

Original in Dutch and attached. Translation provided by Guyana.

Report of the discussions held between Surinam and Guyana at Marlborough House,
London, England on 23 June 1966, commencing at 10.30 a.m.

Present:

Representing Surinam:
Dr F.E. Essed (Chairperson)
D.G.A. Findlay
C.F. Calor
C.D. Ooft
I. Soemita
Dr N. Panday
H.R. Lim A Po (Secretary)

Representing Guyana:
Sir Lionel Lookhoo
Sol.-Gen. Shahiberdien
F.H.C. John, UN
Representative of Guyana

Interpreter: Ms van Schelle
Secretariat: Ms Sankar

The Surinamese delegation was introduced to the Guyanese delegation by Dr J.F.E. Einaar, Minister Plenipotentiary of Surinam in The Hague. Dr Einaar stated that he was particularly pleased to be in London in order to discuss with the Guyanese delegation the border between both countries. Dr Einaar said he is convinced that the parties would be able to achieve a peaceful solution to existing problems.

After Dr Einaar left the meeting, the Surinamese delegation was welcomed by Sir Lionel Lookhoo, High Commissioner for Guyana in England, who remarked that it was a special occasion for Guyana to have its first meeting as an independent country with Surinam as there is a solid bond of friendship between Surinam and Guyana as well as between their respective Heads of State.

Guyana would like to see the character of the present discussions as one of a free and frank exchange of views.

In relation to where the discussions are currently being held, it was remarked that the room in this building was made available by the Foreign Office and can be regarded as an independent venue.

The Chairperson of the Surinamese delegation, Dr Essed, on behalf of his delegation, offered his thanks for the words of welcome and described the fact that the first meeting of Guyana as an independent country is with Surinam is a symbol of the good relationship which has prevailed between both countries for centuries and hopefully will prevail in the future.

The fact that Surinam has come to discuss the border does not mean that Surinam has come to discuss partition but rather a bond as borders have more of a binding than a separating function. Seen in this light Surinam would like to fix the border on the basis of technical principles so that we can work together on a clear and sound basis. That is why Surinam has come to ask for the border to be demarcated and for a border register to be set up.

Surinam has understood that on your side there are some objections to this approach and would like to learn what these objections are.

Guyana

In our opinion this case has three different aspects, namely:

1. the triangle
2. rights in the Corantijn
3. the border on the continental shelf.

Do you agree?

Surinam

We proposed an agenda earlier in a memorandum submitted to the Foreign Office, namely in the oral memorandum of 3 February 1966, viz.:

1. the delimitation of the western sea border of Surinam over the territorial sea and the continental shelf;
2. the demarcation of the western land border of Surinam, namely the western bank of the Corantijn;
3. the setting up of a mixed commission to delimit the borders under discussion.

Are you willing to talk on the basis of this agenda?

Guyana

Although we were not aware of this proposal, we are prepared to accept it and to enter into discussions on the basis of this agenda. We would now like to hear your ideas on the first agenda point before we explain our position.

Dr Essed asked if the Guyana delegation would excuse the Surinam delegation if they sometimes consult amongst themselves and indicated that he would allow individual delegation members to speak separately. This would result in a free and peaceful discussion.

AGENDA POINT 1

Surinam

There is usually a differentiation made between the territorial sea and the continental shelf.

Before being able to draw the border in the territorial sea and on the continental shelf, it is first necessary to know where the border should begin.

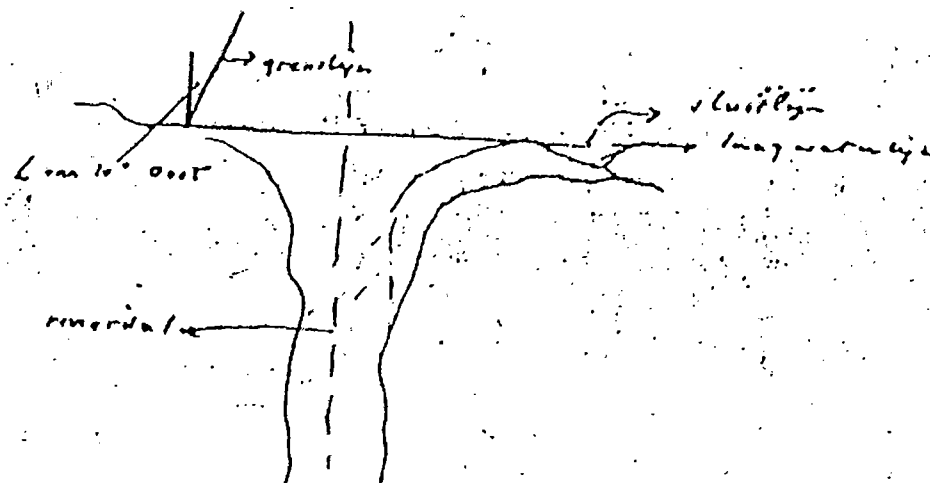
Later on we shall show you on the map our proposal for a boundary between the river and the territorial waters. Where this boundary intersects the left bank of the Corantijn is the starting point of the border in the territorial sea and on the continental shelf. In our opinion, this border runs in the territorial sea and on the continental shelf in accordance with a line which runs parallel to the valley of the Corantijn. This valley continues into the territorial sea and over the continental shelf in the direction of 10 degrees east.

Dr Essed also made the comment that, as demonstrated by this proposal, Surinam seeks a quick resolution of this issue. A large part of the world expects perhaps that conflict between us will arise. However, we want to arrive at a quick and peaceful solution with Guyana that will set an example for the entire world.

Surinam

The boundary marking the end of the river runs perpendicular to the main current of the Corantijn, unless special circumstances should prevent this. However, in our opinion, such special circumstances are not present.

The Surinamese proposal:



Guyana

It would appear sensible to investigate how the 10 degree line was derived in the past. In the aide-memoire of the Dutch government dated 4 August 1931, it is stated in section 3: 'At the mouth of the Corantyne, the frontier will be from a point 6 degrees 0'25" Lat. N. and 57 degrees 8'10" Lat. W. in a direction pointing to the right N. 28 degrees 0 to the point where this line meets the outer limit of the territorial waters and from there in an easterly direction following this outer limit of the territorial waters'. This sentence has been cited in order to demonstrate that the original proposal of the Netherlands was not a 10 degree but a 28 degree line. Moreover, this line was only intended to delimit the border in the territorial waters and not in the contiguous zone or continental shelf.

The following took place in the 1930s: the commission which fixed the two border points in 1936 considered that a line of 28 degrees in the territorial sea would cut into the river channel and would hence make control of the river mouth more difficult. This consideration led to the 10 degree instead of the 28 degree line being adopted as the border in the territorial waters.

Seen against this background, the 10 degree line offers no support for fixing the border in the contiguous zone or on the continental shelf.

Under these circumstances the border in these last two areas should be fixed in accordance with the relevant international law. In this regard, the Conventions of Geneva of 1958 are significant, in particular Art. 6, para.1 of the Convention on the

Continental Shelf and Articles 12 and 14 para. 3 of the Convention on the Territorial Sea and the Contiguous Zone.

The application of the rules incorporated in these provisions to the delimitation of the border in the contiguous zone and on the continental shelf leads to a boundary line in accordance with the equidistance principle which means a line of 33 to 34 degrees – a line not differing much from the line of 28 degrees accepted by The Hague in the 1930s. We are aware that the Kingdom of the Netherlands has ratified the above-mentioned treaties and has cited the equidistance principle in demarcating the border between the Netherlands, Germany and Great Britain. Even these countries agreed to a treaty on the basis of the equidistance principle.

Furthermore, in 1958 The Hague proposed to Britain that the border between Surinam and Guyana in the contiguous zone and on the continental shelf should be delimited according to the equidistance principle. This proposal was accepted by Britain.

In the Geneva Conventions there are exceptions made for two categories of cases, viz.:

1. when the parties agree to another arrangement
2. when historical circumstances lead to the adoption of a different arrangement.

