlands Embassy had given me a map showing the river mouth of the Corantyne river, and showing amongst other things a median line boundary between the waters of British Guiana and Surinam. I am sending it to you with this letter as promised, and with the explanatory notes that were also provided.

Since I have never seen a map of the area before I could not identify the concrete marks about which we have had correspondence and I had no idea how the median line compares with any line we were thinking of drawing. I did however say very tentatively that I did not think we had been envisaging a base line drawn across the mouth of the river and enclosing such a large area of water.

You will see that the explanatory notes say that the low water lines are "fictitious lines". I asked Mr. Jelink, the first Secretary of the Embassy, if they were in fact based on new observations, and he said that he could not be at all sure that they were. From what he said, though admittedly he was not a map expert himself, I gathered that almost all the lines on this map should be considered as pretty tentative.

I am sending a copy of this letter to Mr. Scarlett in the Colonial Office.

(Miss J. J. d'A Collings)

Commander
R. H. Kennedy, C.B.E., R.N. (Retd),
Admiralty.

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Explanatory Notes to Map
concerning the delimitation of Continental
Shelf adjacent to Surinam and British Guiana..

1. The "Median Line" was found by connecting points equidistant from the Baseline across the mouth of the Corantyn River and the Surinam low-water-line on the one hand, and the British Guiana low-water-line on the other. After coinciding the "Median Line" and the extended thalweg of the Corantyn follow the same line.
2. As there is some uncertainty about the correct course of the low-water-lines these are given as fictitious lines.
3. As "Baseline" across the mouth of the Corantyn River a straight 10-mile line has been plotted, connecting the low-water-lines of Surinam and British Guiana in such a way that the largest possible water area on the landside of this line is enclosed. As the low-water-lines are fictitious, this "Baseline" must also be considered fictitious. In drawing this line no account has been taken of low tide elevations.
4. At this stage the course of the "Median Line", as plotted on the accompanying map, should be considered provisional.
5. Translation of some Dutch terms:-
 - "gefingeerde laag-water-lijn" = fictitious low-water-line
 - "sluitlijn" = Baseline
 - "verlengde dalweg" = extended thalweg.

British Guiana - Surinam Boundary

From earlier papers it emerges that the following problems have been considered in the past:

1. The charts problem.
2. The thalweg.
3. The closing-line for the estuary.
4. The "shoreline".
5. Territorial waters-division.
6. Continental shelf-division.
7. Continental shelf-limit.
8. Contiguous zone.
9. Navigation rights.
10. New River question.

1. The charts problem

In the Admiralty letter of 15.1.59 (on 2), Cmdr. Kennedy speaks of the "considerable difficulty" experienced in drawing dividing lines in the marginal sea owing to the poor charting, divergencies in the shape of the coastline, low-water lines etc. and the smallness of the scale of the various charts and maps available. On balance, he recommended (for the continental shelf) the Dutch chart 2217 rather than the Admiralty chart 1801, since it was more favourable to us and on a slightly larger scale.

In June, 1959 the Netherlands Embassy sent us a chart of the mouth of the Corentyne with median lines drawn in the explanatory note to which the uncertainty about the low-water lines was referred to. Cmdr. Kennedy commented on the chart (which is No. 2222) in a letter of 17.8.59 (on 8) and suggested a better view of what should be regarded as the low-water line of British Guiana.

I have not been able to find further discussion of this, but we shall have to know

- (a) which chart to use, and the chart we use could well be annexed to the Treaty;
- (b) what view of the low-water line we hold.

(On 13 of 1960, it was suggested that Cmdr. Kennedy should meet a Dutch opposite number at an early stage in the negotiations to sort out the charts problem.)

2. The thalweg

The question of what should be considered to be the thalweg of the river was not of course considered on earlier papers. However, it should be noted that it appears from Colonial Office letter of 12.12.58 (on 12) that the 10° line /on which

on which the territorial waters were divided was supposed to be a line parallel to "the mid-channel" of the river (paragraph 8). It also appears, although I am not sure of this, that the mid-channel was taken to be the navigable channel (same paragraph). In Cmdr. Kennedy's letter on the Dutch chart (on 2 of 1959), he says that "at present the channel on the Surinam side is that more generally used, but in time this may silt and that on the British Guiana side deepen."

