

C.65073/29 [No. 8].

No. {

PROOF.

FOREIGN OFFICE

to

COLONIAL OFFICE.

[Answered by No. C.65073/29 [No. 7].] 2

SIR,

Foreign Office, S.W.1, 28th August, 1929.

With reference to your letters of 3rd July* last and of the 9th instant†, regarding the British Guiana-Surinam boundary, and to the Foreign Office letter of the 13th instant‡ regarding the delimitation of the frontier between British Guiana and Brazil, I am directed by Mr. Secretary Henderson to transmit herewith for the observations of the Secretary of State for the Colonies, a copy of a note from the Netherlands Minister proposing that the frontier between British Guiana and Surinam should be definitely fixed by treaty.

2. In view of this proposal and of the contentions of the Netherlands Government, Mr. Henderson does not consider it possible to reply in the sense suggested by Lord Passfield to the enquiry made by the Brazilian Ambassador as to the point of junction of the frontiers of Brazil, British Guiana, and Surinam, nor does he consider it possible for the Government of British Guiana to proceed at present to buoy the channel of the Lower Corentyne. Subject to the concurrence of Lord Passfield, he proposes to inform the Brazilian Ambassador that the matter is under consideration, and he suggests that the Governor of British Guiana should be instructed to take no steps for the time being towards placing buoys in the Corentyne river.

I am, &c.,

A. W. A. LEEPER.

Enclosure in No. {

AIDE-MÉMOIRE.

For the legal basis upon which the frontier between Surinam and British Guiana rests it is necessary to go back to the Treaty of London of 13th August, 1814, by which Treaty the United Kingdom agreed to return to the Netherlands the colonies, factories, and settlements which had been Netherland possessions at the beginning of the war, i.e., on 1st January, 1803, with the exception of Berbice, Demerary, Essequibo, and the Cape of Good Hope. The two Governments reserved themselves the right to conclude an additional agreement with regard to these latter possessions. By the terms of this additional agreement the Netherland Sovereign handed over to Great Britain, against certain obligations on the part of the latter country, the full sovereignty over the Cape of Good Hope and the settlements of Demerary, Essequibo, and Berbice.

The colony of Surinam had originally extended westwards across the Courantyne river, as far as Devil's Creek. The frontier between Surinam and Berbice had later, in 1799, by agreement concluded between the governors Van Batenburg and De Frederici, been determined in such a way as to cause the strip of land between the Courantyne and Devil's Creek to be added to Berbice, leaving however the islands in the river to Surinam, while Surinam also kept a post on the western bank of the river. In this way the river Courantyne itself remained Surinam territory in its entirety.

In later years the Surinam post on the western bank of the river was abandoned. As for the river itself, the contention has always been that not only the islands in it belong to Surinam, but also that the river itself is Surinam territory. This state of things seems to have been admitted on the part of Great Britain; it is only of late years that maps have been published in England on which notes appear which state that the frontier is formed by the centre of the deepest channel of the river, or, wherever there are islands, by the centre of the deepest channel between the island and the western bank. An example is the map which is annexed to the Report of the British Guiana Commission, April, 1927, Cmd. 2841, published by authority of His Excellency the Governor Sir Graeme Thomson, K.C.B. under the Direction of the Hon. G. D. Bayley, Commissioner of Lands and Mines, 1924. Apart from a single indication in the form of a short frontier line marked on the map, a note on this map says "The Eastern Boundary of the Colony is the middle of the deepest channel of the Courantyne River and when an island is passed the middle of the deepest channel

* No. C.65073/29 [No. 2].

† No. C.65073/29 [No. 7].

‡ No. C.65073/29 not printed

B.G.—Surinam Boundary—(C.17881:1). 24.

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between the island and the West Bank of the River". While this description properly recognizes that the islands in the river belong to Surinam, it does not include the whole of the river-bed amongst Surinam territory, but instead takes the "thalweg" to be the frontier.

In the opinion of the Netherland Government this contention, according to which part of the river would belong to British Guiana, is not in accordance with the existing legal and conventional state of things.