In our opinion there is no question of exception 1 being relevant because we have never encountered a different arrangement.

In relation to exception 2, we are of the opinion that, against the background of the 10 degree line, it cannot be rightfully said that there are historical circumstances which justify another arrangement than that of the equidistant line as the border.

Although we shall examine this issue later in more detail, we would like to note here that Guyana, in the past, had claimed the thalweg of the Corantijn as the border. However, in the 1930s it was agreed with The Hague that we would withdraw this claim in exchange for recognition by The Hague of our rights in the triangle.

If Surinam wants to observe this agreement, Guyana can proceed to discuss the position of a boundary to mark the end of the river based on the fact that the Corantijn is a Surinamese river.

At this stage we would like to note that we are of the opinion that this should not be drawn so far to the north as you propose. In accordance with reality, the boundary will have to be drawn between the two points of the river where the first

noticeable narrowing of the river begins, which means that the boundary will have to run van Blufpunt on the Surinamese side to the Anna Morina Creek on the Guyanese side. These two points indicate the first noticeable narrowing of the river. The boundary proposed by Surinam lies outside the actual river.

If the agreement of 1930 relating to your recognition of our claims on the triangle and our recognition of your claims on the river is observed by you, then we have no need to extend the border in the river to the thalweg, as was proposed by The Hague in 1962 in a draft treaty.

Surinam

Part of this draft treaty was an aide-memoire. In this aide-memoire, which cannot be seen separately from the draft treaty, it is explicitly stated that this draft was drawn up by the Netherlands in response to a proposal by and at the instigation of Britain. Moreover, with the greatest emphasis, it is indicated that the proposal included in this draft was explicitly rejected by Britain with the result that this proposal no longer exists. Guyana is urged to take this expressly into account.

Guyana

The previous comment should not be understood incorrectly. Guyana definitely no longer wants to claim the thalweg as the border in the Corantijn River. Guyana only wants Surinam to respect the rights of the Guyanese users of the river.

Surinam

Nevertheless, we want to state explicitly that the proposal of 1962 was a British proposal that reached the Netherlands via diplomatic channels.

Guyana

It is not known in Guyana that the proposal originated in Britain.

Surinam

It is very clearly stated in the attached aide-memoire. To repeat: the draft was explicitly rejected by Britain in a later memorandum.

Guyana

This question about 1962 is not our most important point. It was only mentioned in passing. Actually, we only wanted to say that by accepting the thalweg as the border, a boundary marking the end of the river would no longer be necessary.

Surinam

The last statement is not correct. Such a boundary is always necessary. However, the matter is such that, if the thalweg constituted the border, the boundary would have to be agreed by both parties whereas now, given that the Corantijn is a national Surinamese river, the boundary can be determined unilaterally by Surinam.

The necessity of a boundary is therefore independent of the question of where the border runs. The boundary is in all cases where the river ends and the territorial sea begins. It should always be clear where the territorial sea begins.

It is possibly not sensible to discuss now the purely technical question of whether a boundary is necessary or not to delimit the border. It is more useful to return to the agenda point under discussion, namely the delimitation of the border in the territorial sea and on the continental shelf.

Surinam has a detailed explanation of its position on the course of the border. There are many facets to our position but before addressing these facets one-by-one we would like to learn what the Guyanese position is.

Guyana

Assuming that Surinam accepts the agreement made in the 1930s, we believe that the border should run as we proposed in our last draft treaty of 1965, namely beginning at the point where the 10 degree line crosses the low-water line on the coast and continuing in the direction proposed by you in 1958 according to the equidistance principle, which would result in a line of 33 to 34 degrees that runs close to the 1931 line of 28 degrees.

The general direction of the valley of the river is, according to us, not a relevant factor for the delimitation of the border in the territorial sea and on the continental shelf.

Surinam

Before responding in detail to the Guyanese position we would like to state from the outset that in our opinion the Geneva Convention is intended to accord the equidistance principle a supplementary role. Moreover, the exceptions are not as stated by you nor based on your arguments. The treaties give as exceptions 'historical title' and 'special circumstances' and not 'historical circumstances'.

As further clarification of the proposed 10 degree line:

Surinam's position assumes the generally accepted rule in the demarcation of borders that the demarcation must be based on geographical circumstances. This assumption forms the basis of the demarcation of the border between Guyana and Brazil and between Surinam and Brazil. After all, the chain of hills, which separates the catchment areas of the Guyanese rivers and the Brazilian rivers, as a geographical circumstance, is decisive in demarcating the border, it is the watershed. In accordance with the relevant rules, geographical circumstances are therefore given here overriding importance.

In delimiting the border in the territorial sea and on the continental shelf, we must also, in the first place, address the geographical reality.

In this case, the river valley is, just as in the previously mentioned example of the chain of hills, the primary indicator of the border. This is the indicator that the geographical reality gives us. If the geographical reality is not used as the basis, demarcating the border becomes an arbitrary affair.

In relation to the provisions in the relevant articles of the Conventions of Geneva, it should be noted that the equidistance principle is not regarded as a compulsory rule. Both the text of the treaties and the reports of the debates that preceded the conclusion of the treaties assume that the demarcation of the border must be effected, in the first place, in accordance with geographical reality and that, if an agreement cannot be reached on this basis, the border should be demarcated according to the equidistance principle as a sort of emergency solution.

Moreover, the words 'failing agreement' in the treaties leave no doubt that the equidistance principle is accorded no more than a supplementary character.

In summary, it can therefore be stated that the equidistance line is not laid down as the principal rule and it has some exceptions. The principal rule is that the

demarcation of the border must take place in accordance with geographical reality and that only if this offers no solution is the equidistance principle to be applied. In this regard, reference is made to sentence 2 of Article 12, paragraph 1 of the Convention on the Territorial Sea: 'This provision (equidistance rule) shall not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance with this provision'.

It is therefore better if we first concentrate our attention upon the geographical reality. Furthermore, the 1931 agreement to which you referred earlier demonstrates that, in proposing the 28 degree line, decisive importance was given to the geographical reality.

The Surinamese delegation feels that we would prefer not to go into the position adopted by the European part of the Kingdom of the Netherlands in the Eems case.

Guyana

We have made only very general reference to provisions in the Conventions of Geneva. We do not regard it as opportune now to examine these treaties in detail. However, we will make the following comments:

We are grateful for your explanation of the history of the conclusion of the treaties. However, we have the impression that in our legal systems there is a clear difference in basic principles in the explanation of legal provisions.

For our part, we restrict ourselves to the words written in the text itself because we describe it as the result of the debate which preceded the conclusion of the treaty.

It is precisely the huge differences of opinion which were expressed in this debate that oblige us to resort to the final text, the only certainty which there is at that point. We stick to our opinion that, in Article 12 of the Treaty of the Territorial Sea, the middle line is the principal rule and that exceptions are only exceptions. For the contiguous zone (see Article 24 of this treaty) these exceptions are omitted completely.

In our opinion, no matter what, there is no question of 'a historic title' or of 'special circumstances' which would justify a departure from the equidistance principle in this case.

Presuming that the river valley, which constitutes Surinamese territory, forms a special circumstance in the sense of the treaties, it can only be a special circumstance in relation to the border delimitation of the territorial sea and not to the delimitation of the continental (sic!, NS) zone and on the continental shelf.

If the valley of the Corantijn had followed the coast of Guyana in a westerly direction, you would surely not claim that the border outside the territorial waters would have to follow the direction of the river valley?

In relation to the delimitation of the border in the continental zone no reference is made to special circumstances. If the river valley is not a special circumstance for delimiting the border in the continental zone how could it then be a special circumstance for delimiting the border on the continental shelf?

The river valley can be a special circumstance in delimiting the border in the territorial sea but not outside.

In order to prevent any misunderstanding, it should be pointed out that Guyana does not regard the river valley as constituting a special circumstance in any context.

