

INTERNATIONAL COURT OF JUSTICE

CASE CONCERNING

ARBITRAL AWARD OF 3 OCTOBER 1899

CO-OPERATIVE REPUBLIC OF GUYANA

v.

BOLIVARIAN REPUBLIC OF VENEZUELA

MEMORIAL OF GUYANA

VOLUME II

19 NOVEMBER 2018

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Annex 1

Early Drafts of the Geneva Convention (undated)

(48^d)CONFIDENTIAL

In its final Report the Mixed Commission shall refer to the Government of Guyana and the Government of Venezuela any outstanding questions. The two Governments shall thereupon decide which of the procedures referred to in Article 33 of the Charter of the United Nations is the most appropriate procedure for settling any such questions. If the two Governments are unable within 6 months of the receipt of the Report to decide upon an appropriate procedure the decision as to the appropriate procedure shall be submitted to an international organisation upon which they both agree or, failing such agreement, to the United Nations.

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The Government of the United Kingdom of Great Britain and Northern Ireland, in consultation with the Government of British Guiana, and the Government of Venezuela;

Taking into account the forthcoming independence of British Guiana;

Recognising also that closer cooperation in economic and other fields between British Guiana and Venezuela could bring benefit to both countries;

Convinced that any controversy between the United Kingdom and British Guiana on the one hand and Venezuela on the other would prejudice the furtherance of such cooperation and should therefore be amicably resolved in a manner acceptable to both parties;

having agreed upon an Agenda for the continuation at Ministerial level of governmental conversations concerning the controversy between Venezuela and the United Kingdom over the frontier with British Guiana, in accordance with the joint communiqué of 7 November, 1963;

Desiring, in the light of such conversations at Ministerial level held in London on 9 and 10 December, 1965 and continued in Geneva on 16 and 17 February, 1966, to put an end to the controversy;

Have agreed as follows:-

*possibly in done
as per attached*

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- (1) In order to facilitate the greatest possible measure of cooperation and mutual understanding, nothing contained in this agreement shall be interpreted as a renunciation or diminution by the United Kingdom, British Guiana or Venezuela of any basis of claim to territorial sovereignty in the territories of Venezuela or British Guiana, or of any previously asserted rights of or claims to such territorial sovereignty, or as prejudicing their position as regards their recognition or non-recognition of a right of, claim or basis of claim by any of them to such territorial sovereignty.
- (2) No acts or activities taking place while this Agreement is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in the territories of Venezuela or British Guiana or create any rights of sovereignty in those territories, except in so far as such acts or activities result from any agreement reached by the Mixed Commission and accepted in writing by the Government of Guyana and the Government of Venezuela. No new claim, or enlargement of an existing claim, to territorial sovereignty in those territories shall be asserted while this Agreement is in force, nor shall any claim whatsoever be asserted otherwise than in the Mixed Commission while that Commission is in being.

(1) In order to facilitate the greatest possible measure of cooperation and mutual understanding, nothing contained in this Agreement shall be interpreted as:

- (a) a renunciation by the United Kingdom, British Guiana or Venezuela of previously asserted rights of or claims to territorial sovereignty in the territories of Venezuela or British Guiana;
- (b) a renunciation or diminution by the United Kingdom, British Guiana or Venezuela of any basis of claim to territorial sovereignty in those territories, or
- (c) prejudicing the position of the United Kingdom, British Guiana or Venezuela as regards its recognition or non-recognition of a right of, or claim or basis of claim by any of them to territorial sovereignty in those territories.

(2) No acts or activities taking place while this Agreement is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in the territories of Venezuela or British Guiana or create any rights of sovereignty in those territories. No new claim, or enlargement of an existing claim, to territorial sovereignty in those territories shall be asserted while this Agreement is in force, nor shall any claim whatsoever be asserted otherwise than the Mixed Commission while that Commission is in being.

1. The Parties agree to establish a Mixed Commission with the task of seeking satisfactory solutions for the practical settlement of the controversy between Venezuela and the United Kingdom ~~about the frontier with British Guiana~~, which has arisen as the result of the Venezuelan contention that the Award of 1899 is null and void. *relating to the frontier of 1899*

2. The Mixed Commission will present interim reports at intervals of six months from the date of its first meeting.

3. If the Commission, within a maximum limit of one year from the date of the present agreement, should not have arrived at an agreement for the solution of the controversy, the Parties shall choose one of the means of peaceful settlement provided in Article 33 of the United Nations Charter.

4. If the Parties should not have reached an agreement within a period of 3 months regarding the ^{choice} ~~choice~~ of one of the methods provided in Article 33 of the United Nations Charter, they will request the International Court of Justice to choose one of the said methods of peaceful settlement. *Some International Law experts have mutually agreed on failing such agreement to the UN General Assembly* If the method chosen by the Court should not allow a solution of the controversy to be arrived at, the said Court shall choose another of the methods stipulated in Article 33 of the Charter, and so on successively, until the controversy shall have been resolved, or until all the methods of peaceful settlement there contemplated shall have been exhausted.

CONFIDENTIAL

1. The Parties agree to establish a Mixed Commission with the task of seeking satisfactory solutions for the practical settlement of the controversy between Venezuela and the United Kingdom which has arisen as the result of the Venezuelan contention that the Award of 1899 about the frontier between British Guiana and Venezuela is null and void.
2. The Mixed Commission will present interim reports at intervals of six months from the date of its first meeting.
3. If the Mixed Commission, within a limit of 5 years from the date of this agreement, should not have arrived at a full agreement for the solution of the controversy it shall, in its final report, refer to the Parties any outstanding questions. The Parties shall thereupon choose one of the means of peaceful settlement provided in Article 33 of the Charter of the United Nations.
4. If, within 3 months of receiving the final report, the Parties should not have reached an agreement regarding the choice of one of the means of settlement provided in Article 33 of the Charter of the United Nations, they shall refer the decision as to the means of settlement to an appropriate international organ upon which they both agree or, failing agreement on this point, to the ^{Secretary General of the} United Nations. If the means so chosen do not lead to a solution of the controversy the said organ or, as the case may be, the United Nations shall choose another of the means stipulated in Article 33 of the Charter of the United Nations and so on until the controversy has been resolved or until all the means of peaceful settlement there contemplated have been exhausted.

Annex 2

*Award of the President of the United States under the Protocol concluded the eighteenth day of August, in the year one thousand eight hundred and ninety-four, between the Government of the Kingdom of Italy and the Government of the Republic of Colombia, UNRIAA, Vol. XI, p. 394
(2 Mar. 1897)*

REPORTS OF INTERNATIONAL
ARBITRAL AWARDS

RECUEIL DES SENTENCES
ARBITRALES

VOLUME XI



UNITED NATIONS — NATIONS UNIES

DOCUMENT ADDITIONNEL

Award of the President of the United States under the Protocol concluded the eighteenth day of August, in the year one thousand eight hundred and ninety-four, between the Government of the Kingdom of Italy and the Government of the Republic of Colombia. Washington, 2 March 1897¹

This protocol, concluded August 18, 1894, between the Kingdom of Italy and the Republic of Colombia, was entered into for the purpose of putting an end to the subjects of disagreement between the two governments growing out of the claims of Signor Ernesto Cerruti against the Government of Colombia for losses and damages to his property in the State (now Department) of Cauca in the said republic during the political troubles of 1885, and for the further purpose of making a just disposition of said claims. By the terms of the protocol each government agreed to submit to arbitration the matters and claims above referred to for the purpose of arriving at a settlement thereof as between the two governments, and they joined in asking me, Grover Cleveland, President of the United States of America, to accept the position of arbitrator in the case and discharge the duties pertaining thereto as a friendly act to both governments, vesting in me full power, authority, and jurisdiction to do and perform and to cause to be done and performed all things without any limitation whatsoever which, in my judgment, might be necessary or conducive to the attainment in a fair and equitable manner of the ends and purposes the agreement is intended to secure.

Pursuant to the terms of the said protocol, the two governments, and the claimant, Signor Ernesto Cerruti, as one of the two parties interested in the suit, have submitted to me within the time specified in said protocol the documents and evidence in support of their several asserted rights.

Now, therefore, be it known, that I, Grover Cleveland, President of the United States of America, upon whom the functions of arbitrator have been conferred as aforesaid, having duly examined the documents and evidence submitted by the respective parties pursuant to the provisions of said protocol, and having considered the arguments addressed to me in relation thereto, do hereby decide and award:

1. That the claims made by Signor Ernesto Cerruti against the Republic of Colombia for losses of and damages to the real and personal property owned by him individually in the said State of Cauca, and the claims of said Signor Ernesto Cerruti for injury sustained by him by reason of losses of and damages to his interest in the firm of E. Cerruti and Company, are proper claims for international adjudication.

2. That the claim submitted to me by Signor Ernesto Cerruti for personal damages resulting from imprisonment, arrest, enforced separation from his

¹ *American Journal of International Law*, vol. 6, 1912, p. 1015.

family, and sufferings and privations endured by himself and family is disallowed. I therefore make no award on account of this claim.

3. The claim of Signor Ernesto Cerruti for moneys expended and obligations incurred for legal expenses in the preparation and prosecution of this claim, including former and present proceedings, is disallowed by me.

4. I award for losses and damages to the individual property of Signor Ernesto Cerruti in the State of Cauca, and to his interest in the copartnership of E. Cerruti and Company, of which he was a member, including interest, the net sum of sixty thousand pounds sterling, of which sum ten thousand having been paid, the Government of the Republic of Colombia will, in addition, pay to the Government of the Kingdom of Italy, for the use of Signor Ernesto Cerruti, ten thousand pounds sterling thereof within sixty days from the date hereof, and the remainder, being forty thousand pounds, within nine months from the date hereof, with interest from the date of this award at the rate of six per cent per annum, until paid, both payments to be made by draft, payable in London, England, with exchange from Bogotá at the time of payment.

5. It being my judgment that Signor Cerruti is, as between himself and the Government of the Republic of Colombia, which I find has by its acts destroyed his means for liquidating the debts of the copartnership of E. Cerruti and Company for which he may be held personally liable, entitled to enjoy and be protected in the net sum awarded him hereby, I do, under the protocol which invests me with full power, authority, and jurisdiction to do and to perform and to cause to be done and performed all things without any limitation whatsoever which in my judgment may be necessary or conducive to the attainment in a fair and equitable manner of the ends and purposes which the protocol is intended to secure, decide and adjudge to the Government of the Republic of Colombia all rights, legal and equitable, of the said Signor Ernesto Cerruti in and to all property, real, personal, and mixed in the Department of Cauca and which has been called in question in this proceeding, and I further adjudge and decide that the Government of the Republic of Colombia shall guarantee and protect Signor Ernesto Cerruti against any and all liability on account of the debts of the said copartnership, and shall reimburse Signor Ernesto Cerruti to the extent that he may be compelled to pay such *bona fide* copartnership debts duly established against all proper defenses which could and ought to have been made and such guaranty and reimbursement shall include all necessary expenses for properly contesting such partnership debts.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE in duplicate at the city of Washington on the second day of March, in the year one thousand eight hundred and ninety-seven, and of the Independence of the United States the 121st.

[Seal of the United States]

Grover CLEVELAND

By the President:

Richard OLNEY,

Secretary of State.

Annex 3

Letter from the Venezuelan Ambassador to the United Kingdom to the Venezuelan Minister of Foreign Affairs (7 Oct. 1899)

(39)

Sr. Andrade, Venezuelan Minister to London
Sr. Calcano, Venezuelan Minister for Foreign
Affairs, Caracas

(Note: Sr. Andrade attended the sessions of the Tribunal)

7 October, 1899

Mr. Minister,

The Tribunal of Arbitration to which the dispute concerning the boundaries of Venezuela and British Guiana was submitted by the Treaty of Washington of February 2, 1897 pronounced sentence on the case on the 3rd instant.

Without delay Mr. Dr. José M. Rojas, Agent of the Government to the Tribunal, and I sent the following telegram to you:-

"Sentence of Tribunal: England gives up Point Barima and the coast until Point Playa from thence the line goes until Schomburgk's (line) which it follows until the junction of the Cuyuni and Wenamu. This gives us five thousand square miles east of the Schomburgk line. Arbiters and Counsel for Venezuela were brilliant. Important details by French mail".

The Ministry will find the complete description of the frontier in the copy of the sentence sent to you by Dr. Rojas. Without knowing the exact geographical description of Point Playa which is marked on very few maps it is difficult to estimate the area of territory which has been awarded to Venezuela in the Barima - Amacuro region: Mr. Mallet-Prevost, studying it on the map of British Guiana, the first in the British Atlas, considers that it must be more than one thousand square miles, but it may prove to be more once it has been marked out on the spot. The same gentleman estimates at about four thousand square miles the position of territory awarded to the Republic east of the Schomburgk line, on the river Cuyuni, from its junction with the Wenamu until Mount Roraima.

Whatever the area may be, the right of Venezuela to a great part of the territory which has been left under the dominion of Great Britain was absolutely clear, as was demonstrated to satiety by its Counsel before the Tribunal. The award does not appear to be based on reason and justice, as Mr. de Martens affirmed in his closing speech, and the Venezuelan arbiters only gave their adhesion in order to avoid an even greater flouting of the essential attributes of any faultless judgment.

But however unjust, the award nevertheless proves that Venezuela did well in forcing England to submit the question to arbitration in 1897. In 1890 the English Government had taken possession of Point Barima, and had declared in its memorandum of that date that the claim by Great Britain to all the valley of the Cuyuni and of the Yuruari rested on solid foundations, and that the greater part of this District had been occupied during three

centuries by Dutch establishments and by those of their successors, the British: that Her Majesty's Government had steadfastly maintained that it held title of strict right to the territory comprised within the line laid down in the note of Lord Salisbury to Mr. Rojas of January 10, 1880, that is up to the heights of the Upata, if not up to the Orinoco itself, and that all Venezuelan establishments to the east of that line amounted to a usurpation of the rights of Great Britain, and, finally, that she (Great Britain) could not admit any doubts concerning her right to the territory situated within the line explored by Sir Robert Schomburgk in 1841.

Well now, within the Schomburgk line of 1841, are contained the four or five thousand square miles which have been awarded to the Republic on the coast and in the interior: within this same line are situated the police stations which England must now give up on the Amacuro and Cuyuni and within it are Point Barima and the mouth of the Orinoco which the arbitration hands back to us at the same time as it assures to us, once and for ever, the possession of all the valley of the Yuruari to which the English extended their extreme claim in 1890. To this extent, if for us the sentence is hardly satisfactory as regards that to which our right was clear, for them (Britain) it has been to a certain extent a costly defeat. For my part, in view of the impression made by the chaotic condition of the country (Venezuela) on the minds of those concerned with the result of the verdict I had thought that our cause was completely lost. Greatly indeed did justice shine forth when in the determination of the frontier we were given the exclusive dominion over the Orinoco which was the principal aim we sought to achieve through arbitration. I consider as well employed the humble efforts which, in order to achieve this, I dedicated during the last six years of my official life.

I will say nothing concerning the final clause which declares open to free navigation by merchant ships of all nations, the rivers Barima and Amacuro in their English section as in the Venezuelan. Therein is seen an application of a theory of international law which wherever it has been put in practice has greatly contributed to the prosperity of States. Venezuela herself has at times applied it to navigation on the Orinoco.

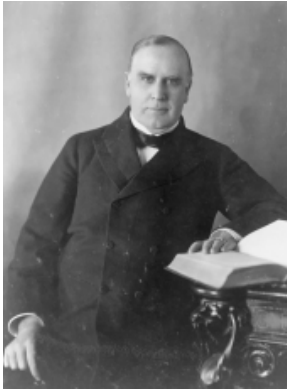
I have, etc.

Annex 4

Government of the United States, *State of the Union Message to the United States Congress of
President William McKinley* (5 Dec. 1899)

The American Presidency Project

(<https://www.presidency.ucsb.edu/>).



WILLIAM MCKINLEY
(/PEOPLE/PRESIDENT/WILLIAM-MCKINLEY)

Third Annual Message

December 05, 1899

To the Senate and House of Representatives:

At the threshold of your deliberations you are called to mourn with your countrymen the death of Vice-President Hobart, who passed from this life on the morning of November 21 last. His great soul now rests in eternal peace. His private life was pure and elevated. while his public career was ever distinguished by large capacity, stainless integrity, and exalted motives. He has been removed from the high office which he honored and dignified, but his lofty character, his devotion to duty, his honesty of purpose, and noble virtues remain with us as a priceless legacy and example.

The Fifty-sixth Congress convenes in its first regular session with the country in a condition of unusual prosperity, of universal good will among the people at home, and in relations of peace and friendship with every government of the world. Our foreign commerce has shown great increase in volume and value. The combined imports and exports for the year are the largest ever shown by a single year in all our history. Our exports for 1899 alone exceeded by more than a billion dollars our imports and exports combined in 1870. The imports per capita are 20 per cent less than in 1870, while the exports per capita are 58 per cent more than in 1870, showing the enlarged capacity of the United States to satisfy the wants of its own increasing population, as well as to contribute to those of the peoples of other nations.

In the Turkish Empire the situation of our citizens remains unsatisfactory. Our efforts during nearly forty years to bring about a convention of naturalization seem to be on the brink of final failure through the announced policy of the Ottoman Porte to refuse recognition of the alien status of native Turkish subjects naturalized abroad since 1867. Our statutes do not allow this Government to admit any distinction between the treatment of native and naturalized Americans abroad, so that ceaseless controversy arises in cases where persons owing in the eye of international law a dual allegiance are prevented from entering Turkey or are expelled after entrance. Our law in this regard contrasts with that of the European States. The British act, for instance, does not claim effect for the naturalization of an alien in the event of his return to his native country, unless the change be recognized by the law of that country or stipulated by treaty between it and the naturalizing State.

The arbitrary treatment, in some instances, of American productions in Turkey has attracted attention of late, notably in regard to our flour. Large shipments by the recently opened direct steamship line to Turkish ports have been denied entrance on the score that, although of standard composition and unquestioned purity, the flour was pernicious to health because of deficient "elasticity" as indicated by antiquated and untrustworthy tests. Upon due protest by the American minister, and it appearing that the act was a virtual discrimination against our product, the shipments in question were admitted. In these, as in all instances, wherever occurring, when American products may be subjected in a foreign country, upon specious pretexts, to discrimination compared with the like products of another country, this Government will use its earnest efforts to secure fair and equal treatment for its citizens and their goods. Failing this, it will not hesitate to apply whatever corrective may be provided by the statutes.

The International Commission of Arbitration, appointed under the Anglo-Venezuelan treaty of 1897, rendered an award on October 3 last, whereby the boundary line between Venezuela and British Guiana is determined, thus ending a controversy which has existed for the greater part of the century. The award, as to which the arbitrators were unanimous, while not meeting the extreme contention of either party, gives to Great Britain a large share of the interior territory in dispute and to Venezuela the entire mouth of the Orinoco, including Barima Point and the Caribbean littoral for some distance to the eastward. The decision appears to be equally satisfactory to both parties.

Venezuela has once more undergone a revolution. The insurgents, under General Castro, after a sanguinary engagement in which they suffered much loss, rallied in the mountainous interior and advanced toward the capital. The bulk of the army having sided with the movement, President Andrade quitted Caracas, where General Castro set up a provisional government with which our minister and the representatives of other powers entered into diplomatic relations on the 20th of November, 1899.

Annex 5

Award by His Majesty King Edward VII in the Argentine-Chile Boundary Case, UNRIAA, Vol. IX, p. 37 (20 Nov. 1902)

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

The Cordillera of the Andes Boundary Case (Argentina, Chile)

20 November 1902

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AWARD BY HIS MAJESTY KING EDWARD VII IN THE ARGENTINE-
CHILE BOUNDARY CASE, 20 NOVEMBER 1902 ¹

WHEREAS, by an Agreement dated the 17th day of April 1896, the Argentine Republic and the Republic of Chile, by Their respective Representatives, determined:

THAT should differences arise between their experts as to the boundary-line to be traced between the two States in conformity with the Treaty of 1881 and the Protocol of 1893, and in case such differences could not be amicably settled by accord between the two Governments, they should be submitted to the decision of the Government of Her Britannic Majesty;

AND WHEREAS such differences did arise and were submitted to the Government of Her late Majesty Queen Victoria;

AND WHEREAS the Tribunal appointed to examine and consider the differences which had so arisen, has — after the ground has been examined by a Commission designated for that purpose — now reported to Us, and submitted to Us, after mature deliberation, their opinions and recommendations for Our consideration;

NOW, WE, EDWARD, by the grace of God, King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India, etc., etc., have arrived at the following decisions upon the questions in dispute, which have been referred to Our arbitration, viz.:

1. The region of the San Francisco Pass;
2. The Lake Lacar basin;
3. The region extending from the vicinity of Lake Nahuel Huapi to that of Lake Viedma; and
4. The region adjacent to the Last Hope Inlet.

Article I. — The boundary in the region of the San Francisco Pass shall be formed by the line of water-parting extending from the pillar already erected on that Pass to the summit of the mountain named Tres Cruces.

Article II. — The basin of Lake Lacar is awarded to Argentina.

Article III. — From Perez Rosales Pass near the north of Lake Nahuel Huapi, to the vicinity of Lake Viedma, the boundary shall pass by Mount Tronador, and thence to the River Palena by the lines of water-parting determined by certain obligatory points which We have fixed upon the Rivers Manso, Puelo, Fetaleufu, and Palena (or Carrenleufu); awarding to Argentina the upper basins of those rivers above the points which We have fixed, including the Valleys of Villegas, Nuevo, Cholila, Colonia de 16 Octubre, Frio, Huemules, and Corcovado; and to Chile the lower basins below those points.

From the fixed point on the River Palena, the boundary shall follow the River Encuentro to the peak called Virgen, and thence to the line which

¹ Descamps-Renault, *Recueil international des traités du XX^e siècle*, année 1902, p. 372.

We have fixed crossing Lake General Paz, and thence by the line of water-parting determined by the point which We have fixed upon the River Pico, from whence it shall ascend to the principal water-parting of the South American Continent at Loma Baguales, and follow that water-parting to a summit locally known as La Galera. From this point it shall follow certain tributaries of the River Simpson (or southern River Aisen), which We have fixed, and attain the peak called Ap Ywan, from whence it shall follow the water-parting determined by a point which We have fixed on a promontory from the northern shore of Lake Buenos Aires. The upper basin of the River Pico is thus awarded to Argentina, and the lower basin to Chile. The whole basin of the River Cisnes (or Frias) is awarded to Chile, and also the whole basin of the Aisen, with the exception of a tract at the head-waters of the southern branch including a Settlement called Koslowsky, which is awarded to Argentina.

The further continuation of the boundary is determined by lines which We have fixed across Lake Buenos Aires, Lake Pueyrredon (or Cochrane), and Lake San Martin, the effect of which is to assign the western portions of the basins of these lakes to Chile, and the eastern portions to Argentina, the dividing ranges carrying the lofty peaks known as Mounts San Lorenzo and Fitzroy.

From Mount Fitzroy to Mount Stokes the line of frontier has been already determined.

Article IV. — From the vicinity of Mount Stokes to the 52nd parallel of south latitude, the boundary shall at first follow the continental water-parting defined by the Sierra Baguales, diverging from the latter southwards across the River Vizcachas to Mount Cazador, at the south-eastern extremity of which range it crosses the River Guillermo, and rejoins the continental water-parting to the east of Mount Solitario, following it to the 52nd parallel of south latitude, from which point the remaining portion of the frontier has already been defined by mutual agreement between the respective States.

Article V. — A more detailed definition of the line of frontier will be found in the Report submitted to Us by Our Tribunal, and upon the maps furnished by the experts of the Republics of Argentina and Chile, upon which the boundary which We have decided upon has been delineated by the members of Our Tribunal, and approved by Us.

Given in triplicate under Our hand and seal, at Our Court of St. James', this twentieth day of November, one thousand nine hundred and two, in the Second Year of Our Reign.

(Signed) EDWARD R. AND I

REPORT OF THE TRIBUNAL APPOINTED BY THE ARBITRATOR,
DATED 19 NOVEMBER 1902¹

1. May it please Your Majesty,

We, the Undersigned, members of the Tribunal appointed by Her late Majesty Queen Victoria to examine, consider, and report upon the differences which have arisen between the Governments of the Republics of Argentina and Chile, with regard to the delimitation of certain portions of the frontier-line between those two countries — which differences were referred (by a Protocol signed at Santiago (Chile) on the 17th April, 1896), to the Arbitration of Her Majesty's Government, beg humbly to submit the following report to Your Majesty:

2. We have studied the copies of the Treaties, Agreements, Protocols, and documents which have been furnished for the use of the Tribunal by the Ministers of the Republics of Argentina and of Chile in this country.

3. We have sat as a Tribunal at the Foreign Office on several occasions, and have heard oral statements and arguments.

4. We invited the Representatives of the respective Governments to furnish us with the fullest information upon their respective contentions, and with maps and topographical details of the territory in dispute, and we have been supplied with copious and exhaustive statements and arguments in many printed volumes, illustrated by maps and plans, and by large numbers of photographs indicating pictorially the topographical features of the country.

5. We desire to take this opportunity of acknowledging our indebtedness to the Representatives and the experts appointed by both Governments for their laborious researches, for the extensive surveys which they have executed in regions hitherto but little known, and for the historical and scientific information which they have laid before us relating to the controversy; and we wish to express our high appreciation, not only of their skill and devotion, but also of the very courteous and conciliatory manner in which they have approached subjects from their nature necessarily contentious.

6. After a preliminary consideration of this voluminous information, we arrived at the point at which it became advisable that an actual study of the ground — as provided for in the Agreement of 1896 — should be undertaken; and upon our suggestion Your Majesty's Government nominated one of our members, Colonel Sir Thomas Holdich of the Royal Engineers, a Vice-President of the Royal Geographical Society, to proceed as Commissioner to the disputed territory, accompanied by an experienced staff.

7. Sir Thomas Holdich and his officers were received with great cordiality and friendliness by the Presidents of the two Republics, and were given every assistance and facility by the officials and experts of both Governments.

8. The Technical Commission so appointed visited all the accessible points in the territory in dispute which were material to a solution of the question, and acquired a large stock of additional information upon questions which presented certain difficulties. Their Reports have been laid before the Tribunal, and the information contained in them, supplementing as it does that afforded

¹ Descamps-Renault, *Recueil des traités du XX^e siècle*, année 1902, p. 372.

by the respective Representatives, is in our opinion sufficient to enable us to make our recommendations.

9. Before setting forth the conclusions at which we have arrived, we shall briefly review the essential points upon which the two Governments were unable to arrive at an agreement.

10. The Argentine Government contended that the boundary contemplated was to be essentially an orographical frontier determined by the highest summits of the Cordillera of the Andes; while the Chilean Government maintained that the definition found in the Treaty and Protocols could only be satisfied by a hydrographical line forming the water-parting between the Atlantic and Pacific Oceans, leaving the basins of all rivers discharging into the former within the coast-line of Argentina, to Argentina; and the basins of all rivers discharging into the Pacific within the Chilean coast-line, to Chile.

11. We recognized at an early stage of our investigations that, in the abstract, a cardinal difference existed between these two contentions. An orographical boundary may be indeterminate if the individual summits along which it passes are not fully specified; whereas a hydrographical line, from the moment that the basins are indicated, admits of delimitation upon the ground.

12. That the orographical and hydrographical lines should have been accepted as coincident over such a long section of the frontier as that which extends from the San Francisco Pass to the Perez Rosales Pass (with the exception of the basin of Lake Lacar), may not improbably have given rise to the expectation that the same result would be attained without difficulty in the more southern part of the continent, which, at the date of the Treaty of 1881, was but imperfectly explored.

13. The explorations and surveys which have lately been carried out by Argentine and Chilean geographers have, however, demonstrated that the configuration of the Cordillera of the Andes between the latitudes of 41° south and 52° south, i.e., in the tract in which the divergencies of opinion have mainly arisen, does not present the same continuities of elevation, and coincidences of orographical and hydrographical lines, which characterize the more temperate and better known section.

14. In the southern region the number of prominent peaks is greater, they are more widely scattered, and transverse valleys through which rivers flow into the Pacific are numerous. The line of continental water-parting occasionally follows the high mountains, but frequently lies to the eastward of the highest summits of the Andes, and is often found at comparatively low elevations in the direction of the Argentine pampas.

15. In short, the orographical and hydrographical lines are frequently irreconcilable; neither fully conforms to the spirit of the Agreements which we are called upon to interpret. It has been made clear by the investigation carried out by our Technical Commission that the terms of the Treaty and Protocols are inapplicable to the geographical conditions of the country to which they refer. We are unanimous in considering the wording of the Agreements as ambiguous, and susceptible of the diverse and antagonistic interpretations placed upon them by the Representatives of the two Republics.

16. Confronted by these divergent contentions we have, after the most careful consideration, concluded that the question submitted to us is not simply that of deciding which of the two alternative lines is right or wrong, but rather to determine — within the limits defined by the extreme claims on both sides — the precise boundary-line which, in our opinion, would best interpret the intention of the diplomatic instruments submitted to our consideration.

17. We have abstained, therefore, from pronouncing judgment upon the respective contentions which have been laid before us with so much skill and earnestness, and we confine ourselves to the pronouncement of our opinions and recommendations on the delimitation of the boundary, adding that in our view the actual demarcation should be carried out in the presence of officers deputed for that purpose by the Arbitrating Power, in the ensuing summer season in South America.

18. There are four distinct subjects upon which we are called upon to make recommendations, viz.:

- (1) The region of the San Francisco Pass in latitude 26°50' S., approximately,
- (2) The Lake Lacar basin, in latitude 40°10' S., approximately,
- (3) The region extending from the Perez Rosales Pass, in latitude 41° S., approximately, to the vicinity of Lake Viedma,
- (4) The region of Last Hope Inlet to the fifty-second parallel of south latitude.

19. Our recommendations upon these four subjects are as follows ¹:

The San Francisco Pass

20. The initial point of the boundary shall be the pillar already erected on the San Francisco Pass.

From that pillar the boundary shall follow the water-parting which conducts it to the highest peak of the mountain mass, called Tres Cruces, in latitude 27°3'45" S.; longitude 68°49'5" W.

Lake Lacar

21. From the point of bifurcation of the two lines claimed as boundaries respectively by Chile and Argentina, in latitude 40°2'0" S., longitude 71°40'36" W., the boundary shall follow the local water-parting southwards by Cerro Perihueico to its southern termination in the valley of the River Huahum.

From that point it shall cross the river in longitude 71°40'36" W., and thenceforward shall follow the water-parting, leaving all the basin of the Huahum above that point, including Lake Lacar, to Argentina, and all below it to Chile, until it joins the boundary which has already been determined between the two Republics.

Perez Rosales Pass to Lake Viedma

22. The southern termination of the boundary already agreed upon between the two Republics, north of Lake Nahuel Huapi, is the Perez Rosales Pass connecting Lago de Todos los Santos with Laguna Fria. Here a pillar has been erected.

From this pillar the boundary shall continue to follow the water-parting southward to the highest peak of Mount Tronador. Thence it shall continue to follow the water-parting which separates the basins of the Rivers Blanco and Leones (or Leon) on the Pacific side from the upper basin of the Manso and its tributary lakes above a point in longitude 71°52' W., where the general direction of the river course changes from north-west to south-west.

Crossing the river at that point, it shall continue to follow the water-parting dividing the basins of the Manso above the bend, and of the Puelo above Lago

¹ All co-ordinate values expressed in terms of latitude and longitude are approximate only, and refer to the Maps attached to this Report. Altitudes quoted in the text are in metres. Where the boundary follows a river the "thalweg" determines the line.

Inferior, from the basins of the lower courses of those rivers, until it touches a point midway between Lakes Puelo and Inferior, where it shall cross the River Puelo.

Thence it shall ascend to, and follow, the water-parting of the high snow-covered mountain mass dividing the basins of the Puelo above Lago Inferior, and of the Fetaleufu above a point in longitude 71°48' W. from the lower basins of the same rivers.

Crossing the Fetaleufu River at this point, it shall follow the lofty water-parting separating the upper basins of the Fetaleufu and of the Palena (or Carrenleufu or Corcovado) above a point in longitude 71°47' W., from the lower basins of the same rivers. This water-parting belongs to the Cordillera in which are situated Cerro Conico and Cerro Serrucho, and crosses the Cordon de las Tobas.

Crossing the Palena at this point, opposite the junction of the River Encuentro, it shall then follow the Encuentro along the course of its western branch to its source on the western slopes of Cerro Virgen. Ascending to that peak, it shall then follow the local water-parting southwards to the northern shore of Lago General Paz at a point where the Lake narrows, in longitude 71°41'30" W.

The boundary shall then cross the Lake by the shortest line, and from the point where it touches the southern shore it shall follow the local water-parting southwards, which conducts it to the summit of the high mountain mass indicated by Cerro Botella Oeste (1,890 m.), and from that peak shall descend to the Rio Pico by the shortest local water-parting.

Crossing that river at the foot of the water-parting, in longitude 71°49' W., it shall ascend again in a direction approximately south and continue to follow the high mountain water-parting separating the upper basin of the Rio Pico above the crossing from the lower basin of the same river, and from the entire basin of the Rio Frias, until it effects a junction with the continental water-parting about the position of Loma Baguales, in latitude 44°22' S., longitude 71°24' W.

From this point, it shall continue to follow the water-parting dividing the basins of the Frias and Aisen Rivers from that of the Senguerr until it reaches a point in latitude 45°44' S., longitude 71°50' W., called Cerro de la Galera in the Map, which marks the head of an affluent flowing south-eastwards into the main stream of the Rio Simpson or southern branch of the Aisen. It shall descend this affluent to its junction with the main stream, and from this junction shall follow the main stream upwards to its source under the mountain called Cerro Rojo (1,790 m.) in the Map. From the peak Cerro Rojo it shall pass by the local water-parting to the highest summit of the Cerro Ap Ywan (2,310 m.).

From Cerro Ap Ywan it shall follow the local water-parting determined by the promontory which juts southwards into Lago Buenos Aires in longitude 71°46' W.

From the southern extremity of this headland the boundary shall pass in a straight line to the mouth of the largest channel of the River Jeinemeni, and thenceforward follow that river to a point in longitude 71°59' W., which marks the foot of the water-parting between its two affluents, the Zeballos and the Quisoco. From this point it shall follow this water-parting to the summit of the high Cordon Nevada, and shall continue along the water-parting of that elevated cordon southwards, and thence follow the water-parting between the basins of the Tamango (or Chacabuco) and of the Gio, and ascend to the summit of a mountain known locally as Cerro Principio, in the Cordon Quebrado. From this peak it shall follow the water-parting which conducts it to the southern extremity of the headland jutting southward into Lago Pueyrredon (or Cochrane), in longitude 72°1' W.

From this headland it shall cross the Lake passing direct to a point on the summit of the hill, in latitude $47^{\circ}20'$ S., longitude $72^{\circ}4'$ W., commanding the southern shore of the Lake. From this summit it shall follow the lofty snow-covered water-parting, which conducts it to the highest peak of Mount San Lorenzo (or Cochrane), (3,360 m.). From Mount San Lorenzo it shall pass southward along the elevated water-parting dividing the basin of the River Salto on the west from that of the River San Lorenzo on the east, to the highest peak of the Cerro Tres Hermanos.

From this peak it shall follow the water-parting between the basin of the Upper Mayer on the east, above the point where that river changes its course from north-west to south-west, in latitude $48^{\circ}12'$ S., and the basins of the Coligué or Bravo River and of the Lower Mayer, below the point already specified, on the west, striking the north-eastern arm of Lago San Martin at the mouth of the Mayer River.

From this point it shall follow the median line of the Lake southwards as far as a point opposite the spur which terminates on the southern shore of the Lake in longitude $72^{\circ}47'$ W., whence the boundary shall be drawn to the foot of this spur and ascend the local water-parting to Mount Fitzroy and thence to the continental water-parting to the north-west of Lago Viedma. Here the boundary is already determined between the two Republics.

Region of Last Hope Inlet

23. From the point of divergence of the two boundaries claimed by Chile and Argentina respectively in latitude $50^{\circ}50'$ S., the boundary shall follow the high crests of the Sierra Baguales to the southern spur which leads it to the source of the Zanja Honda stream. Thence it shall follow that stream until it reaches existing Settlements. From this point it shall be carried southward, having regard, as far as possible, to existing claims, crossing the River Vizcachas and ascending to the northern peak of Mount Cazador (948 m.). It shall then follow the crest-line of the Cerro Cazador southwards, and the southern spur which touches the Guillermo stream in longitude $72^{\circ}17'30''$ W. Crossing this stream, it shall ascend the spur which conducts it to the point marked 650 m. on the Map. This point is on the continental water-parting, which the boundary shall follow to its junction with the fifty-second parallel of south latitude.

24. All which we beg humbly to submit for Your Majesty's gracious consideration.

Signed, sealed, and delivered at the Foreign Office, in London, this nineteenth day of November, one thousand nine hundred and two.

(Signed) [L. S.] MACNAGHTEN,

*Lord of Appeal in Ordinary, and a Member of
Your Majesty's Most Honourable Privy Council*

(Signed) [L. S.] John C. ARDAGH,

*Major-General, and a Member of Council of
the Royal Geographical Society*

[L. S.] T. HUNGERFORD HOLDICH,

*Colonel of the Royal Engineers, and a Vice-President of
the Royal Geographical Society*

[L. S.] E. H. HILLS,

*Major of the Royal Engineers, head of the Topographical Section of the Intelligence
Division, Secretary to the Arbitration Tribunal*

SCHEDULE OF MAPS ¹

1. San Francisco Pass.
2. Lake Lacar.
3. Perez Rosales to Lake Buenos Aires.
4. Lake Buenos Aires to Mount Fitzroy.
5. Last Hope Inlet.

¹ Not reproduced in this volume.

ADDITIONAL DOCUMENTS

a) Boundary Treaty signed in Buenos Ayres on the 23rd July 1881 ¹

In the name of Almighty God! The Governments of the Argentine Republic and of the Republic of Chili, animated by the purpose of resolving in a friendly and dignified manner the boundary-controversy that has existed between both countries, and in fulfilment of Article 39 of the Treaty of April 1856,² have decided to conclude a Boundary Treaty and named to that effect their plenipotentiaries, to wit:

His Excellency the President of the Argentine Republic Doctor Bernardo de Irigoyen, Minister and Secretary of State in the Department of Foreign Affairs, and His Excellency the President of the Republic of Chili Mr. Francisco de B. Echeverria, Consul General of said Republic.

Who, after having produced their full powers and finding them sufficient for the performance of this act have agreed upon the following articles:

Article 1. — The boundary between the Argentine Republic and Chili from North to South as far as the parallel of latitude 52° S., is the Cordillera of the Andes.—The frontier line shall run in that extent along the most elevated crests of said cordilleras that may divide the waters and shall pass between the slopes which descend one side and the other.—The difficulties that might arise from the existence of certain valleys formed by the bifurcation of the cordillera, and in which the watershed may not be apparent, shall be amicably settled by two experts, one to be named by each party. Should they not come to an understanding, a third expert, named by both governments, shall be called upon to decide. A record, in duplicate, of the operations carried out by them, embodying the points upon which they may have agreed, shall be drawn up and signed by the two experts, and besides by the third one as regards the points decided by him. This record, once signed by them, shall produce full effect and shall be held firm and valid without necessity of further formalities or proceedings. A copy of the record shall be presented to each of the two governments.

Article 2. — In the southern part of the continent, and to the north of the Straits of Magellan, the boundary between the two countries shall be a line, which starting from Point Dungeness, shall be prolonged overland as far as Mount Dinero; thence it shall continue westward, following the highest elevations of the chain of hills existing there, until it strikes the height of Mount Aymont. From this point the line shall be prolonged up to the intersection of meridian 70° W., with parallel 52° S. and thence it shall continue westward

¹ Emilio Lamarca, *Boundary Agreements in force between the Argentine Republic and Chili*, Buenos Aires, 1898, Index, p. 5.

² Art. XXXIX. — Both the contracting parties acknowledge as boundaries of their respective territories, those they possessed as such at the time of separating from the Spanish dominion in the year 1810, and agree to postpone the questions which may have arisen or may arise regarding this matter in order to discuss them later on in a peaceful and amicable manner, without ever resorting to violent measures, and in the event of not arriving at a complete arrangement, to submit the decision to the arbitration of a friendly nation.

coinciding with this latter parallel as far as the *divortium aquarum* of the Andes. The territories lying to the north of said line shall belong to the Argentine Republic, and to Chili those which extend to the south, without prejudice to the provisions of Art. 3d concerning Tierra del Fuego and the adjacent islands.

Article 3. — In Tierra del Fuego a line shall be traced which, starting from the point named Cape Espíritu Santo in latitude 52°, 40' S., shall be prolonged southward coinciding with meridian 68°, 34' W. Greenwich, until it strikes Beagle Channel.

Tierra del Fuego, divided in this manner, shall be Chilian on the western and Argentine on the eastern side. As regards the islands, Staten Island, the islets in close proximity to same, and the remaining island lying in the Atlantic to the east of Tierra del Fuego and of the eastern coasts of Patagonia, shall belong to the Argentine Republic; and all the islands south of Beagle Channel down to Cape Horn, as well as those lying to the west of Tierra del Fuego, shall belong to Chili.

Article 4. — The same experts referred to in Art. 1st shall fix on the ground the lines indicated in the two previous articles, and shall proceed in the same manner as therein established.

Article 5. — The Straits of Magellan are neutralized for perpetuity, and their free navigation is secured to the flags of all nations. With the view of securing said liberty and neutrality, no fortifications nor military defences which may thwart that purpose shall be erected on the coasts.

Article 6. — The governments of the Argentine Republic and of Chili shall exercise full dominion and for perpetuity over the territories which respectively belong to them according to the present arrangement. Any question which might unfortunately arise between the two countries, whether it be on account of this transaction, or owing to any other cause, shall be submitted to the decision of a friendly power, the boundary established in the present arrangement to remain at all events immovable between the two republics.

*Article 7.*¹ — The ratifications of this treaty shall be exchanged within the term of sixty days, or sooner if possible, and the exchange shall take place in the city of Buenos Aires or in that of Santiago, Chili.

In witness whereof the plenipotentiaries of the Argentine Republic and of the Republic of Chili signed and sealed with their respective seals, in duplicate, the present treaty in the city of Buenos Aires on the twenty third day of July in the year of our Lord 1881.

[L. S.] Bernardo DE IRIGOYEN

[L. S.] FRANCISCO DE B. ECHEVERRIA

b) Additional and Explanatory Protocol of the Boundary Treaty of 1881 signed in Santiago on the 1st May 1893²

In the city of Santiago, Chili, on the first of May 1893, Mr. Norberto Quirno Costa, Envoy Extraordinary and Minister Plenipotentiary of the Argentine Republic, and the Minister of War and Marine Mr. Isidoro Errázuriz in his character of Plenipotentiary *ad hoc*, having met in the Department of Foreign

¹ A Protocol was signed at Buenos Ayres on the 15th September 1881, extending for 30 days the limit of time fixed by Article VII for the exchange of the ratifications of this Treaty, such extension to date from the 22nd September 1886.

² Emilio Lamarca, *Boundary Agreements in force between the Argentine and Chili*, Buenos Aires, 1898, Index, p. 25.

Affairs, after having considered the present state of the work of the experts entrusted with the demarcation of the delimitation between the Argentine Republic and Chili, in accordance with the boundary treaty of 1881, and animated by the desire of removing the difficulties which have embarrassed or might embarrass them in the fulfilment of their commission, and of establishing between both States a complete and cordial understanding in harmony with the antecedents of brotherhood and glory common to both, and with the ardent wishes of public opinion on either side of the Andes, have agreed as follows:

FIRST — Whereas Article 1 of the treaty of 23 July 1881 provides that “ the boundary between Chili and the Argentine Republic from north to south as far as parallel of latitude 52° S. is the Cordillera of the Andes ” and that “ the frontier line shall run along the most elevated crests of said Cordillera that may divide the waters, and shall pass between the slopes which descend one side and the other ”, the experts and the subcommissions shall observe this principle as an invariable rule of their proceedings. Consequently all lands and all waters, to wit: lakes, lagoons, rivers and parts of rivers, streams, slopes situated to the east of the line of the most elevated crests of the Cordillera of the Andes that may divide the waters, shall be held in perpetuity to be the property and under the absolute dominion of the Argentine Republic; and all lands and all waters, to wit: lakes, lagoons, rivers and parts of rivers, streams, slopes situated to the west of the line of the most elevated crests of the Cordillera of the Andes to be the property and under the absolute dominion of Chili.

SECOND — The undersigned declare that, in the opinion of their respective governments, and according to the spirit of the boundary treaty, the Argentine Republic retains its dominion and sovereignty over all the territory that extends from the east of the principal chain of the Andes to the coast of the Atlantic, just as the Republic of Chili over the western territory to the coasts of the Pacific; it being understood that by the provisions of said treaty, the sovereignty of each State over the respective coast line is absolute, in such a manner that Chili cannot lay claim to any point toward the Atlantic, just as the Argentine Republic can lay no claim to any toward the Pacific. If in the peninsular part of the south, on nearing parallel 52° S. the Cordillera should be found penetrating into the channels of the Pacific there existing, the experts shall undertake the study of the ground in order to fix a boundary line leaving to Chili the coasts of said channels; in consideration of which study, both governments shall determine said line amicably.

THIRD — In the case foreseen in the second part of the first article of the treaty of 1881, where difficulties might arise “ from the existence of certain valleys formed by the bifurcation of the Cordillera, and in which the watershed may not be apparent ” the experts shall endeavour to settle them amicably, seeing that a search be made on the ground for this geographical condition of the demarcation. For that purpose, of joint accord, they shall draw up with the assistant engineers a map which may help them to resolve the difficulty.

FOURTH — The demarcation of Tierra del Fuego shall commence simultaneously with that of the Cordillera, and shall start from the point called Cape Espíritu Santo. At that point, visible from the sea, there are three heights or hills of medium elevation, of which the central or intermediary one, which is the highest, shall be taken as point of departure, and on its summit shall be placed the first landmark of the line of demarcation, which shall continue towards the south in the direction of the meridian.

FIFTH — The work of demarcation on the ground shall be undertaken next spring simultaneously in the Cordillera of the Andes and in Tierra del Fuego in the direction previously agreed upon by the experts, that is to say, starting from the northern region of the former, and from the point denominated Cape Espiritu Santo of the latter. To that effect the commissions of assistant engineers shall be ready to commence the work on the fifteenth next October. On that date the experts shall also have prepared and signed the instructions which the aforesaid commissions shall bear, according to article four of the convention of the twentieth August one thousand eight hundred and eighty eight. These instructions shall be framed in accordance with the agreements set forth in the present protocol.

SIXTH — For the purpose of demarcation, the experts, or in their stead the commissions of assistant engineers who act under the instructions given them by the former, shall seek on the ground the boundary line, and fix the demarcation by means of iron landmarks of the kind previously agreed upon, placing one in each pass or accessible point of the mountain which may be situated on the boundary line, and shall draw up a record of the operation, specifying the fundamental reasons of same, and the topographic indications for recognizing at all times the point fixed, although the landmark might have disappeared by the wear of time or atmospheric action.

SEVENTH — The experts shall direct the commissions of assistant engineers to collect all the necessary data to design on paper, of joint accord, and with all possible accuracy, the boundary line as they may demark it on the ground. To that effect, they shall indicate the changes of altitude and azimuth which the boundary line may suffer in its course, the beginning of the streams or quebradas that descend one side and the other, writing down the names of same whenever it were possible to know them, and shall distinctly fix the points on which the boundary landmarks are to be placed. These maps may contain other geographical accidents, which without being actually necessary in the demarcation of boundaries, such as the visible course of rivers when descending into the neighbouring valleys, and the high peaks that rise on one side and the other of the boundary line, are easily indicated in the places as signs of location. The experts in the instructions given to their assistant engineers shall point out such facts of a geographical character as it may be useful to collect, provided that this does not interrupt nor delay the demarcation of boundaries, which is the main object of the commission of experts, and upon which speedy and amicable operation both governments are intent.

EIGHTH — The Argentine expert having manifested that, in order to sign with full knowledge of the matter the record of 15th April 1892, by which a mixed Chilean-Argentine commission fixed on the ground the point of departure of the demarcation of boundaries in the Cordillera of the Andes, he considered it indispensable to make a fresh reconnaissance of the locality in order to verify or rectify said operation, adding that this reconnaissance would not delay the progress of the work, which could be simultaneously continued by another sub-commission, and the Chilean expert having on his part manifested that, although he believed that the operation had been carried out in strict conformity with the treaty, he had no objection to acquiesce in the wishes of his colleague as a proof of the cordiality with which this work was being performed — the undersigned have agreed that a revision be made of what had been done, and that in the event of errors being found, the landmark shall be transferred to the point in which it should have been fixed according to the terms of the boundary treaty.

NINTH — With the desire of expediting the work of demarcation, and believing that this can be attained through the employment of three sub-commissions instead of the two which up to the present have been working, without the need of increasing the number of assistant engineers, the undersigned agree that henceforward, as long as the creation of others should not be decided on, there shall be three subcommissions, each one composed of four persons, two on the part of the Argentine Republic and two on the part of Chili, and of the auxiliaries which by mutual agreement might be considered necessary.

TENTH — The tenor of the preceding stipulations does not in the least impair the spirit of the boundary treaty of 1881, and consequently it is hereby declared that the conciliatory means provided by Arts. 1 and 6 of same for obviating any difficulty subsist in full force.

ELEVENTH — The undersigned ministers understand and declare that, given the nature of some of the foregoing stipulations, and in order to invest with a permanent character the solutions arrived at, the present protocol shall be previously submitted to the consideration of the Congresses of both countries, which shall be done in the next ordinary sessions, keeping it reserved in the meanwhile.

The undersigned ministers, in the name of their respective Governments, and duly authorized, sign the present protocol in duplicate, one for each party and affix their seals to same.

[L. S.] N. QUIRNO COSTA

[L. S.] Isidoro ERRÁZURIZ

Annex 6

Award of His Majesty The King of Italy with Regard to the Boundary Between the Colony of British Guiana and the United States of Brazil, UNRIAA, Vol. XI, p. 21 (6 June 1904)

REPORTS OF INTERNATIONAL
ARBITRAL AWARDS

RECUEIL DES SENTENCES
ARBITRALES

VOLUME XI



UNITED NATIONS — NATIONS UNIES

AWARD OF HIS MAJESTY THE KING OF ITALY WITH
REGARD TO THE BOUNDARY BETWEEN THE COLONY
OF BRITISH GUIANA AND THE UNITED STATES OF BRAZIL.
GIVEN AT ROME, JUNE 6, 1904^{1 2}

Détermination de l'étendue du territoire qui peut être à bon droit réclamée par quelqu'une des deux Parties, et fixation de la ligne frontière entre la colonie de la Guyane anglaise et des Etats-Unis du Brésil—Application à l'affaire de certains principes du droit international régissant l'acquisition de la souveraineté sur un territoire *nullius*.

We, Victor Emmanuel, by the grace of God and the will of the people, King of Italy, Arbitrator in the matter of deciding the question of the frontier between British Guiana and Brazil.

His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India, and the President of the United States of Brazil, having, in the Treaty concluded between them in London on the 6th November, 1901, decided to invite Us as Arbitrator, to settle the question of the frontier of British Guiana and Brazil, We have accepted the task of defining the limits of the frontier.

The High Contending Parties having undertaken, in the above-mentioned Treaty which was ratified at Rio de Janeiro on the 28th January, 1902, to accept our arbitral decision as a complete, perfect, and definitive settlement of the question referred to Us, We, wishing to act in a manner corresponding to the trust reposed in Us by the said Parties, have examined carefully all the memoranda and all the documents produced to Us, and have weighed and duly considered the reasons on which each of the High Contracting Parties founds its claim.

Having taken due note of everything, We have considered:—

That the discovery of new channels of trade in regions not belonging to any State cannot by itself be held to confer an effective right to the acquisition of the sovereignty of the said regions by the State whose subjects the persons who in their private capacity make the discovery may happen to be;

That to acquire the sovereignty of regions which are not in the dominion of any State, it is indispensable that the occupation be effected in the name of the State which intends to acquire the sovereignty of those regions;

That the occupation cannot be held to be carried out except by effective, uninterrupted, and permanent possession being taken in the name of the State, and that a simple affirmation of rights of sovereignty or a manifest intention to render the occupation effective cannot suffice;

That the effective possession of a part of a region, although it may be held to confer a right to the acquisition of the sovereignty of the whole of a region which constitutes a single organic whole, cannot confer a right to the acquisition

¹ *Parliamentary Paper*, Brazil No. 1 (1904).

² *British and Foreign State Papers*, Vol. XCIX, p. 930.

of the whole of a region which, either owing to its size or to its physical configuration, cannot be deemed to be a single organic whole *de facto*:

That consequently, all things duly considered, it cannot be held that Portugal in the first instance, and Brazil subsequently have effectively taken possession of all the territory in dispute, but that it can only be recognized that they have possession of some places in the same, and have there exercised their sovereign rights.

On the other hand, We have had under our consideration —

That the arbitral Judgment of the 3rd October, 1899,¹ delivered by the Anglo-American Tribunal, which, when deciding the boundary between Great Britain and Venezuela, adjudged to the former the territory which constitutes the subject of the present dispute, cannot be cited against Brazil, which was unaffected by that Judgment;

That, however, the right of the British State as the successor to Holland, to whom the Colony belonged, is based on the exercise of rights of jurisdiction by the Dutch West India Company, which, furnished with sovereign powers by the Dutch Government, performed acts of sovereign authority over certain places in the zone under discussion, regulating the commerce carried on for a long time there by the Dutch, submitting it to discipline, subjecting it to the orders of the Governor of the Colony, and obtaining from the natives a partial recognition of the power of that official;

That like acts of authority and jurisdiction over traders and native tribes were afterwards continued in the name of British sovereignty when Great Britain came into possession of the Colony belonging to the Dutch;

That such effective assertion of rights of sovereign jurisdiction was gradually developed and not contradicted, and, by degrees, became accepted even by the independent native tribes who inhabited these regions, who could not be considered as included in the effective dominion of Portuguese, and later on of Brazilian, sovereignty;

That in virtue of this successive development of jurisdiction and authority the acquisition of sovereignty on the part of Holland first, and Great Britain afterwards, was effected over a certain part of the territory in dispute;

That it does not appear from the documents produced to Us, which have been weighed and duly considered, that there are historical and legal claims on which to found thoroughly determined and well-defined rights of sovereignty in favour of either of the contending Powers over the whole territory in dispute, but only over certain portions of the same;

That not even the limit of the zone of territory over which the right of sovereignty of one or of the other of the two Parties may be held to be established can be fixed with precision;

That it cannot either be decided with certainty whether the right of Brazil or of Great Britain is the stronger.

In this condition of affairs, since it is our duty to fix the line of frontier between the dominions of the two Powers, We have come to the conclusion that, in the present state of the geographical knowledge of the region, it is not possible to divide the contested territory into two parts equal as regards extent and value, but that it is necessary that it should be divided in accordance with the lines traced by nature, and that the preference should be given to a frontier which, while clearly defined throughout its whole course, the better lends itself to a fair decision of the disputed territory.

For these reasons, We decide:—

¹ *Ibid.*, Vol. XCII, p. 160.

The frontier between British Guiana and Brazil is fixed by the line leaving Mount Yakontipu; it follows eastwards the watershed as far as the source of the Ireng (Mahu); it follows the downward course of that river as far as its confluence with the Takutu; it follows the upward course of the Takutu as far as its source, where it joins again the line of frontier determined in the Declaration annexed to the Treaty of Arbitration concluded in London by the High Contending Parties on the 6th November, 1901.

In virtue of this declaration every part of the zone in dispute which is to the east of the line of frontier shall belong to Great Britain, and every part which is to the west shall belong to Brazil.

The frontier along the Ireng (Mahu) and Takutu is fixed at the "thalweg" and the said rivers shall be open to the free navigation of both conterminous States.

Wherever the watercourse may be divided into more than one branch, the frontier shall follow the "thalweg" of the most eastern branch.

GIVEN at Rome on the 6th June, 1904.

VICTOR EMMANUEL.

Annex 7

Letter from the Minister of Foreign Affairs of the Republic of Venezuela, to the U.K.
Ambassador to Venezuela, No. CO 111/564 (12 Mar. 1908)

PUBLIC RECORD OFFICE

CO. III/584.

Reference:-

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No. 23.

(11904).

CARACAS,

March 16th 1908.

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REC'D A
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Sir:-

I have the honour to forward herewith copy and translation of a note which I have received from Dr. Paul in reply to my note of the 25th ultimo (copy of which was forwarded to you in my despatch No.19 of the same date) informing me that the Venezuelan Government adhere to the terms of their note of September 4th last, which ratifies the decision of the Commissioners for the delimitation of the Guyana frontier only in so far as it is in accord with the terms of the Paris award.

I have &c.,

(Signed) Vincent Corbett.

Mr E. Grey, Bart.,

&c., &c., &c.

Translation.

Dr. J. de J. Paul to Sir Vincent Corbett.

CARACAS,

March 12th 1908.

Sir:-

In acknowledging receipt to Your Excellency of your esteemed note under date of February 25th last relative to the ratification accorded by the Federal Executive to the labours of the Commissions for the delimitation of the frontier between Venezuela and British Guyana and which is entirely restricted to that part which is in conformity with the Paris award of October 6th 1899, without extending to the deviation of the line recommended by the Commissioners, I have the honour to inform Your Excellency that I have received instructions to refer myself entirely to the note of this Ministry of September 4th 1907 No. 954 and to confirm to your Legation the declaration therein made on the subject by this Office.

I avail &c.,

(Signed)

J. de J. Paul.

Annex 8

Republic of Venezuela, Ministry of Foreign Affairs, *Public Treaties and International Agreements, Vol. III (1920-1925)* (1927)

TREATIES AND INTERNATIONAL AGREEMENTS IN FORCE (*)

[...]

The Acts of the Mixed Boundary Commission that constitute an international agreement.—(1880).

Protocols on Limits.—December 9, 1905.

[...]

TRATADOS Y ACUERDOS INTERNACIONALES EN VIGOR (*)

Alemania.—Convenio sobre Marcas de Fábrica y de Comercio.—11 de julio de 1883.

Tratado de Comercio y Navegación.—26 de enero de 1909.

Bélgica.—Convenio sobre situación legal de las sociedades anónimas y de las otras asociaciones comerciales, industriales y financieras.—25 de mayo de 1882.

Convenio sobre Marcas de Fábrica y de Comercio.—25 de mayo de 1882.

Tratado de Amistad, Comercio y Navegación.—1º de marzo de 1884.

Tratado de Extradición.—13 de marzo de 1884.

Bolivia.—Tratado de Paz, Amistad, Comercio y Navegación.—14 de setiembre de 1883.

Tratado de Extradición.—21 de setiembre de 1883.

Convención Consular.—27 de setiembre de 1883.

Tratado General de Arbitraje.—12 de abril de 1919.

Convenio sobre servicio de Valijas diplomáticas.—16 de abril de 1923.

Brasil.—Tratado de Límites y Navegación Fluvial.—5 de mayo de 1859.

Actas de la Comisión Mixta de Límites que implican acuerdo internacional.—(1880).

Protocolos sobre Límites.—9 de diciembre de 1905.

Convención de Arbitraje.—30 de abril de 1909.

Convenio, por cambio de notas, sobre servicio de Valijas diplomáticas. (1909).

Protocolo para la colocación de algunos postes en cierta parte de la frontera.—29 de febrero de 1912.

(*) Para el 1º de mayo de 1927. Se ha formado esta lista, previo estudio minucioso de los expedientes. No obstante el cuidado puesto en ese estudio, la lista queda sujeta en todo caso a rectificación. Los Tratados y Acuerdos excluidos son los siguientes:

Annex 9

Speech by the Venezuelan Ambassador to the United States to the Pan-American Society of the United States (1944)

ESCALANTE'S SPEECH TO THE PANAMERICAN SOCIETY

Mr. President:

Ladies & Gentlemen:

We are very glad to have amongst us a very distinguished member of the College of Advocates of the United States, who does not require any introduction as you all know him very well.

For this same reason I think it unnecessary at this moment to praise this gentleman, whose great and exemplary life has been an honour to his profession. His virtues as a man and a citizen, his ability as a lawyer and internationalist, proven time and again during his extensive career, have gone very far. I refer, as you must have guessed, to the ex-president of this Panamerican Society, Dr. Severi Mallet-Prevost, to whom Venezuela owes a long-standing debt.

It is always painful for a Venezuelan to have to touch on certain points of our history, because it is the story of a great injustice done to the defenceless and weak.

Despite the repeated protests on the part of the Venezuelan Government from the time of the very foundation of the Republic, colonists from British Guiana persisted in settling on Venezuelan soil until, in the year 1840, a German by the name of Schonburgk was commissioned to draw up a plan of the frontiers of English Guiana and he, with true German efficiency, set up in the name of his superiors, numerous boundary marks which deprived Venezuela of more than half of her territory in the Guiana region.

The 20,000 square miles of territory which England acquired from the Dutch in 1814, in this manner was converted overnight, to some 60,000 and, by the year 1885, English claims had reached 76,000 square miles, jumping to 109,000 the following year.

To each concession made by Venezuela in the interest of maintaining cordial relations, her opponent responded with still greater claims. Venezuela, sure of her rights and of the justice of her cause had persistently demanded that this affair should be submitted to arbitration; this was, however, always refused by her antagonist, until British demands became so exorbitant that there was great agitation throughout the country and President Cleveland insisted on arbitration. The award was made in 1889 and by an unparalleled miscarriage of justice, England was given 60,000 square miles of Venezuelan territory.

We have accepted the verdict of the arbitration for which we have so persistently asked; but in the heart of every Venezuelan there is the undying hope that one day the spirit of equity will prevail in the world and that this will bring us the reparation which morally and justly is due to us.

Venezuela, victim of internal troubles and weakness was practically alone in her defence. In that dark moment, only one friendly voice besides her own was raised in her defence: that of Severo Mallet-Prevost. It was a strong voice and a learned one, but during the arbitration, it was the only one heard.

First appointed by President Cleveland, Secretary of the American Mission and intended to take part in the Arbitration, he was later Legal Adviser for Venezuela, when the case was presented to the Court in Paris. His was a good defence, though fruitless; but we have not forgotten his friendship and interest in our cause.

Today/

- 2 -

Today President Medina has found the occasion appropriate to express to Mr. Mallet-Prevost our appreciation for what he did, and to place on the breast of our friend and adviser of yesterday, the Order of the Liberator, in testimony of the high estimation in which the Venezuelan people hold and will always hold him. Perhaps this act of gratitude comes rather late but it shows that Venezuela never forgets her friends. *or any duty else apparently!*

POSSIBLE REVISION OF THE FRONTIERS WITH THE BRITISH GUIANAS.

As was said by Deputy Jose Antonio Maturin when this important question was raised in Congress, it is to be hoped that, if the world of the future is going to live in accordance with the principles of the "Atlantic Charter", the reference to the affair made by Ambassador Escalante in the speech in Washington, in the presence of President Medina, should be the beginning of a process to secure that justice which Venezuela deserves, that is to say, the revision of her frontiers with the British Guianas.

Annex 10

Government of United Kingdom, Foreign Office, *Minute by C.N. Brading*, No. FO 371/38814
(3 Oct. 1944)

Minutes.

AS 4758/3113/47

Venezuela-British Guiana Boundary Dispute.

Recently the Venezuelans have shown signs ^{that they are} feeling a grievance over the question of the Venezuela British Guiana frontier settlement, and wishing to re-open the matter.

This boundary dispute was settled by arbitration in 1899 and the frontier was finally fixed in 1905, since when the Venezuelan Government do not appear to have questioned the decision.

No official démarche has yet been made by the Venezuelan Government. Protests have been confined to a speech by the Venezuelan Ambassador in the United States, which was reproduced in the Ministry of Foreign Affairs Annual Report to Congress, and a speech in Congress by a Left Wing member of the Government party, which was endorsed by the President of the Senate in closing Congress. (He also demanded a seat for Venezuela at the Peace Conference). These speeches have invoked the Atlantic Charter and the 1899 award was referred to as "an unparalleled miscarriage of justice". The Leftist newspapers took up this controversy and published articles with maps; so far the Government-owned Press has been silent.

The Colonial Office view with alarm and despondency the possibility of an inflation of a claim which is absolutely baseless but which can well become tiresome, as in the case of the Guatemala-British Honduras Treaty dispute. Sir George Ogilvie-Forbes was instructed to look into the matter on his arrival in Venezuela, but at his first Press Conference the first question asked by Venezuelan journalists was: "what was Great Britain going to do about British Guiana?" H.M. Ambassador replied that he had not yet presented his credentials and could not discuss the matter. Mr. Anderson is inclined to think that the valuable potentialities of the territory on the Venezuela British Guiana border may have revived Venezuelan interest in the boundary dispute. This territory contains Bauxite and diamonds, and favourable sites for international air fields.

According to the Paunceforte-Andrade Treaty of 1897, both parties agreed that adverse holding or prescription for a period of 50 years should constitute a title. As the Award was made in 1899, the Venezuelans have only 5 years to run to establish their claim, which may explain their trying to stake out a claim now.

Sir George Ogilvie-Forbes is of the opinion that we should wait for the Venezuelan Government to bring up this matter officially. The alternative course of action would be to approach President Medina in a friendly way and state formally that in our view no grounds exist for re-opening this controversy which was

definite-

NOTHING TO BE WRITTEN IN THIS MARGIN.

This was
apparently
retrospective
only
JWW

AS 5013

25 SEP 1944

Minutes.

definitely settled in 1899. The views of the C.O. are being sought on Sir G. Ogilvie-Forbes' suggestions.

Sean McQuillen

9th September 1944.

Legal Adviser
(Mr. Fitzmaurice)

Library

N.A. Dept.

F.O.R.D.

Allen

Sep. 11.

I think Sir G. O. Forbes missed an opportunity with his press question.

MB

11/x

I should have said that we certainly ought not to make any initial approach to the Venezuelan Govt. And there is not much we are preparing a reply to any approach of theirs until it means that form it takes.

The present pp. ^{main} ~~main~~ shows that the Venezuelan view of this matter is. There are however many back pp. setting out our view & case, & these might be looked at & attached in future. I remember seeing them before the war - & my recollection certainly is that the Venezuelans had no case.

The fact that the V's have no case won't prevent the State Dept supporting them. Mr. Hull wants to twist our tails over Argentina. I think we had better have out as Mr. Fitzmaurice suggests, and reconsider. 23/x

NOTHING TO BE WRITTEN IN THIS MARGIN.

NOTHING TO BE WRITTEN IN THIS MARGIN.

The award of the Arbitration Tribunal in 1899 had not previously been challenged until the present agitation started in 1941 (A 2675/210/41). The Venezuelan MFA. then said that it was his view and that of his govt that the affair was chose jugée, and there was no reason to fear that it would be re-opened.

Ten years earlier, in connexion with the marking of the tri-junction point of the British Guiana - Brazil - Venezuela boundaries, the Venezuelan govt insisted on a literal application of the 1899 Award. (A 148/34/6 1932)

The correspondence in connexion with the arbitration and the negotiations preceding it runs into thousands of pages of print. The index to the cases and counter-cases, for example, is a volume of 1200 pages. It hardly seems worth while to delve into this mass of material until we have something more specific to answer than the present ^{general} allegation of injustice.

W. Brading
3/10/44

Annex 11

Letter from the Ambassador of the United Kingdom to Venezuela, to J.V.T.W.T. Perowne, U.K.
Foreign Office (3 Nov. 1944)

Air bag.
Secret.

AS 6024

BRITISH EMBASSY,

20 NOV 1944 RIO DE JANEIRO.

3rd November, 1944.

My dear Perowne,

With reference to your letter of the 26th September, I recollect the dinner with Nicomedes Zuloaga and the films he shewed us afterwards. The "Mission" you speak of was not a mission in any sense of the word but a private exploration party in which several Venezuelan friends of mine took part and as such had no political significance whatever.

I was surprised to see from copies of Caracas correspondence received here some time ago and not from the enclosures to your letter that the British Guiana frontier question had cropped up again and still more surprized that it had been raised by anyone of standing such as Escalante, Maturret and Egafia and that "Ahora" and "El Nacional" had taken it up.

As regards the general question I have a very clear recollection of the occasions when it was revived or mentioned in my time which I give below:-

One of the first impressions I received shortly after my arrival in Caracas was that the solution of the British Guiana frontier question by the Paris Award of 1899 ~~(27)~~ had only been accepted very reluctantly by Venezuela but that having been accepted there was nothing more to be done about it. The first occasion upon which I made any official reference to it was during the negotiations with the late Señor E. Gil Borges for the cession of Patos. The "Heraldo", then unfriendly to us and suspected of German influence, wrote an article demanding revision of the frontier. The next time I saw Dr. Gil Borges I said that I had been astonished to read this article particularly at a moment when we were considering the cession of a piece of British territory to Venezuela; it might, I said, be difficult to conclude this negotiation if it were to be considered as a precedent in

/regard

J.V.T.W.T. Perowne, Esq., C.M.G.,
Foreign Office,
London, S. W. 1.

2.

regard to British Guiana which was long since chose jugée. Dr. Gil Borges replied that from time to time an odd article about British Guiana appeared in the Press but that I need take no notice of that; the articles were obviously written by persons of little knowledge who had never had access to official files. So far as the Venezuelan Government were concerned the one really satisfactory frontier Venezuela possessed (at that time) was the British Guiana frontier and it would not occur to them to dispute it.

The next occasion the question cropped up was in 1943 when a series of articles appeared in one of the papers which cited the Guiana frontier question as one in which the United States of America had implemented the Monroe Doctrine and had come to the help of Venezuela. A translation of this exists in Caracas files. There was no objection I could raise as the articles were sober history and not tendentious and were published I think to impress upon Venezuela that the United States of America had the interests of the smaller Latin American nations at heart.

The third occasion was by inference only. Either on the occasion of his annual report to Congress or at the New Year - I think the former but you have it in the files - President Medina said that Venezuela was negotiating with Brazil to demark the Venezuela/Brazil frontier; that was the only frontier question which Venezuela now had with anyone. Though British Guiana was not mentioned the statement was categoric and catholic.

In view of this I cannot take this matter very seriously and I cannot possibly see what ground the Venezuelan Government would have to resurrect the question. If they were not satisfied at the time with the result of the arbitration - for which they asked - they could I suppose have refused to accept it, but having accepted it why object to it fifty years later. I see "international justice" is mentioned; this might be valid if we had acted unilaterally and drawn the frontier ourselves but we did not do so; the matter went to arbitration and an international body decided the frontier.

I think the Venezuelan Government, especially Dr. Parra Pérez would balk at raising the question with us, though President Medina is capable of independent and perhaps high-handed action but I nevertheless feel sure

/that

3.
that the Venezuelan Foreign Office would not approve of introducing the matter officially. Were I still in Caracas I should also have ignored the matter beyond perhaps mentioning casually at a dinner party or elsewhere to Dr. Parra Perez that I had been surprized.

~~NOTHING TO BE WRITTEN ON THIS PAGE.~~

I see George Ogilvie-Forbes suggests we go slowly but that we should not neglect to examine the whole position and have an answer ready. Well perhaps so, but surely our answer is :- why have an arbitration if fifty years later the award is to be challenged merely because Venezuela feels like doing so and not because conditions have in that period changed in such a way as to make a reconsideration of the question by mutual agreement either necessary or desirable. Conditions have not changed, they are precisely as they were when the award was made.

I hope this will be of some use to you.

*Yours ever
J. H. G. Gainer*

*P.S. I have not sent a copy of this to Caracas.
J.H.G.*

Annex 12

Republic of Venezuela, Ministry of Foreign Affairs, *Public Treaties and International Agreements, Vol. V (1933-1936)* (1945)

– 548 –

[...]

Agreement on the point of convergence of the borders of Venezuela, Brazil and British Guiana, concluded by exchange of notes.—October 17 and November 3, 1932. (V. IV, p. 360).

[...]

TRATADOS Y ACUERDOS INTERNACIONALES EN VIGOR

Alemania (*).—Convenio sobre Marcas de Fábrica y de Comercio.—11 de julio de 1883. (V. I, p. 370).

Tratado de Comercio y Navegación.—26 de enero de 1909 (V. II, p. 386).

Convenio sobre clasificación de las visitas de buques de guerra alemanes a puertos venezolanos y viceversa, concluido por cambio de notas.—Enero de 1932. (V. IV, p. 296).

Convenio por cambio de notas, relativo al cobro de derechos consulares por el visto en los pasaportes.—23 de diciembre de 1937 y 15 de marzo de 1938. (V. VI, p. 37).

Bélgica.—Convenio sobre situación legal de las sociedades anónimas y de las otras asociaciones comerciales, industriales y financieras.—25 de mayo de 1882. (V. I, p. 368).

Convenio sobre Marcas de Fábrica y de Comercio.—25 de mayo de 1882. (V. I, p. 369).

Tratado de Amistad, Comercio y Navegación.—1º de marzo de 1884. (V. I, p. 414).

Tratado de Extradición.—13 de marzo de 1884. (V. I, p. 425).

Bolivia.—Tratado de Paz, Amistad, Comercio y Navegación.—14 de setiembre de 1883. (V. I, p. 391).

Tratado General de Arbitraje.—12 de abril de 1919. (V. II, p. 580).

Convenio sobre servicio de Valijas diplomáticas.—16 de abril de 1923. (V. III, p. 63).

Brasil.—Tratado de Límites y Navegación fluvial.—5 de mayo de 1859. (V. I, p. 224).

Actas de la Comisión Mixta de Límites que implican acuerdo internacional.—(1880). (V. III, p. 341).

Protocolo sobre Límites.—9 de diciembre de 1905. (V. II, p. 53).

Protocolo para la colocación de algunos postes en cierta parte de la frontera.—29 de febrero de 1912. (V. II, p. 474).

Nota.—Se ha formado esta lista a título informativo, y, no obstante el estudio que se ha hecho de los respectivos expedientes, dicha lista queda sujeta en todo caso a rectificación.

Los Tratados y Acuerdos Internacionales celebrados con los países marcados con un asterisco están en suspenso.

- Convenio, por cambio de notas, sobre Pasaportes.—21 de octubre y 4 y 5 de diciembre de 1919. (V. II, p. 621).
- Tratado de Extradición.—19 de enero de 1922. (V. III, p. 25).
- Convenio, por cambio de notas, sobre reducción de los derechos que se cobran por visar pasaportes.—5 y 12 de enero de 1937. (V. VI, p. 5).
- Tratado de Reciprocidad Comercial.—6 de noviembre de 1939. (V. VI, p. 544).
- Prórroga, por cambio de notas, del Modus Vivendi sobre comercio y explotación de caucho de 13 de octubre de 1942. (V. VII, p. 497).
- Prórroga, por cambio de notas, del Convenio por el cual se extiende el programa cooperativo de salubridad y sanidad de 18 de febrero de 1943. (V. VII, p. 517).
- Prórroga, por cambio de notas, del Modus Vivendi para el fomento de la producción de artículos alimenticios en Venezuela de 14 de mayo de 1943. (V. VII, p. 471).
- Convenio adicional, por cambio de notas, al Modus Vivendi sobre comercio y explotación de caucho en Venezuela.—27 de setiembre de 1944. (V. VII, p. 522).
- Francia.**—Convenio sobre Marcas de Fábrica y de Comercio.—3 de mayo de 1879. (V. I, p. 356).
- Convención para el restablecimiento de las relaciones de amistad.—26 de noviembre de 1885. (Subsistente en parte). (V. I, p. 432).
- Protocolo para el restablecimiento de las relaciones diplomáticas.—19 de febrero de 1902. (V. II, p. 3).
- Convención sobre Comercio y Navegación.—19 de febrero de 1902. (V. II, p. 7).
- Declaración referente al régimen de las Capitulaciones en la zona francesa del Imperio Jerifiano.—8 de febrero de 1916. (V. II, p. 557).
- Gran Bretaña.**—Tratado de Amistad, Comercio y Navegación.—18 de abril de 1825. (V. I, p. 49).
- Convención por la cual se adopta el Tratado anterior.—29 de octubre de 1834. (V. I, p. 79). (1)

(1) Los Gobiernos de Venezuela y de Gran Bretaña convinieron, por una Declaración oficial publicada simultáneamente en Caracas y Londres el 27 de marzo de 1940, en sustituir este Tratado por un nuevo Tratado de Comercio.

Laudo que decidió la cuestión de límites con la Guayana Inglesa.—
3 de octubre de 1899. (V. I, p. 491).

Actas de la Comisión Mixta de Límites que implican acuerdo internacional. (1900-05) (V. III, p. 356).

Convenio sobre Bultos Postales.—27 de abril de 1912. (V. II, p. 476).

Acuerdo sobre el punto de convergencia de las fronteras de Venezuela, el Brasil y la Guayana Británica, concluído por cambio de notas.—17 de octubre y 3 de noviembre de 1932. (V. IV, p. 360).

Tratado sobre la Isla de Patos.—26 de febrero de 1942. (V. VI, p. 717).

Tratado sobre las Areas Submarinas del Golfo de Paria.—26 de febrero de 1942. (V. VI, p. 719).

