

60013/36 [No. 5].

No. 67
FOREIGN OFFICE
to
COLONIAL OFFICE.

PROOF.

[Answered by No. 60013/36 (No. 14).] 65

- SIR, Foreign Office, S.W.1, 17th March, 1936.
- With reference to Foreign Office letter of the 6th July last*, regarding the British Guiana-Surinam boundary, I am directed by Mr. Secretary Eden to transmit to you herewith a copy of a note from the Netherlands Chargé d'Affaires touching certain points arising out of the draft treaty which was communicated to him on the 4th July last*.
2. Mr. Eden considers that His Majesty's Government in the United Kingdom should not agree to the suggestion for amending Article 4. It would seem that the effect of the addition suggested by the Netherlands Chargé d'Affaires would be that changes of sovereignty might ensue upon a rise or fall of the waters of the river which was not due to the normal recurring seasonal fluctuations of its volume, or, in any case, to leave in doubt what the effect of such rises and falls would be. It is desirable to preserve the simple principle that no rise or fall of the water makes any difference so far as sovereignty is concerned.
3. With regard to the points raised in connexion with Article 5 (2), Mr. Eden is of opinion that it would not be contrary to the interests of His Majesty's Government in the United Kingdom to accept the Netherlands amendments so far as the definition of low-water-mark is concerned, but that it is undesirable to concede the point regarding the estuary, since it may there be necessary to go much further than 50 metres to reach deep water, and a projection of more than 50 metres would not impede navigation.
4. It seems reasonable to expect that the Netherlands Government will agree to both these objections when the reasons for them are made clear.
5. A letter on similar lines has been addressed to the War Office.

I am, &c.,

P. LEIGH-SMITH.

Enclosure in No. 67

- SIR, Netherlands Legation, London, 28th February, 1936.
- With reference to your note of the 4th July, 1935†, 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:—
- Article 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".
- Article 1 (2) and Article 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°".
- Article 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 Article 4.
- This definition was also used in paragraph 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§.
- Article 5 (2).—The text of Article 5 (2) of the draft treaty seems to differ somewhat from the text proposed in paragraph 5 of Jonkheer van Swinderen's memorandum to the Foreign Office of 4th August, 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".

* No. 60013/35 (No. 16): covering note not printed.
† No. 14 § No. 15

‡ No. 60013/35 (No. 16) 51
§ No. enclosure to No. 9.

Surinam Boundary—(C.21838/62). 12.

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This text was in concurrence with the views of the British Government as stated in paragraph 9 of your predecessor's note of the 6th February, 1932, referred to above, which reads:

" His Majesty's Government are in agreement with the proposals in paragraphs 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) 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 Article 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, &c.,

The Right Honourable
Anthony Eden, M.C., M.P.,
&c., &c., &c.

E. TEIXEIRA DE MATTOS.

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