It appears desirable to the Netherland Government that the two Governments concerned, in order to exclude any misunderstanding in the future, now shall proceed to determine the frontier between the two possessions by treaty.

While also for the upper course of the Courantyne it must be assumed that the western bank of the river forms the boundary, it will at the same time be of importance definitely to determine which branch of the river system is to be considered as the upper course of the Courantyne. This is a point which has never been mutually settled. At the time of the original agreement of 1799 no attention was paid to the inland districts about which little or nothing was known. An exchange of views which took place in 1900, on which occasion the Dutch contention was that the New River formed the upper course of the Courantyne while the British authorities considered the Cutari to be the boundary, did not lead to an agreement.

It seems of importance to the Netherland Government to settle also this point by treaty.

Not only is this desirable from general considerations, in order that certainty in this matter may exist between the two countries, but also for the following special reason. The Brazilian Government have proposed to the Dutch Government to proceed to a demarcation of the frontier between Surinam and Brazil, which frontier has been determined by the treaty of 6th May, 1906, between the Netherlands and Brazil as following, from the frontier with the French colony to the frontier with the British colony, the line of the watershed between the Amazon basin in the south and the waters which find their way north to the Atlantic Ocean; the Brazilian Government now wish to demarcate the boundary on the spot, in concert with the Netherland Government. In connexion with this it is necessary that between the Netherlands and Great Britain the point shall have been determined where in the south-western corner of Surinam the Netherland-Brazilian frontier meets the British-Brazilian frontier.

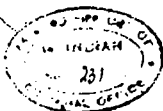
The Netherland Government believe that the Brazilian Government have also approached the British Government with regard to a demarcation of the frontier; it appears in any case necessary that, since the proposal has been made to the Netherlands, the course of the frontier between Surinam and British Guiana shall first have been agreed upon.

Although no difficulties have arisen in these matters between the two colonies, the Netherland Government are of opinion that it is important to ensure by the conclusion of a treaty that no doubts or misunderstandings shall arise in the future. The Netherland Government therefore beg to propose to the British Government to discuss the question together. An investigation on the spot could at the same time be agreed upon, in order to determine the actual course of the boundary river as well as the course of the boundary south of the source of the river as far as the watershed.

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C. 75006/30/No. 427

(W 10814/883/29)



FOREIGN OFFICE, S.W.1,

18th October, 1930.

Sir,

I have the honour to refer to your note No. 671 of the 29th April last and to reply, on behalf of His Majesty's Government in the United Kingdom, to the proposal which you were good enough to address to me in your aide-memoire of the 7th August, 1929, in regard to the frontier between Surinam and British Guiana.

2. In your aide-memoire you were so good as to acquaint me with the views of your Government on the line which should properly be adopted as the frontier between Surinam and British Guiana over the upper course of the river Corantyne. You urged that at the time of the original agreement of 1799 there was no full knowledge of the inland districts of Guiana; that it was erroneously believed at that time that the main sources of the Corantyne River were the Curini and Cutari; but that, according to recent investigation, it would appear that, on the contrary, the main stream of the River Corantyne is contributed by the so-called New River, considerably to the west of the Cutari. You therefore suggested that our two Governments should investigate the matter and settle by treaty the frontier between the two colonies on the basis of investigations as to which branch of the river system should properly be considered as the upper course of the Corantyne.

3. In reply I have the honour to request you to invite the attention of your Government to the fact that the frontier at present recognized between the two colonies, that formed by

the

Jonkheer R. de Marees van Swinderen,

etc., etc., etc.

(R17881-8) 24

* Enclosure in No. C. 65073/29 [No. 5]

RG - Surinam Boundary

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the River Cutari, has been accepted by both Governments since 1843, that is for a period of eighty-seven years, and it does not appear to His Majesty's Government in the United Kingdom that it would be either equitable or reasonable that recent theories as to the volume of water flowing down the various tributaries of the Corantyne (which theories such data as His Majesty's Government possess do not appear to them to justify) should be allowed to prejudice the existing position or to disturb the territorial settlement which has been generally accepted for nearly a century. Moreover, I have the honour to call your attention to the fact that the present boundary would appear to have been admitted in a written declaration to the First Chamber of the States General by yourself, as the Netherlands Minister for Foreign Affairs, so far back as 1913, and was subsequently reaffirmed in a statement made by the Minister to the Second Chamber on the 20th April, 1925. His Majesty's Government therefore venture to hope that the Netherlands Government will recognize both the justice and practical wisdom of not disturbing a territorial settlement which has happily been in existence so long between their respective colonies in Guiana.