Guatemala.—Convenio, por cambio de notas, sobre Valijas diplomáticas.—15 y 28 de marzo de 1939. (V. VI, p. 99).

Haití.—Prórroga, por cambio de notas, del Modus Vivendi Comercial de 29 de mayo y 10 de julio de 1943. (V. VII, p. 485).

Italia (*).—Tratado de Amistad, Comercio y Navegación.—19 de junio de 1861. (V. I, p. 251).

Tratado de Extradición y Asistencia Judicial en Materia Penal.—
23 de agosto de 1930. (V. IV, p. 289).

Convenio, por cambio de notas, sobre servicio de Valijas diplomáticas.—1º de febrero de 1935. (V. V, p. 586).

Acuerdo, por cambio de notas, relativo al cobro de derechos consulares por el visto de los Pasaportes.—17 y 20 de enero de 1939. (V. VI, p. 89).

México.—Convenio, por cambio de notas, sobre servicio de valijas diplomáticas.—10 de septiembre y 15 y 17 de octubre de 1919. (V. II, p. 617).

Annex 13

Treaty of amity, commerce and navigation between Japan and the Republic of the Philippines
and the Republic of the Philippines, 1001 U.N.T.S. 296 (9 Dec. 1960)

No. 14703

**JAPAN
and
PHILIPPINES**

Treaty of amity, commerce and navigation (with protocol and two series of agreed minutes—the second one concerning trade between Japan and the Republic of the Philippines—and exchanges of notes). Signed at Tokyo on 9 December 1960

*Authentic texts of the Treaty and protocol: Japanese, Pilipino and English.
Authentic texts of the agreed minutes and the exchanges of notes: English.
Registered by Japan on 14 April 1976.*

**JAPON
et
PHILIPPINES**

Traité d'amitié, de commerce et de navigation (avec protocole et deux procès-verbaux approuvés—le second concernant le commerce entre le Japon et la République des Philippines—et échanges de notes). Signé à Tokyo le 9 décembre 1960

*Textes authentiques du Traité et du protocole : japonais, philippin et anglais.
Textes authentiques du procès-verbal approuvé et des échanges de notes : anglais.
Enregistré par le Japon le 14 avril 1976.*

TREATY¹ OF AMITY, COMMERCE AND NAVIGATION BETWEEN JAPAN AND THE REPUBLIC OF THE PHILIPPINES

The Government of Japan and the Government of the Republic of the Philippines,

Animated by the desire to maintain and strengthen the amicable relations existing between their respective countries, and

Desirous of facilitating and developing trade and commerce between the two countries on a mutually advantageous basis,

Have resolved to conclude a Treaty of Amity, Commerce and Navigation and for that purpose have appointed as their Plenipotentiaries,

The Government of Japan:

Morio Yukawa, Ambassador Extraordinary and Plenipotentiary to the Republic of the Philippines

Shigenobu Shima, Deputy Vice-Minister for Foreign Affairs

Nobuhiko Ushiba, Ambassador, Director of the Economic Affairs Bureau, Ministry of Foreign Affairs

The Government of the Republic of the Philippines:

J. B. Laurel, Jr., Former Speaker, House of Representatives

Lorenzo Sumulong, Chairman, Senate Committee on Foreign Relations

Ramon P. Mitra, Chairman, Committee on Foreign Affairs, House of Representatives

Rogelio de la Rosa, Member, Senate Committee on Foreign Relations

Antonio V. Raquiza, Member, Committee on Foreign Affairs, House of Representatives

Manuel A. Adeva, Ambassador Extraordinary and Plenipotentiary to Japan

Perfecto E. Laguio, Undersecretary of Commerce and Industry

Caesar Z. Lanuza, Career Minister, Chief of Mission, Philippine Reparations Mission

Andres V. Castillo, Deputy Governor of the Central Bank

Enrique M. Garcia, Career Minister

Who, having communicated to each other their full powers found to be in due form, have agreed upon the following Articles:

Article I. Nationals of either Party shall be accorded treatment no less favorable than that accorded to nationals of any third country with respect to all matters relating to their entry into, sojourn, travel and residence within, the territories of the other Party.

Article II. 1. Nationals and companies of either Party, within the territories of the other Party, shall be accorded treatment no less favorable than that accorded to nationals and companies of any third country with respect to all matters pertain-

¹ Came into force on 27 January 1974, i.e., one month after the date of the exchange of the instruments of ratification, which took place at Manila on 27 December 1973, in accordance with article IX (1) and (2).

ing to the levying of taxes, access to the courts of justice and to administrative agencies, the making and performance of contracts, rights to property, participation in juridical entities, and generally the conduct of all kinds of business and professional activities.

2. Notwithstanding the provisions of paragraph 1 of the present Article, each Party reserves the right to accord special tax advantages on a basis of reciprocity or by virtue of agreements for the avoidance of double taxation or the mutual protection of revenue.

Article III. 1. Nationals and companies of either Party shall be accorded treatment no less favorable than that accorded to nationals and companies of any third country with respect to payments, remittances and transfers of funds or financial instruments between the territories of the two Parties as well as between the territories of the other Party and of any third country.

2. The provisions of paragraph 1 of the present Article do not preclude either Party from imposing such exchange restrictions as are consistent with the rights and obligations that it has or may have as a contracting party to the Articles of Agreement of the International Monetary Fund.¹

3. Neither Party shall impose restrictions or prohibitions on the importation of any product of the other Party, or on the exportation of any product to the territories of the other Party, unless the importation of the like product of, or the exportation of the like product to, all third countries is similarly restricted or prohibited.

4. Notwithstanding the provisions of paragraph 3 of the present Article, either Party may apply restrictions or controls on the importation and exportation of goods that have effect equivalent to exchange restrictions which the said Party may at that time apply under the provisions of paragraph 2 of the present Article.

Article IV. 1. With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to the application of internal taxes to exported goods, and with respect to all internal taxes or other internal charges of any kind imposed on or in connection with imported goods, and with respect to all laws, regulations and requirements affecting internal sale, offering for sale, purchase, distribution or use of imported goods, any advantage, favor, privilege or immunity which has been or may hereafter be granted by either Party to any product originating in or destined for any third country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of the other Party.

2. The provisions of paragraph 1 of the present Article shall not apply to special advantages accorded by either Party to products of its national fisheries.

Article V. The two Parties undertake to cooperate for mutual benefit with a view to expanding trade and to strengthening economic relations between the two countries, and to furthering the interchange and use of scientific and technical knowledge, particularly in the interests of economic development and of the improvement of standards of living within their respective territories. Neither Party

¹ United Nations, *Treaty Series*, vol. 2, p. 39.

shall hamper the introduction into its territories of capital or technology of the other Party which will contribute to the sound and balanced development of its national economy on a self-sustaining basis.

Article VI. 1. Vessels under the flag of either Party, and carrying the papers required by its law in proof of nationality shall be deemed to be vessels of that Party both on the high seas and within the ports, places and waters of the other Party.

2. Merchant vessels of either Party shall have liberty, on equal terms with merchant vessels of the other Party and of any third country, to come with their passengers and cargoes to all ports, places and waters of such other Party open to foreign commerce and navigation. Such vessels shall in all respects be accorded treatment no less favorable than that accorded to like vessels of any third country within the ports, places and waters of such other Party, and shall be accorded treatment no less favorable than that accorded to like vessels of such other Party with respect to technical facilities of all kinds, such as the allocation of berths, the use of loading and unloading facilities, pilotage services and supply of fuel, lubricating oils, water and food.

3. Merchant vessels of either Party shall be accorded treatment no less favorable than that accorded to like vessels of any third country with respect to the right to carry all goods and persons that may be carried by vessels to or from the territories of the other Party; and such goods and persons shall be accorded treatment no less favorable than that accorded to like goods and persons carried in merchant vessels of such other Party with respect to: (a) duties and charges of all kinds, (b) the administration of the customs, and (c) bounties, drawbacks and other privileges of this nature.

4. Each Party may reserve to its own vessels the right to engage in the coasting trade. Merchant vessels of either Party may, nevertheless, proceed from one port to another within the territories of the other Party, either for the purpose of landing the whole or part of their passengers or cargoes brought from abroad, or of taking on board the whole or part of their passengers or cargoes for a foreign destination, always complying with the laws and regulations of such other Party.

5. (1) In case of shipwreck, damage at sea or forced putting in, either Party shall extend to vessels of the other Party the same assistance and protection and the same exemptions as are in like cases accorded to its own vessels. Goods salvaged from such vessels shall be exempt from all customs duties, unless the goods are entered for domestic consumption; but goods not entered for domestic consumption may be subject to measures for the protection of the revenue pending their exit from the country.

(2) If a vessel of either Party has stranded or has been wrecked on the coasts of the other Party, the appropriate authorities of such other Party shall notify the occurrence to the nearest competent consular officer of the country to which the vessel belongs.

6. The certificates concerning tonnage measurement of vessels issued by the competent authorities of either Party shall be recognized by the competent authorities of the other Party as equivalent to the certificates issued by the latter.

Article VII. The provisions of the present Treaty shall not be interpreted as precluding either Party from adopting or executing measures relating to:

(a) the public security or national defense or the maintenance of international peace and security;

- (b) fissionable materials or the materials from which they are derived;
- (c) traffic in arms, ammunition and implements of war and such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;
- (d) the protection of public morals, and of human, animal or plant life or health; and
- (e) trade in gold or silver.

Article VIII. 1. Each Party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as the other Party may make with respect to any matter affecting the operation of the present Treaty.

2. Any dispute between the Parties as to the interpretation or application of the present Treaty, not satisfactorily adjusted by diplomacy, shall be submitted to the International Court of Justice, unless the Parties agree to settlement by some other pacific means.

Article IX. 1. The present Treaty shall be ratified, and the instruments of ratification shall be exchanged at Manila as soon as possible.

2. The present Treaty shall enter into force one month after the day of the exchange of the instruments of ratification. It shall remain in force for three years and shall continue in force thereafter until terminated as provided for in paragraph 3 of the present Article.

3. Either Party may, by giving a six-month written notice to the other Party, terminate the present Treaty at the end of the initial three-year period or at any time thereafter.

Article X. The present Treaty shall be in the Japanese, Filipino and English languages. In case of any divergence of interpretation, the English text shall prevail.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Treaty and have affixed thereunto their seals.

DONE in duplicate at Tokyo, this ninth day of the twelfth month in the thirty-fifth year of Showa, corresponding to the ninth day of December in the fifteenth year of the Independence of the Republic of the Philippines and to the ninth day of December, one thousand nine hundred and sixty.

For Japan:

M. YUKAWA

S. SHIMA

N. USHIBA

For the Republic of the Philippines:

J. B. LAUREL, Jr.

ROGELIO DE LA ROSA

ANTONIO V. RAQUIZA

MANUEL A. ADEVA

PERFECTO E. LAGUIO

CAESAR Z. LANUZA

ANDRÉS V. CASTILLO

ENRIQUE M. GARCÍA

PROTOCOL

At the time of signing the Treaty of Amity, Commerce and Navigation between Japan and the Republic of the Philippines (hereinafter referred to as "the Treaty"), the undersigned Plenipotentiaries, duly authorized by their respective Governments, have further agreed on the following provisions, which shall be considered integral parts of the Treaty:

1. It is understood that all matters relating to the permission for permanent residence shall be outside the scope of the Treaty.

2. With reference to Article I, it is understood that neither Party shall be entitled to claim the benefit of those advantages relating to matters concerning passports and visas which the other Party has accorded or may hereafter accord to nationals of any third country by virtue of special agreements on a basis of reciprocity.

3. As used in the Treaty, the term "companies" means corporations, partnerships, companies and other associations engaging in business activities for gain.

4. With reference to the provisions of Article II, paragraph 1, relative to the grant of treatment no less favorable than that accorded to any third country, either Party may require that such treatment shall be dependent on reciprocity with respect to the enjoyment of rights on immovable property and of the right to practice the professions.

5. Nothing in the Treaty shall be construed so as to grant any right or impose any obligation in respect of copyright and industrial property right.

6. It is confirmed that property of nationals and companies of either Party, as well as property in which such nationals and companies have direct or indirect interests, shall not be taken within the territories of the other Party except for a public purpose, nor shall such property be taken without just compensation.

7. Except with respect to access to the courts of justice and to administrative agencies, the provisions of the Treaty shall not be interpreted as precluding either Party from denying the advantages of the Treaty to any company of the other Party in the ownership or direction of which nationals of any third country or countries have directly or indirectly the controlling interest.

8. The provisions of Article III, paragraph 3, shall not preclude either Party from imposing restrictions or prohibitions on customary grounds of a non-commercial nature, or in the interest of preventing deceptive or unfair practices, provided that such restrictions or prohibitions do not arbitrarily discriminate against the commerce of the other Party.

9. The Governments of the two Parties expect that the expansion of mutual trade will be achieved without serious injury being caused or threatened to their domestic producers. If, nevertheless, there is reasonable evidence that any manufactured goods of either Party are being imported into the territories of the other Party under such conditions as to cause or threaten serious injury to its domestic producers of like or directly competitive manufactured goods, the Government of the exporting Party shall, at the request of the Government of the importing Party, enter into consultation, and, upon such consultation, the Government of the exporting Party shall adopt adequate measures within its power to prevent or remedy the injury.

10. (1) Nothing in the Treaty shall be construed so as to entitle Japan to claim the benefit of those rights and privileges which are or may hereafter be accorded by the Republic of the Philippines exclusively to:

- (a) nationals and companies of the United States of America with respect to their carrying on, within the territories of the Republic of the Philippines, business activities such as the operation of public utilities and the disposition, exploitation, development and utilization of natural resources, or
- (b) products of the United States of America with respect to customs duties and charges,

by virtue of the Agreement between the Republic of the Philippines and the United States of America concerning Trade and Related Matters, signed at Manila on July 4, 1946,¹ and revised at Washington on September 6, 1955,² or any other agreement, treaty or convention between the two countries.

(2) Nothing in the Treaty shall be construed so as to entitle the Republic of the Philippines to claim the benefit of those rights and privileges which are or may hereafter be accorded by Japan exclusively to: (a) persons who originated in the territories to which all right, title and claim were renounced by Japan in accordance with the provisions of Article 2 of the Treaty of Peace with Japan signed at the city of San Francisco on September 8, 1951,³ or (b) the native inhabitants and vessels of, and trade with, any area set forth in Article 3 of the said Treaty of Peace, so long as the situation set forth in the second sentence of the said Article continues with respect to the administration, legislation and jurisdiction over such area.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Protocol and have affixed thereto their seals.

DONE in duplicate, in the Japanese, Filipino and English languages, at Tokyo, this ninth day of the twelfth month in the thirty-fifth year of Showa, corresponding to the ninth day of December in the fifteenth year of the Independence of the Republic of the Philippines and to the ninth day of December, one thousand nine hundred and sixty. In case of any divergence of interpretation, the English text shall prevail.

For Japan:

M. YUKAWA

S. SHIMA

N. USHIBA

For the Republic of the Philippines:

J. B. LAUREL, Jr.

ROGELIO DE LA ROSA

ANTONIO V. RAQUIZA

MANUEL A. ADEVA

PERFECTO E. LAGUIO

CAESAR Z. LANUZA

ANDRÉS V. CASTILLO

ENRIQUE M. GARCÍA

¹ United Nations, *Treaty Series*, vol. 43, p. 135.

² *Ibid.*, vol. 238, p. 264.

³ *Ibid.*, vol. 136, p. 45.

AGREED MINUTES

The Plenipotentiaries of Japan and of the Republic of the Philippines wish to record the following understanding which they have reached during the negotiations for the Treaty of Amity, Commerce and Navigation between Japan and the Republic of the Philippines (hereinafter referred to as "the Treaty") signed today:

1. It is confirmed that nationals and companies of either Party are entitled, under Article II, paragraph 1, of the Treaty, to treatment no less favorable than that accorded to nationals and companies of any third country with respect to the organization of companies and the establishment and maintenance of branches, agencies and other offices.

It is understood that the provisions of Article III, paragraph 1, of the Treaty do not preclude either Party from adopting and enforcing relevant laws and regulations which shall be applicable to all foreign nationals and companies alike.

3. With reference to Article II, paragraph 3, it is confirmed that import restrictions or prohibitions that may be applied thereunder include those applied, for the purpose of protecting domestic producers, to any manufactured goods as such, without reference to source.

4. With reference to Article V of the Treaty, it is understood that the competent authorities of each Party shall, in accordance with the principle of non-discrimination, determine whether or not the introduction of any capital or technology into its territories will contribute to the sound and balanced development of its national economy on a self-sustaining basis.

5. It is confirmed that the term "merchant vessels" as used in the Treaty does not include fishing boats, pleasure yachts and sporting boats.

For Japan:

M. YUKAWA

For the Republic
of the Philippines:

J. B. LAUREL

Tokyo, December 9, 1960.

AGREED MINUTES CONCERNING THE TRADE BETWEEN JAPAN AND THE REPUBLIC OF THE PHILIPPINES

During the negotiations between the representatives of the Government of Japan (hereinafter referred to as "the Japanese Government") and the Government of the Republic of the Philippines (hereinafter referred to as "the Philippine Government") leading to the signing of the Treaty of Amity, Commerce and Navigation between the two countries (hereinafter referred to as "the Treaty"), the Japanese Government and the Philippine Government have reached, in connection with the implementation of the Treaty, the following understanding which will be carried out within their constitutional authority:

1. Both Governments take note of the high level of trade between Japan and the Republic of the Philippines in recent years through normal market channels and on commercial terms. It is the expectation of both Governments that such level of trade will not only be maintained but also expanded in the future.

2. Subject to the provisions of Article III, paragraph 4, of the Treaty and of Protocol 10 (2):

- (1) The Japanese Government undertakes to accord to the Republic of the Philippines the opportunity of competing for the total foreign exchange allocation for molasses, muscovado sugar, centrifugal sugar, leaf tobacco, cigars, bananas and pineapples.

(2) The Japanese Government undertakes, subject to Japan's overall trade and foreign exchange policy, to retain on the Automatic Approval List any products in the exportation to Japan of which the Republic of the Philippines has a substantial interest.

3. In considering the obstacles and uncertainties in international commodity trade which confront primary exporting countries and the effects of these difficulties upon their economic stability, both Governments agree that there is an urgent need to find means of producing a greater degree of stability and predictability in international trade in primary products. Both Governments will, therefore, give sympathetic consideration to international action designed to improve the conditions of international trade in primary products of direct interest to either country.

For Japan:

M. YUKAWA

For the Republic
of the Philippines:

J. B. LAUREL, Jr.

Tokyo, December 9, 1960.

EXCHANGES OF NOTES

I a

Tokyo, December 9, 1960

Excellency,

On the occasion of signing the Treaty of Amity, Commerce and Navigation between Japan and the Republic of the Philippines, I have the honor to refer to the provisions of Article I of the Treaty, under which nationals of either Party are to be accorded treatment no less favorable than that accorded to nationals of any third country with respect to all matters relating to their entry into, sojourn, travel and residence within, the territories of the other Party.

It being practically impossible to set forth the above-mentioned treatment in concrete terms, I wish to inform Your Excellency of the understanding of my Government with respect to the application of the said provisions that nationals of either Party will be entitled to the treatment set forth in the Annex to this Note, with respect to their entry into and sojourn within the territories of the other Party. In the event that applicable laws and regulations of either Party are revised in any manner, the two Governments will make appropriate amendments, if necessary, to the Annex to this Note.

I have further the honor to request Your Excellency to be good enough to confirm the foregoing understanding on behalf of Your Government.

Accept, Excellency, the assurances of my highest consideration.

M. YUKAWA
Ambassador of Japan
to the Republic of the Philippines

His Excellency Mr. J. B. Laurel, Jr.
Chairman, Philippine Panel

ANNEX

A. Temporary visitors of either Party entering for business purpose[s] shall be allowed, whenever possible, the following periods of stay within the territories of the other Party:

- (1) An initial period of six months from the date of entry;
- (2) An additional period of six months, so long as the applicant for such additional period maintains the status under which he stayed during the first period.

B. Nationals of either Party entering the territories of the other Party (a) solely to carry on trade principally between the territories of the two Parties or (b) solely to develop and direct the operations of an enterprise in which they have invested, or in which they are actively in the process of investing, a substantial amount of capital, and their spouses and their unmarried children who have not attained their majority, shall be allowed an initial three-year period of stay within the territories of the other Party, applications for stay beyond such initial period being given as favorable a consideration as possible.

II a

Tokyo, December 9, 1960

Excellency,

I have the honor to acknowledge receipt of Your Excellency's Note of today's date which read as follows:

[See note I a]

The Annex to the Note reproduced above is hereto attached.

I have further the honor to confirm the understanding stated in Your Excellency's Note on behalf of the Government of the Republic of the Philippines.

Accept, Excellency, the assurances of my highest consideration.

J. B. LAUREL, Jr.
Chairman
Philippine Panel

His Excellency Mr. Morio Yukawa
Ambassador Extraordinary and Plenipotentiary of Japan
to the Republic of the Philippines

I b

Tokyo, December 9, 1960

Excellency,

On the occasion of signing the Treaty of Amity, Commerce and Navigation between Japan and the Republic of the Philippines, I have the honor to propose that the Agreement between our two Governments concerning trade relations, which is embodied in an Exchange of Notes dated January 7, 1958, be terminated on the date of the entry into force of the said Treaty, notwithstanding the provisions of paragraph 4 of the said Agreement.

I have further the honor to request Your Excellency to be good enough to accept the foregoing proposal on behalf of Your Government.

Accept, Excellency, the renewed assurances of my highest consideration.

M. YUKAWA
Ambassador of Japan
to the Republic of the Philippines

His Excellency Mr. J. B. Laurel, Jr.
Chairman, Philippine Panel

II *b*

Tokyo, December 9, 1960

Excellency,

I have the honor to acknowledge receipt of Your Excellency's Note of today's date which reads as follows:

[*See note I b*]

I have further the honor to accept the proposal stated in Your Excellency's Note on behalf of the Government of the Republic of the Philippines.

Accept, Excellency, the renewed assurances of my highest consideration.

J. B. LAUREL, Jr.
Chairman
Philippine Panel

His Excellency Mr. Morio Yukawa
Ambassador Extraordinary and Plenipotentiary of Japan
to the Republic of the Philippines

I *c*

Tokyo, December 9, 1960

Excellency,

On the occasion of signing the Treaty of Amity, Commerce and Navigation between Japan and the Republic of the Philippines, I have the honor to propose that the Provisional Agreement between our two Governments concerning the entry of nationals of either country into the territory of the other and their sojourn therein, which is embodied in an Exchange of Notes dated July 24, 1958,¹ be terminated on the date of the entry into force of the said Treaty.

I have further the honor to request Your Excellency to be good enough to accept the foregoing proposal on behalf of Your Government.

¹ United Nations, *Treaty Series*, vol. 325, p. 103.

Accept, Excellency, the renewed assurances of my highest consideration.

M. YUKAWA
Ambassador of Japan
to the Republic of the Philippines

His Excellency Mr. J. B. Laurel, Jr.
Chairman, Philippine Panel

II c

Tokyo, December 9, 1960

Excellency,

I have the honor to acknowledge receipt of Your Excellency's Note of today's date which reads as follows:

[See note I c]

I have further the honor to accept the proposal stated in Your Excellency's Note on behalf of the Government of the Republic of the Philippines.

Accept, Excellency, the renewed assurances of my highest consideration.

J. B. LAUREL, Jr.
Chairman
Philippine Panel

His Excellency Mr. Morio Yukawa
Ambassador Extraordinary and Plenipotentiary of Japan
to the Republic of the Philippines

I d

Tokyo, December 9, 1960

Excellency,

On the occasion of signing the Treaty of Amity, Commerce and Navigation between the Republic of the Philippines and Japan, I have the honor to inform Your Excellency of the understanding of the Government of the Republic of the Philippines that our two Governments have agreed to enter into negotiations for the conclusion of a Civil Air Transport Agreement which has been proposed by my Government and a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income which has been proposed by Your Government, at the earliest practicable date after the signing of the Treaty of Amity, Commerce and Navigation between the Republic of the Philippines and Japan.

I have further the honor to request Your Excellency to be good enough to confirm the foregoing understanding on behalf of Your Government.

Accept, Excellency, the renewed assurances of my highest consideration.

J. B. LAUREL, Jr.
Chairman
Philippine Panel

His Excellency Mr. Morio Yukawa
Ambassador Extraordinary and Plenipotentiary of Japan
to the Republic of the Philippines

II *d*

Tokyo, December 9, 1960

Excellency,

I have the honor to acknowledge receipt of Your Excellency's Note of today's date which reads as follows:

[*See note I d*]

I have further the honor to confirm the understanding stated in Your Excellency's Note on behalf of my Government.

Accept, Excellency, the renewed assurances of my highest consideration.

M. YUKAWA
Ambassador of Japan
to the Republic of the Philippines

His Excellency Mr. J. B. Laurel, Jr.
Chairman, Philippine Panel

I *e*

Tokyo, December 9, 1960

Excellency,

On the occasion of signing the Treaty of Amity, Commerce and Navigation between Japan and the Republic of the Philippines, I have the honor to invite Your Excellency's attention to the fact that crewmen of Japanese vessels are not permitted to land at Philippine ports without a consular visa being affixed on the crewlist.

I wish to inform Your Excellency in this regard that crewmen of Philippine vessels calling at Japanese ports are granted shore passes without any visa requirements, and also to inquire, under instructions from my Government, if it is agreeable to the Government of the Republic of the Philippines to waive visa requirements with respect to the landing of crewmen of Japanese vessels calling at Philippine ports.

Accept, Excellency, the renewed assurances of my highest consideration.

M. YUKAWA
Ambassador of Japan
to the Republic of the Philippines

His Excellency Mr. J. B. Laurel, Jr.
Chairman, Philippine Panel

II *e*

Tokyo, December 9, 1960

Excellency,

I have the honor to acknowledge receipt of Your Excellency's Note dated December 9, 1960, concerning visa requirements with respect to the landing of crewmen of Japanese vessels.

In reply, I wish to inform Your Excellency that the Government of the Republic of the Philippines is willing to waive visa requirements with respect to the landing of crewmen of Japanese vessels calling at Philippine ports, and will take necessary steps to give effect to such waiver as soon as possible.

Accept, Excellency, the renewed assurances of my highest consideration.

J. B. LAUREL, Jr.
Chairman
Philippine Panel

His Excellency Mr. Morio Yukawa
Ambassador Extraordinary and Plenipotentiary of Japan
to the Republic of the Philippines

Annex 14

U.N. General Assembly, Fourth Committee, 16th Session, 1252nd Meeting, *Agenda item 39: Information from Non-Self-Governing Territories transmitted under Article 73 of the Charter*,
U.N. Doc A/C.4/SR.1252 (18 Dec. 1961)

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**FOURTH COMMITTEE, 1252nd
MEETING**

Monday, 18 December 1961,
at 11.25 a.m.

NEW YORK

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Chairman: Miss Angie BROOKS (Liberia).

In the absence of the Chairman and the Vice-Chairman, Mr. Houaiss (Brazil), Rapporteur, took the Chair.

AGENDA ITEM 45

Question of the renewal of the Committee on Information from Non-Self-Governing Territories (A/4785, A/C.4/L.727) (concluded)

DRAFT REPORT OF THE FOURTH COMMITTEE (A/C.4/L.727)

1. The CHAIRMAN, speaking as Rapporteur, introduced the Committee's draft report on agenda item 45 (A/C.4/L.727). He pointed out that a correction was needed in the penultimate line of paragraph 9, where the word "recommendations" should be replaced by the word "conclusions". The report was purely procedural in character, and he hoped that it would be adopted unanimously.

The draft report (A/C.4/L.727) was adopted unanimously.

Request for a hearing from the Premier of British Guiana (concluded)

2. Sir Hugh FOOT (United Kingdom) expressed his delegation's most formal reservations concerning the hearing of the Premier of British Guiana as a petitioner. Such a hearing would have the most serious consequences. If, despite those reservations, the Committee decided to hear Mr. Jagan, his delegation must refrain from taking part in the ensuing discussion.

3. The CHAIRMAN pointed that the Committee had already taken the decision to hear the Premier of British Guiana.

4. Sir Hugh FOOT (United Kingdom) emphasized that the decision taken by the Committee at the 1251st

meeting had left open the question of the capacity in which the Premier would address the Committee.

5. Mr. KHOSLA (India) asked if the United Kingdom delegation would be prepared to let Mr. Jagan speak as a member of that delegation or whether it would prefer him to speak as a petitioner. In his view, it would be preferable for the United Kingdom delegation if Mr. Jagan spoke as a petitioner.

6. Mr. KOSCZIUSKO-MORIZET (France) agreed with the United Kingdom representative. The question was one for debate, since, while it was not unknown for a petitioner to become prime minister, no prime minister had ever become a petitioner. He would like to know the opinion of the United Nations Legal Counsel as to the propriety of hearing a petitioner from a Non-Self-Governing Territory.

7. Mr. ACHKAR (Guinea) recalled that the Committee had, at its previous meeting, agreed in principle to hear Mr. Jagan. Given the nature of his request, it was probable that the Premier wanted to speak as a petitioner. He recalled that the Committee had already heard petitioners from Non-Self-Governing Territories, such as the Portuguese colonies, and it was therefore unnecessary to ask the opinion of the United Nations Legal Counsel.

8. Mr. BOZOVIC (Yugoslavia) observed that it was for Mr. Jagan himself to decide in what capacity he would address the Committee.

9. Sir Hugh FOOT (United Kingdom) said, in reply to the Yugoslav representative, that the question had been left open for settlement by the Committee, not by the Premier of British Guiana. A question of principle was raised precisely because the Premier had expressed the desire to be heard as a petitioner.

10. Mr. KHOSLA (India) did not see why the Committee should refuse to hear Mr. Jagan because he was Premier. Mr. Jagan had come to address the Committee on behalf of his people, and that procedure raised no legal difficulty.

Miss Brooks (Liberia) took the Chair.

11. Mr. BINGHAM (United States of America) associated himself with the serious reservations expressed by the United Kingdom representative concerning the hearing of Mr. Jagan as a petitioner. Except in the special case of the Portuguese Territories, when it had considered it desirable to give a hearing to petitioners because of Portugal's refusal to transmit information to the United Nations, the Committee had never heard petitioners from Non-Self-Governing Territories administered by Member States which had always given the Organization their full co-operation. He asked the Under-Secretary whether there was a precedent for a hearing of that kind.

12. Mr. BLUSZTAJN (Poland) said that, since the Committee had decided at its previous meeting to hear

Mr. Jagan, there was no point in continuing the discussion. He therefore moved the closure of the debate, under rule 118 of the rules of procedure.

13. The CHAIRMAN said the Premier of British Guiana had officially informed her that he would prefer to address the Committee as a petitioner.

14. In reply to a question from Mr. BINGHAM (United States of America), the CHAIRMAN said that the Premier of British Guiana would be heard under agenda item 39 concerning information from Non-Self-Governing Territories, which was still open.

15. Sir Hugh FOOT (United Kingdom), speaking on a point of order, asked whether the French representative's request would be complied with.

16. Mr. PROTITCH (Under-Secretary for Trusteeship and Information from Non-Self-Governing Territories) said that, so far as the hearing of petitioners from Non-Self-Governing Territories was concerned, there had been two requests in 1953, which had been rejected; 1/ and one at the present session, concerning Portuguese Guinea, which had been granted (1208th meeting). Nevertheless, a Prime Minister of a Non-Self-Governing Territory had never yet addressed the Committee as a petitioner.

17. Mr. BOEG (Denmark) opposed the closure of the debate. He observed, for the benefit of the Polish representative, that many delegations had doubts concerning the decision adopted at the 1251st meeting, and that consequently it would be well to clarify the situation before a vote was taken. It would be premature to close the debate, as the hearing proposed was unlike those normally granted by the Committee. The right of petition was granted, by the Charter, only to inhabitants of Trust Territories. Since the case in question was a special one and raised a basic question of principle, it ought to be discussed thoroughly. In any case, it had been made clear, when the Committee had heard petitioners from Portuguese Guinea, that their hearing would not constitute a precedent.

18. Mr. KOSCZIUSKO-MORIZET (France) said he also opposed the closure, because the Secretariat had not given him a satisfactory reply to his question. Mr. Protitch had said only that there had been the precedent of the petitioners from Portuguese Guinea. He recalled that, when their hearing had taken place, several delegations had stressed that it could not constitute a precedent. That was what had prompted his delegation to ask that the United Nations Legal Counsel should state the Secretary-General's view as to the interpretation of the Charter on the point in question.

19. Mr. KUNST (Secretary of the Committee) said that the Secretariat had nothing to add to the Under-Secretary's statement. The problem concerned not the Secretariat but only the Committee, and the latter had already taken its decision.

20. The CHAIRMAN invited the Committee to vote on the Polish representative's motion for closure of the debate.

At the request of the Tunisian representative, a vote was taken by roll-call.

Belgium, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Ceylon, Congo (Leopoldville), Cuba,

1/ See Official Records of the General Assembly, Eighth Session, Fourth Committee, 321st and 343rd meetings.

Czechoslovakia, Ethiopia, Ghana, Guinea, Hungary, India, Indonesia, Iraq, Mali, Mexico, Mongolia, Morocco, Philippines, Poland, Romania, Somalia, Sudan, Syria, Togo, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Yemen, Yugoslavia, Afghanistan, Argentina.

Against: Belgium, Bolivia, Brazil, Canada, Central African Republic, Chad, Denmark, France, Ireland, Italy, Japan, Netherlands, New Zealand, Pakistan, Spain, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Austria.

Abstaining: Chile, China, Congo (Brazzaville), Finland, Greece, Guatemala, Haiti, Iran, Ivory Coast, Lebanon, Madagascar, Mauritania, Nigeria, Panama, Portugal, Senegal, Sierra Leone, Tanganyika, Upper Volta, Uruguay, Venezuela.

The motion was adopted by 33 votes to 21, with 21 abstentions.

21. Mr. O'SULLIVAN (Ireland) recalled that at the previous meeting his delegation had spoken in favour of hearing the Premier of British Guiana. In the case of the petitioners from Portuguese Guinea, the Irish delegation had voted in favour of hearing them because of special circumstances, but had made it clear that there could be no question of establishing a precedent. In the case of Mr. Jagan, the circumstances were entirely different and there was no reason not to observe the provisions of the Charter. His delegation had accordingly voted against the motion for closure of the debate, since in its opinion the question should be examined thoroughly. He stressed that, while he himself was in favour of hearing Mr. Jagan, he was against granting a hearing to petitioners from Non-Self-Governing Territories.

22. Mr. RIFAI (Syria), speaking on a point of order, said that the discussion in which the Committee was engaged was pointless. The question had already been settled at the 1251st meeting, when the Committee had decided to hear the Premier of British Guiana. Rightly or wrongly, a decision had already been taken on that point and the Committee could do nothing, at the present stage, but hear the petitioner.

23. The CHAIRMAN recalled that the Committee had yet to decide in what capacity the Premier of British Guiana should speak.

24. Mr. BOZOVIC (Yugoslavia) agreed with the Syrian representative. The Committee had never before been asked whether it wished to hear a person from a Non-Self-Governing Territory speak as a member of the delegation of the Administering Member. The delegation concerned had in each case been free to associate such persons with it. In the case under consideration, the Committee could not impose a decision on the petitioner.

25. Mr. BOEG (Denmark) stressed that, contrary to the assertions of the Syrian and Yugoslav representatives, it had not been decided at the 1251st meeting to hear the Premier of British Guiana as a petitioner. The members of the Committee had reached agreement as the result of a proposal made by the United Kingdom representative, and the position in fact was, as the Chairman had pointed out, that the Committee must now decide in what capacity the Premier of British Guiana would be heard.

26. As for the question raised by the French representative and the answer given to it, the issue was not whether there had been precedents, but whether or not it was legal under the provisions of the Charter to grant the hearing requested. The Office of Legal Affairs was certainly able to pronounce on that question. If the Office of Legal Affairs regarded the request now before the Committee as legal, his delegation would support that request. Failing an opinion by the Office of Legal Affairs, it would regard that request as illegal and would vote against it.

27. Mr. ACHKAR (Guinea) expressed regret that certain delegations should deliberately seek to prolong the confusion. Like the Syrian representative, his delegation considered that the Committee had taken its decision at the 1251st meeting. If it was a matter of hearing someone as a member of a delegation, as in the case of the Prime Minister of Tanganyika, no difficulty would arise. He stressed that, in any event, the Committee would need a two-thirds majority in order to go back on its decision to hear the Premier of British Guiana.

28. Mr. MATTOS (Uruguay) also thought that the Committee had taken its decision at the 1251st meeting, and that it could change its original decision only by a two-thirds majority.

29. A number of delegations had asked the Premier of British Guiana whether he would agree to be heard as a person invited by the Committee. The Premier of British Guiana, who had asked to be heard as a petitioner, had rejected that solution, and the Uruguayan delegation believed that the Committee had no right to impose on him a status which he did not accept. In any case, the Premier of British Guiana was amply qualified to be heard as a petitioner. No one could deny that he effectively represented the population of his country. When the time came, therefore, the Uruguayan delegation would vote in favour of granting a hearing to the petitioner in accordance with his request.

30. The CHAIRMAN recalled that the request had already been granted. Inasmuch as she had been told personally by the Premier of British Guiana that he wished to be heard as a petitioner, she would rule that the Premier would be heard in that capacity.

31. Mr. KOSCIUSKO-MORIZET (France), exercising his right of reply, disputed the Committee Secretary's answer to the effect that the question under discussion did not concern the Secretariat. Any delegation could ask for legal opinions. The Committee's judgement was final in respect of questions falling within its competence, but not in respect of Charter interpretation and of questions coming within the direct competence of the General Assembly.

32. Mr. BOZOVIC (Yugoslavia) said, in reply to the French representative, that delegations could indeed request legal opinions, but that the Committee had the right to take decisions. If the French delegation had special reasons for concerning itself with the question under discussion, it could propose that the question be included in the agenda either of the present or of the next session.

33. As for the problem of precedents, raised by the Danish and French delegations, the Committee had not decided to investigate whether or not such precedents existed, but had confined itself to taking a decision on a request brought before it.

34. Sir Hugh FOOT (United Kingdom), while recalling his intention not to participate in the discussion, said that he fully accepted the ruling given by the Chairman.

35. Mr. BINGHAM (United States of America) said that his delegation had serious reservations to make with regard to the procedure which had just been adopted.

36. Mr. FOURNIER (Spain) said that at its 1251st meeting the Committee had agreed in principle to grant the hearing but had not decided to hear the Premier of British Guiana as a petitioner. The decision which had just been taken was without precedent, and his delegation expressed its reservations with regard to a hearing granted contrary to the principles of the United Nations Charter.

AGENDA ITEM 39

Information from Non-Self-Governing Territories transmitted under Article 73 e of the Charter (continued)

HEARING OF THE PREMIER OF BRITISH GUIANA

At the invitation of the Chairman, Mr. Cheddi Jagan, Premier of British Guiana, took a place at the Committee table.

37. Mr. JAGAN (Premier of British Guiana) recalled that he had been appointed Premier when the party he led, the People's Progressive Party, had won the elections in August 1961. He was addressing the Committee in the name of the people of British Guiana, in the hope that the Committee would be able to help in bringing about the immediate political independence of his country.

38. The right of peoples and nations to self-determination and independence was inalienable and must be enjoyed by all. Only independence could give a country the necessary dynamism for rapid economic development. Referring to the rapid progress which had been achieved in Ghana, India and Israel after independence, he recalled that before independence Israel, like British Guiana, had had a population of about half a million inhabitants and certain British authorities had expressed the view that the country could not accommodate one additional cat; yet Israel today had over 2 million inhabitants.

39. He had hoped that, after his visit to the United Kingdom to discuss his country's independence, he would not have to address the Committee. Nevertheless, he had observed that the gap between rich and poor countries was widening and that the colonialist and imperialist Powers, which continued to repress the legitimate aspirations of millions of people, were primarily responsible. While the Committee had recently been mainly concerned with Africa, he reminded members that in the Western Hemisphere there were still colonial territories where over 3 million people were subjected to the degrading status of colonials by three European Powers.

40. The colonial Powers, in their retreat, boasted of having "granted" independence to the people who had been under their control, as if those people had not had to fight for freedom.

41. British Guiana had repeatedly been told that it was the declared policy of the United Kingdom Government to lead the colonial peoples to freedom and independence as soon as possible. The past decade had,

however, taught it that it could not rely on those pious declarations and that United Kingdom policy was based not on altruism but on self-interest and the desire to protect vested interests.

42. In 1953 British Guiana had been "granted" a Constitution, which had then been regarded as one of the most advanced constitutions in the British colonial empire. The authors of that Constitution had assumed that the democratic popular forces were too weak to gain control of the Executive. The Constitution had been suspended after four and a half months and the popularly elected Government had been forcibly removed from office, just as the Gallegos Government in Venezuela, the Mossadegh Government in Iran and the Arbenz Government in Guatemala had been in 1948, 1953 and 1954 respectively. He and his followers had been subjected to the usual witch-hunt. Recently, however, he had had the satisfaction of seeing that at the last session of the Economic Commission for Latin America (ECLA)^{2/} the main recommendations for the economic well-being of Latin America had emphasized the necessity for economic planning, rapid industrialization, efficient agricultural development and land reform—all principles which had been characterized as communist when he had advocated them ten years earlier.

43. Following the suspension of the Constitution in 1953, the Colonial Office had imposed a dictatorial régime in British Guiana, which had amounted to a real reign of terror for the leaders of the national movement. In 1957 elections had been held on the basis of a Constitution more retrograde than the one suspended in 1953 and with constituencies which had been grossly gerrymandered. The United Kingdom had thus shown that its most previous commodities, democracy and democratic practices, were not for export.

44. British Guiana now enjoyed internal self-government but it was still a Crown colony: the United Kingdom could legislate by Orders in Council and could suspend the Constitution at any time. In many respects, the Constitution inherited from the Netherlands which had been in force up to 1927 had been more liberal, for it had not conferred such powers on the colonial country.

45. On 13 December 1961 he had spoken to Mr. Maudling, Secretary of State for the Colonies, who had categorically refused to fix 31 May 1962 or any other date for British Guiana's independence. The date of 31 May 1962, which was the date fixed for the independence of the Federation of the West Indies, had been proposed during the election campaign by the main opposition party, the People's National Congress, and supported by his own party, which together with the People's National Congress had polled 83 per cent of the votes. Mr. Maudling had even refused to fix a date for a conference to discuss the question of independence; he had simply promised to consult the Cabinet and to inform him of the decision early in 1962. Experience had taught him not to place much faith in such promises and he saw in Mr. Maudling's delaying tactics a threat to peace and a threat to his people's belief in the parliamentary system of government, since an honestly elected Government would be prevented by some extraterritorial Power from carrying out its promise.

^{2/} For the report of the Commission, see Official Records of the Economic and Social Council, Thirty-second Session, Supplement No. 4 (E/3486).

46. British Guiana was ready for independence. Moreover, as the General Assembly itself had said in its resolutions 1514 (XV) and 1654 (XVI), lack of preparation should never serve as a pretext for delay in granting independence. At one time the United Kingdom had referred to such criteria as a country's size, population, literacy, economic viability and ability to defend itself. British Guiana was about ten times as large as Israel and twice as big as Cuba. Its population was as large as that of Cyprus and larger than that of Iceland. Its literacy rate was 82 per cent. Political consciousness was very high; at the recent elections almost 90 per cent of the electorate had cast their ballots without any disorder. At the economic level, British Guiana, though largely under-developed, had achieved over the last decade an economic growth rate of 6 per cent per annum. Its budget, though small, was balanced and a small surplus was earmarked each year for the development plan. The national income per caput was about \$240, which was relatively higher than that of many under-developed countries. As far as defence was concerned, British Guiana did not believe that the armaments race was the way to international peace and security and did not intend to devote a large part of its limited financial resources to armaments. It wished to maintain friendly relations with all countries and considered that its membership of the United Nations would offer it the collective security it required to protect its national sovereignty.

47. Lest the details he had given should be taken as a tribute to colonialism, he would point out that British Guiana, despite its great natural resources, was largely under-developed, with wide-spread poverty, land hunger, unemployment and under-employment.

48. It might be asked why the United Kingdom Government adopted so unrealistic an attitude towards British Guiana. Three times since 1953 the United Kingdom had deliberately disregarded the freely expressed wishes of the people because it did not believe in the cause which the people of Guiana had proclaimed, i.e., the cause of socialism and the struggle against colonialist and imperialist domination and exploitation. The answer of the United Kingdom Government to the socialist victory in the elections of 1953 had been force and it now seemed to be trying to delay the granting of independence if the popular democratic forces, with socialism as their ideology, continued to win successive elections.

49. He found it difficult to reconcile the attitude of the Colonial Office with the official declarations of the United Kingdom Government and with the liberal sentiments recently expressed by President Kennedy in an interview with the editor of *Izvestia*. President Kennedy had stated that the United States Government would maintain friendly relations with any government, even a communist government, which had been elected in free and fair elections; he had expressed his pleasure that Mr. Jagan, although a Marxist, had obtained his position by a fair election.

50. In the face of the present evasion and procrastination, British Guiana was at the end of its patience. Only the armed might of the United Kingdom prevented the people from declaring British Guiana an independent State.

51. He placed great hopes in General Assembly resolution 1514 (XV) and in resolution 1654 (XVI), which established a Special Committee of seventeen members to make recommendations on the implementation of the Declaration on colonialism contained in

the former resolution. Since the Special Committee was authorized to meet away from United Nations Headquarters if necessary for the discharge of its functions, he took the opportunity to request, through the Fourth Committee, that it should visit British Guiana as soon as possible to examine the situation there. He also called upon the United Kingdom Government to give full support and co-operation in the Committee's task in order to reach agreement on a date for British Guiana's independence. He pointed out that in earlier years, in the Trusteeship Council, the United Kingdom Government had opposed as unrealistic the setting of a target date for Tanganyika's independence. Yet Tanganyika was now an independent and sovereign State.

52. He paid a tribute to the Fourth Committee for its consistent work in liquidating the vestiges of colonialism and hoped that that work would be completed in the near future.

53. Mr. EL SANOUSI (Sudan) said that he was glad to have had an opportunity to hear a statement in the Committee from such a freedom fighter as the Premier of British Guiana. The latter had, however, seen fit to refer to the progress achieved by a certain State at the expense of 1,200,000 Arab refugees. He thought that it would have been better to cite other examples than that of a State which the Security Council had condemned as an aggressor no less than six times.

54. Mr. RAMIN (Israel), exercising his right of reply, considered that the representative of the Sudan was raising issues that had no connexion with the question under discussion, simply in order to mislead the Committee. The representative of the Sudan had referred to a problem that was being discussed by another Committee.

55. Mr. DIALLO (Mali) thanked the Premier of British Guiana for having given the Committee particularly valuable information and requested that the full text of his statement should be reproduced and circulated before the end of the sixteenth session.

56. He was sure that the political development of British Guiana had reached a stage at which it was absurd to keep that Territory under the colonial system. Since there were several Guianas in existence, an attempt was undoubtedly being made to oppose the granting of independence to that Territory and to enmesh the Committee in outdated legalistic arguments. The anachronism would not, however, be prolonged indefinitely and the Special Committee set up by General Assembly resolution 1654 (XVI) would have to go to the Territory as soon as possible, in order to satisfy the aspirations of the people.

57. Mr. ROS (Argentina) said that he whole-heartedly supported the wishes of British Guiana to attain independence. He associated himself with the request of the representative of Mali that the full text of the Premier's statement should be circulated.

58. Mr. SIDI BABA (Morocco) said that he was glad that the Premier of British Guiana had informed the Committee of the true state of affairs in his country in the political, economic, social and cultural fields, and of the aspirations of the people. Those aspirations were just and the delegation of Morocco endorsed them.

59. The Premier should, however, have given more careful consideration to the plight of 1,200,000 Pales-

tine refugees before citing an unsuitable and doubtful example.

60. Mr. EL SANOUSI (Sudan), exercising his right of reply, said that he was not trying to go beyond the question that was under discussion. In keeping with its clearly defined position, the Sudan was supporting the aspirations of the people of British Guiana to independence. The Premier should not, however, have mentioned the case of Israel, which had not been a colony and whose development since its creation was thus irrelevant to the question under discussion.

61. The CHAIRMAN asked the representative of the Sudan not to involve the Committee in a discussion which at the present stage of its debate was likely to take up too much of its time.

62. Mr. SALAMANCA (Bolivia) assured the Premier of British Guiana that it was the ardent wish of the Bolivian Government that the whole Latin-American continent should become free and independent.

63. He asked the Premier whether, once British Guiana was independent, it would become a member of the Organization of American States.

64. Mr. JAGAN (Premier of British Guiana) said that he had already announced that his country wished to enter into closer relations with all its neighbours in Latin America. It had been in that spirit that British Guiana had expressed its desire to become an associate member of ECLA. Before making a request to join the Organization of American States, British Guiana would naturally have to make a careful study of all that such a decision would imply.

65. Mr. ABDO (Yemen) supported the proposal that the full text of the statement made by the Premier of British Guiana should be circulated. On the other hand, his delegation considered that the Premier had quoted a controversial example and thought that he could have made a wiser choice.

66. Mr. ACHKAR (Guinea) supported the Malian representative's proposal. The importance of the statement by the Premier of British Guiana was enhanced by the fact that it had revealed the hypocritical manoeuvres which were intended to prevent a Government which had the support of the people from carrying out its duties. The colonial Powers were only happy when the Territories they administered were under Governments devoted to the interests of those Powers. His delegation appealed to the Committee to refuse to countenance any development which might be prejudicial to the interests of the people of British Guiana.

67. He recalled his statement that, in his delegation's view, the fact that the Committee had heard petitioners from certain Non-Self-Governing Territories had established a precedent. If requests for hearings were received from petitioners from Southern Rhodesia or from any other country, his delegation would request the Committee to grant such hearings. Certain tendentious interpretations that had been given reflected the position of a few delegations only and not that of the Committee.

68. His delegation proposed that the Committee should request that the discussion of the agenda item on information from Non-Self-Government Territories should not be closed and that it should remain on the agenda at the resumed sixteenth session of the General Assembly. For example, the Premier of British Guiana had just invited the Special Committee set up

by General Assembly resolution 1654 (XVI) to visit his country; on its return, that Committee would undoubtedly have much useful information to submit to the Fourth Committee.

69. His delegation wished to convey its thanks and congratulations to the Premier of British Guiana and to assure him of its active sympathy.

70. Mr. JUARBE Y JUARBE (Cuba) said that he had listened with regret to the debate which had preceded the hearing of the Premier of British Guiana. He thought it necessary to stress the fact that the Committee should be free to examine questions involving the freedom of peoples; it should shoulder its responsibilities.

71. The petitioner just heard by the Committee was no ordinary petitioner: he was the Premier of British Guiana and had been elected to his office by the will of his people despite the repeated obstacles placed in his path and all the efforts made by the colonial Power to prevent the inhabitants from freely expressing their wishes. The petitioner was a great defender of freedom; the Cuban delegation hoped that it would soon be able to welcome him to the United Nations as the liberator of British Guiana.

72. His delegation asked the Premier of British Guiana to convey to his people the admiration of the Cuban Government and people for their heroic struggle for independence. British Guiana was on the verge of independence; all that remained was to put into operation the provisions of General Assembly resolution 1514 (XV). The aspirations of British Guiana and of its Premier were in accordance with those of the peoples of Latin America, as set forth in resolution XXXIII adopted at the Conference held at Bogotá in 1948.^{3/}

^{3/} See Final Act of the Ninth International Conference of American States (Pan-American Union, Washington, D.C., 1948) p. 47.

His delegation hoped that all the countries of America which were still under a colonial régime, including the martyred people of Puerto Rico, would soon achieve independence.

73. Mr. BINGHAM (United States of America) said that he wished to point out to the Premier of British Guiana that his delegation's attitude was based on a question of principle and not on any question of a personal nature. His delegation would have been happy to welcome the Premier of British Guiana as a member of the United Kingdom delegation or as a distinguished visitor to the Committee. It had only been because he had come as a petitioner that the United States delegation had considered it necessary to make reservations with regard to the hearing granted to him.

74. The references made by the Premier of British Guiana to President Kennedy's statements had been correctly quoted; the Premier was well aware of the friendship the United States had for him and his people.

75. The United States delegation hoped that British Guiana would achieve early independence; it was convinced that it would do so, for such a solution would be in accord with the tradition in such matters established by the United Kingdom. His delegation would look forward to welcoming the Premier of British Guiana to the General Assembly when his country had become a Member State.

76. The CHAIRMAN, recalling the request that the text of the statement made by the Premier of British Guiana should be circulated in full, said that in the absence of any objection, that would be done.

It was so decided.^{4/}

The meeting rose at 1.15 p.m.

^{4/} See A/C.4/515.

Annex 15

Letter from the Permanent Representative of the United Kingdom to the United Nations to the Secretary-General of the United Nations (15 Jan. 1962), *reprinted in* U.N. General Assembly, Fourth Committee, 16th Session, *Information from Non-Self-Governing Territories transmitted under Article 73 of the Charter*, U.N. Doc A/C.4/520 (16 Jan. 1962)

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FOURTH COMMITTEE
Agenda item 39

INFORMATION FROM NON-SELF-GOVERNING TERRITORIES TRANSMITTED UNDER
ARTICLE 73 e OF THE CHARTER OF THE UNITED NATIONS. REPORTS OF THE
SECRETARY-GENERAL AND OF THE COMMITTEE ON INFORMATION FROM NON-SELF-
GOVERNING TERRITORIES

Letter dated 15 January 1962 from the Permanent Representative
of the United Kingdom of Great Britain and Northern Ireland to
the Secretary-General

1. I have the honour to refer to the statement made by Lord Home, Her Majesty's Secretary of State for Foreign Affairs, to the General Assembly on 27 September 1961, that Her Majesty's Government were now ready to provide full information to the United Nations on the political and constitutional steps which the Government are taking in the Non-Self-Governing Territories which remain under British administration. In this connexion, I wish to bring to your notice the following announcement which Her Majesty's Government have issued in London today:

"The Secretary of State for the Colonies, having considered the resolution of the British Guiana Legislature calling for early independence, has informed Dr. Jagan that he is willing to hold a constitutional conference in London next May to discuss the date and the arrangements to be made for the achievement of independence by British Guiana."

2. I should be grateful if you would circulate this letter to Members of the United Nations as part of the political and constitutional information that we have undertaken to provide.
3. Further political and constitutional information on British Guiana, as well as on the other Non-Self-Governing Territories under British administration, will be submitted in due course.

(Signed) Patrick DEAN

62-01234

Annex 16

U.S. Department of State, *Memorandum of Conversation*, No. 741D.00/1-1562 (15 Jan. 1962)

MAR-16-98 MON 9:04 AM

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EST: Moskowitz:ed:dh
(Drafting Office and Officer)

DEPARTMENT OF STATE

Memorandum of Conversation

DATE: January 15, 1962

SUBJECT: Venezuelan Action in United Nations regarding British Guiana

PARTICIPANTS: Mr. Walter Brandt, Minister Counselor of Venezuelan Embassy
Mr. Harvey R. Wellman, Director, EST
Mr. Sam Moskowitz, Officer in Charge, Venezuelan Affairs

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EST (2) IO (2)
ENA (2) ODA - Mr. Parker
LNR/RAR USUN () - through IO

Embassy, Caracas
American Consul General, Georgetown
L/ARA

JAN 22 1962

Mr. Brandt called to deliver an Aide Memoire (unofficial translation attached) describing Venezuela's intentions with respect to the question of British Guiana's independence which is to be examined in the 4th Committee of the XVI General Assembly at its resumed Session. The Aide Memoire states that due to differences in criteria between Venezuela and the United Kingdom on the question of Venezuela's boundary with British Guiana, the Venezuelan delegation to the UN will make a statement to put on the record its aspiration that the Arbitral Award of 1899 be revised so that Venezuela might realize the recovery of its territory without prejudice to the change in the political status of British Guiana.

Mr. Brandt stated that Venezuela's contemplated action was based on the fact that the subject of British Guiana's independence had been introduced in the United Nations unexpectedly by Prime Minister Jagan during his visit to New York last year and had been immediately supported by the communist and communist-leaning countries such as Cuba and Mali. Inasmuch as Venezuela has long cherished the aspiration of having the 1899 Arbitral Award revised, it felt obliged to put its aspiration on the record of the United Nations. He said that Venezuela has hoped for many years that the British Government, to engender better relations between the two countries in view of British investment in Venezuela such as Shell petroleum, might be inclined to negotiate a revision of the boundary. However, this has not come to pass.

In response to a question, Mr. Brandt replied that he thought that the possibility of achieving a revision is better while British Guiana is still

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a colony

None
By: [Signature] Date: [Date]

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a colony. Nevertheless the British had never been disposed to negotiate. Consequently, he stated, Venezuela is not likely to favor postponement of independence for British Guiana because thereafter an independent government might be even less inclined to negotiate.

He explained that Venezuela was not questioning the legality of the Arbitral Award but felt it only just that the Award should be revised since it was handed down by a Tribunal of five judges which did not include on it any Venezuelans; Venezuela believes that the two British judges and the so-called neutral Russian judge had colluded in arriving at a decision to support British claims; and only valiant action by the two US judges prevented the Award from recognizing the extreme British claim. For these reasons Venezuela considers the Award to have been inequitable and questionable from a moral point of view (viciado).

Mr. Brandt indicated that Venezuela's contemplated action in the 4th Committee was not intended to be construed as a Venezuelan request to reopen the boundary question nor was it an attempt to block any possible UN gesture in favor of British Guiana's independence. In this connection, he emphasized Venezuela's traditional position strongly favoring the end of European colonial rule in the Western Hemisphere.

Mr. Wellman expressed appreciation to Mr. Brandt for informing the United States Government of its intentions in the UN. He assured Mr. Brandt that other interested offices would be informed as well as our delegation at the UN. Mr. Brandt did not indicate the Embassy expected a reply to the Aide Memoire.

Attachment:

Unofficial translation of
Aide Memoire No. CO86 from
Venezuelan Embassy, dated
January 12, 1962.

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UNOFFICIAL TRANSLATION

No. 0086

Aide Memoire

Venezuela has an active interest in the subject related to the independence of British Guiana, which is to be examined when the XVI Session of the General Assembly of the United Nations is resumed. During this Session there will be discussed the draft resolution contained in Document A/C.4/L.728, which was submitted for examination by the Fourth Committee of the Assembly.

Due to differences in criteria which Venezuela advocates opposed to the United Kingdom's, on matters related to its boundary with British Guiana, the Venezuelan Delegation in the United Nations will make a statement in which it will put on the record its aspiration that the Arbitral Award of 1899 be revised and the territorial recovery in question be attained, without prejudice to the change in the political status of the present Colony. Venezuela will make known its reservations, in this sense, when the opportunity to do so presents itself.

The Government of the Republic of Venezuela hopes that the Government of the United States may once again give its valuable support to the just Venezuelan aspirations.

Washington, D. C.

January 12, 1962.

Annex 17

Letter from the Permanent Representative of Venezuela to the Secretary-General of the United Nations (14 Feb. 1962), *reprinted in* U.N. General Assembly, Fourth Committee, 16th Session, *Information from Non-Self-Governing Territories transmitted under Article 73 of the Charter*, U.N. Doc A/C.4/536 (15 Feb. 1962)

UNITED NATIONS

GENERAL ASSEMBLY



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A/C.4/536

15 February 1962

ENGLISH

ORIGINAL: ENGLISH/SPANISH

Sixteenth session
FOURTH COMMITTEE
Agenda item 39

INFORMATION FROM NON-SELF-GOVERNING TERRITORIES TRANSMITTED UNDER
ARTICLE 73 e OF THE CHARTER OF THE UNITED NATIONS. REPORTS OF
THE SECRETARY-GENERAL AND OF THE COMMITTEE ON INFORMATION FROM
NON-SELF-GOVERNING TERRITORIES

Letter dated 14 February 1962 from the Permanent Representative
of Venezuela to the Secretary-General

1. On the instructions of my Government, I have the honour to refer to the statement made by the Prime Minister of British Guiana to the Fourth Committee on 18 December 1961, the text of which was circulated as a United Nations document (A/C.4/515), and to the letter from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland, dated 15 January 1962, also circulated as a United Nations document (A/C.4/520), both of which relate to the question of independence for British Guiana.
2. Inasmuch as there is a dispute between my country and the United Kingdom concerning the demarcation of the frontier between Venezuela and British Guiana and since, for that reason, my Government feels obliged to reserve its position on the matter and to explain the situation to the United Nations, I should be grateful if you would circulate this letter and the memorandum annexed hereto to Members of the United Nations for their information.
3. I have the honour to be, etc.

(Signed) Carlos SOSA RODRIGUEZ
Permanent Representative
of Venezuela

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1. Immediately it proclaimed its independence, Venezuela assumed sovereignty over the territories which, under Spanish rule, constituted the Captaincy-General of Venezuela. The boundaries of the province of Guiana, which was an administrative division of the Captaincy-General, extended to the western shores of the Essequibo river.
2. On 13 August 1814, the Netherlands ceded to the United Kingdom the settlements of Essequibo, Demerara and Berbice. The treaty transferring the settlements did not lay down the exact boundaries of the territory ceded but, as can be verified from contemporary documents, such territory did not, in any event, extend beyond the western shores of the river Essequibo.
3. Almost simultaneously with the occupation of the settlements of Demerara, Berbice and Essequibo, the British commenced a series of actions designed to extend their possessions into territory belonging to Venezuela.
4. The territory which the British had received from the Netherlands comprised approximately 20,000 square miles. After the series of unilateral incursions, explorations and demarcations by the British, the territory of the colony, according to the statistics in the official British yearbook, The Colonial Office List, had suddenly increased by 40 per cent in one year between 1885 and 1886 (see Samuel Flagg Bemis, A Diplomatic History of the United States, 4th edition, Henry Holt and Company, New York, page 416).
5. Repeated protests by successive Governments of Venezuela, and their demands that the problem of the frontiers with British Guiana should be submitted to impartial arbitration, were met on each occasion with evasive diplomatic excuses.
6. In 1886, the Government of Venezuela formally requested the United Kingdom to withdraw from the illegally occupied territory. As the British refused to do so, Venezuela was obliged to break off diplomatic relations with that country on 20 February 1887.
7. The United Kingdom, however, continued to widen its territorial claims until they included even the mouths of the Orinoco, the largest river in Venezuela.
8. It was then that the President of the United States, Grover Cleveland, alarmed by British expansion in the Americas, exerted his full political and

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diplomatical influence in order that Venezuela and the United Kingdom might agree to submit the question to arbitration (Message from President Grover Cleveland to the United States Congress on 17 December 1895).

9. In 1897 a Treaty of Arbitration (see annex I) was concluded, under which an Arbitral Tribunal was appointed, consisting of five jurists - two from the United Kingdom, two from the United States of America and, as President, the Russian Professor F. de Martens.

10. The United Kingdom, although a party to the dispute, felt free to nominate two of its nationals as arbitrators. The Tribunal included no Venezuelan arbitrator.

11. The adverse circumstances in which the Treaty of Arbitration was concluded obliged Venezuela to accept the first rule in article IV (see text of the Treaty of Arbitration, annex I), which incorporated the principle of prescription after the lapse of a period of fifty years. Acceptance of such a principle meant from the first an automatic loss by Venezuela of a large part of the territory illegally occupied by the British. That was not enough, however, for the arbitral award rendered in Paris on 3 October 1899 failed to recognize the rights of Venezuela even to territory which had not been occupied by the British for the fifty years specified in the first rule of the Treaty of Arbitration. The frontier was arbitrarily drawn in an award, the text of which gave no reasons and which recognized the rights of Venezuela only to the mouths of the Orinoco and to 5,000 square miles of adjacent territory (see annex I).

12. The peculiar circumstances in which the decision was rendered were noted the very same day.

13. On 4 October 1899, The Times of London (page 6, London, 4 October 1899), published a joint statement made to Reuters Agency by the Legal Advisers of Venezuela, in which they stated that nothing in the past history of the dispute adequately explained the way in which the boundary-line had been drawn in the award.

14. In a confidential note to his Government on 4 October 1899, Dr. José M. Rojas, Agent of Venezuela to the Arbitral Tribunal, also expressed his astonishment at the incomprehensible decision.

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15. The information gathered by the Agent of Venezuela was fully confirmed years later in a posthumous document left by Mr. Severo Mallet Prevost, Legal Adviser to the Government of Venezuela, and published in the United States periodical "The American Journal of International Law" (vol. 43, No. 3, July 1949, page 523 et seq.). This document, which was made public six months after the death of its author, gives a detailed account of the vitiating circumstances in which the arbitral award was made.

16. The award was the result of a political transaction carried out behind Venezuela's back and sacrificing its legitimate rights. The frontier was demarcated arbitrarily, and no account was taken of the specific rules of the arbitral agreement or of the relevant principles of international law.

17. Venezuela cannot recognize an award made in such circumstances. Ever since the date of the decision, Venezuelan public opinion has unanimously refused to acknowledge its validity and has demanded that the injustice suffered by Venezuela should be redressed. When it obtained clear evidence of the defects which invalidate that decision, the Government of Venezuela explicitly reserved its rights at the Fourth Meeting of Consultation of Ministers of Foreign Affairs of the American Continent in 1951 (annex II) and at the Tenth Inter-American Conference in 1954 (annex III).

18. Since the United Nations General Assembly is considering problems relating to the independence of British Guiana, the Government of Venezuela, in order to defend the rights of the people it represents, feels obliged to ask that its just claims should also be taken into account and that the injustice committed should be equitably repaired.

19. Venezuela and its Government are most sympathetic to the independence of British Guiana, in conformity with their deep-rooted national feelings and the anti-colonialist doctrine which they have repeatedly upheld. The Government of Venezuela welcomes the desire of the people of British Guiana for rapid and complete political independence, and formally declares that it will resolutely support this just aspiration.

20. In reaffirming its incontrovertible rights in the United Nations, Venezuela hopes that its long-standing dispute with the United Kingdom regarding the

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boundaries of British Guiana will be solved by negotiations between the interested parties, in accordance with international law and with the Purposes and Principles of the United Nations Charter, taking into account not only Venezuela's rights, but also the legitimate interests of the people of British Guiana under the present circumstances.

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ANNEX I

TEXT OF THE ARBITRARY AWARD SIGNED IN PARIS ON 3 OCTOBER 1899,
ON THE BOUNDARIES BETWEEN VENEZUELA AND BRITISH GUIANA

WHEREAS on the 2nd day of February 1897 a Treaty of Arbitration was concluded between the United States of Venezuela and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland in the terms following:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of Venezuela, being desirous to provide for an amicable settlement of the question which has arisen between their respective Governments concerning the boundary between the Colony of British Guiana and the United States of Venezuela, have resolved to submit to arbitration the question involved, and to the end of concluding a Treaty for that purpose have appointed as their respective Plenipotentiaries:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Sir Julian Pauncefoot, a Member of Her Majesty's Most Honourable Privy Council, Knight Grand Cross of the Most Honourable Order of the Bath and of the Most Distinguished Order of St. Michael and St. George, and Her Majesty's Ambassador Extraordinary and Plenipotentiary to the United States;

And the President of the United States of Venezuela, Señor José Andrade, Envoy Extraordinary and Minister Plenipotentiary of Venezuela to the United States of America;

Who having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles:

ARTICLE I

An Arbitral Tribunal shall be immediately appointed to determine the boundary-line between the Colony of British Guiana and the United States of Venezuela.

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ARTICLE II

The Tribunal shall consist of five Jurists: two on the part of Great Britain, nominated by the Members of the Judicial Committee of Her Majesty's Privy Council, namely, the Right Honourable Baron Herschell, Knight Grand Cross of the Most Honourable Order of the Bath, and the Honourable Sir Richard Henn Collins, Knight, one of the Justices of Her Britannic Majesty's Supreme Court of Judicature;^{1/} two on the part of Venezuela, nominated, one by the President of the United States of Venezuela, namely, the Honourable Melville Weston Fuller, Chief Justice of the United States of America, and one nominated by the Justices of the Supreme Court of the United States of America, namely, the Honourable David Josiah Brewer, a Justice of the Supreme Court of the United States of America; and of a fifth Jurist to be selected by the four persons so nominated, or in the event of their failure to agree within three months from the date of the exchange of ratifications of the present Treaty, to be selected by His Majesty the King of Sweden and Norway. The Jurist so selected shall be President of the Tribunal.

In case of the death, absence, or incapacity to serve of any of the four Arbitrators above named, or in the event of any such Arbitrator omitting or declining or ceasing to act as such, another Jurist of repute shall be forthwith substituted in his place. If such vacancy shall occur among those nominated on the part of Great Britain, the substitute shall be appointed by the members for the time being of the Judicial Committee of Her Majesty's Privy Council, acting by a majority, and if among those nominated on the part of Venezuela, he shall be appointed by the Justices of the Supreme Court of the United States, acting by a majority. If such vacancy shall occur in the case of the fifth Arbitrator, a substitute shall be selected in the manner herein provided for with regard to the original appointment.

^{1/} Now the Right Honourable Sir Richard Henn Collins, a Member of Her Majesty's Most Honourable Privy Council and a Lord Justice of Her Majesty's Court of Appeal.

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ARTICLE III

The Tribunal shall investigate and ascertain the extent of the territories belonging to, or that might lawfully be claimed by the United Netherlands or by the Kingdom of Spain respectively at the time of the acquisition by Great Britain of the Colony of British Guiana, and shall determine the boundary line between the Colony of British Guiana and the United States of Venezuela.

ARTICLE IV

In deciding the matters submitted, the Arbitrators shall ascertain all facts which they deem necessary to a decision of the controversy, and shall be governed by the following Rules, which are agreed upon by the High Contracting Parties as Rules to be taken as applicable to the case, and by such principles of international law not inconsistent therewith as the Arbitrators shall determine to be applicable to the case.

RULES

(a) Adverse holding or prescription during a period of fifty years shall make a good title. The Arbitrators may deem exclusive political control of a district, as well as actual settlement thereof, sufficient to constitute adverse holding or to make title by prescription.

(b) The Arbitrators may recognize and give effect to rights and claims resting on any other ground whatever valid according to international law, and on any principles of international law which the Arbitrators may deem to be applicable to the case, and which are not in contravention of the foregoing rule.

(c) In determining the boundary-line, if territory of one Party be found by the Tribunal to have been at the date of this Treaty in the occupation of the subjects or citizens of the other Party, such effect shall be given to such occupation as reason, justice, the principles of international law and the equities of the case shall, in the opinion of the Tribunal, require.

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ARTICLE V

The Arbitrators shall meet at Paris, within sixty days after the delivery of the printed arguments mentioned in Article VIII, and shall proceed impartially and carefully to examine and decide the questions that have been, or shall be, laid before them, as herein provided, on the part of the Government of Her Britannic Majesty and the United States of Venezuela, respectively.

Provided always that the Arbitrators may, if they shall think fit, hold their meetings, or any of them, at any other place which they may determine.

All questions considered by the Tribunal, including the final decision, shall be determined by a majority of all the Arbitrators.

Each of the High Contracting Parties shall name one person as its Agent to attend the Tribunal, and to represent it generally in all matters connected with the Tribunal.

ARTICLE VI

The printed case of each of the two Parties, accompanied by the documents, the official correspondence, and other evidences on which each relies, shall be delivered in duplicate to each of the Arbitrators and to the Agent of the other Party as soon as may be after the appointment of the members of the Tribunal, but within a period not exceeding eight months from the date of the exchange of the ratification of this Treaty.

ARTICLE VII

Within four months after the delivery on both sides of the printed Case, either Party may in like manner deliver in duplicate to each of the said Arbitrators, and to the Agent of the other Party, a Counter Case, and additional documents, correspondence, and evidence so presented by the other Party.

If in the case submitted to the Arbitrators either Party shall have specified or alluded to any report or document in its own exclusive possession, without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof, and either Party may call upon the other, through the Arbitrators, to produce the originals or

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certified copies of any papers adduced as evidence, giving in each instance notice thereof within thirty days after delivery of the Case, and the original or copy so requested, shall be delivered as soon as may be, and within a period not exceeding forty days after receipt of notice.

ARTICLE VIII

It shall be the duty of the Agent of each Party, within three months after the expiration of the time limited for the delivery of the Counter Case on both sides, to deliver in duplicate to each of the said Arbitrators, and to the Agent of the other Party, a printed argument showing the points and referring to the evidence upon which his Government relies, and either Party may also support the same before the Arbitrators by oral argument of counsel, and the Arbitrators may, if they desire further elucidation with regard to any point, require a written or printed statement or argument, or oral argument by counsel upon it, but in such case the other Party shall be entitled to reply either orally or in writing as the case may be.

ARTICLE IX

The Arbitrators may, for any cause deemed by them sufficient, enlarge either of the periods fixed by Articles VI, VII, and VIII by the allowance of thirty days additional.

ARTICLE X

The decision of the Tribunal shall, if possible, be made within three months from the close of the argument on both sides.

It shall be made in writing and dated, and shall be signed by the Arbitrators who may assent to it.

The decision shall be in duplicate, one copy whereof shall be delivered to the Agent of Great Britain for his Government, and the other copy shall be delivered to the Agent of the United States of Venezuela for his Government.

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ARTICLE XI

The Arbitrators shall keep an accurate record of their proceedings, and may appoint and employ the necessary officers to assist them.

ARTICLE XII

Each Government shall pay its own Agent and provide for the proper remuneration of the counsel employed by it, and of the Arbitrators appointed by it or in its behalf, and for the expense of preparing and submitting its Case to the Tribunal. All other expenses connected with the Arbitration shall be defrayed by the two Governments in equal moieties.

ARTICLE XIII

The High Contracting Parties engage to consider the result of the Proceedings of the Tribunal of Arbitration as a full, perfect, and final settlement of all the questions referred to the Arbitrators.

ARTICLE XIV

The present Treaty shall be duly ratified by Her Britannic Majesty and by the President of the United States of Venezuela, by and with the approval of the Congress thereof, and the ratifications shall be exchanged in London or in Washington within six months from the date hereof.

In faith whereof we, the respective Plenipotentiaries, have signed this Treaty and have hereunto affixed our seal.

Done in duplicate, at Washington, the second day of February, one thousand eight hundred and ninety seven.

(L.S.)

JULIAN PAUNCEFOTE

(L.S.)

JOSE ANDRADE

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AND WHEREAS the said Treaty was duly ratified and the ratifications were duly exchanged in Washington on the 14th day of June 1897 in conformity with the said Treaty,

AND WHEREAS, since the date of the said Treaty and before the Arbitration thereby contemplated had been entered upon, the said Right Honourable Baron Herschell departed this life;

AND WHEREAS the Right Honourable Charles Baron Russell of Killowen, Lord Chief Justice of England, Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George, has conformably to the terms of the said Treaty been duly nominated by the Members of the Judicial Committee of Her Majesty's Privy Council to act under the said Treaty in the place and stead of the said Baron Herschell;

AND WHEREAS the said four Arbitrators, namely, the said Right Honourable Lord Russell of Killowen, the Right Honourable Sir Richard Henn Collins, the Honourable Melville Weston Fuller and the Honourable David Josiah Brewer have conformably to the terms of the said Treaty selected His Excellency Frederic de Martens, Privy Councillor, Permanent Member of the Council of the Ministry of Foreign Affairs in Russia, LL.D. of the Universities of Cambridge and Edinburgh, to be the fifth Arbitrator;

AND WHEREAS the said Arbitrators have duly entered upon the said Arbitration and have duly heard and considered the oral and written arguments of the Counsel representing respectively the United States of Venezuela and Her Majesty the Queen and have impartially and carefully examined the questions laid before them and have investigated and ascertained the extent of the territories belonging to or that might lawfully be claimed by the United Netherlands or by the Kingdom of Spain respectively at the time of the acquisition by Great Britain of the Colony of British Guiana.

NOW WE the undersigned Arbitrators DO HEREBY make and publish our decision, determination and award of upon and concerning the question submitted to us by the said Treaty of Arbitration and DO HEREBY conformably to the said Treaty of Arbitration finally decide award and determine that the Boundary-line between the Colony of British Guiana and the United States of Venezuela is as follows:

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Starting from the coast at Point Playa the line of Boundary shall run in a straight line to the River Barima at its junction with the River Mururuma and thence along the mid-stream of the latter river to its source and from that point to the junction of the River Haiowa with the Amakuru and thence along the mid-stream of the Amakuru to its source in the Imataka Ridge and thence in a South Westerly direction along the highest ridge of the spur of the Imataka Mountains to the highest point of the main range of such Imataka Mountains opposite the source of the Barima and thence along the summit of the main ridge in a South Easterly direction of the Imataka Mountains to the source of the Acarabisi and thence along the mid-stream of the Acarabisi to the Cuyuni and thence along the Northern Bank of the River Cuyuni Westward to its junction with the Wenamu and thence following the mid-stream of the Wenamu to its westernmost source and thence in a direct line to the summit of Mount Roraima and from Mount Roraima to the source of the Cotinga and along the mid-stream of that river to its junction with the Takutu and thence along the mid stream of the Takutu to its source thence in a straight line to the westernmost point of the Akarai Mountains and thence along the ridge of the Akarai Mountains to the source of the Corentin, called the Cutari River. PROVIDED ALWAYS that the line of delimitation fixed by this Award shall be subject and without prejudice to any question now existing or which may arise to be determined between the Government of Her Britannic Majesty and the Republic of Brazil or between the latter Republic and the United States of Venezuela.