In 1958, the Netherlands, in light of its proposal to delimit the border in accordance with the equidistance principle, did not regard the river valley as a special circumstance. This took place after the conclusion of the Geneva Convention. It cannot be concluded that the Netherlands, if it had regarded the river valley as a special circumstance, would have proposed the equidistance line as the border in 1958.

To regard the river valley as a special circumstance to more than 100 miles off the coast is simply not real.

We are now laying out the arguments on which our position is based. However, we definitely do not want to create the impression of being dogmatic. We are open for your criticism of our position and when reporting to our Government we will take your differing opinions into consideration.

However, for the time being, the above remains our position.

Surinam

Guyana's last point, in particular, is one of complete agreement between the both of us. For the time being, we are also satisfied to lay out our position.

Moreover, your difference in appreciation and interpretation of the facts and treaty provisions should not be seen as unusual.

The difference in accent can possibly be explained by the fact that you view the case from a mainly legal perspective whereas we see it as more geographical.

We are here to exchange our standpoints informally. In this exchange of standpoints we are only interested in confronting the reality of the situation. We are conveying our views and do not want to base our position, in any way, on the opinion of The Hague.

We describe the standpoint of Surinam which should be of interest and possibly important to your Government.

This is also the spirit and the atmosphere within which Prime Ministers Penge! and Burnham prepared these discussions.

Guyana

We assure you that we are listening to the Surinamese standpoint with great interest and consider it important. We cannot, however, separate this 'case' from the context in which it was previously discussed. Although we are happy to learn the Surinamese standpoint in this matter, we have to take into account the manner in which, in the past, this problem has been influenced and dealt with by The Hague which was the competent authority to deal with this case.

This is the reason we refer to the 1958 Netherlands proposal and take the position that the border should be delimited in accordance with the equidistance principle. Our reference to the agreement between the Netherlands, Germany and Britain should also be seen in this light.

We are not insensitive to the fact that Surinam has its own opinion on this issue. However, it is impossible for us, in an assessment of Surinam's standpoint, not to view the case in conjunction with the standpoint previously taken by the Netherlands. Even when Surinam becomes independent, it will still be regarded to have inherited the problem in the state left by the Netherlands as a result of the manner in which the Netherlands has dealt with it in the past.

The meeting was adjourned until 3.00 p.m.

After the break:

Surinam

To conclude the discussion on the first agenda point, the following is noted: This case has a constitutional aspect for Surinam. It is hence important to remember that the three countries which constitute the Kingdom of the Netherlands are independent in relation to decisions on affairs which only concern them. That is the reason why no Dutchmen are involved in the present discussions. We are authorized by the Kingdom to deal with this case completely on our own and to take decisions independently.

We do not regard as completely improper that Guyana has brought up the earlier diplomatic correspondence; Surinam is however not bound by it. We therefore also do not regard ourselves as being bound to the opinion of the Netherlands, for example in the conclusion of the agreement between the Netherlands, Germany and Britain, when such an agreement affects only the European part of the Kingdom.

In reference to the comment on the difference in interpretation methods between our countries, it should be noted that the authority to employ national interpretation methods is restricted to the application of national law. In the application of private and public international law the interpretation methods must be designated by the states involved.

It is useful to recall explicitly that the diplomatic consultation on the delimitation of borders in the territorial sea and on the continental shelf has not resulted in a treaty. Surinam is hence in no way legally bound to this consultation.

Guyana

We accept and appreciate that Surinam has its own opinion and that Surinam does not regard itself as being bound to what has been said by the Netherlands in diplomatic exchanges in the past. However, no matter what the current

constitutional position of Surinam may be, Surinam cannot simply dispose of what the Netherlands has said in the past as the Netherlands was the only legal entity which was authorised to speak on the foreign affairs of Surinam.

We do not ask you to disregard the behaviour of the British government in the past. From the viewpoint of both international law and courtesy we could not ask this of you. A new country is not born in a vacuum. There is an inheritance of problems which have been created by the mother country. It would not demonstrate much sense of reality to state that these actions of the mother country could be made undone just like that. The point we want to make here is that the Netherlands, as recently as 1958, proposed the equidistance line as the border.

We propose to regard this point as now having been sufficiently discussed. We will report these deliberations to our Government.

Surinam

Once more we would like to reiterate explicitly that in the 1930s there was never an agreement made between the relevant authorities. Guyana has incorrectly suggested the opposite during the discussion.

On this agenda point we have indeed listened sufficiently to each other's standpoint. We have understood your standpoint. We will return to the Guyanese comment on the west bank of the Corantijn in the discussion of the second agenda point. In relation to your proposal on the starting point of the boundary between the river and the territorial sea, however, we feel obliged to make the following remark: the boundary should begin at the point of the first noticeable 'deviation of the general coastline'. Blufpunt can never reasonably be regarded as the first point where a deviation from the general direction of the coastline occurs.

Moreover, in conclusion we would like to point out that in the 1930s no treaty on the border between Surinam and Guyana was agreed whereas the border between Guyana and Venezuela is based upon a treaty. Nevertheless, Guyana has agreed to re-open discussions with Venezuela on this issue.

Guyana

We began our argument by stating that there is no agreement on the border on the continental shelf which is precisely why the provisions of the Convention of Geneva are applicable. The 1930s agreement referred exclusively to the river and the triangle and we hence reserve our rights on this point.

Surinam

Surinam is quite well aware that the change in its constitutional position will not imply that it is not bound to properly concluded and legally binding agreements.

We also completely respect the Convention of Geneva as it is a multilateral agreement. As far as this agenda point of the border in the territorial sea and on the continental shelf is concerned, we are only divided by a difference in interpretation of the treaty and a difference in recognition of the geographical circumstances.

AGENDA POINTS 2 AND 3

Guyana

Guyana proposes that Surinam explains its standpoint on these agenda points.

Surinam

It is clear to everyone that the west bank of the Corantijn forms the border between Surinam and Guyana. We have never heard anything from Guyana that there is a difference of opinion on this issue. We have only understood that Guyana has an opinion which differs from the Surinamese standpoint on the source of the Corantijn river. Indeed, you protested against the Surinamese Government's change in the name of the upper reaches of the Corantijn. We therefore assume that you have a differing opinion on the source of the Corantijn and that you refer to this question as the triangle question.

Guyana

In our opinion the two next agenda points are closely related and we would like to propose that they be discussed together.

Surinam

We think agenda point 3 is a simple question of jointly agreeing which technical experts should be selected in the joint commission that will conduct the necessary measurements.

Guyana

What we jointly want to discuss are the question of the Corantijn river itself and the triangle question.

Surinam

We know nothing of a river question nor of a claim on the river. The sovereignty over the river has been exercised exclusively by Surinam for years. We would find it very regrettable if a recognized practice of more than 150 years, based on an international treaty, were suddenly to be questioned. We don't believe that our neighbours mean this.

Guyana

We take the standpoint that there are two points, the river and the triangle.

Surinam

There is a treaty signed more than 150 years ago wherein it is stated that the west bank of the Corantijn is the border. Do you know this treaty?

In fact, there are even two treaties, viz, one concluded between the Governors of Sommeldijk(?) and Peere(?) and one in 1799 agreed between the Governors Frederici and van Batenburgh.

Furthermore, in the laws of Guyana the border is stated to be the west bank of the Corantijn.

Guyana

We know the treaties, as well as references to them in the laws of Berbice. However, at a certain point, Guyana made a claim on the river, a claim which it does not regard as conflicting with any treaty.

We are not here today to repeat this claim. We are not repeating the claim because we are of the opinion that in 1931 a binding agreement between the Netherlands

and the United Kingdom was concluded whereby we withdrew the demand that the thalweg should form the border in exchange for a similar withdrawal by the Netherlands of its demand in relation to the New River triangle.

We are prepared to continue on this basis. We do not intend to open the discussion on the thalweg on the understanding that you do not re-open the question of the triangle. In our opinion, the two points of the river and the triangle are so closely linked that they cannot be treated independently of each other.