4. If, as I venture to hope, your Government concur in the suggestion of His Majesty's Government that no attempt should be made to disturb the existing frontier on the upper course of the Corantyne, I have the honour to inform you that your suggestion of a treaty, to define more explicitly the frontier over the whole course of that river, would be acceptable to them. In such a case His Majesty's Government would be willing to accept and to embody in
treaty

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rights or undertakings by British nationals which might otherwise be prejudiced by the conclusion of the treaty, and liberty for all time for British nationals to take water from the river for irrigation or other purposes.

5. If the proposals which I have made are acceptable to the Netherlands Government, I have the honour to suggest that, simultaneously with the conclusion of such a treaty, the opportunity might be taken on the basis of these proposals of a co-operation of your Government and His Majesty's Government by the despatch of British and Netherlands representatives to meet the Anglo-Brazilian Boundary Commission with a view to defining the intersecting point of British Guiana, Surinam, and Brazilian boundaries, on the understanding that the actual survey work would be confined to such work as may be necessary to ascertain this point, the delimitation of the boundary as a whole being deferred to some later date.

I have ~~etc.~~ *tc.*
(For the Secretary of State)

~~(Sd.)~~ C. HOWARD SMITH.

end

Howard Smith

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i.e. always on the western side of the rivers. The following explanatory remarks may be given about sub 2). The definitions "high-water mark" and "low water mark" can practically only be used for those parts of a river which are subject to low and high tide. In those parts of rivers the said marks are not subject to great changes; they may be observed daily. In the event of a choice between the high water mark and the low water mark for this part of the river the high water mark should preferably be adopted. For police purposes the low water mark does not furnish a practical frontier. As it happens that the low water mark shows sometimes a difference of a 100 M. or more with the high water mark it would be uncertain up to which point the competence of the policy would extend at high tide. The same would apply with reference to the exercise of other acts of sovereignty. In the upper course of the Corantyne, especially where waterfalls are in existence, conditions are different. There the water level depends on the rainfall, which can affect considerable changes of a temporal character. Therefore the border line must form the frontier for the parts where the banks are steep and the border of the forest the frontier where the banks are flat and where inundations often occur.

3) At the mouth of the Corantyne the frontier will be "from a point 6° 0' 25" Lat. N. and 57° 8' 10" Lat. W. in a direction pointing to the right No. 28° 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;

4)

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4) The subjects of both countries will enjoy freedom of navigation over the whole course of the rivers;

5) British subjects and companies have full liberty to drive piles, construct wharves, boathouses or any other structures on the western bank of the river as may be required for trade or other purposes provided however they do not project more than 50 M. into the river, to be measured from the low water mark and in no case further than half of that part of the river which flows by that bank. No rights of any kind can be derived from the existence of these works neither on the river nor on the bottom and such works shall not impede the navigation;

6) The British authorities or British subjects and companies may draw water from the rivers for irrigation or for other purposes provided the navigability of the rivers does not suffer therefrom. No works for the utilization of hydraulic power shall be constructed without explicit and written authorization of the Government of Surinam;

7) The Netherland Government are in principal disposed to include in the treaty an article safeguarding any existing rights of British nationals or companies which do not impede the navigability. But before giving their definite opinion on this subject the Netherland Government would appreciate to receive a list of the rights which are referred to;

8) If it will be found necessary in the future to take measures with reference to the conservancy, improvement and lighting of the Corantyne and its estuaries, setting buoys erecting beacons therein, parties will then convene and having regard to the mutual interests fix the proportionate share for each of them.

The

The official text of the treaty shall be
in the English and Dutch language.

