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11 February, 1959.

Dear Kennedy,

Thank you very much for your letter of the 15th January about the British Guiana-Surinam Boundary.

I have the following comments on the various matters discussed in your letter. I take them in the order in which you mention them.

The River Bank

We accept the need to alter the word "shore-line" in Article 1(2) and propose to substitute the phrase "line of low water of Mean Spring Tides". We are most grateful for the advice of the Superintendent, Tidal Branch on Article 4, and so far as concerns the tidal waters we now propose to adopt the phrase "the line of low water of Mean Spring Tides". For the non-tidal waters, however, we feel that we should retain our reference to lowest level normally reached in the course of the year rather than make the change to normal low river level. Our desire is, as you know, to avoid, so far as we are able, a situation in which, when the river is low, land is uncovered which would become Dutch territory so long and as often as it was uncovered. The form of words we suggest does not, I fear, wholly achieve this purpose and it may prove impossible to do so by definition. It is obviously a difficulty which will have to be discussed at length with the Dutch, and our form of words is the best we can devise as a starting point for discussion.

The Seaward Boundary

As you say the difficulties in the way of drawing an exact median line are considerable, and the best we can hope to do at the moment is to produce a line which the Dutch could be expected to recognise as an honest attempt, given the difficulties, to follow the principles on which both we and the Dutch are agreed. The Dutch chart which you have selected should serve well for this purpose, and I think we could properly adopt the line you have drawn as the starting point in the negotiations which will have to take place.

Contiguous Zones

Since the Convention on the Territorial Sea and Contiguous Zone will probably be ratified before we are ready to sign this Treaty, we agree that the draft of the Treaty should contain a reference to Contiguous Zones, especially as we are not, in the Treaty, following the median line in all respects and it would be well to make it clear that what is proposed is an agreement as contemplated in Article 24(3) of the Convention, rather than the pure median line.

Rewording of Article 3.

Our only comment of substance on your draft of the Article is that it is possible to read into it the undesirable implication that the contiguous zones run beyond the twelve-mile limit to the edge of the continental shelf. To avoid this, we suggest that the opening phrase should be amended to read as follows:

/"The

"The boundary between the territorial seas and contiguous zones (so far as they respectively extend) and the continental shelves of British Guiana and Surinam shall be formed"

Landward Point of the Sea Boundary

We see the difficulty of defining precisely the exact point where the sea boundary intersects the land boundary and can see no objection to the method you have devised for avoiding the issue. We also see the advantage in connecting the line by definition with a fixed permanent identifiable point on the land, so as to accord with the provisions of Article 6(3) of the Convention on the Continental Shelf. I assume you are satisfied that for this purpose it is not necessary that the "fixed permanent identifiable point" should be visible from the sea. The concrete marks are not, of course, so visible, and it was for that reason that the wooden beacon was erected on the 010° bearing.

*Not
the same as...*

My only other comment relates to the "bargaining counter" which we hold as a result of our deviation from the median line in proposing the 010 degree bearing. If, as you say, the Dutch would be justified in drawing a "closing line" across the river entrance, this would presumably reduce the value of our "bargaining counter" although I, naturally, have no means of judging to what degree. Our own view is, however, that there is some room for argument whether the Dutch would be so justified. Certainly Article 13 of the Territorial Sea Convention provides for a closing line, but a river mouth is similar to a bay, and we should have thought that it was arguable that the line should only be drawn in cases like those mentioned in Article 7(1) of the Convention. While the waters of the Courantyne River will be Dutch, the land on the British Guiana side of the mouth will not be. However this is not a matter of importance at the present time, and we can look at it again when the time comes to get down to detailed negotiation.

*Art 13. If a
line from the
mouth to the
landward bank
is a straight
line across the mouth then
the landward bank
is the bank.*

Finally, this need to look closely yet again at our draft of the Treaty has suggested to our minds that the first few Articles could give rise to a slight confusion since while making references to the left bank of the river (i.e. the left hand bank when following the direction of the current) the description of the boundary runs in the opposite direction i.e. from the mouth to the source of the river. It would be clearer and more sensible if the description were reversed so as to run from the source to the mouth. The description of the seaward boundary in Article 3 would then follow on naturally from the end of the land boundary at the river mouth.

*Am
in agreement*

We have therefore ventured to redraft Articles 1 to 4 with this end in view. It is but a drafting point and could in no sense be held by the Dutch to be a material modification of the terms. In sending you copies of our redraft of these Articles, I should draw attention to two points. First, the original Article 1(4) has been omitted since the second sentence of the new Article 1(3) does in effect identify the principal course of the river. Secondly, the new

/Article 2(3)(i)

Article 2(3)(i) follows the second sentence of the original Article 1(1) but is restricted to non-tidal waters since it did not seem to us that its wording was appropriate to tidal waters. We have included in the new Article 2(4)(i) equivalent provision in appropriate terms for tidal waters. Nevertheless we feel a little doubt as to whether either of these sub-paragraphs is really necessary.

I am sending copies of this letter and its enclosure to Killick and Clarke.

Yours sincerely
Edmund Scoble