You stated that you are not aware of the fact that Britain at that time submitted a claim to recognize the thalweg as the border. We shall hence examine this history of this question in more detail.

I will speak on the basis of the relevant diplomatic correspondence. Firstly, the Dutch aide-memoire of 2(7) August 1929 which relates to this demand by Britain. It is a long document and I shall not bore you with the entire contents. The third section, however, reads as follows: 'The correctness of this interpretation, according to which a part of the river belongs to British Guiana, cannot be recognised by the Netherlands Government and is a clear rejection of the British thalweg claim.' In a subsequent British memorandum dated 18 October 1930 a clear link is made in the fourth section between the claims of Britain on the thalweg and the claim of Surinam on the New River as the border. There is clearly even a question of an exchange between the parties. In the following Dutch memorandum dated 4 August 1931 the Netherlands recognizes British claims to the Kuruni as the border and the same link with the British claim on the thalweg is made again.

The subsequent British memorandum dated 6 February 1932 contains a confirmation and a clear acceptance of the exchange, in particular the second section which reads as follows: 'His Majesty's Government are gratified to learn that the Netherlands Government are prepared to recognize the left of the Corantyne and Kutari rivers as forming the boundary, provided that His Majesty's Government recognize the rivers themselves as belonging to the Netherlands Government'.

Furthermore, this memorandum contains in section 9 a reference to section 7 of the 1931 Dutch memorandum. This last mentioned section reads: 'The Netherlands Government are in principle disposed to include in the treaty an

article safeguarding any existing rights of British nationals or companies which do not impede the navigability (.....)'.

The Netherlands Government hence indicates here that it is prepared to respect the existing rights of British subjects on the use of the Corantijn and the Netherlands Government has thus recognised the presence of rights of British subjects on the use of the Corantijn river. The Guyanese therefore have rights on the use of the Corantijn; rights which mean that they may use the Corantijn without permits, permission, etc from Surinam.

Furthermore, we would like to refer to a declaration by the Netherlands Minister of Foreign Affairs in the Netherlands Parliament in 1913 in which he recognised that the Corantijn river belonged jointly to both countries and is an international river. From the foregoing we only want to support the position that the 1929 claim on the thalweg as the border was not without legal basis. In 1930 the Netherlands and Britain made an agreement with each other whereby an exchange took place.

Now we would like to proceed with a discussion of the old treaties to which you referred.

Surinam

Before you proceed we would first like to make some comments on what you have just said.

We would first of all like to compliment you for your astute analysis of the diplomatic correspondence. However, we state emphatically that we disagree with this analysis and your conclusions. Your argument is based on the idea that there can only be question of a claim if it is based on at least one reasonable legal principle. We are of the opinion that the so-called claim on the thalweg by Britain in 1929 is without any reasonable legal basis and hence maintain that there could never have been any question of any exchange as stated by you.

The west bank of the Corantijn forming the border is based on the 1800 treaty – a legal, international agreement. The contents of this agreement are even reflected in the local laws of Guyana. A clearer recognition is not possible. Moreover, before 1929 the British had always accepted, without any reservation, that the left

bank of the Corantijn is the border. The so-called claim of 1929 was nothing than vexatious and Surinam is now not prepared in any way to review, either separately or in conjunction with any other aspect of the border, this indisputable legal fact that the west bank of the Corantijn river forms the border. You will agree with us that we have the right to demand from you that indisputable legal facts are described as indisputable and that we cannot accept you opening this for discussion either directly or indirectly. We can explicitly inform you that we are hence neither prepared nor authorized to make as a point of discussion the fact that the left bank of the Corantijn forms the border. We are possibly prepared to listen to you on the consequences of the fact that the river is a national river but we will not go further than that in any case.

The often made claim that the border on the left bank of the Corantijn is a special circumstance is not accepted by us. There are more rivers where a similar situation exists either for historical reasons or as the result of a treaty. This situation is accepted in international law without any qualification. We urge you, as good neighbours, to take this into account.

Guyana

Although we are aware that by saying this we are repeating ourselves we would again like to point out that we are not making any demand for the border to be moved to the thalweg. No matter how unfounded you find the claim made by Britain in 1929, the mother countries definitely did exchange their respective claims against each other.

This is not the proper forum to go into a detailed discussion on whether the claim had sufficient basis or not to be considered as such. The claim was nevertheless made and a compromise resulted. We assume that Netherlands law and British law are the same on this point: neither party can dispute an agreed compromise on the grounds that one claim is later felt to be baseless. This is valid in national law and also in international law. You have pointed to the fact that there are several rivers in the world like the Corantijn. This is indeed correct but we draw attention to the fact that the Corantijn is an exception in South America. Even if the interpretation you give of the old treaties is correct, according to international law the users of the Corantijn who are Guyanese subjects would still have the right to

this use. This is true for the rights that existed before the conclusion of the treaties as well as for the rights that resulted from the conclusion of the treaties.

However, we consider as incorrect the interpretation which you give of the old treaties. You assume that the agreement of 1799 also relates to the river itself. We are, however, of the opinion that the agreement relates exclusively to land. In this regard it is instructive to examine a letter written in 1794 by Governor van Batenburgh to the administrators of Surinam and Berbice which were both under Netherlands rule. Van Batenburgh stated that Surinam, by law, did not extend to Duivels creek. The borders should be the same as those stated in the letter of cession from Willoughby to King Charles II. In this letter the border of Surinam is stated as being one mile west of the Coppename river. The brief by van Batenburgh to which we refer is dated 23 March 1794 and is addressed to the directors of Berbice in Amsterdam. The agreement of 1799 should be seen against this background. If you read the agreement of 1799 itself carefully, you can see stated explicitly in Article 3 that the islands in the Corantijn will continue to belong to Surinam. In our opinion, it can be deduced from this that no arrangement for the river itself was intended in the agreement.

We do not wish to become engaged in a detailed legal argument on this issue but only want to draw your attention to the facts and state that we, although we recognize the old treaties, have been able to construe a claim on the thalweg of the Corantijn by another interpretation than that which is given to them. It is therefore incorrect to state that the claim of 1929 was unfounded. However, we want once again to state emphatically that it is not our intention to re-open the issue of the claim. Our only interest is to point out the exchange which took place in 1930 and to which we wish to make an appeal.

In the declaration by the Minister of Foreign Affairs of the Netherlands in 1913, to which we referred earlier, this Minister also mentioned the existing rights of Guyanese on the river. The aim of the 1939 draft was not only the mutual recognition of each other's respective claims on the entire river and the triangle but also the confirmation of existing users' rights of British Guiana subjects on the river.

We repeat with emphasis that we are not attempting to re-open discussion on the position of the border in the river. We have indeed for a long time recognised the left bank of the Corantijn as the border but this recognition was based on the 'settlement' of 1931.

You appear to assume that the 1799 treaty was intended to demarcate a border. However, we draw attention to the fact that there is no mention of the left bank of the Corantijn in this treaty. It is a cession of territory, not a settlement for sovereignty over the water of the river.

In summary, we thus state that the 1799 agreement referred to the cession of ... territory and that this agreement was not a border treaty in the true sense of the word.

Surinam

Firstly, we observe that neither the island settlement in the 1799 agreement nor the fact that the agreement has the character of a cession detracts from our position that, since this agreement and as a result of this agreement, the left bank of the Corantijn has been uniformly and definitely fixed as the border. Indeed, a historical analysis of similar agreements shows that this was earlier the manner whereby it was agreed that only land was ceded and that the river continued to belong to the sovereignty of the ceding country. There are numerous examples of this in the handbooks of international law.

Guyana's position that the recognition of the left bank as the border is based on the so-called settlement of 1930 is incorrect. This boundary had been adopted more than one hundred years earlier and since that time has never been questioned. This position does not therefore correspond with reality.

