

Reference in No

COPY

(W 1841/1121/29)

No. 394..

Netherlands Legation,
London.

28th February, 1936.

Sir,

With reference to your note of the 4th July 1935 No.W 5443/2367/29 concerning the draft treaty in connexion with the boundary between Surinam and British Guiana, I have the honour, in accordance with instructions received, to inform you as follows:-

art.1. (1):- The Netherland Government would appreciate to be informed as to the meaning of the word "itabu" after the words "where a side channel".

art.1 (2) and art.3. My Government prefer the indication "a true bearing of north 28° east" or "a true bearing of 28° north by east" to "a true bearing of 28°".

art.4. Her Netherland Majesty's Government deem it desirable to add the words: "due to the normal recurring seasonal fluctuations in its volume" to the end of art.4.

This definition was also used in par.5 of your predecessor's note of the 6th February 1932 as well as in the Netherland Minister's note to Sir John Simon of the 27th February 1933 No.218.†

art.5 (2). The text of art.5 (2) of the draft treaty seems to differ somewhat from the text proposed in par.5 of Jonkheer van Swinderen's memorandum to the Foreign Office

of

The Right Honourable
Anthony Eden, M.C., M.P.,
etc., etc., etc.

* N. 60013/35 [No. 116]
† No.

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of August 4th 1931, the latter reading:

"British subjects and companies have full
"liberty to drive piles, construct wharves,
"boathouses or any other structures on the
"Western bank of the rivers as may be required
"for trade or other purposes, provided however
"that they do not project more than 50 M. into
"the river, to be measured from the low watermark
"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
"those works neither on the river nor on the bottom
"and such works shall not impede the navigation".

This text was in concurrence with the views of
the British Government as stated in par.9 of your
predecessor's note of the 6th February, 1932, No. W 954/954/29
referred to above, which reads:

"His Majesty's Government are in agreement with
"the proposals in par.4, 5, 6, 7 and 8 of Jonkheer
"van Swinderen's memorandum for the inclusion in
"the Treaty of provisions for the safeguarding of
"free navigation and British interests in the
"River Corantyne etc."

As to the text proposed in the draft treaty
reading:

"The subjects of His Majesty the King shall have
"full liberty to drive piles, construct wharves,
"boathouses or any other structures on the left
"hand of the river, always provided that such
"structures do not impede navigation and do not
"project beyond the thalweg of the channel of the river
"which flows by that bank or at any place above
"(here insert description of point where estuary
"begins)"

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"begins) more than 50 metres from the lowest
recorded low watermark into the water-channel
"of the river",

the Netherland Government do not think it necessary to divide the river into two parts. Furthermore I have the honour to draw your attention to the following:

It is quite possible that after a prolonged drought a large part of the Kutari should entirely dry up. If the words "lowest recorded low watermark" were maintained, difficulties could arise as to the sovereignty over a temporary dry part of the river. With a view to avoiding difficulties of such a nature the Netherland Government - agreeing to the thalweg being the limit up to which structures may be built - propose to formulate art.5 (2) as follows:

"The subjects of His Majesty The King shall have full liberty to drive piles, construct wharves, boathouses or any other structures on the left hand of the river always provided that such structures do not impede navigation, and do not project beyond the thalweg of the channel of the river which flows by that bank and in no case further than 50 Metres into the river, to be measured from the low watermark".

This stipulation would apply to the whole of the river. In case the thalweg is near the Netherland side of the river the provision as regards the 50 metres limit will apply; in case the thalweg is near the British side, or in case the Kutari is less than 50 metres broad, the prohibition to go further than the thalweg will apply.

I have, etc.,
(Signed) E. Teixeira de Mattos.



60013/5 (A/B) (L) (L) (L)
C. 3047/2452/29
No. 2352.

Netherlands Legation,
London,
22nd November, 1957.

Sir,

With reference to your notes of the 26th July 1956 No.W 6196/1121/29 and of the 20th October last No.C 7097/2452/29, regarding the draft treaty in connexion with the boundary between Surinam and British Guiana, I have the honour, in accordance with instructions received, to inform you as follows.

After consideration of your note of the 25th July 1956 the Netherlands Government admit as correct and accept the division of the river into two parts as suggested in par.6 thereof.