In fixing the above delimitation the Arbitrators consider and decide that in times of peace the Rivers Amakuru and Barima shall be open to navigation by the merchant ships of all nations subject to all just regulations and to the payment of light or other like dues PROVIDED THAT the dues charged by the Republic of Venezuela and the Government of the Colony of British Guiana in respect of the passage of vessels along the portions of such rivers respectively owned by them shall be charged at the same rates upon the vessels of Venezuela and Great Britain such rates being no higher than those charged to any other nation. PROVIDED ALSO THAT no customs duties shall be chargeable either by the Republic of Venezuela or by the Colony of British Guiana in respect of goods carried on board ships vessels

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or boats passing along the said rivers but customs duties shall only be chargeable in respect of goods landed in the territory of Venezuela or Great Britain respectively.

EXECUTED AND PUBLISHED in duplicate by us in Paris this 3rd day of October A. D. 1899.

Signed by:

F. de MARTENS

RUSSELL Of K.

R. HENN COLLINS

MELVILLE WESTON FULLER

DAVID J. BREWER

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ANNEX II

"DECLARATION MADE AT THE FOURTH MEETING OF CONSULTATION OF MINISTERS
OF FOREIGN AFFAIRS OF THE AMERICAN CONTINENT, HELD IN MARCH 1961"

"In the opinion of the Government of Venezuela, no change of status which may occur in British Guiana as a consequence of the international situation, of any measures which may be adopted in the future or of the advance of the territory's inhabitants towards self-determination will prevent Venezuela, in view of the special circumstances prevailing when the frontier line with the British Guiana was defined, from pressing its just demand that the injury suffered by the Nation on that occasion should be redressed by an equitable rectification of the frontier".

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ANNEX III

"DECLARATION MADE AT THE TENTH INTER-AMERICAN CONFERENCE, HELD
IN MARCH 1954"

"In the particular case of British Guiana, the Government of Venezuela declares that no change of status which may occur in that neighbouring country can prevent the National Government from pressing its just demand that the injury suffered by the Nation when its frontier line with British Guiana was demarcated should be redressed by an equitable rectification of the frontier, in view of the unanimous feelings of the Venezuelan people and the special circumstances prevailing at the time. Hence, no decision on the subject of colonies adopted at the present Conference can adversely affect Venezuela's rights in this respect, nor can it be interpreted in any way as a renunciation of those rights".

Annex 18

Letter from J. Cheetham, U.K. Foreign Office, to D. Busk, U.K. Ambassador to Venezuela,
No. AV 1081/38 (21 Feb. 1962)

OUT FILE

Sent Bag 22
2
NSBD.CONFIDENTIAL

(AV 1081/38)

FOREIGN OFFICE,

S.W.1.

February 21, 1962.

(Dear Douglas,)

I am writing in reply to your telegram No.5
 Saving of February 16 about your forthcoming interview
 with President Betancourt on the subject of British
 Guiana.

2. The Ghana resolution on independence will
 probably have been debated in the Fourth Committee by
 the time this reaches you - in spite of the official
 announcement in London on January 15 that a Constitutional
 Conference to consider independence would be held in May.
 For your own information, in view of the unfortunate events
 which have taken place in British Guiana during the past
 ten days, the Colonial Office are not now certain that it
 will be possible to convene the Conference at that time,
 or, if it is, to reach a decision at it about independence.
 However, in response to New York telegram No.354 the
 Colonial Office have agreed to make no precipitate announce-
 ment about this.

3. However all this may turn out, we cannot accept
 any suggestion on the part of President Betancourt that the
 independence of British Guiana is in any way linked with
 the alleged Venezuelan dispute with Her Majesty's Government
 over the western boundary of British Guiana. Nor can we
 accept the implication behind the statement contained in an
 official memorandum handed to me by the Venezuelan Ambassador
 on February 2 that the present time is "the last opportunity
 open to Venezuela definitely to reserve her territorial
 rights in British Guiana before the latter achieves
 independent status". We consider that any discussion
 between yourself and the President on the subject of
 British Guiana independence would be entirely improper,
 since this is a matter solely of direct concern to that
 government and ourselves. We would therefore deplore any
 attempt by the Venezuelan Government to take advantage of
 the issue of independence in order to press their claim. A
 parallel for this may be found in our dispute with Guatemala
 over British Honduras, in which we have consistently declined
 to discuss the future status of the territory with the
 Guatemalans, maintaining that this was a matter for us to
 decide with the elected representatives of the people after
 the achievement of full internal self-government. (The

/ formula

His Excellency Sir Douglas Busk, K.C.M.G.,
CARACAS

CONFIDENTIAL

CONFIDENTIAL

formula under which we have consented to talks with the Guatemalans in April is so worded as not to oblige us to discuss this subject, but only to listen to the views of the Guatemalans and to discuss any constructive measures intended to improve relations.)

4. On the question of the frontier, our position must continue to be that there is no case to answer, because the matter was settled for all time over sixty years ago by international arbitration, both the United Kingdom and Venezuela having committed themselves in advance to accept the ruling of the arbitration tribunal. Although it now seems probable that, as a result of our vigorous representations to the Venezuelans in Caracas, London and New York, their Representative will not put forward an amendment to the Ghana resolution in the Fourth Committee, we shall nonetheless have to live with a formal statement of Venezuela's claim reserving her territorial rights over part of British Guiana. You have already expressed Her Majesty's Government's surprise at the Venezuelan Government's failure to make any direct approach to ourselves in the first instance. If the internal pressures to which President Betancourt is undoubtedly subjected on the issue of his frontier with British Guiana force him to request bilateral negotiations, this cannot ipso facto be accepted by us as a reason why we should entertain any proposal for talks. In our view, the Venezuelans have behaved so discourteously in threatening to present a resolution at the United Nations and in lobbying so energetically with the other Latin Americans in the firm hope of securing their warm support in the Committee of Seventeen, that we consider ourselves fully justified in resisting any pressure on us to accept talks. As we said in our telegram No.669 of February 8 to New York, we cannot even admit the existence of a dispute on this subject until the Venezuelan Government have notified us formally that they do not regard the 1899 award as binding. Should President Betancourt press the suggestion of bilateral negotiations, I think the furthest we can go is to be prepared to hear a statement of the Venezuelan case, making it quite clear that Her Majesty's Government cannot commit themselves to say anything of substance in reply.

5. I am sorry we cannot give you a more forthcoming brief, since we fully understand the considerations in your last paragraph. But I am sure you will understand that this is a subject on which we really cannot afford to

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compromise lest we should do anything to weaken what is at present our unassailable strong legal position. It only remains for me to wish you well in your talk with the President and to tell you that we have all been impressed by the way in which you have so far handled this embarrassing affair, complicated as it has been by Prince Philip's visit. You must have had a very worrying time.

6. I am copying this letter to Pat Dean in New York and to Huijsman in the Colonial Office (together with a spare copy for transmission on a personal basis to the Governor of British Guiana).

(Yours ever,

-sgd- JOHN CHEETHAM.)

(N.J.A.Cheetham.)

✓ Copies to :- 1. Sir Patrick Dean, KCMG., New York.
2. N.J. Huijsman, Esq., Colonial Office.
3. " " " Spare copy,
personal for the
Governor of British
Guiana.]

Sent 27/2 1957

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Annex 19

Statement made by the Representative of Venezuela at the 1302nd meeting of the Fourth Committee on 22 February 1962, *reprinted in* U.N. General Assembly, Fourth Committee, 16th Session, *Information from Non-Self-Governing Territories transmitted under Article 73 of the Charter*, U.N. Doc A/C.4/540 (22 Feb. 1962)

UNITED NATIONS GENERAL ASSEMBLY



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22 February 1962
ENGLISH
ORIGINAL: SPANISH/ENGLISH

Sixteenth session
FOURTH COMMITTEE
Agenda item 39

INFORMATION FROM NON-SELF-GOVERNING TERRITORIES TRANSMITTED UNDER ARTICLE 73 e OF THE CHARTER OF THE UNITED NATIONS

STATEMENT MADE BY THE REPRESENTATIVE OF VENEZUELA
AT THE 1502ND MEETING OF THE FOURTH COMMITTEE ON
22 FEBRUARY 1962

Note by the Secretariat: In accordance with the decision taken by the Fourth Committee at its 1502nd meeting, the text of the following statement is circulated to members of the Committee for their information.

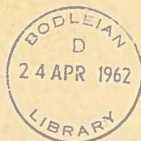
Madame Chairman,

1. The peaceful evolution towards independence of the people of British Guiana, which shares a common frontier with us, is of particular importance for Venezuela. It is with true American feelings that we greet its destiny as a sovereign nation taking its place, on an equal footing, in the confraternity of the continent's States.
2. We have therefore noted with great satisfaction the decision of the United Kingdom to negotiate next May with representatives of British Guiana with a view to discussing the date and arrangements for British Guiana's independence.
3. In this way we reaffirm a position to which our country has consistently adhered throughout its history and which it has set forth at various international meetings when, together with the other nations of the continent, it has declared that America will have fulfilled its historic destiny only when none of its territories is any longer subject to the colonial system. It has been and remains the permanent desire of Venezuela and her sister countries of the hemisphere to contribute to the end that such subject territories shall emerge from their subordinate status and share, in equality and sovereign independence,

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in the benefits and responsibilities of international life. This attitude of Venezuela has not been restricted to America. Our policy, in the United Nations, in favour of independence for the peoples of all continents is well known.

4. At this time, when we are sincerely advocating full recognition of the rights of British Guiana's people, we cannot, without betraying our own people, forget Venezuela's rights and frontier claims and say nothing, in this forum, about its legitimate request for the remedying of an historic injustice.

5. The facts to which I am about to refer are well known to the representatives of the American nations. Nor will anything new be found in them by the representatives of the old and new nations of Africa and Asia which suffered from the severities of colonialism and are familiar with its methods.

6. Our frontiers with British Guiana were arbitrarily established by an award made in Paris on 3 October 1899.

7. The history of the events which led to that unjust decision is as follows:

8. After the European occupation of the territory of Guiana and, more specifically, upon confirmation in 1814 of the definitive cession to Great Britain by the Netherlands of the establishments of Demerara, Essequibo and Berbice, there began for my country a period of permanent apprehension and anxiety in face of the ambitions of the new and powerful neighbour. The western frontier of the new British colony, instead of being a geographical line acknowledged and adhered to, was gradually pushed westwards so as to enclose ever greater portions of the territory of our young and weak Republic. The maps printed in London showed, year after year, the contours of a colony which was extending so as to embrace vast Venezuelan regions. The formal and dignified complaints of our country had no effect; there was always room for the diplomatic excuse that such maps and boundaries were purely tentative in character, and that the Government of Venezuela, as Lord Palmerston wrote shortly after the unilateral delimitation of the so-called Schomburgk Line in 1840, "could make any objection ... and Her Majesty's Government would ... give such answers ... as might appear proper and just". The maps continued to be printed and the frontiers continued to advance, but the just replies never arrived.

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9. In 1842, in view of the outcry in Venezuela and elsewhere in America against the unilateral establishment of British frontier posts and marks well within Venezuelan territory, Her Majesty's Government ordered the removal of the said posts and marks, having declared that "those posts were ... not ... indications of dominion and empire on the part of Great Britain ..." but were "merely a preliminary measure open to future discussion between the two Governments".

10. Nevertheless, forty years later, the frontier was again unilaterally delimited by Great Britain, so as to penetrate even more deeply into virgin Venezuelan lands. The new frontier, which was named the "New Schomburgk Line", increased the British dominions by about 5,000 square miles and took from our country almost the whole of the Cuyuni River basin.

11. In December 1886 there was printed in the Colonial Office List, an official publication of the United Kingdom Government, a map of British Guiana showing a considerable advance of that colony's frontiers into Venezuelan territory and their absorption of a large part of the Cuyuni River basin. The 20,000 square miles which England had acquired from the Dutch in 1814 had grown to 60,000 by the middle of the century; in 1855 the figure reached 76,000 square miles and the claims continued until it was a question of 109,000 square miles.

12. This procedure was typical of the times, of those last decades in the nineteenth century when the colonial Powers of Europe divided up between them the territories of other continents as they saw fit.

13. Venezuela was not spared the effects of this colonial expansion. As we have seen, the repeated protests of our successive Governments and their requests that the problem of the frontiers with British Guiana be submitted to impartial arbitration were evaded by diplomatic excuses, while the maps continued to be altered and the frontiers continued to be unilaterally changed.

14. Each proposal made by our country with a view to these differences being resolved by peaceful means and in accordance with the documented claims of both parties encountered only increased pretensions, and our diplomats, those outstanding citizens which the Republic produced in the nineteenth century, were subjected to every kind of humiliation when they presented, with decorum, their country's just claim.

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15. This situation necessarily resulted in a progressive increase of tension in the relations between Venezuela and Great Britain.

16. In view of the despoilment to which we were being subjected, our country formally requested that Great Britain evacuate the territory which it had illegally occupied. This territory included the entire area from the Amacuro to the Pomarón rivers. In a note addressed to the British Minister resident in Caracas, Mr. F.R. Saint John, the then Minister for Foreign Affairs of Venezuela, Dr. Diego Bautista Urbaneja, warned him that such evacuation must be carried out before 20 February 1887, and added that "should this not be done by the day specified, and should, moreover, the evacuation not be accompanied by acceptance of arbitration as the means of deciding the pending frontier question ... diplomatic relations will be broken off between the two Governments, and a protest shall be made which shall for all time to come establish the unquestionable rights of Venezuela as opposed to such proceedings".

17. The Great Britain of that day was not the same country which in this century, with a deep sense of international realities, has grasped the new spirit of the times and has co-operated in the formation of new free States in Asia and Africa, which today are Members of the United Nations.

18. The Great Britain of that day, of the colonial empire, of the Victorian era, had no ears for the claims of small peoples. My country had no other course but to break off diplomatic relations with Great Britain and record, for history, the moral protest of our people.

19. The British threat to Venezuela nevertheless continued, and British pretensions to sovereignty extended even to the mouth of our principal river, the Orinoco. Statistics of the British Government included in the Colonial Office List suddenly in a single year, from 1885 to 1886, increased the area of British Guiana by about 40 per cent.

20. The problem attained such magnitude that it expanded beyond the framework of the relations between a powerful European State and a small American nation.

21. In a message to the Congress of the United States of 17 December 1895, President Cleveland declared: "... It is deeply disappointing that such an appeal, actuated by the most friendly feelings toward both nations directly concerned, addressed to the sense of justice and to the magnanimity of one of the

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great Powers of the world, and touching its relations with one comparatively weak and small, should have produced no better results. The course to be pursued by this Government in view of the present situation does not appear to admit of serious doubt. Having laboured faithfully for many years to induce Great Britain to submit this dispute to impartial arbitration, and having been now finally apprised of her refusal to do so, nothing remains but to accept the situation, to recognize its plain requirements, and deal with it accordingly." And, concluding this message, President Cleveland said that the United States would resist by all means at its disposal any appropriation by Great Britain of, or the exercise by her of governmental jurisdiction over any territory which belonged by right to Venezuela.

22. Somewhat later, the British Government agreed to submit the question of the frontier between British Guiana and Venezuela to arbitration.

23. In 1897 a Treaty of Arbitration was concluded, pursuant to which, in January 1899, there met in Paris an Arbitral Tribunal composed of five judges: two Britons, Lord Russell, Lord Chief Justice of England and Lord Justice Collins, a Justice of the Supreme Court of Judicature of Great Britain; two North Americans, M. Fuller, Chief Justice of the Supreme Court of the United States and D. Brewer, Justice of the same Court; and, as President, the Russian Professor of International Law, F. de Martens.

24. It should be remarked that, by force of circumstances, whereas Great Britain was able to appoint two British judges, no Venezuelan judge sat on the Tribunal.

25. On 3 October 1899 the Tribunal rendered its decision. Except for the mouth of the Orinoco River, it granted all the British demands. Venezuela's rights were recognized over barely 5,000 square miles out of the total 50,000 square miles of the area in dispute.

26. Such an extraordinary decision could not but create serious reservations. In accordance with the practice usual in arbitration agreements, the rules which the arbitrators were to follow had been laid down in the Treaty concluded between the Governments of Venezuela and Her Britannic Majesty in February 1897. The validity of the decision depended upon strict adherence by the arbitrators to the instructions which they had received. Those instructions were clear:

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27. Article IV of the Treaty reads as follows:

"In deciding the matters submitted, the Arbitrators shall ascertain all facts which they deem necessary to a decision of the controversy, and shall be governed by the following Rules, which are agreed upon by the High Contracting Parties as Rules to be taken as applicable to the case, and by such principles of international law not inconsistent therewith as the Arbitrators shall determine to be applicable to the case."

28. The scope of the powers granted to the arbitrators, as well as the limits within which it was lawful for them to act, admitted of no possible doubt.

29. The arbitrators were, if possible, to apply the rules - which constituted a form of law especially agreed upon by the Contracting Parties - and, in the absence thereof, the principles of international law.

30. These rules did not permit the adoption of decisions of a circumstantial character or of agreements motivated by political convenience, unconnected with the established rights of the Parties. As in every arbitration that is truly legal, the arbitrators were bound to act in strict conformity with those rules or, in their absence, with the principles of international law.

31. The rules were as follows:

First Rule: "Adverse holding or prescription during a period of fifty years shall make a good title. The Arbitrators may deem exclusive political control of a district, as well as actual settlement thereof, sufficient to constitute adverse holding or to make title by prescription."

Second Rule: "The Arbitrators may recognize and give effect to rights and claims resting on any other ground whatever valid according to international law, and on any principles of international law which the Arbitrators may deem to be applicable to the case, and which are not in contravention of the foregoing rule."

Third Rule: "In determining the boundary-line, if territory of one Party be found by the Tribunal to have been at the date of this Treaty in the occupation of the subjects or citizens of the other Party, such effect shall be given to such occupation as reason, justice, the principles of international law and the equities of the case shall, in the opinion of the Tribunal, require."

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32. Apart from the fact that Venezuela had to accept conditions the application of which would obviously favour the position of the adversary, the rules made no provision whatever for circumstantial or political compromise. All these rules constitute a form of law, imperfect, if you will, but leaving no doubt as to its true nature.

33. However, an arbitration decision such as that pronounced in Paris in October 1899 could obviously not have been arrived at if the rules laid down in the Treaty of Arbitration, or the relevant principles of international law, had been strictly adhered to.

34. The strange circumstances in which the Paris decision had been arrived at began to unfold from the very day of the decision; but it was not until several decades later that the truth of what had occurred could be confirmed

35. On the day following the announcement of the decision the London Times reported a statement made jointly to Reuter's Agency by Messrs. Severo Mallet-Prevost and ex-President Harrison, who had acted as legal advisers to the Venezuelan Government. They, in this statement, contended that nothing in the history of the controversy could adequately explain the fixing of the frontier as laid down in the decision.

36. This joint statement is quite understandable if the fact is remembered that the Paris decision, contrary to the principles applicable to all awards, was not accompanied by any statement of the grounds on which it was reached.

37. Dr. José M. Rojas, the Venezuelan Government's Agent with the Arbitral Tribunal, in a confidential note addressed to his Government on 4 October 1899, gave vent to his astonishment at the incomprehensible decision. He stated:

"The conduct of the President of the Tribunal, Mr. de Martens, was for me a source of inexplicable surprise; and as I am not accustomed to judge the actions of others without evidence, I refrain from doing so in his case." And he added: "What we shall never know is the reason which prompted Mr. de Martens to act as he did".

38. The views of the Venezuelan Agent with the Arbitral Tribunal were fully confirmed many years later by a posthumous document published in a United States journal, The American Journal of International Law, in its issue of July 1949.^{1/}

^{1/} Tr. note. Vol. 43, No. 3, July 1949.

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This document, disclosed six months after the death of its author, Mr. Severo Mallet-Prevost, reveals the circumstances in which the arbitral decision was rendered, in the following form:

"Justice Brewer and I sailed for Europe in January of 1899 in order to attend the first meeting of the Arbitral Tribunal which was to meet in Paris for the purpose of deciding the boundary between Venezuela and Great Britain. The terms of the Protocol which had been signed between Great Britain and Venezuela required that the Tribunal should meet at that time. However, as it was found inconvenient for all of those who should be connected with the arbitration to meet on that date it was decided to hold merely a preliminary meeting, so as to comply with the terms of the Protocol, and to then adjourn to a more convenient date.

39. "Before going to Paris Justice Brewer and I stopped in London. While there Mr. Henry White, Chargé d'Affaires for the United States, gave us a small dinner to which Lord Chief Justice Russell was invited. I sat next to Lord Russell and, in the course of our conversation, ventured to express the opinion that international arbitrations should base their decisions exclusively on legal grounds. Lord Russell immediately responded saying: 'I entirely disagree with you. I think that international arbitrations should be conducted on broader lines and that they should take into consideration questions of international policy.' From that moment I knew that we could not count upon Lord Russell to decide the boundary question on the basis of strict rights.

40. "When we assembled in Paris the following June I met Lord Collins for the first time. During the speeches by Sir Richard Webster, the Attorney-General, and by myself (the two of which consumed 26 days), it was quite obvious that Lord Collins was sincerely interested in getting at the full facts of the case and in ascertaining the law applicable to those facts. He, of course, gave no indication as to how he might vote on the subject but his whole attitude and the numerous questions which he asked were critical of the British contentions and gave the impression that he was leaning toward the side of Venezuela.

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41. "After Sir Richard Webster and I had concluded our speeches the Tribunal adjourned for a short two weeks holiday. The two British arbitrators returned to England and took Mr. Martens with them.

42. "When we resumed our sittings at the end of the recess the change in Lord Collins was noticeable. He asked very few questions and his whole attitude was entirely different from what it had been. It looked to us (by which I mean to the counsel for Venezuela) as though something must have happened in London to bring about the change.

43. "When all the speeches had been concluded in the month of August or early September the court adjourned so as to allow the arbitrators to confer and render their decision. Several days passed while we anxiously waited but one afternoon I received a message from Justice Brewer saying that he and Chief Justice Fuller would like to speak with me and asking me to meet them at once at their hotel. I immediately went there.

44. "When I was shown into the apartment where the two American arbitrators were waiting for me Justice Brewer arose and said quite excitedly: 'Mallet-Prevost, it is useless any longer to keep up this farce pretending that we are judges and that you are counsel. The Chief and I have decided to disclose to you confidentially just what had passed. Martens has been to see us. He informs us that Russell and Collins are ready to decide in favour of the Schomburgk Line which, starting from Point Barima on the coast would give Great Britain the control of the main mouth of the Orinoco; that if we insist on starting the line on the coast at the Moruca River he will side with the British and approve the Schomburgk Line as the true boundary.' 'However', he added that, 'he, Martens, is anxious to have a unanimous decision; and if we will agree to accept the line which he proposes he will secure the acquiescence of Lord Russell and Lord Collins and so make the decision unanimous.' What Martens then proposed was that the line on the coast should start at some distance southeast of Point Barima so as to give Venezuela control of the Orinoco mouth; and that the line should connect with the Schomburgk Line at some distance in the interior leaving to Venezuela the control of the Orinoco mouth and some 5,000 square miles of territory around that mouth.

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45. "That is what Martens has proposed. The Chief and I are of the opinion that the boundary on the coast should start at the Moruca River. The question for us to decide is as to whether we shall agree to Marten's proposal or whether we shall file dissenting opinions. Under these circumstances the Chief and I have decided that we must consult you, and I now state to you that we are prepared to follow whichever of the two courses you wish us to do." From what Justice Brewer had just said, and from the change which we had all noticed in Lord Collins, I became convinced and still believe that during Marten's visit to England a deal had been concluded between Russia and Great Britain to decide the case along the lines suggested by Martens and that pressure to that end had in some way been exerted on Collins to follow that course. I naturally felt that the responsibility which I was asked to shoulder was greater than I could alone bear. I so stated to the two arbitrators and I asked for permission to consult General Harrison. This they gave and I immediately went to General Harrison's apartment to confer on the subject with him.

46. "After disclosing to General Harrison what had just passed he rose in indignation and pacing the floor described the action of Great Britain and Russia in terms which it is needless for me to repeat. His first reaction was to ask Fuller and Brewer to file dissenting opinions, but, after cooling down and considering the matter from a practical standpoint, he said: 'Mallet-Prevost, if it should ever be known that we had it in our power to save for Venezuela the mouth of the Orinoco and failed to do so we should never be forgiven. What Martens proposes is iniquitous a but I see nothing for Fuller and Brewer to do but to agree.'

47. "I concurred with General Harrison and so advised Chief Justice Fuller and Justice Brewer. The decision which was accordingly rendered was unanimous but while it gave to Venezuela the most important strategic point at issue it was unjust to Venezuela and deprived her of very extensive and important territory to which, in my opinion, Great Britain had not the shadow of a right."

48. It is perfectly understandable that Venezuela cannot recognize the validity of a decision rendered under such conditions. From the day of the decision onwards, public opinion in my country has been unanimous in rejecting its

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validity and has demanded the repairing of the injustice inflicted upon Venezuela.

49. The decision was the result of a political arrangement made behind Venezuela's back and sacrificing her legitimate rights. The frontier was fixed arbitrarily, with no regard whatsoever for the specific rules of the Arbitration Treaty or the relevant principles of international law.

50. Apart from the circumstances, today fully known, in which the decision was arrived at, it is enough to read the decision - in which a frontier is drawn without any indication or explanation of the reasons for such a frontier - in order to realize that the frontier was fixed in a manner which was completely arbitrary and contrary to law.

51. Upon obtaining full confirmation of the vitiated character of the decision, the Government of Venezuela publicly reserved its rights. And thus, in a declaration made at the Fourth Meeting of Consultation of Foreign Ministers of the American Continent, held in March 1951, Venezuela declared:

"In the opinion of the Government of Venezuela, no change of status which may occur in British Guiana as a consequence of the international situation, of any measures which may be adopted in the future, or of the advance of the territory's inhabitants towards self-determination will prevent Venezuela, in view of the special circumstances prevailing when the frontier line with British Guiana was defined, from pressing its just demand that the injury suffered by the Nation on that occasion should be redressed by an equitable rectification of the frontier."

52. And at the Tenth Inter-American Conference, meeting in March of 1954, Venezuela repeated that view, again stating:

"In the particular case of British Guiana, the Government of Venezuela declares that no change of status which may occur in that neighbouring country can prevent the National Government from pressing its just demand that the injury suffered by the Nation when its frontier line with British Guiana was demarcated should be redressed by an equitable rectification of the frontier, in view of the unanimous feelings of the Venezuelan people and the special circumstances prevailing at the time. Hence, no decision on the subject of colonies adopted at the present Conference can adversely affect Venezuela's rights in this respect, nor can it be interpreted in any way as a renunciation of those rights."

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53. On this occasion, when the question of the independence of British Guiana and its people's legitimate desire to attain, through peaceful negotiation with the United Kingdom, to the full exercise of its sovereignty has come before the United Nations, the Government of Venezuela, while warmly supporting those rightful aspirations, must at the same time, in defence of the rights of its people, request that its just claims also be considered and that the injustice committed be equitably rectified. This my country hopes to accomplish through friendly negotiations with the parties concerned, who should consider not only its legitimate claim but also the present circumstances and the rightful interests of the people of British Guiana.

54. We trust that negotiations carried out in this spirit will contribute to the strengthening of the excellent relations we have and hope to maintain with the United Kingdom, and that they will at the same time help to guarantee the cordial relations which we enjoy with the people of British Guiana and which we fervently hope to establish in the future with the newly independent State of Guiana.

Thank you, Madame Chairman.

Annex 20

Government of the Republic of Venezuela, Chamber of Deputies, *Agreement of 4 April 1962* (4 Apr. 1962), *reprinted in* Republic of Venezuela, Ministry of Foreign Affairs, *Claim of Guyana Esequiba: Documents 1962-1981* (1981)

**REPUBLIC OF VENEZUELA
MINISTRY OF FOREIGN AFFAIRS**



**CLAIM
OF
GUAYANA ESEQUIBA**

DOCUMENTS
1962 – 1981

CARACAS, 1981

AGREEMENT BY THE CHAMBER OF DEPUTIES
4 APRIL 1962

CHAMBER OF DEPUTIES
OF THE REPUBLIC OF VENEZUELA

Considering:

The country has presented the historical border claim with Great Britain before the United Nations because of the territorial theft to which we were subjected;

Considering:

Venezuela has an unwaiverable right over the territory taken through the arbitration award in 1899 which is evidently unfair and driven by the colonial expansion in Victorian England;

Considering:

Venezuela, by purpose and principles, has been a pioneering State endorsing the full independence of British Guiana along with all colonial territories that still exist in America;

Agree to:

Only. – To endorse Venezuela's policy on the border dispute between the British possession and our country's in terms of the territory we were deprived of driven by colonialism; and besides, support without reservation the total independence of British Guiana and its immediate inclusion into a democratic system.

Distributed, signed and sealed at the *Palacio federal Legislativo* [Federal Legislative Palace] in Caracas on 4 April 1962. 152 years Independence and 104 years of Federation

The President
(L.S)

Manuel Vicente Ledezma

The Secretary,

Félix Cordero Falcón

REPUBLICA DE VENEZUELA
MINISTERIO DE RELACIONES EXTERIORES



**RECLAMACION
DE LA
GUAYANA ESEQUIBA**

DOCUMENTOS

1962 - 1981

CARACAS, 1981

**ACUERDO DE LA CAMARA DE DIPUTADOS
DEL 4 DE ABRIL DE 1962**

**LA CAMARA DE DIPUTADOS
DE LA REPUBLICA DE VENEZUELA**

Considerando:

Que el país ha planteado ante la Organización de Naciones Unidas la histórica reclamación de límites con la Gran Bretaña, por el despojo territorial del cual fuimos objeto;

Considerando:

Que Venezuela tiene derechos irrenunciables sobre un territorio arrebatado por el laudo arbitral de 1899, a todas luces injusto, dictado por el interés de expansión colonialista de la Inglaterra victoriana;

Considerando:

Que Venezuela por vocación y principios ha sido Estado pionero de la total independencia de la Guayana Inglesa así como de todas las posesiones coloniales que aún subsisten en América;

Acuerda:

Unico. — Respaldar la política de Venezuela sobre el diferendo límite entre la posesión inglesa y nuestro país en cuanto se refiere al territorio del cual fuimos despojados por el colonialismo; y, por otra parte, apoyar sin reservas la total independencia de la Guayana Inglesa y su incorporación al sistema democrático de vida.

Dado, firmado y sellado, en el Palacio Federal Legislativo, en Caracas, a los cuatro días del mes de abril de mil novecientos sesenta y dos. Años 152° de la Independencia y 104° de la Federación.

El Presidente,
(L. S.)

Manuel Vicente Ledezma.

El Secretario,

Félix Cordero Falcón.

Annex 21

Foreign Service Despatch from C. Allan Stewart, U.S. Ambassador to Venezuela, to the U.S.
Department of State (15 May 1962)

Courier		CONFIDENTIAL		For Department Use Only																																											
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SUBJECT: President Betancourt's Views on Guiana Boundary Matter																																															

During the course of several meetings with President BETANCOURT, a pattern of thinking on the British Guiana-Venezuela border question has evolved. Briefly it is this:

1. The Government of Venezuela is anxious to have talks with the British Government on the frontier question. Contrary to what many think, the Government of Venezuela is serious about a possible realignment of the border. Enclosed are a number of pamphlets which have been distributed to foreign governments on the border dispute.

2. President Betancourt professes to be greatly concerned about an independent British Guiana with Cheddi JAGAN as Prime Minister. He suspects that Jagan is already too committed to communism and that his American wife exercises considerable influence over him. Her visit to Cuba shortly after Jagan's visit to the United States was considered by President Betancourt to be a provocative act on the part of the Jagans.

During 1961 the political committee of Betancourt's party, Acción Democrática, took a long look at Jagan, even inviting him to Caracas for discussions (Embtel 245 of August 18, 1961). At the time, two members of the committee told the Embassy that they thought Jagan was still salvageable and the party was prepared to look upon him benignly until his conduct should make a new assessment necessary. Apparently the party has had second thoughts about Jagan and now views with alarm. This "alarm" may be slightly simulated since Betancourt's solution of the border dispute presupposes a hostile Jagan. His plan:

Through a series of conferences with the British before Guiana is awarded independence a cordon sanitaire would be set up between the present boundary line and one mutually agreed upon by the two countries. Sovereignty

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Page 2 of 2
 Encl. None
 Desp. No. 755, May 15, 1962
 From Caracas

of this slice of British Guiana would pass to Venezuela but a carefully worded agreement would give preference to British, Venezuelan and U.S. capital to develop the zone. The Venezuelans are convinced that the area contiguous to the present boundary abounds in mineral resources, including bauxite, that private capital could develop advantageously. President Betancourt specifically stated that the cordon would be reserved for development by private investment funds. In effect, the present policy of the Venezuelan Government to retain ownership of its mineral wealth and participate in ventures would not pertain in the cordon sanitaire.

Of course, the reason for the existence of the strip of territory, according to the President, is the danger of communist infiltration of Venezuela from British Guiana if a Castro-type government ever were established.

As a result of my discussions with President Betancourt I suspect that Venezuela will continue to press for friendly discussions with the British about the revision of the border. Heretofore, there was some belief that this matter was being pursued for internal political reasons as a sop to the nationalists and to the Ministry of Defense. However, with the President beginning to think of a plan which would represent Venezuela's concept of a concession, I am now of the opinion that Venezuela's insistence on discussions will begin to harden.

The British Ambassador has not taken a hard line; in fact, he once told me the British had no serious objections to staging informal discussions with the Venezuelans as long as EMG was not pressured as to time and place of the meetings. Recently he said he would query London about formal talks requested personally by President Betancourt (A-171).

Insofar as the Jagan government is concerned the Embassy has not heard of any moves by the Venezuelans to bolster the anti-Jagan political groups (Embtel 1254). Jai Narine SINGH was here recently to talk with Venezuelans but it is doubtful whether he received any support, financial or otherwise. It will be recalled that one of the members of the political committee of Accion Democrática sent Singh to see me with an appeal for U. S. assistance, observing that AD was able to provide only a small sum of money to assist Singh's group (Embtel 1032 of May 5, 1961). Since that time AD has split into two groups and finances are in a mess. It would seem logical that Venezuela will from now on pursue the idea of the cordon sanitaire to protect itself from a commie-line independent British Guiana rather than send support to the Jagan opposition.

C. Allan Stewart

Enclosures listed page 3

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Annex 22

Letter from R.H.G. Edmonds, U.K. Foreign Office, to D. Busk, U.K. Ambassador to Venezuela
(15 May 1962)

SECRET

OUT FILE

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FOREIGN OFFICE, S.W.1.

May 15, 1962

My dear Ambassador,

The Venezuelan Ambassador followed up his call of May 9 on the Secretary of State (Foreign Office despatch No. 49 of May 14) by calling on me on May 11.

2. I am not quite sure what the real reason for Dr. Iribarren's call was. I suspect that, although he was too proud to say so, he wanted to try to retrieve the gaffe which he made in talking to the Secretary of State when he said that he believed that his government would be prepared to acquiesce in a discussion which also covered that part of the territory originally in dispute which was awarded to Venezuela by the 1899 Tribunal (paragraph 4 of our despatch: I cannot believe that the Venezuelan Government would in fact ever be willing to do anything of the kind). However, he simply went over the ground covered by his memorandum again, emphasizing that his government was determined to press their claim to that part of the Venezuelan national territory "annexed to British Guiana in the 19th century". The only new point which he added was that he believed that, if Her Majesty's Government did not like the idea of joint commissions, his government would be prepared to take their claim to "some international body such as one of the United Nations Committees or the International Court". We are looking into the question of reference to the International Court of Justice again, by the way.

3. Referring to the Secretary of State's suggestion (paragraph 5 of our despatch) that we might keep in touch with the Venezuelan Government about internal developments in British Guiana, Iribarren said that of course his government would be interested to do this but this was quite a different question.

4. I confined myself to saying that the Secretary of State would be thinking all this over and that he would get in touch with the Venezuelan Ambassador in due course. Once you have had time to think over the record of the Secretary of State's conversation with Iribarren we should of course be grateful for your views on what the next move should be.

5. I am sending a copy of this letter to the Chanceries in Washington, Rio, United Kingdom Mission, New York and (Secret and Personal) to the Governor, Georgetown.

Yours ever,

(sd) (R.H.G. Edmonds)

Sir Douglas Busk, K.C.M.G.,
CARACAS.

SECRET

Annex 23

Telegram from the Ministry of Foreign Affairs of the Bolivarian Republic of Venezuela to the Secretary-General of the United Nations, *reprinted in* U.N. General Assembly, 17th Session, *Question of Boundaries Between Venezuela and the Territory of British Guiana*, U.N. Doc A/5168 and Add.1 (18 Aug. 1962)

UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/5168 *end Add.1*
20 August 1962
ENGLISH
ORIGINAL: SPANISH

Seventeenth session

VENEZUELA: REQUEST FOR THE INCLUSION OF A SUPPLEMENTARY
ITEM IN THE AGENDA OF THE SEVENTEENTH SESSION

QUESTION OF BOUNDARIES BETWEEN VENEZUELA AND THE TERRITORY OF BRITISH GUIANA

Telegram, dated 18 August 1962, from Mr. Anibal Dao, in charge of
the Ministry of Foreign Affairs of Venezuela, addressed to the
Secretary-General

I have the honour to address you in order to request the inclusion of the following item in the agenda of the seventeenth session of the General Assembly:
"Question of boundaries between Venezuela and the territory of British Guiana".

The explanatory memorandum will be delivered directly to you by the delegation of Venezuela to the United Nations.

(Signed) Anibal DAO
In charge of the Ministry of
Foreign Affairs of Venezuela

Annex 24

Statement made by the Representative of the United Kingdom at the 349th meeting of the Special Political Committee on 13 November 1962, *reprinted in* U.N. General Assembly, Special Political Committee, 17th Session, *Question of Boundaries between Venezuela and the Territory of British Guiana*, U.N. Doc A/SPC/72 (13 Nov. 1962)



UNITED NATIONS
GENERAL
ASSEMBLY



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A/SPC/72
13 November 1962

ORIGINAL: ENGLISH

Seventeenth session
SPECIAL POLITICAL COMMITTEE
Agenda item 68

QUESTION OF BOUNDARIES BETWEEN VENEZUELA AND THE TERRITORY OF
BRITISH GUIANA

Statement of Mr. C.T. Crowe, Representative of the United Kingdom, at the
349th meeting of the Special Political Committee on 13 November 1962

My delegation has listened with interest and attention to the speech made by the Foreign Minister of Venezuela yesterday. Before I go into the substance of this question, I should like to place on record my gratitude to the Venezuelan Foreign Minister for the courtesy with which he referred to the good relations between his country and mine. I assure him that the feelings which he expressed are sincerely shared by Her Majesty's Government. I was also glad to observe the desire of the Venezuelan Government to do nothing which would either impair or delay the forthcoming independence of British Guiana.

As the Committee knows, on 22 February of this year the Venezuelan representative in the Fourth Committee raised this same question during the discussion of the territory of British Guiana and produced very similar arguments to those which we have heard in this Committee. At that time the United Kingdom representative in the Fourth Committee stated the position of Her Majesty's Government very clearly. That position has not changed, but I think it essential to repeat at the outset the views of my Government. They are these. My Government considers that the Western boundary of British Guiana with Venezuela was finally settled by the award which the arbitral tribunal announced on 3 October 1899. The frontier was demarcated in accordance with that award by a boundary commission appointed by the British and Venezuelan Governments and the work of the commission was recorded in an agreement signed by the British and Venezuelan boundary commissioners on 10 January 1905. The point which I must stress and which the Foreign Minister of Venezuela has himself recognized is that the arbitration tribunal was set up as a result of a treaty concluded between the Governments of Venezuela and Great Britain on 2 February 1897, a treaty known as the Pauncefote-Andrade Treaty. The composition of the tribunal and its rules of procedure were laid down by this treaty before it started on its work and, most important of all, under article XIII of the treaty both Governments pledged themselves to accept the tribunal's award as -- and these are the actual words -- "a full, perfect and final settlement". Nothing could be clearer than those words and, as history itself has shown, the award was in fact accepted by both Governments and a boundary commission was appointed with the agreement of both Governments to implement the provisions of the award. My Government cannot therefore agree that there can be any dispute over the question settled by the award.

Those are the essential points on which the position of my Government is based. The Foreign Minister of Venezuela yesterday made a speech in which he made a number of detailed allegations on which this Committee will expect me to comment. I propose accordingly to do so even though they do not afford any grounds for re-opening the matter.

I do not propose to go into much detail of the history which led up to this frontier settlement. The Foreign Minister of Venezuela himself recounted a certain amount of the history leading up to the signing of the arbitration agreement in 1897.

I should like to stress however that there is nothing new in these facts, and they were all available to, and fully taken into account by, the arbitration tribunal when its award was made. They are therefore irrelevant to the question before us today. Nevertheless, in order to give the Committee the full picture I must describe the salient historical facts as we see them.

The present territory of British Guiana represents approximately the area occupied by the Dutch settlements of Berbice, Demerara, and Essequibo, which were set up in the early seventeenth century. These settlements, which were formally recognized by Spain -- despite its historical claims in the New World -- in the Treaty of Munster in 1648 were occupied by Great Britain in 1781 and again in 1796, being finally recognized as British territory by the Treaty of London, which was signed with the United Netherlands in 1814. The Western boundary of this territory was never defined by treaty, but was demarcated by the British in accordance with the limits claimed and actually held by the Dutch settlers. This boundary remained unchallenged for twenty-six years, either by the Spaniards or by their successors, the United States of Colombia, with which Venezuela merged in 1819. In 1840 the Venezuelan Foreign Minister in London urged the British Government to enter into a treaty of limits. This request was followed by claims insisting upon the river Essequibo as the boundary of Venezuela, despite the fact that there had been no Spanish settlers in the greater part of the disputed area for over 100 years. These claims marked the beginning of the dispute which continued for the next fifty-six years.

The Foreign Minister of Venezuela has referred to the work of Mr. Schomburgk. It may be desirable to state here that Mr. Schomburgk was, in fact, an eminent German explorer who, in the years from 1841 to 1843, established what came to be called the Schomburgk Line which the award subsequently closely followed. While engaged on the work of determining this line Mr. Schomburgk attached great importance to establishing, from actual exploration and information obtained from the Indians no less than from local remains and traditions, the precise limits of the former Dutch possessions where all trace of Spanish influence was absent. At the same time he recognized the importance of fixing a boundary which would be acceptable to Venezuela, and he therefore proposed that Great Britain should consent to surrender its claim to a more

extended frontier inland in return for the formal recognition of its right to Point Barima at the Great Mouth of the Orinoco, where the remains of a Dutch fort still existed. The boundary which he suggested consequently represented a considerable reduction of what Great Britain claimed as a matter of right.

From 1840 onwards all efforts to suggest compromises or to conclude agreements failed despite a number of concessions offered by Her Majesty's Government. During the latter part of the period the Venezuelan representatives in Washington sought to interest the United States Government in the dispute, and in 1895 the United States Government offered to arbitrate. There ensued a period of growing tension which culminated, after further negotiations in Washington and London, in the conclusion of an agreement in 1897 between Great Britain and Venezuela now known as the Pauncefote-Andrade Treaty. This treaty provided for the boundary question to be submitted to arbitration. The award of the arbitration tribunal was announced two years later, in October 1899, and, as I have said, the boundary commission subsequently appointed by the British and Venezuelan Governments to demarcate the boundary in accordance with the award recorded the results of its work in an agreement signed by the British and Venezuelan boundary commissioners in 1905. The award did not give effect to the greater part of the Venezuelan claim; neither, however, did the tribunal recognize any part of the substantial British claim in the interior -- and I should like to emphasize this latter point as the existence of a British claim seems to have been ignored by the Venezuelan side. The award however gave Venezuela an extremely valuable section which the Foreign Minister himself admitted in the general debate in the plenary Assembly to have been of great strategic importance. This portion included Point Barima and the Great Mouth of the Orinoco, to which I referred earlier, as well as some 3,000 square miles of territory in the interior. In this way the long standing dispute was finally settled, to the satisfaction of the parties concerned.

Here it may be desirable for me to describe briefly the main features of the Treaty of 2 February 1897, which was designed, as stated in its preamble,

"to provide for an amicable settlement of the question which has arisen concerning the boundary between the colony of British Guiana and the United States of Venezuela".

The Treaty is quite a short document of only fourteen articles. The first article deals with the immediate appointment of the Arbitral Tribunal. Article 2 deals with the composition of the Tribunal, which consisted of five jurists.

Articles 3 and 4 set out the Tribunal's terms of reference and its Rules and provided, in addition, that it should be governed by such principles of international law, not inconsistent with the Rules, "as the Arbitrators shall determine to be applicable to the case". Articles 5 to 9 inclusive provide for the place and time of the meetings, the appointment of Agents and the arrangements for the presentation of the Cases. Article 10 provides for the time at which, and the manner in which, the decision of the Tribunal is to be recorded. Articles 11 and 12 deal with records and expenses. The penultimate article, article 13, is short but of paramount importance and I shall read it again in full:

"the high contracting parties engage to consider the result of the proceedings of the Tribunal of Arbitration as a full perfect and final settlement of all the questions referred to the Arbitrators".

The fourteenth and last article makes provision for ratification and the Treaty was in fact ratified by both parties on 14 June 1897.

That completes my brief historical survey and my description of the Treaty of 2 February 1897, that is, the Arbitration Agreement itself. The crucial period in the narrative is that from 1897, when the agreement was signed between Great Britain and Venezuela, to 1905, when the boundary commissioners recorded the results of their work. Here I would like to make a number of comments and bring a few simple but important facts to the attention of the Committee.

The first point is that the Treaty of 1897 was freely entered into by both sides. Neither party was under any compulsion to negotiate it, or was under any

obligation to sign it, or was under any obligation to ratify it. Both did so of their own free will and in their own interests. Nor can it be doubted that in ratifying the arbitration agreement constituted by the Treaty both parties undertook to accept all its provisions in good faith.

The Foreign Minister of Venezuela seemed to suggest in his speech that Venezuela was a victim of circumstance, and that as a small country was forced to bow to the wishes of a more powerful opponent and to that extent, therefore, Venezuela was not a free agent. But members of this Committee will remember that on several occasions the Foreign Minister stressed that the United States gave full support to Venezuela to the extent of being -- and I quote his words -- "on the verge of going to war with Great Britain". He also said that as a result of this dispute America emerged as a great Power. I suggest therefore that with this active backing Venezuela was at no disadvantage and under no compulsion of force majeure to sign against its will.

The second point is this. Criticism has been voiced that while there were two British judges on the Arbitral Tribunal, there were no Venezuelans. In his speech in the General Assembly on 1 October the Foreign Minister of Venezuela himself said - and I quote his words: "... an Arbitration Tribunal was set up that was composed of five judges -- two British, two North Americans and, as Chairman, a Russian professor" (A/PV.1138, page 28-30). He made much the same point yesterday in this Committee. He left this as a statement of fact, but he failed to go into the details of the provisions of the arbitration treaty. Under article 2 two members of the Tribunal were to be appointed "on the part of Great Britain" and two "on the part of Venezuela". One of these latter was to be nominated by the Justices of the Supreme Court of the United States of America -- which country, you will remember, was supporting the Venezuelan case at the time -- and the Justices chose one of their own number, The Honourable David Brewer. The second judge to be appointed on the part of Venezuela was to be nominated by the President of Venezuela himself. And he again showed his confidence in the Supreme Court of the United States by choosing no less a person than the Chief Justice of the United States of America, The Honourable Melville Fuller. There is nothing to show that the Government of Venezuela expressed at the time any objection to these arrangements or that the

President's choice was anything other than a free one. On the contrary. It is not right, therefore, to allege that while Britain was represented by two judges, Venezuela was discriminated against. It had a similar opportunity of being represented in the way which it itself thought most appropriate and likely to be beneficial to its interests.

In the interest of completeness I should perhaps refer to the President of the Tribunal who was, as the Foreign Minister of Venezuela has pointed out, a Russian professor of international law. Some commentators have drawn the conclusion that the mere fact that he was a European militated from the outset against Venezuela. In this connexion, I think that it is only necessary to point out that the rules provided that the President should be chosen by mutual agreement between the arbitrators from both sides, and that there is nothing on record to show that his appointment was not considered to be completely satisfactory to each of them.

Thirdly, complaint is made that the provision in one of the Rules laid down for the Arbitrators in Article IV of the Treaty that "Adverse holding or prescription during a period of fifty years shall make a good title" meant that the Venezuelan claims were prejudiced by the Treaty itself before they ever got as far as the Arbitration Tribunal. This, in itself, is not an unusual provision in a treaty of this kind. The essential point here is that the Venezuelan Government, in becoming a party to the Treaty, freely agreed to the inclusion of this provision. At the time of the signing of the Treaty, therefore, they must have been content that this particular rule should apply and they have no reason therefore to complain about it now.

Then, as an extension of this same point it is sometimes argued that the award did not even recognize Venezuela's right over territory which had not been held by the British for fifty years. But I refer again to the terms of the Treaty itself. The provision which I have just quoted -- that referring to title acquired through adverse holding or prescription during a period of fifty years -- certainly did not imply that territory was to be regarded as British only if occupied by the British for fifty years. To argue this would be to maintain that the fifty year rule was the only rule which the Tribunal had to apply in coming to its decisions. To show that this was not the case I will quote again, if I may, from the Treaty itself -- Article 4 rule (b). This gave the following authority to the Arbitrators, and I quote the exact wording, "to recognize and give effect to rights and claims resting on any other ground whatever valid according to international law, and on any principles of international law which the arbitrators may deem to be applicable to the case, and which are not in contravention of the foregoing rule". In failing to award to Venezuela the territories which Great Britain had not occupied for fifty years, the Tribunal did not thereby ignore Venezuela's rights to these territories, but rather must have considered that Venezuela had no rights to them.

My final point on this period of the history of the dispute is this. Accusations have been made, and the Foreign Minister of Venezuela has suggested this himself, that the Tribunal came to their decisions without reference to the rules of international law and to the other rules which the Tribunal under the terms of the Treaty ought to have applied. This is a most serious allegation and one which must be emphatically rejected. It is, furthermore, an allegation which cannot stand up before the facts. The most effective denial of its validity rests not on legal arguments or on the opinions of renowned jurists, which are necessarily of a general nature, but on the verbatim records themselves of the meetings of the Tribunal. There were fifty-four such meetings. The Committee will, I am sure, be relieved to hear that I will not attempt to take them step by step through the vast pile of documentation, though I cannot resist observing that the opening speeches of the Counsel for both parties lasted thirteen days apiece. That is something that the Special Political Committee has not yet been able to emulate, I am glad to say.

I will content myself today by giving members of this Committee a most definite assurance that the experts in my Government have carefully studied these documents and that an examination of the records of the proceedings show that throughout its deliberations the Tribunal was very conscious of its duties and obligations under the rules laid down in the Treaty. Not only was the Tribunal obviously aware of the rules applicable to the dispute, but the final award was clearly justified on the basis both of the evidence laid before and weighed by the Tribunal and of the rules of international law which in the course of the proceedings were shown to be relevant. It is our firm belief that any person who has the time and technical knowledge to sift through the mass of evidence will come to the same conclusion.

That completes what I have to say on the history of events leading up to the arbitration award, on the provisions of the arbitration Treaty itself and on a number of criticisms which have been made about the legal aspects of the Tribunal's decision. But before we move on to more recent events, I would like to draw attention to one further fact. The Foreign Minister was very insistent that the Government and people of Venezuela were greatly shocked by the contents of the award. That, as I will show later in my speech, does not accord with our own understanding, for at the time certain sections both in Venezuela and the rest of the world hailed the award as a "victory for Venezuela". President McKinley indeed said that "the decision appears to be equally satisfactory to both parties". But if the Government of Venezuela of those days were really as shocked as the Foreign Minister says, surely they would not have gone on without demur to set up a boundary Commission to demarcate the frontier in accordance with the award, and six years later to accept the Commission's report on the completion of its work. History records no protest at this time on the part of the Venezuelan Government.

We can now at last move on from the year 1905. In fact, for a considerable period of time there is little or nothing more to say. For some forty years very little was heard of the arbitration award. It appeared to have been accepted by all concerned. Indeed, in 1941 the Venezuelan Minister for Foreign Affairs himself told His Majesty's Minister in Caracas that his Government were definitely of the opinion that the boundary question was a chose jugée; that the Venezuela/British Guiana frontier was final and well defined and that the author

of articles which had appeared in the Venezuelan press about that time questioning the 1899 award "had obviously never had access to the archives of his Ministry".

And then, as the Foreign Minister of Venezuela has described, a memorandum written in 1944, that is to say nearly forty years after the final agreement between the boundary commissioners, by Mr. Mallet-Prevost, an American lawyer and one of the Junior Counsel conducting the Venezuelan case, was published in 1949 after his death. It is upon this memorandum that the Venezuelan case for re-opening the whole question rests. This has been made clear not only in the speech made by the Foreign Minister of Venezuela in the General Assembly on 1 October, but also in his statement before this Committee.

Mr. Mallet-Prevost's memorandum is interesting. Mr. Mallet-Prevost has rightfully been given honour as a man of the highest integrity. The question, however, which is to be decided and which is before us today, is not concerned with the character of the man who dictated the memorandum in 1944. It is whether, by what he wrote, Mr. Mallet-Prevost has established beyond reasonable doubt that there are good and sufficient reasons to reopen the boundary dispute.

In his paper, Mr. Mallet-Prevost gave details of certain happenings which he considered of great significance and in which he was personally involved some forty-five years before at the time when the Tribunal was about to deliver its award. The inconsistencies and indeed, in certain respects, inaccuracies in his memorandum have been clearly and ably pointed out in an article by another lawyer, Mr. Clifton J. Child, which was also published in the American Journal of International Law and which appeared during the year following the publication of Mr. Mallet-Prevost's own paper. I do not intend to comment in detail on what we consider to be the inaccuracies of Mr. Mallet-Prevost's memorandum. My purpose is to question whether in fact he successfully adduced any real evidence for his main contention, which was that the arbitral award was made as a result of a political deal between Great Britain and Russia.

For it is on this point that the demand for reopening the whole case rests. I have already referred to the mass of documentation on the subject. Mr. Clifton Child had the industry to examine the papers of my Foreign Office -- fifteen bound volumes in all -- which are now lodged in our Public Record Office and which are therefore available for study, as well as despatches and telegrams which passed between London and St. Petersburg during the relevant period. He also studied the verbatim records of the Tribunal. His conclusion was this. He found in the Foreign Office papers, and I quote his words:

"... not one single document which by the widest stretch of the imagination could be considered to indicate a deal between Great Britain and Russia of the sort suspected by Mr. Mallet-Prevost."

On historical grounds, too, it is unlikely that such a deal could have been made. At that time, in 1899, my Government's relations with Russia were in fact strained, and it is interesting to note that nobody has, as far as I know, ever been able to suggest what the Russian Government obtained from the United Kingdom in return for the so-called "deal".

There can be no doubt that Mr. Mallet-Prevost nursed grievances against the Tribunal during the whole of his life. Both he and General Harrison had conducted Venezuela's case not only with ability but with passion. They would undoubtedly have wished to see the Tribunal recognize the whole of Venezuela's claim and the fact that only part of this claim was established was certainly a bitter blow. It is not difficult to see, I suggest, how Mr. Mallet-Prevost came to the belief which he expressed so forcefully in his memorandum. It was, I submit, his natural reaction to a decision which had gone against his deepest conviction. A curious feature, however, of his attitude is that at the time of the award, he and General Harrison in an interview with the press attacked it as being a compromise diplomatic in its character, and yet in the same interview they hailed it as a "victory for Venezuela". As I have said, this victory was widely applauded and

recognized both at the time, and subsequently, by many shades of opinion throughout the world. Perhaps I might also mention that an article in the Bolshaya Sovetskaya Entsiklopediya, published in Moscow in 1928, written after an intensive study of imperial Russian archives for the relevant period, spoke of the award as being "substantially in favour of Venezuela".

Here I would like to say a word about the allegation that the award of the arbitration tribunal was a diplomatic compromise and not a truly judicial decision. This was Mr. Mallet-Prevost's contention and that of the Foreign Minister of Venezuela. I have dealt with the alleged "diplomatic" aspect of the matter. As for the question of compromise, it seems inevitable that any unanimous decision of an arbitral tribunal is likely to involve some reconciliation of conflicting views and is therefore, in this sense, a compromise. The fact that contemporary records tend to show that there was some adjustment of divergent views among the arbitrators does not in any way affect the validity of the award, nor does it deprive it of its judicial character. I would remind members of the Committee of the task laid upon the Tribunal by the arbitration agreement. Article 3 is clear and unequivocal. It states:

"The Tribunal shall investigate and ascertain the extent of the territories belonging to, or that might lawfully be claimed by, the United Netherlands or by the Kingdom of Spain respectively at the time of the acquisition by Great Britain of the colony of British Guiana and shall determine the boundary line between the colony of British Guiana and the United States of Venezuela."

The task of the Tribunal was to determine the boundary line. It was clearly preferable, as the President of the Tribunal pointed out, that the decision of the Tribunal should, if possible, be unanimous. However, it is not unreasonable to suppose that members of an arbitral tribunal having heard evidence based on historical documents ranging over a period of 300 years might come to conclusions which were not identical in every respect. Indeed, this is just the view taken by Mr. Justice Brewer, one of the members of the Tribunal

appointed on the part of Venezuela. He is, as far as I know, the only member of the Tribunal ever to have gone on record in connexion with the proceedings. Justice Brewer's remarks have been quoted in an attempt to show that there had been an unwarranted and improper compromise. My delegation considers that, on the contrary, the eminent Justice's remarks in fact support our case. Perhaps I might repeat his words.

"Until the last moment, I believed a decision would be quite impossible, and it was only by the greatest conciliation and mutual concession that a compromise was arrived at. If any of us had been asked to give an award, each would have given one differing in extent and character. The consequence of this was that we had to adjust our differing views, and finally draw a line running between what each thought was right."

I would draw the attention of the Committee to the use of the words "mutual concession". The claims of both sides were far apart when they began -- if they had not been, there would have been no need for arbitration. Before the award was made, there was still divergence of views among the arbitrators, as Mr. Justice Brewer has pointed out, and it was only by conciliation and mutual concession that agreement could be reached. There is nothing to suggest, however, that this final adjustment of views was contrary to international law or to the rules of the Tribunal of which Mr. Justice Brewer and his colleagues were members. Indeed, it seems to my delegation that these remarks make the arbitral award even more unassailable. Here I will quote again from Mr. Justice Brewer in a conversation recorded in 1899, and quoted by Mr. Childs in the article to which I have already referred, when he expressed "great admiration for the impartial and strict sense of justice shown by the British arbitrators during the proceedings of the Tribunal". This would appear to indicate that at any rate one of the two judges appointed on the part of Venezuela had no complaints about the legality of the award.

The Foreign Minister also quoted statements by General Harrison, most of which appear to have been made either in the heat of the moment or in private correspondence, expressing indignation at the award. My Government does not deny the sincerity of these views, but cannot accept that such expressions of opinion by interested parties provide any evidence to warrant reopening the case. Even the Venezuelan Government would seem to have had doubts about the validity of Mr. Mallet-Prevost's and General Harrison's arguments. Admittedly, in 1951 the Venezuelan Minister for Foreign Affairs denounced the Arbitration award in a press interview and said that it ought to be modified. But the Venezuelan Government waited no less than thirteen years after the publication of Mr. Mallet-Prevost's memorandum before making any formal approach to my Government, requesting new negotiations about the frontier.

I hope I have said enough to explain why, in the view of my delegation, this matter should not be reopened, and why we cannot accept that there is a dispute. We believe that a critical study of all the evidence available is convincing on this score.

I think it is now time for me to refer to the third party involved -- the Government of British Guiana, for whose external relations my Government are responsible and for whom we are, as it were, at present acting as trustees in this matter. It is unfortunate that the Venezuelan Government should have chosen the closing period of British Guiana's present status in which to raise this frontier dispute. We, and I am sure all the members of the Committee, fully accept the Venezuelan Foreign Minister's assurances that there is no intention on the part of his Government to affect or delay in any way the independence of British Guiana. My Government, needless to say, shares this view. British Guiana's progress towards independence will in no way be affected by this debate. Our hope is, however, that this matter can be disposed of once and for all so that British Guiana can enter into independence without any doubts about its territory or its frontiers. It would be easy for my Government to agree that this matter be left over for the British Guiana and the Venezuelan Governments to discuss after British Guiana has obtained its independence. That would be a way out for us. But we reject it as wrong. The British Government does not accept that there is any frontier dispute to discuss. There is no reason why the Government of British Guiana should accept it either; nor do they, and we cannot urge them to discuss it. Our hope is, therefore, that this problem can be finally disposed of now so that British Guiana can move forward without any shadow of doubt about its frontiers.

This subject is a highly complicated one and, I believe, largely unfamiliar to members of the Committee. It might, therefore, be helpful if at this stage I summarize the arguments which I have deployed so far. These are the essential points.

Sixty-five years ago an Arbitration Agreement was concluded between two countries. It was freely entered into. It conformed with the principles of international law. An award followed from that agreement, and a boundary demarcation from that award. At the time of the agreement, at the time of the award, at the time of the demarcation, neither party expressed itself as dissatisfied or considered itself otherwise than bound by the provisions of the agreement. This state of affairs continued for forty-four years until an article appeared embodying a posthumous memorandum written by the junior counsel of one of the parties. That article was criticized and largely refuted by another lawyer who had access to

all the material dealing with the dispute. The party who had been represented by that junior counsel felt bound to support his views as expressed after his death. That is not surprising. But a further thirteen years elapsed before any official approach was made by the one party to the other claiming that the award was unjust and required revision. I ask members of this Committee to consider most seriously the implications if, after fifty-seven years from the date on which a frontier settlement is put into effect, it is allowed to be re-opened, particularly when there is no new evidence which has to be taken into account. It seems to my Government that there will be no frontier agreement in any part of the world which cannot be questioned on such a basis and no international agreement which cannot be brought into doubt. It has always been the keystone of British policy, and I believe of the vast majority of other Member States of the United Nations, that respect for international agreements freely concluded is not only essential to world stability, but axiomatic if the rule of international law is to survive. If we allow a departure from these principles, I submit that we shall soon be inundated with claims from all over the world for the re-opening of questions which have been regarded as settled for generations. The problems we would then face would be insurmountable. Not only would it be almost impossible to find solutions to them, but there would be no guarantee that any such solutions would be respected for more than a brief span. In other words, by agreeing to re-open such questions we should destroy the very means by which disputes can be finally resolved.

I hope that I have convinced members of this Committee that if they respect international law and agreements freely arrived at, this question of the frontier between British Guiana and Venezuela should not have been brought before the United Nations. It has been a matter of great regret to my Government that the Government of Venezuela, with whom we have such friendly ties, should have wished to raise the matter here. These ties go back to the beginning of the last century, when the countries of Latin America were fighting for their independence and when a large contingent of British soldiers were fighting under the great Simón Bolívar. When to the memories of those early days are added the further close links of more recent years, representatives will understand how painful it is to my delegation to find ourselves having to oppose Venezuela in this Committee.

My Government believes, however, not only that there is no need for this unfortunate disagreement to affect our friendly relations in any way, but also

that it has arisen as a result of a misunderstanding which can be put right. I have deliberately desisted from taking the Committee through the wealth of documents relating to the dispute and through the records of the proceedings of the Tribunal. I have, however, referred to the vast amount of documentation which exists. As I said earlier, the experts of my Government have conducted a very thorough examination of the records available to them and are completely satisfied that there is no justification whatsoever for re-opening this frontier question. They are also convinced that a thorough examination of these records cannot lead to any other conclusion. I am therefore authorized to say that my Government, with the full concurrence of the Government of British Guiana, are prepared to discuss with the Venezuelan Government, through diplomatic channels, arrangements for a tripartite, Venezuela-British Guiana-United Kingdom examination of the voluminous documentary material relevant to this question. For our part, we would naturally expect to examine any Venezuelan records and documents too. In making this offer I must make it very clear that it is in no sense an offer to engage in substantive talks about revision of the frontier. That we cannot do, for we consider that there is no justification for it. This offer on the part of my Government simply reflects our anxiety, having regard to our friendly ties with Venezuela, to dispel any doubts which the Venezuelan Government may still have about the validity or propriety of the arbitral award. We are confident that once the Venezuelan Government have examined our records as closely as we have they will fully understand why we cannot entertain any claim in regard to the frontier. We believe that this offer represents the best means of removing once and for all the misunderstanding which has arisen between us. We sincerely hope that the Venezuelan Government will accept the offer in the spirit in which it has been made and will agree that it is better to proceed in this way than to continue our discussions here in the United Nations.

Annex 25

U.N. General Assembly, Special Political Committee, 17th Session, 350th Meeting, *Agenda item 88: Question of boundaries between Venezuela and the territory of British Guiana*, U.N. Doc A/SPC/SR.350 (16 Nov. 1962)

United Nations
**GENERAL
ASSEMBLY**

SEVENTEENTH SESSION

Official Records

**SPECIAL POLITICAL COMMITTEE, 350th
MEETING**

*Friday, 16 November 1962,
at 3.25 p.m.*



NEW YORK

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Chairman: Mr. Leopoldo BENITES (Ecuador).

AGENDA ITEM 88

Question of boundaries between Venezuela and the territory of British Guiana (A/5168 and Add.1) (concluded)

1. Mr. FALCON BRICEÑO (Venezuela) said that since the Committee's last meeting, very cordial and conciliatory conversations had taken place between his Government and that of the United Kingdom. The result of those conversations had been communicated to the Chairman. The fact that the Venezuelan delegation had agreed to the procedure in question did not in any way imply a change in its position as expressed in his statement of 12 November 1962 (348th meeting).

2. Mr. CROWE (United Kingdom) was sure that the Committee would share his delegation's pleasure at the acceptance by the Minister of External Relations of Venezuela of the offer made by the Government of the United Kingdom with the concurrence of the Government of British Guiana. The conversations of the past few days had been conducted in a gratifying spirit of friendship that was characteristic of the relationship between the United Kingdom and Venezuela. He had noted that the Venezuelan's position had not changed; that of the United Kingdom Government remained as stated to the Committee on 13 November 1962 (349th meeting).

3. The CHAIRMAN then placed the following statement on record:

"The Committee has heard statements by the Foreign Minister of Venezuela and by the representative of the United Kingdom in which they have set out the positions of their Governments on this matter. The representatives of the Government of

the United Kingdom and Venezuela have authorized me to inform the Committee that as a result of the conversations held by them in the last few days with regard to the question of the boundaries between Venezuela and the territory of British Guiana, they have agreed, the first of the aforementioned Governments acting with the full concurrence of the Government of British Guiana, that the three Governments shall examine the documentary material available to all parties relevant to this question. For this purpose they will proceed to make the necessary arrangements through diplomatic channels.

"I am sure that I am interpreting the feelings of the Committee that in view of the possibility of direct discussions among the parties concerned, we should not proceed further with our debate here. I feel sure that the Committee will also wish me to express the hope that this procedure agreed among the three parties concerned will be fruitful.

"It is my understanding that the parties concerned will inform the United Nations about the results of these conversations."

4. Mr. MENSNIKOV (Union of Soviet Socialist Republics) said that the Soviet delegation had intended to make a detailed statement on the matter. In view of the Chairman's statement, however, he would simply point out that it was because British Guiana was not an independent and sovereign State and thus was not a Member of the Organization that the matter could not be discussed in the United Nations. The immediate independence of British Guiana was, therefore, an obvious necessity.

5. Mr. BERNSTEIN (Chile) congratulated the Chairman, on behalf of the Committee, on the part he had played in the negotiations. In view of the statements that had just been made, he suggested that the discussion of the item should be adjourned and that the Committee should proceed at its next meeting to the question of Oman.

It was so decided.

The meeting rose at 3.35 p.m.

REPUBLICA DE VENEZUELA
MINISTERIO DE RELACIONES EXTERIORES



**RECLAMACION
DE LA
GUAYANA ESEQUIBA**

DOCUMENTOS

1962 - 1981

CARACAS, 1981

**DECLARACION DEL SR. BENITEZ (ECUADOR), PRESIDENTE
DE LA COMISION POLITICA ESPECIAL, XVIIº PERIODO DE
SESIONES DE LA ASAMBLEA GENERAL DE LAS NACIONES
UNIDAS EL 16 DE NOVIEMBRE DE 1962.**

"La Comisión ha escuchado las exposiciones del Ministro de Relaciones Exteriores de Venezuela y del representante del Reino Unido en las cuales han fijado las posiciones de sus Gobiernos sobre este asunto. Los representantes de los Gobiernos del Reino Unido y de Venezuela me han autorizado para informar a la Comisión que, como resultado de las conversaciones que han sostenido en los últimos días a propósito de la cuestión de límites entre Venezuela y la Guayana Británica, han convenido, actuando el primero de los Gobiernos nombrados en completo acuerdo con el de la Guayana Británica, en que los tres Gobiernos examinarán la documentación en poder de todas las partes y relativa a este asunto. Con este propósito, procederán a hacer los arreglos necesarios por la vía diplomática.

"Tengo la certeza de que interpreto el sentir de la Comisión al decir que, en vista de la posibilidad de discusiones directas entre las partes interesadas, no debemos continuar este debate. Creo asimismo que la Comisión deseará que la Presidencia exprese la esperanza de que el procedimiento acordado entre las partes interesadas tendrá resultados fructíferos.

"Tengo entendido que las partes interesadas informarán a las Naciones Unidas sobre los resultados de estas conversaciones".

Annex 26

United Kingdom, Department of External Affairs, *Memorandum: Venezuelan Claim to British Guiana Territory*, No. CP(64)82 (25 Feb. 1964)

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CP(64)82

25th February, 1964

COPY NO. AD

COUNCIL OF MINISTERS

VENEZUELAN CLAIM TO BRITISH GUIANA TERRITORY

Memorandum by the Premier

The background to the Venezuelan claim to British Guiana territory has been given in a number of papers submitted to Council from time to time. (See CP(63)286 and CP(63)338). From these it will be seen that in 1962 when the Venezuelan Government made a formal claim at the United Nations to British Guiana territory, the United Kingdom Representative pointed out that the British Guiana-Venezuela question had been finally settled by arbitration in 1899, and the British Government could not therefore agree that there could be any dispute over the question. The British Government, however, with the concurrence of the Government of British Guiana, was willing to agree to a tripartite (United Kingdom, Venezuela, British Guiana) examination of the documentary material relating to the Arbitration Award of 1899. It was emphasised that the proposal was "in no sense an offer to engage in substantive talks about the revision of the frontier". The offer was made "to dispel any doubts which the Venezuelan Government may still have about the validity or propriety of the arbitral award".

2. Venezuela accepted the proposal, and in pursuance of it, Venezuelan experts examined British documents in London from 30th July to 11th September, 1963. Sir Geoffrey Meade, retired Foreign Service Officer, was appointed to represent the United Kingdom, and at the request of this Government, also represented this country. Progress reports by Sir Geoffrey Meade on the documents examination were given in Council of Ministers' Memoranda CP(63)286 and CP(63)338. It will be seen from these that Sir Geoffrey Meade does not think that the Venezuelans found anything to substantiate their claim.

3. On 5th, 6th and 7th November, 1963, at his request, the Venezuelan Minister of Foreign Affairs met the British Foreign Secretary in London to review the progress in the examination of the documents. The Foreign Ministers agreed that the British expert, Sir Geoffrey Meade, who was also acting on behalf of the Government of British Guiana (See CP(63) 41st Meeting, Conclusion 17) should visit Caracas to examine any documents which the Venezuelan Government might wish to produce to support their allegation that the award was improperly arrived at. (A summary of the discussions between the two Foreign Ministers is given as Appendix I. A Venezuelan Aide Memoire handed to the Foreign Secretary at the first day's meeting is given as Appendix II. A paper containing comments by Sir Geoffrey Meade on the Venezuelan Aide Memoire is given as Appendix III).

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4. In accordance with the above decision, Sir Geoffrey Meade visited Caracas from 3rd to 12th December, 1963, and examined such relevant documents as were produced by the Venezuelan Government. (Two reports by Sir Geoffrey Meade on his visit to Caracas are given as Appendix IV(A) and Appendix IV(B). A Memorandum handed to the British Ambassador at Caracas by the Venezuelan Minister of Foreign Affairs is given as Appendix V. Some questions asked by Sir Geoffrey Meade on the Venezuelan Memorandum are given as Appendix VI).

5. The Venezuelan experts have recently returned to London. They saw Sir Geoffrey Meade on 18th and 20th February and have handed him a number of papers which they say are the documents and references he asked for during his visit to Caracas. Sir Geoffrey Meade has not yet been able to study all the papers. He is hoping to complete examination of them by 27th February. The Foreign Office have agreed to discussion between the experts of their findings and they wish to know whether this Government would wish to send an expert to London for this purpose, or whether Sir Geoffrey Meade should continue to represent British Guiana. It is stated that the object of these discussions would be to eliminate disputed points in the documents by reaching agreed interpretation where this is possible. (See communique issued after the meeting of the two Foreign Ministers in November, given as Appendix VII, and the Secretary of State Confidential telegram No. 55 given as Appendix VIII).

6. From Appendix VIII it will be seen that the British Government has agreed to a meeting at ministerial level after the experts have reported. The British Guiana Government has, however, made it clear that it will not be committed to a second stage of discussions after the examination of the documents, as the proposal made at the United Nations by the United Kingdom Government (with the concurrence of the Government of British Guiana) and accepted by the Venezuelans/only for a documentary examination in order to show the Venezuelans that the award of 1899 was just and fair.

7. In the meantime, the Venezuelans have been giving a great deal of publicity to the matter apparently with the intention of giving the impression that Her Majesty's Government was seriously considering the possibility of a revision of the boundary. (See Articles in Guiana Graphic of 4th and 6th February, 1964). The Government, with the approval of the Secretary of State for the Colonies, accordingly issued the release at Appendix IX. (It is to be noted that in spite of the efforts of the Information Service and the Premier's Office, the press did not give the same publicity to this Government's release as they gave to the Venezuelan statement of their claim).

8. The Venezuelans are stated to be desirous of coming to British Guiana to see what documents there are in this country relating to the boundary. The Venezuelan spokesman was probably not aware that at the time of the Arbitration, two Venezuelan experts, Senor Suarez and Dr. Ernst spent a great deal of time in British Guiana searching for material relating to their claim. And just before, the United States Consul, Mr. A.J. Patterson conducted a similar exercise on behalf of the American Commission which had been appointed to go into the dispute. In any case, all the documents on British Guiana relating to the dispute were printed and made

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available to the Arbitration Tribunal of 1899. These would be among the records of the Arbitration Tribunal of which the Venezuelans would have copies. The Government has no documents other than those already known to the Venezuelans.

9. Sir Geoffrey Meade has stated that the Venezuelans did not show him anything after their study of British documents in London which could substantiate their claim that the award was improperly arrived at. As regards his visit to Caracas, he has written as follows:

"The main result of my visit to Caracas may therefore be summed up as showing that Dr. Falcon's claim in his United Nations speech that "the recent discovery of extraordinarily important historical documents enable us to be acquainted with the history of the Arbitral award" is not justified. In fact he took his stand on Mallet-Prevost's memorandum which however, contains only one new factor - which is only the writer's personal opinion - that the award was influenced by a Russo-British deal. So far the Venezuelan authorities have been unable to supply a single shred of evidence to support this opinion and I feel confident that the references asked for by Sir Douglas Busk (Enclosure 3) will not add any substance to an aged lawyer's flights of fancy which he was suffering from the immediate after-effects of the receipt of a high Venezuelan decoration."

This may be said to sum up the results of the documents examination generally.

10. The Premier invites Council -

- (i) to note the progress of the examination of the documentary material relating to the award of 1899;
- (ii) to decide whether an official should be sent to London to take part in the examination of documents now going on in London, or whether Sir Geoffrey Meade should be asked to continue to represent British Guiana;
- and (iii) to decide what further steps should be taken to prevent any erosion of the stand taken at the United Nations in November, 1962, by the United Kingdom Government (with the approval of the Government of British Guiana) and to resist Venezuelan manoeuvres to secure a re-opening of the frontier issue.

(Initialled) C.B.J.

Department of External
Affairs
(EA. 9/20/1)
25th February, 1964.