There is a great deal of learning on what should be understood by the word "thalweg" and I have minuted on this on other papers. (If it proves necessary, I will produce a note on it). But it is clear that

- (a) we will want to argue that the channel nearer to Surinam is the "thalweg" and should be taken as the boundary;
- (b) we shall have to make this quite clear in the treaty; we might even avoid using the word.

3. The closing-line for the estuary.

In Cmdr. Kennedy's letter referred to above, he said that the Dutch "would be quite justified in drawing a 'closing line' across the river entrance and using this line as points for measurement to delineate the median line". The answer to this question where a closing line can be drawn of course decides whether the limit of the territorial sea follows the shape of the estuary or not (and thus the extent of the territorial sea). The Colonial Office and Miss Gutteridge (on 5 of 1959) had doubts about Cmdr. Kennedy's definite view that a closing-line would be justified. The chart, subsequently sent by the Dutch and referred to above, did include such a line and Cmdr. Kennedy in his letter of 17.8.59 (on 8) discussed the matter in greater detail, but he concluded that it was a question of international law to be answered by the Foreign Office Legal Advisers. Miss Gutteridge's comment on this letter suggests that the better view is that a closing-line cannot be drawn where there is a river the banks of which are owned by two different States and a fortiori, where the river itself is divided between two States (as we now contemplate in the case of the Corentyne).

I have not found any further discussion of the matter. It seems, therefore, that we must decide

/(a)

- (a) whether a closing-line would help us;
- (b) if so, can it be justified in international law?
- (c) if so, where is the line to be drawn?

4. The "shoreline"

The problem of identifying the low-water line has already been referred to.

Cmdr. Kennedy's letter of 15.1.59 (on 2) communicated the views of the Admiralty. Tidal experts on "shoreline". They concluded that "low river level" would do in the non-tidal part of the river but "the line of low water of mean spring tides" should be substituted for "shoreline" in reference to the tidal part. The Colonial Office (on 5) accepted the view on "shoreline" but suggested "lowest level normally reached in the course of the year" instead of "low river level". The Admiralty accepted this.

The Governor of British Guiana, however, objected on 12 of 1960 to the new description of the non-tidal boundary since, although it would provide a fixed line, it would also mean that at some times there would be Dutch territory on our side of the river. And, in general, he objected to making any unnecessary changes from the 1939 draft. We therefore returned to the old formulae, but reserved the right to clear the matter up, if possible, during negotiations.

The low-river level problem does not now arise for the non-tidal part of the river (if we accept the compromise). But the "shoreline" problem remains and we must decide:

- (a) whether to return to a better description of this;
- and (b) if so, whether to adopt that already suggested by the Admiralty experts.

5. Territorial waters-division

The 10° line through territorial waters which has appeared in our earlier drafts has a long history. From Cmdr. Kennedy's letter of 15.1.59 (on 2) it appears to go back to 1936 when there were apparently "strong reasons" for it which the Dutch also accepted. The 10° line has nothing to do with the median line and, therefore, having regard to Article 18(1) of the 1958 Convention, it must be taken to be justified by "special circumstances".

It seems that the line is supposed to be parallel to the mid-channel of the River and has the effect of leaving all the navigation channels in Surinamese territorial waters. (See also, Colonial Office letter of 12.12.58 on 12).

/Cmdr.

Cmdr. Kennedy suggests that this is the "special circumstance" - the fact that the whole of the river is under Surinamese sovereignty.

If we now agree to the "thalweg" as the boundary, then there is no reason why the division of territorial waters should not move back to the median line, or as near as possible to that line.

We must therefore decide

- (a) whether we should go for the median line in territorial waters;
- and (b) if so, where it should be drawn.