In par.7 a statement is made, which my Government consider correct in theory, that no case could occur where a thalweg does not exist, as thalweg is interpreted as meaning the line of lowest level and as being independent of the presence or absence of water. I have the honour to observe however, that it may be impossible in practice to determine the lowest level in a region where waterfalls and rapids of great breadth and length are frequent. It is even considered doubtful whether the lowest level in such conditions will be continuous, as, between the rocks in the river-bed several channels of the same depth will be found. It is not clear how in these circumstances a line can be drawn beyond which works may not be constructed. It is quite likely that the line thus drawn should have to run across the river at several points; therefore - contrary to the intention - the works to be erected might impede the already difficult navigation.

Respectfully,
Anthony Eden, M.P., M.C.,
Att. Gen.

(B30065-98)
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In view of these considerations the Netherland Government propose the following text for art. 5(2):

"The subjects of His Majesty the King shall have full liberty to drive piles, construct wharves, boathouses or any other structures, on the left bank of the river, always provided that such structures do not impede navigation and do not project beyond the thalweg of the channel of the river which flows by that bank, or at any place above a point 10 miles upstream from the beacon referred to in Article 1(R) do not project further than half the breadth of that part of the river and in no case more than 50 metres from the low-water mark into the waterchannel of the river. No prescriptive rights of any kind against Her Majesty the Queen of the Netherlands shall be derived from the existence of such works either on the river or on its bed".

My Government are of opinion that this text, on the one hand accepting the division of the river into two parts and on the other hand restricting the permitted projection of works in the upper reaches of the stream, to no more than half the breadth of the river, is in conformity with the local situation and the practical exigencies.

As to par.4 of your note of the 25th July 1956, I have the honour to inform you that my Government do not deem the addition to art.4 of the words "due to the normal recurring seasonal fluctuations in its volume" necessary, since the British Government accept the words "low-water mark" in art.5 (2).

As a result of the observations of the Mixed Commission art.1 (2) will have to be read as follows:

"The

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"The beginning of the left bank of the River Courantyne
"at the sea shall be the point at which a line drawn on
"a bearing of N.10°. from the beacon erected on the left
"bank of the River Courantyne at latitude 5°59'53", 8N.87°08'
"51,5.0. intersects the shore line"

whilst art.5 should read:

"The boundary between the territorial waters of Surinam
"and British Guiana is formed by the prolongation seawards
"of the line drawn on a bearing of N.1000. from the land-
"mark referred to in Article 1(2) above".

The substitution of N.10° for 28° should also be
accepted in art. 1 (2).

I shall be grateful if you will let me know whether His
Majesty's Government agree to the proposed text of art.5 (2) and
have the honour to remain,

fc
With the highest consideration,

Sir,

Your obedient servant,

(Sd.) E. Teixeira de Mattos.

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B0013/37 [No. 1]: Enclosure.

No. 75

PROOF.

THE NETHERLANDS CHARGE D'AFFAIRES

to

THE SECRETARY OF STATE FOR FOREIGN AFFAIRS.

(Copy received in Colonial Office, 2nd December, 1937.)

(No. 2352.)

SIR, Netherlands Legation, London, 22nd November, 1937.

With reference to your notes of the 25th July 1936 No. W.6196/1121/29 and of the 20th October last No. C.7097/2452/29, regarding the draft treaty in connexion with the boundary between Surinam and British Guiana, I have the honour, in accordance with instructions received, to inform you as follows.

After consideration of your note of the 25th July 1936 the Netherlands Government admit as correct and accept the division of the river into two parts as suggested in para. 6 thereof.

In para. 7 a statement is made, which my Government consider correct in theory, that no case could occur where a thalweg does not exist, as thalweg is interpreted as meaning the line of lowest level and as being independent of the presence or absence of water. I have the honour to observe, however, that it may be impossible in practice to determine the lowest level in a region where waterfalls and rapids of great breadth and length are frequent. It is even considered doubtful whether the lowest level in such conditions will be continuous, as, between the rocks in the river-bed several channels of the same depth will be found. It is not clear how in these circumstances a line can be drawn beyond which works may not be constructed. It is quite likely that the line thus drawn should have to run across the river at several points; therefore—contrary to the intention—the works to be erected might impede the already difficult navigation.