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Annex 27

Republic of Venezuela, *Official Map: Claim of Esequibo Territory* (1965)

Annex 28

Government of the United Kingdom, *Record of Discussions between the Foreign Secretary, the Venezuelan Minister for Foreign Affairs and the Premier of British Guiana at the Foreign Office on 9 December, 1965*, No. AV 1081/326 (9 Dec. 1965)

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AV 1081/326

Foreign Office and Whitehall Distribution

VENEZUELA
9 December, 1965
Section 1

(1)

**RECORD OF DISCUSSIONS BETWEEN THE FOREIGN SECRETARY,
THE VENEZUELAN MINISTER FOR FOREIGN AFFAIRS AND
THE PREMIER OF BRITISH GUIANA AT THE FOREIGN OFFICE
ON 9 DECEMBER, 1965**

Present :

The Right Hon. Michael Stewart, M.P.	Dr. Ignacio Iribarren Borges
Mr. Forbes Burnham	The Venezuelan Ambassador
The Right Hon. The Lord Walston	Dr. German Nava-Carillo
Mr. S. S. Ramphal	Dr. Adolfo Taylhardat
Mr. L. A. Luckhoo	Dr. Leonardo Diaz-Gonzalez
Sir Geoffrey Meade	General Marcos A. Morin
Mr. W. I. J. Wallace	Father Pablo Ojer
Mr. J. O. Rennie	Father Herman Gonzalez
Mr. R. W. Piper	Dr. Demetrio Broesner
Mr. R. M. K. Slater	Interpreter
Mr. R. H. G. Edmonds	
Mr. A. D. Watts	
Mr. S. W. Martin	
Interpreter	

The Venezuela-British Guiana frontier

Mr. Stewart welcomed the Venezuelan Foreign Minister, recalled that the Venezuelan complaint was aimed at the validity of the 1899 Award, and summarised the circumstances in which we had offered in 1962 an examination of documents concerning this problem. He enquired, in relation to Item 1 of the Agenda, whether the examination of documents had served its purposes in satisfying the Venezuelan Government that there was no substance in their allegations concerning the Award's validity.

Dr. Iribarren read a prepared statement. The Venezuelan Government had examined carefully the British experts' report and reached the firm conviction that its conclusions were completely unacceptable. Britain had promised to place at Venezuela's disposal documents to show that there was no justification for reopening the frontier question, but the British experts had confined themselves to a few observations on the Venezuelans' preliminary exposition. The report's form and substance had surprised the Venezuelan Government: its defects fully justified the observation in Foreign Office Note No. AV 1081/75 of 3 August, 1965, that the report did not necessarily represent the considered opinion of Her Majesty's Government on any of the matters discussed. He did not wish to enter into a long examination of the British experts' report, but would confine himself to a few comments to illustrate why Venezuela could not accept the conclusions:

- (a) The report did not deal satisfactorily with the question of alteration of maps submitted by Britain to the Tribunal: it contained the extraordinary assertion that this was not relevant. The British experts had confused two entirely different matters, the falsification of original maps and the simple question of publishers' errors.

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- (b) Correspondence between Sir Richard Webster, Lord Salisbury and Mr. Joseph Chamberlain of July to October 1899 and other documents proving that the British Government gave instructions for the imposition of a line prepared three months previously in the Colonial Office had been ignored.
- (c) No reply had been given to the Venezuelan point that the statement by the Government of Grand Colombia regarding its frontier at the River Essequibo had never been disputed.
- (d) The British experts had quoted unfounded opinions in an attempt to refute Venezuelan arguments about the 1897 Treaty. The facts were:
 - (i) Correspondence from September to November 1896 (the decisive period in the negotiation of the Treaty) had been hidden from Venezuela until 1899.
 - (ii) Richard Olney had assured Venezuela that the 1850 Agreement was in force, while agreeing with Britain that this question would be left to the discretion of the Tribunal.
 - (iii) On the prescription clause, Britain had said that title should be decided according to international law while agreeing privately with the United States that title should be established by occupation after 1850 by settlers later disowned by the British Government.
 - (iv) Olney and Pauncefote had agreed that no Venezuelan should be a member of the Tribunal. Moreover, Venezuela had acted under duress, being twice threatened by the United States that she would be left alone to face British power if she did not sign the Treaty. The British experts had failed to realise that Venezuela, whose independence had been recognised by Britain for over 70 years, was given treatment worse than that accorded to-day to a colony.
- (e) Venezuela did not accept the experts' frivolous reply to her important point that the Tribunal did not give a decision in law. They had been unable to deny the reference in Block's Diary to a deal which gave Britain victory. C. A. Harris, on 4 November, 1899, had referred to the Award as a "farce". Nor could doubt be cast on the validity of Mallet-Prevost's Memorandum because of the time which had elapsed before it was written or because of its posthumous publication. In a letter dated 26 October, 1899, to Lincoln Byrd, Mallet-Prevost had referred to a decision forced on the Venezuelan Arbitrators and to the possibility of Russian intervention.
- (f) The improper pressure exerted by the President of the Tribunal on the Venezuelan Arbitrators could not be disguised by the euphemism "strove hard to obtain a unanimous verdict". The argument that such behaviour was typical of arbitrations of that time carried no conviction.

It was precisely to make good the serious damages suffered by Venezuela in the past that her Representatives had come to the conference table. The Venezuelan Government remained convinced of the rightness of their position, and the only satisfactory solution of the frontier problem with British Guiana lay in the return of the territory which by right belonged to her. A legal frontier should now be established between Venezuela and British Guiana.

Mr. Stewart recalled the experts' narrow terms of reference, i.e., whether documentary evidence established that the procedure of the Tribunal was improper or its Award invalid, and refuted the allegation that Sir Geoffrey Meade's report was frivolous. The Foreign Minister had referred to maps: these were inevitably inaccurate, and in any case maps did not figure in the Tribunal's terms of reference nor in the Award. As for Venezuelan representation, it was clear from the evidence that the United States were at that time hostile to Britain, and so far from Venezuela being coerced, it was Britain who was obliged to go to arbitration, when Cleveland threatened to determine the frontier unilaterally. He also referred to the extreme gravity of the charge that the British Arbitrators had tried to suborn the President of the Tribunal. Such a serious charge would need very clear proof, if it was to be made good. The experts had failed to find this proof. The legal frontier had already been duly determined by a procedure agreed by both parties and it had been accepted. It was impossible to shake this position.

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Dr. Iribarren replied that Venezuela's point on the maps was that they had been falsified; the Venezuelan experts had duly proved this. He also differed on the question of Venezuela's representation at the Tribunal. As for the deal, Venezuela had always maintained that such a political deal existed, and that this deal had given victory to Great Britain. It was not a question of a mere allegation or a supposition, but a fact mentioned by Mallet-Prevost and in other sources. He re-emphasised that Venezuela had come to the conference table, not to discuss positions already established and known to each other, but with good will and in full consciousness of the necessity to resolve the dispute. The prolongation of this controversy could only bring damage and serious inconvenience to all parties concerned.

Mr. Burnham said that after a thorough study of the various reports including that prepared by Sir Geoffrey Meade, his Government were convinced that the boundary was finally determined in 1905, in accordance with the Award of 1899 and the Treaty of 1897. The existence of a political deal was a mere assertion. No evidence to support it had been produced, nor was there any information as to its nature. He asked *Dr. Iribarren* to explain what the deal consisted of; until this was known, there could be no question of a problem nor of finding a solution to it.

Dr. Iribarren said he thought that *Mr. Burnham* had not fully understood what he had said about the political deal. After elaborating on this, he recalled that British Guiana had been represented at all stages in the examination of documents and in the subsequent conversations. Venezuela had insisted on British Guiana representation. When the dates for the present meeting were agreed, the need for *Mr. Burnham's* presence had been taken into account; he reaffirmed his Government's desire to maintain friendly relations with British Guiana.

Mr. Stewart turning to Item 2 on the Agenda, emphasised that the phrase "to seek satisfactory solutions for the practical settlement of the controversy" could only be interpreted in the narrow context of the controversy over the validity of the 1899 Award. He also referred to the dangers which could result if, by pressing their claim, the Venezuelans were to create political difficulties for *Mr. Burnham*.

Mr. Burnham then referred to statements by his predecessor in 1962, alleging pressure on Venezuela by the United States and Great Britain. He mentioned this as an illustration of the sort of argument which those now in opposition could use and said it was inconceivable that his Government could be a party to any proposals implying that he was acting under pressure from Venezuela. He had to carry the entire people of Guyana with him.

Dr. Iribarren referred to the demands of public opinion in his own country, and denied categorically that Venezuela had been subjected to pressure by Britain or the United States. He offered Venezuelan collaboration and assistance in any way possible, and reaffirmed the duty of his Government to continue to try, in the friendliest manner and by all the means of diplomacy, to reach a solution of the territorial problem. He challenged *Mr. Stewart's* interpretation of the terms of Item 2 of the Agenda and emphasised the need for a practical settlement. When asked what he had in mind, he repeated his earlier proposal for the return of the territory which belonged to Venezuela by right.

Mr. Burnham rejected this proposal and quoted the terms of the offer to examine documents made by *Mr. Crowe* in his statement in the Special Political Committee on 13 November, 1962. Any consideration of the substantive question of the frontier was out of the question.

Mr. Stewart agreed that the proposal was wholly unacceptable: it involved a rejection of the 1899 Award, for which there was no justification. Asked for a counter-proposal he said that at first sight there appeared to be no alternative but to refer back to the United Nations in accordance with the earlier undertaking, unless of course Venezuela were to renounce the claim or at least to hold it in abeyance. This would be an act of great statesmanship on her part, for which she would receive due credit. *Mr. Burnham* endorsed this proposal and expressed surprise that *Dr. Iribarren* should profess such friendship while at the same time demanding the cession of five-eighths of British Guiana's territory.

Dr. Iribarren said that his Government rejected the British proposal for renouncing the claim for the same reasons that Britain had rejected his proposal. He wished now to propose a solution which would respect the positions of both countries.

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He suggested that the parties should agree to a joint administration of the territory in dispute for a period of, say 10 years, with both countries undertaking, perhaps in a greater proportion for Venezuela, to provide the necessary means for the joint development of this area. Also, Venezuela would agree to collaborate in the development of British Guiana itself. Venezuela would be prepared to negotiate such an agreement which would acknowledge Venezuelan sovereignty over the area in dispute. This was not the same proposal as before, as it involved obligations for Venezuela, who would be able to develop the area in conjunction with her own development programme.

Mr. Burnham said that he could not accept the proposal as it appeared to involve the surrender of sovereignty.

Mr. Stewart while praising the idea of economic collaboration, could not see why this should be linked to a political question. He suggested that Venezuela should set aside her territorial claim, so that joint development could go ahead. We had already made two proposals for the solution of the political question; first, to refer back to the United Nations; secondly, that Venezuela should renounce her claim or at least leave it in abeyance. He underlined the importance which Her Majesty's Government attached to the peace and prosperity of former colonial territories, e.g., in Africa: this was more important than questions of territorial extension.

Dr. Iribarren said that no parallel could be drawn with an African country; the Essequibo territory formed part of the Venezuelan national heritage and was incorporated in another country; it was as if the county of Gloucester were occupied by a foreign Power.

Mr. Burnham recalled that the Essequibo district is under the sovereignty of Guyana and is so recognised under international law. If Venezuela challenged that position, they must provide evidence to justify their stand. This they had failed to do. It was a source of great concern that a friendly neighbour should appear to have expansionist aims. The Venezuelan Government could not deny that they were a party to the drawing up of the frontier in 1905. He thanked *Dr. Iribarren* for his offer of development assistance, but recalled that Guyana too had her honour and would not yield sovereignty as the price for buying economic development.

Dr. Iribarren expressed his Government's sincere and honest desire to find a solution to the problem which undeniably exists, and which if unresolved could bring to both countries and to the whole of Latin America serious problems. This was not a threat, but merely a grasping of reality.

Dr. Iribarren then put forward another proposal. A mixed commission should be set up to solve the territorial controversy, to formulate plans for collaboration in the development of Essequiban Guyana and British Guiana, and to carry out these plans. If the commission could not reach agreement, they were to refer within three months to one or more mediators and if they failed to reach a satisfactory solution, within a prescribed time limit, they were to have recourse to international arbitration. The Treaty setting up the basis for this arbitration would have to be concluded within 18 months from 1 January, 1966. *Mr. Stewart* promised to look at this proposal and closed the meeting.

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(2)

RECORD OF DISCUSSIONS BETWEEN THE FOREIGN SECRETARY,
THE VENEZUELAN MINISTER FOR FOREIGN AFFAIRS AND
THE PREMIER OF BRITISH GUIANA AT THE FOREIGN OFFICE
ON 10 DECEMBER, 1965

Present:

The Right Hon. Michael Stewart, M.P.	Dr. Ignacio Iribarren Borges
Mr. Forbes Burnham	The Venezuelan Ambassador
The Right Hon. The Lord Walston	Dr. German Nava-Carillo
Mr. S. S. Ramphal	Dr. Adolfo Taylhardat
Mr. L. A. Luckhoo	Dr. Leonardo Diaz-Gonzalez
Sir Geoffrey Meade	General Marcos A. Morin
Mr. W. I. J. Wallace	Father Pablo Ojer
Mr. J. O. Rennie	Father Herman Gonzalez
Mr. R. W. Piper	Dr. Demetrio Broesner
Mr. R. M. K. Slater	Interpreter
Mr. R. H. G. Edmonds	
Mr. A. D. Watts	
Mr. S. W. Martin	
Interpreter	

Mr. Ramphal opened the meeting by recalling the circumstances leading up to the present talks. The Agenda in particular ruled out the question of discussion on the substantive issue of the frontier, and the first question under discussion was the validity of the 1899 Award. Discussion under Item 2 of the Agenda was confined to this question. British Guiana could not accept the Venezuelan contention that the 1899 Award was invalid and the proposal put forward by Dr. Iribarren on the preceding evening was unacceptable, as it envisaged that a mixed commission should concern itself with the substantive issues which had been specifically excluded from the scope of the present discussions arising from the 1962 offer to examine documents.

Mr. Stewart recalled that the two sides had been unable to agree on the question of the 1899 Award's validity. Venezuela had insisted that her position was right, and Her Majesty's Government had stuck to theirs. He wished to look at more constructive ideas under Items 2 and 3 of the Agenda. A mixed commission to stimulate economic development was a good idea, but such development should not be confined to one side of the frontier. It would be better for Venezuela to leave the argument about the Award in abeyance, and allow the parties concerned to concentrate on the task of economic development. He recalled that in Antarctica, a number of nations with conflicting territorial claims had agreed that these should be frozen so that scientific work could go ahead freely and unhampered by political disputes. He read out the terms of Article IV of the Antarctic Treaty. This Treaty had received wide acceptance from a number of countries, among them, Argentina and Chile. They had felt it consistent with their national honour and dignity to leave their territorial claims aside for the time being and agree that these would not be prejudiced in any way by scientific activities. Our suggestion was, therefore, to take the constructive part of the Venezuelan proposal concerning economic development, and to join it with the idea of putting the political problem in suspense. Furthermore, this would preclude Guiana from preferring a claim to the territory which the 1899 Award had given to Venezuela. Clearly it would not be possible to reach final agreement at once, and he therefore suggested that both Venezuela's proposal and his own should be considered, and that discussions should be continued when Lord Walston visited Caracas in January.

After a short break for private discussion *Dr. Iribarren* recalled that Venezuela had come to the conference table to try to find a solution to the

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territorial problem between Venezuela and the United Kingdom over British Guiana's frontier. It was absurd to claim that at the present discussions the parties should merely consider their respective positions, which were already fully known. Secondly, he considered that recourse to the United Nations would be inappropriate. The present conversations had arisen from the United Nations, and it would be no use going back to them again, since they had no powers of decision. It would be more positive to continue conversations and to seek genuine solutions. Thirdly, with reference to the proposal for an Antarctic-type agreement, he could see no connection between Antarctica and the British Guiana frontier problem. Antarctica was not a part of any nation's sovereign territory, while Venezuela's problem with the United Kingdom and British Guiana related to a part of her territory wrongfully occupied by another Power. This could lead to serious frictions between Venezuela, British Guiana and Britain if no satisfactory solution were found. He was surprised that Mr. Stewart should have suggested leaving the political problem aside and giving attention only to the question of development. Venezuela had shown goodwill in entering the discussions: this had been sufficiently demonstrated by the proposals which he had put forward. But goodwill was not to be confused with weakness or doubt. Venezuela would continue to press her claim. Any proposal which did not recognise that Venezuela extended to the River Essequibo would be unacceptable. Lord Walston would be received in Caracas as a welcome guest, but he saw no case for continuing discussions during his visit. His own proposal for a mixed commission provided for finding solutions by a series of conciliatory stages, and if necessary by recourse to arbitration by an impartial international body. Venezuela's willingness to submit to an arbitration tribunal represented a great concession on her part.

Mr. Stewart pointed out that the proposal for a mixed commission differed from his own in that the former envisaged the complete acceptance of the Venezuelan view on the Award's validity, whereas his proposal merely froze claims on both sides, and did not require Venezuela to abandon her position. If the Venezuelan case were accepted it would destroy faith generally in international awards and procedures. What faith could there be in these procedures, if awards could be set aside because of unproven allegations raised many years afterwards? The Antarctic Treaty was relevant, since there, as in British Guiana, a practical job of work had to be done. Collaboration in remedying economic backwardness in British Guiana was in everybody's interest. He regretted that his proposal had been turned down so promptly and without further consideration in Caracas. But if that was the position, we would have to inform the United Nations, in accordance with our obligations, that we had sought solutions in vain. Further discussion there might throw up ideas which would make it easier for us afterwards to resume our search for a satisfactory solution. The serious frictions to which Dr. Iribarren had alluded were an additional reason for keeping the United Nations informed.

Mr. Burnham said it had never been his understanding that the territorial claim would be discussed unless the invalidity of the 1899 Award had first been established. If Venezuela thought that the United Nations were not competent to consider the question, why did she take it there in the first place? He was grateful for the offer of economic help, but he found this inconsistent with the demand for the surrender of five-eighths of British Guiana. There could be no peaceful relations between Venezuela and British Guiana in these circumstances. If talks were to be continued, he would find both London and Caracas unacceptable places.

Dr. Iribarren argued that some arbitral awards could be defective, and the declaration of invalidity of one such award would not undermine the validity of others. Nor was it right to say that Venezuela had doubts about the usefulness of the United Nations. But the United Nations were not a court, and they had no power of decision. The dispute had already gone beyond that stage. He argued the value of his proposal for a mixed commission.

After a further interval, it was decided that the present discussions should be continued in Geneva in the week beginning 13 February, 1966, at Ministerial level. They would continue on the basis of the existing Agenda, but without Item 1 which had already been disposed of. The proposed time and place were accepted by Mr. Burnham. It was also agreed that other proposals, beside those put forward at these meetings, would also be presented and discussed.

The rest of the meeting was devoted to discussion of the joint communiqué (at Annex).

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7

ANNEX

JOINT COMMUNIQUE

In accordance with what had been agreed in the joint communiqué of 7 November, 1963, talks took place in London on 9 and 10 December between the Minister of Foreign Affairs of Venezuela on the one side and the Foreign Secretary of the United Kingdom and the Premier of British Guiana on the other on the basis of the following agenda:

Agenda for the continuation at Ministerial level of governmental conversations concerning the controversy between Venezuela and the United Kingdom over the frontier with British Guiana, in accordance with the joint communiqué of 7 November, 1963

(i) Exchange of views on the experts' report on the examination of documents and discussions of the consequences resulting therefrom. Necessity of resolving the dispute.

(ii) To seek satisfactory solutions for the practical settlement of the controversy which has arisen as a result of the Venezuelan contention that the 1899 Award is null and void.

(iii) Concrete plans for collaboration in the development of British Guiana.

(iv) Determination of time limits for the fulfilment of whatever may be agreed with reference to points 1, 2 and 3 above.

(v) Joint communiqué on the present talks.

2. In addition to considering the experts' reports on the documentary material relating to the Arbitration Award of 1899, the Ministers considered ways and means of putting an end to the controversy which threatens to damage the traditionally cordial relations between Venezuela on the one hand and the United Kingdom and British Guiana on the other.

3. Ideas and proposals for a practical settlement of the controversy were exchanged. It was agreed that some of these should receive further consideration and that the Ministers should continue the present discussions in the week starting 13 February, 1966, at Geneva in order to consider those proposals as well as others that might be suggested under the above agenda. Neither side having been able to accept the conclusions of the experts appointed by the other side, Item I will therefore not be considered. It was further agreed that preparatory talks between officials should start at an early date.

4. The text of this communiqué will be made available to the Secretary-General of the United Nations.

*Foreign Office, London, S.W. 1,
10 December, 1965.*

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Annex 29

Government of the United Kingdom, *Draft Agreement for the Establishment of a Mixed Commission* (14 Jan. 1966)

Confidential

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FOREIGN OFFICE, S.W.1.

14 January, 1966.

Dear Terry,^{12,1}

--- I enclose three copies of a Draft Agreement for the establishment of a Mixed Commission on economic and other co-operation, in which our Antarctic-type solution of the frontier question is included.

2. In forwarding copies to Georgetown, I should be grateful if you could explain that this is very much a first shot and we may well have to make amendments of form and substance in due course. But we are anxious that the British Guiana Government should see it as soon as possible so that we can take account of their comments and suggestions. We hope they will let us have these as soon as possible.

3. I am sending a copy of this letter to Brinson in Caracas, with enclosure.

Yours ever,

Selby

(S. W. Martin)
American DepartmentT. M. Jenkins, Esq.,
Colonial Office.

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E/36

Registry
No.

Top Secret.
Secret.
~~Confidential~~
Restricted.
Open.

Insert Telephone No. & Ext.
when appropriate.

Draft. Agreement

NOTHING TO BE WRITTEN IN THIS MARGIN.

The Government of the United Kingdom of Great Britain and Northern Ireland, in consultation with the Government of British Guiana, and the Government of Venezuela,

Taking into account the forthcoming independence of British Guiana,

Recognising the need to assist British Guiana in the development of her economy as quickly as possible, and the important part which her relations with neighbouring Venezuela could play in this respect,

Recognising also that closer co-operation in economic and other fields between British Guiana and Venezuela could bring benefit to both countries,

Convinced that any outstanding political problems between the United Kingdom and British Guiana on the one hand and Venezuela on the other would prejudice the furtherance of such co-operation and should therefore be amicably resolved in a manner acceptable to both parties,

Have agreed as follows:-

Article I

A Mixed Commission shall be appointed at an early date to examine relations between British Guiana and Venezuela in accordance with Article III of this Agreement.

/Article II

Article II

Within two months of the entry into force of this Agreement, two representatives of the Mixed Commission shall be appointed, one by the Government of the United Kingdom and two by the Government of Venezuela.

Until the occurrence of the event referred to in paragraph (2) of Article VI of this Agreement, one of the two representatives appointed by the Government of the United Kingdom shall be a nominee of the

Government of British Guiana: upon the occurrence of that event each of those two representatives shall be reappointed or replaced by the Government of British Guiana.

1. The Government appointing a representative may at any time replace him, and shall do so immediately should its representative be unable to act through illness or death or any other cause.

2. The Mixed Commission may by agreement engage the representatives co-opt experts to assist the Mixed Commission, either generally or in relation to any individual matter under consideration by the Mixed Commission.

Article III

The Mixed Commission shall consider the following aspects of relations between Venezuela and British Guiana:-

- (1) Collaboration in the development of British Guiana and Eastern Venezuela including exploration, surveys, and joint participation in exploitation, with particular reference to the British Guiana

/Development

NOTHING TO BE WRITTEN IN THIS MARGIN.

NOTHING TO BE WRITTEN IN THIS MARGIN

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Development Plan 1966/72 and the
Venezuelan Development Plan 1966/72.

- (b) The possibilities of extending present contacts between the two countries so as to secure greater co-operation in other fields, such as

- (a) Trade;
- (b) Communications;
- (c) Educational, cultural and other exchanges;
- (d) Diplomatic and consular relations.

Article IV

The Mixed Commission shall hold its first meeting at a date and place to be agreed between the Governments of the United Kingdom, British Guiana and Venezuela: this meeting shall take place as soon as possible after its members have been appointed. Thereafter the Mixed Commission shall meet as and when agreed between the representatives.

Article V

1. In order to facilitate the greatest possible measure of co-operation and mutual understanding, the Governments of the United Kingdom, British Guiana and Venezuela agree that nothing contained in the present agreement shall be interpreted as:-

- (a) A renunciation by the United Kingdom, British Guiana or Venezuela of previously asserted rights or or claims to territorial sovereignty in the territory of Venezuela and British Guiana.

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/ (5)

(b) - renunciation or diminution by the United Kingdom, British Guiana or Venezuela of any basis of claim to territorial sovereignty in that territory;

(c) - prejudicing the position of the United Kingdom, British Guiana or Venezuela as regards its recognition or non-recognition of either of the others' right of claim to territorial sovereignty in that territory.

2. No acts or activities taking place while the present Agreement is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in the territory of Venezuela or British Guiana or create any rights of sovereignty in that territory. No new claim, or extension of an existing claim, to territorial sovereignty in that territory shall be asserted while the present Agreement is in force.

Article VI

1. The present Agreement shall remain in force for 30 years, and shall continue thereafter unless, after the expiring of 30 years, either Party gives written notice of termination to the other; such termination shall take effect one year after such notice has been given.

2. On the attainment of independence by British Guiana, the rights and obligations of the Government of the United Kingdom under this Agreement shall be assumed by the Government of British Guiana, which shall thereupon be a Party to the Agreement in place

NOTHING TO BE WRITTEN IN THIS MARGIN

CONFIDENTIAL

place of the Government of the United
Kingdom.

Article VII

The Present Agreement shall come into
force on the date of signature.

IN WITNESS WHEREOF, THE UNDERSIGNED
PLENIPOTENTIARIES, DULY AUTHORISED, HAVE
SIGNED THE PRESENT TREATY.

DONE AT THIS
DAY OF ONE THOUSAND
NINE HUNDRED AND SIXTY-SIX.

For the Government of the United Kingdom ..

.....(a)(United Kingdom).

(b)(British Guiana)

For the Government of Venezuela

.....

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NOTHING TO BE WRITTEN IN THIS MARGIN

Annex 30

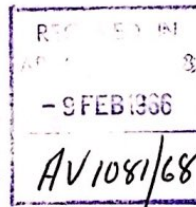
Telegram from the Governor of British Guiana to the Secretary of State for the Colonies of the United Kingdom, No. 93A (3 Feb. 1966)

CONFIDENTIAL*Buter*INWARD TELEGRAMTO THE SECRETARY OF STATE FOR THE COLONIESFROM BRITISH GUIANA (Sir R. Luyt)

Cypher

D. 3rd February 1966
R. 4th " " "

11.15 hrs.

PRIORITY
CONFIDENTIAL
No. 93A

Following for Piper.

Venezuelan Boundary.

The Foreign Office draft agreement for the establishment of mixed commission incorporating the Antarctic concept of freezing territorial claims which it is proposed to make available for presentation at the forthcoming Geneva talks, was given to Ramphal who, for practical purposes, is now in charge of Department of External Affairs. Ramphal was requested to invite the Government to comment on the draft and to consider what fall-back position might be adopted if, as seemed probable the Venezuelans turned down the Antarctic proposal. It was suggested to Ramphal that the inclusion of the second item on the agenda of the Ministerial talks in December as an additional paragraph in Article 3 of the draft agreement might go some way towards satisfying the Venezuelans' demand for machinery to continue the search for solutions to the "political controversy".

2. I have been informed today, 3rd February, that this Government concurs with the proposal that a draft agreement to implement an "Antarctic type" solution should be available for presentation at the conference and, subject to the following qualifications, considers that the Foreign Office draft is suitable for this purpose.

3. Preamble. For the words "political problems" in the final paragraph of the preamble substitute the word "controversy". My Government considers that this word (already agreed in the context of item 2 of the agenda) is more apt to describe the difference of view between Venezuela and British Guiana than the expression "political problems".

4. Article 2. Assuming that the agreement is signed in Geneva in mid-February the mixed commission must be appointed not later than mid-April, 1966. This is approximately only six weeks before Guyana's independence, and it is perhaps unlikely that the commission will do any work within that period. Nevertheless, an arrangement under which during the period of six weeks, there will be only one British Guiana representative on a commission of four will not be satisfactory. This government

/is

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is particularly concerned lest it leaves itself open to criticism that for the initial period of six weeks it is possible for proposals to be put to the commission by the United Kingdom Representative without this Government's concurrence and for the United Kingdom Representative, also without such concurrence, to record his agreement with proposals put forward by the Venezuelan representatives. While this Government expects it to be the case, as in the discussions with the Venezuelan Foreign Minister, that the United Kingdom and British Guiana representatives will only act in accordance with a joint brief, it considers it to be necessary to be able to answer the criticism that it has concurred in arrangements which leave British Guiana in a minority position prior to independence. It is proposed, therefore, that there should be an exchange of letters between the British Government and this Government to be signed contemporaneously with the agreement in which the British Government will acknowledge that prior to Guyana's independence no proposal will be advanced before the mixed commission by the British Government's representative and no stand will be taken by him with respect to Venezuelan proposal except with concurrence of the British Guiana Government or the British Guiana representative. This undertaking should be mentioned at the conference and it should be agreed that the British Guiana Government may publish or refer publicly to the exchange of letters when giving publicity to the agreement.

5. Article 3. In paragraph (a), delete -

- (i) the word "Eastern" in the second line;
- (ii) the words "including exploration, surveys, and joint participation in exploitation" in the third, fourth and fifth lines.

As indicated at the London meeting the British Guiana Government does not wish to isolate the area claimed by Venezuela as the area in British Guiana to be developed. This has been taken into account in the drafting of paragraph (a) but we feel that reference to "Eastern Venezuela" in the paragraph might be likely to lead to a proposal by Venezuelans for corresponding reference to Guyana Essequibo. It seems better in all the circumstances to make a joint reference to the development of both countries and leave it to the commission to put up proposals for development of specific areas. In addition, it is considered that the words "including exploration, surveys, and joint participation in exploitation" of the area carries connotations of joint ownership or control which it is considered it is important to avoid. These latter words are also likely to create political difficulties here and expose the Government to criticism on the ground that it contemplated a surrender of sovereignty - even though a literal interpretation of the words does not justify this criticism. Paragraph (a) loses nothing by the omission of the words and this Government wishes to see them deleted.

/6.

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CONFIDENTIALINWARD TELEGRAMTO THE SECRETARY OF STATE FOR THE COLONIES

6. A fall-back position. This Government recognises the value of having in reserve a fall-back position to meet a Venezuelan contention that the mixed commission does not provide machinery for continuing the search for solutions to the "political controversy". It is not considered that it should go further in this regard than agreeing to an inclusion in Article 3 of an additional paragraph, perhaps numbered (a) (with consequential re-numbering), in the following terms -

"(a) The search for satisfactory solution for the practical settlement of the controversy which has arisen as a result of the Venezuelan contention that the 1899 award is null and void."

It will be recognised that this paragraph is in terms of item 2 of the agenda and this Government believes that it should satisfy Venezuela's demand in that it provides machinery for a continuation of the discussions on the political question in terms identical to those in which that question was formulated for the purposes of the tripartite meeting itself. Further consideration is being given to the desirability of overcoming Venezuelan resistance to the agreement by a modification of Article VI with a view to either reducing the period of moratorium or departing altogether from the concept of a fixed period. The British Guiana Government naturally favours the former of these two alternatives, but wishes to give further consideration to the question.

7. The Prime Minister has enquired whether there is any truth in press report that the Venezuelans will only be sending their second 11 to Geneva. He made it clear that he would not attend a meeting unless the Venezuelans fielded their first team. I have told him I feel sure the press report, the provenance of which I cannot at present discover, is inaccurate, but I should be grateful for your confirmation.

Copy sent to:-

Foreign Office - Mr. S. Martin

CONFIDENTIAL

Annex 31

Minister of Foreign Affairs of Venezuela, Minister of Foreign Affairs of the United Kingdom, and Prime Minister of British Guiana, *Joint Statement on the Ministerial Conversations from Geneva on 16 and 17 February 1966* (17 Feb. 1966) reprinted in Republic of Venezuela, Ministry of Foreign Affairs, *Claim of Guyana Esequiba: Documents 1962-1981* (1981)

REPUBLIC OF VENEZUELA
MINISTRY OF FOREIGN AFFAIRS



CLAIM
OF
GUAYANA ESEQUIBA

DOCUMENTS

1962 – 1981

CARACAS, 1981

p72

JOINT STATEMENT ON THE MINISTERIAL CONVERSATIONS FROM GENEVA ON 16 AND 17 FEBRUARY 1966, BETWEEN DR. IGNACIO IRIBARREN BORGES, MINISTER OF FOREIGN AFFAIRS OF VENEZUELA AND THE HON. MICHAEL STEWART, MINISTER OF FOREIGN AFFAIRS OF UNITED KINGDOM, AND THE HON. L. FORBES S. BURNHAM, PRIME MINISTER OF BRITISH GUIANA.

In accordance with everything agreed upon in the Join Statement from 10 December 1965, conversation have taken place in the Palace of the United Nations in Geneva during the 16 and 17 February between the Minister of Foreign Affairs of Venezuela, on the one hand, the Secretary of State for Foreign Affairs of United Kingdom and the Prime Minister of British Guiana, on the other, in order to continue at a ministerial level the governmental discussions on the relations between Venezuela and British Guiana.

An exchange of views and suggestions took place for the practical solution of the pending issues. These discussions were of a friendly nature and showcased the understanding which has always been characteristic of the relations between the participating Governments.

As a consequence of the deliberations an agreement was reached whose stipulations will enable a definitive solution for these problems. The Governments have agreed to submit the text of the agreement to the Secretary General of the United Nations.

The agreement has been welcomed by the Ministers of the three countries since it provides the means to resolve the dispute which was harming relations between two neighbours and contains a basis of good will for future cooperation between Venezuela and British Guiana.

Geneva, 17 February 1966.

REPUBLICA DE VENEZUELA
MINISTERIO DE RELACIONES EXTERIORES



**RECLAMACION
DE LA
GUAYANA ESEQUIBA**

DOCUMENTOS

1962 - 1981

CARACAS, 1981

COMUNICADO CONJUNTO SOBRE LAS CONVERSACIONES MINISTERIALES CELEBRADAS EN GINEBRA EL 16 Y 17 DE FEBRERO DE 1966, ENTRE EL DR. IGNACIO IRIBARREN BORGES, MINISTRO DE RELACIONES EXTERIORES DE VENEZUELA, EL HON. MICHAEL STEWART, MINISTRO DE RELACIONES EXTERIORES DEL REINO UNIDO, Y EL HON. L. FORBES S. BURNHAM, PRIMER MINISTRO DE GUAYANA BRITANICA.

De conformidad con lo acordado en el Comunicado Conjunto del 10 de diciembre de 1965, se han celebrado conversaciones en el Palacio de las Naciones, en Ginebra, los días 16 y 17 de febrero entre el Ministro de Relaciones Exteriores de Venezuela, por una parte, y el Secretario de Estado para Asuntos Extranjeros del Reino Unido y el Primer Ministro de la Guayana Británica, por la otra, para continuar a nivel ministerial las conversaciones gubernativas sobre las relaciones entre Venezuela y Guayana Británica.

Se procedió al intercambio de ideas y propuestas para el arreglo práctico de los problemas pendientes. Estas conversaciones se realizaron con el espíritu de cordialidad y comprensión que caracteriza las relaciones entre los Gobiernos participantes en ellas.

Como consecuencia de las deliberaciones se suscribió un acuerdo cuyas estipulaciones permitirán llegar a la solución definitiva de estos problemas.

Los Gobiernos han convenido en elevar el texto de dicho acuerdo al conocimiento del Secretario General de las Naciones Unidas.

El acuerdo ha sido bien acogido por los Ministros de los tres Gobiernos en cuanto provee los medios de resolver una disputa, que amenazaba dañar las relaciones entre dos vecinos y contiene las bases de buena voluntad para la futura cooperación de Venezuela y Guyana.

Ginebra, 17 de febrero de 1966.

Annex 32

Note Verbale from the Foreign Secretary of the United Kingdom to the U.K. Ambassador to Venezuela, No. AV 1081/116 (25 Feb. 1966)

CONFIDENTIAL

No. 12

FOREIGN OFFICE, S.W.1.

(AV 1081/116)

25 February 1966.

Sir,

You will have seen a copy of the text of the Agreement signed by the Venezuelan Foreign Minister, the Prime Minister of British Guiana and myself in Geneva on the 17th of February, regarding the controversy over the validity of the Arbitral Award of 1899 which determined the frontier between British Guiana and Venezuela. The signing of this Agreement, shortly before midnight, was the outcome of two days' continuous discussion. Technically, the Geneva meeting constituted the second round of the talks adjourned in London on the 10th of December, 1965, which in turn stemmed from the Joint Communiqué issued on the 7th of November, 1963 at the conclusion of talks between the then Venezuelan Foreign Minister, Dr. Marcos Falcón Briceño, and Mr. Butler.

2. The meetings in December and February differed markedly. At the first, much time was spent discussing the mutually contradictory reports prepared by the experts appointed by the three Governments to study the documentary material relating to the 1899 Award. Neither side having been able to accept the conclusions of the other, this item was excluded from the agenda at the Geneva meeting. In London all meetings were formal and every word had to be translated by an interpreter: in Geneva, except for the opening and closing sessions, all meetings were informal and conducted in English. Whereas in December the Venezuela delegation consisted of officials and had little latitude for negotiation, at Geneva

/included

His Excellency,
Sir Anthony Lincoln, K.C.M.G., C.V.O.,
etc., etc., etc.,
CARIBBEAN.

CONFIDENTIAL

included members of all parties represented in the Venezuelan Congress. Although their presence made proceedings cumbersome, it had the advantage that the Minister of Foreign Affairs was able to inform and consult them at every stage. Finally, it became clear at an early stage that the Foreign Minister had instructions to work for an agreement of some kind.

3. The difficulties remained formidable. Neither side could afford to yield an inch on its legal position. The essential question, therefore, was whether a basis of agreement could be found which would satisfy Venezuelan opinion without committing the United Kingdom and British Guiana to a concession of substance. The best way of squaring the circle seemed to be to include in the Agreement provisions similar to those used in Article IV of the 1959 Antarctic Treaty, whereby the legal position as to territorial rights and claims was frozen for thirty years.

4. At the opening plenary meeting, the Minister of Foreign Affairs began by restating his case at some length and then asked me whether I had considered comments to offer on the proposals which he had put forward in London or any new proposals for solving the controversy. As he refused to show his hand further, I circulated to the meeting the text of the United Kingdom draft agreement (Annex 3 to the delegation's brief, a copy of which was sent to Your Excellency on the 14th of February), incorporating an article freezing rights and claims. The plenary session ended after Mr. Burnham had restated the Guianese case, recalling the circumstances of the 1897 Treaty, the 1899 Award and the demarcation of the frontier in 1905, and illustrated his points with contemporary quotations.

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5. At the informal meetings which followed discussion centred on the idea of a Mixed Commission first put forward by Dr. Iribarren in London last December. The Venezuelans wished to use this Commission as an avenue leading ultimately to settlement of the controversy either by a fresh arbitration or by mediation. Towards the end of the day we seemed to be heading for deadlock. As a way out I suggested to Mr. Burnham that there should be agreement to refer the controversy, after a period of years, to the International Court of Justice, but he argued vigorously against this. By the time we adjourned for dinner, therefore, we had reached the point where it seemed inevitable that we should again suggest to the Venezuelans that the matter should be referred back to the United Nations. This would have created a most serious situation. Admittedly, the Venezuelans would have been gravely embarrassed as the Afro-Asian majority in the General Assembly is well disposed towards Mr. Burnham. On the other hand, the Venezuelans were in a position to do great harm to the very important British Commercial interests in their country. After rapid lobbying of the Venezuelan Ambassador and consultation with my Guianese colleagues, I decided to modify the proposed recourse to the United Nations by suggesting that if the Mixed Commission could not settle the controversy, in the first instance the two Governments should seek to agree among themselves which of the means of settling disputes peacefully under Article 33 of the United Nations Charter should be applied to this controversy, and, failing agreement, the United Nations should be asked to choose a means for them. (By good fortune, it had been the Venezuelans themselves who had introduced the idea of Article 33 into one of the drafts which they had put

/forward

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forward during the afternoon). When I put the Article 33 proposal to the Venezuelan Foreign Minister at our session after dinner, he asked to consider it overnight before giving me his reply. That evening the Venezuelan Government was asked for fresh instructions. This was the turning point of the meeting.

6. The 17th of February was spent in discussing formulae based on my proposal. The first problem was to decide to whom the Governments of Venezuela and British Guiana were to refer if they themselves were unable to decide which of the methods provided in Article 33 they should adopt. In the formula finally agreed in Article IV of the Agreement ("an appropriate international organ", or, failing that, the Secretary General of the United Nations) we suggested the first and the Venezuelans the second alternative. My suggested term for the Mixed Commission the previous evening had been ten years: this was reduced by bargaining to four, during which no claim of any kind may be asserted by any party to the Agreement except within the Commission itself. The Venezuelans were anxious to avoid any freezing clause which followed closely the wording of Article IV of the Antarctic Treaty. In the end, however, Article V of the Geneva Agreement, while superficially different, is the same in substance. The Venezuelans also tried hard to get the preamble to the Agreement to reflect their fundamental position: first, that we were discussing the substantive issue of the frontier and not merely the validity of the 1899 Award, and secondly, that this had been the basis for our talks both in London and in Geneva. With some difficulty I persuaded the Venezuelan Foreign Minister to accept a compromise wording which reflected the known positions of both sides.

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7. At the end of the final meeting the Venezuelan Foreign Minister, Mr. Burnham and I each expressed our satisfaction with the Agreement. Dr. Iribarren drew attention at the end of his concluding statement to the presence in his delegation of representatives of every political grouping, including independents, and stressed their support of the Agreement. I note that this statement was subsequently handed out to the press and reproduced in Venezuelan newspapers of the 18th of February.

8. Legally, the Geneva Agreement has not prejudiced the position of either side: we and the Guyanese continue to regard the 1899 Award as valid, while in Venezuelan eyes it is null and void. Politically, it is an honourable compromise. Venezuela can now look forward to a definitive settlement of the controversy some time in the 1970s. British Guiana is not committed to any particular means of settlement provided for under Article 33; and meanwhile the threat to some two-thirds of her territory posed by the Venezuelan claim has been dispelled. I hope that the Mixed Commission will not simply be a time-wasting device and that it will carry out constructive work, not necessarily confined to the political field. If it does, the Agreement will have paved the way for a friendly and lasting relationship between Venezuela and independent Guyana. As for the United Kingdom, I trust that the Agreement will have averted the grave damage to which our large interests in Venezuela would have been exposed if the Geneva meeting had ended in deadlock.

9. I should be grateful if the Governor of British Guiana would be good enough to convey to Mr. Burnham and Mr. Ramphal my thanks for their help, which played an important part in concluding this Agreement. On the Venezuelan side special mention must be made of

/Dr.

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Dr. Hector Santaella, Ambassador in London, a skilful negotiator who worked hard for agreement throughout.

10. I am sending a copy of this despatch to Her Majesty's Ambassador in Washington, the Permanent Representative at the United Nations and to the Governor of British Guiana.

I am, with great truth and respect,
Sir,
Your Excellency's obedient Servant,
(For the Secretary of State)

CONFIDENTIALFROM FOREIGN OFFICE TO CARACAS

Cypher/OTF and By Bag

DEPARTMENTAL DISTRIBUTIONNo. 61

D. 16.08 7 February, 1966

7 February, 1966

IMMEDIATECONFIDENTIALAddressed to Caracas telegram No. 61 of 7 February.

Repeated for information to: Governor British Guiana

And Saving to: Washington No. 470

Your telegrams Nos. 38 and 39 [of 4 February: British Guiana frontier].

In your written reply to the Venezuelan aide-mémoire you should inform the Foreign Minister as follows: Lord Walston has been mis-reported. Neither he nor any representative of Her Majesty's Government has made the statement quoted in the first paragraph of the aide-mémoire. So far as Her Majesty's Government are concerned, the agenda for the meeting remains exactly as agreed in the joint communiqué of 10 December 1965.

2. You should add orally that I am looking forward to meeting Dr. Iribarren and the Prime Minister of British Guiana next week as arranged. At your discretion you may also draw the Foreign Minister's attention to the mis-quotation in paragraph 4 of his aide-mémoire.

3. Please do not deliver reply to M.F.A. until we can confirm that British Guiana Government have no comments. Governor has been asked to reply by 09.00 hours London time 8 February.

4. You may make the terms of your reply public.

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Annex 33

Statement by Dr. I. Iribarren Borges, Minister of Foreign Affairs of Venezuela, to the National Congress of Venezuela (17 Mar. 1966), *reprinted in* Republic of Venezuela, Ministry of Foreign Affairs, *Claim of Guyana Esequiba: Documents 1962-1981* (1981)

REPUBLIC OF VENEZUELA
MINISTRY OF FOREIGN AFFAIRS



CLAIM
OF
GUAYANA ESEQUIBA

DOCUMENTS

1962 – 1981

CARACAS, 1981

p77-101

STATEMENT TO THE NATIONAL CONGRESS BY DR IGNACIO IRIBARREN BORGES, MINISTER OF FOREIGN AFFAIRS ON THE GENEVA AGREEMENT, 17 MARCH 1966.

BILL RATIFYING THE GENEVA AGREEMENT

President of the National Congress

Vice-President of the National Congress

Congress attendees:

It is an honour and a privilege for me to have been offered this opportunity to address the Sovereign Congress of the Republic on the important issue that I will set out.

I have divided my presentation into two parts:

1. Procedures previous to the Geneva Agreement.
2. The Geneva Agreement.

PROCEDURES PREVIOUS TO THE GENEVA AGREEMENT

Unilateral rejection of the Award.

The attitude of the Government and the people of Venezuela before the Arbitral Award from 3 October 1899 which claimed to mark the borderline between our country and British Guiana should not come as news to you.

After learning of the flaws in both form and content which affected that decision, the Venezuelan Chancellery came to the conclusion that it could legally invoke its invalidity. The painful political, economic and military circumstances our country was going through at the time stopped our National Government from taking their categorical rejection any further.

After the darkness of the colonial era, hope was rekindled such that one day the injustice we had been suffering would be rectified.

For several years that hope seeped into the declarations of our Venezuelan State, each time more categorical and clearer than before with respect to that Arbitral Award. Nonetheless, however solid and convincing the Venezuelan argument was, United Kingdom still would not enter negotiations whose aim would be the revision of the Award which they considered intangible.

Beginnings of bilateral negotiations

We maintained the unilateral nature of our claim until in November 1962, my predecessor in the Chancellery, Dr Marcos Falcón Briceño, after presenting our thesis in detail before the Special Political Committee at the General Assembly of the United Nations, managed to come to an agreement with Great Britain to carry out a tripartite examination of the documentation related to the issue. This Agreement

was noted in the Declaration of the President of the Special Political Committee on 16 November that same year.

The transcendental value of the agreement is undeniable as it represents the starting point of a long bilateral process which will unfailingly lead to the revision of the so-called Award of 1899.

However, it is important to stop and observe the British position at the point at which it agreed to treat with Venezuela on this question.

The Representative of the United Kingdom, C. T. Crowe, after trying to refute the views of the Venezuelan Chancellor, said the following:

“I hope I have convinced the members of the Committee that if international law and freely concluded agreements are to be respected, then the borderline issue between British Guiana and Venezuela should not have been brought for consideration at the United Nations”.

After referring to the examination the British experts had carried out on the documentation related to the issue which in their opinion led to conclusion that the question could not be reopened, he then concluded:

“Therefore, I have been authorised to say that my Government, fully endorsed by the Government of British Guiana, is willing to deal with the Government of Venezuela through our respective diplomatic channels, the arrangements for a tripartite examination, i.e. Venezuela, British Guiana and United Kingdom, on the extensive documentation pertinent to this question”.

The British offer was accepted by Venezuela and it led to an agreement on the examination of the documentation relating to the so-called Award of 1899.

One might wonder why Venezuela accepted the participation of the Government of British Guiana in the discussions, the latter not yet being independent.

It must be observed that the conversations were to take place between Venezuela and United Kingdom in consultation with British Guiana and therefore the participation of the Government of Georgetown would not be equivalent to that of the two sovereign countries as the subjects of the dispute. On the other hand, our Government, given its unwavering anticolonial position always favoured the presence of the colony in those discussions affecting its territorial area. Our diplomacy was playing a clean game and so they had nothing to fear from representatives of the colony. When diplomats turn to shady deals they try to carry them out, as Venezuela itself suffered and sadly experienced through the Arbitral Award of 1899, behind people’s backs, whether free or dependent.

I want to highlight the fact that since 1962 (that is since the very beginning of the diplomatic process leading to the Geneva Agreement) these conversations have had a tripartite character in the way I explained in the previous paragraph.

Before getting ahead, it is useful to remember that the concluded agreement in the Headquarters of the United Nations in 1962 aimed at the examination of the documentation even though Great Britain did not

accept the examination of the essence of the problem: the revision of the decision of the Tribunal from 1899. Mr Crowe referred to this very clearly in the intervention already mentioned:

“By extending this offer, I also want to make it clear that it is not an offer to start having discussions on the basis of the borderline revision. This cannot be done since we consider it unjustifiable”.

I conclude by saying that since said agreement did not specify the level at which the conversations were to take place, United Kingdom tried to belittle it. The Venezuelan Government insisted on taking this negotiation to the highest level of government in order to achieve the revision of the Tribunal’s decision.

In order to meet these goals it was deemed necessary to break the obvious reluctance of the British Government. In March 1963 Great Britain tried to have these conversations at an academic level among experts but Venezuela expressed clearly that it would not enter conversations unless United Kingdom would commit beforehand to discussing the question at a ministerial level, much against all those who thought this would be impossible. Venezuela kept adding pressure until the United Kingdom accepted that discussions were to be split into two stages: first at an expert level and second at a high ministerial level.

Great Britain could no longer doubt the firmness of the Venezuelan claim. The President of the Republic, Mr. Rómulo Betancourt, in his message to the National Congress, on 12 March 1962, declared:

“The disagreement between a weak Venezuela and an arrogant Albion from the Victorian era was resolved through an award - iniquitous and unacceptable, and always rejected by Venezuela, produced by a political tribunal and not a legal one, through a decision on 3 October 1899. Venezuela has never, nor will it ever, admit that such a large portion of its legitimate territory stop being part of its geography”.

First Conference in London

The first meeting between Ministers took place in London in November 1963. The Venezuelan and British delegations were led by Dr. Marcos Falcón Briceño and Hon. R. A. Butler, respectively. Governor Sir Ralph Grey was the representative of British Guiana. On that occasion Venezuela took the discussion to the heart of the issue by presenting its point of view in an Aide-Memoire, dated 5 November in which after summing up the arguments for Venezuela’s rejection of the Award of 1899, finishes with the following categorical position:

“Historical truth and justice demand Venezuela claim the total return of the land of which it was dispossessed, to this end it counts on the good will and cooperation of the Government of Her Majesty.”.

On the part of Great Britain, they reiterated their criteria already mentioned by their Representative Mr. C. T. Crowe rejecting the Venezuelan arguments and considering the Award of 1899 untouchable and as a “full, final and definitive arrangement”. These two positions have been running in parallel throughout the current negotiation up until the opening session of the Geneva Conference.

Some progress for Venezuela can be seen in the aforementioned meeting in London in November 1963, according to the Joint Statement. In effect, after referring to the reports that the experts were to present

to their respective Governments, it states: “These reports will be used as a basis for future discussions between Governments”. That led us to believe that future discussions would deal with the fundamental issue at a governmental level.

Venezuela was eager to reclaim its legitimate territory and that can be heard in the words of the then President of the Republic, Mr. Rómulo Betancourt, who in his message to the National Congress, on 7 March 1964, taking into account the conversations that took place in London, said:

“The negotiations have resumed in order to right the wrong and repair the injustice Venezuela suffered from and they must continue. The result should be the return of the territory which both historically and legally never stopped being Venezuelan. This claim by Venezuela over an area which is legitimately ours does not impede in any way the aspiration of independence of British Guiana, which we hereby fully endorse given our proud anticolonial position dating back to the day when this Nation came out as Sovereign shaking off its foreign tutelage”.

When the first phase of the discussions between the British and Venezuelan experts was over, with the participation of British Guiana, during the first half of 1964 and once the reports were exchanged on 3 August 1965, the negotiations moved towards the Ministerial meeting which took place in December 1965 in London.

During that period, the Chancellery reiterated on several occasions its arguments on the nullity of said Award from 1899, highlighting that there was a disagreement which threatened the relations of Great Britain and Venezuela, and further added that the Ministerial conversations had to tackle the fundamental issue. However, in several declarations of the Prime Ministers of British Guiana, Mr. Jagan and Mr. Burnham were not willing to discuss the line of the Award as they did not recognize the border conflict since they considered it resolved in 1899. The Venezuelan Chancellery, consistent with its claim over Guayana Esequiba, protested some alleged concessions by the Government of British Guiana for oil drilling in the territory west of the Essequibo River.

Consistent with the Venezuelan position with respect to the nullity of the Award from 1899, the Chancellery took several initiatives, among which was the editing of the map of the Republic with an indication to the “Zone under Claim” [*Zona en Reclamación*] and the issuing of postage stamps referring to this issue.

These measures were contested by the British Government which kept reiterating its position over the untouchable nature of the Award. As a result, in a note dated 4 March 1965, with reference to that map, they said:

“The embassy has been instructed to state that the Government of Her Majesty cannot accept the borderline marking of the Venezuelan Government or any other object which might dispute the Sovereignty of the Government of Her Majesty over said area of British Guiana. Her Majesty’s Government has no doubts over its sovereignty over this territory and it reserves its rights on this matter”.

In response, we reaffirmed the criteria through which “the map in question, published by the *Dirección de Cartografía Nacional* [National Cartography Agency] from the Ministry of Public Works is no other than a graphic expression of all our reiterated declarations which have been formulated publicly by the Venezuelan Chancellery and which are well known by the British Government since we deem the award from 3 October 1899 void and, therefore, Venezuela reserves its rights over the territory Guayana Esequiba of which it was unjustly dispossessed.

The British position just before the exchange of the experts’ reports, i. e. on 2 August 1965, was made clear to the Parliament by Mr. Padley, Parliamentary Secretary of the Foreign Office:

“The frontier between Venezuela and British Guiana was settled by an Arbitration Tribunal in 1899, in accordance with the terms of a Treaty signed in 1897 between the United Kingdom and Venezuela. Under Article XIII of this Treaty, both sides undertook to accept the Tribunal's Award as a ‘full, perfect and final settlement’. The Venezuelan Government allege that the 1899 Award is invalid and in May, 1962, they informed Her Majesty's Government of their intention to claim part of British Guiana. When the question was raised at the United Nations later that year, the United Kingdom representative, while insisting that the matter was *res judicata*, offered to arrange for an examination of documentary material relating to the Award in order to satisfy the Venezuelans that they had not been the victims of injustice. This examination of documents has now been completed and the results are to be reviewed by the Governments. It remains the position of Her Majesty's Government that the whole question was settled once and for all by the Arbitration Tribunal in 1899. This is also the position of the Government of British Guiana.”.

The exchange of the experts’ reports took place on 3 October 1965. After presenting the Venezuelan report to the British Government, the Ambassador in London expressed his satisfaction on the “fruitful end of the technical studies” and in a note from 7 September, he also expressed the unwavering and traditional position of Venezuela:

“The Venezuelan position with respect to the issue has been made very clear. Venezuela has declared that it does not recognize the Arbitral Award of 1899 as a final and definitive arrangement on the issue with United Kingdom and presented the Honourable Government of Her Majesty the desire to reconsider the rectification of the injustice from which the Venezuelan people have suffered, at the most unfortunate time which our people cannot forget and we hope to achieve a solution which takes into account the legitimate interests of our country and those of the people of British Guiana”.

The British Government replied to this note to the note from 3 August and they reaffirmed once again the initial position they had adopted in 1962 by reproducing the words of its Representative at the Special Political Committee, previously mentioned, saying that the suggestion for the examination of the documentation “was not an offer to enter into discussions about the basis of the borderline revision” but “to clear any doubts that the Venezuelan Government could still have about the validity or justice of the Arbitral Award”.

It was evident that Great Britain was reluctant to enter discussions regarding the fundamental issue of such a serious topic. They seemingly kept describing the Venezuelan claim as unfounded and they were

only willing to engage in an academic discussion which would not be conducive to an arrangement over the old issue. It was necessary for me to address, under the instructions of the President of the Republic, Dr. Raúl Leoni, my country through both a radio station and TV on 16 September 1965 to declare categorically that “if Venezuela undertook the diplomatic way, it was not with the intention of being satisfied with an academic discussion”. Furthermore, “Our Government would not be a serious one if we just entertained the sterile academic debate gravitating around semantics of old texts instead of looking into this matter as a transcendental one as it is the usurpation of 150,000 square kilometres of national territory”.

Our position was made clear then. We would not go to a Ministerial conference to deal with discussions which would not tackle the basis of the problem: the revision of the Award of 1899.

The independence of British Guiana

Before continuing on this topic, explaining the conflicting views of the United Kingdom and Venezuela over this dispute, I must refer to the fact, in many ways a happy one, of the coming independence of British Guiana.

For a long time, the Chancellery had been warning against the immediacy of this event if preparations were not taken for the internal and external order of that affected colony. It was clearly evident that our traditional claim had to be renewed with strength as the date neared, since it was our intention to make it very clear that our issue with United Kingdom, cause of the borderline issue, would not come to an end through the independence of British Guiana but through a satisfactory solution for Venezuela. In this respect, the Chancellery has issued clear statements related to the territorial issue.

We have, time after time, repeated the principle through which any change in status in the colony British Guiana will not affect Venezuela’s territorial claim.

Furthermore, at the initiative of Venezuela, and some other countries, the following words were included in the Washington Act, passed by the First Extraordinary American Conference celebrated in December 1964:

“The Council of the Organization will not make any decisions on an application for admission submitted by a political entity whose territory is subject, whether totally or partially and before the date of this resolution, to litigation or a claim between an extra-continental country and one or more Member States of the American States up until an end is put to the issue through a peaceful procedure”.

We have also upheld the principle that our Guyanese issue entails a problem of a territory being occupied by an external power, breaching paragraph 6 of resolution 1514 (XV) of the United Nations:

“Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations”.

To this end, I formulated an explicit declaration before the United Nations on 6 October 1965:

“These territories cannot escape the corrective action of history. We must insist, as it has been done before in the solutions reached by the Interamerican conferences, in the distinction between colonies and occupied territories. The former must obtain their independence through the application of the application of the principle of self-determination. However, the latter, those colonial territories which have been stolen from other States have no other way to decolonize than the reintegration back into the State of which it was part. Not to make this distinction would admit that one could distort the principle of self-determination in order to enshrine a factual situation in ignorance of the fundamental principle - respect of the territorial integrity of the State”.

On the occasion of the Conference celebrated in London in November 1965 on the Independence of British Guiana I submitted a note for the British Government, dated 3 November, in which I expressed the following:

“My Government wishes to place on the record that we would consider it an unfriendly act on the side of the Government of Her Majesty if any transfer of sovereignty took place over the territory claimed by Venezuela, a transfer which could only generate rights where ceded by the Government that legitimately held them”.

Second Conference in London

From all of the above, one can understand the interest of the Venezuelan Government that the agenda, which was to govern the conversations in London, included its views on the essence and nature of the problem. After long negotiations carried out by our Ambassador in London, from October to December 1965, an agenda was agreed upon which favoured our position considerably.

In fact, even the title which defines the nature of the talks, states that their aim is “the controversy between Venezuela and United Kingdom”.

This acknowledgement about the existence of a controversy “over the frontier with British Guiana” is reaffirmed by admitting in the first point “the need to solve the dispute”.

Furthermore, in order to remove any doubts about the nature of the discussions which could not now be reduced to a mere academic examination, point two of the agenda revolves around “seeking satisfactory solutions for the practical solution of the controversy which arise as a result of the Venezuelan contention of the Award of 1899 as null and void”.

What is more, the fourth point reinforces this interpretation by stating “the determination of deadlines” for the solutions to be reached.

It was then clear that the British position had already changed since the start of this process in 1962. What was agreed upon in the agenda was significantly different from the first offer formulated by its Representative Mr. Crowe who was only willing to examine the documentation related to the Award of 1899.

In compliance with said agenda we travelled to London to discuss the current issue and try to seek a satisfactory solution with the Minister of Foreign Affairs for Great Britain, the Hon. Michael Stewart and the Prime Minister of British Guiana, the Hon. Forbes Burnham. Our meetings were held on 9 and 10 December 1965.

During the first session I presented the view of the Venezuelan Government on the British Experts report.

“The Venezuelan Government has examined the British Experts’ report in detail and has reached the conclusion that its findings are unacceptable”.

Later I added:

“The flaws in both the content and form of the British experts’ report were not expected by the Venezuelan Government. These are sufficient to justify the note of Your Excellency AV1081/75, on 3 August 1965 in which it states that said report “does not necessarily represent the opinion of the Government of Her British Majesty on any of the points discussed”.

I listed some of the flaws in its content and form, concluding:

“Far from persuading my Government that its claim lacks basis, the report of the British experts has convinced us of the unshakeable firmness of its position”.

And then I concluded:

“The Government of Venezuelan is convinced that the satisfactory solution to the border issue with British Guiana consists in returning the Territory that legally belongs to her. Consequently, we consider that the marking of the legitimate borderline must be agreed upon between Venezuela and British Guiana”.

I will not list each of the points from the discussion that arose as a result of the British rejection of the first proposal of Venezuela, which was countered by a proposal that Venezuela should, in an “act of statesmanship and courage”, renounce its claim. I then formulated a second Venezuelan proposal whereby over a period of time there could be a joint administration of the territory claimed by Venezuela, so long as our sovereignty over the territory was recognized. This proposal was also rejected. Finally, in an attempt to seek a respectable solution to this problem I put forward a third Venezuelan proposal that would lead to the solution for the borderline issue in three consecutive stages, each with their respective timeframe, with the requirement that there had to be an end to the process: a) a Mixed Commission b) Mediation c) International Arbitration.

This last proposal found the strongest resistance from Great Britain and British Guiana which persisted in maintaining the validity of the Award of 1899 and rejected the existence of a territorial dispute between Venezuela and United Kingdom over the frontier with British Guiana.

The British counter proposal was limited to reproducing some ideas from Article IV of the Antarctic Treaty which applied to our matter would encourage economic development on both sides of the line of the Award while the two neighbouring countries agreed not to pressure each other for 30 years in their

respective claims. At the same time, they insisted in that there was no other solution but to take the question back to the United Nations and inform it of the result of the examination of the documents.

After studying that proposal, the Venezuelan delegation unanimously agreed to reject it. Once the debate was reopened I said taking this matter to the United Nations again would have the same result as before as they could not do anything but urge the concerned parties to resume discussions as we had been doing all along. With respect to the Antarctic Treaty I declared:

“I find no connection between the case of the Antarctic and our issue with United Kingdom. The Antarctic is not part of the national or territorial unity of several signatory States of that Treaty as is the case with Great Britain. Instead, Venezuela’s problem with United Kingdom over British Guiana relates to a Territory which is part of Venezuelan Territory. It is located on the very border of British Guiana with Venezuela, it is not an overseas territory. Therefore, this issue cannot be solved through the Antarctic Treaty; it is an issue which if left unsolved will continue to cause frictions between Venezuela, Great Britain and British Guiana”.

I noted that Venezuela could not accept any attempts to circumvent this legal-political borderline issue to treat it just as an economic problem derived from the underdevelopment of Guayana Essequiba, for which Great Britain was specifically responsible. The position of Venezuela was made clear in the following:

“To conclude I would like to make it very clear that Venezuela has come to this conference with the best intentions, confirmed by the proposals we have formulated, specially the one from yesterday. That good will of Venezuela must not be confused with weakness or doubt over its firm position. Venezuela will continue claiming with all firmness the Venezuelan Territory which reaches out to the Essequibo River. Our country does not accept any acts or decisions that led to dispossession”.

At first sight, one could clearly appreciate the impossibility of finishing an examination of the proposals during the remaining half a day of the Conference. However, having rejected a British proposal to continue the discussions with Lord Walston when he was to visit Caracas in January 1966, we agreed to hold another meeting of the same Ministerial Conference in Geneva in the coming month of February, as was subsequently expressed in the Joint Statement of the Conference in London issued on 10 December 1965.

It must be noted that in this document, Great Britain and British Guiana recognize that the issue “threatens to ruin the traditionally friendly relations between Venezuela on the one hand and United Kingdom and British Guiana on the other”. Further, by eliminating the examination of the documents from the agenda for the Conference of Geneva the discussion focused fully on “seeking satisfactory solutions for the practical arrangement of the controversy”.

The Geneva Conference

The Parliamentary Deputy Secretary of Foreign Affairs, Lord Walston, visited Venezuela in January. In reply to journalists’ questions he declared the position that Great Britain was to adopt at the Geneva Conference:

“It will take a friendly and receptive position, we will discuss the problem in a diplomatic way and you can rest assured a decision will be made in that or a future meeting on this matter” (El Universal, 11/1/1966).

After the press release, and having heard some statements from Lord Walston and other senior functionaries, that the Geneva Conference would focus on economic help for British Guiana with no obligation to discuss the Venezuela claim, on 4 February, I was instructed by the President of the Republic to receive the British Ambassador to express the concern of the Chancellery in light of those statements. They were against the commitment of their country as agreed on the signed agenda in London on 1 December and the Joint Statement from 10 in the same month and year. When our interview finished I handed over the following piece of writing to the Ambassador:

“The Government of Venezuela deems it necessary to request an explanation from Her Majesty’s Government since during the Geneva Conference we will be discussing the agreed points in the Agenda including point 2 – the Venezuelan territorial claim and the search for the practical solutions. Otherwise, the Venezuelan Government will be forced to reconsider its attendance to the meeting on 16 and 17 February”.

On 8 February the British Ambassador visited me in order to inform me about the following:

“The Deputy Parliamentary Secretary of British Foreign Affairs has been misinterpreted. Neither Lord Walston nor any other Representatives of the Government of Her Majesty have formulated said declaration in the first paragraph of the Venezuelan Memorandum from 4 February.

As far as the Government of Her Majesty is involved, the agenda for the meeting in Geneva remains the same as previously agreed through the Joint Statement from 10 December 1965, a copy of which is enclosed as reference”.

It was clear that the firmness with which the Chancellery had been acting was fruitful. We received unanimous endorsement from the Nation expressed in agreements issued by the National Congress, hundreds of City Councils, all the political institutions, bodies as diverse as the National Academy of History, the National Library and National Archives, Professional Associations, the Venezuelan Association of Catholic Education, the Business Sector, Labour and Peasant Unions, The Venezuelan Federation of Teachers, Student Associations, and particularly the *Comisión Nacional Pro-Guayana Esequiba* [Pro-Guayana Essequiba National Committee].

The President of the Republic, Dr. Raúl Leoni, when delivering his New Year Message on 1 January this year, described this moment as follows:

“We are no longer an economically-weak country, torn apart through factional fighting and barely recuperating from the painful devastation of long and gruelling fratricidal wars and unable to defend against any acts of aggression. In this new Venezuela there is a national consciousness around the justice of our claim. Without abandoning our unwavering position and always favouring a friendly and peaceful solution to the differences between nations, we are willing to put all our resources towards the proper defence of our territorial rights”.

Together with the impressive national expressions of support for our just claim came the endorsement of friendly peoples. I must confess we felt the deepest satisfaction on learning about the declaration of the Senate of Colombia dated 12 January 1966, the declaration of the Chamber of Representatives of the same country dated 18 in the same month and year, the resolution of the National Assembly of Panama, dated 24 January 1966. That support from the Legislative Bodies of Colombia and Panama is met with the gratitude of the Venezuelan people and Government.

The sessions of the Geneva Conference took place in Room VIII in the Palais des Nations on 16 and 17 February. In the first meeting I reiterated with all clarity Venezuela's position:

"Venezuela has affirmed and maintains that the Arbitral Award from Paris on 3 October 1899 lacks validity and our country is not required to obey it. This Venezuelan affirmation is based on undeniable legal reasons. The expression of the Venezuelan will is uniform as a position founded on justice.

As evidence of this, I am accompanied by different representatives from different political parties, both those that actively participate directly in the Government and those from the opposition which will not falter to criticize official actions from the Government.

They are all conscious of their patriotic duty and contribute with their support to uniting the national will in pursuit of redressing the injustice which Venezuela suffered as a consequence of the Arbitral Award from 1899 which my country considers void".

I stressed the receptivity of Venezuela towards the search for satisfactory solutions and after referring to the different solutions proposed by our country in the Conference in London, I invited the Minister of Foreign Affairs of Great Britain to present any later considerations that he may have prepared in reply to the Venezuelan proposals.

Great Britain reaffirmed its position on the intangibility of the Award and in reply to my invitation, formulated a proposal inspired by the Antarctic Treaty, a hard copy of which was delivered to the Venezuelan Delegation.

After a break in order to consider the British proposal, our Delegation came to the conclusion that it was unacceptable for Venezuela as it tried to bypass completely the territorial issue by means of a development plan for both sides of the line of the Award, while at the same time demanding Venezuela freeze its claim for thirty years.

In light of the above I categorically expressed the following to the Delegations of Great Britain and British Guiana once the debate was reopened:

"I must inform Your Excellency that after reading the proposal presented by the British Delegation, the Venezuelan Delegation considers it unacceptable since it does not tackle the questions, which in Venezuela's mind, are fundamental for the practical solution of the conflict, which is the objective of this Conference".

In informal meetings, together with some members of our Delegation, which I had with the British Minister and the Prime Minister Burnham, I expressed my concerns over the state of the discussions given Britain's poor receptiveness to confront the problem, which was the purpose of our meeting. I even insinuated the consequences that might arise in case of a possible breakdown in conversations.

The Venezuelan Delegation was overcome with emotion when I read the cable that I had just received from the President of the Legislative Assembly of Bolivar State, Mr. Roger González, in which I was told about the content of the Bolivar Declaration, issued by the Convention of Legislative Assemblies of the States and City Councils of the Federal Territories gathered in Ciudad Bolivar on 14 and 15 February on the occasion of the 147 Anniversary of the Congress of Angostura.

After some informal discussions, our Delegation chose to leave a proposal on the table similar to that third formula which had been rejected in London, adding to it recourse to the International Court of Justice.

The Delegations of Great Britain and British Guiana, after studying in detail the proposal, and even though they were receptive to it by the end, objected to the specific mention of recourse to arbitration and to the International Court of Justice.

The objection was bypassed by replacing that specific mention by referring to Article 33 of the United Nations Charter which includes those two procedures, that is arbitration and recourse to the International Court of Justice, and the possibility of achieving an agreement was again on the table.

It was on the basis of this Venezuelan proposal that the Geneva Agreement was reached. Far from this being an imposition, as has been maliciously said, or a British ploy which surprised the naivety of the Venezuelan Delegation, it is based on a Venezuelan proposal which was once rejected in London and has now been accepted in Geneva.

Evidently, the Geneva Agreement does not constitute the perfect solution for the issue which is can be none other than the return of its territory back to Venezuela. We did not go to the city of Lac Lemán to dictate the conditions of our adversary's surrender by placing on the scales the weight of a victorious bellicose sword. We attended the meeting in pursuit of a satisfactory solution to this difficult territorial issue. As a result of diplomatic dialogue and not from the monologue of victors, the Geneva Agreement means a new situation for the extreme positions from those demanding the return of the stolen territory by virtue of a null Award and those who harboured no doubts about their sovereignty over the territory and were not willing to take this matter to any tribunal.

As an essentially Venezuelan solution, the Geneva Agreement deserved the unanimous support of the Delegation which included the delegates of three parties of the government, three of the opposition and a senator of the independent group. They all vividly endorsed the signature which I, under the authorization of the President of the Republic, stamped on this transcendental instrument.

THE GENEVA AGREEMENT

The Agreement concluded in Geneva on 17 February 1966 comprises a preamble and 8 articles.

To understanding it properly, the Geneva Agreement must be considered as a whole. Albeit containing substantive and procedural provisions, each one of them forms part of the general idea underlying the instrument.

First and foremost, it must be made clear that it is an Agreement concluded between two Sovereign States namely the Republic of Venezuela and the United Kingdom of Great Britain and Northern Ireland, the latter in consultation with the Government of British Guiana. British Guiana, as of the date of the signing of the Agreement, was not a sovereign and independent State. According to the constitutional provisions which govern it, the government (more so than the metropolis) has certain autonomy in its domestic matters. However, international and defence matters are conducted by the Government of United Kingdom, Great Britain and Northern Ireland. At the same time, it must be noted that the British Guiana, under the name of Guyana, just as it was decided during the recent conference of independence of that colony celebrated in London in November last year, will become independent and sovereign on 26 May this current year.

We must remember that over the course of all these conversations and diplomatic action which culminated in the Geneva Agreement, British Guiana has always been present. This is expressed as per the Parties' agreement in the declaration of the President of the Special Political Committee of the United Nations issued on 16 November 1962.

In line with its anticolonial position, Venezuela has always favoured the participation of British Guiana since the opposite would be the same as admitting that Great Britain as a colonialist power can solve serious matters of its colony without the participation of such colony.

On the other hand, just as I indicated before, Great Britain cannot constitutionally celebrate an Agreement which, even though it has an international scope, directly affects the domestic affairs of British Guiana and so they are within its jurisdiction. So, its exclusion from the Geneva Agreement or the relevant procedures beforehand would have been a serious mistake with serious consequences for Venezuela. Notwithstanding, the agreement took this into account and article 8 makes it clear British Guiana will become a party when it becomes independent.

As I expressed previously in this same presentation, this was a reality Venezuela was to deal with during the Geneva Conference: the coming independence of British Guiana. Hence its explicit inclusion in the preamble and article 8 as described before.

The last part of the preamble explicitly establishes that in order to resolve the controversy between Venezuela and Great Britain over the border with British Guiana, an agreement has been reached in the following articles. It is an explicit acknowledgement of the issue between Venezuela and Great Britain over the borderline with British Guiana which is ratified in article 1 of the Agreement.

Article 1 foresees the creation of a Mixed Commission with the purpose of seeking satisfactory solutions for the practical settlement of the controversy “which has arisen as the result of the Venezuelan contention that the Arbitral Award of 1899 about the frontier between British Guiana and Venezuela is null and void”. This article comprises two important points:

1. To steer the conversations through a Mixed Commission, that is, an ad-hoc body that enables communication quickly and permanently between the two Governments, in order to achieve a solution for the controversy.
2. The explicit acknowledgement of the controversy arising from the Venezuelan objection to the Arbitral Award in 1899.

It must be noted that the continuation of discussions is paramount and these can lead to a solution that allows putting an end to the issue in a satisfactory manner without having to return to the planned procedures contained in Article 4 in the same Agreement. Furthermore, the correct functioning of the Commission enables direct contact permanently with British Guiana to be able to deal with any other matters related to the issue.

Article 2, a procedural article, determines the number of representatives, the means of appointing them and also sets rules for the correct functioning of the Mixed Commission. Venezuela will appoint two representatives to constitute the Mixed Commission along with two more appointed by the Government from British Guiana. It is stipulated that each of the Governments has the freedom to choose or remove any representatives respectively and replace them at once where necessary in case of incapacity to work. Last, the ability of the Mixed Commission, by agreement of the representatives, to choose experts that work with them, be it in a general or specific manner.

The capacity of British Guiana, before becoming independent, to designate its two representatives for the Mixed Committee was specifically clarified in the meeting in Geneva. It was confirmed that the two representatives of British Guiana, regarding any time before 26 May 1966 (the day of its independence), would be chosen by proxy and under the authorization of the Government of United Kingdom, Great Britain and Northern Ireland which up until now by constitutional prescription has been carrying out the foreign affairs of British Guiana. It was also made clear that by signing the Agreement, Great Britain authorized the execution of this act by the Government of British Guiana.

If we had negotiated and concluded the Agreement with the metropolis, behind British Guiana’s back, that would have been the same as admitting to the idea that any metropolis can manage any overseas territories without taking into account the will of the people that inhabit them.

On the other hand, would it have been right or sensible to exclude British Guiana from discussions where the country will shortly gain its capacity to reject the commitments, in which they had not participated, through independence?

According to Article 1 the Commission is entrusted “with the task of seeking satisfactory solutions”. It therefore has a wide function to conduct negotiations in agreement with its respective Governments.

With these powers, the Commission had to be formed by the parties. The presence of an appointed arbitrator is alien to this type of Commission.

Article 3 comprises a provision so that Governments may officially and explicitly request a report, every six months, on the activities of the Mixed Commission. Logically, the representatives will keep in touch and be constantly instructed by their Governments. However, a six month report is necessary since it must be produced by the Commission together, that is, by the four representatives and will then become a document of the Commission as such.

Article 4 sets a period of four years as the deadline for the work of the Mixed Commission. After this period, if a complete agreement has not been arrived at to solve the controversy, the Commission must produce a final report to inform the respective Governments of any matters upon which the parties could not agree.

The setting of a deadline is standard practice and its determination, that is, the period it lays out, can only be estimated according to the factors which had to be born in mind and the surrounding circumstances that affect it. It was deemed necessary to fix a reasonable period of time taking into account the purpose of the Mixed Commission which essentially is, as Article 1 expresses, is to seek satisfactory solutions for the issue. This cannot be achieved in a short period of time nor was it acceptable to set too long a period.

Another circumstance taken into account was the coming independence of British Guiana on 26 May 1966. It was agreed to give the new State a reasonable period of time for its evolution and consolidation. Only a sufficiently experienced State can dedicate itself to work with us to try to solve the territorial controversy.