6. Continental shelf-division

Both we and the Netherlands Government have formally accepted (on 3 of 1958 and on 5 of 1958) that the principle of "equidistance" should apply to division of the continental shelf.

Our existing draft of the Treaty contains a formula (Article VII) suggested by the Colonial Office (12 of 1958) and completed by Cmdr. Kennedy to get the division of the continental shelf back onto the median line from the end of the non-median line which divides the territorial sea.

If we retain the 10° line for territorial waters, we shall have to check that we still support the figures in our Article VII.

If we go to the median line for territorial waters, we must clearly:

- (a) revise the continental shelf-division to be simply a median-line division (or as near as possible).

If it is true (see letters on 2 of 1957) that oil deposits are on the Surinamese extremity of the continental shelf which we gave ourselves under our draft of the Treaty, then it will clearly be valuable to have our continental shelf extended in this way.

7. Continental shelf-limit

In our letter of 22.5.59 to the Colonial Office (on 5), we put forward Miss Gutteridge's idea for taking this opportunity of providing an outward limit to the continental shelf at the 550 metre depth.

The Colonial Office replied that they were content subject to Cmdr. Kennedy's views.

Cmdr. Kennedy said that, as the 550 metre depth had been a Dutch idea at the 1958 Geneva Conference and we
/had

had backed it, it was a reasonable line to adopt.

In the letter of 14.9.59 (on 9) the Colonial Office began to have doubts about the 550 metre contour on the ground that one day we might be able to exploit beyond 550 metres (and we would then have to negotiate with the Dutch before we could do so) and that, as international law lays down no limit, why should we introduce one?

We replied to the Colonial Office objections.

In May, 1960 (on 7), it appears that Cmdr. Kennedy had come to share the C.O.'s doubts and the C.O. stated their doubts in full in their letter of 23.5.60 (on 8). We replied to their objections again.

The views of the Governor of British Guiana were then sought on the Treaty as a whole and the discussion was in abeyance meanwhile.

The Governor's views were strongly against the 550 m. limit, principally because British Guiana ministers would simply think that we were depriving ourselves of something for the sake of an "experiment in international law" (on 12).

After a meeting in London with the Solicitor-General of British Guiana, it was agreed (on 13), that we should not raise the question of the 550 m. limit with the Dutch, but that if they raised it in the course of negotiations, we should be willing to discuss it.

The question now, therefore, is whether we should adopt this line for the forthcoming negotiations.

8. Contiguous Zone

In his letter of 15.1.57 (on 2), Cmdr. Kennedy suggested that we should deal with the "contiguous zone" also in our continental shelf article.

Such a zone is recognised by the 1958 Geneva Convention. Discussion on earlier papers was for the most part concerned with the fact that H.M.G. had not recognised the existence of the "contiguous zone", but it was accepted that we would do so when we became a party to the 1958 Convention.

We have now ratified the 1958 Convention and have thereby recognised the existence of the zone.

There seems no reason therefore why we should not maintain a reference to the contiguous zone.

9. Navigation

On earlier papers, there is a certain amount of discussion of the navigation and fishing rights which we
/should

should have.

If the compromise is accepted, the previous discussion of this becomes irrelevant.

The Dutch draft deals with the matter of navigation on the joint river only in the most general terms and it is for consideration: whether the Ministry of Transport should be asked to consider the draft and offer comments.

10. New River triangle

I would like to draw attention to a most interesting Note on the History of the Boundary Treaty with Dutch Guiana attached to a despatch from the Governor of 6.6.56 (on 3) in which it is made clear to what extent the Netherlands Government have acted as if they would accept the Kutari as the upper river, and how, on the other hand, the people on the ground generally doubted this.

I think this is good support (a) for our treating our "concession" as a substantial one; and (b) for our arguing that this is a disputed boundary.

I would also draw attention to a letter from the Chief Secretary of British Guiana of 11.4.57 (on 2) in which it is said that we want to avoid reopening the question of the New River area "at least until we have had the opportunity to explore the area".

No doubt this has been reconsidered.