In view of these considerations the Netherland Government propose the following text for art. 5(2):

"The subjects of His Majesty the King shall have full liberty to drive piles, construct wharves, boathouses or any other structures, on the left bank of the river, always provided that such structures do not impede navigation and do not project beyond the thalweg of the channel of the river which flows by that bank, or at any place above a point 10 miles upstream from the beacon referred to in Article 1(2) do not project further than half the breadth of that part of the river and in no case more than 50 metres from the low-water into the waterchannel of the river. No prescriptive rights of any kind against Her Majesty the Queen of the Netherlands shall be derived from the existence of such works either on the river or on its bed."

My Government are of opinion that this text, on the one hand accepting the division of the river into two parts and on the other hand restricting the permitted projection of works in the upper reaches of the stream, to no more than half the breadth of the river, is in conformity with the local situation and the practical exigencies.

As to para. 4 of your note of the 25th July 1936, I have the honour to inform you that my Government do not deem the addition to art. 4 of the words "due to the normal recurring seasonal fluctuations in its volume" necessary, since the British Government accept the words "low-water mark" in art. 5(2).

As a result of the observations of the Mixed Commission art. 1(2) will have to be read as follows:

"The beginning of the left bank of the River Courantyne at the sea shall be the point at which a line drawn on a bearing of N. 10° 0. from the beacon erected on the left bank of the River Courantyne at latitude 5° 59' 53, 8N. 57° 08' 51.5-0. intersects the shore line"

whilst art. 3 should read:

"The boundary between the territorial waters of Surinam and British Guiana is formed by the prolongation seawards of the line drawn on a bearing of N. 10° 0. from the landmark referred to in Article 1(2) above"

The substitution of N. 10° for 28° should also be accepted in art. 1(2).

I shall be grateful if you will let me know whether His Majesty's Government agree to the proposed text of art. 5(2) and have the honour to remain,

E. TEIXEIRA DE MATTOS.

* No. 71.

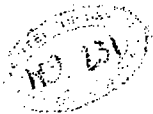
B.G.—Surinam Boundary—(C.30065/78). 12.

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COPY.

(C 8961/1910/29).

No. 4344.



NETHERLANDS LEGATION.

London,

27th August 1938.

My Lord,

With reference to your note of the 25th July last No.C 3440/1910/29, regarding the draft treaty in connexion with the boundary between Surinam and British Guiana, I have the honour, under instructions received, to inform you that paragraph 3 of the original copy of the report in English concerning the erection of the beacon stated as average latitude 5°59'53.9" North, but 53.9 was altered in ink in 53.8. This alteration was initialled by Messrs. Chipps and Kayser; on this ground my Government are of opinion that the cypher 53.8 should be deemed correct.

For the rest the Netherland Government entirely concur that the redaction given in your note, viz. latitude 5°59'53.8" North, longitude 57°08'51.5" West is more correct.

I shall be grateful if you will be good enough to inform me whether His Majesty's Government agree that latitude 5°59'53.8" North, longitude 57°08'51.5" West should be the exact indication and have the honour to remain,
with the highest consideration, etc.

(Signed) E Teixeira de Mattos.

The Right Honourable Viscount Halifax
K.G., G.C.S.I.,
&c., &c., &c.

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60013/38 [No. 17]: Enclosure.

No. 83

PROOF.

THE NETHERLANDS MINISTER.

to

THE SECRETARY OF STATE FOR FOREIGN AFFAIRS.

(Copy received in Colonial Office, 10th September, 1938.)

MY LORD, Netherlands Legation, London, 27th August, 1938.

With reference to your note of the 25th July last No. C. 6440/1910/29, regarding the draft treaty in connexion with the boundary between Surinam and British Guiana, I have the honour, under instructions received, to inform you that paragraph 3 of the original copy of the report in English concerning the erection of the beacon stated as average latitude 5° 59' 53.9" North, but 53.9 was altered in ink in 53.8. This alteration was initialled by Messrs. Phipps and Käyser; on this ground my Government are of opinion that the cypher 53.8 should be deemed correct.

For the rest the Netherland Government entirely concur that the redaction given in your note, viz. latitude 5° 59' 53.8" North, longitude 57° 08' 51.5" West is more correct.