Last, we agreed a period of 4 years even though the British initially demanded 30 years after long discussions.

The most important point of the Geneva Agreement is the adoption of a procedure in case the negotiations carried out by the Mixed Commission cannot solve the controversy. The following stages have been set in that case:

1. Governments will try to reach an agreement on the choice of one of the means to resolve disputes peacefully as foreseen in Article 33 of the United Nations Charter.
2. Three months after the receipt of the final report of the Mixed Commission, where the Governments have failed to choose the means to resolve the controversy peacefully, the decision on the means of settlement will be referred to an appropriate international body that both Governments agree on.
3. A lack of agreement over the choice of the international body which is to chose the means of solution, this function will be carried out by the Secretary General of the United Nations.
4. The Secretary General of the United Nations will choose the procedures for the peaceful solution indicated in Article 33 of the United Nations Charter "until the controversy has been resolved or until all the means of peaceful settlement there contemplated have been exhausted."

Article 4 of the Geneva Agreement provides the following:

- A) The only role entrusted to the Secretary General of the United Nations is to point to the parties the means of peaceful settlement of disputes means provided in Article 33 of the UNC for them to use.
- B) The means are the following: negotiation, investigation, mediation, conciliation, arbitration, judicial settlement and recourse to regional organs or agreements. These are explicitly the procedures to be used up until the issue is solved or until these are depleted.

I must place it on the record that in the last discussions of the Geneva Agreement the British suggested entrusting the General Assembly of the United Nations to choose the means for a solution comprised in Article 33 of the Charter.

This proposal was discarded by Venezuela due to the following reasons:

1. Because it was not suitable to submit the specific role of choosing the means for the solution to an eminently political and deliberative body as is the General Assembly of the United Nations. This procedure could lead to disproportionate delays since the introduction of outside political elements would be easy in what is a simple function of choosing the means of settlement;
2. Because the General Assembly of the United Nations only meets for ordinary sessions once a year, during a period of roughly three months, to deal with previously indicated matters in the Agenda and in extraordinary sessions by request of the majority of the members of the United Nations.

These reasons were presented by Venezuela and further suggested entrusting the International Court of Justice with the role of choosing the means of solution as a permanent body and exempt of the inconveniences mentioned above. Since this proposal was rejected by the British, Venezuela then suggested giving this role to the Secretary General of the United Nations.

In conclusion, due to the Venezuelan objections accepted by Great Britain, there exists an unequivocal interpretation that the only person participating in the selection of the means of solution will be the Secretary General of the United Nations and not the Assembly.

Last, and in compliance with Article 4, if no satisfactory solution for Venezuela is reached, the Award of 1899 should be revised through arbitration or a judicial recourse.

Article 5 comprises two provisions:

First: The Agreement cannot be interpreted as a waiver or loss of our territorial claim over Guayana Esequiba; and

Second: None of the acts or activities which take place during the validity of the Agreement will constitute a basis to assert, support or deny a claim of territorial sovereignty, except where those acts or activities are the result of an agreement achieved by the Mixed Commission and accepted in writing by the Governments.

This means no act or activity in the territory claimed by Venezuela entails any undermining of our rights nor any support for the pretensions of Great Britain or British Guiana. Venezuelan reservations over any type of granted concession, or yet to be granted, in the territory claimed by Venezuela are recognised here.

Article 5 also mentions the claim or basis for the claim by Great Britain over the territory of Venezuela. Regarding this I must state:

1. The only territorial claim in the current controversy is the one formulated by Venezuela.
2. If Great Britain or British Guiana were to formulate any territorial claim to Venezuela that would automatically be interpreted as the acceptance of the invalidity of the award of 1899.
3. Neither Great Britain nor British Guiana has a historical or legal basis to claim Venezuelan territory. On the contrary, only Venezuela which has an irrefutable title to claim Guayana Esequiba which the ill Award of Paris 1899 integrated into the territory of British Guiana.
4. If the nullity of the Award of 1899, be it through agreement between the concerned Parties or through a decision by any competent international authority as per Agreement, is declared then the question will go back to its original state. According to Venezuela it stretched up to the Esequibo River. The maximum British claim was represented by the "Schomburgk Line" of 1840, that is, 26 years after Great Britain received from Holland, and with definitive character, its colony Guyana, an event which took place through the Treaty of London in 1814.

A detailed study carried out by the Chancellery on hundreds of confidential documents from the Foreign Office and the Colonial Office in London lead to the undeniable conclusion that the only "Schomburgk Line" recognized by the Foreign Office until 1886 and disseminated to that time as the maximum British pretension was the one called Norte-Sur [North-South] that is the blue line in the map in the pamphlet titled "The Schomburgk Line on the borderline between Venezuela and British Guiana".

Since the beginning of the issue until 1886, when Great Britain officially disseminated that line as its maximum aspiration, that line recognized the following territories as Venezuelan: Alto Barima and Alto Barama along with the territory comprised between that blue line and Venamo. These territories, despite being recognized as Venezuelan by Great Britain itself up until 10 years before the Arbitral Award, were awarded to British Guiana by the Tribunal.

Therefore, with the nullity of the Award, in any procedure setting a new frontier, Venezuela should consider out of question those territories which as I have indicated, and that Great Britain itself recognized as Venezuelan for 46 years since the beginning of the dispute.

British Guiana will not be able to consider as its maximum aspiration the "extended Schomburgk line" (marked red in the map of the brochure mentioned before) because it was a line derived from the modification of the maps, even unknown to the Foreign Office up until 1886 and published for the first time in 1887, that is, 10 years before the Arbitration Treaty.

I am able to affirm that these statements are based on irrefutable evidence.

In light of the above it has been concluded that if the nullity of the Award is declared, the only Venezuelan territory which could fall within the maximum British aspiration would be the narrow, yet important area in the lower course of the Barima River on its right bank. Venezuela has no doubt about its title over that territory and is further sure that when Great Britain included it within its claim it did not take into account any historical or legal titles but just the territorial hunger for the Orinoco River. If in a fully-fledged imperial and colonial era the Tribunal, which proceeded in a rather arbitrary manner, did not dare deprive a poor, weak and tumultuous Venezuela from that small territory, I seriously doubt a Tribunal nowadays acting in accordance with rules of law would do it.

Regarding Article 7, it is clear that by submitting this bill of ratification from the Agreement to this Sovereign Congress this Agreement will come into force as soon as the law is ratified.

As regards Article 8, it must be noted that its interpretation must be conducted bearing the whole Agreement in mind which reiterates the idea that the controversy concerns Venezuela and United Kingdom over the borderline with British Guiana.

The phrasing indicating that the issue concerns Venezuela and United Kingdom appears already in the heading of the Agreement; it then comes repeated twice in the preamble and in Article 1 which precisely indicates that the Mixed Commission has been commissioned to seek satisfactory solutions for the practical settlement of the issue between Venezuela and United Kingdom”.

By assuming the above, it then appears clear that according to Article 8, British Guiana becomes part of the Agreement as a result of its independence in addition to the Governments of Venezuela and United Kingdom of Great Britain and Northern Ireland.

The Geneva Agreement poses a challenge which requires an adequate response. The creation and performance of the Mixed Commission, along with the subsequent process if the latter would not reach a satisfactory solution require Venezuela to gather all its strength to be able to consolidate its claim through serious and in-depth study. The Guyana challenge requires our country, that has seen with pain the way in which its territory has been reduced, to tackle this beautiful task that goes beyond studies, to the recuperation of our legitimate Eastern border.

The two people chosen to represent Venezuela at the Mixed Commission will be prepared, intelligent, hard-working and patriotic since any progress on the issue will depend on those qualities through the channel already open which could enable a fully satisfying solution for the Republic.

In conclusion, I consider the Geneva Agreement to be highly beneficial for the interest of the Country. Just as the President of the Republic, Dr. Raúl Leoni, said before you in his recent Message to the National Congress “The Geneva Agreement reopens the case of Guayana Esequiba and offers Venezuela an opportunity, like never before, to assert its rights and achieve reparation for the damage caused by the painful Award of Paris”.

REPUBLICA DE VENEZUELA
MINISTERIO DE RELACIONES EXTERIORES



**RECLAMACION
DE LA
GUAYANA ESEQUIBA**

DOCUMENTOS
1962 - 1981

CARACAS, 1981

**EXPOSICION AL CONGRESO NACIONAL DEL DOCTOR IGNACIO
IRIBARREN BORGES, MINISTRO DE RELACIONES EXTERIORES,
SOBRE EL ACUERDO DE GINEBRA EL DIA 17 DE MARZO DE 1966.
LEY APROBATORIA DEL ACUERDO DE GINEBRA**

Ciudadano Presidente del Congreso Nacional
Ciudadano Vice-Presidente del Congreso Nacional
Ciudadanos Congresantes:

Es para mí un honor y un privilegio que estimo en alto grado, el que se me haya ofrecido esta oportunidad de dirigirme al Soberano Congreso de la República, en relación con la importante materia que paso a exponer.

He dividido la exposición en dos partes:

- I.—Gestiones anteriores al Acuerdo de Ginebra.
- II.—El Acuerdo de Ginebra.

GESTIONES ANTERIORES AL ACUERDO DE GINEBRA

Rechazo unilateral del Laudo.

La actitud del Gobierno y pueblo de Venezuela, ante el arbitrario Laudo del 3 de octubre de 1899, que pretendió fijar la frontera entre nuestro país y la Guayana Británica, es de ustedes ampliamente conocida.

La Cancillería venezolana, luego de conocer los vicios de fondo y forma que afectaron aquella decisión, llegó al convencimiento de que podía en derecho invocar su invalidez. Las dolorosas circunstancias políticas, económicas y militares por que las que atravesó en aquella época nuestra Patria impidieron al Gobierno Nacional llevar hasta sus últimas consecuencias el rechazo categórico de aquella sentencia.

Con el ocaso de la época colonialista, renació la esperanza de que algún día sería reparada la injusticia de que habíamos sido víctimas.

Durante largos años, esa esperanza fue impregnando las declaraciones cada vez más claras y categóricas del Estado venezolano frente a

aquel Laudo arbitrario. Sin embargo, por más sólida y convincente que era la argumentación venezolana, el Reino Unido se negaba a entrar en discusiones que tuvieran por objeto la revisión de un Laudo que él consideraba intangible.

Comienzos de la negociación bilateral.

No salimos del plano unilateral de nuestra reclamación, hasta que en noviembre de 1962, mi predecesor en la Cancillería, el doctor Marcos Falcón Briceño, después de plantear, en exposición amplia y bien razonada nuestra tesis ante el Comité Político Especial de la Asamblea General de las Naciones Unidas, logró concertar un acuerdo con Gran Bretaña para realizar un examen tripartito de la documentación relativa al problema. Este acuerdo quedó consignado en la Declaración del Presidente del Comité Político Especial, el 16 de noviembre del mismo año.

Es innegable el valor trascendental de ese acuerdo, por cuanto representa el punto de partida de un largo proceso de carácter bilateral que conducirá indefectiblemente a la revisión del llamado Laudo de 1899.

Sin embargo, justo es que nos detengamos a observar cuál es la posición británica en el momento en que acuerda conversar con Venezuela sobre la cuestión.

El Representante del Reino Unido, señor C. T. Crowe, luego de intentar una refutación de los puntos de vista expuestos por el Canciller de Venezuela, se expresó en los siguientes términos:

“Espero haber convencido a los miembros de la Comisión de que si se respetan el derecho internacional y los acuerdos libremente concertados, la cuestión fronteriza entre Guayana Británica y Venezuela no debería haber sido traída a consideración de las Naciones Unidas”.

Y luego de referirse al examen que ya habían realizado los expertos británicos de la documentación sobre el problema, examen que, a juicio del Reino Unido, conducía a la conclusión de que no se justificaba reabrir la cuestión, concluyó:

“Por lo tanto, estoy autorizado a decir que mi Gobierno, con pleno consentimiento del de la Guayana Británica, está dispuesto a tratar con el Gobierno de Venezuela, por los conductos diplomáticos correspondientes, los arreglos para un examen tripartito, o sea, de Venezuela, Guayana Británica y Reino Unido, del voluminoso material documental pertinente a esta cuestión”.

Tal fue la oferta británica que aceptada por Venezuela condujo al acuerdo sobre el examen de la documentación relativa al llamado Laudo de 1899.

Alguien podrá preguntar por qué Venezuela aceptó que tomara parte en las conversaciones el Gobierno de Guayana Británica, no siendo todavía independiente.

Conviene observar que las conversaciones se habían de tener entre Venezuela y el Reino Unido en consulta con el de la Guayana Británica, y, por consiguiente, la participación del Gobierno de Georgetown nunca se equipararía a la de los dos países soberanos sujetos de la controversia. Por otra parte, nuestro Gobierno, por su indeclinable posición anticolonialista, fue siempre favorable a la presencia de la colonia en discusiones que afectaban a su ámbito territorial. Nuestra diplomacia iba a actuar limpiamente, y, por consiguiente, nada podía temer de la participación de los representantes de la colonia. Cuando los diplomáticos recurren a turbios manejos, procuran hacerlos, como lo experimentó en carne propia nuestro país en el Tribunal Arbitral de 1899, a espaldas de los pueblos, sean éstos libres o dependientes.

Deseo subrayar el hecho que es desde 1962, o sea desde los propios orígenes del proceso diplomático que ha conducido al Acuerdo de Ginebra, cuando nuestras conversaciones han tenido un carácter tripartito en la forma explicada en el párrafo anterior.

Antes de pasar adelante, conviene recordar que el acuerdo concertado en el seno de las Naciones Unidas en 1962, tenía por objeto el examen de los documentos, sin que en manera alguna aceptara Gran Bretaña entrar al fondo del problema: la revisión de la sentencia del Tribunal de 1899. El señor Crowe expresó este punto de vista con meridiana claridad en la mencionada intervención:

“Al hacer esta oferta, quiero indicar con toda claridad que no es en forma alguna una oferta de pasar a conversar sobre el fondo de la revisión fronteriza. Eso no podemos hacerlo puesto que consideramos que no estaría justificado”.

Termino por observar que como dicho acuerdo no especificaba claramente el nivel en el que se tendrían las conversaciones, el Reino Unido trató desde el comienzo de minimizarla. Fue, por consiguiente, propósito del Gobierno venezolano conducir la negociación en el más alto nivel gubernamental y llevarla hasta la revisión de la sentencia del Tribunal.

Para cumplir estos objetivos, fue preciso quebrar la obvia resistencia del Gobierno británico. Ya en marzo de 1963, Gran Bretaña intentó re-

ducir las conversaciones al nivel de una discusión académica entre expertos, pero Venezuela expresó claramente su criterio que en manera alguna entraría en esas conversaciones mientras el Reino Unido no se comprometiera de antemano a discutir la cuestión a nivel de ministros contra las advertencias de quienes vaticinaban que el Foreign Office nunca entraría en semejante compromiso, Venezuela continuó presionando hasta que obtuvo la aceptación por parte de Gran Bretaña de que las discusiones se tendrían en dos fases: primera a nivel de expertos, y segunda a alto nivel ministerial.

No podía la Gran Bretaña abrigar duda alguna acerca de la firmeza de la reclamación de Venezuela. El Presidente de la República, señor Rómulo Betancourt, en su Mensaje al Congreso Nacional, el 12 de marzo de 1962, había declarado:

"El diferendo entre la débil Venezuela y la arrogante Albión de los días de la Reina Victoria, fue resuelto en un inicuo e inaceptable, y siempre inaceptado por Venezuela, laudo pronunciado por un tribunal político y no de derecho, en sentencia del 3 de octubre de 1899. Jamás Venezuela ha admitido ni admitirá que tan extensa porción de territorio legítimamente suyo deje de estar encuadrado dentro de su geografía".

Primera Conferencia de Londres.

La primera reunión de Ministros tuvo lugar en Londres en noviembre de 1963. Encabezaban las delegaciones venezolana y británica, el doctor Marcos Falcón Briceño y el Hon. R. A. Butler, respectivamente. Por la Guayana Británica estuvo presente el Gobernador Sir Ralph Grey. En esa ocasión, Venezuela llevó la discusión al fondo de la cuestión al presentar sus puntos de vista en un Aide-Memoire, fechado el 5 de noviembre, en el que, luego de sintetizar los argumentos por los que Venezuela rechaza el llamado Laudo de 1899, termina con la siguiente categórica posición:

"La verdad histórica y la justicia exigen que Venezuela reclame la total devolución del territorio del cual se ha visto desposeída, y a este respecto, cuenta confiadamente con la buena voluntad y la cooperación del Gobierno de Su Majestad".

Por su parte, Gran Bretaña reiteró el criterio ya citado de su Representante el señor C. T. Crowe, en el sentido de que rechazaba los argu-

mentos venezolanos y consideraba intangible el Laudo de 1899 como "arreglo pleno, final y definitivo". Estas dos posiciones se han mantenido paralelamente a lo largo de la presente negociación hasta la sesión inaugural de la Conferencia de Ginebra.

Un avance a favor de Venezuela se observa en la mencionada reunión de Londres de noviembre de 1963, según el comunicado conjunto de la misma. En efecto, luego de referirse a los informes que los expertos habían de presentar a sus respectivos Gobiernos, dice así: "Estos informes servirán de base para ulteriores discusiones entre los Gobiernos". Por consiguiente, al no calificar esas discusiones, nos permitía sostener que las conversaciones a nivel de gobierno iban a tener por objeto la discusión del fondo de la cuestión.

Que así lo entendía Venezuela con decidida voluntad de recuperar el territorio que en derecho le pertenece, se desprende de las palabras del entonces Presidente de la República, señor Rómulo Betancourt, quien en su Mensaje al Congreso Nacional, el 7 de marzo de 1964, al dar cuenta de las conversaciones que se habían celebrado en Londres, dijo:

"Las negociaciones han continuado y, en bien de la República y para reparar una injusticia que se le hizo a Venezuela, deberán ser continuadas. El remate de ellas debe ser la reincorporación al territorio nacional de una zona que desde un punto de vista jurídico-histórico, jamás dejó de pertenecer a Venezuela. Y no es añadidura ociosa ratificar que esta reclamación de Venezuela sobre una zona de territorio que es legítimamente suya, en nada afecta ni entorpece las aspiraciones del pueblo de Guayana Británica a su independencia, que tiene la simpatía de la nación venezolana, cuya posición anticolonial data de los días en que ella misma surgió como nación soberana, sacudiéndose tutelas foráneas".

Cumplida la primera fase de las discusiones entre los expertos de Venezuela y Gran Bretaña, con la participación de los de Guayana Británica, en la primera mitad de 1964, e intercambiados los informes de los mismos el 3 de agosto de 1965, se iniciaron las negociaciones para la reunión ministerial que tuvo lugar en diciembre de 1965 en la ciudad de Londres.

Durante ese lapso, la Cancillería reiteró en diversas ocasiones su criterio sobre la nulidad del llamado Laudo de 1899, que había una controversia que amenazaba las mutuas relaciones entre nuestro país y el Reino Unido y la Guayana Británica, y que las conversaciones ministeriales habían de entrar a la discusión del fondo del problema. Así se salió al paso de repetidas declaraciones de los Primeros Ministros de Guayana

Británica, los señores Jagan y Burnham, en el sentido de que no estaban dispuestos a discusión alguna sobre la línea del Laudo, pues no reconocían el conflicto fronterizo por considerarlo solucionado en 1899. Por su parte, la Cancillería venezolana, consecuente con su reclamación a la Guayana Esequiba, protestó unas supuestas concesiones del Gobierno de Guayana Británica para la explotación del petróleo en el territorio al oeste del río Esequibo.

Consecuente con la posición venezolana respecto de la nulidad del llamado Laudo de 1899, la Cancillería adoptó varias iniciativas, entre ellas la edición del mapa de la República con indicación de la "Zona en Reclamación", y la emisión de estampillas postales alusivas a la controversia.

Estas medidas fueron protestadas por el Gobierno británico, mientras reiteraba su posición sobre la intangibilidad del mencionado Laudo. Así, en nota del 4 de marzo de 1965, referente a aquel mapa, se expresaba:

"La embajada ha recibido instrucciones de establecer que el Gobierno de su Majestad no puede aceptar la demarcación del Gobierno venezolano de la frontera ni de cualquier otro objeto que haga recaer dudas sobre la soberanía del Gobierno de Su Majestad en dicha zona de Guayana Británica. El Gobierno de Su Majestad no duda de su soberanía sobre ese territorio, y se reserva sus derechos en este asunto".

En respuesta reafirmamos el criterio de que "el mapa en cuestión, publicado por la Dirección de Cartografía Nacional, del Ministerio de Obras Públicas, viene a ser una expresión gráfica de reiteradas declaraciones formuladas públicamente por la Cancillería de Venezuela, las cuales son perfectamente conocidas del Gobierno británico, en el sentido de que el llamado Laudo del 3 de octubre de 1899, carece de validez, y, por lo tanto, Venezuela se reserva sus derechos al territorio guayanés del cual fue injustamente desposeída.

La posición británica, en vísperas del canje de los informes de los expertos, o sea, el 2 de agosto de 1965, fue explicada al Parlamento por Mr. Padley, Secretario Parlamentario del Foreign Office:

"La frontera entre Venezuela y la Guayana Británica fue determinada por medio del Tribunal Arbitral de 1899, de acuerdo con los términos del Tratado firmado el año 1897 entre el Reino Unido y Venezuela. Bajo el artículo XIII de este Tratado, ambas partes se comprometían a aceptar el Laudo Arbitral como "un arreglo pleno, perfecto y definitivo. El Gobierno Venezolano alega que el Laudo de 1899 es inválido,

y en mayo de 1962 informó al Gobierno de Su Majestad de su intención de reclamar parte de Guayana Británica. Cuando el asunto surgió en las Naciones Unidas más tarde, el Representante del Reino Unido insistió en que el asunto era "res judicata" y ofreció proceder a un examen del material de documentación que se refería al Laudo, de modo de satisfacer a los venezolanos de que no habían sido víctimas de una injusticia. Este examen de los documentos ha sido completado ahora y los resultados deben ser revisados de nuevo por los Gobiernos. Permanece igual la posición del Gobierno de Su Majestad, que todo el asunto fue solucionado de una vez por todas, por medio del Tribunal Arbitral de 1899. Esta también es la posición del Gobierno de Guayana Británica".

El canje de los informes de los expertos se produjo el 3 de agosto de 1965. Al presentar al Gobierno británico el informe de los expertos venezolanos, el Embajador en Londres expresó la complacencia de Venezuela "por la feliz terminación de la fase de estudios técnicos", y en nota del 7 de septiembre, expuso cómo continuaba siendo inamovible la tradicional posición de Venezuela:

"La posición venezolana respecto del problema está fijada con toda claridad. Ha declarado no reconocer el Laudo Arbitral de 1899 como arreglo final y definitivo de su controversia con el Reino Unido, y planteó al Honorable Gobierno de Su Majestad el deseo de considerar, con ánimo desprevénido, la rectificación de la injusticia de que fue víctima Venezuela, en una hora infortunada que nuestro pueblo no puede olvidar, y se llegue a una solución que tome en cuenta los intereses legítimos de nuestro país y los de la población de la Guayana Británica".

Por su parte, el Gobierno británico respondió a esta nota y a la del 3 de agosto, reafirmando, una vez más, la posición inicial que había adoptado en 1962, al reproducir las palabras de su Representante en el Comité Político Especial, antes citada, en el sentido de que el ofrecimiento para examinar los documentos "no era en manera alguna una oferta para entrar en conversaciones de fondo sobre la revisión de la frontera", sino "para disipar cualesquiera dudas que el Gobierno venezolano pudiera aún tener acerca de la validez o justicia del Laudo Arbitral".

Era evidente que Gran Bretaña se mostraba renuente a entrar en discusiones de fondo sobre tan grave asunto. Aparentemente seguía calificando de infundada la reclamación venezolana, y estaba sólo dispuesta a

una discusión puramente académica que no podía conducir a ningún arreglo del viejo problema. Fue, necesario que con expresas instrucciones del ciudadano Presidente de la República, doctor Raúl Leoni, me dirigiera al país por cadena de radio y televisión, el 16 de septiembre de 1965, para declarar categóricamente que "si Venezuela emprendió el camino diplomático, no fue para quedar satisfecha con discusiones puramente académicas". Y agregué: "De poca seriedad se acusaría con razón a nuestro Gobierno, si en asunto de tan grave transcendencia, como es la usurpación de 150.000 kilómetros cuadrados de territorio nacional, admitiera entretenerse en estériles debates librescos, en interpretaciones semánticas de viejos textos".

Quedó, pues, clara nuestra posición de que no íbamos a ir a una conferencia ministerial a ocuparnos de discusiones que no tuvieran por objeto el fondo del problema: la revisión del llamado Laudo de 1899.

La independencia de Guayana Británica.

Antes de seguir adelante sobre el tema que estoy desarrollando de las posiciones antitéticas de Venezuela y el Reino Unido respecto de la controversia debo referirme al hecho, por muchos aspectos feliz, de la próxima independencia de Guayana Británica.

La Cancillería desde hace muchos años venía advirtiendo la proximidad de ese acontecimiento, si bien esas previsiones no se vieron antes cumplidas por razones de orden interno y externo que afectaban a la actual colonia. Era a todas luces evidente que nuestra tradicional reclamación debía recibir un creciente impulso conforme se fuera aproximando aquella fecha, dado que convenía dejar muy en claro que nuestra controversia con el Reino Unido, causante del problema fronterizo, no había de terminarse con la independencia de Guayana Británica, a no ser por una solución satisfactoria para Venezuela. En este sentido, la Cancillería ha emitido formulaciones claras en relación con la controversia territorial.

Repetidas veces se ha reafirmado el principio de que cualquier cambio de *status* en la colonia de Guayana Británica, no afectará a la reclamación territorial venezolana.

Además, por iniciativa de Venezuela y otros países; se incluyó en el Acta de Washington, aprobada por la Primera Conferencia Extraordinaria Interamericana celebrada en diciembre de 1964, lo siguiente:

"El Consejo de la Organización no tomará ninguna decisión sobre una solicitud de admisión presentada por una entidad política cuyo territorio esté sujeto, total o parcialmente y con anterioridad a la

fecha de esta resolución, a litigio o reclamación entre un país extracontinental y uno o más Estados miembros de los Estados Americanos, hasta que se haya puesto fin a la controversia mediante un procedimiento pacífico”.

También hemos sostenido el principio de que nuestra cuestión guayanesa implica un problema de territorio ocupado por una potencia ajena, en violación del párrafo 6º de la resolución 1514 (XV) de las Naciones Unidas:

“Toda tentativa conducente a una desintegración total o parcial de la unidad nacional o la integridad territorial de un país es incompatible con los objetivos y principios de la Carta de las Naciones Unidas”.

En este sentido formulé una expresa declaración ante las Naciones Unidas el día 6 de octubre de 1965:

“No pueden estos territorios escapar a la acción rectificadora de la historia. Pero debemos insistir, como se ha hecho en las diversas resoluciones adoptadas por las conferencias interamericanas, en la distinción entre colonias y territorios ocupados. Si aquéllas deben obtener la independencia mediante la aplicación del principio de la autodeterminación, éstos territorios coloniales que han sido arrebatados a otros Estados, no pueden tener otra forma de descolonizarse que la reintegración al Estado del cual han sido desmembrados. De no hacerse tal distinción sería admitir que se puede deformar el principio de la autodeterminación con el fin de consagrar una situación de hecho en la ignorancia del principio fundamental del respeto a la integridad territorial de los Estados”.

Con ocasión de la Conferencia celebrada en Londres en noviembre de 1965 sobre la Independencia de Guayana Británica, dirigí al Gobierno británico una nota, con fecha 3 de noviembre, en la cual expresé lo siguiente:

“Mi Gobierno desea dejar constancia de que consideraría un acto inamistoso de parte del Gobierno de Su Majestad si se acordara sin reservas un traspaso de soberanía sobre el territorio reclamado por Venezuela, traspaso que no podría generar más derechos que los que posee legítimamente el Gobierno que los cede”.

Segunda Conferencia de Londres

De lo expuesto anteriormente se comprende cómo estaba el Gobierno de Venezuela interesado en que la agenda que había de regir las conversaciones de Londres recogiera sus puntos de vista sobre el objeto de las discusiones y la naturaleza de las mismas. Tras largas negociaciones llevadas a cabo por nuestro Embajador en Londres, en los meses de octubre a diciembre de 1965, se vino a acordar una agenda que significó un considerable avance en favor de nuestros puntos de vista.

En efecto, ya en el título que define la naturaleza de las conversaciones, se establece que éstas tienen por objeto "la controversia entre Venezuela y el Reino Unido".

Esta admisión de que existe una controversia "sobre la frontera con la Guayana Británica" se reafirma al admitirse en el punto primero la "necesidad de resolver la disputa".

Más aún, para disipar cualquier duda sobre la naturaleza de las conversaciones que no podían ya reducirse al examen académico de documentos, se estipuló en el punto, segundo de la agenda que se iba a "buscar soluciones satisfactorias para el arreglo práctico de la controversia que ha surgido como resultado de la contención venezolana de que el Laudo de 1899 es nulo e írrito".

Todavía más, reforzado esta interpretación, se contempla en el punto cuarto la "determinación de los plazos" para las soluciones a las que se llegare.

A nadie puede escapar el hecho de que la posición británica de los comienzos de este proceso en 1962 había ya cambiado notablemente. Lo acordado en la agenda distaba en gran manera de aquella primera oferta formulada por su representante señor Crowe, en el sentido de que estaban dispuestos únicamente a examinar los documentos relativos al Laudo de 1899.

En conformidad con la mencionada agenda fuimos a Londres a discutir con el Ministro de Relaciones Exteriores de Gran Bretaña, el Hon. Michael Stewart, y el Primer Ministro de Guayana Británica, el Honorable Forbes Burnham, sobre la presente controversia, y a tratar de buscarle una solución satisfactoria. Nuestras reuniones se tuvieron los días 9 y 10 de diciembre de 1965.

Al iniciarse la primera sesión expuse el criterio del Gobierno venezolano sobre el informe de los expertos británicos.

"El Gobierno de Venezuela ha examinado cuidadosamente el informe de los expertos británicos, y ha llegado al firme convencimiento de que sus conclusiones son totalmente inaceptables".

Más adelante agregué:

"Los vicios de fondo y forma del informe de los expertos británicos han sorprendido al Gobierno venezolano. Aquellos son tales que bien justifican la expresión de Vuestra Excelencia en su nota AV 1081/75, del 3 de agosto de 1965, de que dicho informe «no representa necesariamente la reflexiva opinión del Gobierno de Su Majestad Británica acerca de ninguno de los puntos en discusión»".

Pasé a enumerar algunos de esos vicios de fondo y forma, y concluí:

"Lejos de haber persuadido a mi Gobierno de que su reclamación carece de fundamento, el informe de los expertos británicos le ha convencido de la firmeza inmovible de su posición".

Terminé afirmando:

"El Gobierno de Venezuela está convencido que la solución satisfactoria del problema fronterizo con Guayana Británica consiste en la devolución del territorio que en derecho le pertenece. En consecuencia considera que debe acordarse la fijación de la frontera legítima entre Venezuela y Guayana Británica".

No voy a enumerar todos los incidentes de la discusión derivada del rechazo por Gran Bretaña de esa primera propuesta de solución formulada por Venezuela, a la que se contestó con una contrapropuesta para que Venezuela con un "acto de gran calidad de estadista y coraje", renunciara a su reclamación. Formulé una segunda propuesta venezolana en el sentido de convenir por un período que podría discutirse, en una administración conjunta del territorio reclamado por Venezuela, previo reconocimiento de nuestra soberanía sobre el mismo. También esta fórmula vino a ser rechazada. Por último, en un esfuerzo por buscar una salida honorable al problema, presenté como tercera propuesta venezolana una fórmula que preveía la solución del problema fronterizo a través de tres etapas consecutivas con sus respectivos plazos, con la particularidad de que el proceso había de tener un final: a) Comisión Mixta; b) mediación; c) arbitraje internacional.

Esta oferta vino a estrellarse contra la intransigencia de Gran Bretaña así como de Guayana Británica, las cuales empeñadas en mantener la vigencia del Laudo de 1899, rechazaban la existencia de una controversia territorial entre Venezuela y el Reino Unido sobre la frontera con Guayana Británica.

La contrapropuesta británica se redujo a formular algunas ideas, calçadas en el artículo IV del Tratado sobre la Antártica, que aplicadas a nuestro problema llevarían a una solución de desarrollo económico a ambos lados de la línea del Laudo, mientras los dos países vecinos se obligarían a no presionar durante 30 años sus respectivas reclamaciones. Al mismo tiempo se insistía en que no quedaba otra alternativa que devolver la cuestión a las Naciones Unidas informando del resultado del examen de los documentos.

Después de estudiar esa propuesta, la delegación venezolana unánimemente acordó rechazarla. Reabierto el debate, expuse que carecía de sentido llevar el asunto a las Naciones Unidas, pues éstas no podrían hacer otra cosa que exhortar a las partes a continuar conversando como lo estábamos haciendo en ese momento. Sobre la propuesta inspirada en el Tratado de la Antártica declaré:

“No encuentro ninguna conexión entre el caso de la Antártica y el de nuestro problema con el Reino Unido. La Antártica no forma parte de la unidad nacional o territorial de varios Estados signatarios de ese Tratado como es el caso de la Gran Bretaña. En cambio, el problema de Venezuela con el Reino Unido en relación con la Guayana Británica se refiere a un Territorio que forma parte del Territorio venezolano. Está situado en el límite mismo de la Guayana Británica con Venezuela, no se trata de un territorio de ultramar. Por consiguiente, este problema no puede ser resuelto de la manera del Tratado sobre la Antártica; es un problema que de no encontrarse una solución satisfactoria, continuará siendo causa de fricciones entre Venezuela y la Gran Bretaña y la Guayana Británica”.

Advertí que Venezuela no podía aceptar que se intentara soslayar el problema jurídico-político de la cuestión fronteriza, para reducirse únicamente a tratar de resolver el problema económico del subdesarrollo de Guayana Esequiba, del cual era precisamente responsable la Gran Bretaña. La posición de Venezuela quedó claramente expresada en los siguientes términos:

“Para terminar quiero dejar muy claro que Venezuela ha venido a esta mesa de conferencias con la mejor buena voluntad, la que ha quedado suficientemente demostrada con las proposiciones que ha formulado, especialmente la última que sometí ayer; que esa buena voluntad de Venezuela no debe ser confundida con debilidad o duda de su firme posición. Venezuela continuará su reclamación con toda

firmeza; el Territorio venezolano llega hasta el Esequibo. Todo lo que se ha actuado y decidido y que trajo como consecuencia el despojo que sufrimos, no lo acepta mi país”.

A simple vista se podría apreciar la imposibilidad de agotar el estudio de las proposiciones en el medio día que restaba a la Conferencia. Pero habiendo rechazado una propuesta británica para continuar las discusiones con Lord Walston, cuando éste visitara a Caracas en enero de 1966, convinimos en celebrar una nueva reunión de la misma Conferencia ministerial, en la ciudad de Ginebra, en el mes de febrero próximo, según vino a ser expresado en el Comunicado Conjunto de la Conferencia de Londres, emitido el día 10 de diciembre de 1965.

Se ha de advertir que en este documento, Gran Bretaña y Guayana Británica reconocen que la controversia “amenaza quebrantar las tradicionalmente cordiales relaciones entre Venezuela, por una parte, y el Reino Unido y la Guayana Británica por la otra”. Además, al eliminarse en la agenda para la Conferencia de Ginebra el examen de los documentos, se centró la discusión plenamente en la búsqueda de “soluciones satisfactorias para el arreglo práctico de la controversia”.

La Conferencia de Ginebra

En el mes de enero visitó a Venezuela el Sub-Secretario Parlamentario de Relaciones Exteriores, Lord Walston. En respuesta a preguntas de los periodistas, declaró acerca de la posición que Gran Bretaña iba a adoptar en la Conferencia de Ginebra:

“Será cordial y receptiva, y discutiremos el problema a la altura diplomática y puede estar seguro de que en dicha reunión, o en otras posteriores, habrá una decisión sobre este asunto”. (*El Universal*, 11-1-66).

Ahora bien, habiendo publicado la prensa, como declaraciones del mismo Lord Walston y de otros altos funcionarios, que en la Conferencia de Ginebra se iba a tratar de la ayuda económica a Guayana Británica pero que no se había de discutir el reclamo venezolano, el día 4 de febrero, por instrucciones del Presidente de la República, recibí en mi despacho al Embajador británico para expresarle que la Cancillería veía con preocupación aquellas declaraciones, pues se hallaban en contradicción con el compromiso contraído por su país de acuerdo con la agenda firmada en Londres el 1º de diciembre y el Comunicado Con-

junto del día 10 del mismo mes y año. Al final de nuestra entrevista entregué por escrito al Embajador lo siguiente:

“El Gobierno de Venezuela estima necesario solicitar una explicación del Gobierno de Su Majestad Británica, en el sentido de que en Ginebra se discutirán los puntos acordados en la Agenda que incluye en su título y bajo el N° 2, la reclamación territorial venezolana y la búsqueda de soluciones prácticas para resolverla. De lo contrario, el Gobierno venezolano se verá obligado a reconsiderar su asistencia a dicha reunión los días 16 y 17 de febrero”.

El día 8 de febrero me visitó el Embajador británico con el objeto de informarme que:

“El Subsecretario de Estado Parlamentario de Relaciones Exteriores Británico ha sido malinterpretado. Ni Lord Walston ni ningún otro Representante del Gobierno de Su Majestad han formulado la declaración citada en el primer aparte del Memorándum venezolano del 4 de febrero.

Por lo que respecta al Gobierno de Su Majestad, la agenda para la reunión de Ginebra permanece igual de acuerdo a lo convenido en el Comunicado Conjunto del 10 de diciembre de 1965, se anexa una copia del mismo como referencia”.

Era evidente que la firmeza mostrada por la Cancillería estaba dando buenos resultados. Nos asistía el respaldo unánime de la Nación, expresado en acuerdos emitidos por el Congreso Nacional, centenares de Consejos Municipales, todas las organizaciones políticas, corporaciones tan diversas como la Academia Nacional de la Historia, la Biblioteca y el Archivo Nacional, Colegios Profesionales, la Asociación Venezolana de Educación Católica, los Sectores Empresariales, Sindicatos Obreros o Campesinos, la Federación Venezolana de Maestros, Agrupaciones Estudiantiles, y particularmente, la Comisión Nacional Pro-Guayana Esequiba.

Con palabras certeras calificó este momento nacional el señor Presidente de la República, doctor Raúl, Leoni, cuando en su Mensaje de Año Nuevo, el 1° de enero del corriente año, señaló:

“Ya no somos un país económicamente débil, desgarrado por la lucha de facciones, apenas convalecientes de los dolorosos estragos de largas y cruentas guerras fratricidas e impotente para defenderse de actos de agresión. En esta nueva Venezuela se ha formado una

conciencia nacional en torno a la justicia de nuestra reclamación. Sin abandonar nuestra indeclinable posición favorable a la pacífica y amistosa solución de las diferencias entre naciones, estamos dispuestos a hacer valer todos nuestros recursos para la buena defensa de nuestros derechos territoriales”.

A las impresionantes manifestaciones nacionales de apoyo a nuestra justa reclamación, se agregó el respaldo de pueblos amigos. Así he de manifestar la honda satisfacción que experimentamos al conocer la declaración del Senado de Colombia fechada el 12 de enero de 1966, la de la Cámara de Representantes del mismo país, del día 18 del mismo mes y año; la resolución de la Asamblea Nacional de Panamá, fechada el 24 de enero de 1966. Tales manifestaciones de apoyo por parte de los Cuerpos Legislativos de Colombia y Panamá comprometen la gratitud del Gobierno y pueblo venezolanos.

Las sesiones de la Conferencia de Ginebra tuvieron lugar en el Salón VIII del Palacio de las Naciones, los días 16 y 17 de febrero. En la primera reunión, reiteré con toda claridad el criterio de Venezuela:

“Venezuela ha afirmado, y sostiene, que el Laudo Arbitral dictado en París el 3 de octubre de 1899 carece de toda validez y nuestro país no se considera obligado a acatarlo. Esta afirmación venezolana tiene su apoyo en razones jurídicas irrefutables. Fundada en una posición de cuya justicia estamos convencidos, la expresión de la voluntad venezolana es integral.

Como prueba inequívoca de ello me acompañan representantes de las diferentes fuerzas políticas, tanto de las que participan activa y directamente en la gestión de gobierno, como de las que desde la oposición no vacilan en criticar la acción oficial.

Todos conscientes de su deber patriótico contribuyen con su apoyo a hacer una la voluntad nacional decidida a lograr que sea reparada la injusticia de que fue objeto Venezuela como consecuencia del Laudo Arbitral de 1899, el cual mi país considera írrito”.

Insistí en la receptividad de Venezuela respecto de la búsqueda de soluciones satisfactorias, y luego de aludir a las diversas fórmulas de soluciones propuestas por nuestro país en la Conferencia de Londres, invité al Ministro de Relaciones Exteriores de Gran Bretaña a exponer las ulteriores consideraciones que hubiera preparado sobre las proposiciones venezolanas.

Gran Bretaña volvió a reafirmar su posición sobre la intangibilidad del Laudo, y respondiendo concretamente a mi invitación, formuló una propuesta inspirada en el Tratado sobre la Antártica, la cual fue entregada a la Delegación venezolana por escrito.

Acordado un receso con el fin de que consideráramos la propuesta británica, nuestra Delegación llegó a la conclusión de que era inaceptable para Venezuela, pues trataba de soslayar completamente el problema territorial por medio de un plan de desarrollo conjunto de las zonas a ambos lados de la línea del Laudo, mientras al mismo tiempo se proponía obligar a Venezuela a congelar durante treinta años su reclamación.

Así lo expresé categóricamente a las Delegaciones de Gran Bretaña y Guayana Británica, cuando reabierto el debate declaré textualmente:

“Debo informar a Vuestra Excelencia que después de haber considerado la proposición presentada por la Delegación británica, la Delegación venezolana la considera substancialmente inaceptable por la razón de no contemplar las cuestiones que, a juicio de Venezuela, son fundamentales para la solución práctica del conflicto, que es el objeto de esta Conferencia”.

En reuniones informales que, acompañado de algunos miembros de nuestra Delegación, sostuve con el Ministro británico y el Primer Ministro Burnham, manifesté mi preocupación por el estado en que se hallaban las conversaciones, dada la poca receptividad británica a afrontar el problema que era objeto de nuestra reunión. Incluso, llegué a insinuar las consecuencias que se derivarían de una posible ruptura de las conversaciones.

La Delegación venezolana no pudo ocultar su emoción cuando leí el cable del Presidente de la Asamblea Legislativa del Estado Bolívar, señor Roger González, que acababa de recibir, en el cual se me comunicaba el contenido de la Declaración Bolívar, emitida por la Convención de Asambleas Legislativas de los Estados y Concejos Municipales de los Territorios Federales, reunidos en Ciudad Bolívar los días 14 y 15 de febrero, con motivo del 147º aniversario del Congreso de Angostura.

Después de varios contactos informales, nuestra Delegación optó por dejar en mesa una fórmula semejante a la tercera propuesta venezolana que había sido rechazada en Londres, con la adición del recurso a la Corte Internacional de Justicia.

Las Delegaciones de Gran Bretaña y Guayana Británica, después de estudiar detenidamente esa propuesta, aunque terminaron por mostrarse receptivas, objetaron la mención específica del recurso al arbitraje y a la Corte Internacional de Justicia.

Soslayada esta objeción, sustituyendo aquella mención específica por la referencia al artículo 33 de la Carta de las Naciones Unidas que incluye aquellos dos procedimientos del arbitraje y del recurso a la Corte Internacional de Justicia, se vio que había una posibilidad de lograr un acuerdo.

Fue, pues, sobre la base de la propuesta venezolana, como se vino a lograr el Acuerdo de Ginebra. Lejos de haber sido éste, como se ha dicho maliciosamente, una imposición, o un artilugio británico que sorprendió la ingenuidad de la Delegación venezolana, está basado en una propuesta venezolana que rechazada terminantemente en Londres ha venido a ser aceptada en Ginebra.

Evidentemente que el Acuerdo de Ginebra no constituye la solución ideal del problema, que no es otra que la devolución a Venezuela de su territorio. No fuimos a la ciudad del lago Lemán a dictar las condiciones de rendición del adversario poniendo en la balanza de la disputa la espada de una victoria bélica. Fuimos a buscar una solución satisfactoria a la ardua cuestión territorial. Como fruto del diálogo diplomático, y no del monólogo de los vencedores, el Acuerdo de Ginebra lleva a una nueva situación las posiciones extremas de quien exige la devolución del territorio usurpado en virtud de un Laudo nulo, y la de quien argüía que no abrigando duda alguna sobre su soberanía acerca de ese territorio, no estaba dispuesto a llevar la causa a tribunal alguno.

Como solución substancialmente venezolana, el Acuerdo de Ginebra mereció el apoyo unánime de la Delegación, la cual incluía los delegados de tres partidos de gobierno, tres de la oposición y un Senador del grupo independiente. Todos ellos respaldaron con voto emocionado la firma que con autorización del Ciudadano Presidente de la República estampé en el trascendental instrumento.

EL ACUERDO DE GINEBRA

El Acuerdo suscrito en Ginebra el 17 de febrero de 1966 comprende un preámbulo y 8 artículos.

Para su debida comprensión debe ser considerado en su conjunto, pues si bien contiene disposiciones sustantivas y adjetivas, cada una de ellas forma parte de la idea general que fundamenta el instrumento.

En primer término debe destacarse que se trata de un Acuerdo concluido entre dos Estados soberanos que son la República de Venezuela y el Reino Unido de la Gran Bretaña e Irlanda del Norte. Este último en consulta con el Gobierno de la Guayana Británica. La Guayana Británica, para la fecha de la firma del Acuerdo, no es un Estado sobe-

rano e independiente. De acuerdo con las disposiciones constitucionales que lo rigen, el gobierno en sus asuntos internos tiene cierta autonomía frente a la metrópoli, pero las cuestiones internacionales y de defensa son conducidas por el Gobierno del Reino Unido de la Gran Bretaña e Irlanda del Norte. Al mismo tiempo, debe tomarse en consideración el hecho de que la Guayana Británica, bajo el nombre de Guyana, tal como lo fue decidido por la reciente conferencia de independencia de esa colonia, celebrada en Londres en el mes de noviembre del año pasado, advendrá a la independencia y soberanía el próximo 26 de mayo del corriente año.

Debemos recordar que en el curso de todas estas conversaciones y gestiones diplomáticas que culminaron con el Acuerdo de Ginebra, la Guayana Británica ha estado presente. La declaración del Presidente del Comité Político Especial de las Naciones Unidas, emitida el 16 de noviembre de 1962, así lo expresa como convenio entre las Partes.

Consecuente con su posición anticolonialista, Venezuela ha sido favorablemente la participación de Guayana Británica, pues lo contrario equivaldría a admitir que Gran Bretaña como potencia colonial puede resolver sobre graves asuntos de su colonia sin la participación de ésta.

Por otra parte, como lo acabo de indicar, Gran Bretaña no puede constitucionalmente celebrar un Acuerdo que, aunque perteneciente a la esfera internacional, incide directamente en los asuntos internos de Guayana Británica que son de la competencia de ésta. Así pues, su exclusión del Acuerdo de Ginebra o en las gestiones que lo precedieron, habría sido un error de graves consecuencias para Venezuela. De todas maneras, en el Acuerdo se tomó en cuenta la circunstancia de no ser todavía independiente; en el artículo 8 se dispone que será parte del mismo desde su independencia.

Como ya lo he expresado anteriormente en esta misma exposición, era ésta precisamente una de las realidades que tenía que enfrentar Venezuela en la reunión de Ginebra: la próxima independencia de la Guayana Británica. De aquí que se considere ese hecho expresamente en el preámbulo y en el citado artículo 8.

En la última parte del preámbulo se establece explícitamente que con el objeto de resolver la controversia entre Venezuela y el Reino Unido sobre la frontera con Guayana Británica, se ha llegado al acuerdo contenido en los artículos que siguen. Es un reconocimiento expreso de la existencia de la controversia entre Venezuela y la Gran Bretaña sobre la frontera con la Guayana Británica, reconocimiento que se ratifica en el artículo 1º del Acuerdo.

El artículo 1º prevé el establecimiento de una Comisión Mixta con el propósito de buscar soluciones satisfactorias para el arreglo práctico

de esa controversia "surgida como consecuencia de la contención venezolana de que el Laudo arbitral de 1899 sobre la frontera entre Venezuela y la Guayana Británica es nulo e írrito". Este artículo contiene dos puntos de gran importancia, a saber:

1. Encauzar las conversaciones a través de una Comisión Mixta, es decir, de un órgano ad-hoc que permite la comunicación permanente y ágil entre los dos Gobiernos, con el objeto de llegar a una solución de la controversia.
2. El reconocimiento expreso de la controversia surgida como consecuencia de la impugnación que ha hecho Venezuela del llamado Laudo Arbitral de 1899.

Debe observarse que la continuación de las conversaciones es de capital importancia y que de ellas puede surgir una solución que permita poner fin a la controversia en forma satisfactoria sin necesidad de recurrir a los procedimientos previstos en el artículo 4º del mismo Acuerdo. Además, el funcionamiento de la Comisión permite el contacto directo y permanente con la Guayana Británica para tratar cualesquiera otros asuntos relacionados con la controversia.

El artículo 2º, de carácter adjetivo, determina el número de representantes, la forma de designarlos y fija reglas para el funcionamiento de la Comisión Mixta. Venezuela designará dos representantes para que formen parte de la Comisión Mixta junto con los otros dos que nombrará el Gobierno de la Guayana Británica. Se estipula, además, que cada uno de los Gobiernos tiene la libre elección y remoción de sus respectivos representantes, así como el deber de reemplazarlos inmediatamente en caso de incapacidad para actuar. Y por último, la facultad para la Comisión Mixta, por acuerdo entre los representantes, de designar expertos que colaboren con ella, ya en general o en relación con una materia particular.

La facultad de la Guayana Británica, antes de llegar a su independencia, para designar sus dos representantes en la Comisión Mixta, fue materia de aclaratoria exhaustiva en la reunión de Ginebra. Quedó expresamente definido que los dos representantes de la Guayana Británica, por lo que respecta al tiempo anterior al 26 de mayo de 1966, fecha de su independencia, serían nombrados por delegación y con autorización del Gobierno del Reino Unido de la Gran Bretaña e Irlanda del Norte, el cual hasta este momento, por prescripción constitucional, conduce los asuntos extranjeros de Guayana Británica. Se dejó aclarado

también que, al firmar el Acuerdo, Gran Bretaña autorizaba al Gobierno de la Guayana Británica para la ejecución de ese acto.

Si hubiéramos negociado y formalizado el Convenio únicamente con la metrópoli a espaldas de Guayana Británica, ello habría equivalido a admitir la tesis colonialista según la cual las metrópolis pueden disponer de los territorios ultramarinos sin tomar en cuenta la voluntad de los pueblos que los habitan.

Por otra parte ¿habría sido sensato, correcto, excluir a Guayana Británica de las conversaciones, si ese país dentro de muy breve tiempo, al obtener su independencia, estará en capacidad de repeler aquellos compromisos en los cuales no hubiera tomado parte?

Según los términos del artículo 1º, a la Comisión se le confía "el encargo de buscar soluciones satisfactorias". Tiene por consiguiente una amplia función para conducir las negociaciones de acuerdo con los respectivos Gobiernos.

Con estas facultades, la Comisión tenía que ser paritaria. La presencia de un comisionado árbitro es ajena al concepto mismo de esta Comisión.

El artículo 3º contiene una disposición destinada a que los Gobiernos dispongan oficial y expresamente de un informe, cada seis meses, de las actividades de la Comisión Mixta. Naturalmente, que los representantes mantendrán contacto y recibirán continuas instrucciones de sus respectivos Gobiernos; sin embargo, no estaba de más establecer el informe semestral, puesto que él debe ser elaborado por la Comisión en pleno, es decir, por los cuatro representantes, y será así un documento de la propia Comisión como tal.

En el artículo 4º se establece el plazo de 4 años como término de las labores de la Comisión Mixta. Finalizado este lapso sin haberse llegado a un completo acuerdo para la solución de la controversia, la Comisión debe elaborar un informe final para referir a los respectivos Gobiernos las cuestiones pendientes sobre las cuales no se haya llegado a convenio.

La elección de un plazo es convencional y su determinación, o sea, la extensión del término, sólo puede ser estimada en función de los factores que se debían tomar en cuenta y de las diversas circunstancias que inciden en su fijación. Era necesario señalar un término razonable, tomando en consideración los fines específicos de la Comisión Mixta. Su propósito esencial es, como lo expresa el artículo 1º, buscar soluciones satisfactorias a la controversia, labor difícil que no puede pensarse ha de rendir los frutos deseados en un plazo demasiado corto. Tampoco era admisible establecer un término exagerado.

Otra circunstancia que se tomó en cuenta fue la próxima independencia de Guayana Británica, el 26 de mayo de 1966. Convenía conceder al

nuevo Estado un plazo razonable para su evolución y consolidación. Sólo un Estado suficientemente asentado podrá dedicar sus esfuerzos a tratar con nosotros de solucionar la controversia territorial.

Por último, si acordamos un plazo de 4 años, fue después de arduas discusiones con los británicos, quienes en un principio exigían 30 años.

El punto más importante del Acuerdo de Ginebra, lo constituye la adopción de un procedimiento para el caso en que las negociaciones conducidas por órgano de la Comisión Mixta no llegaren a solucionar el problema. Se establecen las siguientes etapas:

- 1º — Los Gobiernos tratarán de llegar a un acuerdo sobre la elección de uno de los medios de soluciones pacíficas previstas en el artículo 33 de la Carta de las Naciones Unidas.
- 2º — Vencidos los 3 meses siguientes a la recepción del informe final de la Comisión Mixta, sin que los Gobiernos hubiesen llegado a un acuerdo sobre el procedimiento para solucionar la controversia, se referirá la decisión de escoger los medios de solución a un órgano internacional apropiado que ambos Gobiernos acuerden.
- 3º — A falta de acuerdo sobre la elección de un órgano internacional apropiado para escoger los medios de solución, corresponderá esa función al Secretario General de las Naciones Unidas.
- 4º — El Secretario General de las Naciones Unidas escogerá los procedimientos de solución pacífica señalados en el citado artículo 33, "hasta que la controversia haya sido resuelta, o hasta que todos los medios de solución pacífica contemplados en dicho artículo, sean agotados".

El artículo 4º del Acuerdo de Ginebra, establece, pues, claramente, lo siguiente:

- a) La única función que se confía al Secretario General de las Naciones Unidas es la de ir señalando a las Partes, para que éstas los utilicen, los medios de solución pacífica de las controversias establecidos en la citada disposición de la Carta.
- b) Estos medios son los siguientes: negociación, investigación, mediación, conciliación, arbitraje, arreglo judicial y recurso a organismos o a acuerdos regionales. Estos son, taxativamente, los procedimientos que deberán ser utilizados hasta que la controversia sea resuelta o hasta que aquéllos se hayan agotado.

Debo dejar constancia de que en las últimas etapas de discusión del Acuerdo de Ginebra, los británicos propusieron que la elección de los me-

dios de solución previstos en el artículo 33 de la Carta, se encomendará a la Asamblea General de las Naciones Unidas.

Esta propuesta fue desechada por Venezuela expresando las siguientes razones:

- 1ª — Porque no convenía someter esa función específica de escoger los medios de solución a un órgano eminentemente político y deliberante como la Asamblea General de las Naciones Unidas. Este procedimiento podría conducir a desmesuradas dilaciones porque fácilmente se introducirían elementos políticos extraños a la sencilla función de escoger los medios de solución;
- 2ª — Porque la Asamblea General de las Naciones Unidas sólo se reúne en sesiones ordinarias una vez por año, por un período de unos tres meses, para tratar asuntos previamente señalados en la Agenda, y en sesiones extraordinarias a solicitud del Consejo de Seguridad o de la mayoría de los miembros de las Naciones Unidas.

Estas razones las expuso Venezuela, y propuso que se encomendará la función de escoger los medios de solución a la Corte Internacional de Justicia como órgano permanente y exento de los inconvenientes antes señalados. No habiendo sido aceptada esta propuesta por los británicos, Venezuela propuso encomendar aquella función al Secretario General de las Naciones Unidas.

En conclusión, por las objeciones venezolanas aceptadas por Gran Bretaña, existe una interpretación inequívoca en el sentido de que en la elección de los medios de solución, sólo intervendrá el Secretario General de las Naciones Unidas y no la Asamblea.

Por último, de acuerdo con los términos del artículo 4º, el llamado Laudo de 1899, en el caso de no llegarse antes a una solución satisfactoria para Venezuela, deberá ser revisado por medio del arbitraje o el recurso judicial.

En el artículo 5º se establecen dos provisiones:

- Primera:* Que el Acuerdo no puede ser interpretado como una renuncia o disminución de nuestra reclamación territorial sobre la Guayana Esequiba; y
- Segunda:* Que ninguno de los actos o actividades que tengan lugar durante la vigencia del Acuerdo constituirá fundamento para hacer valer, apoyar o negar una reclamación de soberanía territorial, excepto cuando esos actos o actividades sean resultado de convenios logrados por la Comisión Mixta y aceptados por escrito por los Gobiernos.

Esto significa que ningún acto o actividad en el territorio reclamado por Venezuela entraña menoscabo alguno de nuestros derechos ni apoyo de las pretensiones de Gran Bretaña o de la Guayana Británica. Las reservas venezolanas sobre todo tipo de concesiones otorgadas o que pudieren otorgarse en el territorio reclamado quedan así reconocidas.

Se menciona también en el artículo 5º la reclamación o bases de reclamación por parte del Reino Unido o la Guayana Británica sobre el territorio de Venezuela. A este respecto debo afirmar:

- 1º — La única reclamación territorial en la presente controversia es la formulada por Venezuela.
- 2º — Si Gran Bretaña o Guayana Británica formularan alguna reclamación territorial a Venezuela, ello significaría automáticamente que aceptan la invalidez del llamado Laudo de 1899.
- 3º — Ni Gran Bretaña ni Guayana Británica tienen fundamento histórico o jurídico para reclamar territorio venezolano. Por el contrario, es Venezuela quien tiene títulos irrefutables para reclamar la Guayana Esequiba que el mal llamado Laudo de París de 1899 incorporó al territorio de la Guayana Británica.
- 4º — El ser declarada, ya por convenio entre las Partes, o por decisión de una autoridad competente internacional prevista en el Acuerdo, la nulidad del Laudo de 1899, la cuestión se retrotrae al estado en que se hallaba la controversia en sus orígenes. Por parte de Venezuela la reclamación se extendía hasta el Esequibo. La máxima reclamación británica estaba representada por la llamada "línea Schomburgk" aparecida en 1840, o sea a los 26 años de haber recibido Gran Bretaña de Holanda, con carácter definitivo, su colonia de Guayana, hecho que tuvo lugar por el Tratado de Londres de 1814.

Ahora bien, un estudio minucioso llevado a cabo por la Cancillería sobre la base de centenares de documentos confidenciales del Foreign Office y del Colonial Office de Londres, conduce a la conclusión irrefutable de que la única "línea Schomburgk" conocida por el Foreign Office hasta 1886 y difundida hasta esa fecha como máxima pretensión británica, fue la que se llamó línea Norte-Sur, o sea la línea azul del mapa en el folleto titulado "La línea Schomburgk en la cuestión de límites entre Venezuela y Guayana Británica".

Desde los orígenes de la controversia hasta 1886, al difundir Gran Bretaña con carácter oficial, como su máxima aspiración, esa línea, reconoció como territorios venezolanos fuera de discusión los siguientes: los

del Alto Barima y Alto Barama, así como el comprendido entre aquella línea azul y el Venamo. Estos territorios, a pesar de haber sido reconocidos a Venezuela por la propia Gran Bretaña hasta 10 años antes del Tratado Arbitral, fueron otorgados por el Tribunal a Guayana Británica.

Por consiguiente, con la nulidad del Laudo, Venezuela debe considerar fuera de toda discusión, para los efectos de cualquier procedimiento de fijación de la nueva frontera, esos territorios que como he dicho, la propia Gran Bretaña se los reconoció durante 46 años desde los orígenes de la disputa en 1840.

La Guayana Británica no podrá pretender como máxima aspiración la llamada "línea Schomburgk expandida" (roja en el mapa del mencionado folleto), porque fue una línea derivada de la adulteración de mapas, desconocida por el propio Foreign Office hasta junio de 1886, y publicada por primera vez en 1887, o sea, sólo 10 años antes del Tratado Arbitral.

Estoy en capacidad de asegurar que estas afirmaciones descansan en pruebas irrefutables.

De lo expuesto se concluye que al ser declarada la nulidad del Laudo, el único territorio venezolano que vendría a estar comprendido dentro de la máxima aspiración británica, sería el estrecho, aunque importante sector del curso inferior del Barima en su margen derecha. Acerca de sus títulos a ese territorio Venezuela no abriga la menor duda, así como está cierta de que cuando la Gran Bretaña lo incluyó dentro de su reclamación, no tuvo en cuenta títulos histórico-jurídicos sino la simple apetencia de dominio del Orinoco. Si en plena época imperial y colonialista, el Tribunal que tan arbitrariamente procedió no se atrevió a arrancarle a nuestra Venezuela pobre, débil y convulsionada, ese reducido territorio, mucho menos nos lo arrancará un Tribunal que actúe hoy de acuerdo con las normas de derecho.

En relación con el artículo 7º, es evidente que al ser sometida la ley aprobatoria del Acuerdo a este Soberano Congreso, este Acuerdo entrará en vigor a partir de la ratificación de aquella Ley.

Respecto del artículo 8º conviene observar que su interpretación debe hacerse en relación con la totalidad del Acuerdo, en el cual repetidas veces se aclara que la controversia está planteada entre Venezuela y el Reino Unido sobre la frontera con Guayana Británica.

La fórmula de que la controversia tiene lugar entre Venezuela y el Reino Unido aparece ya en el encabezamiento del Acuerdo; vuelve a figurar dos veces en su preámbulo, y en el artículo 1º en el cual se señala precisamente que el encargo confiado a la Comisión Mixta consiste en buscar soluciones satisfactorias para el arreglo práctico de la controversia entre Venezuela y el Reino Unido".

Esto supuesto, aparece con absoluta nitidez que, según el artículo 8º, la Guayana Británica entra a ser parte del Acuerdo a raíz de su independencia, agregándose a los Gobiernos de Venezuela y del Reino Unido de Gran Bretaña e Irlanda del Norte.

El Acuerdo de Ginebra presenta un desafío al cual debe el país dar una adecuada respuesta. La creación y actuación de la Comisión Mixta, así como el proceso subsiguiente, si ésta no arribase a una solución satisfactoria, obligan a Venezuela a poner en marcha todas sus energías para consolidar su reclamación con serios y maduros estudios. El desafío de la cuestión guayanesa somete a nuestro país que había visto con dolor cómo se iba encogiendo su territorio, a la hermosa tarea que no debe restringirse únicamente al estudio, orientada a la recuperación de nuestra legítima frontera oriental.

De las personas que se designen para representar a Venezuela en la Comisión Mixta, de su preparación, inteligencia, dedicación y patriotismo dependerá en gran parte que la cuestión guayanesa avance, por el cauce ya abierto, a una solución plenamente satisfactoria para la República.

Para concluir, considero que el Acuerdo de Ginebra resulta altamente beneficioso para los intereses de la Patria. Como dijo ante ustedes el Ciudadano Presidente de la República, doctor Raúl Leoni, en su reciente Mensaje al Congreso Nacional, "el Acuerdo de Ginebra reabre el caso de la Guayana Esequiba ofreciendo a Venezuela una oportunidad, como nunca tuvo antes, para hacer valer sus derechos y conseguir la reparación del daño que nos causara el doloso Laudo de París".

Annex 34

Letter from F. Brown, U.K. Mission to the United Nations, to R. du Boulay, U.K. Foreign Office,
No. 1082/77/66 (21 Mar. 1966)

CONFIDENTIAL

UNITED KINGDOM MISSION TO THE UNITED NATIONS
845 Third Avenue, New York, N.Y.

21 March, 1966.

(1082/77/66)

Dear Rogan, ^{AV} 1081/141.

You may have been surprised to see the three following references in recent verbatim records of the Committee of 24 to the question of the Venezuela/British Guiana frontier:

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UP
- 1/2 A
UP
- a) in A/AC.109/PV.395, page 62, where, in the course of the session dealing with tributes to outgoing and incoming officers, the Permanent Representative of Venezuela mentioned the past attitude of Afghanistan to the frontier question in the course of welcoming Afghanistan to the Committee; and
 - b) in A/AC.109/PV.396, page 33, where, in the course of setting out our recent actions and future intentions on all colonial questions, I mentioned the agreement reached in Geneva and took the opportunity to say that I could not accept the Venezuelan account of (a) above; and
 - c) in A/AC.109/PV.396, page 36, where the Venezuelan Ambassador tried to explain himself.

2. I enclose extracts from the three verbatim records mentioned. The draft summary records were very bad and amendments are being made to them.

3. I mention this exchange partly because I thought it was very bad taste, not to say a breach of the Geneva Agreement, for the Venezuelan Ambassador to mention the matter at all in the first place, and secondly because Saul, one of the people whom Mr. Burnham retains here to keep an eye on British Guianese interests at the United Nations, spoke to me in rather an alarmed state of mind about it. I did not intervene immediately the Venezuelan Ambassador made his first intervention because the entire debate was honey and flowers for the departing and arriving personalities and I did not want to emphasise the jarring note which the Venezuelan had introduced. But I did tell him privately afterwards that although I hoped he had not meant this, it did seem to me that what he had said was a contravention of the Agreement and I warned him that I might very well have to make some reference to it when I next spoke. This (see (b) above) of course I did. In the meantime Diaz Gonzalez, the normal Representative of Venezuela on the Committee of 24, arrived back from Bonn and I think

/expressed

R.W.H. du Boulay Esq.,
United Nations (Political) Department,
Foreign Office, S.W.1.

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- 2 -

expressed to his Ambassador his regret that he had brought the matter up in this way.

4. When Saul spoke to me I told him I agreed that it was a great pity that the Venezuelan had seen fit to raise the matter, that I hoped he was content with what I had said in reply, that I did not believe that the intervention had any nefarious purpose behind it, and that I hoped the matter could be considered as closed. I suggested that he might speak to Diaz Gonzalez about it. This he subsequently did and I believe all is now well on this score.

5. I thought you ought just to be aware of this exchange but I do not suggest that any more action should be taken.

6. On the substance of getting the Geneva Agreement circulated as a U.N. document, we are still waiting for the Venezuelans to tell us that it has been taken note of by their Congress.

7. Copies of this letter are being sent to Chancery, Caracas, and to Martin Reid in British Guiana.

Yours in

Francis Brown

(F.D.W. Brown)

CONFIDENTIAL

203/E11

Extract from A/AC.109/PV.395, page 62.

Mr. ZULOAGA (Venezuela)

..... "Then Venezuela appeared to the United Nations in 1962 and submitted to the Special Political Committee its conflict with the United Kingdom concerning the borders of our Guiana, the representative of Afghanistan intervened with a statement of special interest.

With or without reason, some Venezuelans believed that when Venezuela was despoiled of part of its territory in 1899, a geo-political arrangement was made behind the scenes whereby the United Kingdom acquired part of Venezuelan territory, and possibly Afghanistan suffered the same fate in an exchange of spheres of influence, or "hunting grounds" as they were called, at the end of the nineteenth century.".....

A/AC.109/PV.396, page 33.

Mr. BROWN (United Kingdom)

..... "Then the question of the frontier between Venezuela and British Guiana was discussed in London and subsequently in Geneva by the British Foreign Secretary and the Foreign Minister of Venezuela with the participation of the Prime Minister of British Guiana. The resulting agreement, signed in Geneva on 17 February, has been made public and I am sure it will be welcome in the Committee. In this connexion I am bound to say that in view of this agreement, my delegation was rather surprised at the mention of the question by the representative of Venezuela at the 395th meeting on 11 March. My delegation cannot accept his account of the background to it, but I suggest, if he agrees, that we should leave it at that.".....

A/AC.109/PV.396, page 36

Mr. ZULOAGA (Venezuela)

..... "After listening to the interesting statement made by the United Kingdom representative, I should like to make a very brief clarification and offer a comment. I should like to clarify the statement I made at the 395th meeting on 11 March, to which the United Kingdom representative alluded. When I referred to what some Venezuelans think, it was obvious that I had in mind the past stages, and proof of this can be found in the agreement which was signed in Geneva on 16 February of this year, to which the United Kingdom representative also alluded.

According to this agreement, the United Kingdom Government has bound itself to meet with representatives of the Venezuelan Government in order to find a final solution to the problem which stems from the acts to which I referred. I would therefore like to state, for the benefit of the United Kingdom representative, that any misunderstanding that might have occurred with regard to my reference to historical facts may be due to the fact that in the summary record, because it was summarised too much, the meaning of what I said xx may have been somewhat changed. I certainly did not intend to start a debate or to enter into polemics on this particular question, especially since the United Kingdom agreed at Geneva, with Venezuela, that within the means provided for in the Charter for the peaceful settlement of disputes every effort shall be brought to bear until a final solution of the problems has been found.".....

Annex 35

Republic of Venezuela, *Law Ratifying the Geneva Agreement* (13 Apr. 1966) reprinted in
Republic of Venezuela, Ministry of Foreign Affairs, *Claim of Guyana Esequiba: Documents*
1962-1981 (1981)

REPUBLIC OF VENEZUELA
MINISTRY OF FOREIGN AFFAIRS



CLAIM
OF
GUAYANA ESEQUIBA

DOCUMENTS

1962 – 1981

CARACAS, 1981

p102

LAW RATIFYING THE GENEVA AGREEMENT

The Congress of the Republic of Venezuela enacts the following ratifying Law of the “Agreement signed in Geneva on 17 February 1966 by the Governments of the Republic of Venezuela and United Kingdom of Great Britain and Northern Ireland in consultation with the Government of British Guiana, in order to solve the issue between Venezuela and United Kingdom over the borderline with British Guiana”.

Only Article: Every single part and all parts of the Agreement signed in Geneva on 17 February 1966 by the Governments of the Republic of Venezuela and United Kingdom of Great Britain and Northern Ireland in consultation with the Government of British Guiana, in order to solve the issue between Venezuela and United Kingdom over the borderline with British Guiana have been approved for any relevant legal purposes. The text is the following:

Submitted, signed and sealed in the Palacio Federal Legislativo [*Legislative Federal Palace*] in Caracas on 13 April 1966, 156 years after the Independence and on the 108 anniversary of the Federation.

The President,

(L.S.)

LUIS B. PRIETO F.

The Vice President,

DIONISIO LÓPEZ ORIHUELA.

The Secretaries,

Antonio Hernández Fonseca

Félix Cordero Falcón

At *Palacio de Miraflores* [Miraflores Palace], in Caracas, on 15 April 1966, 156 years after the Independence and on the 108 anniversary of the Federation.

Fulfilled

(L.S.)

RAÚL LEONI

Countersigned.

The Minister of Foreign Affairs,

(L. S.)

IGNACIO IRIBARREN BORGES

[Picture on page 103]

[Caption] The Mixed Committee and advisers, with the Mayor of Georgetown.

REPUBLICA DE VENEZUELA
MINISTERIO DE RELACIONES EXTERIORES



**RECLAMACION
DE LA
GUAYANA ESEQUIBA**

DOCUMENTOS
1962 - 1981

CARACAS, 1981

LEY APROBATORIA DEL ACUERDO DE GINEBRA

El Congreso de la República de Venezuela decreta la siguiente Ley aprobatoria del "Acuerdo Firmado en Ginebra el día 17 de febrero de 1966 por los Gobiernos de la República de Venezuela y el Reino Unido de la Gran Bretaña e Irlanda del Norte, en consulta con el Gobierno de la Guayana Británica, para resolver la controversia entre Venezuela y el Reino Unido sobre la frontera con la Guayana Británica".

Artículo Unico. — Se aprueba en todas y cada una de sus partes, a los fines legales consiguientes, el Acuerdo firmado en Ginebra el día 17 de febrero de 1966 por los Gobiernos de la República de Venezuela y el del Reino Unido de la Gran Bretaña e Irlanda del Norte, en consulta con el Gobierno de la Guayana Británica, para resolver la controversia entre Venezuela y el Reino Unido sobre la frontera con la Guayana Británica, y cuyo texto es el siguiente:

Dada firmada y sellada en el Palacio Federal Legislativo, en Caracas, a los trece días del mes de abril de mil novecientos sesenta y seis. — Año 156º de la Independencia y 108º de la Federación.

El Presidente,

(L.S.)

El Vice-Presidente,

LUIS B. PRIETO F.

DIONISIO LÓPEZ ORIHUELA.

Los Secretarios,

Antonio Hernández Fonseca.

Félix Cordero Falcón.

Palacio de Miraflores, en Caracas, a los quince días del mes de abril de mil novecientos sesenta y seis. — Año 156º de la Independencia y 108º de la Federación.

Cúmplase,

(L.S.)

RAUL LEONI

Refrendado.

El Ministro de Relaciones Exteriores,

(L.S.)

IGNACIO IRIBARREN BORGES

Annex 36

Airgram from the United States Department of State to the Embassy of the United States in Venezuela, No. A-798 (18 Apr. 1966)

THE NATIONAL ARCHIVES

DEPARTMENT OF STATE

AIRGRAM

327 BR GU-Ven

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A-798
NO.

CONFIDENTIAL

TO : Department of State 1966 APR 21 PM 2 13

HANDLING INSTRUCTIONS

RM/AN
ANALYSIS & DISTRIBUTION
BRANCHDEPARTMENT OF STATE
BUREAU OF
INTER-AMERICAN AFFAIRS

DATE: April 18, 1966

FROM : American Embassy CARACAS

SUBJECT : Venezuelan Congress Approves British Guiana Border Agreement

REF :

SUMMARY

1. Despite some press and other criticism of the Geneva accord with Great Britain and British Guiana on the latter's border dispute with Venezuela, the Venezuelan Congress approved the agreement on April 13. The character of the opposition to Venezuela's ratification was minor, the great mass of Venezuela's voters had not been moved in any serious way by the alleged injustices done their country some 67 years ago, and most of Venezuela's political leaders had indicated in private conversations with Embassy officers that the Geneva accord was more favorable than they had expected.

2. Only one of Venezuela's political parties of consequence, the FDP, chose to oppose the agreement in the Congress, suggesting that that party hopes to use the issue in the forthcoming election campaign. There remain the possibilities that one of the other opposition parties might join FDP in making the accord a campaign issue in 1968, or in criticizing the government's handling of the dispute in the accord-established Mixed Commission. As of now, however, the dispute is no longer a major political issue in Venezuela.

+++++

3. In opening the National Congress' formal consideration of the Geneva Agreement of March 17, Venezuelan Foreign Minister Ignacio IRIBARREN Borges explained that the agreement provides for consideration of the border dispute by a Mixed Commission made up of two members each from British Guiana and Venezuela. If agreement on a solution to resolve the situation is not reached within four years, the two governments will attempt to agree on alternate means of solution as outlined in Article 33 of the U.N. Charter. If agreement on this point cannot be reached, an

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FORM
4-62 DS-323

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Drafted by:

POL: JTaylor:gfh

Clearances:

Contents and Classification Approved by:

The Minister Counselor

1966 APR 21 PM 9 13

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THE NATIONAL ARCHIVES

CONFIDENTIALCaracas A-798
Page 2

appropriate international organization or the UN Secretary General will be asked to specify alternative means to a resolution of the dispute. UN Secretary General U Thant this week, in a letter released by GOV Foreign Minister Iribarren, said that he would accept the functions accorded his office by the agreement.

4. Arguing that Venezuela went to Geneva without an admission from Great Britain that a dispute did in fact exist, Iribarren said that astute diplomacy had won for Venezuela an important victory. He pointed out that Venezuela had achieved a reduction of the period sought by the British for consideration of the problem from 30 years to four, and that Britain's suggestion that the problem be given over to the UN General Assembly if a satisfactory resolution could not be reached within the stipulated four-year period was eliminated in favor of Venezuela's wish that the problem then be considered by the UN Secretary General.

5. While there was considerable attention given to the Geneva Agreement in the press, following the Foreign Minister's statement to the Congress, little debate of political importance developed. The treaty's critics--primarily historians, ex-diplomats, and writers--did not succeed in generating any widespread or significant support for their opposition to the agreement. (In fairness to the agreement's critics, it should also be pointed out that neither did the bill's supporters succeed in generating great enthusiasm.)

6. Recent criticism of the agreement by former Foreign Minister Marcos FALCON Briceño is typical of the attacks made on the accord. Since Venezuela's constitution prohibits the ceding of national territory to any foreign power, Falcón argued, Article 5 of the proposed treaty (which allows the Mixed Commission to decide questions of sovereignty in the disputed area, including territory now considered Venezuelan, if both parties agree) is clearly unconstitutional. The treaty should therefore be rejected by the Congress.