What was stated on the alleged claim of Guyana, as supposedly contained in the letter by Governor van Batenburgh of 1794, is refuted by the contents of the 1799 agreement which literally states that the territory between the Corantijn and Duivels creek belonged to Surinam's territory before the conclusion of the agreement. Governor van Batenburgh was apparently unable to maintain his argument.

Guyana

We would like to propose that the meeting be closed after we have had the opportunity to make several short comments.

Surinam

Before you make your final comments we wish to raise two facts:

You have on different occasions cited from the correspondence which was conducted in the 1930s between the Netherlands and Britain. However, we have to point out that your interpretation of the exchange of letters of 4 August 1931 and 6 February 1932 is incorrect. Britain, in fact, wrongfully described the recognition of the west bank of the Corentijn as the border as a concession. The historical rights to the entire river at that point had already been definitely defined and had not been a matter of discussion between Britain and the Netherlands. In this correspondence, Britain has simply inappropriately combined the issues.

We had on our eastern border a problem similar to the question that is now keeping us divided. This problem was resolved by the parties agreeing to allow technical experts to investigate which of the two sources of the river is the main one. We take the position that the question of the triangle between Surinam and Guyana should also be resolved in this manner.

Guyana

Investigating by measurement which of the two sources of the Corentijn is the main source is a question upon which we would like to suspend judgement until after the resolution of the question of the 1931 agreement tabled by us. This agreement was indeed not followed by a formal agreement but your conclusion that this agreement is therefore invalid is emphatically rejected by us. The ratification was only an external affair. The fact is, we could show on the basis of the correspondence that the 1931 treaty was intended to demarcate the border between Guyana, Surinam and Brazil. The place where the three countries meet is a clear result of this demarcation which was intended without the ratification of an agreement. This three-country point is, moreover, a result of the bilateral

agreements between Surinam and Brazil and between Brazil and the United Kingdom.

Surinam

Your premise that there is a border agreement between Brazil and Surinam is incorrect.

Guyana

In any case, the three-country point is based on the 1931 agreement between the United Kingdom and the Kingdom of the Netherlands. It is the realization of this agreement.

Even if you are right that this agreement does not satisfy formal requirements, it would be very disagreeable for us if such an agreement were to be pushed to one side exclusively on the ground of a 'technicality'. There are important interests at stake here and they can best be served by a frank and open discussion without resort to 'technicalities'. There is no doubt that until 1962 all draft agreements assume that the left bank of the Corantijn forms the border and that the triangle is Guyanese territory.

A summary of diplomatic correspondence which shows the recognition of the triangle as Guyanese territory will follow.

Surinam

We would like to point out that in 1956 the Minister of Foreign Affairs of the Kingdom explicitly let it be known to the United Kingdom that the earlier negotiations definitely did not mean that Surinam's claims on the Upper Corantijn forming the border had been given up. We regard it as important that the good atmosphere which has been created here is maintained. Like you, we want to place the emphasis on the main themes. We are hence pleased that you also recognize the 1799 agreement given the fact that this agreement forms the basis of the definition of the sovereign rights of our countries. This agreement forms the basis upon which we live next to each other. This cannot be ignored no matter how either of us interprets it. It has been the basis of our friendship for 160 years. It divides us materially but unites us in spirit. The events of the 1930s were not more

than an attempt to elaborate this agreement. The consultations of 1931 were conducted in this spirit as are these now in 1966.

We hope that the 1799 agreement continue to be the binding agent between our two countries in the future.

Guyana

We are grateful for the consultation. We shall report fully to our Government, in particular, of course, on your standpoint. We are convinced that the good relations between our countries will continue. A solution of the border demarcation will have to come eventually. We would like to receive an aide-mémoire from you and we will send one to you. We hope that the consultation can be continued at a higher level this year. Would you give our best regards on behalf of the Government of Guyana to your Prime Minister and your Government?

Surinam

We will send you our standpoint once more in a memorandum. We will also convey your standpoint in detail to our Government. We agree to an exchange of respective standpoints after the arguments have been further elaborated.

We propose that the next meeting, as suggested in the telegram from your Government, be held at the same level in The Hague. We will then be pleased to act as host. We are particularly grateful for the very friendly manner in which you have received us now.

Closure: 6 p.m.

Verslag van de besprekingen gehouden tussen
Suriname en Guyana op 23 juni 1966 in het
Halborough-House te Londen, Engeland,
aanvang 10.30 uur v.m.

Aanwezig:

van Surinaamse zijde:
Dr. Ir. P. E. Essed (voorzitter)
D. C. A. Findlay
Ch. F. Calor
Mr. C. D. Ooft
I. Soemita
Dr. N. Panday
Mr. H. R. Lim A Po (secretaris)

van Guyanese zijde:
Sir Lionel Lookhoo
Sol. Gen. Shahiberdien
F. H. C. John, vertegen-
woordiger van Guyana
bij de V.N.

Tolk: Mej. van Schelle
Sac. Guyana: Maj. Sankar.

De Surinaamse delegatie wordt aan de Guyanese voorgesteld door Dr. J. P. E. Einaar, Gevolmachtigde Minister van Suriname in Den Haag. Dr. Einaar stelt daarbij, dat het hem bijzonder verheugt in Londen te zijn om met de Guyanese delegatie het grensverloop tussen beide landen te bespreken. Dr. Einaar zegt ervan overtuigd te zijn dat partijen in staat zullen zijn te komen tot een vreedzame oplossing van de bestaande problemen.

Nadat Dr. Einaar de vergadering heeft verlaten, wordt de Surinaamse delegatie welkom geheten door Sir Lookhoo, High Commissioner van Guyana in Engeland, die daarbij opmerkt dat het voor Guyana een bijzondere gebeurtenis is dat de eerste ontmoeting als onafhankelijk land plaatsvindt met Suriname. Tussen Suriname en Guyana en tussen hun respectievelijke staatshoofden bestaat immers een goede vriendschap. Het karakter van de onderhavige besprekingen wil Guyana zien als "a free and frank exchange of views". Over de plaats waar de besprekingen thans worden gehouden wordt opgemerkt dat de zaal in dit gebouw ter beschikking is gesteld door het Foreign Office en als een onafhankelijke plaats kan worden aangemerkt.

De voorzitter van de Surinaamse delegatie, Dr. Essed, zegt namens de Surinaamse delegatie dank voor de woorden van welkom en beschouwt het feit dat de eerste ontmoeting van Guyana als onafhankelijk land plaatsvindt met Suriname, als een symbool van de goede verstandhouding die sinds eeuwen tussen beide landen bestaat en wellicht ook in de toekomst zal bestaan.

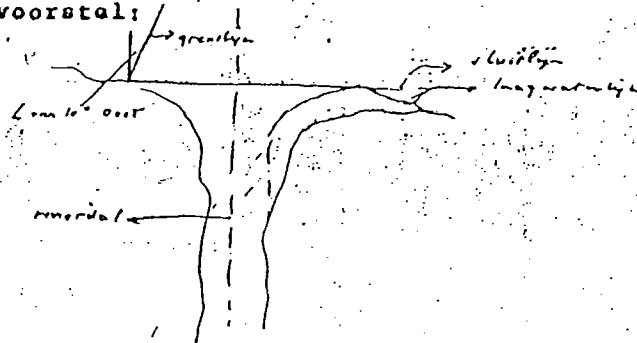
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Waar deze sluitlijn de linkeroever van de Corantijn snijdt, begint de grenslijn in de territoriale zee en over het continentaal plat. O.i. loopt deze grenslijn in de territoriale zee en over het continentaal plat volgens een lijn die evenwijdig loopt aan het dal van de Corantijn. Dit dal zet zich in de territoriale zee en over het continentaal plat voort met een richting van 10° oost.

Dr. Essed merkt voorts op dat, gelijk uit de voorgaande uiteenzetting blijkt, Suriname streeft naar een spoedige oplossing van deze zaak. Een groot deel van de wereld verwacht misschien dat er conflicten tussen ons zullen ontstaan. Wij willen echter met Guyana op spoedige en vreedzame wijze tot een oplossing komen, hetgeen een voorbeeld zal zijn voor de gehele wereld.