I shall be grateful if you will be good enough to inform me whether His Majesty's Government agree that latitude 5° 59' 53.8" North, longitude 57° 08' 51.5" West should be the exact indication and have the honour to remain,

With the highest consideration, &c.,

E. TEIXEIRA DE MATTOS. *cap*

The Right Honourable Viscount Halifax, K.G., G.C.S.I.,
&c., &c., &c.

* No. 83.

B.G.—Surinam Boundary—(C.36442/93). 12.

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60013/38 [No. 31]: Enclosure.

No.

PROOF. 3

THE SECRETARY OF STATE FOR FOREIGN AFFAIRS

to

THE NETHERLANDS MINISTER.

(Copy received in Colonial Office, 3rd November, 1938.)

SIR, Foreign Office, S.W.1, 1st November, 1938.
With reference to your note No. 4344 of 27th August relating to the delimitation of the boundary between British Guiana and Surinam, I have the honour to inform you that as a result of enquiries made in British Guiana, the British authorities concerned have now confirmed that the co-ordinates of the beacon at the mouth of the River Courantyne should be as stated in your above-mentioned note, viz., latitude 5° 59' 53.8" North and Longitude 57° 08' 51.5" West.

2. His Majesty's Government therefore agree that Article 1(2) of the draft Treaty should be amended accordingly.

I have, &c.,

W. I. MALLET.

Jonkheer E. Teixeira de Mattos,
&c., &c., &c.

B.G.—Surinam Boundary—(C.36442/99). 12.

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FOREIGN OFFICE, S.W.1.

14th September, 1949.

Your Excellency,

You may recall that on the 25th November, 1939 Lord Halifax had the honour to address to Your Excellency a Note (No. C. 17666/76/29) about the proposals which had been under discussion between our two Governments for the delimitation of the boundary between British Guiana and Surinam, together with the revised English text of the draft of a treaty to be concluded for this purpose. Lord Halifax enquired whether your Government concurred in the draft treaty and whether they were prepared to proceed to signature, in which event Lord Halifax asked whether you would be so good as to furnish him with a Dutch text of the treaty.

2. Further negotiations were interrupted by the unhappy events of 1940 and no action has since been taken to proceed with the treaty. His Majesty's Government now feel that it would be opportune to re-open this subject and, accordingly I have the honour to transmit herewith a revised English text of the draft of a treaty for the delimitation of the boundary between British Guiana and Surinam. The text is identical with the text transmitted in 1939 save for Article 5, 1, which secures freedom of navigation of the Courantyne River to the High Contracting Parties.

/s.....

His Excellency
Jonkheer E. Michiels van Verduyën,
etc., etc., etc.,
Plat 12,
Rensfort House,
Park Street,
W.I.

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3. His Majesty's Government are of the opinion that any arrangement for securing freedom of navigation of the Courantyne River must be consistent with their obligations under the Barcelona Convention on the Regime of Navigable Waterways of International Concern of 1923, under the protocol of which His Majesty's Government has extended its jurisdiction to cover British Guiana. Under Article 3 of the Barcelona Convention the signatories are bound to accord free exercise of navigation to the vessels of the flags of all States parties to the Convention on those parts of waterways under their sovereignty or authority.

4. Under the proposed treaty, the boundary between British Guiana and Surinam is the left bank of the Courantyne River and not the Thalweg. In practice, therefore, it would appear that no part of the waterway will be under the sovereignty or authority of His Majesty's Government and the obligations of His Majesty's Government towards their fellow signatories of the Barcelona Convention would appear to be confined to assuring them the free use of any ports or landing facilities which might be constructed on that part of the left bank which is under the sovereignty and authority of His Majesty's Government.

5. His Majesty's Government realize, moreover, that there must inevitably be some control over navigation and consider that the incorporation of the Barcelona Convention for this purpose would define sufficiently precisely the extent to which freedom of navigation would be granted or withheld by the State exercising sovereignty and authority over the waterway: i.e. by the Netherlands Government.

6.

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6. With these considerations in mind His Majesty's Government propose that Article 5, 1, should be redrafted as follows:-

"1(i) There shall be freedom of navigation in accordance with the provisions of the Convention and Statute of the Regime of Navigable Waterway of International Concern signed at Barcelona on the 20th April 1921."

