

BOUNDARY DISPUTES

COMMENT ON THE GUYANA-SURINAME BOUNDARY DISPUTE

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In February 2004, Guyana, pursuant to Articles 286 and 287 of the United Nations Convention on the Law of the Sea of 1982 (UNCLOS) gave written notice to Suriname that it has elected to submit the dispute regarding the delimitation of its maritime boundary with Suriname to arbitration as provided for in Annex VII of the Convention. The decision to invoke Annex VII came after repeated efforts to reach a settlement with Suriname proved futile.

The dispute between Guyana and Suriname is a longstanding one, having existed since the colonial period when the United Kingdom and the Netherlands ruled Guyana and Suriname, respectively. Upon attaining their independence, the two territories inherited this dispute, since the colonial heads never concluded an agreement delimiting their maritime boundary in the Corentyne offshore area. The United Kingdom and the Netherlands, and their successors, participated in negotiations over a maritime boundary starting in 1931, but these discussions did not yield a treaty.

In 1961, a proposed maritime boundary line bearing 34° east of true north in the continental shelf was embodied in a British draft treaty. From this time, and even previous to that year, Guyana had issued oil exploration licences to several oil companies including: the California Oil Company (British Guiana) Ltd. in 1958, which was extended until 1965; Guyana Shell Ltd. in 1965, which was extended to 1975; and several other licences that were granted between 1972 and 1975 to Oxoco and Major Crude Oil Company. Guyana has also consistently enforced its fisheries laws and regulations in the aforementioned Corentyne offshore area since 1958.

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During this considerable period, the Netherlands and Suriname have never contested Guyana's right to grant licences or enforce its fisheries laws and regulations. Neither have they lodged any protests or otherwise objected to the exercise by Guyana of its sovereign rights in that area.

On August 25, 1989 during a visit by the President of Guyana, Mr. Hugh Desmond Hoyte, to his counterpart, the President of Suriname, Mr. Ramsaywak Shankar, the presidents agreed that "pending the settlement of the Border question, the representatives of the Agencies responsible for Petroleum Development within the two countries, should agree on modalities which would ensure that the opportunities available within the said area can be jointly utilized by the two countries."¹ However, despite a signed Memorandum of Understanding embodying the aforementioned agreement to meet and conclude discussions on modalities to be observed for the treatment of the maritime zone, and Guyana's efforts to establish a provisional joint development zone, no agreement was concluded.

Other licences in the offshore maritime were granted by Guyana to Maxus (Repsol/AGIP) and Century Guyana Ltd. in November 1997, to CGX Energy Inc. in June 1998, and to Esso E & P Guyana (Exxon) in June 1999. Again, there were no objections by Suriname.

In exploring its concession in May of 1999, CGX Inc., a Canadian company, discovered what could potentially be significant deposits of oil. Shortly thereafter, Suriname, for the *first* time, expressed concern that Guyana was carrying out exploration activities in the "territory of Suriname" and that, as a consequence, these activities were illegal. This contention was based on an unsubstantiated claim that Suriname's boundary line extended 10° west of true north.

Guyana, in response to these assertions, reaffirmed its claims to the maritime zone. After CGX Inc. began drilling in June 2000, its rig was evicted by two Surinamese gunboats. It should be pointed out here that the CGX rig was situated approximately 24° east of the true north, within Guyana's maritime zone, an area in which Guyana had granted uncontested licences since 1958.

Guyana lodged a strong protest in response to Suriname's actions, clearly stating that Suriname was in violation of Guyana's sovereignty over its territory, and objecting to its hostile conduct towards the rig. This move by

¹ Memorandum of Understanding between President Desmond Hoyte of Guyana and President Ramsaywak Shankar of Suriname, Aug. 25, 1989 (on file with the Ministry of Foreign Affairs, Government of Guyana).

Suriname also came as a surprise to Guyana, in that the two countries were engaged in discussions at the highest political levels, commencing in mid-May 2000, to resolve the matter.

Guyana nevertheless, at all times, reaffirmed its commitment to maintaining friendly relations with its neighbour and requested an immediate reconvening of the Guyana/Suriname Border Commissions, through which bilateral negotiations could be revitalised.

What followed was a series of meetings of a Joint Technical Committee on a bilateral level with a view to resolving the dispute in light of Suriname's actions against the CGX rig. A Special Ministerial Meeting was also held in Paramaribo on June 18, 2000. The Guyana/Suriname Border Commissions also met and had discussions. In 2002, the President of Guyana, Mr. Bharat Jagdeo, visited his counterpart, the President of Suriname, Mr. Ronald Venetiaan. At the conclusion of this visit, a Joint Declaration was issued, in which the Guyana/Suriname Border Commissions were asked "to look at best practices and modalities that could assist the governments in the taking of a decision regarding an eventual joint exploration."²

Out of this mandate, sub-committees of the Border Commissions were set up. The sub-committees met on several occasions, both in Guyana and in Suriname. Extensive discussions failed to produce any agreement. Other diplomatic efforts were also frustrated. For instance, the heads of government of the Caribbean Community (CARICOM), of which both Guyana and Suriname are members, offered the use of the good offices of the Prime Minister of Jamaica. This meeting was set up with a view to finding a solution to the differences that had arisen due to the June 2000 incident. The parties also agreed to formulate a modality for reaping the benefits of the resources in the disputed area. These discussions again yielded no agreement.

This inability to reach any compromise with Suriname, in the face of strenuous efforts to do so, has greatly hindered Guyana's economic development, in that foreign investment is discouraged and that the discovery of potential natural resources that are crucial to the well being of the people of Guyana is denied. In addition, the failure to agree on any modality on joint activity in the offshore area denies the people of Suriname these same potential benefits.

² Joint Declaration of President Bharat Jagdeo of Guyana and President Ronald Venetiaan of Suriname; Georgetown, Guyana (State Visit, 2002) (on file with the Ministry of Foreign Affairs, Government of Guyana).

Guyana maintains, and has always maintained, that it is entitled to exercise its sovereign rights in the Corentyne offshore area. Guyana also maintains its claim to a maritime boundary delimited by a line emanating from the Guyana-Suriname land terminus, bearing in a northeasterly direction, at an angle of not less than 34° east of true north for a distance of twelve nautical miles in the territorial sea, and thereafter to the outer edge of the Continental Shelf or to a distance of 200 nautical miles, where the outer edge of the continental margin does not extend up to that distance.

For the aforementioned reasons, Guyana has, as a last resort, submitted its claim to arbitration under the provisions of UNCLOS.