Van Surinaamse zijde: De sluitlijn loopt loodrecht op de stroomdraad van de Corantijn, tenzij bijzondere omstandigheden dit zouden baletten. Dergelijke bijzondere omstandigheden zijn i.c. achter niet aanwezig.

Het Surinaams voorstel:



Van Guyanese zijde: Het komt verstandig voor na te gaan hoe men in het verleden aan de 10° lijn is gekomen. In de aide memoire van de Nederlandse regering van 4 augustus 1931 staat in par.3: "At the mouth of the Corantyne the frontier will be from a point $6^{\circ}0'25''$ Lat.N. and $57^{\circ}8'10''$ Lat.W in a direction pointing to the right N. $28^{\circ}0'$ to the point where this line meets the outer limit of the territorial waters and from there in a easterly direction following the outer limit of the territorial waters".

Deze zinsnede wordt geciteerd om aan te tonen dat het originele voorstel van Nederland niet aan 10° lijn, maar aan 28° lijn inhield. Bovendien was met deze lijn slechts bedoeld de vaststelling van de grens in de territoriale wateren en niet een grenslijn in the contiguous zone en op het continentaal plat.

Het navolgende is in de dertiger jaren gebeurd: De commissie die in 1936 de twee grenspunten heeft vastgesteld, overwoog dat een lijn van 28° in de territoriale zee het rivierkanaal zou snijden en daarom de controle over de rivier-

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Wij willen alvast aantekenen dat wij van oordeel zijn dat de sluitlijn niet zo ver noordelijk moet worden getrokken als U voorstelt. In overeenstemming met de realiteit zal de sluitlijn o.i. moeten worden getrokken tussen de twee punten van de rivier waar de eerste merkbare vernauwing van de rivier begint, hetgeen betekent dat de sluitlijn zal dienen te lopen van Bluffpunt aan de Surinaamse zijde tot de Anna Morinakreek aan de Guyanese zijde. Deze twee punten geven de eerste merkbare vernauwing van de rivier aan. De sluitlijn zoals door Suriname voorgesteld ligt buiten de eigelijke rivier.

Indien het accoord van 1930 m.b.t. Uw erkenning van onze aanspraken op de driehoek en onze erkenning van Uw aanspraken op de rivier door U wordt nagelofd, dan hebben wij er geen behoefte aan dat de grens in de rivier naar de thalweg wordt verlegd, zoals door Den Haag in 1962 is voorgesteld in een concept verdrag.

Van Surinaamse zijde: Bij dit concept verdrag behoort een aide memoire. In deze aide memoire, waarvan het concept verdrag niet los mag worden gezien, staat uitdrukkelijk dat dit concept door Nederland is opgesteld op voorstel en instigatie van Engeland. Bovendien wordt er met de meeste klem en nadruk op gewezen dat het in dit concept vervatte voorstel uitdrukkelijk door Engeland is verworpen, zodat dit voorstel niet meer bestaat. Guyana wordt dringend verzocht hier bepaaldelijk rekening mee te willen houden.

Van Guyanese zijde: De voorgaande opmerking moet niet verkeerd worden begrepen. Guyana wil beslist thans niet de thalweg als grens in de Corantijnrivier claimen. Guyana wil slechts dat de rechten van de Guyanese gebruikers van de rivier door Suriname worden gerespecteerd.

Van Surinaamse zijde: Niettemin willen wij uitdrukkelijk stellen dat het voorstel van 1962 een Brits voorstel was dat Nederland langs diplomatieke weg had bereikt.

Van Guyanese zijde: Het is Guyana niet bekend dat het voorstel van Engeland zou zijn uitgegaan.

Van Surinaamse zijde: Het staat anders wel duidelijk in de begeleidende aide memoire. Nogmaals: het concept is uitdrukkelijk door Engeland bij een latere nota verworpen.

Van Guyanese zijde: Deze kwestie over 1962 is niet ons belangrijkste punt. Het is slechts terloops aangehaald. Eigenlijk hadden wij slechts willen zeggen dat bij navigatie van de thalweg als grens, geen sluitlijn meer nodig is.

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gebieden van de Guyanese rivieren en de Braziliaanse scheidt, is als geografische omstandigheid bepalend voor de grens, de waterscheiding dus. Aan geografische omstandigheden werd hier dus, in overeenstemming met de ten deze geldende regels, een doorslaggevende betekenis toegekend.

Ook bij de bepaling van de grens in de territoriale zee en op het continentaal plat moeten wij ons in de eerste plaats richten naar de geografische realiteit.

Hier is het dal van de rivier, evenals in het hiervoor genoemde voorbeeld de heuvelrug, de primaire grensaanwijzing. Dit is de aanwijzing die de geografische realiteit ons geeft. Indien niet wordt uitgegaan van de geografische realiteit, wordt de grensbepaling een arbitraire of zelfs willekeurige aangelegenheid.

M.b.t. het bepaalde in de betreffende artikelen van de verdragen van Geneve, moet worden opgemerkt dat het equidistantiebeginsel niet als dwingende regel is gesteld. Zowel de tekst van de verdragen als de verlagen van de aan de vaststelling van de verdragen voorafgaande debatten, gaan ervan uit dat de grensvaststelling in de eerste plaats dient te geschieden in overeenstemming met de geografische realiteit en dat, indien een overeenstemming op deze grondslag niet te bereiken is, als een soort noodoplossing, de grens dient te worden vastgesteld volgens het equidistantiebeginsel.

Trouwens de woorden "failing agreement" in de verdragen laten buiten twiifel dat aan het equidistantiebeginsel niet meer dan een aanvullend karakter werd gegeven.

Resumerend kan dus worden gesteld dat de equidistantielijn niet is gesteld als hoofdregel met uitzonderingen daarop, doch dat als hoofdregel geldt dat de grensbepaling dient te geschieden in overeenstemming met de geografische realiteit en dat eerst indien zulks geen aanknopingen biedt, het equidistantieprincipe toepassing vindt. In dit verband wordt verwezen naar zin 2 van artikel 12 lid 1 van het verdrag betreffende de Territorial sea: "This provision (equidistantieregel) shall not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial sea of the two States in a way which is at variance with this provision".

Het is dus zaak dat wij vooroert onze aandacht concentreren op de geografische realiteit. Ook het zogenaamde accoord van 1931 dat U eerder heeft aangehaald wijst erop dat men bij het voorstellen van de 28° lijn doorslaggevende betekenis heeft toegekend aan de geografische realiteit.

In de delegatie van Suriname, zo wordt van Surinaamse zijde medegedeeld, bestaat het gevoel dat wij bij voorkeur niet wensen in te gaan op het standpunt dat het Europese deel van het Koninkrijk der Nederlanden in de Ems-zaak heeft ingenomen.

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van Geneva. Het is niet aan te nemen dat Nederland, indien zij het dal van de rivier als bijzondere omstandigheid beschouwde, in 1958 de equidistantielijn als grens zou hebben voorgesteld. Het dal van de rivier tot meer dan 100 mijlen uit de kust, als bijzondere omstandigheid aanmerken is een irrealiteit.

Wij geven thans de argumenten die aan ons standpunt ten grondslag liggen weer. Wij willen daarbij benadrukken niet de indruk wekken dogmatisch te zijn. Wij staan open voor de kritiek welke U op ons standpunt heeft en zullen bij het rapporteren aan onze Regering gaarne rekening houden met Uw afwijkende mening. Voorlopig is het voorgaande echter ons standpunt.