7. His Majesty's Government are also of the opinion that in the view of their obligations under the Brussels Treaty and the Atlantic Pact the treaty should provide for the freedom of navigation for the warships of the High Contracting Parties at all times, and for the warships of the Allies of either of them in time of war. His Majesty's Government therefore propose that a second sub-clause should be inserted as follows:-

"1(ii) The warships of the High Contracting parties shall enjoy freedom of navigation and in time of war the warships of the Allies of either of them."

With regard to the provisions for the use of the river for aircraft, His Majesty's Government are of the opinion that, in view of the development of civil aviation since 1939, it is necessary to define the extent to which the rights of the Parties should be limited in order, on the one hand, to ensure that aircraft may be provided with adequate facilities for alighting and taking off and, on the other hand, to ensure that such facilities should not become an obstacle to navigation.

8. His Majesty's Government therefore propose a third sub-clause to article 5, 1, as follows:-

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"(111) Aircraft registered in the territories of the High Contracting Parties shall enjoy freedom of make use of the waters of the river as an alighting area, provided always that the alighting area marked for the purpose and any ancillary buildings are not of such a nature as to affect the navigability of the river, nor the free passage of shipping as stipulated in Article 5 1(1) above."

Q. His Majesty's Government believe that it would be of advantage if the draft treaty were discussed by the Governors of British Guiana and Surinam before any further steps are taken by the two metropolitan Governments in regard to the delimitation of the boundaries between the two dependent territories. I have the honour, therefore, to enquire whether your Government concur that the draft treaty, as amended, should now form the basis for discussions between the two Governors as a preliminary to signature, either in the Hague or London, by the Royal Netherlands Government and His Majesty's Government. In this event I shall be glad if you would be so good as to furnish me with a Dutch text of the treaty.

I have the honour to be, with the highest consideration,
Your Excellency's obedient Servant,
(For Mr. Attlee)

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ALDE MEMOIRE
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The Government of Surinam have requested the Netherlands Government to take steps to determine clearly and precisely the line dividing the continental shelf adjacent to Surinam and British Guiana. This matter has lately become of practical importance with a view to determining the areas covered by oil exploration concessions granted by the Surinam Government.

The Convention on the Continental Shelf adopted this spring by the Geneva Conference on the Law of the Sea, although not yet signed by the Netherlands or the United Kingdom, is considered to lay down acceptable general principles of international law concerning the delimitation of continental shelves.

According to Article 6, par. 2, of that Convention, the boundary of a continental shelf adjacent to the territory of two adjacent States shall be determined by agreement between them.

It is deemed desirable that such an agreement be concluded between the Netherlands and the United Kingdom by an exchange of notes in which the principle of "equidistance", mentioned in the same article of the Convention, would be adopted as the determinant of the line dividing the continental shelf adjacent to Surinam and British Guiana. The actual dividing line resulting from the equidistance principle would be charted on a map to be annexed to the notes.

The Netherlands Naval Authorities have been asked to prepare such a map.

London, 6th August, 1958.

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HN 1081/5

FOREIGN OFFICE, S.W.1.

November , 1958.

Your Excellency,

To:-
The Netherlands
Ambassador.

I have the honour to refer to the Aide
Memoire on the subject of the boundary
dividing the Continental Shelf of British
Guiana from that of Surinam, which was left
at the Foreign Office by a member of your
Embassy on August 6.

Her Majesty's Government learn with
pleasure that the Netherlands Government would
welcome an agreement on this question, based
on the principle of equidistance.

As the Netherlands Ministry of Foreign
Affairs will be aware from their discussions
with Her Majesty's Embassy in The Hague, my
Government is at present preparing a Draft
Treaty for the delimitation of the boundary
between British Guiana Surinam. It is intended
that the Draft Treaty should contain provisions
for the delimitation of the Continental Shelf,
based on the accepted principle mentioned above.
I understand that the Netherlands Ministry of
Foreign Affairs have expressed a preference for
the negotiations connected with this treaty
to take place in The Hague; I hope soon
therefore to be able to instruct H.M. Embassy
in The Hague to present my government's
proposals to the Netherlands authorities.