With regard to paragraph 5 of the above
mentioned note of His Majesty's Government of 18th
October last, the Netherland Government will have
the honour to revert to it at a later date.

London, 4th August 1931.

NETHERLANDS LEGATION.

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The Hague, November 6th 1934.
Vivienstraat 92.

Mr. W. Cunningham,
Chief British Commissioner
for the fixing of the Netherlands-British
Boundary on the Upper Kubari.

Dear Sir,

As you were already notified I have been appointed by the Netherlands Government, Chief Netherlands Commissioner for the fixing of the Netherlands-British Boundary on the Upper Course of the Kubari and of the tri-junction point of the boundaries of Surinam-British Guiana and Brazil - in accordance with the agreement ^{Permanet (see Oxford Dictionary)} entered into by the Netherlands and British Governments.

After the fixation of the tri-junction point the Netherlands and Brazilian Commissions will demarcate the Netherlands-Brazilian Boundary.

The Netherlands Commission will proceed from Paramaribo along the Corantyne to the Kutari as soon as in 1935 the Corantyne shall become navigable after the rainy season, which will be early in July, so that we can be on the Kutari by the beginning of September.

As the Netherlands-British Agreement about the Boundary and the tri-junction point admits of two alternatives viz: along the longest branch of the Kutari and along the track over the rock Farogle, the quickest procedure will probably be for each of the two commissions to ^{reconnaitre} reconsider one of these boundaries immediately and to meet there after for the definite fixation of the boundary - as far as the tri-junction point is concerned in co-operation with the Brazilian Commission.

Seeing that the British Commission has already started operations in this terrain, the above mentioned track over the

rock

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rock Harogle may of course already have been reconsidered^{noted} by you.

I shall be very pleased to receive from your side a proposal as to the procedure to be adapted as well as to the first meeting of the two Commissions.

I remain with the greatest esteem,

Yours faithfully,

(Sgd.) C.C. Kaysen.

No. N 8445/2197/29

FOREIGN OFFICE, S.W.1.

4th July, 1955.

URGENT

Sir,

With reference to my note of today's date, in which I had the honour to enclose a draft skeleton treaty embodying the points on which agreement has been reached between His Majesty's Government in the United Kingdom and the Netherlands Government on the subject of the boundary between British Guiana and Surinam, I have the honour to lay before you the following observations.

2. It will be observed that Article 1(E) of the skeleton treaty provides for the establishment of a boundary pillar in connexion with the beginning of the left bank of the River Courantyne. During the earlier stages of the correspondence in relation to the definition of this boundary it has been assumed, on the grounds, I understand, of a statement by the Netherlands Government, that a post or other landmark existed in the neighbourhood indicated by the geographical co-ordinates mentioned in this Article. On further enquiry, however, it has now transpired that the post referred to by the Netherlands Government is not in fact a fixed column, as was originally supposed, but that the reference was apparently to a police post which formerly existed in that neighbourhood but which has now been abandoned. It therefore appears necessary that the British and Netherlands Boundary Commissioners should proceed at once to the establishment of a pillar or beacon at the point indicated.

3. I understand that the Chief Netherlands Commissioner has now arrived in Surinam, and the reconstituted British section of the Commission left this country on the 15th June

and/

Jonkheer E. de Marees van Swinderen, G.C.V.O.,
etc., etc., etc.

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and is expected to arrive in British Guiana at the beginning of July. His Majesty's Government consequently desire urgently to invite the Netherlands Government to instruct their Chief Commissioner to co-operate with the Chief British Commissioner in locating and establishing the boundary pillar referred to in Article 1(2) of the draft treaty at a convenient opportunity to be arranged between the two Commissioners. In this connexion I have the honour to add that His Majesty's Government have approved of expenditure not exceeding £200 being incurred by the Chief British Commissioner in connexion with the erection of this pillar, and it is hoped that the Netherlands Government will be willing to share the burden of such expenditure as may be incurred.

I have the honour to be,
with the highest consideration,

Sir,

Your obedient servant,
(For the Secretary of State)

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