7. Another attack on the agreement was made by the former legal counsel to the Foreign Ministry, Ramon CARMONA. Carmona complained in a full page commentary, appearing in EL NACIONAL that the accord will not be binding on the new state of Guyana when it achieves independence this year, citing other instances in which newly independent states have repudiated treaties made by the former colonial power.

8. Significantly, in contrast to the politically impotent critics of the agreement, the replies to Falcón and Carmona were made by the Chairman of the Foreign Affairs Committee of the Chamber of Deputies, Alfredo TARRE Murzi, and the international relations secretary of the

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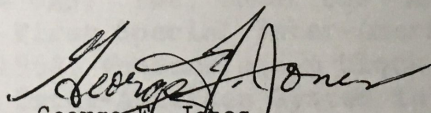
Page 3

leading opposition party (COPEI), Gonzalo GARCIA Bustillos.

9. On April 13, following Senate action the previous day, the Venezuelan Chamber of Deputies completed action on the accord. And on April 15, the approved law was signed by the President and published in Venezuela's Gaceta Oficial, copy of which is enclosed. The bill, approved in the Chamber by 99 of the 109 present, was passed with the support of the government parties AD and URD, and the opposition parties COPEI and FND. The only significant opposition to the bill came from FDP, which thus reserved its position on a potential issue in the forthcoming election period.

10. While there are, of course, ways in which the border dispute could become a major public issue, the likelihood of this taking place in the four-year period before the expiration of the Mixed Commission's mandate seems slight. On April 16 President Leoni announced the appointment of Copeyano Garcia Bustillos and independent lawyer Luis LORETO Hernández as Venezuela's representative on the Mixed Commission. Both Garcia and Loreto are respected figures, and Garcia in particular may prove to be a shrewd choice. COPEI cannot very well attack the work of the Commission as long as one of its own leaders is a member. Furthermore, it is difficult to see how a major attack from FDP, the only party of significance which did not support the accord in Congress, could arouse much more sentiment than did the government's diligent, but largely unsuccessful, six-month effort to generate significant public interest in the dispute.

For the Ambassador:


George F. Jones
Second Secretary

Enclosure No. 1

One copy of Gaceta Oficial No. 28,008, April 15, 1966

Annex 37

Letter from the Permanent Representative of the United Kingdom to the United Nations to
Secretary-General of the United Nations (21 Apr. 1966)

(1082/104/66)

21 April, 1966.

Your Excellency,

I have the honour to acknowledge with thanks Your Excellency's letter of the 4th of April, 1966 about the Agreement signed at Geneva on the 17th of February, 1966 by Ministers of the Governments of the United Kingdom, British Guiana and Venezuela.

As requested in Your Excellency's letter, the information has been conveyed to the United Kingdom Secretary of State for Foreign Affairs and to the Prime Minister of British Guiana.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Caradon)

His Excellency U Thant,
Secretary-General of the United Nations,
United Nations,
New York.

copied to:

S. Falle, Esq., C.M.G., D.S.C., Foreign Office.
T.C.D. Jerrom, Esq., Colonial Office.
The Governor, Georgetown, B.G.
Chancery, Caracas.

Annex 38

Letter from the Permanent Representatives of the United Kingdom and Venezuela to the United Nations to the Secretary-General of the United Nations, U.N. Doc A/6325 (3 May 1966)



UNITED NATIONS

GENERAL ASSEMBLY



Distr.
GENERAL

A/6325
3 May 1966
ENGLISH
ORIGINAL: ENGLISH/SPANISH

Twenty-first session

LETTER DATED 2 MAY 1966 FROM THE PERMANENT REPRESENTATIVES
OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
AND VENEZUELA TO THE UNITED NATIONS ADDRESSED TO THE
SECRETARY-GENERAL

We have the honour to transmit to Your Excellency with this letter the text of an Agreement between the Governments of the United Kingdom, in consultation with the Government of British Guiana, and Venezuela, concerning the frontier between British Guiana and Venezuela, signed in Geneva, on 17 February 1966, by His Excellency the Minister of External Relations of the Government of Venezuela, His Excellency the Secretary of State for Foreign Affairs of the United Kingdom and His Excellency the Prime Minister of British Guiana.

The Agreement has been approved by the Congress of Venezuela and it has been published in the United Kingdom as a White Paper. The House of Assembly of British Guiana has also formally approved it.

The Governments of Venezuela and British Guiana have already appointed their representatives in the Mixed Commission in accordance with article II of the Agreement and the Commission will shortly begin its work.

In Your Excellency's letters to the Permanent Representatives of the United Kingdom and Venezuela dated 4 April, Your Excellency was good enough to state that you considered the responsibilities which might fall to be discharged by the Secretary-General of the United Nations under article IV (2) of the Agreement to be of a nature which might appropriately be discharged by the Secretary-General of the United Nations.

We should be grateful if Your Excellency would arrange for this letter and the text of the Agreement to be circulated as a document of the General Assembly, in accordance with the undertaking by the Governments of the United Kingdom and

A/6325
English
Page 2

Venezuela to inform the United Nations about the results of their conversations concerning this question, as contained in the statement of the Chairman of the Special Political Committee of the General Assembly at its 350th meeting, on 16 November 1962, and incorporated in the report of the Special Political Committee^{1/} approved by the General Assembly.

(Signed) Pedro ZULOAGA

R.W. JACKLING

^{1/} Official Records of the General Assembly, Seventeenth Session, Annexes, agenda item 88, document A/5313, para. 4.

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English
Page 3

The Government of the United Kingdom of Great Britain and Northern Ireland, in consultation with the Government of British Guiana, and the Government of Venezuela;

Taking into account the forthcoming independence of British Guiana;

Recognizing that closer co-operation between British Guiana and Venezuela could bring benefit to both countries;

Convinced that any outstanding controversy between the United Kingdom and British Guiana on the one hand and Venezuela on the other would prejudice the furtherance of such co-operation and should therefore be amicably resolved in a manner acceptable to both parties;

In conformity with the agenda that was agreed for the governmental conversations concerning the controversy between Venezuela and the United Kingdom over the frontier with British Guiana, in accordance with the joint communique of 7 November 1963, have reached the following agreement to resolve the present controversy:

ARTICLE I

A Mixed Commission shall be established with the task of seeking satisfactory solutions for the practical settlement of the controversy between Venezuela and the United Kingdom which has arisen as the result of the Venezuelan contention that the Arbitral Award of 1899^{2/} about the frontier between British Guiana and Venezuela is null and void.

ARTICLE II

(1) Within two months of the entry into force of this Agreement, two representatives shall be appointed to the Mixed Commission by the Government of British Guiana and two by the Government of Venezuela.

(2) The Government appointing a representative may at any time replace him, and shall do so immediately should one or both of its representatives be unable to act through illness or death or any other cause.

(3) The Mixed Commission may by agreement between the representatives appoint experts to assist the Mixed Commission, either generally or in relation to any individual matter under consideration by the Mixed Commission.

^{2/} British and Foreign State Papers, Vol. 92, p. 160. See also "Treaty Series No. 5 (1897)", C. 8439, for text of Treaty of 2 February 1897.

/...

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English
Page 4

ARTICLE III

The Mixed Commission shall present interim reports at intervals of six months from the date of its first meeting.

ARTICLE IV

(1) If, within a period of four years from the date of this Agreement, the Mixed Commission should not have arrived at a full agreement for the solution of the controversy it shall, in its final report, refer to the Government of Guyana and the Government of Venezuela any outstanding questions. Those Governments shall without delay choose one of the means of peaceful settlement provided in Article 33 of the Charter of the United Nations.^{3/}

(2) If, within three months of receiving the final report, the Government of Guyana and the Government of Venezuela should not have reached agreement regarding the choice of one of the means of settlement provided in Article 33 of the Charter of the United Nations, they shall refer the decision as to the means of settlement to an appropriate international organ upon which they both agree or, failing agreement on this point, to the Secretary-General of the United Nations. If the means so chosen do not lead to a solution of the controversy, the said organ or, as the case may be, the Secretary-General of the United Nations shall choose another of the means stipulated in Article 33 of the Charter of the United Nations, and so on until the controversy has been resolved or until all the means of peaceful settlement there contemplated have been exhausted.

ARTICLE V

(1) In order to facilitate the greatest possible measure of co-operation and mutual understanding, nothing contained in this Agreement shall be interpreted as a renunciation or diminution by the United Kingdom, British Guiana or Venezuela of any basis of claim to territorial sovereignty in the territories of Venezuela or British Guiana, or of any previously asserted rights of or claims to such territorial sovereignty, or as prejudicing their position as regards their recognition or non-recognition of a right of, claim or basis of claim by any of them to such territorial sovereignty.

^{3/} Treaty Series No. 67 (1946), Cmd. 7015.

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English
Page 5

(2) No acts or activities taking place while this Agreement is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in the territories of Venezuela or British Guiana or create any rights of sovereignty in those territories, except in so far as such acts or activities result from any agreement reached by the Mixed Commission and accepted in writing by the Government of Guyana and the Government of Venezuela. No new claim, or enlargement of an existing claim, to territorial sovereignty in those territories shall be asserted while this Agreement is in force, nor shall any claim whatsoever be asserted otherwise than in the Mixed Commission while that Commission is in being.

ARTICLE VI

The Mixed Commission shall hold its first meeting at a date and place to be agreed between the Governments of British Guiana and Venezuela. This meeting shall take place as soon as possible after its members have been appointed. Thereafter the Mixed Commission shall meet as and when agreed between the representatives.

ARTICLE VII

This Agreement shall enter into force on the date of its signature.

ARTICLE VIII

Upon the attainment of independence by British Guiana, the Government of Guyana shall thereafter be a party to this Agreement, in addition to the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Venezuela.

In witness whereof, the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

Done in duplicate at Geneva this 17th day of February, 1966, in the English and Spanish languages, both texts being equally authoritative.

A/6325
English
Page 6

For the Government of the United Kingdom of Great Britain and Northern
Ireland:

MICHAEL STEWART
Secretary of State for Foreign Affairs

L.F.S. BURNHAM
Prime Minister of British Guiana

For the Government of Venezuela:

IGNACIO IRIBARREN BORGES
Minister for Foreign Affairs

Annex 39

Republic of Venezuela, Ministry of Foreign Affairs, *Statement* (6 Sept. 1966), *reprinted in* Republic of Venezuela, Ministry of Foreign Affairs, *Claim of Guyana Esequiba: Documents 1962-1981* (1981)

REPUBLIC OF VENEZUELA
MINISTRY OF FOREIGN AFFAIRS



CLAIM
OF
GUAYANA ESEQUIBA

DOCUMENTS

1962 – 1981

CARACAS, 1981

p116, 118-9.

DECLARATIONS FROM THE VENEZUELAN MINISTER OF FOREIGN AFFAIRS ON THE ADMISSION OF GUYANA INTO TO OAS, PUBLISHED IN THE PRESS ON 6 SEPTEMBER 1966

Venezuela will not impose a veto on the admission of the State of Guyana into the Organization of American States. However there exists, in the Washington Act which established the admission process of new members into the OAS, a provision stating “the application for admission from a country that has a claim from a current member of the OAS over the totality or part of its territory cannot be considered up until the issue has been solved in a pacific way” declared yesterday the Chancellor Iribarren Borges after being asked by the journalists on the information from a cable which announced the veto of our country on the entrance of Guyana into the OAS.

“That article opposes” he continued “the admission of Guyana into the OAS unless the Venezuelan claim is definitively resolved over the territory of Guayana Essequibo. And if Guyana makes its application, Venezuela will just ask for that article to be applied”.

What if other countries ask for its admission to be considered?

“Venezuela will limit itself to the text of the article which clearly provides for the admission of new members into the OAS”.

What will be the position of Venezuela on the admission of Guyana into the United Nations?

“We will vote in favour as there is no act, protocol, provision or regulation there as there are in the OAS which limits the admission of new members. The application for admission from Guyana into the UN was already considered as it was announced in the press. As you know, Venezuela asked the Security Council to let them speak there and supported its admission making a reservation of our territorial claim. We will present the same reservation when that is finally considered at the General Assembly of the United Nations”.

REPUBLICA DE VENEZUELA
MINISTERIO DE RELACIONES EXTERIORES



**RECLAMACION
DE LA
GUAYANA ESEQUIBA**

DOCUMENTOS

1962 - 1981

CARACAS, 1981

**DECLARACIONES DEL SEÑOR MINISTRO DE RELACIONES
EXTERIORES DE VENEZUELA SOBRE LA ADMISION DE
GUYANA EN LA OEA, PUBLICADAS EN LA PRENSA DEL 6
DE SEPTIEMBRE DE 1966.**

No es un veto lo que impondrá Venezuela al ingreso del Estado de Guyana en la Organización de Estados Americanos, sino que existe en el Acta de Washington, que estableció el proceso de ingreso de nuevos miembros en la OEA, una disposición en la cual se establece que "no se considerará la solicitud de ingreso de un país que tenga una reclamación de un miembro actual de la Organización sobre la totalidad o parte de su territorio, hasta tanto esa controversia no haya sido solucionada por medios pacíficos", declaró ayer el Canciller Iribarren Borges al ser consultado por los periodistas en torno a una información cablegráfica que anunciaba el veto de nuestro país a la entrada de Guyana en la OEA.

"Ese artículo se opone, continuó diciendo, al ingreso de Guyana en la OEA mientras no sea definitivamente solucionada la reclamación venezolana sobre el territorio de la Guayana del Esequibo. Y en caso de que Guyana haga su solicitud, Venezuela sólo pedirá que se aplique ese artículo".

¿Y si otros países piden que sea considerado su ingreso?

"Venezuela se limitará al texto del artículo que señala claramente la admisión de nuevos miembros en la OEA".

¿Cuál será la posición de Venezuela frente al ingreso de Guyana en las Naciones Unidas?

"Daremos nuestro voto favorable, pues allí no existe un acta, protocolo, disposición o reglamentación como en la OEA, que limita la entrada de nuevos miembros. Ya fue considerado, como se anunció en la prensa, la solicitud de ingreso de Guyana en la ONU. Como ustedes saben Venezuela pidió al Consejo de Seguridad dejar oír su voz allí y apoyó su ingreso, haciendo una reserva de nuestra reclamación territorial que tenemos planteadas. La misma reserva haremos cuando eso sea considerado en forma definitiva en la Asamblea General de las Naciones Unidas.

Annex 40

Note Verbale from the Prime Minister and Minister of External Affairs of Guyana to the Minister of Foreign Relations of Venezuela, No. CP(66)603 (21 Oct. 1966)

SECRET.

2/4/1

THIS DOCUMENT IS THE PROPERTY OF THE CABINET

CP(66)603

21st October, 1966COPY NO. 11

CABINET

GUYANA/VENEZUELA BORDER CONTROVERSY

Note by the Secretary

I am directed by the Prime Minister to forward herewith for your information copy of a telegram dated 21st October, 1966, sent by the Prime Minister to the Minister of Foreign Relations of Venezuela in connection with the presence of Venezuelan personnel on the Guyana portion of the Ankoka Island in the Cuyuni River.

B.W. Vigilance

for Secretary to the Cabinet

OFFICE OF THE CABINET

21st October, 1966.

SECRET.

TELEGRAM

FROM: Hon. L.F.S. Burnham,
Prime Minister and Minister of External Affairs,
Guyana.
TO: His Excellency Doctor Ignacio Irribarren Borges
Minister of Foreign Relations of Venezuela.

21st October, 1966.

Honourable Minister I have the honour to refer to Your Excellency's telegram to me of the 18th instant in answer to mine of the 14th instant concerning the presence of Venezuelan personnel on the island of Ankoko stop

I infer from your telegram that the Government of Venezuela assumes responsibility for the presence of such personnel on the island of Ankoko and for the additional personnel that have since been sent there stop

I note Your Excellency's assertion that the entire island of Ankoko is Venezuelan territory and that the Republic of Venezuela has always been in possession of it. In reply I have the honour to deny this assertion and to point out to Your Excellency that that portion of the island of Ankoko which is shown on the boundary map signed at Georgetown on 7th January, 1905, by the Venezuelan and British Boundary Commissioners and confirmed by their recorded agreement of 10th January, 1905, as within the boundaries of the former colony of British Guiana has always been juridically and administratively a part of and within the possession of the former Colony of British Guiana and is now within the boundaries of the State of Guyana. In these circumstances, the Government of Guyana regards the introduction of Venezuelan personnel both civilian and military into that part of Ankoko island which is part of the State of Guyana as a violation of Guyana's territorial sovereignty and a breach of the Geneva Agreement of 17th February, 1966, and I have the honour to point out to Your Excellency that breaches of that Agreement are not among the matters assigned for the consideration of the Mixed Commission established under it stop

The Government of Guyana as a friendly neighbour of the Republic of Venezuela proposes that the matter that has arisen between our two countries should be resolved by discussions between the Governments rather than by a reference to the United Nations at this stage and that such discussions should proceed on the basis of an immediate examination by representatives of the two Governments of the official map of 1905 which shows the agreed boundary stop

Accept, Excellency, assurances of my highest consideration stop

L.F.S. BURNHAM
Prime Minister and Minister of External
Affairs, Guyana.

Annex 41

United Kingdom, Ministry of External Affairs, *First Interim Report of the Mixed Commission*
(30 Dec. 1966)

SECRET

THIS DOCUMENT IS THE PROPERTY OF THE CABINET

CP(67)79th January, 1967COPY NO. 12CABINETGUYANA/VENEZUELA MIXED COMMISSION -
FIRST INTERIM REPORTMemorandum by the Minister of State

The Minister of State herewith submits for the information of Cabinet, the First Interim Report of the Guyana/Venezuela Mixed Commission. The Report was prepared by the Mixed Commission during its sitting in Caracas, 28th to 30th December, 1966. The Report is submitted in accordance with Article III of the Geneva Agreement of 17th February, 1966. A copy was sent to the British High Commission in Georgetown on 4th January for transmission to the British Government. A copy was also sent to the Venezuelan Ambassador in Georgetown.

2. Cabinet will note that, apart from agreement reached on Rules of Procedure of the Mixed Commission, there has been little or no progress made on the substantial issue of an amicable and practical settlement of the controversy.

(Initialled) S.S.R.

Ministry of External Affairs
SEA:9/20/1/1
9th January, 1967.

SECRET

FIRST INTERIM REPORT
OF THE
MIXED COMMISSION

Caracas, December 30, 1966

The undersigned, Sir Donald Jackson and Mohamed Shahabuddeen, Representatives of the Government of Guyana, and Luis Loreto and Gonzalo Garcia Bustillos, Representatives of the Government of Venezuela, members of the Mixed Commission created under the Geneva Agreement of February 17, 1966, submit to their respective Governments and to the Governments of the United Kingdom of Great Britain and Northern Ireland the following First Interim Report, under article III of said Agreement.

1: First Meeting:

In agreement with the provisions of article VI of the Geneva Agreement, the Governments of Guyana and Venezuela decided to hold the first meeting in Caracas, beginning July 2, 1966. The meetings took place in the Foreign Ministry of Venezuela. The opening meeting was held in the presence of the Acting Foreign Minister of Venezuela, Dr. Raul Nass, and the Charge d'Affaires a.i. of the United Kingdom of Great Britain and Northern Ireland, Mr. Kenneth Douglas Jamieson.

The Mixed Commission held four working sessions which were devoted to the preparation of the Rules of Procedure on the basis of a draft submitted by the Representatives of Venezuela (Appendix I - Working Document No.1).

The Commission adopted the Rules of Procedure (Appendix II - Document I) with the exception of articles four, five, six and seven of the draft which were to be studied at the following meeting.

2: Second Meeting:

By agreement of the Representatives, the second meeting was held in Georgetown on the 12 to 16 of September. The Commission met at the City Hall. The opening meeting was held in the presence of the Honourable Dr. Ptolemy Reid, Acting Prime Minister of Guyana, the Lord Mayor and Members of the Municipal Council of the City of Georgetown, members of the

-2-

Diplomatic Corps and other distinguished visitors.

The Commission adopted the minutes of the previous meeting (Appendices II, IV, V, VI, - Minutes I-1, I-2, I-3, I-4). The pending articles having been dealt with, the entire Rules of Procedure of the Mixed Commission were adopted (Appendix II).

The Representatives of Guyana called the attention of their colleagues to some official acts of Venezuela so that they might consider whether these were conducive to the smooth working of the Commission (issue of stamps and Venezuelan declaration in Milan, June 1966). The Representatives of Venezuela offered to submit an answer at the following meeting.

The Representatives of Venezuela asked for permission to visit the territory west of the Essequibo River. The Representatives of Guyana offered to submit an answer at the following meeting. It was decided to hold the third meeting in Caracas during the third and fourth weeks of November.

When the Commission had concluded its work on the procedural matters, the Venezuelan Delegation made a statement in which was put forward what was described as the substantial Venezuelan claim on the territorial question. The Venezuelan Delegation said:

"The territorial expoliation of which Venezuela was a victim was consummated at a time in which the great powers, applying colonial and imperialist methods and with total disregard for law, took advantage of their strength to oppress some peoples and despoil others. A notorious example of these procedures was the procedure used against Venezuela. Those who at the moment had power on their side, taking advantage of our country's weakness, submitted it to the humiliation of having to suffer the effects of the violation of justice and law, acting behind its back, and without even permitting its participation in the constitution of the arbitral tribunal.

The so-called Paris Award of 1899 being null and void, Venezuela claims the restitution of the territory situated to the west of the

-3-

middle line of the Essequibo River, from its source to its mouth on the Atlantic Ocean, a territory that has never ceased to belong to Venezuela".

The Guyanese Representatives noted the Venezuelan claim but stated that a preliminary question of construction of the Geneva Agreement was involved as to whether it was possible to consider the territorial issue without first examining the alleged nullity of the Arbitral Award from which the claim to reopen the territorial issue flowed.

The Representatives of Venezuela maintained that in accordance with the substance and the wording of article I of the Geneva Agreement, the task assigned by this treaty to the Mixed Commission consisted in "seeking satisfactory solutions for the practical settlement of the dispute" and did not in any way imply the discussion of the nullity or validity of the Paris Award, this matter being outside of the terms of reference of the Commission, which, they considered, had been created in order to find, through peaceful means, a practical settlement of the territorial dispute. In their view, the question of nullity had been already dealt with at the Geneva Conference where, they asserted, Great Britain, British Guiana and Venezuela had set aside the problem of the validity of the Award from the terms of reference of the Mixed Commission for the benefit of peace. They said that the juridical examination of the question would if necessary, be proceeded with, in time, by some international tribunal in accordance with article IV of the Geneva Agreement. They expressed the opinion that, under the terms of article I of the Geneva Agreement, the only thing they could discuss was any practical proposals for the satisfactory solution of the controversy.

The Guyanese Representatives thought it was unreasonable for them to be asked to consider any rearrangement of the frontier which might result in the alienation of more than half the land area of their country, without any attempt being first made to dislodge them from the favourable judgment on which they at the moment rightly sat. They did not accept that it was

-4-

agreed at the Geneva Conference to set aside the problem of the validity of the Award for the benefit of peace. They could not properly attribute to the parties the intention of attempting to serve the interests of peace by simply deciding to shelve a judgment solemnly given by an international arbitral body and without any attempt first having been made to investigate the validity of the judgment. In their view, the legal issue concerning the validity of the Award was of the first importance, since from it flowed the entire Venezuelan case, with the consequence that no solution which might be proposed for a settlement of the controversy would be either "satisfactory" or "practical" within the meaning of article I of the Geneva Agreement unless it was preceded by a full ventilation of the legal issue concerning the validity of the Award. If, as the Venezuelan Representatives had said, the issue relating to the validity of the Award could be inquired into by an international tribunal set up under article IV of the Geneva Agreement, it followed, in the view of the Guyanese Representatives, that that issue was within the competence of the Commission, since under that article the only thing that could be referred for the decision of an international tribunal was an "outstanding question" on which the Commission itself had failed to reach agreement.

The Venezuelan Representatives expressed their willingness to discuss personally and informally with their colleagues the reasons for Venezuela's contention that the Award was null and void, but they felt that such a discussion could not be carried out in the Commission without disregard for the meaning of article I of the Geneva Agreement.

These matters were reserved for further study.

3: Third Meeting:

The third session was held in Caracas on the 28th, 29th, and 30th of December, 1966 in the Ministry for Foreign Affairs of Venezuela.

The Commission adopted the minutes of the previous session.
(Appendices VII, VIII, IX AND X - minutes II-1, II-2, II-3, II-4).

-5-

Some matters pending from the previous session were dealt with.

They will be included in the Second Interim Report.

The Commission discussed and approved this First Interim Report.

It was agreed that the next session of the Commission would be held in Georgetown during the week beginning on the 13th of March 1967, in order to proceed with the work of the Commission.

(sgd.) Luis Loreto

(sgd.) Donald Jackson

(sgd.) G. Garcia Bustillos

(sgd.) M. Shahabuddeen

Annex 42

Republic of Venezuela, Ministry of Foreign Affairs, *Communiqué* (14 May 1968)

ADVERTISEMENT

**COMMUNIQUE FROM THE
VENEZUELAN MINISTRY OF
FOREIGN AFFAIRS**

The Venezuelan Government, through an official statement issued by the Department of Geology and Mines (Ministry of Forestry, Lands and Mines) of the Guyana Government, has learnt that with the help, in equipment and personnel, of the United Nations and the United States of America, mine explorations have recently been intensified in various parts of the Esequivo Guiana.

In view of the fact that the Esequivo Guiana is claimed by our country, as by right belongs to it, the Venezuelan Ministry of Foreign Affairs publicly and categorically once more state that they do not recognize any type of such supposed concessions, either granted or to be granted by the Guyana Government over the territory stretching to the West of the Esequivo River, from its sources to its mouth, and in this respect they reiterate the Communiqué issued by said Ministry and published in the press on the 25th May, 1965, as well as the statement on this matter contained in the address given by the Minister of Foreign Affairs, Dr. Ignacio Iribarren Borges, on the 16th September of that same year. These and other reservations which derive from the unwavering Venezuelan right over the Esequivo Guiana, were upheld by the Geneva Agreement (Article V), of the 17th February, 1966.

Caracas, 14th May, 1968

Annex 43

Note Verbale from the Ministry of External Affairs of Guyana to the Embassy of the Bolivarian Republic of Venezuela in Guyana (19 July 1968)

ENCLOSURE IV

THE PERMANENT MISSION OF GUYANA TO THE UNITED NATIONS

355 LEXINGTON AVENUE (18TH FLOOR)

NEW YORK, N. Y. 10017

TELEPHONE: 986-1460-1

Note from the Government of Guyana to the
Government of Venezuela
Delivered on July 19, 1968.

The Ministry of External Affairs of Guyana has the honour to present its compliments to the Embassy of the Republic of Venezuela and to bring to the attention of the Embassy that on Wednesday, 17th July, 1968, the National Assembly of Guyana unanimously passed a Resolution in the following terms -

"WHEREAS the Government of the Republic of Venezuela by a decree of Dr. Raul Leoni, President of the said Republic, being Decree No.1,152 published in the Official Gazette of Venezuela (No. 28,672) of 9th July, 1968, has purported to annex as part of the territorial waters and contiguous zone of Venezuela a belt of sea lying along the coast of Guyana between the mouth of the Essequibo River and Waini Point;

AND WHEREAS the said Decree purports to require the armed forces of Venezuela to impose the dominion of Venezuela over the said belt of sea;

AND WHEREAS the said belt of sea forms part of

the territorial////2

-2-

the territorial sea and contiguous zone of Guyana and is situate over the continental shelf forming part of the territory of Guyana;

AND WHEREAS the said Decree is repugnant to the territorial sovereignty and the established rights of Guyana and is in violation of international law and the accepted practice of nations and is contrary to the provisions of the Geneva Agreement 1966 concluded between the Government of the United Kingdom and the Government of Venezuela;

AND WHEREAS in violation of the Geneva Agreement Venezuela continues illegally to occupy territory of Guyana in Ankoko Island:

RESOLVED, That this Assembly -

- (i) declare the said Decree to be a nullity and approve of it being so treated by the Government of Guyana insofar as it purports to relate to any part of the sea, including the territorial sea and the contiguous zone, adjacent to any part of the coast of Guyana and to any part of the continental shelf forming part of the territory of Guyana;
- (ii) condemn the said Decree as constituting a threat of aggression against Guyana

and a situation...../3

-3-

and a situation likely to endanger international peace and security;

- (iii) denounce as an act of aggression against Guyana done contrary to the Charter of the United Nations any attempt by the Government of Venezuela to implement the and Decree over any part of the sea, including the territorial sea and the contiguous zone, adjacent to any part of the coast of Guyana or any part of the continental shelf forming part of the territory of Guyana;
- (iv) approve of the Government of Guyana taking all necessary steps to secure the territorial integrity of Guyana, including its rights under international law to and over the sea adjacent to its coast, including the territorial sea and the contiguous zone, and the continental shelf forming part of the territory of Guyana."

The Government of Guyana wishes to re-affirm to the Government of Venezuela the statements contained in the said Resolution.

The Ministry of External Affairs of Guyana takes this opportunity to renew to the Embassy of the Republic of Venezuela its assurances of the highest consideration.

19 July, 1968.

Annex 44

Vienna Convention on the Law of Treaties, 1155 U.N.T.S. 332 (23 May 1969)

No. 18232

MULTILATERAL

**Vienna Convention on the law of treaties (with annex).
Concluded at Vienna on 23 May 1969**

*Authentic texts: English, French, Chinese, Russian and Spanish.
Registered ex officio on 27 January 1980.*

MULTILATÉRAL

**Convention de Vienne sur le droit des traités (avec annexe).
Conclue à Vienne le 23 mai 1969**

*Textes authentiques : anglais, français, chinois, russe et espagnol.
Enregistrée d'office le 27 janvier 1980.*

VIENNA CONVENTION¹ ON THE LAW OF TREATIES

The States Parties to the present Convention,

Considering the fundamental role of treaties in the history of international relations,

Recognizing the ever-increasing importance of treaties as a source of international law and as a means of developing peaceful co-operation among nations, whatever their constitutional and social systems,

Noting that the principles of free consent and of good faith and the *pacta sunt servanda* rule are universally recognized,

Affirming that disputes concerning treaties, like other international disputes, should be settled by peaceful means and in conformity with the principles of justice and international law,

Recalling the determination of the peoples of the United Nations to establish conditions under which justice and respect for the obligations arising from treaties can be maintained,

Having in mind the principles of international law embodied in the Charter of the United Nations, such as the principles of the equal rights and self-determination of peoples, of the sovereign equality and independence of all States, of non-interference in the domestic affairs of States, of the prohibition of the threat or use of force and of universal respect for, and observance of, human rights and fundamental freedoms for all,

¹ Came into force on 27 January 1980, i.e., on the thirtieth day following the date of deposit of the thirty-fifth instrument of ratification or accession with the Secretary-General of the United Nations, in accordance with article 84 (1):

State	Date of deposit of the instrument of ratification or accession (a)	State	Date of deposit of the instrument of ratification or accession (a)
Argentina*	5 December 1972	Morocco*	26 September 1972
Australia	13 June 1974 a	Nauru	5 May 1978 a
Austria	30 April 1979 a	New Zealand	4 August 1971
Barbados	24 June 1971	Niger	27 October 1971 a
Canada*	14 October 1970 a	Nigeria	31 July 1969
Central African Republic	10 December 1971 a	Paraguay	3 February 1972 a
Cyprus	28 December 1976 a	Philippines	15 November 1972
Denmark*	1 June 1976	Republic of Korea	27 April 1977
Finland*	19 August 1977	Spain	16 May 1972 a
Greece	30 October 1974 a	Sweden	4 February 1975
Holy See	25 February 1977	Syrian Arab Republic*	2 October 1970 a
Honduras	20 September 1979	Togo	28 December 1979 a
Italy	25 July 1974	Tunisia*	23 June 1971 a
Jamaica	28 July 1970	United Kingdom of Great Britain and Northern Ireland*	25 June 1971
Kuwait*	11 November 1975 a	United Republic of Tanzania*	12 April 1976 a
Lesotho	3 March 1972 a	Yugoslavia	27 August 1970
Mauritius	18 January 1973 a	Zaire	25 July 1977 a
Mexico	25 September 1974		

Subsequently, the Convention came into force for the following State on the thirtieth day following the date of deposit of its instrument of ratification or accession with the Secretary-General of the United Nations, in accordance with article 84 (2):

State	Date of deposit of the instrument of accession (a)
Rwanda	3 January 1980 a
(With effect from 2 February 1980.)	

* For the texts of the reservations and declarations made upon ratification or accession, see p. 501 of this volume.

Believing that the codification and progressive development of the law of treaties achieved in the present Convention will promote the purposes of the United Nations set forth in the Charter, namely, the maintenance of international peace and security, the development of friendly relations and the achievement of co-operation among nations,

Affirming that the rules of customary international law will continue to govern questions not regulated by the provisions of the present Convention,

Have agreed as follows:

PART I. INTRODUCTION

Article 1. SCOPE OF THE PRESENT CONVENTION

The present Convention applies to treaties between States.

Article 2. USE OF TERMS

1. For the purposes of the present Convention:

(a) "Treaty" means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation;

(b) "Ratification", "acceptance", "approval" and "accession" mean in each case the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty;

(c) "Full powers" means a document emanating from the competent authority of a State designating a person or persons to represent the State for negotiating, adopting or authenticating the text of a treaty, for expressing the consent of the State to be bound by a treaty, or for accomplishing any other act with respect to a treaty;

(d) "Reservation" means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State;

(e) "Negotiating State" means a State which took part in the drawing up and adoption of the text of the treaty;

(f) "Contracting State" means a State which has consented to be bound by the treaty, whether or not the treaty has entered into force;

(g) "Party" means a State which has consented to be bound by the treaty and for which the treaty is in force;

(h) "Third State" means a State not a party to the treaty;

(i) "International organization" means an intergovernmental organization.

2. The provisions of paragraph 1 regarding the use of terms in the present Convention are without prejudice to the use of those terms or to the meanings which may be given to them in the internal law of any State.

Article 3. INTERNATIONAL AGREEMENTS NOT WITHIN THE SCOPE OF THE PRESENT CONVENTION

The fact that the present Convention does not apply to international agreements concluded between States and other subjects of international law or between such other subjects of international law, or to international agreements not in written form, shall not affect:

- (a) The legal force of such agreements;
- (b) The application to them of any of the rules set forth in the present Convention to which they would be subject under international law independently of the Convention;
- (c) The application of the Convention to the relations of States as between themselves under international agreements to which other subjects of international law are also parties.

Article 4. NON-RETROACTIVITY OF THE PRESENT CONVENTION

Without prejudice to the application of any rules set forth in the present Convention to which treaties would be subject under international law independently of the Convention, the Convention applies only to treaties which are concluded by States after the entry into force of the present Convention with regard to such States.

*Article 5. TREATIES CONSTITUTING INTERNATIONAL ORGANIZATIONS
AND TREATIES ADOPTED WITHIN AN INTERNATIONAL ORGANIZATION*

The present Convention applies to any treaty which is the constituent instrument of an international organization and to any treaty adopted within an international organization without prejudice to any relevant rules of the organization.

PART II. CONCLUSION AND ENTRY INTO FORCE OF TREATIES

SECTION 1. CONCLUSION OF TREATIES

Article 6. CAPACITY OF STATES TO CONCLUDE TREATIES

Every State possesses capacity to conclude treaties.

Article 7. FULL POWERS

1. A person is considered as representing a State for the purpose of adopting or authenticating the text of a treaty or for the purpose of expressing the consent of the State to be bound by a treaty if:

- (a) He produces appropriate full powers; or
- (b) It appears from the practice of the States concerned or from other circumstances that their intention was to consider that person as representing the State for such purposes and to dispense with full powers.

2. In virtue of their functions and without having to produce full powers, the following are considered as representing their State:

- (a) Heads of State, Heads of Government and Ministers for Foreign Affairs, for the purpose of performing all acts relating to the conclusion of a treaty;
- (b) Heads of diplomatic missions, for the purpose of adopting the text of a treaty between the accrediting State and the State to which they are accredited;
- (c) Representatives accredited by States to an international conference or to an international organization or one of its organs, for the purpose of adopting the text of a treaty in that conference, organization or organ.

*Article 8. SUBSEQUENT CONFIRMATION OF AN ACT
PERFORMED WITHOUT AUTHORIZATION*

An act relating to the conclusion of a treaty performed by a person who cannot be considered under article 7 as authorized to represent a State for that purpose is without legal effect unless afterwards confirmed by that State.

Article 9. ADOPTION OF THE TEXT

1. The adoption of the text of a treaty takes place by the consent of all the States participating in its drawing up except as provided in paragraph 2.

2. The adoption of the text of a treaty at an international conference takes place by the vote of two thirds of the States present and voting, unless by the same majority they shall decide to apply a different rule.

Article 10. AUTHENTICATION OF THE TEXT

The text of a treaty is established as authentic and definitive:

- (a) By such procedure as may be provided for in the text or agreed upon by the States participating in its drawing up; or
- (b) Failing such procedure, by the signature, signature *ad referendum* or initialling by the representatives of those States of the text of the treaty or of the Final Act of a conference incorporating the text.

Article 11. MEANS OF EXPRESSING CONSENT TO BE BOUND BY A TREATY

The consent of a State to be bound by a treaty may be expressed by signature, exchange of instruments constituting a treaty, ratification, acceptance, approval or accession, or by any other means if so agreed.

Article 12. CONSENT TO BE BOUND BY A TREATY EXPRESSED BY SIGNATURE

1. The consent of a State to be bound by a treaty is expressed by the signature of its representative when:

- (a) The treaty provides that signature shall have that effect;
- (b) It is otherwise established that the negotiating States were agreed that signature should have that effect; or
- (c) The intention of the State to give that effect to the signature appears from the full powers of its representative or was expressed during the negotiation.

2. For the purposes of paragraph 1:

- (a) The initialling of a text constitutes a signature of the treaty when it is established that the negotiating States so agreed;
- (b) The signature *ad referendum* of a treaty by a representative, if confirmed by his State, constitutes a full signature of the treaty.

Article 13. CONSENT TO BE BOUND BY A TREATY EXPRESSED BY AN EXCHANGE OF INSTRUMENTS CONSTITUTING A TREATY

The consent of States to be bound by a treaty constituted by instruments exchanged between them is expressed by that exchange when:

- (a) The instruments provide that their exchange shall have that effect; or
- (b) It is otherwise established that those States were agreed that the exchange of instruments shall have that effect.

Article 14. CONSENT TO BE BOUND BY A TREATY EXPRESSED BY RATIFICATION, ACCEPTANCE OR APPROVAL

1. The consent of a State to be bound by a treaty is expressed by ratification when:

- (a) The treaty provides for such consent to be expressed by means of ratification;
- (b) It is otherwise established that the negotiating States were agreed that ratification should be required;

- (c) The representative of the State has signed the treaty subject to ratification; or
 - (d) The intention of the State to sign the treaty subject to ratification appears from the full powers of its representative or was expressed during the negotiation.
2. The consent of a State to be bound by a treaty is expressed by acceptance or approval under conditions similar to those which apply to ratification.

Article 15. CONSENT TO BE BOUND BY A TREATY EXPRESSED BY ACCESSION

The consent of a State to be bound by a treaty is expressed by accession when:

- (a) The treaty provides that such consent may be expressed by that State by means of accession;
- (b) It is otherwise established that the negotiating States were agreed that such consent may be expressed by that State by means of accession; or
- (c) All the parties have subsequently agreed that such consent may be expressed by that State by means of accession.

Article 16. EXCHANGE OR DEPOSIT OF INSTRUMENTS OF RATIFICATION,
ACCEPTANCE, APPROVAL OR ACCESSION

Unless the treaty otherwise provides, instruments of ratification, acceptance, approval or accession establish the consent of a State to be bound by a treaty upon:

- (a) Their exchange between the contracting States;
- (b) Their deposit with the depositary; or
- (c) Their notification to the contracting States or to the depositary, if so agreed.

Article 17. CONSENT TO BE BOUND BY PART OF A TREATY
AND CHOICE OF DIFFERING PROVISIONS

1. Without prejudice to articles 19 to 23, the consent of a State to be bound by part of a treaty is effective only if the treaty so permits or the other contracting States so agree.

2. The consent of a State to be bound by a treaty which permits a choice between differing provisions is effective only if it is made clear to which of the provisions the consent relates.

Article 18. OBLIGATION NOT TO DEFEAT THE OBJECT AND PURPOSE
OF A TREATY PRIOR TO ITS ENTRY INTO FORCE

A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when:

- (a) It has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty; or
- (b) It has expressed its consent to be bound by the treaty, pending the entry into force of the treaty and provided that such entry into force is not unduly delayed.

SECTION 2. RESERVATIONS

Article 19. FORMULATION OF RESERVATIONS

A State may, when signing, ratifying, accepting, approving or acceding to a treaty, formulate a reservation unless:

- (a) The reservation is prohibited by the treaty;

- (b) The treaty provides that only specified reservations, which do not include the reservation in question, may be made; or
- (c) In cases not falling under sub-paragraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty.

Article 20. ACCEPTANCE OF AND OBJECTION TO RESERVATIONS

1. A reservation expressly authorized by a treaty does not require any subsequent acceptance by the other contracting States unless the treaty so provides.

2. When it appears from the limited number of the negotiating States and the object and purpose of a treaty that the application of the treaty in its entirety between all the parties is an essential condition of the consent of each one to be bound by the treaty, a reservation requires acceptance by all the parties.

3. When a treaty is a constituent instrument of an international organization and unless it otherwise provides, a reservation requires the acceptance of the competent organ of that organization.

4. In cases not falling under the preceding paragraphs and unless the treaty otherwise provides:

- (a) Acceptance by another contracting State of a reservation constitutes the reserving State a party to the treaty in relation to that other State if or when the treaty is in force for those States;
- (b) An objection by another contracting State to a reservation does not preclude the entry into force of the treaty as between the objecting and reserving States unless a contrary intention is definitely expressed by the objecting State;
- (c) An act expressing a State's consent to be bound by the treaty and containing a reservation is effective as soon as at least one other contracting State has accepted the reservation.

5. For the purposes of paragraphs 2 and 4 and unless the treaty otherwise provides, a reservation is considered to have been accepted by a State if it shall have raised no objection to the reservation by the end of a period of twelve months after it was notified of the reservation or by the date on which it expressed its consent to be bound by the treaty, whichever is later.

*Article 21. LEGAL EFFECTS OF RESERVATIONS
AND OF OBJECTIONS TO RESERVATIONS*

1. A reservation established with regard to another party in accordance with articles 19, 20 and 23:

- (a) Modifies for the reserving State in its relations with that other party the provisions of the treaty to which the reservation relates to the extent of the reservation; and
- (b) Modifies those provisions to the same extent for that other party in its relations with the reserving State.

2. The reservation does not modify the provisions of the treaty for the other parties to the treaty *inter se*.

3. When a State objecting to a reservation has not opposed the entry into force of the treaty between itself and the reserving State, the provisions to which the reservation relates do not apply as between the two States to the extent of the reservation.

*Article 22. WITHDRAWAL OF RESERVATIONS
AND OF OBJECTIONS TO RESERVATIONS*

1. Unless the treaty otherwise provides, a reservation may be withdrawn at any time and the consent of a State which has accepted the reservation is not required for its withdrawal.
2. Unless the treaty otherwise provides, an objection to a reservation may be withdrawn at any time.
3. Unless the treaty otherwise provides, or it is otherwise agreed:
 - (a) The withdrawal of a reservation becomes operative in relation to another contracting State only when notice of it has been received by that State;
 - (b) The withdrawal of an objection to a reservation becomes operative only when notice of it has been received by the State which formulated the reservation.

Article 23. PROCEDURE REGARDING RESERVATIONS

1. A reservation, an express acceptance of a reservation and an objection to a reservation must be formulated in writing and communicated to the contracting States and other States entitled to become parties to the treaty.
2. If formulated when signing the treaty subject to ratification, acceptance or approval, a reservation must be formally confirmed by the reserving State when expressing its consent to be bound by the treaty. In such a case the reservation shall be considered as having been made on the date of its confirmation.
3. An express acceptance of, or an objection to, a reservation made previously to confirmation of the reservation does not itself require confirmation.
4. The withdrawal of a reservation or of an objection to a reservation must be formulated in writing.

SECTION 3. ENTRY INTO FORCE AND PROVISIONAL APPLICATION OF TREATIES

Article 24. ENTRY INTO FORCE

1. A treaty enters into force in such manner and upon such date as it may provide or as the negotiating States may agree.
2. Failing any such provision or agreement, a treaty enters into force as soon as consent to be bound by the treaty has been established for all the negotiating States.
3. When the consent of a State to be bound by a treaty is established on a date after the treaty has come into force, the treaty enters into force for that State on that date, unless the treaty otherwise provides.
4. The provisions of a treaty regulating the authentication of its text, the establishment of the consent of States to be bound by the treaty, the manner or date of its entry into force, reservations, the functions of the depositary and other matters arising necessarily before the entry into force of the treaty apply from the time of the adoption of its text.

Article 25. PROVISIONAL APPLICATION

1. A treaty or a part of a treaty is applied provisionally pending its entry into force if:
 - (a) The treaty itself so provides; or
 - (b) The negotiating States have in some other manner so agreed.

2. Unless the treaty otherwise provides or the negotiating States have otherwise agreed, the provisional application of a treaty or a part of a treaty with respect to a State shall be terminated if that State notifies the other States between which the treaty is being applied provisionally of its intention not to become a party to the treaty.

PART III. OBSERVANCE, APPLICATION AND INTERPRETATION OF TREATIES

SECTION 1. OBSERVANCE OF TREATIES

Article 26. "PACTA SUNT SERVANDA"

Every treaty in force is binding upon the parties to it and must be performed by them in good faith.

Article 27. INTERNAL LAW AND OBSERVANCE OF TREATIES

A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46.

SECTION 2. APPLICATION OF TREATIES

Article 28. NON-RETROACTIVITY OF TREATIES

Unless a different intention appears from the treaty or is otherwise established, its provisions do not bind a party in relation to any act or fact which took place or any situation which ceased to exist before the date of the entry into force of the treaty with respect to that party.

Article 29. TERRITORIAL SCOPE OF TREATIES

Unless a different intention appears from the treaty or is otherwise established, a treaty is binding upon each party in respect of its entire territory.

Article 30. APPLICATION OF SUCCESSIVE TREATIES RELATING TO THE SAME SUBJECT-MATTER

1. Subject to Article 103 of the Charter of the United Nations, the rights and obligations of States parties to successive treaties relating to the same subject-matter shall be determined in accordance with the following paragraphs.

2. When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail.

3. When all the parties to the earlier treaty are parties also to the later treaty but the earlier treaty is not terminated or suspended in operation under article 59, the earlier treaty applies only to the extent that its provisions are compatible with those of the later treaty.

4. When the parties to the later treaty do not include all the parties to the earlier one:

- (a) As between States parties to both treaties the same rule applies as in paragraph 3;
- (b) As between a State party to both treaties and a State party to only one of the treaties, the treaty to which both States are parties governs their mutual rights and obligations.

5. Paragraph 4 is without prejudice to article 41, or to any question of the termination or suspension of the operation of a treaty under article 60 or to any ques-

tion of responsibility which may arise for a State from the conclusion or application of a treaty the provisions of which are incompatible with its obligations towards another State under another treaty.

SECTION 3. INTERPRETATION OF TREATIES

Article 31. GENERAL RULE OF INTERPRETATION

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:

- (a) Any agreement relating to the treaty which was made between all the parties in connexion with the conclusion of the treaty;
- (b) Any instrument which was made by one or more parties in connexion with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.

3. There shall be taken into account, together with the context:

- (a) Any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;
- (b) Any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;
- (c) Any relevant rules of international law applicable in the relations between the parties.

4. A special meaning shall be given to a term if it is established that the parties so intended.

Article 32. SUPPLEMENTARY MEANS OF INTERPRETATION

Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:

- (a) Leaves the meaning ambiguous or obscure; or
- (b) Leads to a result which is manifestly absurd or unreasonable.

Article 33. INTERPRETATION OF TREATIES AUTHENTICATED IN TWO OR MORE LANGUAGES

1. When a treaty has been authenticated in two or more languages, the text is equally authoritative in each language, unless the treaty provides or the parties agree that, in case of divergence, a particular text shall prevail.

2. A version of the treaty in a language other than one of those in which the text was authenticated shall be considered an authentic text only if the treaty so provides or the parties so agree.

3. The terms of the treaty are presumed to have the same meaning in each authentic text.

4. Except where a particular text prevails in accordance with paragraph 1, when a comparison of the authentic texts discloses a difference of meaning which the application of articles 31 and 32 does not remove, the meaning which best reconciles the texts, having regard to the object and purpose of the treaty, shall be adopted.

Annex 45

Government of the Republic of Guyana and Government of the Republic of Venezuela, *Minutes of certain matters dealt with by the Minister of State of Guyana and the Minister of External Relations of Venezuela in conversations held at Port-of-Spain (June 1970)*

✓
 Herby 18 June 1970

SECRET

Minute of certain matters dealt with by the Minister of State of Guyana and the Minister of External Relations of Venezuela in conversations held at Port-of-Spain on the and June, 1970.

1) It was the understanding of the Ministers that during the continuance of the Protocol and without prejudice to the rights of ^{each} either Government to ensure compliance with the Protocol or with the Geneva Agreement itself, each Government would show restraint in its statements and actions so as to avoid bringing into discredit the honor, standing or authority of the other Government.

It was also the understanding of the Ministers that each Government would abstain from any statements, publications or other acts which would be detrimental to the economic development and progress of the other's State.

2) It was also the understanding of the Ministers that neither Government would issue in future official maps or geographic or territorial descriptions or (representations) either undated or dated after the date of the Protocol, which should show any territories of the other as being incorporated in or intended to be incorporated in its territories or as being under claim by that Government, unless there was included in such publication an endorsement to the effect that that publication was subject to the provisions of the Protocol.

3) It was also the understanding of the Ministers that

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this minute of their conversations would neither be published nor made the subject of public reference. Each Minister, however, reserved the right of his Government to inform its governmental organs involved in the consideration or execution of the contents of this Minute, maintaining its confidential character, and to state its understanding of the position as set out in this minute.

4) *The Ministers decided that the foregoing should be treated as an understanding between gentlemen, but also expressly affirmed that no publication of the nature envisaged by paragraph 2 above could be construed as constituting acquiescence by either Government in any claim to any of its territories asserted through that publication and that no reliance whatsoever could be placed by either party on any such publication in support of any territorial claim against the other.*

82-05-21

I wish to acknowledge your letters of May 1 and 7, 1982 concerning the developments in the South Atlantic following the invasion of the Falkland Islands on April 2, 1982 by the Armed Forces of the Government of Argentina, setting out the views of the United States Government and describing its intensive efforts to bring an end to the conflict and to work for and achieve a peaceful solution to the problem.

Let me say that we understand and appreciate your own personal efforts and those of your Government to defuse the crisis in the Falklands by assiduously working for compliance with United Nations Security Council Resolution No. 502 including, importantly, the peaceful settlement through negotiations of the substantive controversy between the United Kingdom and the Argentine Governments.

As you are aware, Guyana's neighbour, the Republic of Venezuela, last year reiterated its claim to over five-eighths of the territory of Guyana - a claim which has no basis either in law or in morality. In expressing their views on the pursuit of this claim, Venezuelan Government spokesmen have reaffirmed the intention of the Venezuelan administration to employ pacific methods to resolve the controversy between our two countries. These disclaimers notwithstanding, Guyana is seriously concerned at the tenor of statements emanating from various sectors of Venezuelan society which have persistently called for the exercise of the military option to settle this claim. Our concern is the more real since there have been Venezuelan actions, such as

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Mr. Alexander Haig, Jr.
Secretary of State
Department of State
Washington D.C.
U.S.A.

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systematic air space violations and military incursions into Guyanese territory which we regard as ominous signs, particularly when viewed in the context of Venezuela's overwhelmingly superior military strength: Thus, we in Guyana are keenly aware of the need to ensure that no encouragement whatsoever is given to any state to embark on the unlawful use of force to settle disputes.

I cannot therefore over-emphasize how strongly Guyana agrees with the view you expressed in your letter of May 1, 1982 that the United States "cannot and will not condone the use of force to resolve disputes". At every international organisation to which we belong, Mr. Secretary of State, we have consistently maintained that the security of States, especially small ones like Guyana, the peace and tranquility of the hemisphere to which we belong, and global harmony rest upon the absolute and unshakeable concurrence of every State with this principle.

Mr. Secretary, I can assure you that Guyana is most concerned about the unhappy developments in the South Atlantic, and that we agree that everything possible must be done to preserve hemispheric solidarity.

Although Guyana is not yet a full participant in the inter-American system by virtue of our legal exclusion from regional organs such as the Organization of American States and the Treaty of Tlatelolco, we share the aspirations you have expressed that States of the region should strive to maintain the integrity of the Inter-American system whilst endeavouring to achieve a settlement to this problem.

Please accept, Excellency, the assurances of my highest consideration.



Rashleigh E. Jackson
Minister

Annex 46

Protocol to the Agreement to resolve the controversy between Venezuela and the United Kingdom of Great Britain and Northern Ireland over the frontier between Venezuela and British Guiana signed at Geneva on 17 February 1966, 801 U.N.T.S. 183 (18 June 1970)

12/11/71

No. 11410

**GUYANA,
UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
and VENEZUELA**

Protocol to the Agreement to resolve the controversy between Venezuela and the United Kingdom of Great Britain and Northern Ireland over the frontier between Venezuela and British Guiana signed at Geneva on 17 February 1966 ("Protocol of Port of Spain"). Signed at Port of Spain on 18 June 1970

Authentic texts: English and Spanish.

Registered by Guyana on 19 November 1971.

**GUYANE,
ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
et VENEZUELA**

Protocole à l'Accord tendant à régler le différend entre le Venezuela et le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord relatif à la frontière entre le Venezuela et la Guyane britannique signé à Genève le 17 février 1966 (« Protocole de Port of Spain »). Signé à Port of Spain le 18 juin 1970

Textes authentiques: anglais et espagnol.

Enregistré par la Guyane le 19 novembre 1971.

PROTOCOL OF PORT OF SPAIN ¹

The Government of Guyana, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Venezuela,

Having received on this date the Final Report dated 18th June, 1970 of the Mixed Commission established by the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland, in consultation with the Government of British Guiana, and the Government of Venezuela, signed at Geneva on 17th February, 1966 ², hereinafter referred to as the Geneva Agreement;

Convinced that the promotion of mutual confidence and positive and friendly intercourse between Guyana and Venezuela will lead to an improvement in their relations befitting neighbouring and peace-loving nations, have agreed as follows:

Article I

So long as this Protocol remains in force and subject to the following provisions the Government of Guyana and the Government of Venezuela shall explore all possibilities of better understanding between them and between their peoples and in particular shall undertake periodical reviews, through normal diplomatic channels, of their relations with a view to promoting their improvement and with the aim of producing a constructive advancement of the same.

Article II

(1) So long as this Protocol remains in force no claim whatever arising out of the contention referred to in Article I of the Geneva Agreement shall be asserted by Guyana to territorial sovereignty in the territories of Venezuela or by Venezuela to territorial sovereignty in the territories of Guyana.

¹ Came into force on 18 June 1970 by signature, in accordance with article VI.

² United Nations, *Treaty Series*, vol. 561, p. 321.

(2) In this Article, the references to the territories of Guyana and the territories of Venezuela shall have the same meaning as the references to the territories of British Guiana and the territories of Venezuela respectively in the Geneva Agreement.

Article III

So long as this Protocol remains in force the operation of Article IV of the Geneva Agreement shall be suspended. On the date when this Protocol ceases to be in force the functioning of that Article shall be resumed at the point at which it has been suspended, that is to say, as if the Final Report of the Mixed Commission had been submitted on that date, unless the Government of Guyana and the Government of Venezuela have first jointly declared in writing that they have reached full agreement for the solution of the controversy referred to in the Geneva Agreement or that they have agreed upon one of the means of peaceful settlement provided for in Article 33 of the Charter of the United Nations.

Article IV

(1) So long as this Protocol remains in force Article V of the Geneva Agreement (without prejudice to its further operation after this Protocol ceases to be in force) shall have effect in relation to this Protocol as it has effect in relation to that Agreement, subject to the substitution for the words "British Guiana" wherever they occur in that Article of the word "Guyana", and subject to the deletion from paragraph (2) of that Article of the following phrases:

- (a) " , except insofar as such acts or activities result from any agreement reached by the Mixed Commission and accepted in writing by the Government of Guyana and the Government of Venezuela "; and
- (b) " , nor shall any claim whatsoever be asserted otherwise than in the Mixed Commission while that Commission is in being ".

(2) The signing and the continuance of this Protocol shall not be interpreted in any way as a renunciation or diminution of any rights which any of the parties may have of the date on which this Protocol is signed or as a recognition of any situation, practice or claim existing at that date.

Article V

(1) This Protocol shall remain in force for an initial period of twelve years, renewable thereafter, subject to the provisions of this Article, for successive periods of twelve years each.

(2) Before the expiration either of the initial period or of any period of renewal the Government of Guyana and the Government of Venezuela may by agreement in writing decide that with effect from the end of any such period this Protocol shall continue in force for successive periods of renewal each less than twelve years but not less than five years.

(3) This Protocol may be terminated at the expiration of the initial period or of any period of renewal if, at least six months before the date on which it may be terminated, either the Government of Guyana or the Government of Venezuela gives to the other Governments parties to this Protocol a notice in writing to that effect.

(4) Unless terminated in accordance with paragraph (3) of this Article, this Protocol shall be deemed to have been renewed at the end of the initial period or at the end of any period of renewal, as the case may be, in accordance with the provisions of this Article.

Article VI

This Protocol to the Geneva Agreement shall be referred to as the Protocol of Port of Spain and shall come into force on the date of its signature.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Protocol.

DONE in triplicate at Port of Spain, Trinidad and Topago, this 18th day of June, 1970, in the English and Spanish languages, both texts being equally authoritative.

For the Government of Guyana:

[Signed — Signé]¹

Minister of State

For the Government of the United Kingdom of Great Britain
and Northern Ireland:

[Signed — Signé]²

High Commissioner for the United Kingdom of Great Britain and Northern
Ireland in Trinidad and Tobago

For the Government of Venezuela:

[Signed — Signé]³

Minister of External Relations

¹ Signed by Shridath S. Ramphal — Signé par Shridath S. Ramphal.

² Signed by R. C. C. Hunte — Signé par R. C. C. Hunte.

³ Signed by Aristides Calvani — Signé par Aristides Calvani.

Annex 47

Government of the Republic of Venezuela, *Exposition of Motives for the Draft Law Ratifying the Protocol of Port of Spain* (22 June 1970), reprinted in Republic of Venezuela, Ministry of Foreign Affairs, *Claim of Guyana Esequiba: Documents 1962-1981* (1981)

Exposición de Motivos del Proyecto de Ley Aprobatoria del Protocolo de Puerto España.
República de Venezuela, Ministerio de Relaciones Exteriores, *Reclamación de la Guayana Esequiba* (Caracas 1981) p133-138

[Unofficial Translation]

Exposition of Motives for the Draft Law Ratifying the Protocol of Port of Spain.

Aristides Calvani

Caracas, 22 June 1970

1. On the 17th February 1966 the Government of Venezuela and the United Kingdom of Great Britain and Northern Ireland, in consultation with the then-named colony of British Guiana, concluded the Geneva Agreement, which entered into force on signature and was subsequently ratified by Congress on 15 April 1966.
2. In conformity with the provisions of Article I of the Agreement, a Mixed Commission was constituted – formed of two representatives from Venezuela and two from Guyana, responsible for ‘seeking satisfactory solutions for the practical settlement of the controversy between Venezuela and the United Kingdom which has arisen as the result of the Venezuelan contention that the Arbitral Award of 1899 about the frontier between British Guiana and Venezuela is null and void.’
3. This Mixed Commission held 16 sessions in different cities and concluded the period of its mandate without having achieved its goal as set out in the Agreement as, from its inception and during its meetings, there was disagreement between the Venezuelan and Guyanese representatives over the mandate of the institution they formed. In effect, the Venezuelan representatives maintained at all times that, in light of the letter and spirit of Article I, their mandate was only and exclusively to ‘seek satisfactory solutions for the practical settlement of the controversy’, while the Guyanese representatives maintained the criterion that the determination of the legality of the Award of 1899 was a prior question that had to be dealt with preferably before examining any practical arrangements.
4. In conformity with Article IV of the Geneva Agreement ‘If, within a period of four years from the date of this Agreement, the Mixed Commission should not have arrived at a full agreement for the solution of the controversy it shall, in its final report, refer to the Government of Guyana and the Government of Venezuela any outstanding questions. Those Governments shall without delay choose one of the means of peaceful settlement provided in Article 33 of the Charter of the United Nations.’ This means that, in the absence of suspending the legal force of Article IV, the possibility existed that three months after the submission of the Final Report of the Mixed Commission, an issue of such vital importance for Venezuela as the determination of the means of dispute settlement, would have left the hands of the two directly interested Parties, to be decided by an international institution chosen by them, or failing that, by the Secretary General of the United Nations.

5. When the Government of Venezuela saw this eventuality approach, it carefully studied the situation in which the two countries found themselves, and the general picture of international affairs, in how this might affect our aims, and came to the conclusion that it was not the right time to enter into this new phase of proceedings.

In effect, the Government of Venezuela considered that given the lack of any progress at the Mixed Commission - and the sad but unquestionable deterioration in relations between Venezuela and Guyana - it was difficult if not impossible to hope that the mechanism of the Geneva Agreement might fulfil its function of finding a satisfactory solution to resolve the dispute in a practical manner, given that the aim of that solution necessarily presupposes the exercise (in the means of resolution discussed) of a willingness of both parties for mutual understanding.

6. In these circumstances the Government of Venezuela, having already moved ahead with its analysis of the issue through its institutions and specialist civil servants, considered it necessary to expand these studies and add to them well-qualified Venezuelans, known for their legal skills, political and administrative experience, and knowledge of international issues. They consulted people from different groups, including political leaders, former Ministers of Foreign Affairs, Members of the National Congress, and other experts in law and international relations. At the same time, expert opinions from foreign specialists of renowned repute were gathered.

All possible alternatives were considered with the greatest of care and the conclusion was reached that the most convenient (though at the time appeared to be the most difficult) was to seek a negotiated path with Guyana. The National Government directed its efforts in this direction. Notwithstanding the initial great differences in positions, which may have seemed irreconcilable at the start, the meaningful willingness of Guyana to negotiate was ascertained. The desire for understanding on the part of both parties made possible the eventual formation of the text of the Protocol which is now submitted for legislative approval, and which protects rights and interests and paves the way to create the outcomes necessary to find a peaceful, honourable, and equitable solution to the dispute.

In reaching a successful outcome in the negotiations, the friendly cooperation of the Prime Minister of Trinidad and Tobago had particular success, his Excellency Mr Eric Williams, who made every effort to come to a satisfactory agreement as much for Venezuela as for Guyana.

It is proper to recognise also the spirit of openness and collaboration that motivated the Government of Guyana during the negotiations that have led to this happy outcome, notwithstanding the air of tension and suspicion towards Venezuela that had previously existed.

7. When negotiations began, the Government of Guyana put forward a period of suspension (that was too long in the view of the Government of Venezuela) based on the view that it was best for a new generation to examine the entirety of the problem. Venezuela, for its part, proposed a period that the Government of Guyana considered too short. In this manner, the period of 12 years on which agreement was found, represents a compromise between the extreme proposals, but closer to Venezuela's original proposal than that of Guyana.
8. The essential advantages that the Protocol of Port of Spain offers Venezuela, and in particular the 12 year period mentioned in the previous paragraph, are:

- a. Maintains the validity of our claim over the territory that was taken from us by the Award of 1899;
 - b. Avoids our border dispute with Guyana from leaving (in a very short period, possibly three months) direct negotiations between the interested Parties to passing into the hands of third parties;
 - c. Opens a sufficiently long period for the two Governments, as set out in article I of the Protocol, to exploit all opportunities to improve understanding between them and between their peoples, and in particular, through normal diplomatic channels, to begin to improve relations and produce constructive advances through the periodic adjustment of relations;
 - d. Foresees the possibility that by the end of the period, more suitable circumstances may exist which (within the terms of the Geneva Agreement and the international situation prevailing at the time) could lead to a solution of the dispute or a decision over the means to resolve it;
 - e. During those 12 years it is possible that Venezuela, through an intelligent and well organised project of cultural, economic, and other forms of collaboration, not only reduces the tensions existing today but considerably improves the current image that the Guyanese people have of Venezuela, which is obviously not one that corresponds to its history and glorious tradition in the American world;
 - f. While in force, the Protocol allows the creation of a favourable environment that will permit, at the end of 12 years, to continue the process foreseen in Article IV of the Geneva Agreement, in better circumstances for the completion of its objective: the achievement of practical solution, acceptable to the parties.
8. It is evident that the term ‘freezing’ that has been used by some commentators of the Protocol, does not correspond to either the true meaning or intention of it, as the period of 12 years will not be a period of inactivity but rather during this time, as foreseen in Article I, the Parties are obligated to make effective efforts to create a genuine atmosphere of understanding, that paves the way to tackle the resolution of the dispute, as Article III foresees.
 9. The fact that under to Article II of the Protocol neither side may pursue territorial claims while it is in force does not mean that the rights on which such claims might be based upon could be reduced or lose their force, in accordance with ordinal 2 of Article IV of the Protocol. In this manner, all that the Geneva Agreement may contain that is in Venezuela’s interests is untouched. Further, the Protocol carefully follows the Geneva Agreement in all references relating to territorial claims, being as it is a treaty in force duly approved by the Sovereign Congress.
 10. Article III of the Protocol protects the totality of the rights that might exist in Venezuela’s favour at the moment of the signature of the Final Report of the Mixed Commission. In effect, on the date on which the Protocol no longer applies, the mechanism of Article IV of the Geneva Agreement restarts at the point of suspension, that is, as if the Final Report of the Mixed Commission were presented at that moment. As a matter of fact, the conclusion of the Protocol and the fact of its entry into force will not be able to be interpreted in any way as a renunciation or reduction of the any rights that Venezuela might have on the date of its signature, nor as recognition of any situation, use or claim that might exist by then.

11. Article IV of the Protocol of Port of Spain establishes that while in force, Article V of the Geneva Agreement will have effect in relation to the Protocol in the same way as it has in relation to the Agreement. Logically, it was necessary to remove from the Article references to 'British Guiana' replacing it with 'Guyana'. Equally, it was necessary to remove references to the 'Mixed Commission' now that it has ceased to exist. It was considered preferable to incorporate the text of the Geneva Agreement to the Protocol rather than attempt to draft a new article, in order to avoid any risk of changing the legal 'status quo'.
12. Article V of the Protocol states that it will have an initial duration of 12 years. This period is renewable for equal or lesser periods, if that is what the Governments of Venezuela and Guyana agree.

If at the end of the initial period, the National Government considers it appropriate to suspend the applicability of the Protocol, it only needs to notify the other parties' Governments of its decision in writing, providing six months' notice. If on the other hand, it considers that a prorogation would be beneficial for Venezuela, it is enough not to notify. If it considers it preferable, it can agree with the Government of Guyana a renewal of a period of less than 12, but not less than 5, years.

In any case, it is important to stress the right of Venezuela to terminate the Protocol at the end of its period of application.

The enduring conviction that it is essential to maintain and defend the rights of nationals with regard to Venezuelan territory taken by virtue of the so-called Award of 1899, and the clear awareness that the efforts of the Venezuelan people and Government should always be aimed at rectifying this injustice, is found in all acts of the Government of Venezuela on this matter. On this there can be no doubts nor hesitation. Our conduct should be judged, in the final analysis, in light of the responsible and effective advance towards achieving this primordial goal.

In the opinion of the National Government, the Protocol of Port of Spain opens new and positive prospects. One should not search in it the victory of one party over another, nor should one expect such a result from a text that has been carefully negotiated. It does represent an achievement of the willingness of understanding and a new stage in the search for a solution to the controversy, not only because it avoids inconvenient or inopportune steps, but particularly because it puts the emphasis on the constructive work of creating ties of collaboration and trust between Venezuela and Guyana. As far as this work continues during the term of the Protocol, it will have made possible progress toward the satisfaction of Venezuela's desire for justice in a manner consonant with its historical legacy, the purity of which we must be jealous defenders.

[Signed] Arístides Calvani

Caracas, 22 June 1970

REPUBLICA DE VENEZUELA
MINISTERIO DE RELACIONES EXTERIORES



**RECLAMACION
DE LA
GUAYANA ESEQUIBA**

DOCUMENTOS

1962 - 1981

CARACAS, 1981

EXPOSICION DE MOTIVOS DEL PROYECTO DE LEY APROBATORIA DEL PROTOCOLO DE PUERTO ESPAÑA

1.— El 17 de febrero de 1966 se celebró en Ginebra un Acuerdo entre el Gobierno de Venezuela y el Reino Unido de Gran Bretaña e Irlanda del Norte, en consulta con el Gobierno de la entonces colonia llamada Guayana Británica, que entró en vigencia en el momento de su firma y fue aprobado posteriormente por el Congreso el 15 de abril de 1966.

2.— De conformidad con lo previsto en el artículo I del citado Acuerdo, se constituyó una Comisión Mixta formada por dos representantes de Venezuela y dos de Guyana, encargada de "buscar soluciones satisfactorias para el arreglo práctico de la controversia, surgida como consecuencia de la contención venezolana de que el Laudo Arbitral de 1899 sobre la frontera entre Venezuela y Guayana Británica es nulo e írrito".

3.— La mencionada Comisión Mixta celebró 16 reuniones en diferentes ciudades y concluyó el período de su mandato sin haber logrado realizar el cometido que se le encomendó por el Acuerdo, debido a que, desde el comienzo mismo de sus actuaciones y durante todas las reuniones que celebró, hubo desacuerdo absoluto entre los representantes venezolanos y guyaneses acerca del mandato del organismo que ellos integraban. En efecto, los representantes venezolanos sostuvieron en todo tiempo que, a la luz de la letra y del espíritu del Artículo I, ese mandato era única y exclusivamente el de "buscar soluciones satisfactorias para el arreglo práctico de la controversia", en tanto que los representantes guyaneses mantuvieron el criterio de que la determinación de la nulidad o validez del Laudo de 1899 era una cuestión previa que debía tratarse preferentemente antes de analizarse cualquier arreglo práctico o de hecho.

4.— De conformidad con el Artículo IV del Acuerdo de Ginebra "si dentro de los tres meses siguientes a la recepción del Informe final el Gobierno de Venezuela y el Gobierno de Guyana no hubieren llegado a un acuerdo con respecto a la elección de uno de los medios de solución previstos en el Artículo 33 de la Carta de las Naciones Unidas, referirán

la decisión sobre los medios de solución a un órgano internacional apropiado que ambos Gobiernos acuerden o, de no llegar a un acuerdo sobre este punto, al Secretario General de las Naciones Unidas". Esto significa que, de no haberse suspendido la vigencia del artículo IV, existía la posibilidad de que, tres meses después de la entrega del Informe Final de la Comisión Mixta, un asunto de tan vital importancia para Venezuela, como es la determinación del medio de solución de la controversia, habría salido de manos de las dos Partes directamente interesadas, para ser decidido por un organismo internacional elegido por éstas o, en su defecto, por el Secretario General de las Naciones Unidas.

5.- Cuando el Gobierno de Venezuela vio acercarse esa eventualidad, examinó cuidadosamente la situación en que se encontraban las relaciones entre los dos países, así como el cuadro general de la política internacional, en lo que éste pudiera repercutir en nuestras aspiraciones, y llegó a la conclusión de que el momento no era propicio para entrar en esta nueva fase del procedimiento.

En efecto, estimó el Gobierno de Venezuela que, dada la falta de todo progreso en la Comisión Mixta y dado el hecho lamentable pero innegable del deterioro de las relaciones entre Venezuela y Guyana, era difícil si no imposible esperar que el mecanismo del Acuerdo de Ginebra pudiera cumplir su función de procurar una solución satisfactoria para el arreglo práctico de la controversia ya que el logro de esa solución presupone necesariamente el ejercicio, en los medios de solución previstos, de una voluntad de entendimiento de parte y parte.

6.- En estas circunstancias, el Gobierno de Venezuela, que ya venía adelantando el análisis del asunto por sus organismos y funcionarios especializados, consideró necesario ampliar esos estudios e incorporar a ellos calificados venezolanos, destacados por su criterio jurídico, su experiencia política y administrativa y sus conocimientos de las cuestiones internacionales. Fueron consultadas personalidades pertenecientes a distintos sectores de opinión, entre ellos dirigentes políticos, los ex Ministros de Relaciones Exteriores, Miembros del Congreso Nacional y otros expertos en derecho y en relaciones internacionales. Se procedió igualmente a recabar dictámenes de especialistas extranjeros de reputación consagrada.

Se ponderaron con el mayor cuidado todas las posibles alternativas y se llegó a la conclusión de que la más conveniente, aun cuando en vista del ambiente que para el momento existía parecía la más ardua, consistía en la búsqueda de una vía negociada con Guyana. A este fin encominó el Gobierno Nacional sus esfuerzos. No obstante la amplia divergencia inicial de las posiciones, que al comienzo pudieron parecer

irreconciliables, se comprobó la existencia de una efectiva voluntad de negociación de parte de Guyana. Este deseo de entendimiento por ambas partes hizo posible eventualmente llegar al texto del Protocolo que hoy se somete a la aprobación legislativa y que deja a salvo sus derechos e intereses y abre el camino para crear las conclusiones necesarias para hacer posible una solución pacífica, honorable y equitativa de la controversia.

En el buen éxito de las negociaciones fue particularmente eficaz la amistosa colaboración del Primer Ministro de Trinidad y Tobago, Excelentísimo señor Eric Williams, quien hizo todos los esfuerzos a su alcance para lograr un entendimiento satisfactorio tanto para Venezuela como para Guyana.

Justo es reconocer también, desde luego, el espíritu de receptividad y colaboración que animó al Gobierno de Guyana durante las negociaciones que condujeron a este feliz resultado, no obstante el clima de tensión y de suspicacia hacia Venezuela que había existido en el pasado.

7.— Cuando comenzaron las negociaciones, el Gobierno de Guyana propuso un plazo de suspensión demasiado largo a juicio del Gobierno de Venezuela, basado en el criterio de que convenía dejar a una nueva generación el examen completo del problema. Venezuela, por su parte, propuso un plazo que el Gobierno de Guyana consideró demasiado breve. Así, pues, el término de doce años a que se llegó, representa una fórmula de compromiso entre las proposiciones extremas, pero más cercana a la propuesta inicial de Venezuela que a la de Guyana.

8.— Las ventajas esenciales que ofrece para Venezuela el Protocolo de Puerto España y, en particular, el plazo de doce años a que se refiere el número anterior son:

- a) mantiene vigente nuestra reclamación sobre el territorio que nos fue arrebatado por el Laudo de 1899;
- b) evita que nuestro litigio fronterizo con Guyana salga en breve plazo, que podría inclusive ser de tres meses, del ámbito de las negociaciones directas entre las Partes interesadas y pase a manos de terceros;
- c) abre un período suficientemente largo para que los dos Gobiernos, como lo establece el artículo I del Protocolo, puedan explotar todas las posibilidades de mejorar el entendimiento entre ellos y entre sus pueblos y en particular emprender a través de los canales diplomáticos normales revisiones periódicas de sus relaciones con el propósito de promover su mejoramiento y con el objeto de producir un adelanto constructivo de las mismas;

- d) contempla la eventualidad de que al finalizar ese período puedan existir circunstancias más apropiadas que, dentro de los términos del Acuerdo de Ginebra y según la situación internacional que prevalezca en ese momento, se traduzcan en una solución del diferendo o en la determinación de un medio de resolverlo;
- e) durante esos doce años le es posible a Venezuela, mediante una inteligente y bien organizada labor de colaboración cultural, económica y de todo orden, no sólo disminuir las tensiones actualmente existentes, sino mejorar considerablemente la imagen que actualmente tiene de Venezuela el pueblo guyanés y que no es, evidentemente, la que le corresponde por su pasado y su gloriosa tradición en el mundo americano;
- f) el Protocolo hace posible crear durante el período de su vigencia, un ambiente propicio que permita, al cabo de doce años, continuar el procedimiento pautado en el Artículo IV del Acuerdo de Ginebra, en condiciones más favorables para el cumplimiento de su objetivo: la obtención de una solución práctica, aceptable para las partes.

8.— Es evidente que el término "congelación" empleado por algunos intérpretes del Protocolo, no corresponde al verdadero sentido ni a la intención de éste, ya que el plazo de doce años no va a ser un período de inactividad, sino, por el contrario, durante ese tiempo según lo previsto en el Artículo I se obligan las Partes a realizar esfuerzos efectivos para crear un clima de real entendimiento, que abra el camino para abordar la solución de la controversia, como lo contempla el artículo III del mismo.