Van Surinaamse zijde: Vooral het laatste van Guyanese zijde gestelde in een punt van grote overeenstemming tussen ons beiden. Ook wij volstaan voorlopig met het waergeven van ons standpunt. Ook Uw verschil in appreciatie en interpretatie van de feiten en vorderingsbepalingen mag niet als bijzonderheid in de wereld worden gezien. Het verschil in accent kan wellicht worden verklaard uit de omstandigheid dat U de zaak overwegend juridisch bekijkt, terwijl wij deze aangelegenheid meer geografisch zien.

Wij zijn hier om informeel onze standpunten uit te wisselen. Bij het uitwisselen van deze standpunten willen wij van Surinaamse zijde uitsluitend de realiteit voor ogen zien. Wij geven ons eigen inzicht weer en willen ons in deze vrije discussie in geen enkel opzicht baseren op een mening van Den Haag. Wij geven het standpunt van Suriname weer en het is voor Uw Regering wellicht belangrijk en belangwakkend het standpunt van Suriname te vernemen. Dit is ook de geest en de sfeer waarin de premiers Pongel en Burnham deze besprekingen hebben voorbereid.

Van Guyanese zijde: Wij verzekeren U dat wij het standpunt van Suriname met belangstelling aanhoren en belangrijk achten. Wij kunnen echter deze "case" niet uitsluiten van de context waarin zij vroeger is behandeld. Hoewel wij gaarne het standpunt van Suriname in dezen kennen, moeten wij rekening houden met de wijze waarop dit probleem in het verleden is beïnvloed en in het verleden door Nederland is behandeld, en Den Haag was het competente lichaam om zich met deze zaak te bemoeien. Daarom maken wij gewag van het Nederlandse voorstel van 1958 en stellen wij ons op het standpunt dat de grens volgens de equidistantielijn moet worden vastgesteld. In dit licht moet ook onze verwijzing naar de overeenkomst tussen Nederland, Duitsland en Engeland worden gezien.

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niet wegwerken wat Nederland als de autoriteit die alleen bevoegd was te spreken over de buitenlandse betrekkingen van Suriname, heeft gezegd. Van onze kant vragen wij U niet de gedragingen van de Britse regering uit het verleden te veronachtzamen. Het is uit een oogpunt van internationaal recht en wellevendheid dat wij dit niet van U kunnen vragen. Een nieuw land ontstaat niet uit een vacuum. Er is een orfeans van problemen die door het moederland zijn gecreëerd. Het zou niet getuigen van realiteitszin te stellen dat deze acties van het moederland zonder meer kunnen worden toeliet gedaan. Het punt dat wij hiervan maken is dat Nederland nog in 1958 de equidistantielijn als grens heeft voorgesteld.

Wij stellen voor dit punt als thans voldoende besproken te beschouwen. Wij zullen hierover aan onze Regering rapporteren.

Van Surinaamse zijde: Wij willen nogmaals uitdrukkelijk eraan herinneren dat er ook in de dertig jaren nimmer een overeenkomst tussen de daartoe bevoegde autoriteiten is gesloten. Het tegendeel is ten onrechte van Guyanese zijde tijdens het gesprek gesuggereerd.

Ten aanzien van dit agendapunt hebben wij inderdaad elkaars standpunt voldoende aangehoord. Wij hebben Uw standpunt begrepen. Op de van Guyanese zijde gemaakte opmerking over de westelijke oever van de Corantijn zal bij de bespreking van het tweede agendapunt worden teruggekomen. Met betrekking tot Uw voorstel over de beginpunten van de sluitlijn moet ons echter de volgende opmerking nog van het hart: de lijn dient te beginnen op het punt van de eerste merkbare "deviation of the general coastline". Blufpunt kan in redelijkheid nimmer worden aangemerkt als het eerste punt waar een afwijking van de algemene richting van de kustlijn optreedt.

Bovendien willen wij er tot slot op wijzen dat in de dertig jaren geen verdrag over de grens tussen Suriname en Guyana tot stand is gekomen, terwijl de grens tussen Guyana en Venezuela wel beruht op een verdrag. Niettemin heeft Guyana er in toegetend om wederom met Venezuela rond de tafel te gaan zitten.

Van Guyanese zijde: Wij zijn onze argumentatie begonnen met te stellen dat er t.a.v. de grens in het continentaal plat geen overeenkomst bestaat en dat juist daarom de bepalingen van het verdrag van Geneve toepasselijk zijn. Het accoord van de dertig jaren heeft uitsluitend betrekking op de rivier en de driehoek en wij behouden ons onze rechten in dit verband danook voor.

Van Surinaamse zijde: Suriname is zich er terdege van bewust dat de wijziging in haar staatsrechtelijke positie

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Van Surinamse zijde: Er is een verdrag van meer dan 150 jaren waarin geschreven staat dat de westelijke oever van de Corantijn de grens vormt. Is dit verdrag U bekend?

In feite zijn er zelfs twee verdragen, nl. één gesloten tussen de Gouverneurs van Sommersdijk en Peora en één in 1799 gesloten tussen de Gouverneurs Frederici en van Dateburgh.

Ook in de wetten van Guyana staat geschreven dat de grens wordt gevormd door de westelijke oever van de Corantijn.

Van Guyanese zijde: De verdragen zijn ons bekend, evenals de vermelding daarvan in de wetten van Berbice. Op een zeker ogenblik heeft Guyana echter een claim gedaan op de rivier, welke claim zij niet in strijd achtte met enig verdrag.

Wij zijn hier niet vandaag om deze claim te herhalen. Wij herhalen deze claim niet, omdat wij van oordeel zijn

dat in 1931 een bindende afspraak tussen Nederland en het Verenigd Koninkrijk tot stand is gekomen, waarbij wij de eis op de thalweg als grens hebben ingetrokken in ruil voor een soortgelijke intrekking van Nederland van haar eis m.b.t. de New-River driehoek.

Wij zijn bereid op deze basis door te gaan. Wij zijn niet van plan de discussie over de thalweg te openen, uitsluitend opdat U de kwestie van de driehoek ook niet zult heropenen. O.i. zijn de twee punten, de rivier en de driehoek, daarom zo nauw met elkaar verbonden dat zij niet onafhankelijk van elkaar kunnen worden behandeld. U stelde niet bekend te zijn met het feit dat van Engelse zijde indertijd een claim met betrekking tot de thalweg als grens is ingediend. Daarom zullen wij op de historie van deze kwestie nader ingaan.

Ik zal spreken aan de hand van de relevante diplomatische correspondentie. Vooreerst de Nederlandse aide-memoire van 2(7) augustus 1929, die op deze eis van Engeland betrekking heeft. Het is een lang document en ik zal U niet met de gehele inhoud vermoeden. De derde paragraaf echter luidt: "De juistheid dezer opvatting, volgens welke dus een gedeelte van de stroom tot Brits Guyana zou behoren, kan door de Nederlandse Regering niet worden erkend, en is een duidelijke verwerping van de Engelse thalwegclaim. In de daarop gevolgde Engelse nota van 18 oktober 1930 wordt in de vierde paragraaf een duidelijk verband gelegd tussen de claims van Engeland op de thalweg en de claim van Suriname op de New River als grens. Er is zelfs duidelijk sprake van een ruil tussen partijen. In de nota van Nederlandse zijde van 4 augustus 1931, die hierop volgt, erkent Nederland de Engelse aanspraken op de Coeroeni als grens en wordt hetzelfde verband met de claim van Engeland op de thalweg weder gelegd.