My Government are pleased to learn that the
Netherlands Naval authorities are to
prepare a map of the relevant area of
Continental Shelf.

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NOTE VERBALE

RECEIVED IN
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- 3 FEB 1966
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The Netherlands Ambassador presents his compliments to Her Majesty's Principal Secretary of State for Foreign Affairs and, while acknowledging with thanks the receipt of the draft treaty for the definition of the boundary between British Guiana and Surinam enclosed with the Foreign Secretary's Note No. A 1082/21 of 29th November, 1965, has the honour to inform him as follows:

1. For negotiations on the subject of the land-boundary between Surinam and British Guiana, the Government of the Kingdom of the Netherlands base themselves on the West bank (left bank) of the Corentyne, which river, in accordance with the agreement between the Governors Batenburg and Frederici of 1799, and subsequently, in accordance with the Treaty of London of 1815, is entirely Surinam territory, as has also been mentioned in the British draft treaty.
2. The land-boundary between Surinam and British Guiana thus having been established, the whole Corentyne from its source to its mouth is by right Surinam territory. Only the demarcation thereof still has to take place.
3. By virtue of the foregoing, the Government of Surinam have, by territorial decree of 5th May, 1965, published in the Government Journal ("Gouvernementsblad") No. 45 of that year, named officially and correctly the part of the Corentyne, indicated by the United Kingdom as "New River", as Upper Corentyne ("Boven Corantijn").
4. The Government of the United Kingdom, in a note from the British Ambassador at The Hague, dated 9th March, 1965, No. 65, have protested against this, and have declared that they wish to reserve their rights on this subject. The Government of the Kingdom of the Netherlands find themselves in a position of being unable to accept this protest.

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5. The aforementioned position of the Government of the United Kingdom has resulted in this question being discussed by the Parliament of Surinam ("de Staten"), leading to the unanimous adoption on 7th October, 1965 of a motion supporting the position adopted by their Government.
6. According to information received from the British Foreign Office, the Government of the United Kingdom have decided to grant independence to British Guiana in May, 1966.
The Government of the Kingdom of the Netherlands are of the opinion that, in granting such independence, the foregoing should be taken into account.
7. The Government of the Kingdom of the Netherlands propose to the Government of the United Kingdom that an official boundary register be drawn up by a committee of experts from the United Kingdom and from the Kingdom of the Netherlands, embodying all technical data concerning the course of the West bank (left bank) of the Corentyne from its source to its mouth, describing this course in a manner consistent with scientific and technical requirements and giving the exact geographical position of special or specially marked points of the riparian boundary-line.
8. Contrary to what was stated on this subject in the draft treaty submitted by the United Kingdom, the Government of the Kingdom of the Netherlands consider that the sea-boundary between Surinam and British Guiana should run from the West bank (left bank) of the Corentyne at its mouth, across the territorial sea and the continental shelf with a bearing 10° East of the true North.
9. The Government of the United Kingdom have invited the Government of the Kingdom of the Netherlands to start negotiations at an early date about the final definition of the boundary between Surinam and British Guiana, for which purpose a draft treaty was submitted.

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In view of the forthcoming transfer of sovereignty to British Guiana, the Government of the Kingdom of the Netherlands are indeed prepared to start at an early date negotiations about the final definition of the boundary between Surinam and British Guiana.

10. As follows from the considerations stated in paragraphs 1 to 8 above the Government of the Kingdom of the Netherlands cannot, however, accept the draft treaty submitted by the United Kingdom as a basis for such negotiations.
11. The Government of the Kingdom of the Netherlands for their part propose that negotiations be based solely on those legal facts which are recognised by both countries concerned as mentioned under paragraph 1 above.
12. The Government of the Kingdom of the Netherlands therefore propose that preliminary negotiations between experts of both parties be started as soon as possible at The Hague on the basis of the following agenda:
 - a) the establishment of the Western sea-boundary of Surinam across the territorial sea and the continental shelf;
 - b) the principles for the demarcation of the Western land-boundary of Surinam, i.e. the West bank (left bank) of the Corentyne;
 - c) the composition of a mixed committee for the demarcation of the boundaries in question.

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The text of the motion of the Parliament of Surinam, referred to in paragraph 5, is enclosed herewith.

London, 3rd February, 1966.

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