9.— El hecho de que, según el Artículo II del Protocolo, no pueden hacerse valer durante la vigencia de ésta reclamaciones territoriales por una u otra Parte, no significa, desde luego, que en manera alguna disminuyan o pierdan vigencia los derechos en que tales reclamaciones puedan basarse, al tenor de lo dispuesto en el ordinal 2 del artículo IV del Protocolo en referencia. De este modo, queda incólume todo lo que el Acuerdo de Ginebra puede contener de positivo para los intereses venezolanos. Por lo demás, el Protocolo sigue cuidadosamente en todas las referencias relativas a reclamaciones territoriales el texto del Acuerdo de Ginebra, por ser éste un tratado vigente debidamente aprobado por el Soberano Congreso.

10.— El Artículo III del Protocolo salvaguarda la totalidad de los derechos que en favor de Venezuela pudieren existir en el momento de

la firma del Informe Final de la Comisión Mixta. En efecto, en la fecha en que el Protocolo deje de tener vigencia, el mecanismo del Artículo IV del Acuerdo de Ginebra se reanudará en el punto de la suspensión, es decir, como si el Informe Final de la Comisión Mixta hubiere sido presentado en ese momento.

Por lo demás, la celebración del Protocolo y el hecho de su vigencia no podrán interpretarse en ningún caso como renuncia o disminución de derecho alguno que Venezuela pueda tener para la fecha de la firma del mismo, ni como reconocimiento de ninguna situación, uso o pretensión que puedan existir para entonces.

11.— El Artículo IV del Protocolo de Puerto España establece que, durante su vigencia, el Artículo V del Acuerdo de Ginebra tendrá efecto en relación con el Protocolo en la misma forma en que la tiene en relación con dicho Acuerdo. Lógicamente, fue preciso eliminar las referencias que dicho Artículo hacía a "Guayana Británica" sustituyéndola por "Guyana". Igualmente fue necesario suprimir las menciones referentes a la "Comisión Mixta", ya que ésta había dejado de existir. Se consideró preferible incorporar al Protocolo el texto mismo del Acuerdo de Ginebra, en lugar de intentar la redacción de un nuevo artículo, a fin de evitar todo riesgo de alteración del "statu quo" jurídico.

12.— El Artículo V del Protocolo establece que éste tendrá una duración inicial de doce años. Este plazo es renovable por períodos iguales o inferiores, si así lo acordaren los Gobiernos de Venezuela y de Guyana.

Si al finalizar el periodo inicial, el Gobierno Nacional considera conveniente que termine la vigencia del Protocolo, simplemente tiene que notificar por escrito, con seis meses de anticipación, a los demás Gobiernos Partes en el mismo, su decisión al respecto. Si por el contrario, considera que una prórroga es beneficiosa para Venezuela, le basta con abstenerse de dar esa notificación. Puede además, si lo considera más conveniente, acordar con el Gobierno de Guyana la renovación por un plazo inferior a doce, pero no menor de cinco años.

En todo caso, es de importancia destacar el derecho que a Venezuela corresponde de dar por terminado el Protocolo al concluir el plazo de vigencia.

* * *

En todos los actos del Gobierno de Venezuela en esta materia está presente la permanente convicción de que es esencial el mantenimiento y la defensa de los derechos nacionales respecto del territorio venezolano

arrebatado por el llamado Laudo de 1899 y la conciencia plena de que el esfuerzo del pueblo y del Gobierno venezolanos deben estar siempre orientados hacia la rectificación de esa injusticia. Respecto de esto no pueden existir ni dudas ni vacilaciones. Nuestra conducta deberá juzgarse, en último análisis, a la luz del adelanto responsable y eficaz que logremos hacia ese objetivo primordial.

A juicio del Gobierno Nacional, el Protocolo de Puerto España abre perspectivas nuevas y positivas. No debe buscarse en él una victoria de una parte sobre la otra, ni puede esperarse tal resultado de un texto cuidadosamente negociado. Representa, sí, un éxito de la voluntad de entendimiento y una nueva etapa en la búsqueda de la solución de la controversia, no sólo porque evita pasos inconvenientes o inoportunos, sino especialmente porque pone el énfasis en la labor constructiva de la creación de vínculos de colaboración y confianza entre Venezuela y Guayana. En la medida en que esa labor progrese durante la vigencia del Protocolo, se habrá hecho posible el progreso hacia la satisfacción del deseo de justicia de Venezuela en forma cónsona con su legado histórico, de cuya pureza tenemos que ser celosos defensores.

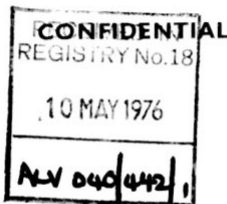
Caracas, 22 de junio de 1970.

(Fdo.) Aristides Calvani

Annex 48

United Kingdom, Research Department, *Venezuela-Guyana Frontier Dispute*, Nos. DS(L)692,
RRN 040/360/1 (10 May 1976)

RRN 040/360/1



17.11.76
9m sure you are
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 DS(L)692
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 Research Department
 DS No 5/76.

RESEARCH DEPARTMENT MEMORANDUM*
VENEZUELA-GUYANA FRONTIER DISPUTE

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* The full memorandum is available on request to recipients of the index and summary only.

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mouth of the Orinoco. No portion of the entire territory possessed more strategic value than this, both from a commercial and a military standpoint, and its possession by Great Britain was most jealously guarded. This point had been awarded to Venezuela, and along with it a strip of coast about 50 miles in length, both giving to Venezuela the entire control of the Orinoco River. In the interior another long tract to the east of the Schomburgk line, some 3,000 square miles in extent, had been also awarded to Venezuela, and thus, by a decision in which the British arbitrators had themselves concurred, the position taken up by the British Government until 1895 had been shown to be without foundation. This in no way expressed the extent of Venezuela's victory. Great Britain had put forward a claim to more than 30,000 square miles of territory west of the Schomburgk line, and it was this territory which in 1890 she was disposed to submit to arbitration. Every foot of this territory had been awarded to Venezuela".

Venezuelan Second Thoughts

12. A profound fifty year silence ensued in Venezuela. From time to time *however* a few Venezuelan extremists expressed dissatisfaction at the Award. They received no official support. Indeed, as late as 1941, when the British Minister in Caracas brought some hostile press articles to the notice of the Venezuelan Minister of Foreign Affairs, the latter reassured him by saying that if the author of these articles had had access to his Ministry's archives, he would never have written such nonsense. The first suggestion of dissatisfaction on the part of the Venezuelan Government appears to have been in 1944 when the Award was criticised in Congress in vague terms. Also in 1944 (as was subsequently revealed), one of the United States lawyers who had acted as Counsel for Venezuela at the Tribunal, Severo Mallet Prevost, dictated a memorandum commenting on the way the Tribunal had arrived at the Award; this was to be published only after his death. In it, Mallet Prevost expressed his personal belief that the Award had been the result of a deal between Britain and Russia, brought about between the British judges and the Russian President*. The memorandum was published after his death in 1949. The first repercussion came two years later in the form of a claim for the revision of the award in a Press interview by the Venezuelan Minister for Foreign Affairs. But there was no official denunciation of the award.

The Claim Revived (1962)

13. The situation changed in 1962 when the UK was working towards a Constitutional Conference to consider the question of giving British Guiana independence. The likelihood was that, whether Dr Jagan remained in power or not, the post-independence

*An article on the subject of the Guyana-Venezuela and Guyana-Surinam frontier disputes in a 1969 publication of the Institute of Ethnography of the USSR Academy of Sciences rejects all suggestions of collusion on the part of Martens as totally unsubstantiated and naive.

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government of British Guiana would be pretty far to the left. This was a matter of serious concern for the Venezuelan Government. A separate, though coincidental, development was that following a serious split within his own party (Accion Democratica) President Betancourt, with two more years of his Presidency to run, needed right-wing support, in order to retain which he could not ignore the Venezuelan claim to British Guiana, however absurd he himself and his left-wing supporters might believe it to be. The Venezuelans were lobbying energetically in the US in support of this claim and for the introduction of a resolution in the UN Committee of Seventeen. UK objectives were not to get involved in any dispute with Venezuela which would delay independence for British Guiana; not to involve the Committee of Seventeen in the adjudication of the frontier; and to string the Venezuelans along.

The Venezuelans Broach the Idea of an Examination of Documents (March 1962)

14. On 23 March 1962 the Venezuelan President had given HM Ambassador in Caracas (Sir Douglas Busk) certain documents - none of which contained any new evidence (although they did constitute a more final repudication of the award than anything adduced up till then on the Venezuelan side) - and spoke of the existence of additional new data. Sr Betancourt asked for negotiations to be held in London, led by the Venezuelan Ambassador plus two more Venezuelans. They would have no objection to Dr Jagan being present. Commenting to the Foreign Office on this request Sir Douglas Busk hoped that some formula could be devised to receive the Venezuelan representatives and to study the documents, without this being given publicity. The Foreign Office opined that to begin with time could be gained by saying that we needed to study the Venezuelan documents and to consult with the Premier of British Guiana, having in mind that the ultimate reply would be that there was nothing new in the documents and that negotiations of any kind were not acceptable.

Dr Jagan Informed (May 1962)

15. On 14 May the Venezuelan Ambassador, evidently following up on what the President and Foreign Minister had earlier told Sir Douglas Busk, informed Lord Home that the Venezuelans wanted "conversations through joint commissions" to "study all aspects of the situation" (ie including the claim) and left a memorandum to this effect. Lord Home undertook to think over the Venezuelan suggestion which would have to be discussed with the Premier of British Guiana and expressed the hope that meanwhile no formal request for conversations would be made. Coincidentally and unexpectedly, Dr Jagan was then in London thus enabling him to be given a full account of the interview. Dr Jagan hoped that HMG would continue firmly to oppose joint Commissions or any direct Anglo-Venezuelan talks about the territorial dispute; in the event of their persisting, reference to the International Court of Justice would be the only proper and sensible solution.

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CONFIDENTIALUK Rules Out ICJ Option; Investigates Documentary Option
(August-September 1962)

16. Thereinafter the Venezuelans kept up the pressure for an official UK answer. They also, in August, requested in writing that the boundary question be included on the agenda of the 17th session of the United Nations General Assembly. Meanwhile the Foreign Office had obtained in August from the Attorney General an opinion on the merits of the UK's case in the event of recourse to the ICJ: it was that the UK's case would be strong but not cast iron. This option was therefore rejected. The Foreign Office had also arranged for a UK based researcher (Mr Child of FO Research Department) to make a preliminary re-examination of the documents connected with the 1899 award and this, completed in September, turned up no new evidence to validate the Venezuelan claim.

UK Reformulation of Documentary Option (October 1962)

17. The Constitutional Conference on independence was due to be held in London on 23 October. At the end of September the Venezuelan item on British Guiana was assigned by the General Committee of the UK to the Special Political Committee for consideration. In the preceding General Assembly debate the Venezuelan Foreign Minister had expressed the hope that the matter could be settled amicably between the parties. No resolution was tabled. The UK delegation to the General Assembly were armed with a defensive brief but, as a result of a separate and subsequent submission, this was supplemented to meet the political requirement. The latter provided for an offer to the Venezuelans to discuss through diplomatic channels a tripartite examination of documents (as distinct from offering to engage in substantive talks about frontier revision). This had two crucial features, one new, one not:

- (a) (as distinct from the examination of documents contemplated in March) it would follow on a definitive, public rejection of the Venezuelan claim by the UK ie it was not a quid pro quo for the withdrawal of any Venezuelan resolution.
- (b) it was to be tripartite examination ie joint but with the participation throughout of a British Guiana representative.

As to the possible arrangements the Foreign Office had it in mind that the Venezuelans, as complainants, should send their documents and an expert to London and the British side would be prepared to examine their documents in Caracas if necessary.

Venezuela Accepts Documentary Option (November 1962)

18. Dr Jagan (and the Governor of British Guiana) was informed in advance of the intended course of action and concurred with it. As Sir Patrick Dean subsequently commented:

"As the debate on the item approached it was clear that the Special Political Committee was in some disarray. The only members who

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had firm positions were the Venezuelans and ourselves, and also the Soviet bloc who supported British Guiana. The Latin Americans were much embarrassed. They realised that if this frontier question were re-opened, many of their own frontier problems would be open once more to dispute. Their attitude therefore mirrored the measure of their satisfaction with their own frontier settlements.

Thus, Peru, Chile, Mexico, Brazil, Colombia and Argentina made it clear to the Venezuelans that they could not go along with them and urged them not to table a resolution but rather to end the debate without one. Ecuador was ambivalent. Bolivia, El Salvador, Nicaragua and the Dominican Republic seemed likely to support Venezuela. The Africans for their part did not know what to think. They had an uneasy feeling that it was somehow all a colonialist plot. But they were confused by the fact that for once they seemed to be on the side of the arch imperialists - in this case the United Kingdom - in the defence of British Guiana's rights. Nonetheless they could not quite dispel their suspicions that we were up to no good and so failed to take up any definite position. The United States Government were in a difficult position. They could not support the Venezuelan case but they were very worried lest a rebuff by the Assembly might weaken Senor Betancourt's position and they counted heavily on his support over Cuba".

Mr Crowe made the UK offer at the end of his speech on 13 November in the UN Special Political Committee, the day after Sr Falcon Briceno's unimpressive opening speech on the item in question. The offer, of which no hint had been given - except on a personal and confidential basis to the US mission - made an immediate impact. The initial reaction of Sr Falcon Briceno was favourable and he seemed to think that the offer might afford a way out. The reactions of other delegations were that the offer was a fair one and presented a way of disposing of an item of potential embarrassment to everyone. The Venezuelan Foreign Minister was also receptive the following day to the suggestion that it would be best to avoid being too precise in the form of either a resolution or a statement since, as he himself stated, he could not admit to his public opinion that these would only be historical discussions which could not lead to anything, even if the Venezuelans produced convincing evidence. With this in view and with the concurrence of all concerned, the (Ecuadorean) Chairman of the Special Political Committee made a concluding statement (in fact a Venezuelan redraft of the original UK draft) which avoided calling for any report back to the General Assembly and merely recorded his understanding that the parties concerned would inform the United Nations about the results of these conversations. This had been preceded by brief speeches by the UK and Venezuelan representatives putting it on record that in agreeing with the procedure proposed the positions of their respective governments remained unchanged.

Preliminaries to the Joint Examination (October 1962 - March 1963)

19. The way was now clear for appointing a British representative, (as well as inviting one from British Guiana), contingency expenditure for this having been

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approved by the Foreign Office at the end of October. Mr (later Sir) Geoffrey Meade, a retired diplomat, was formally approached at the end of November and later agreed to take on the job. On 12 January the Government of British Guiana designated its archivist, H R Persaud, as its representative (Mr Persaud was at that time being groomed for the position of Permanent Under Secretary at the Ministry of Foreign Affairs in British Guiana. The Venezuelan nominees, two Jesuit priests - Fathers Gonzales and Ojer made themselves known in mid-March 1963 when they presented themselves at the FO in the company of the Venezuelan Charge d'Affaires. It emerged that the Venezuelans had strict instructions only to carry out an informal and preliminary examination of the British documents (they had brought none of their own) to be followed by a second stage of discussions at Ministerial level. They claimed, wrongly, that HMG had agreed to such a procedure in previous discussions in Caracas. It was pointed out to them that we had not agreed anything beyond the tripartite examination of documents, which would necessarily involve our examining their documents as well as vice versa, and that we could not prejudge the result of the examination by agreeing in advance to Ministerial talks.

Documentary Examination in London (March 1963 - September 1963)

20. After renewed UK pressure to get down to the examination of documents the two representatives began work in London in July alongside Sir Geoffrey Meade, representing the UK and also acting on behalf of British Guiana in the temporary absence of Mr Persaud. The Jesuit fathers took copious notes but proved silent, uncooperative and not disposed to consult with Sir Geoffrey Meade. They returned to Caracas in September. The prospect of a Ministerial meeting had alarmed Dr Jagan to the point of protesting at the "erosion" of HMG's position on the frontier issue. Dr Jagan commented parenthetically that he was not averse to economic cooperation with Venezuela but that that was a separate and distinct idea. He was promptly reassured that there was no cause for any such alarm. In November, at the Ministerial talks with Sr Falcon Briceno to review the results so far achieved by the expert examination of documents, Mr R A Butler said that Sir Geoffrey Meade had found nothing in the documents to support the Venezuelan contention of Anglo-Russian collusion in 1899. It was agreed that the next stage was for Sir Geoffrey Meade to examine the Venezuelan documents in Caracas. Dr Jagan, who became virtually inaccessible after the constitutional conference, was not present to meet Dr Briceno.

Documentary Examination in Caracas (December 1963 - May 1964)

21. In the course of December 1963 and during the period March-May 1964 Sir Geoffrey Meade studied the documentation made available in Caracas and held, in association with Mr Persaud, extensive discussions there with the two Venezuelan representatives. Sir Geoffrey Meade's report completed in September 1964 confirmed beyond all reasonable doubt that the Venezuelan case was devoid of substance, and showed indeed that the Venezuelan documentation put to him was ill-assorted, ill-prepared and even ludicrous. Mr Persaud concurred with Sir Geoffrey Meade's report.

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CONFIDENTIALRevised Tension

22. The effect of 1961-1964 tripartite examination of documents had been to keep the border question from the hustings in what was for Venezuelans the Presidential election year of 1963 (when Leoni was to succeed Betancourt). But tension mounted again. When in 1965, the Guyanese issued oil exploration concessions for territory claimed by Venezuela pre-1899, the latter declared that she did not recognise "the concessions granted over the land and continental shelf claimed by her". In November 1965 at a Constitutional Conference in London to which all parties in the Guyanese legislative had been invited (though in the event boycotted by Dr Jagan's opposition party) it was decided that British Guiana should proceed to independence on 26 May 1966. (The UK had maintained throughout that the frontier question and British Guyana's independence were unrelated and separate matters).

The London Talks (November 1965)

23. The problem of how to hold the Venezuelans off was very much in the minds of all concerned. As a stop-gap measure it had been agreed that British troops should stay on for a few months after independence. Meanwhile the Guyanese Prime Minister, Mr Burnham, was against taking the dispute to the International Court of Justice, despite a very favourable legal opinion on the likely outcome of such a course. One gleam of light appeared with the agreement in November at UK-Venezuelan Ministerial talks which followed belatedly on the formal exchange in August of the experts' reports on documentation. Although predictably no common ground on the reports was found, the (new) Venezuelan Foreign Minister, Dr Iribarren Borges, did come up with a proposal for the establishment of a Mixed Commission and it was agreed that further talks be held in Geneva for "satisfactory solutions for the practical settlement of the controversy which has arisen as a result of the Venezuelan contention that the 1899 Award is null and void". At these London talks the Venezuelans did strongly advocate the setting up of a joint administration of the territory in dispute together with Venezuelan participation in the development of British Guiana itself.

The Geneva Agreement (February 1966)

24. In February 1966, following a meeting of the British and Venezuelan Foreign Ministers and of the Prime Minister of Guyana an Agreement was signed in Geneva setting up a Mixed Commission of two representatives each from Guyana and Venezuela to seek a settlement of the controversy. The Geneva Agreement also provided that if the Mixed Commission failed to reach agreement within four years, recourse should be had to the means of peaceful settlement provided for in Article 33 of the United Nations Charter. Article V of the Agreement extended a sovereignty 'umbrella' over the three parties to the agreement. The Agreement did not provide for ratification and came into force on signature. The Geneva Agreement did, of course, have the one concrete result that Guyana could proceed to independence, as planned, in May 1966. For their part, the Venezuelans saw the Agreement as reopening the 1899 Award to examination.

The Ankoko Incident (October 1966)

25. In mid-October 1966 there was a border incident on the island of Ankoko

Annex 49

Declaration of the Minister of Foreign Affairs of the Republic of Venezuela (10 Apr. 1981),
reprinted in Republic of Venezuela, Ministry of Foreign Affairs, *Claim of Guyana Esequiba:*
Documents 1962-1981 (1981)

REPUBLIC OF VENEZUELA
MINISTRY OF FOREIGN AFFAIRS



CLAIM
OF
GUAYANA ESEQUIBA

DOCUMENTS

1962 – 1981

CARACAS, 1981

P144-145

DECLARATION OF THE MINISTER OF FOREIGN AFFAIRS, DR. JOSE ALBERTO ZAMBRANO VELASCO

The National Government has made public, on 4 April 1981, the decision of President Herrera Campíns, not to extend the Protocol of Port of Spain. This is a transcendental decision which makes our position towards our just claim over the Essequibo territory very clear. That is why, continuing the debate over whether or not to denounce the Protocol of Port of Spain, or if it should have been signed eleven years ago is a sterile and unnecessary discussion. The decision of the Government does not lend itself to interpretation: while appreciating the historical significance of the Protocol of Port of Spain, its validity will not be renewed. The Government considers that new ways must be explored in order to materialize our claim and further deems it necessary to interpret, with this decision, as part of our national sentiment.

Any opinions about the advantages and opportunities related to the Protocol belong to the past. Nor do I intend to debate its legal value. It is certain that Article stipulates it will come into force since its signing and that the lack of formal response of the National Congress on the approval of the Treaty introduces legal particularities. It is also certain that an examination of the legal scope of all these aspects stands out as purely academic and useless, particularly when all its provisions have been respected for nearly eleven years and when the President of Venezuela has announced that there is no desire from us to extend this situation.

The immediate consequence of the termination of the Protocol of Port of Spain is the full reactivation of the procedures indicated in the Geneva Agreement from 1966. That Agreement, which gathered some solid support in the National Congress, stipulates that Venezuela and Guyana must find a satisfactory solution for the practical settlement of the issue.

Thus, the most constructive thing to do for the country at this moment is to focus our attention and reflections on the Geneva Agreement. We must assess whether Guyana and Great Britain have complied in good will with the obligations derived from the Agreement. We must itemize the procedures in the Agreement in order to select, within the goals assigned by the concerned Parties, the one that suits the country's best interest.

Under these circumstances it is fundamental for the Venezuelan position to be an expression of national will not to be diluted into small and sterile issues. The unity of Venezuela is critical in order to express with greater clarity that, within the respect we feel for our neighbouring State and friend, we are determined to make them respect our position. To respect the ethical and legal reasoning for our claim and redress the injustice driven by imperial colonialism and from which we suffered. To respect the commitment Venezuela, Great Britain and Guyana made in 1966 towards seeking satisfactory solutions for the practical settlement of the issue.

The chances of making the procedures of the Geneva Agreement work, increase as the unity in the country becomes higher to this effect. That unity will be equally necessary to make Guyana and the International Community understand that Venezuela considers unacceptable, still

awaiting the satisfying solution to the issue, that by unilateral decisions some acts involving the claimed territory may take place which could have a serious impact on it and which would ignore our rights. In the specific case of the dam in Alto Mazaruni it must remain clear, for the International Community, that its construction in the current circumstances and conditions is unacceptable for Venezuela. Consequently, we are not willing to recognize any rights that could have been invoked since the alleged execution of said project.

The strength of the Venezuelan position demands a provision that considers the future of the issue and not to waste our political and intellectual efforts in unfruitful debates. The National Government will make a great effort to unite the will and action of the Nation and its representing sectors to this purpose and hopes that the tone of this debate matches what History demands from us all at this moment.

Caracas, 10 April 1981

REPUBLICA DE VENEZUELA
MINISTERIO DE RELACIONES EXTERIORES



RECLAMACION
DE LA
GUAYANA ESEQUIBA

DOCUMENTOS

1962 - 1981

CARACAS, 1981

**DECLARACION DEL MINISTRO DE RELACIONES EXTERIORES,
Dr. JOSE ALBERTO ZAMBRANO VELASCO**

El Gobierno Nacional ha hecho pública, por comunicado de fecha 4 de abril de 1981, la decisión del Presidente Herrera Campíns de no prorrogar el Protocolo de Puerto España. Esta es, sin duda, una determinación trascendental, que sitúa en una clara perspectiva nuestra justa reclamación sobre el Territorio Esequibo. Por eso, continuar la controversia sobre si debe o no denunciarse el Protocolo de Puerto España; o si debió o no firmarse hace once años, parece innecesario y aun estéril. La decisión del Gobierno no se presta a interpretaciones: sin detenerse a valorar el significado histórico del Protocolo de Puerto España, es lo cierto que dicho instrumento no se renovará. El Gobierno juzga que deben explorarse nuevos caminos para materializar nuestra reclamación, y estima interpretar, con su decisión, el sentir nacional.

Así como el juicio sobre la conveniencia y oportunidad del Protocolo pertenecen a la historia, tampoco tiene sentido debatir sobre el valor jurídico de dicho instrumento. Si bien es cierto que el artículo 6 dispone que entrará en vigencia desde su firma, y que la falta de pronunciamiento formal del Congreso Nacional sobre la aprobación de ese Tratado, introduce particularidades específicas en el orden jurídico, no es menos cierto que luce puramente académico e inútil, un ejercicio sobre el alcance jurídico de todos estos aspectos, cuando se han respetado sus disposiciones por casi once años, y cuando el Presidente de Venezuela ha anunciado que no existe, por nuestra parte, disposición alguna para prorrogar esa situación.

La consecuencia inmediata de la extinción del Protocolo de Puerto España, es la plena reactivación de los procedimientos señalados por el Acuerdo de Ginebra de 1966. Ese Acuerdo, que tuvo en su oportunidad un respaldo sólido en el Congreso Nacional, dispone que Venezuela y Guyana deben encontrar una solución satisfactoria para el arreglo práctico de la controversia.

De ahí que lo más constructivo para el país, en este momento, sea concertar nuestra atención y nuestras reflexiones en el Acuerdo de Ginebra. Debemos valorar si Guyana y Gran Bretaña han cumplido de buena fe las obligaciones que se derivan del mismo. Debemos desmenuzar los procedimientos que establece ese Tratado, a fin de seleccionar aquel que, dentro de los objetivos que las partes le asignaron, convenga mejor al interés del país.

En estas circunstancias es fundamental que la posición venezolana sea expresión de una voluntad nacional, que no se diluya en pequeñas polémicas estériles. La unidad de los venezolanos es decisiva para que se entienda con mayor claridad que, dentro del respeto que tenemos por la existencia de un Estado vecino y amigo, tenemos también la firme determinación de hacer respetar nuestra posición. De que se respete el fundamento ético y jurídico de nuestra reclamación a obtener una reparación por el atropello del que fuimos víctimas por la acción de los imperios coloniales. Y de que se respete igualmente el compromiso que adquirieron Venezuela, Guyana y Gran Bretaña en 1966 de encontrar soluciones satisfactorias para un arreglo práctico de la controversia.

Las posibilidades de hacer funcionar positivamente los procedimientos del Acuerdo de Ginebra aumentan en la medida en que haya mayor unidad del país alrededor de estos asuntos. Esa unidad será igualmente necesaria para hacer comprender a Guyana y a la Comunidad Internacional que para Venezuela es inaceptable, pendiente aún la solución satisfactoria de la controversia, que por decisión unilateral se produzcan actos de disposición sobre el territorio reclamado, que podrían afectarlo gravemente y que pretenderían desconocer nuestros derechos. En el caso concreto de la represa del Alto Mazaruni debe quedar claro, en el ámbito internacional, que su construcción en las condiciones actuales es inadmisibles para Venezuela y que en consecuencia no estamos dispuestos a reconocer ningún derecho que pretendiera invocarse a partir de la hipotética ejecución de dicho proyecto.

La fuerza de la posición venezolana exige una disposición a ver el asunto de cara al futuro y a no desperdiciar nuestro trabajo intelectual y político en debates infructuosos. El Gobierno Nacional se propone un gran esfuerzo para sumar la voluntad y la acción de la Nación y de sus sectores representativos en este propósito, y espera que el tono del debate se adecue a lo que la Historia nos exige a todos en este momento.

Caracas, 10 de abril de 1981

Annex 50

Republic of Venezuela, Ministry of Foreign Affairs, *Statement* (2 May 1981) reprinted in
Republic of Venezuela, Ministry of Foreign Affairs, *Claim of Guyana Esequiba: Documents*
1962-1981 (1981)

REPUBLIC OF VENEZUELA
MINISTRY OF FOREIGN AFFAIRS



CLAIM
OF
GUAYANA ESEQUIBA

DOCUMENTS

1962 – 1981

CARACAS, 1981

P146-148

REPUBLIC OF VENEZUELA

Ministry of Foreign Affairs

Cabinet Minister

DECLARATION

The decision of the National Government not to continue to apply the Protocol of Spain after it has come to an end, expressed to Mr Burnham on the occasion of his visit to Caracas results in the provisions in Article IV of the Geneva Agreement coming into full force.

The Geneva Agreement is an International Treaty, concluded in 1966 by Venezuela, Great Britain and Guyana, the latter, at the time, being close to becoming independent. The commitment in the Agreement stipulated that Venezuela and Guyana were to seek satisfying solutions for the practical arrangement of the issue. To that end a Mixed Commission was created, and it was foreseen, as can be seen in Article IV that should the Mixed Commission not produce concrete results, the return to the means for a peaceful settlement of the issue found in Article 33 of the United Nations Charter. That is why our National Government, in the current perspective and reconsidering our territorial claim in terms as per the Geneva Agreement, deems it necessary to state before the country:

1. The Geneva Agreement was approved, at that time, by determining the national consensus, which was expressed by a landslide majority after being submitted for consideration to the Congress and ratified by the Head of State at that moment, Dr. Raúl Leoni. It is true that then, just like now, some sectors and individuals expressed respectable arguments against the Agreement. However, it is also certain that the Agreement, after being approved by the Congress, became a Law of the Republic and it is an international commitment for Venezuela.

At all moments, Venezuela has worked hard to follow the provisions of the Agreement, convinced that if the two concerned Parties committed to complying with it in good faith then its goal will be achieved, i.e. find a satisfactory solution for the practical settlement of the issue. That is why, and without ignoring the value of some critics poured against that Treaty, the Government will insist in asserting its provisions to find a solution to our claim. Obviously, if the planned means towards a solution in the Geneva Agreement were depleted and the issue still remained unresolved, or that there was more evidence that the other concerned Party lacked the intention to fulfill its provisions by refusing to negotiate satisfactory solutions for the practical settlement of the territorial issue, then it could be necessary to reconsider the procedures towards obtaining that owed redressing from Guyana. Consequently, if according to the recent declarations by the Government of Guyana, the territorial issue between our two countries is restricted to the Treaty of 1897 and the Award of 1899, it is obvious that they want to disregard the Geneva Agreement.

Refusing to negotiate in compliance with what was agreed is not only ignoring the injustice carried out against Venezuela but also refusing to comply with international commitments.

2. The Geneva Agreement imposes a duty on the concerned Parties to seek satisfactory solutions for the practical settlement of the issue. That is why, Venezuela, from the beginning, has been willing to consider all the problems related to this matter, whether marine, political, cultural, economic or social and not to restrict it to just the examination of the nullity of the inexistent Award of 1899 as Guyana seems to try. Venezuela considers that a practical settlement is not possible without approaching first all the surrounding circumstances to the issue as a whole and further considers that any behaviour against this constitutes a breach of the obligation to negotiate a satisfactory solution as it was agreed in the Geneva Agreement.
3. It is convenient for all Venezuelans to remember when Venezuela supported with its recognition the new State of Guyana on the occasion of its independence. Venezuela did so with the explicit reservation over all the Essequibo territory up so long as no practical settlement of the issue was in place. The terms of that reservation are the following:

“Venezuela recognizes as the new State’s territory that starting East from the right bank of the Essequibo River and reiterates before the new country and before the international community, that it reserves its rights of territorial sovereignty over the whole area from the left bank on from the Essequibo River. As a consequence, the Guayana Esequiba, the territory over which Venezuela reserves its sovereign rights, neighbours East with the new State of Guyana through the line of the Essequibo River, the latter being taken from its source to its mouth at the Atlantic Ocean”.

(Extract from the Recognition Note on the State of Guyana, 26 May 1966).
4. Venezuela is willing to find, in compliance with the provisions of Article IV of the Geneva Agreement, an appropriate means to find a satisfactory solution for the practical settlement of the issue. That same willingness is a necessary condition to turn to the means for peaceful solutions contained in International Law. Thus, Venezuela is concerned about the behaviour of the Guyanese Government or certain actions during its mandate, which seem to run counter to the goal of seeking a peaceful solution of our issue.

This explains why a considerable part of the diplomatic procedures which we are now presenting is destined to make that position very clear. In order to achieve that, we need the help of our foreign office along with any extraordinary means such as visits or direct contact with high representatives from other States. However, they also demand a high degree of cooperation among the different sectors in the country. It is necessary to keep expressing this position before Guyana, Great Britain and the International Community with clarity and determination since it represents our national sentiment.

Caracas, 2 May 1981

REPUBLICA DE VENEZUELA
MINISTERIO DE RELACIONES EXTERIORES



**RECLAMACION
DE LA
GUAYANA ESEQUIBA**

DOCUMENTOS

1962 - 1981

CARACAS, 1981

REPUBLICA DE VENEZUELA
Ministerio de Relaciones Exteriores
Gabinete del Ministro

DECLARACION

La decisión del Gobierno Nacional de no continuar aplicando más allá de su término el Protocolo de Puerto España, comunicada al señor Burnham en la oportunidad de su visita a Caracas, trae como consecuencia que recobren plenamente su vigor las disposiciones del Artículo IV del Acuerdo de Ginebra.

El Acuerdo de Ginebra es un Tratado Internacional, suscrito en 1966 por Venezuela, Gran Bretaña y Guyana, país éste que estaba, para la época, en vísperas de obtener su independencia. El compromiso asumido por el Acuerdo era que Venezuela y Guyana buscaran soluciones satisfactorias para el arreglo práctico de la controversia. Para ello, se estableció una Comisión Mixta, y se previó, justamente en el Artículo IV y para el caso de que esa Comisión no obtuviera resultados concretos, recurrir a los medios de solución pacífica de las controversias recogidos en el Artículo 33 de la Carta de las Naciones Unidas. Por ello, en la perspectiva presente, que replantea nuestra reclamación territorial, en los términos del Acuerdo de Ginebra, el Gobierno Nacional cree conveniente precisar ante el país:

1) El Acuerdo de Ginebra fue aprobado, en su momento, por un determinante consenso nacional, que se expresó en una abrumadora mayoría al ser sometido a consideración del Congreso y ratificado por quien entonces era el Jefe del Estado, Doctor Raúl Leoni. Es cierto que entonces, como ahora, algunos sectores e individualidades expresaron respetables argumentos contra dicho Acuerdo. Pero también es cierto que el mismo, al ser aprobado por el Congreso, se convirtió en Ley de la República y constituye un compromiso internacional de Venezuela.

En todo momento Venezuela se ha esmerado en observar rigurosamente los preceptos de dicho Acuerdo, convencida de que si las dos Partes se proponen cumplirlo de buena fe, se obtendrá con toda seguridad su

propósito, esto es, hallar una solución satisfactoria para el arreglo práctico de la controversia. Por ello, sin desconocer el valor que tienen algunas de las críticas que se han hecho a ese Tratado, el Gobierno insistirá en hacer valer sus disposiciones para encontrar una solución a nuestra reclamación.

Obviamente, para el caso de que se agotaran los medios de solución previstos en el Acuerdo de Ginebra, sin que la controversia haya quedado resuelta, o que se continuara evidenciando que la otra Parte carece de intención de cumplir con sus disposiciones, negándose a negociar las soluciones satisfactorias para el arreglo práctico de la controversia territorial, podría ser necesario replantear la orientación de las gestiones encaminadas a obtener la reparación debida a Venezuela. En consecuencia, si según las recientes declaraciones del Gobierno de Guyana, el problema territorial entre nuestros dos países se restringe al Tratado de 1897 y al Laudo de 1899, es obvio que lo que se pretende es prescindir del Acuerdo de Ginebra. Negarse a negociar de conformidad con lo pactado es no sólo desconocer la injusticia cometida contra Venezuela; sino rehusarse a cumplir los compromisos internacionales contraídos.

2) El Acuerdo de Ginebra impone a las Partes el deber de buscar soluciones satisfactorias para el arreglo práctico de la controversia. Por ello, desde el primer momento, Venezuela ha estado dispuesta a considerar todos los problemas implicados en esta materia, sean éstos políticos, marítimos, culturales, económicos o sociales, y a no limitarse al mero examen de la nulidad del inexistente Laudo de 1899, como parece pretender Guyana. Venezuela considera que un arreglo práctico no es posible sin abordar esta temática en su conjunto y que toda conducta distinta constituye una violación de la obligación de negociar una solución satisfactoria, tal como fue convenido en el Acuerdo de Ginebra.

3) Es conveniente que todos los venezolanos recuerden que cuando Venezuela otorgó el reconocimiento al nuevo Estado de Guyana con ocasión de su independencia, lo hizo con expresa reserva sobre todo el territorio esequibo, mientras no se obtenga un arreglo práctico de la controversia. Los términos de esa reserva son tan claros como los siguientes:

"Venezuela reconoce como territorio del nuevo Estado el que se sitúa al Este de la margen derecha del río Esequibo, y reitera ante el nuevo país, y ante la comunidad internacional, que se reserva expresamente sus derechos de soberanía territorial sobre

toda la zona que se encuentra a la margen izquierda del precitado río; en consecuencia, el territorio de la Guayana Esequiba sobre el cual Venezuela se reserva expresamente sus derechos soberanos, limita al Este con el nuevo Estado de Guyana, a través de la línea media del río Esequibo, tomado éste desde su nacimiento hasta su desembocadura en el Océano Atlántico".

(Extracto de la Nota de Reconocimiento del Estado de Guyana, de fecha 26 de mayo de 1966).

4) Venezuela tiene la mejor disposición de hallar, dentro de las previsiones del Artículo IV del Acuerdo de Ginebra, un medio apto para encontrar una solución satisfactoria para el arreglo práctico de la controversia. Esa disposición previa es una condición necesaria para recurrir a los medios de solución pacífica recogidos por el Derecho Internacional. De allí que Venezuela vea con preocupación ciertas actitudes del gobierno guyanés o cumplidas bajo su amparo, que parecen contradictorias con el propósito de encontrar un medio de solución pacífica para nuestra controversia.

De allí que buena parte de la gestión diplomática que actualmente adelantamos está destinada a dejar claramente sentada esta posición. Para ello son necesarios los medios ordinarios de nuestro servicio exterior, así como los extraordinarios que se cumplen con ocasión de visitas o contactos directos con altos funcionarios de otros Estados. Pero exigen también un alto grado de cooperación de los distintos sectores del país. Es preciso continuar transmitiendo ante Guyana, Gran Bretaña y la Comunidad Internacional, esta posición clara y decidida como expresión del sentir nacional.

Caracas, 2 de mayo de 1981

Annex 51

Letter from the Minister of Foreign Affairs of the Republic of Venezuela to the President of the World Bank (8 June 1981)

22.6.81
GUYHICOM LONDON

157. TEXT OF LETTER FROM VENEZUELAN FOREIGN MINISTER TO
PRESIDENT WORLD BANK

Caracas, June 8th, 1981

President,
International Bank for Reconstruction and Development,
Washington, D.C.

On behalf of the Government of the Republic of Venezuela, I take pleasure in communicating with the organization over which you so worthily preside to reaffirm Venezuela's position on the Upper Mazaruni Hydro-electric Project and the construction of the relayed dam, financing for which the Government of the Co-operative Republic of Guyana has requested from this Bank.

As it is known, a territorial controversy exists between Venezuela and Guyana in respect of the region in which Guyana intends to build the aforementioned dam. In the nineteenth century as a result of a succession of unilateral actions and fait accompli, Great Britain progressively disregarded the legitimate eastern frontier of Venezuela which is the Essequibo river having recognised the latter river as the original boundary of the new republic when it gained its independence.

By means of the non-existent 1899 arbitral tribunal, England sought to consolidate its de facto occupation of which we have since been the victims. It was a hearing at which there was no Venezuelan judges nor was any Venezuelan citizen allowed to represent us. The so-called award was not based on any legal considerations but was the fruit of arrangements of interests and of political dealings. Thus Venezuela has never recognised nor is it disposed to recognise the non-existent arbitral award of 1899.

As a result of the long standing Venezuelan claim, the Geneva agreement was signed in 1966 between Venezuela, Great Britain and Guyana which at that time was about to obtain its independence.

This agreement which recognises the existence of a territorial controversy states in its preamble that this controversy must be amicably resolved in a manner acceptable to both parties and stipulates in article one that Venezuela and Guyana should seek a satisfactory solution for the practical settlement of the controversy. Article IV of the agreement assigned the role to the Secretary-General of the United Nations to collaborate with the parties in the search for means of peaceful settlement of the controversy. This role was accepted by the Secretary-General of the United Nations in a letter dated April 4, 1966. Thus it was that the existence of a territorial controversy over the region west of the Essequibo river was formerly recognised by the states concerned and by the international community through the Secretary-General of the United Nations.

Upon Guyana's attainment of independence, the Government of Venezuela declared in its note of recognition that the latter "does not imply the renunciation or diminution of the territorial rights claimed by our country". The note also states that Venezuela "recognises as territory of the new state only the territory situated on the right bank of the Essequibo river". Subsequently in this note and afterwards in a number of international forums, it expressly

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reiterated to the new country and to the international community that it expressly reserved its right of territorial sovereignty over the entire zone on the left bank of the aforementioned river and that consequently, the territory of Guyana, Essequibo over which Venezuela expressly reserved its sovereign rights, is bounded on the east by the new state of Guyana along the coast of the Essequibo river from its source to its mouth in the Atlantic Ocean.

The time is approaching for the termination of the application of an additional protocol to the Geneva Agreement signed in Port-of-Spain in 1970 under which Guyana and Venezuela agreed to suspend for twelve years the application of some of the provisions of the above-mentioned Geneva Agreement.

The planned Upper Mazaruni dam is situated in the Essequibo and is the result of a unilateral initiative of the Government of Guyana which is not in consonance with its international obligations. The Government of the Republic of Venezuela is therefore obliged to adopt the following position:

1. The building of the Upper Mazaruni dam involves important works which would profoundly and irreversibly alter the physical environment of the region. Venezuela reiterates its firm opposition to such a unilateral act of exploitation of a territory sovereignty over which rightly belongs to it.

This opposition is based firstly on the lack of legitimate titles by Guyana to the Essequibo territory. Moreover the fact that Guyana is seeking to embark upon activities which would irreversibly modify the region is proof of a lack of serious will on its part to fulfill its international obligations arising from the Geneva Agreements which imposes on the parties the duty of seeking a satisfactory solution for the practical settlement of the controversy. It is clear at this time of unilateral actions is not in keeping with the comportment of states which are bound to negotiate in good faith with a view to finding a peaceful and practical settlement to a pending controversy and it adds unnecessary elements of tension to international relations.

Venezuela's objection is all more the firm since it is evident that the objective pursued by Guyana with its upper Mazaruni project is political. The importance of this project to Guyana's development has yet to be demonstrated and its economic feasibility, were it ever to be built (and we are opposed to this), would depend on the purchase by Venezuela of electricity which will not take place under any circumstances.

Venezuela's objection to the construction of this project therefore constitutes at this time a final decision based on the essential objective of respect for the sense and essence of the obligations contracted by the parties to the Geneva Agreement for whose fulfillment in good faith we commit all the resources at the disposal of our country.

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For this reason and in the light of the inevitable obtainment of reparation, the Government of Venezuela has insisted in making public this determination to the international community and to the various public and private enterprises, directly or indirectly involved in this project.

2. In consequence of the foregoing, the Government of Venezuela has publicly declared and hereby reaffirms that it will recognise no right nor legal situation which may be invoked in the future by third states, international bodies or entities or by private corporations based on a hypothetical unilateral act of exercise of sovereignty by Guyana over the territory of Essequibo.

Obviously the same considerations would apply to any credits which may be granted for the financing of the project should liability for them be imputed to Venezuela at any future date.

3. The World Bank is a technical body for co-operation and development and it is not within its competence to prejudge or adopt a position on border controversies. Venezuela therefore declare that any transaction between Guyana and this body involving financing for the construction of the said dam is without any legal effect as against our country or third countries.

The Venezuelan Government moreover, places on record its firm and permanent opposition to any act by the bank which may be interpreted as recognition of Guyana's sovereignty over the territory of Essequibo. In view of the Government of Venezuela, it would be unusual for the World Bank, against all precedents and deviating from its functions, to finance a unilateral act on a territory in dispute with a clear political objective by Guyana.

4. Venezuela wishes to place on record the desire of its people and government to see Guyana advance rapidly towards its goals of development, and its wish for both nations, through the application of the Geneva Agreement, to find a satisfactory, practical solution to the border controversy thereby clearing the path to co-operation and mutual development.

JOSE ALBERTO ZAMBRANO VELASCO
MINISTER OF FOREIGN AFFAIRS OF THE REPUBLIC
OF VENEZUELA.

ENDS.

Annex 52

Letter from the Vice President of the Cooperative Republic of Guyana to the President of the World Bank (19 Sept. 1981)



GUYANA'S UPPER-MAZARUNI HYDRO-ELECTRIC PROJECT

Guyana's answer to a
Venezuelan representation
to the World Bank

MINISTRY OF ECONOMIC
PLANNING AND FINANCE
GUYANA

GUYANA'S UPPER-MAZARUNI HYDRO-ELECTRIC PROJECT

LETTER FROM VICE-PRESIDENT
HUGH DESMÓND HOYTE
OF GUYANA TO THE PRESIDENT
OF THE WORLD BANK
ANSWERING CERTAIN REPRESENTATIONS
MADE TO THE BANK
BY FOREIGN MINISTER
DR. J.A. ZAMBRANO VELASCÓ
OF VENEZUELA.

MINISTRY OF ECONOMIC
PLANNING AND FINANCE
SEPTEMBER, 1981.

Letter from Vice-President Hugh Desmond Hoyte of
Guyana to the President of the World Bank
answering certain representations made
to the Bank by Foreign Minister
Dr. J.A. Zambrano Velasco of
Venezuela.

Office of the Vice President,
(Economic Planning and Finance),
Avenue of the Republic,
Georgetown, Guyana.

September 19, 1981.

Mr. A.W. Clausen,
President,
The World Bank,
1818 "H" Street, N.W.
Washington, D.C. 20433.

Dear Mr. President,

On behalf of the Government of the Co-operative Republic of Guyana, I wish to place on record its views on certain representations which were made in a communication dated June 8, 1981, addressed to your predecessor by the Minister of Foreign Affairs of the Republic of Venezuela, Dr. Jose Alberto Zambrano Velasco. In that communication, the Minister raised what purported to be an objection by his Government to the involvement of the World Bank in the realisation of the Upper Mazaruni Hydro-electric Project in Guyana — a project on which the Government of Guyana

and the Bank have been in consultation for some time. The Venezuelan authorities gave maximum publicity to the document by facilitating the reproduction of its text in Venezuelan national newspapers, circulating copies to the representatives of member states of the Bank and otherwise ensuring world-wide distribution. In a communique issued in Caracas on the same date, the Venezuelan Foreign Ministry described the document as "*an ultimatum* to the World Bank". That a member state could boast of having threatened the Bank is surely a matter for sadness and regret.

2. Before dealing with the contents of the said communication, may I first of all discharge a more pleasant and agreeable duty and, on behalf of the Government and people of Guyana, congratulate you on your appointment as President of the Bank and extend to you best wishes for a successful and rewarding tenure of office. I do so with keen appreciation of the qualities of leadership and the wide experience you have brought to your high office; and I am confident that these assets will be of inestimable value to the Bank in the fulfilment of its mandate under the provisions of its charter. May I take this opportunity, also, to express the desire of my Government that the relationship of co-operation and understanding which has characterised its association with the Bank will be deepened and enhanced during your administration.

3. (a) In the communication under reference, the Venezuelan Foreign Minister hazarded a number of arguments in his attempt to justify his Government's declared hostility to the Bank's participation in the Upper Mazaruni Hydro-electric Project. These can be conveniently summarised under two broad heads: first, that Venezuela is asserting a claim to that part of Guyana's territory in which the hydro-electric facility will be located; and, second, that the development priority of the project has not been demonstrated.

(b) Let me immediately dispose of the proposition advanced under the second head: in the submission of the Government of Guyana, it is irrelevant. It is not within the competence of the Government of Venezuela to decide on or dictate the development priorities of Guyana; nor has the Government of Guyana found any provision in the Bank's charter that requires the Bank to satisfy the Government of Venezuela about the development priorities of a member country before it can participate in a project in that country. Moreover, it is manifest absurdity for the Government of Venezuela to suggest that ~~the~~ Bank would become

involved in the financing of a project without first establishing its feasibility. Further on this point, I would merely add that the Venezuelan Foreign Minister is under a misconception when he asserts that the feasibility of the project depends upon the purchase of electricity by Venezuela. This statement is completely divorced from fact. The project has been independently assessed by the World Bank, among others as being technically and economically feasible, in circumstances which do not involve or require Venezuelan participation in any shape or form.

4. Of graver import, however, is the objection based on the assertion by Venezuela of a claim to five-eighths of the land mass of our country. I wish at the outset to state Guyana's position on this matter. The Government and people of Guyana do not accept the validity of any claim by Venezuela to any part of their territory and reject any such claim in its entirety as having no legal or moral foundation. This claim poses a serious threat to peace and stability in the region. But more germane to the Bank's business are the serious implications of the Venezuelan Foreign Minister's communication for the non-political character of the institution and its objectivity and independence in the administration of its affairs. As the Government of Guyana understands it, Mr. President, the Bank's charter requires it to apply only economic considerations in arriving at its decisions. What the Venezuelan Government is attempting to do, in this particular case, is to interfere in the Bank's *modus operandi* and introduce a political dimension into its decision-making processes. The Bank has always resisted efforts at political intervention in its affairs, and the Government of Guyana is sure that under your distinguished leadership it will continue to rebuff those who seek to use it as a tool to promote their partisan objectives. Indeed, it would be remarkable if the mere assertion by one country of a claim to the territory of another country were to be deemed a sufficient ground for the Bank to abdicate its responsibilities under its charter and decline to participate in the development of the latter country.

5. I consider it unnecessary and inappropriate, Mr. President, to burden you with a seriatim refutation of the specious arguments advanced by the Venezuelan Foreign Minister. Those arguments derive from a selective and tendentious appeal to facts and history and are inevitably vitiated by misinformation, misrepresentation and misinterpretation. Fortunately, the facts relating to the historical and legal issues alluded to by the Venezuelan Foreign Minister are not matters for speculation: they have been definitively established and cannot be altered or wished away by

mere rhetoric, however repetitious or strident. In the circumstances, I have taken the liberty of enclosing with this letter, for your information and the Bank's archives, the following publications which document these facts in their legal and historical setting and expose the absurdity of Venezuela's claim:

- (1) Memorandum on the Guyana/Venezuela Boundary:
- (2) Documents on the Territorial Integrity of Guyana:
and
- (3) Documents concerning the Visit to Venezuela of
the President of the Co-operative Republic of
Guyana: April 2 – 3, 1981.

Against this background, I will now make summary reference to certain aspects of the representations made in the said communication.

6. (a) The boundary between Guyana and Venezuela was legally settled in 1899 by an International Arbitral Tribunal constituted pursuant to the Treaty of Washington of 1897, which had been concluded by Great Britain and Venezuela for that specific issue. The Governments of the two countries solemnly bound themselves by the said Treaty to accept the award of the Tribunal as a "full, final and perfect settlement". The award of 1899 was formally accepted by both parties and duly acted upon. Immediately thereafter, Great Britain and Venezuela set up a Mixed Boundary Commission to survey and demarcate the boundary on the ground. The Commission concluded its work in 1905, and signed and submitted a unanimous joint report along with the relevant maps, and these were unreservedly accepted by the Governments of the two countries. The boundary between Guyana and Venezuela was thus definitively established and thenceforward acknowledged and respected by the international community, including Venezuela. It was on the basis of this established boundary that Guyana acceded to independence in 1966 and became a member of the Bank in the same year.

(b) For six decades, notwithstanding the Venezuelan Foreign Minister's asseverations to the contrary, Venezuela fulfilled her obligations under international law with respect to the common boundary with Guyana as determined by the Arbitral Award of 1899. However, in 1962 as Guyana was about to gain her independence as a sovereign state, Venezuela repudiated the

Arbitral Award as being null and void and advanced a claim to some five-eighths of our country. The substantial basis of this incredible proposition was a memorandum allegedly dictated in 1944 by a junior member of the team of lawyers who had represented Venezuela before the Arbitral Tribunal in 1899. The story of this memorandum is intriguing. In January, 1944, the Venezuelan Government had decorated this lawyer — Mallet-Prevost, with Venezuela's highest honour, the Order of the Liberator. He died in 1949, fully half a century after the arbitral proceedings of 1899 and, at the time of his death, had been the last of the principal actors who had taken part in these events. Shortly after his death, there was published a document which his law partner claimed to have found among Mallet-Prevost's papers. This document — the famous memorandum — was dated 9th February, 1944, recorded that it had been "dictated" by Mallet-Prevost, and contained the following direction: "not to be made public except at his (i.e. the law partner's) discretion after my death".

(c) The gravamen of this memorandum — a bald, two-page document — was that the award of 1899 was the result of fraud and collusion among the distinguished jurists who had participated in the work of the tribunal. It was on the basis of the general averment contained in this document that the Venezuelan Government boldly proclaimed that the "full, final and perfect settlement" of 1899 was null and void and, *mirabile dictu*, that Venezuela was automatically entitled to five-eighths of the territory now comprising the State of Guyana. When the memorandum was published and the preposterous contention based upon its contents was first advanced, Mallet-Prevost was conveniently beyond the pale of human interrogation.

(d) The Venezuelan claim to Guyana's territory is founded on this dubious and self-serving document. Over the years, the Venezuelan Government has never even attempted to discharge the heavy onus of proof which it must accept to establish its case based on the memorandum. The general allegation comes down to this: that the eminent jurists who had constituted the Arbitral Tribunal of 1899 had all conspired to give a perverse award and corruptly deprive Venezuela of territory rightfully hers. These jurists were the Honourable Melville Weston Fuller, Chief Justice of the United States of America, and his colleague, the Honourable David Josiah Brewer, a Justice of the Supreme Court of the United States of America; the Right Honourable Lord Russell of Killowen, the Lord Chief Justice of England, and his colleague, the

Honourable Sir Richard Henn Collins, a Justice of Her Britannic Majesty's Supreme Court of Judicature; and Frederic de Martens, a respected Russian jurist who had been unanimously chosen by the other arbitrators as the fifth member and President of the tribunal. Chief Justice Fuller had been nominated personally by the President of Venezuela, and the other members had been selected in accordance with procedures agreed between Great Britain and Venezuela and incorporated in the provisions of the Treaty of Washington of 1897.

(e) But the allegation is even more unfortunate, for the Venezuelan Government's contention of necessity impugns the integrity of Venezuela's leading counsel at the arbitration proceedings; namely, General Benjamin Harrison, a former President of the United States of America, and General Benjamin Tracy, a former United States Secretary for War, both of whom subsequently acclaimed the award as a triumph for Venezuela and a vindication of her rights. But more than that: the Venezuelan case had been championed by the United States Government which, through President Grover Cleveland, had invoked the Monroe doctrine and threatened war to force a reluctant Great Britain to agree to submit the dispute to arbitration. On the promulgation of the award, President Cleveland and the United States Government had also hailed it as a victory for Venezuela. The Venezuelan case, therefore, also involves the pleading that the United States President and Government lent their immense prestige and authority to the approval of an award which denied justice to a country whose case they had championed. The tenuous nature of the Venezuelan Government's allegation needs no further demonstration. Not a scintilla of evidence has ever been adduced to justify the assault contained in the memorandum upon the integrity of those distinguished jurists who, during their lifetime, had served their countries — and Venezuela — with honour and distinction.

7. (a) Conscious of the frailty of a case which rested on the so-called Mallet-Prevost memorandum, Venezuela drummed up alternative arguments relating principally to the negotiations preparatory to the signing of the Treaty of Washington of 1897 and the fact that the Tribunal did not record reasons for its decision. But the material upon which the alternative arguments have been founded has always been in the full knowledge of Venezuela: yet, she positively affirmed the validity of the boundary for six decades. For this and other reasons which cannot conveniently be elaborated here, the alleged alternative grounds are without merit.

(b) But even if, for the sake of argument, we were to concede the Venezuelan contention that both the Award of 1899 and the boundary laid down pursuant to it were invalid, the land claimed by Venezuela would not automatically go to her. The matter would then be at large, and there would devolve on Guyana the original British claim to the Amakura, Barima and Cuyuni areas which were lost to Venezuela as a result of the Award. The British had asserted sovereignty to, and had in fact exercised sovereignty over, these areas which in the case of the Amakura and the Barima extended as far as the mouth of the Orinoco River.

8. Against the background of the established historical facts, it is difficult to understand how the Venezuelan Foreign Minister could refer to the 1899 Arbitral Award as being "non-existent". In the context of the Venezuelan Government's appeal to the United States of America to champion and represent its cause (which appeal was accepted by the United States Government), the Venezuelan Foreign Minister's complaint that Venezuelan citizens did not participate (and were not allowed to participate) in the proceedings as arbitrators or counsel is perplexing. Venezuela freely chose to have her interests represented by her powerful sponsor, the United States of America. The Honourable Melville Weston Fuller, Chief Justice of the United States Supreme Court, was chosen personally by the President of Venezuela; and the Venezuelan Government of its own volition retained General Harrison and General Tracy as its leading counsel. For the Venezuelan Foreign Minister to assert that Venezuela has "never recognised" the Arbitral Award of 1899 is to do violence to the meaning of words and to ignore the palpable and irrefutable evidence of history. I need only refer to the fact that between 1901 and 1905, a Venezuelan/British Mixed Commission demarcated the present boundary and that in 1932 Venezuela, Brazil and Guyana (represented by Great Britain), collaborated in surveying, determining and marking the tri-junction point where the boundaries of the three countries meet at Mt. Roraima.

9. (a) I now turn to the references which were made in the communication aforesaid to the Geneva Agreement of 17th February, 1966, and the Protocol of Port-of-Spain of 18th June, 1970, signed by the representatives of the Governments of Great Britain, Guyana and Venezuela. The Venezuelan Foreign Minister seems to be urging the proposition that the said Agreement and Protocol constitute a recognition of the validity of the Venezuelan claim to our territory and that the Government of Guyana is precluded by their existence or their provisions from proceeding with

the development of the whole of the country. The construction which he so seeks to put upon the documents is not warranted or supported by the text or spirit of the documents and has no substance in law. They in no way constitute an acknowledgment or recognition of the validity of Venezuela's claim; nor do they in any way inhibit Guyana from developing any part of her territory. Guyana would never consent to any arrangement having such an effect.

(b) It may be useful to explain the background to the Geneva Agreement and the Protocol. I have already remarked that as Guyana approached independence the Government of Venezuela sought to thwart that process by formally denouncing the Arbitral Award of 1899 as null and void in 1962 and fabricating a claim to Guyana's territory. As a gesture of goodwill and in order to permit a smooth transition of our country to independence, the Government of the United Kingdom, at that time the administering colonial power, agreed to allow the Venezuelan Government to examine all the records in its archives relating to the arbitration proceedings. The United Kingdom Government was adamant, however, that its offer was not a recognition of the validity of Venezuela's claim. The British representative stated his Government's position with categorical firmness in these words:

In making this offer, I must make it very clear that it is in no sense an offer to engage in substantive talks about the revision of the frontier. That we cannot do; for we consider that there is no justification for it.

The Venezuelan Government accepted the offer and through a panel of experts examined all relevant documents between 1963 and 1965. The Venezuelan experts failed to turn up any evidence which was supportive of their Government's contention. This fact, however, did not persuade Venezuela to abandon her opposition to Guyana's accession to independence.

(c) In the continued spirit of goodwill, on February 17, 1966 (when Guyana was just four months away from independence) the representatives of the United Kingdom and Guyana signed the Geneva Agreement with Venezuela. This Agreement provided for the establishment of a Guyana/Venezuela Mixed Commission, the stated object of which was to seek "satisfactory solutions for the practical settlement of the controversy between Venezuela and the United Kingdom which has arisen over the Venezuelan contention that the Arbitral Award of 1899 . . . is null

and void". The Agreement in no way constituted any acknowledgment or recognition of the validity of Venezuela's claim: it merely sought to establish mechanisms for resolving the said controversy.

(d) The Mixed Commission was duly appointed in 1966. However, it was unable to proceed with the work within its terms of reference for the simple reason that the Venezuelan commissioners did not approach their task as the Agreement required from the point of view of examining the Venezuelan contention about the nullity of the 1899 Award. They wished, instead, to proceed on the assumption that the contention had been established and that all that was necessary was for Guyana to agree to a realignment of the boundary in accordance with Venezuelan demands. Guyana of course categorically rejected the Venezuelan position as being inconsistent with the Commission's terms of reference and therefore unacceptable. In accordance with the relevant provisions of the Agreement, the life of the Commission came to an end early in 1970.

(e) Thereafter, the Governments of Guyana and Venezuela duly consulted and agreed to suspend the application of Article 4 of the Geneva Agreement which prescribed additional modalities for dealing with the said controversy. In terms of and pursuant to those consultations, the Protocol of Port-of-Spain was signed on 18th June, 1970, by the representatives of the Governments of Guyana, the United Kingdom and Venezuela. The Protocol put the controversy in abeyance for twelve years, in the first instance, and expressly prohibited the assertion of territorial sovereignty by either country to the territory of the other during this period of moratorium. The Protocol contained provisions for its automatic or consensual renewal or for its termination. In April of this year, the Government of Venezuela publicly announced its intention not to renew the Protocol. If it does in fact exercise its right to terminate the Protocol, then, the Government of Guyana will reserve its right to exercise any of the options open to it under international law.

(f) In the light of the foregoing the Venezuelan Foreign Minister's communication has demonstrated contempt by the Venezuelan Government for the sanctity of treaties, agreements and understandings freely entered into and solemnly concluded. It is clear that by asserting a claim to Guyana's territory and by seeking to frustrate the economic development of the country and, more specifically, the realisation of the Upper Mazaruni Hydro-electric project, the Venezuelan Government has been in

breach not only of the Treaty of Washington of 1897 and the Arbitral Award of 1899, but also of the Geneva Agreement of 1966 by which it now appears to lay so much store and the Protocol of Port-of-Spain of 1970 which expressly prohibits it from asserting any claim to any part of Guyana during the life of the Protocol. The Protocol, of course, is still in force.

10. It is not at this stage open to the Government of Venezuela to plead any interpretation of the Geneva Agreement or the Protocol of Port-of-Spain in justification of its efforts to thwart the development of Guyana or any of its regions. Indeed, to guard against this possibility and to make the matter abundantly clear, the then Foreign Minister of Guyana, Mr. Shridath Ramphal, and the then Foreign Minister of Venezuela, Dr. Aristedes Calvani, at the time of signing the Protocol of Port-of-Spain of 18th June, 1970, addressed their minds specifically to this matter when they dealt with certain other related matters and arrived at definite understandings. Among these matters was the question of economic development in the Essequibo region of Guyana. The Government of Guyana had raised this issue for good reason; because, two years before, the Government of Venezuela had placed an advertisement in the "Times" newspaper of London seeking to discourage investors and international agencies from assisting in the development of the resources of the Essequibo region of Guyana. The Government of Guyana naturally wanted to ensure that the Government of Venezuela would in future keep within the bounds of propriety and refrain from attempting to hinder the development of Guyana on any pretext whatsoever. As a result of the understandings reached between the Foreign Ministers, and in order to prevent a recurrence of mischief of the kind perpetrated by the aforesaid newspaper advertisement, the two Foreign Ministers agreed *"that each Government would abstain from any statement, publication or other acts which could be detrimental to the economic development and progress of the other's State."* The present campaign which the Government has mounted to retard Guyana's development is a violation of those understandings also.

11. It is clear, Mr. President, that the Government of Venezuela has embarked upon a course of economic terrorism against Guyana calculated to stultify the development and growth of the country. The objective is to intimidate and coerce the Guyanese Government and people into surrendering the richest part of the country to an avaricious neighbour. With total disregard for the sanctity of treaties and agreements and the solemn

obligations accepted thereunder, the Venezuelan Government has, even now, been dispatching its emissaries abroad to persuade Governments and private corporations in various parts of the world not to participate in the economic development of Guyana. It is perhaps of more than passing interest to note that the Venezuelan repudiation of the Arbitral Award of 1899 and the prosecution of its claim to the Essequibo region coincided with the publication of the results of the first seismic study in Guyana which had been commissioned by the United Nations Development Programme (UNDP). The study indicated the strong probability of oil being present in the Essequibo region of Guyana. The present resurgence of Venezuela's campaign against Guyana has coincided with the current attempt to drill for oil in that region.

(12) (a) Mr. President, the efforts of the Venezuelan Government to prevent the development of the Upper Mazaruni Hydro-electric Project have implications which are wider and more serious than the national concerns of Guyana. These implications are international in scope. It is now accepted generally that energy is a world issue and that "energy must become the shared responsibility of the whole world community". The initiatives of the Government and people of Guyana to develop the Upper Mazaruni Hydro-electric Project accord perfectly with the general world strategy for the development of new and renewable sources of energy. Any activities calculated to obstruct this development will affect not merely against the immediate economic prospects of Guyana, but also the wider interest which the world community has in the enlargement of energy resources. Indeed, since present projections are that by the end of the century Venezuela herself may become an importer of oil, her attempt to stop this development in our region may well be short-sighted and self-defeating.

(b) It may be apposite to record that, motivated by a spirit of good neighbourliness and within the context of regional programmes for energy development and economic co-operation under OLADE and the Treaty of Amazonic Co-operation (to both of which Guyana and Venezuela subscribe), the Government of Guyana has from the outset made it public that Venezuelan participation in the project was possible under agreed and clearly defined circumstances. In the Government of Guyana's view, such participation, though, as earlier mentioned, not essential to the viability of the project, could have included arrangements for Venezuela to purchase power for her own development purposes. These were constructive initiatives on the part of the Guyana Government, consistent with the efforts and policies of the World

Bank, United Nations and other multilateral agencies to promote feasible programmes for the development of alternative sources of energy.

(c) The present Venezuelan posture involves a remarkable inconsistency. For over eight years, Guyana has been pursuing the development of this project in an open manner and with the full knowledge of Venezuela and, indeed, the world. During this period the Guyanese people at great sacrifice spent millions of dollars on the technical economic studies, preliminary engineering designs, infrastructure and other necessary preparatory activities. During this period too, in the spirit of the Geneva Agreement which recognised that "closer co-operation between (Guyana) and Venezuela could bring benefits to both countries", Guyana Government representatives held discussions with Venezuelan counterparts at various technical and political levels in pursuance of Guyana's policy that the benefits of the project should be made available to neighbouring countries also, including Venezuela. These discussions had always been amicable and, we had believed, constructive.

(d) Indeed, during a state visit to Guyana in 1978, the then President of Venezuela at a press conference held at the Pegasus Hotel, Georgetown, on Friday, 20th November, 1978, expressed Venezuela's general support for the project. Among other statements on this issue he said the following:

Venezuela has decided to study the possibility of linking the present and future systems of the two countries and purchasing electricity from Guyana on the completion of the hydro-power project . . . We will give all we can to help develop this complex.

No words can be clearer. Indeed, a large part of the official discussions during the presidential visit centred on the economics and the logistics of the supply by Guyana and the purchase by Venezuela of electric power from the Project. One firm decision was that the two countries would do further technical work on the cost and modalities of such an arrangement. Hitherto, Venezuela has never indicated any opposition to the Project. The Venezuelan Foreign Minister's communication of 8th June, 1981, contained the first ever expression of opposition by Venezuela that the Government of Guyana is aware of. The manner in which the opposition was indicated was, to say the least, regrettable; but it is

passing strange that it should have occurred at this time when we are on the verge of concluding arrangements which will greatly enhance the prospects of realising the necessary financing for the Project.

14. (a) The Upper Mazaruni Hydro-electric Project is vital to the economic development of Guyana. When completed, it will for all practical purposes solve Guyana's energy problem for the rest of this century. At present, we are totally dependent on imported fossil fuel, the continuous escalation in the price of which has been strangling our economy. The adverse impact of the cost of oil imports in our economy will easily be understood from the following figures: In 1970, the cost of our oil imports was equivalent to 5% of our GDP; in 1975, it was 10%; in 1980, 29%. In 1970, the cost of oil represented 8% of the value of our total imports; in 1975, it was 13% and in 1980, 36%. In 1970, oil imports absorbed 9% of our total export earnings; in 1975, 12% and in 1980, 35%.

(b) The present Venezuelan regime has analysed this problem very carefully and knows quite well that the economic salvation of Guyana hinges critically on the development of its hydro-electric resources. The perception of the Government of Guyana is that the regime is attempting to prevent the development of these hydro-electricity resources in the hope that Guyana's continued dependence on imported oil would aggravate its current economic problems and render it vulnerable to the regime's expansionist and colonial designs. In the circumstances, the Government of Guyana interprets the communication of 8 June, 1981, as an undisguised attempt by the Venezuelan Government to manipulate the Bank and use it as an instrument for achieving its ulterior political ends.

15. Finally, Mr. President, I wish to confirm that, notwithstanding the pretensions of the present Venezuelan regime, the Government and people of Guyana continue to place an absolute priority on the development of their hydro-electric resources and, more particularly, on the Upper Mazaruni Hydro-electric Project. They will persist in the most strenuous and disciplined efforts to ensure the implementation of the Project at the earliest practicable date. Guyana sets a high value on its membership of the Bank and the good relations it has established with it over the years. As the Government and people of Guyana pursue their own developmental objectives, they look forward to strengthening those relations as

the Bank, for its part, continues to address the complex and challenging issues of world development in the discharge of its mandate and the fulfilment of its purposes.

Please accept, Mr. President, assurances of my highest consideration.



H.D. Hoyte
Vice-President
Economic Planning and Finance
and
Governor for Guyana

Annex 53

U.N. General Assembly, 36th Session, *Agenda item 9*, U.N. Doc. A/36/PV.12 (24 Sept. 1981)

United Nations GENERAL ASSEMBLY

THIRTY-SIXTH SESSION

Official Records



12th PLENARY MEETING

Thursday, 24 September 1981,
at 3.30 p.m.

NEW YORK

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President: Mr. Ismat T. KITTANI (Iraq).

AGENDA ITEM 9

General debate (*continued*)

1. The PRESIDENT (*interpretation from Arabic*): The Assembly will now hear a statement by the Prime Minister of the Republic of Guyana, Mr. Ptolemy A. Reid.
2. On behalf of the General Assembly, I have great pleasure in welcoming and inviting him to speak.
3. Mr. REID (Guyana): My first words, Sir, from this podium are addressed to you in expression of our sincere congratulations on your election to the high office of President of this the thirty-sixth session of the General Assembly. Your own long and distinguished service in the field of diplomacy and international relations is a matter of public record. You have served not only in the interests of your own country but also in pursuit of the noble objectives of international endeavour.
4. I recall with particular pleasure the honour we in Guyana had of welcoming you in 1972 as a representative of the Secretary-General to the Conference of Foreign Ministers of Non-Aligned Countries. Since your return to the service of your country you have contributed to the strengthening of the bonds of friendship between the parties, the Governments and the peoples of Guyana and Iraq—a friendship which is enhanced by our joint and co-operative activities as members of the Group of 77, the non-aligned movement and this Organization.
5. The business of this session promises to be challenging, if not perplexing. We are confident, however, that your skill, your experience, your aplomb and your dedication to the search for just and equitable solutions to the problems which at present beset mankind will be tactfully and maturely applied, to the benefit of the Organization and the peoples here represented.
6. Let me take this opportunity to express as well our thanks and gratitude to Mr. von Wechmar of the Federal

Republic of Germany, who, as President of the thirty-fifth session, only recently concluded, applied unremittingly his talents and his energies to the achievement of consensus in the Assembly.

7. We must specially commend him for his untiring efforts to see launched a global round of negotiations on international economic co-operation as desired by the vast majority of Member States.

8. Equally, I wish to extend to the Secretary-General our deep appreciation for his own consistent and steadfast work directed towards the fulfilment of the purposes and principles of the Charter of the United Nations.

9. With the admission of Vanuatu to our midst, the Organization takes one more step towards its goal of universality of membership. Today we join with others in welcoming this new Member to our ranks. Guyana is convinced that this Republic will make a positive contribution to our work.

10. It was with particular pleasure that Guyana took note of the unanimous decision of the Security Council to recommend acceptance of the application for admission submitted by the newly independent Government of the sister Caribbean country of Belize. The struggle by the Belizean people for their freedom and independence has been long and arduous. Yet even at the very last hour attempts were still being made to frustrate Belize's movement to independence. The Assembly has given constant and unyielding support to the people of Belize in achieving their independence and making secure their territorial integrity. It will be a moment of great joy for the people of Guyana when Belize joins the Organization.

11. The thirty-sixth session of the Assembly is being held at what may well be a historic crossroads for humanity. It is a moment for reflection on the real values and the present needs of mankind. It is equally a moment to make a projection as to where we go from here, for we seem caught up in the contradiction of extremes. Each hour that we meet, the number of hungry and starving people on this small planet of ours increases. While Saturn and Venus and other distant planets are being explored through the use of a technology which is a wonder indeed, there are people on this earth who spend days to get from one place to another on foot, sometimes in harsh conditions, in search of basic necessities like food, water and fuel. There are enormous extremes of wealth among nations. There are those who are luxuriously housed while others take shelter from the rain in the flimsiest hovels. There are others who remain illiterate while the bounds of knowledge expand continually. And each moment the preparations for war escalate.

12. The spectre of deformation and death due to hunger and malnutrition, that of disease and deprivation through

lack of adequate housing, and that of decimation and destruction by conventional and nuclear warfare, even invoked in self-defence, combine to imperil the survival of mankind.

13. At this particular juncture, we are all aware of serious negative trends and tendencies in international relations. Increasing turbulence within the international system has led to a pervasive deterioration in political and economic relations. Developments over the past two decades, which had encouraged the hope that principles such as sovereign equality, mutual respect, peaceful coexistence and the right of each State to pursue its own path of political, economic and social development were achieving universal acceptance, are now challenged by postures and policies of confrontation, with resultant mistrust.

14. The non-aligned movement gave a warning about the possibility of the present circumstances at the Sixth Conference of Heads of State or Government of Non-Aligned Countries, held at Havana in 1979, and more recently at the Conference of Ministers for Foreign Affairs of Non-Aligned Countries, held this year at New Delhi.

15. Today there is a generalized mood of fear and foreboding. At the root of this outlook is the recrudescence, in virulent form, of confrontation and conflict, which some believe derive from ideological differences. It is a sad commentary on man's sense of values that, even as international political and economic relations have worsened and the plight of many peoples—simple men, women and children—has become more desperate, there can be an intensification in the preparations for war and an increase, both globally and within some nations, in the allocation of resources for such preparations.

16. The drums of war are beating everywhere. As yet; it is largely a war that is conducted through rhetoric by the world's powerful nations. But in some less powerful countries the war dead are being mourned. However, elaborate preparations involve policies which include not only the fabrication and acquisition of even more sophisticated components for an already overstocked war system, but also the threat which stems from the possession of such instruments of war and the determination to use them.

17. The question arises whether there are States in the various regions of the world which, egged on by the present circumstances, can feel secure in the belief that a recourse to lawlessness will go unpunished or, at worst, will be received with acquiescence by the international community.

18. Already, the pursuit of such policies has threatened to render asunder the fragile fabric of détente so laboriously constructed. True, it was a détente that was limited in both its geographical application and its substantive scope. But it represented a beginning and was an element in the process of the relaxation of tension and the democratization of international relations. It kept alive the prospect of building relationships of equality and mutual benefit and of expanding the opportunities for global consensus on the solutions of problems which are global in nature.

19. These developments threaten to negate the efforts which the United Nations has been so laboriously exerting over the years in the field of disarmament to save

succeeding generations from the scourge of war. The overall result is that the world is slowly inching further away from the goal of a secure and lasting peace which the Charter envisages and which is particularly needed in our day. In these circumstances, the second special session of the General Assembly devoted to disarmament, scheduled to be held in 1982, assumes an important and urgent character. It is our sincere hope that optimum use will be made by other States, particularly the nuclear-weapon States, of the negotiating machinery provided for within the United Nations. It is also our hope that the negotiations will be approached in a positive and constructive spirit, one that will best facilitate the achievement of genuine disarmament. But there are certain crisis situations which antedate the dangers inherent in the present trends and tendencies and remain in need of urgent solutions.

20. In the decisions taken at the recently concluded eighth emergency special session of the General Assembly, devoted to the question of Namibia, we recorded our determination to maintain the momentum in the march towards universality. In anticipation of the adoption of those appropriate measures as provided for under the Charter, at the present session the Assembly must seek to advance further the cause of Namibian freedom and independence. We must demand that those Members of the Organization that, in one form or another, give succour to South Africa in its continued illegal occupation of Namibia and its acts of aggression against neighbouring States join the mainstream of international rejection of the Pretoria racists and their *apartheid* policies.

21. The situation in southern Africa remains a clear threat to international peace and security. In this regard we must not relent in our desire to dismantle the structure of *apartheid* in South Africa itself.

22. The search for a lasting solution to the situation in the Middle East requires the reactivation of a more than peripheral involvement of the United Nations. The strategic consensus which the Organization must achieve and implement is one which would ensure for the Palestinians an independent State of their own and allow all States in the region to live in security and peace.

23. Likewise, in Korea the present apparent stalemate must not lead to the reality of permanent division. The wishes of the Korean people for their peaceful reunification on the basis of principles which are well known, including the 10-point programme of the Democratic People's Republic of Korea presented by its President Kim Il Sung, at the Sixth Congress of the Workers' Party of Korea, must be realized without delay.