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en dat reeds daarom van enige ruil als door U gesteld nimmer sprake kan zijn geweest. De grens als zijnde de westelijke oever van de Corantijn berust op het verdrag van 1800, een rechtsgeldige internationale overeenkomst. De inhoud van deze overeenkomst is zelfs neergelegd in de lokale wetten van Guyana. Een duidelijkere erkenning is dus niet mogelijk. Daarnaast echter hebben de Engelsen vóór 1929 steeds zonder enig voorbehoud aanvaard dat de linkeroever van de Corantijn de grens is. De zgn. claim van 1929 was danook verzooir en Suriname is thans in geen enkel opzicht bereid dit vaststaand rechtsofeit, dat de westelijke oever van de Corantijnrivier de grens vormt, nader te bezien, noch op zichzelf, noch in samenhang met welk ander aspect van de grens danook. U zult het met ons eens zijn dat wij er recht op hebben van U te eisen vaststaande rechtsfeiten als vaststaand te beschouwen en dat wij niet kunne accepteren dat U deze hatzij direkt, hotzij indirekt als vragen ter tafel brengt. Wij kunnen U uitdrukkelijk mededelen dat wij daarom niet bereid of gemachtigd zijn het feit dat de linkeroever van de Corantijn de grens vorat, als een punt van bespreking te maken. Wij zijn eventueel bereid over de consequenties van hot feit dat de rivier een nationale rivier is, U aan te horen, maar verder dan dat zullen wij in geen geval gaan. De vaker gedane bewering dat de grens op de linkeroever van de Corantijn een bijzonderheid zou zijn wordt door ons niet aanvaard. Er zijn meerdere rivieren waar hotzij historisch, hotzij krachtens tractaat een dergelijke toestand bestaat. Deze toestand is in het volkenrecht zonder enige aantekening geaccepteerd. Wij doen een dring beroep op U, als goede naburen, met hot voorgaande rekent te willen houden.

Van Guyanese zijde: Hoewel wij ons ervan bewust zijn dat wij door dit te zeggen in herhaling treden, willen wij er nogmaals op wijzen dat wij geen eis willen stellen m.b.t. de verplaatsing van de grens tot de thalweg. Hoe ongefundeerd U de in 1929 door Engeland gedane claim ook vindt, de moederlanden hebben nu eenmaal hun wederzijdse claims tegen elkaar uitgewisseld. Dit is niet het juiste forum om in een gedetailleerde discussie te treden over de vraag of de claim al dan niet voldoende basis had om alzo danig te kunnen worden aangemerkt. De claim is niettemin gemaakt en er is een compromis uit voortgekomen. Wij nemen aan dat het Nederls recht en het Engels recht in deren hetzelfde zijn: gaen van partijen kan een bereikt compromis betwisten op grond dat de ene claim later als ongegrond wordt aangevoeld. Dit geldt in het nationaal recht, en ook in het internationaal recht. U heeft gewezen op hot feit dat er enkele rivieren in de wereld zijn zoals de Corantijn. Dit is inderdaad juist, maar wij wijzen erop dat de Corantijn een eenling is in Zuid-Amerika. Ook al is de interpretat

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als zijnde de linkerover van de Corantijn arond, doch deze erkenning was gebaseerd op de "settlement" van 1931.

Wenszijds schijnt te worden aangenomen dat het verdrag van 1799 een grens wilde vaststellen. Wij wijzen er echter op dat in dit verdrag nergens wordt gesproken van de linkerover van de Corantijn. Het is een cessie van terrein, geen regeling voor de soevereiniteit over het water van de rivier.

Resumerend stellen wij dus dat de overeenkomst van 1799 betrekking had op de cessie van terrein en dat deze overeenkomst geen grensverdrag was in de ware zin van het woord.

Van Surinaamse zijde: Vooreerst wordt opgemerkt dat noch de omlaatspelling in de overeenkomst van 1799, noch het feit dat de overeenkomst het karakter van een cessie van land draagt, afbreuk doet aan onze stelling dat sinds deze overeenkomst en door deze overeenkomst de grens als zijnde de linkerover van de Corantijn concludend vaststaat. Immers, bij een historische analyse van dergelijke overeenkomsten blijkt dat dit vroeger de wijze was waarop werd overgenomen dat alreeds land werd afgestaan en dat de rivier tot de soevereiniteit van het cederende land bleef behoren. Er zijn voorbeelden hiervan te over in de handboeken over het volkenrecht te vinden.

Onjuist is de stelling van Guyana dat de erkenning van de linkerover als grens zou zijn gebaseerd op de zgn. settlement van 1930. Honderd jaren daarvoor is deze grenslijn aangenomen en sindsdien is zij nimmer in twijfel getrokken. Deze stelling is derook niet in overeenstemming met de realiteit.

Watgeen over de vermeende aanspraak van Guyana, zoals vervat zou zijn in de brief van Gouverneur van Batavia van 1794, wordt gesteld, wordt weerlegd door de inhoud van de overeenkomst van 1799 waarin met zoveel woorden staat dat het terrein tussen de Corantijn en de Beveelbreek voor het sluiten van de overeenkomst, toe het Surinaams grondgebied behoorde. Gouverneur van Batavia heeft zijn sedenering kennelijk niet gestand kunnen houden.

Van Guyanese zijde: Wij zouden willen voorstellen om de vergadering te sluiten nadat ons nog de gelegenheid is gegeven enkele korte opmerkingen te maken.

Van Surinaamse zijde: Wij wensen alvorens U Uw afsluitende opmerkingen maakt, nog een tweetal feiten naar voren te brengen:

U heeft verschillende malen geciteerd uit de correspondentie die in de dertiger jaren tussen Nederland en

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gesprek, zonder toevlucht te nemen tot "technicalities". Er bestaat geen twijfel over, dat tot 1962 alle concept-overeenkomsten uitgaan van het standpunt dat de linkeroever van de Corantijn de grens vormt en dat de driehoek Guyanese territorium is. Volgt opvolging van diplomatische correspondentie waaruit de erkenning van de driehoek als Guyanese grondgebied zou volgen.

Van Surinaamse zijde: Wij willen onzerzijds erop wijzen dat in 1956 de Minister van Buitenlandse Zaken van het Koninkrijk uitdrukkelijk aan het Verenigd Koninkrijk te kennen heeft gegeven dat de vroegere onderhandelingen beslist niet betekenen dat door Surinaamse de aanspraken op de Boven-Corantijn als grens zouden zijn prijsgegeven. Wij stellen het bijzonder op prijs dat de goede sfeer die thans is gecreëerd, behouden blijft. Wij willen het accent evenals U leggen op de grote lijnen. Daarenvertocht het ons dat ook U de overeenkomst van 1799 erkent, aangezien deze overeenkomst de basis vormt van de begrenzing van de soevereine rechten van onze landen. Deze overeenkomst vormt de basis waarop wij naast elkaar leven. Dit kan niet worden veronachtzaamd, ongeacht welke interpretatie wij elk er ook aan geven. Het in de basis van de vriendschap gedurende 160 jaren. Het scheidt ons materieel, maar bindt ons geestelijk. De gebeurtenissen uit de dertiger jaren zijn niet meer dan een poging tot nadere uitwerking van deze overeenkomst. In deze geest is het overleg van 1931 gevoerd en in deze geest wordt thans in 1966 weer overlegd. Hoge deze overeenkomst van 1799 nog jaren het bindmiddel tussen onze beide landen zijn.

Van Guyanese zijde: Wij zijn U dankbaar voor het overleg. Wij zullen volledig aan onze Regering rapporteren, in het bijzonder uiteraard omtrent Uw standpunt. Wij zijn ervan overtuigd dat de goede verstandhouding tussen onze landen zal blijven bestaan. Er zal een oplossing voor de grensvaststelling moeten komen. Wij zouden gaarne van U een aide-memoire ontvangen en wij van onze kant zullen U ook één doen toekomen. Wij hopen dat nog dit jaar het overleg op hoger niveau kan worden voortgezet. Wilt U Uw Minister-Président en Uw Regering de complimenten van de Regering van Guyana overbrengen?

Van Surinaamse zijde: Wij zullen onzerzijds ons standpunt nogmaals in een nota aan U doen toekomen. Ook wij zullen onze Regering uitvoerig Uw standpunt weergeven. Wij gaan ernaar accoord dat de wederzijdse standpunten nader gearchiveerd worden uitgewisseld. Wij stellen voor dat de volgende bespreking, zoals in het telegram van Uw Regering gesuggereerd, op hetzelfde niveau in Den Haag zal worden gehouden. Wij zullen dan