24. In Cyprus, the intercommunal talks must be encouraged, but always within the comprehensive framework which was devised by this Organization and others in 1974 and subsequently.

25. Parallel to the turbulence in global political relations, to which I have already alluded, is an international economic system in deep-rooted crisis. It is a crisis from which no individual nation can insulate itself; it is a crisis with fundamental destabilizing consequences for all, especially the already battered economies of many developing countries. These countries continue to confront the twin dilemma of a long-term deterioration in the purchasing power of their commodity exports and a volatility in

the prices they obtain from such products on the world market. At the same time, the import prices for essential manufactured and industrial goods from the developed countries show a consistent upward movement.

26. Those of us who attempt to break out of this vicious circle of commodity trade by industrializing face the protectionist barriers that are erected. And some developed countries are attempting to shift from multilateral co-operation to bilateral exchanges, with deleterious consequences for the capacity of international financial institutions to promote development.

27. Compounding these difficulties is the increasing loss of skilled manpower from the developing countries to those parts of the world that are already highly developed. According to a conservative estimate by UNCTAD, over the decade and a half from 1960 to the mid-1970s, upwards of 420,000 skilled personnel moved from the developing to the developed countries. The skilled personnel that were lost included physicians, scientists, engineers, agricultural experts and other critical professional categories, all trained at immense cost and whose loss has considerably weakened our efforts to develop.

28. There are some, moreover, who would wish to blame the ills of the poor on ideological preferences, and particularly the choice a country makes between a capitalist or a socialist path to development. There are those, also, who would wish to base their willingness to assist the developing countries according to the latter's choice in a so-called global ideological struggle.

29. I ask: can we with genuine sincerity confront the harsh circumstances of today and the new reality of an interdependent world with the same old dreams, the same old illusions and the same old deceptions? We think not. The positive changes beckoning mankind cannot be contained, nor can we respond by merely clinging to the old economic order.

30. It is within this context that Guyana expresses regret at the continuing impasse in the North-South dialogue. Indeed, the expressed hope of the vast majority of Members of the Organization for the launching of a global round of negotiations has remained just that—a hope. We have not advanced much since the near unanimity on the procedures that was achieved at the eleventh special session only last year. We must seek at this session to overcome such barriers as remain to the launching of the global round of negotiations. While such negotiations can lead ultimately to the solution of problems which are structural in nature, many of us are faced with economic problems of both short- and medium-term dimensions. These problems require urgent solutions.

31. Yet even as lack of progress in the North-South dialogue is lamented, there may be a ray of hope on the horizon of economic relations at the global level. I have in mind in particular two developments. In May of this year the High-Level Conference on Economic Co-operation among Developing Countries was held in Venezuela. That conference resulted in substantive decisions of an action-oriented nature designed to strengthen the bases of such co-operation. And there is to be held at Cancún in October of this year a meeting at the highest political level of a group of developed and developing countries—the International Meeting on Co-operation and Develop-

ment—for informal exchanges on the world economic situation. Guyana hopes that the Cancún meeting will, through the manifestation of the necessary political will, help to give impetus to the search by the international community as a whole for solutions to the problems besetting the world economy, including the launching of the global round of negotiations, and that it will enhance the prospects for international economic co-operation in all its dimensions. We recognize that it presents the international community with an opportunity to demonstrate a breadth of vision and the political will to impart impetus and to lend authoritative direction to the global dialogue on economic relations.

32. It must certainly be to our advantage that this meeting will be taking place against the background of an increasing realization and acknowledgement of the interdependent nature of the world in which we live. Let me hasten to add, however, that the interdependence I speak of is not the one that was born and nurtured in the systemic context of subordination and dependent relationships, for that was an interdependence between the exploiter and the exploited, between the rich man and Lazarus, one which saw the distribution of the results of that relationship skewed in favour of the powerful.

33. A present danger is a lingering desire on the part of some to maintain such a patently unjust relationship. The emerging interdependence, and certainly the one to which we aspire, must be based on the principles of equality and justice and on an equitable distribution of the gains derived from it. We have a dynamic conception of an interdependent world, an interdependence which is symmetrical and based on mutual benefit and mutual respect.

34. The Third United Nations Conference on the Law of the Sea has now completed its tenth session. Throughout the years of negotiations, all States have had the opportunity of full participation and have contributed to the significant progress which has been made. Indeed, we are at the threshold of concluding a comprehensive treaty. This is why Guyana is concerned that there can be attempts at this late stage to upset a balance so patiently wrought. It is Guyana's hope that all States will participate in the signing ceremony at Caracas in 1982.

35. In the finely balanced life-support system of this planet, the two most critical areas are those of food and energy. Food production and food security are now matters of universal concern. In his statement before the Committee on World Food Security at Rome in April of this year, the Director-General of FAO, in alluding to the precarious nature of the global food situation, said that we have to be prepared for the worst—not only for this year, but also in the years to come. Indeed, for two successive seasons, as the Director-General reminded us, the world has consumed more cereals than it has produced. For us, therefore, it seems eminently reasonable to seek international support at all levels for promoting agricultural development, more especially in the developing countries.

36. We in Guyana have long been embarked on a programme of self-sufficiency in food. We have not yet achieved this, but last year, along with Zimbabwe, Guyana was a net exporter of food within the Commonwealth. We intend to accelerate this process. We therefore regard as contradictory, to say the least, the recent positions taken in one of the international institutions, the In-

ter-American Development Bank, by which Guyana was denied financial resources for increasing its capacity for food production. We cannot understand how there can be on the one hand an expression of an interest in preventing hunger and on the other the adoption of positions which perpetuate that same condition. Guyana remains ready and determined to exploit its potential for agricultural development for the benefit not only of the Guyanese people but also of the people of the Caribbean and even beyond.

37. Guyana has a similar determination in the field of energy. Whereas eight years ago it required less than 10 per cent of Guyana's export earnings to pay for our imported energy needs, today we expend more than 30 per cent of those earnings, and this despite the fact that we have embarked on programmes of conservation and have begun to use again alternative but once discarded sources of energy. We in Guyana have been beneficiaries of the generous oil facility established by the sister Caribbean Republic of Trinidad and Tobago. We pay a tribute to the Government of that country for instituting such a programme and express our thanks for the assistance. In this regard, we also wish to commend Venezuela and Mexico, which have established an oil facility for the benefit of a number of Central American and Caribbean countries.

38. Everyone knows that energy is critical in the process of development. That is why Guyana participated fully in the United Nations Conference on New and Renewable Sources of Energy, held recently at Nairobi. That is why Guyana is resolved to bring into use its potential for hydro-power and other forms of renewable sources of energy and will resist all attempts, for whatever reason, to frustrate our development in that respect. Guyana will support whole-heartedly all States pursuing similar policies.

39. There have been other recent developments in my region, Latin America and the Caribbean. Our area has not escaped the vicissitudes and dangers which beset the international community elsewhere. In the quest for independence, its maintenance and consolidation, in the pursuit of economic and social development, change is inevitable in Latin America and the Caribbean, as it is elsewhere. That process takes different forms and moves in different directions, reflecting the difference in history, culture and political norms and experience. As elsewhere, too, there are external attempts to dictate unilaterally the nature of change and to fit it into a prism often at variance with the wishes of the people themselves and detrimental to them. We see some of these processes now at work in our region. Let the Assembly not be seen to be equivocating on the right of the people of our region to fashion their own societies without outside interference.

40. More generally, the people of Latin America and the Caribbean have increasingly been designing their own regional and subregional institutions with a view to advancing co-operation among themselves. Our attitudes are not autarchic. We seek to build bridges of friendship and co-operation not only within our region but also with other peoples and regions. The recent Caribbean Basin initiative can conceivably contribute to the realization of these objectives.

41. The development of these mutual relations must of course be based on respect for the sovereign right of each of our States to pursue its own political, economic and

social development, free from all forms of external interference, coercion, intimidation or pressure. Equally, we of the Caribbean call for scrupulous respect for the wishes of our peoples for the Caribbean area to be respected as a zone of peace.

42. There are, however, situations arising within our region itself, some of which contain a clear potential for threatening and indeed disturbing international peace and security. One such situation stems from the present nature of our relations with Venezuela.

43. Several years ago the agenda of the General Assembly included an item entitled "Question of boundaries between Venezuela and the territory of British Guiana". The request for the inclusion of that item was made by the Government of Venezuela in 1962,¹ four years before my country became independent. The purpose of that request was for Venezuela to assert a claim to over two thirds of the territory of my country. It is apposite to note that, four months before taking such action, Venezuela had raised the question in the Fourth Committee,² when the independence of my country was engaging the attention of the Organization, then, as now, in resolute pursuit of the goal of total decolonization. Although at that time Venezuela denied that the assertion of its claim was in conflict with its professed support for the independence of my country, the manner in which Venezuela prosecuted its case was tantamount to its making a settlement of its demands a pre-condition to the attainment of freedom and independence by the Guyanese people. Simply put, an attempt was made to weaken Guyana's urge for independence. With the full and active support of the Organization, however, our objective of independence was achieved on 26 May 1966.

44. Early this year the Government of Venezuela reasserted its claim to over two thirds of the territory of Guyana. In prosecuting this claim, Venezuela embarked on a carefully orchestrated campaign aimed at the retardation of our economic development and the dismemberment of my country. I was born and bred in a village in the area of Guyana that Venezuela claims. I look forward to retiring there in peace and tranquillity. It is a part of Guyana which is rich in resources—mineral, forest, agricultural, including fish and livestock—and hydro-power, and in which more than one third of our population resides. As I stand before the Assembly, I face the prospect of one day becoming an alien in my own village, a colonial once again, after our uncompromising and successful struggle for independence, or a refugee from the place of my birth. Thousands of people in my country face this spectre, this terrible prospect of a return to the condition of colonialism or of exile from their place of birth.

45. I do not wish to burden the Assembly with a detailed analysis of the Venezuelan claim, or the absurdity of its nature; nor, indeed, do I intend to chronicle at this time the legal, historical, political and moral justification for Guyana's position. In brief, towards the end of the last century Venezuela sought and received the support of the Government of the United States of America in placing before an international arbitration tribunal the question of the boundary between Venezuela and British Guiana. Acting fully in accordance with the rules and norms of international law, Venezuela and the United Kingdom in 1897 signed in Washington a treaty³ which contained their agreement to submit the matter to arbitration procedures

as a full, perfect and final settlement. Suffice it to say that the Tribunal met and delivered its unanimous judgement on 3 October 1899 in Paris.⁴

46. It is on the basis of that award that the boundary between Venezuela and Guyana was finally determined. Indeed, working assiduously between 1901 and 1905, Venezuelan and British commissioners spared no effort to ensure that the boundary on the ground corresponded in every relevant detail to the arbitral award of 1899. It is that boundary which has given Guyana its present geographic form; we have lived on the basis of that boundary ever since. Incidentally, in 1932 Venezuela participated with the United Kingdom and Brazil in settling the tri-junction point where the boundaries of Venezuela, Guyana and Brazil meet.

47. In 1962, Venezuela presented its claim to the Organization, contending that the arbitral award of 1899 was null and void. The weight of Venezuela's evidence rested at that time, as it still does, on the recollections of one of the junior participants in the Paris proceedings, recorded some 50 years after the event and a few months after he had received a decoration at Caracas, and when all the major participants in the arbitration process had died. There must be speculation as to the true significance of the request by that junior participant that those recollections of his should remain a closely guarded secret until after his death, when he was beyond the reach of questions.

48. As the records confirm, in keeping with the time-honoured traditions of the Organization, Venezuela was given a full hearing in the Special Political Committee at the seventeenth session of the General Assembly [348th and 350th meetings]. As a result of the deliberations in that Committee, agreement was reached between Venezuela and the United Kingdom, with the concurrence of the then Government of British Guiana, that in order to dispel any doubt as to the validity of the 1899 award, experts from Venezuela and the United Kingdom should examine the documentary material relating to that award. At that session, the General Assembly limited its action to taking note of what had been agreed on by the parties [119th plenary meeting, para. 40].

49. When that consensual position was reached, there was no ambiguity about what was agreed upon, or the nature of the exercise to be undertaken. To make this point pellucid, let it be recalled that the United Kingdom representative said at that time:

"In making this offer I must make it very clear that it is in no sense an offer to engage in substantive talks about revision of the frontier. That we cannot do, for we consider that there is no justification for it."⁵

In recent months, the Government of the United Kingdom has reaffirmed in the British Parliament its position that the arbitral award of 1899 is valid.

50. The examination of the voluminous documentary material took place between the years 1963 and 1965. We in Guyana remain satisfied that there is not one scintilla of evidence to support the Venezuelan contention of the nullity of the award of 1899. Yet Venezuela maintains its contention.

51. As our independence approached in 1966, and in order to facilitate the development of friendly relations with Venezuela, the United Kingdom, Venezuela and Guyana concluded an agreement in Geneva.⁶ That agreement provided mechanisms for ourselves and Venezuela to continue to examine the latter's contention of nullity of the 1899 arbitral award and to find a practical solution to the controversy which had arisen as a result of that contention. But the ink from the signatures on the Geneva Agreement had hardly dried before Venezuela unleashed a campaign of hostility and aggression against us.

52. In three successive years, 1967, 1968 and 1969, in the general debate of this Assembly, Guyana had occasion to draw to the attention of the international community repeated acts of pressure, intimidation, subversion and aggression by Venezuela against us. Let me recall two examples: in 1966, only a few months after the conclusion of the Geneva Agreement, Venezuela, through the use of her armed forces, occupied the Guyanan part of an island through which our common boundary runs; and Venezuela today illegally occupies that part of our territory. In 1968, even as we were engaged in discussion within the framework of the Geneva Agreement, Venezuela, in flagrant disregard of it, sought publicly and privately to discourage investment for development in the region of our country which it claims. And there are many other examples.

53. It will, therefore, come as no surprise to the Assembly when I report, as I do now, that during the four years which the Geneva Agreement provided for the purpose, Venezuela did not produce any evidence of nullity of the 1899 award. Instead, Venezuela demanded, and sought by all means open to it, a revision of the frontier.

54. Venezuela claims that the 1899 award is null and void, and now denies its very existence. In many formal and official statements, as, for example, a recent letter to the former President of the International Bank for Reconstruction and Development, opposing the involvement of that bank in the development of a hydro-electric project, the Foreign Minister of Venezuela described the 1899 award as "non-existent".

55. The Venezuelan record of breaches of the Geneva Agreement is a dismal one. That record notwithstanding, the Government of Guyana did not abandon the search for an end to the controversy, nor efforts to develop friendly and harmonious relations with the people and Government of Venezuela. Thus, in demonstration of our goodwill and our desire to live in peace and harmony with our territory intact, we agreed with Venezuela, in 1970, by the conclusion of a protocol to the Geneva Agreement—the Protocol of Port-of-Spain—on an initial moratorium of 12 years during which period there was to be no claim by either party to the territory of the other. Further, it was the jointly expressed hope that there should be intensive efforts to develop and strengthen relations of friendship between the two countries. That development was reported to the Assembly at its twenty-fifth session [1876th meeting, paras. 68-69].

56. It is Guyana's view that by and large the Protocol of Port-of-Spain worked well. Although provision has been made in that Protocol for the automatic renewal of the moratorium, it also contains provisions whereby either

Guyana or Venezuela could terminate it. Venezuela recently announced its intention to do so.

57. When the Protocol of Port-of-Spain comes to an end on 18 June next year, the parties concerned should return within the ambit of the Geneva Agreement and activate the provisions of Article 33 of the Charter of the United Nations.

58. Unfortunately, in signalling its intention not to renew the Protocol, the Government of Venezuela simultaneously embarked on the studied campaign of hostility, pressure and intimidation to which I earlier made reference. Venezuela has also belligerently revived its claim to over two thirds of my country, and has communicated publicly that it will oppose any major effort on our part to develop the resources, particularly a hydro-power facility in the Upper Mazaruni, located in the region of Guyana which Venezuela now claims. In doing so, Venezuela is in clear breach of the provisions of the Protocol of Port-of-Spain.

59. In this connection, at the United Nations Conference on New and Renewable Sources of Energy held at Nairobi, Venezuela advised the international community that it would not recognize any form of co-operation which would be given for the development of Guyana if such development included the area claimed by it. The Government of Venezuela has also urged the European Community to withhold its participation in the development of the region.

60. There is a position which Venezuela persistently but erroneously adopts. It is that the Geneva Agreement and the Protocol of Port-of-Spain, both of which Venezuela has repeatedly violated, legally inhibit us from actively pursuing major development in the area of Guyana claimed by it. That position is juridically untenable. We will not succumb to such pressure. No one can reasonably ask the Guyanese people and their Government to place constraints on their development.

61. Indeed, Venezuela has reneged on an agreement reached on the occasion of the conclusion of the Protocol of Port-of-Spain in 1970. Under that agreement there was the understanding that each Government would abstain from making any statement, issuing any publication, or committing other acts which would be detrimental to the economic development and progress of each other's State. Guyana has scrupulously adhered to that agreement.

62. The history of Venezuela's behaviour on the question of the frontier with Guyana gives us little cause for optimism. What causes further concern are other policies being pursued by the present Government of Venezuela in that regard. Thus, allied with the desire of that Government to acquire new and sophisticated weapons of war, including F-16 fighter aircraft, there are increasingly clamant calls within Venezuela for a military solution to the controversy. I would remind the Assembly that the planes used to bomb the nuclear reactor in Iraq were of the same vintage as the F-16s which are being purchased by Venezuela. Thus, the purpose of the Venezuelan posture in this regard is to maintain a régime of pressure to bend us to their will.

63. I have deliberately refrained from making this presentation detailed. We have produced a memorandum

which amply describes Guyana's position. The delegation of Guyana will, through the established procedures, have that memorandum circulated as an official document of the General Assembly.⁸

64. The Government and people of Guyana earnestly desire a speedy end to this controversy. We have no other wish than that of establishing a régime of peace, harmony and friendship with the people of Venezuela, with whom we share aspirations for a just and satisfying life and with whom we can together make a contribution to our development and that of our region and our continent. If the Government of Venezuela is of a like mind, then the Geneva Agreement, if henceforth scrupulously respected by Venezuela, can provide such an opportunity. It is on that basis, and using that approach—an approach which I am sure this Assembly will endorse—that the Government of Guyana is willing to engage in discussions with Venezuela.

65. The implications of the Venezuelan claim are serious as much for the future of the relations between Guyana and Venezuela as they are for the future of several States in Latin America, and indeed beyond our region in Africa and in Europe.

66. As a result of the award of 1899, Guyana lost territory to Venezuela. I ask this rhetorical question: if Venezuela's contention of nullity is valid, is it prepared under those circumstances to entertain on an equal footing a claim by Guyana to territory which is now regarded as part of Venezuela?

67. Venezuela brought the question of our boundary to the United Nations in 1962, at a time when our independence was being considered. We bring it back to the Organization in 1981 to help us maintain our independence and to have our territorial integrity respected.

68. We have given notice to the Assembly of the dangers inherent in the prosecution by Venezuela of its claim. There can be a threat to peace and security, and we have alerted this Assembly to it. Guyana reserves the right to request, if it becomes necessary, consideration by the United Nations of the threat which the claim and the manner of its promotion pose. However, we now appeal to the Organization and each and every one of its Members to prevail upon Venezuela to abandon the ill-conceived course of action on which it has embarked for too long.

69. The complexity of the political and economic crises facing the international community today, and the vast scope of the day-to-day concerns of the world's peoples place the Organization, I suggest, before a challenge which exceeds anything conceived at the time of its creation. The Organization is not perfect. Yet it has effectively over the years helped to mute and contain confrontation in specific areas. Equally, it has played a positive role not only in promoting those principles of a universal character which should guide the actions of Member States, but also in enhancing the prospects and devising appropriate mechanisms for international co-operation on matters of global concern.

70. The range of problems of increasing concern to individual States, particular regions or groups of States has narrowed. In any event, the interrelationship of issues and the necessity for the successful resolution of conflicts and

controversies point to the increasingly global nature of problems and the concomitant imperative of a global approach to solutions. The capacity of the Organization to contribute to these solutions would clearly be enhanced if major Powers and those which act in their image would make their recourse to it less selective and self-serving.

71. I believe that now more than ever we need to optimize the use of the Organization for the fulfilment of its primary purposes. Foremost among these must be, in the words of the Charter, "to save succeeding generations from the scourge of war". We must resolve to turn back the tide, which is heading towards a holocaust of unprecedented dimensions. We must resolve to embark unrelentingly on a programme of general and complete disarmament.

72. The second purpose is the provision of security of food, clothing and shelter for the masses of the world's peoples.

73. Finally, there is the dire necessity to create the conditions for a régime of genuine peace and security. We are increasingly an interdependent world in which survival is dependent on mutual support and on collective action for mutual benefit.

74. The non-aligned movement has been in the vanguard of international action for the achievement of these goals. It continues to fulfil its vocation as an independent non-bloc factor in international relations, free from competition for spheres of influence and from hegemony and domination. The role of the movement as a force for positive and constructive change in the international system is universally acknowledged. There is now no question of the authenticity of our positions or the legitimacy of our cause.

75. So successful have we been that instead of the derision which we have attracted in the past there is now the adoption of not-so-subtle stratagems for infiltrating the movement and diverting it to purposes which are not of our making or in our interests. We need to continue to resist these efforts. Now more than ever we in the movement need to adhere to our principles and to be resolute in our determination to pursue the policy of non-alignment. To those ends the people and Government of Guyana remain irrevocably committed.

76. Guyana believes that when a better world is created by us all through our co-operation and concerted efforts it must be managed by us all in keeping with the standards and qualities befitting our humanity. Even the mightiest and most sophisticated implements of war cannot achieve this. Such armaments can only achieve what they were created for—destruction, not only of the weak but also of the powerful and strong.

77. The developing countries must be encouraged to use the resources, both human and natural, that are available to them for the benefit of their peoples. The development process should be geared towards producing self-reliant nations which can benefit from the reality of independence, not by patterning their development styles after other nations but by a global effort for mutual co-operation and true partnership.

78. The PRESIDENT (*interpretation from Arabic*): On behalf of the General Assembly, I thank Mr. Reid, Prime Minister of the Republic of Guyana, for the important statement he has just made.

79. Mr. ANDREI (Romania) (*interpretation from French*): Mr. President, it is a particular pleasure for me to convey to you my warm congratulations on your assumption of the important responsibility of presiding over the thirty-sixth session of the General Assembly and to greet you as a distinguished representative of Iraq, a country with which Romania is developing close relations of friendship and co-operation.

80. The present session begins its work in circumstances of continuing tension in international life, which gives rise to profound and legitimate concern among all peoples. The international climate is marked by an intensification of the imperialist policy of force and *diktat*, of consolidation and a further division of spheres of influence and domination, by the maintenance of hotbeds of conflict and war in various parts of the world, by the sharpening of the contradictions between States and groups of States, by the escalation and renewal of the arms race and by the widening of the gaps between the poor and the rich countries, against the background of the most profound economic crisis since the Second World War.

81. All peoples and the United Nations are now confronted with urgent tasks requiring extraordinary responsibility. The President of Romania has in this regard pointed out that in the present international circumstances the most pressing need today consists in bringing about unity and ever closer co-operation of peoples, of progressive forces everywhere, for the purpose of putting an end to the exacerbation of the international situation and resuming and continuing the policy of détente, independence and peace in order to stop the arms race and embark on disarmament, first of all nuclear disarmament.

82. In the spirit of these imperatives, Romania has been taking an active part in international life and is acting to promote the settlement, in the interest of all peoples, of the major problems confronting mankind. In his frequent political contacts, as well as in international forums, the head of the Romanian State, President Nicolae Ceausescu, has been promoting assiduously and on the basis of principle the ideals of co-operation and understanding among States, mutual respect, uniting the efforts of all nations for the complete elimination from inter-State relations of the use or threat of force and interference in the internal affairs of other States, for the defence of the freedom and independence of peoples and for the strengthening of international peace and security.

83. We are developing broad relations of friendship and co-operation with all socialist States. We are expanding our relations with the developing countries and with the non-aligned nations and, in the spirit of peaceful coexistence, we are promoting relations of co-operation with all States of the world, regardless of their social system.

84. Romania bases its relations with all countries on the principles of full equality of rights, respect for national independence and sovereignty, non-interference in the internal affairs of States, mutual advantage and non-use of force or the threat of force, and is working actively to

bring about a generalization of those principles throughout international life, convinced as it is that this is the only appropriate basis for developing relations among States and for promoting détente, security and peace.

85. In the present circumstances, the key to the resumption of the policy of détente, confidence and co-operation between nations is the undertaking of effective and substantive disarmament measures, which is the radical means of eliminating the main sources of confrontation and the danger of war, and relieving the peoples of the heavy burden of military expenditures. It is also the way to allocate vast resources for solving problems relating to the progress of each country and for substantially increasing the assistance given to the developing countries. It is the basic means of achieving a healthier political climate in the world, accelerating economic and social development, and increasing the well-being of all peoples.

86. Mankind is understandably disappointed at the sterility of so many of the negotiations which have taken place in recent years and which have resulted in resolutions on disarmament, while the arms race itself, far from slowing down, has been given new and powerful momentum. Military budgets are at record levels, and the new types and systems of weapons that are being perfected introduce additional elements of destabilization. All this feeds the infernal cycle of action and reaction, increases the risks of the outbreak of a nuclear conflict and complicates negotiations on the limitation of armaments and on disarmament.

87. It is only too obvious that the arms escalation has brought mankind to an impasse and that to escape from it requires a new, courageous approach that will lead to the achievement of a military balance, not through the piling up of armaments but through a continuing and systematic reduction of military expenditures, armed forces and armaments, through resolute measures for disarmament under effective control and, above all, through the final elimination of nuclear weapons. The peoples of the world are convinced that the unprecedented accumulations of arms is not directed to the defence of peace, but in fact represents preparations for war. If there is a genuine wish for peace, and for stability and confidence to prevail in the world, the efforts of all must be constantly subordinated to the urgent need to enter without delay into effective negotiations for the cessation of the arms race and disarmament, and first and foremost, nuclear disarmament.

88. As a European country, Romania is particularly concerned at the accumulation on our continent of the most powerful arsenal of military forces and modern armaments ever recorded, including nuclear weapons. It is in Europe that the two military alliances are confronting each other, and many of the contradictions and conflicts existing in the world today have their origin on the European continent.

89. Europe, which is already saturated with armed forces and armaments, is inescapably caught up in the whirlwind of the arms race. Consequently, Romania believes that it is particularly important for the General Assembly to come out firmly against the deployment and development of new medium-range nuclear missiles, and for a beginning to be made as soon as possible on specific negotiations to banish those missiles, and nuclear

weapons in general, from our continent. Romania believes that all European States with a vital interest in this question should take part in those negotiations.

90. We vigorously oppose the production of the neutron bomb, which is in fact also intended for Europe. Generally speaking, we consider it an illusion to believe that security can be achieved through the constant accumulation of new arms, since experience itself has shown that weapons, particularly nuclear weapons, bring only insecurity.

91. Romania attaches particular importance to a successful outcome of the current Madrid meeting that would lead to free and extensive economic, technological, scientific and cultural co-operation on the basis of respect for the social system of each country and the independence and sovereignty of every people and would help to forge a united Europe in which every nation could develop freely, without any aggression or interference from outside. At the same time, we must ensure the continuity of the process of building security and developing co-operation on the continent. It is precisely in taking into account the existing situation in Europe, and the fact that about 80 per cent of world armament expenditures are accounted for by States signatories of the Final Act of the Conference on Security and Co-operation in Europe, signed at Helsinki, that Romania believes it is of the utmost importance for the Madrid meeting to agree on convening a conference devoted to the strengthening of confidence and to disarmament in Europe, a conference which would become an essential element in an effective disarmament process.

92. In the present international circumstances, Romania believes that the most urgent and important task is the freezing and reduction of military expenditures, on the basis of appropriate agreements and under adequate international control. To that end, Romania has proposed that principles be worked out to govern the reduction of military expenditures, a proposal which is already before the Disarmament Commission. In our view, the formulation and adoption of such principles as soon as possible would facilitate the negotiation of specific agreements to reduce military budgets. The Romanian Government believes that it would be a particularly positive step if at this session an understanding were reached on the freezing of military expenditures at the 1981 level.

93. In the debate and in the resolutions that will be adopted at this session, priority should be given to the problems of nuclear disarmament. Romania believes that we must make every effort to unblock the present situation, and that the Geneva Committee on Disarmament should begin without delay effective negotiations on the cessation of the nuclear arms race and the reduction of nuclear weapons.

94. Romania regards as well-founded and just the proposal made by the Soviet delegation from the rostrum of the Assembly [7th meeting, para. 116] that anyone who is the first to use atomic weapons would be declared a criminal. Anyone who makes preparations for the use of atomic weapons against other States is in fact pursuing a policy against mankind, a criminal policy. Such a policy must be resisted with the utmost vigour by all peoples and should be considered a crime against mankind. The peoples of the world must take action now, before it is

too late, to stop the progress towards the use of that weapon. Romania therefore considers that everything possible should be done to put an end to the manufacture of nuclear weapons, which represents a serious danger to peace and mankind.

95. Romania believes that the second special session of the General Assembly devoted to disarmament, to be held in 1982, is of particular importance. At that session the Assembly will have the task of adopting a comprehensive disarmament programme and of bringing about a radical change in the situation in the field of disarmament negotiations.

96. The supreme duty of the Governments of all States is to heed the voice of the peoples, a voice which is being raised ever more firmly against the danger of war and is demanding an end to the accumulation of armaments and the production and deployment in their countries of new nuclear weapons. It is our duty to tell the peoples of the world openly the whole truth, and not to permit the creation of any illusion that one can live in tranquillity and security as long as the vast accumulations of the means of destruction continue to grow. The unprecedented dimensions of the arms race pose a particularly grave threat to world peace and to the security and life of the peoples of the world, making it necessary for all States to show responsibility, lucidity and realism.

97. In the interest of civilization, the safeguarding of life on earth and present and future generations, we must turn from words to deeds and act before it is too late to call a halt to this dangerous development, and we must do everything in our power to stop the arms race and embark resolutely on disarmament, above all, nuclear disarmament. Let us see to it that human genius, science and technology—as was stressed, incidentally, at the recent international scientific meeting “Scientists and Peace”, in Bucharest—are used not for creating weapons, not for destructive ends, but exclusively for peaceful purposes, to accelerate the development of the least developed countries, to solve energy and food problems and for the economic and social progress of all peoples.

98. The statesmen of our time will win for themselves a worthy place in history not by an irrational armaments policy, but by the courage and determination with which they act to bring about the cessation of the arms race and by their contribution to solving this crucial problem that is facing mankind.

99. In view of the grave political and social problems facing mankind as a result of the persistence of the phenomenon of underdevelopment and the many structural crises affecting the world economy, a firm commitment by mankind to an effective reversal of present tendencies in order to ensure the limitation of armaments, and the adoption of specific measures of disarmament, emerges as a task of particular urgency.

100. In strict solidarity with other developing countries and as a developing country, Romania continues to work for the establishment of a new international economic order.

101. Unfortunately, so far very little has been done to satisfy this aspiration of the majority of mankind. The

gaps between the developed and developing countries constantly grow wider and the state of underdevelopment is perpetuated, which breeds serious economic anomalies at the world level, and mistrust, animosity and tension in international life.

102. In these circumstances, the present economic, energy, monetary and financial crises are having a profound effect on development and world economic and political stability, exerting a very powerful negative effect on the economy of all States, particularly the developing countries. As has been stressed during the course of the present debate by high-level representatives of other States who have preceded me at this rostrum, an important role in the perpetuation and aggravation of this situation is being played by the unprecedented increases in the cost of international credit and by exchange rate policies. Artificially inflated interest rates have had a powerful negative impact, above all on the economies of the developing countries, aggravating the dimensions of their external debt, diminishing their already limited possibilities for development and undermining their efforts to overcome underdevelopment. Furthermore, those excessively high interest rates are affecting developed countries as well, causing the stagnation of production, investments and exports, as well as an increase in unemployment and a decline in the standard of living of the masses.

103. The international community must act with the utmost determination to put an end to these practices of force, plunder, oppression and exploitation which, in effect, are expressions of neo-colonialism, pursuing in new forms, more refined but as painful as the old ones, perpetuation of the exploitation of the weak by the strong and the enrichment of advanced States at the expense of the others. It is imperative, in our view, to introduce the practice of reasonable interest rates, bearing in mind that widening the existing gaps is detrimental to the rich States themselves, since it causes the world market to shrink, endangers general progress in which all States have a vital interest, creates instability and makes even sharper already existing international contradictions. In Romania's view, we must bring about an international understanding that the ceiling of interest rates will not exceed 8 per cent. For developing countries, that ceiling should be about 5 per cent; and the least developed countries should be granted credits without interest, or with a maximum interest rate of 2 to 3 per cent.

104. In proposing a maximum interest rate of 8 per cent, we realize that this is particularly high when compared with the normal return on economic projects and, at the same time, that financial relations and international credit should not constitute an obstacle to the progress of each country and of international co-operation but, rather, should be a powerful instrument for the stimulation of material production, the expansion of commercial exchange and the promotion of economic, technological and scientific co-operation among nations. Considering the special role played in economic life by international credit and the gravity of the problem of the external debt of developing countries, the General Assembly at this session should issue an appeal to all the Governments of developed countries and to international financial co-operation organizations urgently to take measures to ensure the implementation of a reasonable system of interest rates within the limits I have mentioned.

105. The Romanian Government believes that in order to implement the new international economic order it is essential to establish new principles of equality and economic co-operation, to eliminate all forms of inequality and oppression, to eliminate the neo-colonialist practices which have the effect of perpetuating the exploitation of peoples, to ensure equitable exchange and to give more substantial support to the least developed countries for the development of the forces of production in both agriculture and industry. At the same time, there must be better access to modern technology and to the conquest of science, in advantageous conditions for the developing countries; we must abandon the trend towards using technological and scientific monopolies to institute new forms of exploitation and dependence, and to exert political and economic pressures in international relations. The efforts of each people—an essential factor in an accelerated economic and social development—must be blended harmoniously with broad international co-operation, primarily among the developing countries.

106. Furthermore, problems of underdevelopment and of the new international economic order cannot be solved by superficial measures. Without courage and the will to make decisive progress and advance rapidly towards that goal, mankind will not be able to overcome the grave crisis it is suffering from at present. The solution of these problems necessitates fundamental changes in international economic relations and the allocation of substantial sums for economic and social development, funds which can be obtained primarily by the reduction of military expenditures.

107. The cessation of the arms race and the inauguration of disarmament would make it possible to save vast financial resources which could be allocated to economic and social development, to assist developing countries and to improve the well-being of peoples. Romania's President has already made specific proposals along those lines with regard to the gradual reduction of military expenditures over the next four or five years by at least 10 per cent to 15 per cent. Half of the sums saved in that way could be used for the economic and social development of the countries which have made those savings and the other half for the progress of the developing countries.

108. The Romanian Government believes that, in the process of eliminating underdevelopment and establishing normal functioning of the world economy, the developed countries have a legal and moral obligation to support the progress of the developing countries. This obligation stems primarily from the fact that during the long period of colonial domination vast riches found their way to the metropolitan countries. Furthermore, as Romania sees it, it is in the interest of the rich States themselves to participate in the liquidation of underdevelopment, since it is only in that way that the stability of the world economy and their own future progress can be achieved.

109. In our view, the United Nations is the most appropriate framework for undertaking firm and effective measures to improve the state of the world economy and assist the efforts of developing countries. The prompt initiation within the framework of the United Nations of the global negotiations proposed by the Group of 77 remains an objective of fundamental importance which could both meet the short-term and long-term interests of world economic stability and ensure the development of all countries.

110. The intensification of efforts to bring about the settlement by exclusively peaceful means of all disputes between States is a fundamental prerequisite for peace and détente and for the relaxation of tensions. Recourse to arms, force or the threat of force in dealing with disputes between States causes great damage and suffering to the peoples concerned and, at the same time, poses immense dangers to world peace. There is no denying, and experience has often confirmed this, that the use of force automatically engenders force. The time will never return when peoples of the world could be brought to their knees without resistance, when world public opinion remained passive in the face of acts of force committed by the strong against the weak. The recourse to military means or to other kinds of force in any part of the world creates tension and anxiety and gives rise to reactions on the part of all countries.

111. The Romanian Government is firmly convinced that there is no problem or controversy anywhere in the world that could not be settled by political means, through negotiations conducted in a spirit of understanding and mutual respect. As stated by President Ceausescu:

“There is no reason for peoples to have recourse to arms in order to settle differences. On the contrary, the interests of all peoples and the general interests of peace itself require that all disputes between States be settled solely through negotiation. There is only one reason that can justify recourse to arms: a people's need to defend its national independence and its right to a free life. We must do everything possible to ensure that nobody can attempt any longer to quell the independence of peoples or subjugate them.”

112. We consider that in the present international circumstances the United Nations should give priority to action against recourse to force or the threat of force, to ensure the complete renunciation of the use of military means for the settlement of international problems.

113. In proposing, at the thirty-fourth session, the inclusion in the agenda of the General Assembly of an item entitled “Settlement by peaceful means of disputes between States” [item 122], Romania was in fact proceeding from the need to exploit the possibilities provided by the United Nations and the Charter for more vigorous and effective action to prevent and settle conflicts between States on a just and lasting basis. We appreciate what has been done so far with a view to producing the declaration on the peaceful settlement of disputes and believe that the timeliness and important political significance of such a declaration require a continuation of efforts in order to accelerate its implementation.

114. The Romanian initiative concerning the development and strengthening of good-neighbourliness between States, which was included in the agenda of this session as item 57, also falls under the heading of the strengthening of international security and the prevention of disagreements and tension between States. I wish to stress in this regard too Romania's ceaseless efforts to develop relations of co-operation and friendship with all Balkan States, and to transform the Balkans into a nuclear-weapon-free zone, a zone of friendship, peace and good-neighbourliness which would contribute to the security of the European continent and to the peace of the entire world.

115. Romania wishes to stress the active role that should be played by the United Nations in eliminating hotbeds of tension and conflict which more than once have endangered world peace and security.

116. The Romanian Government believes that all disputes that still exist in the Middle East, South-East Asia, South-West Asia, Africa and other parts of the world should be settled by negotiation, with respect for the freedom and independence of each people and its sacred right to independent development through progress and civilization, without any outside interference.

117. Our country favours a comprehensive political settlement of the Middle East conflict and the establishment of a just and lasting peace in the area, on the basis of the withdrawal by Israel from the Arab territories occupied as a result of the 1967 war; the solution of the problem of the Palestinian people by recognizing its legitimate rights, including its right to self-determination and the creation of its own independent State; and the guaranteeing of the independence and sovereignty of all States of the region. The continuation of the tension in the Middle East, aggravated by Israel's recent military actions on the territory of Lebanon, as well as by its bombardment of the Iraqi nuclear research centre near Baghdad, is an impediment to the peaceful settlement of the conflict.

118. Romania believes that the General Assembly must endorse effective measures to ensure a lasting peace in the Middle East and the convening of an international conference under the auspices and with the active participation of the United Nations, in which all countries concerned, as well as the Palestine Liberation Organization [PLO], the Soviet Union and the United States would take part, along with other States which can make a positive contribution to a comprehensive settlement of the situation in that part of the world and to a solution of the Palestinian problem.

119. We give every support to the constant and constructive efforts and proposals of the Democratic People's Republic of Korea to fulfil the legitimate aspirations of the Korean nation to live in a free, united, independent, democratic and prosperous country, which is the wish of the whole Korean people, and to create the Democratic Confederal Republic of Koryo.

120. There is an imperative need today for the urgent and final elimination of the vestiges of colonialism, neo-colonialism and racism. Romania gives its unstinting support to the struggle of the Namibian people, under the leadership of the South West Africa People's Organization [SWAPO], to abolish the illegal occupation of Namibia and to achieve, without delay, its sacred right freely to choose the path of its future development, in accordance with its own legitimate aspirations and interests. The Romanian Government resolutely condemns the policy of racism and *apartheid* of those in power in Pretoria towards the African population, as well as their armed attacks against neighbouring African countries and their aggression against Angola. We demand that all military actions against the independence and sovereignty of the People's Republic of Angola be halted unconditionally.

121. We are particularly attentive to the problems of social development, human rights and freedoms, the human condition in general and international co-operation in

these fields. In our opinion, the concern in these areas, within the framework of the United Nations, should focus on solution of the fundamental problems of mankind and on ensuring essential rights—the elimination of exploitation and of major social differences, the equitable distribution of income among the various social classes, the guaranteeing of the right to work and to equitable wages, particularly in circumstances of chronic unemployment in many countries, as well as the guaranteeing of the right to education and the best possible living conditions for all citizens.

122. In our view, the effective achievement of human rights implies the elimination of domination of one people by another, the abolition of colonialism, of the imperialist policy of force or threat of force, and the creation of a world of peace without arms or wars. The danger of a conflagration which could lead to the destruction of life on our planet emphasizes the elementary truth that the right to life, security and peace, the right to live in freedom away from the threat of aggression, represents a fundamental right of all peoples.

123. Romania believes that particular attention should be paid to the growing concern of the United Nations about the problems of young people in the light of their role in the life of modern society and in determining the future of civilization in tomorrow's world.

124. It is imperative that young people in all countries should be guaranteed the right to education and the right to work so that they can use their knowledge in activities useful to society, as well as the right to play a full part in the social and political life of their countries. The Organization and all Governments have a duty to educate the youth of the world in the spirit of the ideals of freedom and social justice, friendship and mutual respect and of the common struggle for the cause of peace and progress, and at the same time to protect the younger generations from the adverse influence of neo-Fascist and racist circles and the degrading impact of what have become full-scale enterprises of the subculture, propagating and fomenting hatred and violence.

125. The Romanian Government therefore feels that the period of preparation for the International Youth Year, to be held in 1985, should be used for stepping up the efforts of Governments to solve the specific problems of the younger generation. In this regard, we believe that the draft programme of measures and activities drawn up by the Advisory Committee for the International Youth Year [see A/36/215, annex, sect. IV, part A, annex to decision I (I)] is comprehensive and represents a real strategy for contributing to the identification and solution of the fundamental problems which are of concern today to the younger generation, and for exploiting its creative potential. We are convinced that this draft programme will receive the endorsement of the General Assembly.

126. The solution of the complex problems confronting mankind today requires the democratization of international relations, the creation of conditions for the participation in international life, on a basis of full equality, of all States, regardless of their size or social system.

127. At the present time we must act to strengthen co-operation and solidarity among the developing and non-aligned countries, and the small and medium-sized coun-

tries in general, in order for them to take an active part in the settlement of existing conflicts through negotiations, the bringing about of a new international economic order and the inauguration of a genuine process of disarmament. The United Nations today offers the most appropriate framework and opportunity for finding, jointly and in a spirit of responsibility, solutions to the major problems confronting mankind.

128. The United Nations is made up of all its Member States, all of us. It is therefore up to us to act in concert and with determination to strengthen the role of the Organization in international life, so that the United Nations can establish its world political priorities and the most important objectives, as well as the practical means of achieving them, so that the aspirations of peoples will no longer be disappointed through false hopes and through grievances. The United Nations should adopt concrete measures which would be conducive to the systematic and lasting solution of the problems confronting mankind, with the participation of all States on a basis of full equality.

129. Experience has shown that it is not possible for major international problems to be settled in a small group of States, however big and powerful they may be. That is why we believe that the strengthening of the role of the United Nations and the improvement and democratization of its activities, in accordance with the requirements of international life today, are of major importance if international peace and security and the development of co-operation among all nations are to be ensured.

130. The overcoming of major difficulties in international life and of grave situations of tension and conflict, the resumption and continuance of the policy of détente, national independence, security and peace, all require efforts supported by all States and an active and responsible contribution on the part of all nations.

131. The Romanian delegation, along with all other delegations, is determined to make its own contribution to the search for just and equitable solutions to the problems facing the United Nations, so that this session of the General Assembly may fulfil the expectations of peoples throughout the world and contribute to the improvement of the international situation, to the resumption and continuance of the policy of détente, independence and peace, to the cessation of the arms race and the adoption of measures of disarmament, particularly nuclear disarmament, and to the strengthening of international peace, security and co-operation.

132. Mr. MALMIERCA (Cuba) (*interpretation from Spanish*): Any court of law, any responsible forum, condemns murder. International law also condemns aggression. The killing of children is in particular even more revolting. Ninety-nine children have died in Cuba. They were victims of the haemorrhagic dengue epidemic that took a toll of 156 lives. This epidemic broke out simultaneously in various parts of the country when there had been no news of any cases in other States of the area.

133. In less than three years our country has suffered the scourge of five grave plagues and epidemics, which have hit our cattle, our plantations and now our people.

134. Swine fever, blue mould in tobacco, sugar-cane rot, haemorrhagic dengue and, more recently, when we were still in the process of fighting off that last disease, haemorrhagic conjunctivitis. We are convinced that the imperialists, the agencies of the United States Government, are using biological weapons against the people of Cuba. We all know—and it has been published even in United States official publications—that the United States has for many years been developing a very wide and sophisticated arsenal of weapons of this type and carrying out many tests for their possible use.

135. We all know also that the United States has used these weapons, particularly during its war against the people of Viet Nam, and many are the United States veterans of that war who are still suffering in the United States from the effects of exposure in areas near places where such weapons were used.

136. In the case of the haemorrhagic dengue epidemic, this is a disease produced by the dengue virus No. 2. The thorough, serious and detailed studies carried out by Cuba's technical and scientific personnel, who have also had the aid and co-operation of highly qualified experts from other countries, have led to the conclusion that this virus was deliberately introduced into Cuba.

137. As a result of a systematic and exhaustive analysis of all the available information from health agencies and institutions as well as from other sources, we have verified that when the haemorrhagic dengue epidemic appeared in Cuba no epidemic outbreaks of the dengue virus No. 2 had taken place in any of the African or South-East Asian countries with which we have relations. Our health authorities have determined that no Cuban or foreign citizen coming from those regions or from other areas had suffered from the disease produced by that virus.

138. Nor were there outbreaks of dengue virus No. 2 in Latin America or in the Caribbean basin. The last cases registered there date from 1978. On the other hand, we know that the research centres of the United States dedicated to the development of biological weapons have devoted special attention to dengue virus No. 2.

139. We are firmly convinced that, to the long list of aggressions of all sorts against our people—military, economic and political aggressions committed by the Republican and Democratic Administrations that have succeeded one another during 22 years—the United States has now added the use of biological weapons.

140. The President of the Council of State and of the Council of Ministers of Cuba, Commander-in-Chief Fidel Castro, in speeches on 26 July and 15 September of this year, has denounced the perpetration of this unspeakable new aggression against our people by the United States Government. We have requested the distribution to all those here present of these speeches, which contain numerous references to and much evidence of the admission in official documents of the United States Senate and other bodies that, on various occasions, as part of the activities aimed at the overthrow of the Revolutionary Government of Cuba, the preparation of the use of biological weapons was mentioned.

141. These facts have not been denied by the responsible authorities of the United States Government, in spite

of the fact that President Fidel Castro has challenged them to state before world public opinion whether or not they have authorized the Central Intelligence Agency [CIA] to perpetuate such acts.

142. For more than 20 years we have suffered from all types of aggression from the United States imperialists, and we have accumulated a vast amount of painful experience. But, as President Fidel Castro has stated, "we do not fear the imperialists' threats. They may perhaps know when to start a conflict against us, but what nobody knows is when and how it will end".

143. It particularly pleases the delegation of Cuba to see you, Mr. Kittani, the Deputy Foreign Minister of Iraq, assume the presidency at this thirty-sixth session of the General Assembly. Your recognized ability and experience will enable you to guide our work at this session, which we are sure will be no easy task, for the session is being held in an international climate of tension and turmoil in which the policy of blackmail and imperialist aggression threatens to put an end to the precarious and uncertain peace in which we live today. Fraternal bonds of friendship and co-operation link us with your country, and I can assure you that you will not lack the support of the Cuban delegation.

144. We extend our warm congratulations to the Republic of Vanuatu on its independence, to which we gave our support within the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, and on its having become a full Member of the United Nations.

145. On 1 September of this year, the twentieth anniversary of the non-aligned movement was commemorated. Its vitality, continuity and fidelity to the cause of national liberation, peace, disarmament, anti-imperialism, anti-colonialism, and anti-neo-colonialism, its struggle against racism, Zionism and *apartheid* and its struggle for a just and equitable international economic order have provided the movement with a solid basis for unity and have enabled it to put its stamp of approval on the majority of the most important decisions taken by the Organization.

146. We reiterate our salute to the 20 years of existence of the movement. To those who would split or destroy it we say that they will fail, that they will find instead that the movement is a powerful instrument of solidarity for the countries of what is known as the third world.

147. We recall with sorrow that it has not been possible to put an end to the distressing conflict between Iraq and Iran. Cuba and its President, Fidel Castro, have endeavoured, since the first days of the war and even before its outbreak, to contribute to a peaceful, political, honourable and just solution. Recently, these efforts have been conducted jointly with other ministers of the non-aligned movement, and it is our firm determination to continue to persist in trying to bring about the desired solution to this conflict.

148. At this, the mid-point of the fourth decade in the life of the United Nations, when one might think about the triumphs achieved in the implementation of the Charter, as shown especially by the increase in the number of Members of the Organization, that is, the number of

countries that have gained their independence and sovereignty when one might think that an international order founded on the principles and purposes of the Charter would by now be given permanent shape, it must be pointed out that the United States Government has cast aside even minimal respect for the norms of peaceful co-existence and the desire for sovereignty of the majority of the States and has laid claim to unacceptable supremacy in all areas of international life, particularly military supremacy, which jeopardizes the carefully wrought structure of peace and international law created in the aftermath of the defeat of the Fascist and Nazi forces in the Second World War.

Mr. Martynenko (Ukrainian Soviet Socialist Republic), Vice-President, took the Chair.

149. Mr. Reagan's Government is striving to impose its hegemony on the entire world and arrogantly claims a special place for the United States that would enable it to decide all questions posed in international relations in favour of United States imperialist interests and its transnational corporations. Not even Washington's closest allies escape ill treatment at the hands of the new United States administration, whose policies affect their economic situation and endanger their territories and peoples with no concern for the misgivings of the governments of those allies, nor for the protests or opinions of their populations.

150. The facts are irrefutable. The opinions of the majorities irritate the self-proclaimed champions of democracy. Those who arrogate for themselves the right to describe as terrorist the leaders of other countries and the prestigious national liberation movements apply terrorism with their military forces all over the world and place themselves beyond the pale of international legality.

151. With respect to the legal order to be established on the oceans and the importance of rapidly concluding an agreement as a step towards a new international economic order, after eight years of lengthy negotiations at the Third United Nations Conference on the Law of the Sea, the international community has seen with bafflement and indignation how the new United States Administration has rejected the draft convention, ignoring the negotiations already concluded with the participation of the United States delegation and the commitments made, on the pretext of reviewing the text, thus unnecessarily prolonging the work of the Conference.

152. The participating States now recognize more clearly, in view of the arrogance and aggressiveness of the Government of the United States, as shown by the recent provocations against the sovereignty of the Socialist People's Libyan Arab Jamahiriya, the immediate need for a convention on the sea—whether the United States is a party to it or not and even if everyone's aspirations to universality are not achieved—an agreement that would sanction internationally the rights proclaimed by many countries over their territorial waters and that would prevent incidents such as that of the Gulf of Sirte.

153. Recently, at the opening of the Inter-Parliamentary Conference in Havana, the President of the Council of State of Cuba, Fidel Castro, affirmed:

"The United States system is not Fascist, but I am firmly convinced that the group constituting the main core of the current United States Administration is Fascist; its thinking is Fascist; its arrogant rejection of every human rights policy is Fascist; its foreign policy is Fascist; its contempt for world peace is Fascist; its intransigent refusal to seek formulas for honourable co-existence among States is Fascist; its arrogance, its conceit, its arms build-up, its pursuit of military superiority at all costs, its relish of violence and domination, its methods of blackmail and terror; its alliance with Pinochet and with the most brutal régimes of this hemisphere, whose methods of repression, terror, torture and disappearances have taken the lives of tens of thousands of people, often without their relatives even knowing where their bodies lie; and its shameless alliance with South Africa and *apartheid* are clearly Fascist; its threatening language and its lies are Fascist. Never will I say that the people of the United States are Fascist, nor their legislative institutions, nor their press, nor their many creative social organizations, nor their strongly enduring, noble democratic conditions and love of freedom.

"Our hopes are founded on the conviction that fascism can succeed neither in the United States nor in the world, although it is true that at present a Fascist leadership has established itself in the United States over the structure of an imperialist bourgeois democracy; and this is extremely dangerous."

154. The results of the actions of the current United States Administration have already been felt in all their severity in southern Africa, in the Middle East and in the Caribbean, among other regions. Who can deny that South Africa dared to attack Angola because it is certain of support from the United States?

155. The visit of Under-Secretary Crocker to South Africa and the meeting between Reagan and Botha, which received such widespread publicity in the United States, as well as the statements rejecting the defence of human rights and the marked interest in making the Pretoria racists feel they are part of a strategic alliance with the United States, made it possible for them to step up their military and subversive actions against the front-line States and particularly against Angola and Mozambique.

156. Who can deny that the United States veto of the condemnation of the aggressors against Angola and of sanctions against them constitutes proof of its encouragement and support of the illegal and hateful *apartheid* régime? The aggression against Angola seeks to extend *apartheid's* frontiers. It is an aggression not only against Angola but against the whole of black Africa and especially against the countries of southern Africa. The racists must withdraw from southern Angola and stop their acts of hostility against the rest of the front-line States.

157. Israel is another fundamental link in the strategic alliance advocated by Washington. As in the case of Pretoria, the Zionist authorities felt that, with Reagan's accession to the White House, their finest hour had arrived and they decided to take advantage of it promptly. The Zionists' main objective is still the same: the genocide of the Palestinian people and its disappearance as a nation. The Nazi methods suffered yesterday by the Hebrew peo-

ple are employed today by Begin against the heroic Palestinian people.

158. We are certain that the heroic struggle being waged by the Palestinian people, led by the PLO, its sole legitimate representative, will be victorious and that nothing can prevent that people from establishing its own independent State in accordance with its inalienable rights.

159. The bombings of Lebanon, the aggression against the peaceful nuclear research centre in Iraq, a deed unprecedented in peacetime, the threats against the Syrian Arab Republic and Jordan—events which have all taken place in the few short months since the inauguration of the new Yankee Administration—these are indications of the consequences of the strategic agreement recently concluded in Washington by Reagan and Begin, aimed at confirming the role of Israel as a pivot of Yankee world strategy.

160. In the Caribbean and Central America, the United States, in addition to using bacteriological methods against the population, the crops and the cattle in Cuba and giving the green light to the CIA to renew and step up its plots against the lives of the main leaders of the Cuban Revolution and its subversive and destabilizing actions, has intensified its interventionist and genocidal acts in El Salvador, arming and advising a terrorist Government that has murdered over 20,000 children of that noble and heroic people.

161. Through its vast propaganda machinery, Yankee imperialism, resorting systematically to the most brazen and shameless lies, accuses Cuba of being the cause of the instability in Central America. It is not Cuba but Yankee imperialism that has imposed and protected unpopular and obnoxious Governments whose only virtue has been to protect the system of economic exploitation of the peoples of the region. It is imperialism, with its direct or indirect military intervention through reactionary régimes, which must assume the responsibility for the absence of peace in Central America.

162. The Government of Cuba has publicly denied that some of the weapons delivered to it by the Soviet Union are being redistributed in Central America. It has affirmed that it is a lie to say that Cuba is supplying any other weapons or ammunition to the Salvadoran patriots and that there are or have been Cuban advisers in El Salvador. These are the facts and, as facts, they are irrefutable, which does not imply either a commitment or a moral judgement on the right to give military aid to the forces struggling in El Salvador against the junta, forces whose political representativeness has been recognized by France and Mexico and has just been proclaimed, by an overwhelming vote, by the countries participating in the 68th Inter-Parliamentary Conference.

163. What is not a lie and cannot be denied by the United States leaders is that military and police advisers from the Governments of the United States and Venezuela are training the genocidal forces of the Christian Democratic Junta of El Salvador; that the Salvadoran military is being taught the techniques of repression by Pinochet's Fascists in Chile; and that it is with Yankee helicopters, Yankee aircraft, Yankee weapons and Yankee bullets that the Salvadoran people are being murdered.

164. In a cry for justice based on the principles of international law and the interests of the nations and peoples of the world in search of peaceful solutions to the hotbeds of tension that poison the international atmosphere, the Governments of Mexico and France agreed to recognize the representativeness of the patriots of the National Liberation Front and the Democratic Revolutionary Front, thus trying to reach a negotiated and political solution to this bloody drama. Showing its real interventionist intents and purposes, the United States reacted violently against the Franco-Mexican initiative and, using its allies in the Government of Venezuela, compelled these pseudo-democrats to join the worst tyrannies of the continent in a condemnatory statement. Pinochet, Stroessner, Herrera Campíns, all in the same bag, with Reagan leading them by the hand, are trying to obstruct the search for a negotiated and political settlement to the civil war in El Salvador.

165. We whole-heartedly hail Belize's accession to independence after a long struggle to thwart the annexationist intentions of the oppressors of the Guatemalan people and we are pleased to see that in a few hours, Belize will become a full Member of the United Nations.

166. In Puerto Rico the clamour for an end to that island's colonial status is increasing. The vast majority of the Puerto Rican political organizations, not only those seeking independence, demand that the General Assembly consider Puerto Rico's case at its thirty-seventh session, as was approved at the recently concluded session of the decolonization Committee. Cuba supports the right of this brother people to independence and is sure that, in the fulfilment of its obligations, the Assembly will not deny to the Puerto Rican people the right to have its tragic situation considered.

167. Cuba has always supported the legitimate aspiration of the Argentine people to see the Malvinas Islands come under their national sovereignty, as well as the just demand of the Bolivian people to have an outlet to the sea.

168. We also support the right of the people of East Timor to self-determination.

169. In Western Sahara, the Sahraoui people has through its heroism earned the respect and admiration of the whole world. We support its unshakable will to achieve self-determination and independence.

170. As a consequence of colonialism, Mayotte has been artificially withdrawn from Comorian sovereignty and Madagascar has not yet recovered its rights over the Malagasy islands of Glorieuses, Juan de Nova, Europa and Bassas da India. We trust that the speediest solution can be found for these anachronistic situations.

171. Just as the self-determination of a people cannot be prevented, so a nation cannot be kept artificially divided. The presence in and virtual occupation of South Korea by the United States prevents peaceful reunification and the end of foreign interference in Korea. The Korean people has built a prosperous and happy country in the north under the leadership of its President, Kim Il Sung, and is imbued with the noblest ideals of reunification of the divided homeland.

172. Cuba supports the Government and the people of Panama in its struggle for the implementation of the agreements on the Canal and supports the Guatemalan people, which has risen up in arms against the cruel tyranny imposed on it since the United States intervention of 1954.

173. Cuba likewise supports the efforts of the people of Cyprus to preserve its independence, sovereignty and territorial integrity as a united and non-aligned republic.

174. In South-East Asia, we believe that only a negotiated solution can put an end to the existing tensions. Cuba has fully supported the proposals of Viet Nam, Laos and Kampuchea to hold a regional conference for that purpose, with the participation of the other States of the region. At the same time, we emphasize our unwavering recognition of the sole legitimate representative of the Kampuchean people: the People's Government of Kampuchea.

175. As Chairman of the movement of non-aligned countries, Cuba has lent its good offices—and today renews its willingness to continue to do so—in the search for a negotiated political solution to the situation in South-West Asia. Such a solution should, in our opinion, entail the end of intervention and interference in the Democratic Republic of Afghanistan, together with the necessary international guarantees, and the creation of conditions permitting the normalization of relations among all States in the area on the basis of the principles and purposes of non-alignment.

176. The second special session of the General Assembly devoted to disarmament will be held in 1982. We all remember that, at the time of the first special session, the heads of State of the countries of the North Atlantic Treaty Organization [NATO] met in Washington and, under pressure from the United States Government, proclaimed their readiness to increase their arsenals. This inauspicious sign allowed us to foresee that progress in the implementation of the decisions adopted by the tenth special session of the General Assembly would be meagre. Since then, the United States has continued to take steps to achieve military superiority, although it becomes clearer every day that its NATO partners are resisting this Yankee pressure for political and economic reasons.

177. The increase of war expenditures to unprecedented levels, the reduction of the budget for social expenses, applying the painful practice of less butter and more guns, the creation of rapid deployment forces, the decision to install 572 medium-range missiles in Europe, the production of the neutron bomb and of the MX missile system, the increase in the number of nuclear aircraft carriers and Trident submarines, the reactivation of large warships, all are actions which serve to unleash an arms race whose end is impossible to predict.

178. We are sure that the United States will try its utmost to prevent the convening of the forthcoming special session devoted to disarmament. Even if it is held, the prospects for United States co-operation and contribution to its success are dim.

179. In June of this year, the People's National Assembly of Cuba expressed its strong and resolute support for the appeal made by the Supreme Soviet of the Soviet

Union to all parliaments and peoples of the world concerning the critical international situation, aggravated as it has been by the dangerous increase in the arms race. It was reiterated in that decision that "peace is essential in the struggle for development, since the struggle for peace is tantamount to the struggle for development and implies the uprooting of the deep inequalities still extant as a result of colonial and neo-colonial domination, racial discrimination, racism, zionism and *apartheid*".

180. The non-aligned countries, who took the initiative to convene the forthcoming special session, will strive for the success of this new session of the Assembly. Cuba promises to contribute to that cause and hopes that that session will become a battleground for universal peace and the renewal of détente.

181. My delegation also supports the important proposal submitted to the Assembly by the Soviet Union on the prevention of a nuclear catastrophe through a solemn commitment by all States possessing nuclear weapons, and their leaders, not to be the first to use them in case of conflict.

182. I should like now to refer to one of the most transcendental problems confronting the world today, namely, the international economic situation.

183. Cuba has upheld and upholds the view that peace and development are indivisible elements of international relations. We can talk about peace, disarmament and international security; we can take action to limit arms or to ban certain weapons; but we will not really have attained an effective and lasting solution to the tensions, conflicts and contradictions that threaten the world until we find a way of guaranteeing the complete and permanent elimination of inequality among nations through the establishment of a new system of international relations, one that will allow the beginning of a just and equitable new international economic order.

184. The situation now facing the majority of the developing countries is not new; it has been progressively deteriorating for more than 20 years. However, now, in the middle of the greatest crisis that the capitalist system has suffered in the post-war period, that deterioration has become increasingly swift and far-reaching.

185. The international agencies, and in particular the ones belonging to the United Nations system, have outlined innumerable plans, adopted many resolutions and convened several conferences to deal with the problems of economic and social development. In all of them, the problems which afflict the countries of the so-called third world have been clearly identified, and in some of them measures have been suggested which, although they do not fully solve these problems, would certainly contribute to lessening their effects. However, in spite of the efforts made, these ideas and initiatives have not made it possible to advance towards a real restructuring of international relations.

186. Has this perhaps been because of the incapacity of the international organizations involved or the negligence of the developing countries, for whom the effective implementation of a new international economic order is a matter of life and death, or because of the shortage of resources at a global level which prevents the developed

countries from fulfilling their obligations to the developing countries? No, these have not been the causes of the failure of the international economic negotiations. This failure has stemmed and still stems from the narrow and intransigent policies and practices of a group of developed capitalist countries which, headed by the United States, persist in maintaining the privileges and bonuses they have enjoyed for centuries in their relations with the developing countries at the expense of the exploitation and poverty of the latter.

187. Never before in the history of mankind have the underdeveloped countries seen themselves submitted to such merciless exploitation and such a marked economic penetration as at the present time. The leaders of the developed capitalist countries have endeavoured to transfer to the developing countries the effects of the crisis generated by their own structures. The dependency of the developing countries on the economies of the western metropolises has increased to an unprecedented level, through the spiral of external debt, through the continued generation and exacerbation of unfair trade flows, through limiting the access of the third-world countries to the markets of the world and to the technology and the resources available to the capitalist West, through the preservation of unfair and disorderly international monetary relations, and through promoting in the economies of the countries of the developing world an increasing penetration by transnational corporations, which add iniquitous financial profits to practices and policies harmful to the sovereignty, stability and integrity of the countries in which they operate.

188. The policy followed by the Government of the United States clearly exemplifies what I have just stated. The high interest rates decreed by the Reagan Administration, besides being ineffective in solving the structural crisis of the American economy and harming even the western allies of the United States, impose a new and heavy burden on the underdeveloped countries, raising to unsuspected heights the already unbearable cost of servicing their colossal debts. Furthermore, the United States advocates as a policy a considerable increase of foreign private investments in the developing countries as a sort of magic wand to solve their economic problems.

189. Nothing could be further from the truth, as the following figures show: between 1970 and 1978, United States investments in the third world reached a total of \$8.7 billion, while in the same period the profits of that country from those investments were of the order of some \$39.7 billion, representing a profit of \$4.5 on each newly invested dollar.

190. These dollars, then, contribute nothing towards paying the debts of the countries of the developing world; they do nothing to help feed the hungry, cure the sick, educate the illiterate or give work to the unemployed. Their sole use is to fill the bottomless vaults of the transnational corporations and the Federal Government of the United States.

191. Is that the way to fight underdevelopment and all its consequences? No. Actually, that is an inverse transfer of resources, from the developing countries to the developed market economy countries, the effect of which is the ever-increasing enrichment of opulent societies and the increasingly abject poverty of the underdeveloped countries!

192. Thus, there are today in the developing world 570 million undernourished people, 800 million illiterate adults, 1.5 billion people with no access to medical care, 1.3 billion people with a yearly income of less than \$90, 1.7 billion with a life expectancy of less than 60 years, 1,030 million living in inadequate housing, 250 million children who do not attend any school and 1.1 billion unemployed. And this situation is not improving; it is deteriorating.

193. At the thirty-fourth session of the General Assembly, in October 1979 [31st meeting], Commander-in-Chief Fidel Castro, President of the Council of State and the Council Ministers of Cuba and Chairman of the movement of non-aligned countries, presented formulas to provide a solution to the unfair situation of the underdeveloped countries. In addition to the cancellation of the external debt of the least developed countries, he proposed the establishment of an additional fund of not less than \$300 billion, at 1977 real value, to be distributed from the first years in annual sums of not less than \$25 billion. This aid should be in the form of donations and long-term, low-interest soft credits, and other forms of participation.

194. The real implementation of this proposal would indeed represent—in spite of the self-seeking doubts of those who characterize it as unrealistic—benefits for the underdeveloped countries and a true contribution to the eradication of poverty, illiteracy, unsanitary conditions and other consequences of underdevelopment, which have been aggravated by the crises of the capitalist structures. However, in order to carry out a significant battle against underdevelopment, it is essential to have an international political climate governed by peace, détente and full respect for the security of all.

195. For these reasons we must oppose the arms race, the manufacture of neutron bombs, the deployment of the 572 medium-range missiles in Europe, the production of the MX missile systems at a cost of tens of billions of dollars, of new strategic bombers, of nuclear aircraft carriers, of Trident submarines, the reactivation of big warships from the Second World War, the investment of \$1,500,000,000,000, in military expenditures in the next five years, and the greatest arms race in history, as engineered by the United States.

196. These enormous military expenditures, which can only serve to aggravate the world economic crisis, will have negative repercussions on the living and working conditions of the working class and can only lead mankind to an unprecedented catastrophe.

197. The threat of war is real. It is no secret that the brazen, adventurist policy of the imperialist Government of the United States has pushed the world to the brink of the abyss.

198. As was stated by President Fidel Castro in his opening speech to the 68th Inter-Parliamentary Conference:

“We must face these real dangers serenely and courageously. We cannot afford to be pessimistic, for then the battle for peace would be lost beforehand. We cannot be cowardly, for then dignity as well as peace would be lost beforehand. We can and should preserve

peace without yielding an inch, backed by the mobilization of the peoples, including those of the United States, and by the immense power of world opinion and the universal conscience, as shown during Viet Nam's heroic struggle; by the current correlation of forces between socialism and imperialism, which the latter vainly seeks to tilt in its favour; by the people's capacity and determination to fight and resist any imperialist aggression; by international solidarity, which can and should be expressed in a thousand different new ways.”

199. Mr. PÉREZ LLORCA (Spain) (*interpretation from Spanish*): The time-honoured practice of congratulating the President of the General Assembly and expressing great satisfaction at his election is in this instance easy to do, for the Assembly is presided over by a most distinguished person, the representative of Iraq, a country with which Spain has enjoyed and continues to enjoy close relations.

200. I must also thank Mr. von Wechmar for the skill and effectiveness with which he conducted the business of the last session of the General Assembly, thanks to his personal attributes and those of his country.

201. My gratitude goes also to the Secretary-General, who directs the work of the Secretariat so skilfully, so appropriately and with such tenacity, giving it the necessary stimulus.

202. I wish too to welcome Vanuatu, a new Member whose admission will strengthen the universality of the Organization.

203. It is with satisfaction that we see that the State of Belize will soon join us. We share the most ancient historical roots with Belize, and we wish it in its independence a prosperous peace in union with its neighbours.

204. In order to establish the Spanish position before the Assembly I must base myself on two tenets of analysis and action. One is the unequivocal option of Spain in favour of a Euro-Western political concept, certain that the pluralistic democratic system, which is its ethical reference, has greater social flexibility and a greater capacity for adaptation to the needs and requirements of peoples. This is an indivisible process, both in the field of convictions and in the practical field of their internal and international institutionalization. The Spanish State is ready to accept the consequences thereof.

205. As I said last year, the form our democracy has chosen to take to exercise the right to defend the maintenance of international peace and security—as an inherently Spanish decision—does not allow of any interference without serious infringement of the fundamental rules of international law and the very principles of the Charter of the United Nations.

206. We are sure that the Members of the United Nations, with all of which we wish to have peaceful and cordial relations, will not attempt any interference—which would be intolerable—or any confused and baseless conjectures. Spain is not, nor does it wish to be, a threat to anyone. On the contrary, in any forum in which it participates it will maintain a constant position of striving for real peace.

207. The second tenet concerns credibility. In this regard Spain has in the United Nations shown undeniable consistency, as is easily verifiable. On the questions of the Middle East, Lebanon and Palestine, the Sahara, *apartheid*, Namibia, human rights, terrorism, the battle against racial discrimination and intolerance, peace-keeping operations, the crises of Afghanistan and Kampuchea and the Cypriot conflict, and on matters of disarmament and development, the attitude of the Spanish democracy has remained constant.

208. In these difficult times, in which peace is precarious, Spain has responded from positions of principle, has entirely resisted the pressures coming from interested parties and has clung to an independent foreign policy conditional only upon the interests of the Spanish people and the desire for co-operation in establishing a more just and harmonious international order.

209. Special and immediate reference must be made to the Conference on Security and Co-operation in Europe, which after 10 months has postponed its Madrid meeting until next October. Spain has a dual role as host and participant. As host, we are ready to receive the Conference in Madrid with the same satisfaction as before. As one of the 35 participating States, we shall redouble our efforts in favour of security and peace.

210. We must revive the political decision to negotiate and recommence meetings with a new impetus and a willingness to resolve the major problems of human rights, information and the military aspects of security.

211. The Madrid declaration must develop the principles of the Final Act of Helsinki and fulfil its ambitious objectives to improve the international climate, without illusions or complacency, which would be extremely dangerous. Thus shall we contribute to the revitalization in Europe of peace and security, which are constantly in question.

212. I already had occasion at the last session [4th meeting, para. 138] to say that through the Lisbon Declaration, adopted in April 1980,⁹ the Spanish and British Governments have taken an important step forward, however preliminary, towards resolving the conflict between Spain and the United Kingdom concerning the colonial situation of Gibraltar. I said then that we were dealing with a task that was not easy and events have borne that out, although it is important to maintain the convergence of political wills and to be ready to embark upon a path which may finally lead to settlement of the dispute, so that there will never again be any obstacle between Spain and the United Kingdom.

213. The United Nations has shown the path to follow, as is recognized in the joint Lisbon Declaration, which states that both parties have committed themselves to resolving the problem of Gibraltar in a spirit of friendship in accordance with the relevant resolutions of the United Nations.

214. Spain's relations with the peoples of Latin America are at a propitious stage. In the foreign policy of democratic Spain the close links of history, background and language are an element that strengthens our decision to find new means of drawing closer to the American continent and co-operating with its peoples. That relationship

is an essential feature of our foreign policy. It is not a policy that was adopted simply because there was no alternative, but a policy that was selected and given preference over all others.

215. We are at a stage when everybody has become aware of the duty to increase specific projects, establish machinery to make them effective and, to the common benefit, give new life to our ancient ties. We have to give new energy to this relationship, which has gone through periods of rhetorical inaction imposed by certain historical circumstances.

216. We can only regret that some Central American countries have suffered cruel afflictions in the social sphere. Those peoples have the solution in their own hands, and any interference can only complicate the internal situation, which is caused by necessary changes. Spain feels the tragedy of those brother peoples deeply, and it is as if it were ourselves who were undergoing it.

217. Spain reaffirms as one of the objectives of its present foreign policy its intention to multiply and diversify its relationship with African countries. Our attitude will be based, bilaterally and in the sphere of parliamentary diplomacy, on decisive support for efforts to put an end to colonialism, *apartheid* and racial discrimination, and to co-operate, as far as we are able, in the socio-economic development of that neighbour continent.

218. Our geographical position places us in contact with the Arab coast of the Mediterranean and in a very close relationship with western Africa. We can see the reality of those two worlds without interference and we have justifiable hope that the Euro-Arab and Euro-African dialogue, in which we shall participate increasingly as time goes by, will bring about new forms of effective co-operation.

219. Because of our closeness to and our particular interest in anything that affects the Arab nation, we continue to attach special importance to the situation in the Maghreb. We hope that as soon as possible tension between brother countries will disappear and that there will be an understanding that will allow for the development of inter-Maghreb relations, which would benefit greatly the peace and prosperity of all.

220. We have never failed to avail ourselves of this opportunity in the United Nations to stress the concern and attention demanded by the question of Western Sahara. Our position has been characterized by unswerving firmness of principle and support for a solution based on an agreement accepted by all the parties, which should take into account the principles and recommendations put forward by international bodies, and in particular the expression of the will of the people.

221. The Spanish Government favoured the initiative taken by His Majesty King Hassan II of Morocco at the Assembly of Heads of State and Government of the Organization of African Unity in Nairobi, when he supported the idea of the referendum referred to in resolution AHG/Res.103 (XVIII) [see A/36/534, annex II] and the implementation of recommendations made by the African Heads of State who are members of the *Ad Hoc* Committee. That is a matter of capital importance which gives grounds for fresh hope with respect to finding a just solution by peaceful means, within the terms of recent com-

mitments entered into at the meetings of the Organization of African Unity [OAU].

222. Our policy of co-operation acquires special importance with reference to the Republic of Equatorial Guinea. Our action will always be guided by the principle of non-interference and by the desire to see Equatorial Guinea regain its rightful place in the regional context of the African community. We are prepared to strengthen our co-operation with the people of Equatorial Guinea and its Government to the extent that that Government freely desires. We feel that during this past year a broad network of co-operation has been put into effect and consolidated, which will give impetus, within the general framework of economic regeneration, to the national reconstruction of Equatorial Guinea.

223. The independence of Namibia is almost within reach. The Namibian people has a right to self-determination and immediate sovereignty over all its territory. The Spanish Government feels that only through the implementation without let or hindrance of the plan set forth in Security Council resolutions 435 (1978) and 439 (1978) can any progress be made on this matter. We must trust that the efforts being made at this very moment will lead to the resumption of the negotiating process and to Namibian independence.

224. Perseverance is necessary in these endeavours, and the South African Government must be required to desist from any further counterproductive delaying tactics and from its indescribable acts of intimidation. Incursions into bordering countries are acts of force, in violation of the basic rules of international law, and simply increase the danger of global confrontations.

225. In this regard, the work carried out by the United Nations Council for Namibia should be commended. During the visit of that council to Spain a few months ago, we were able to appreciate the similarity of our positions with respect to the past and the future of Namibia, in particular with regard to recognition of the legitimacy of the representation conferred by the United Nations on SWAPO in its struggle for freedom and independence.

226. With respect to *apartheid*, we must repeat our total rejection of the policy as a violation of human rights and, indeed, as an affront to man's reason. The existence of *apartheid* is a tragedy which is felt anew every day and it is a blight on all mankind.

227. Concerning this question and the tragic situation of refugees, Spain has taken part in two conferences organized jointly by the United Nations and the OAU; one, the International Conference on Assistance to Refugees in Africa, held at Geneva, and the other, the International Conference on Sanctions against South Africa, held in Paris. We believe that co-operation among international organizations is a productive means of international action. Such co-operation has proved effective in both cases, *apartheid* and assistance to African refugees.

228. With respect to the Middle East, almost everything possible has been said in the past 33 years. Today more than ever we are aware that this is not a knot that can be cut with a sword. Unfortunately, in the course of the past 12 months force has again been used, in disregard of reason.

229. In Lebanon the tension curve is reaching new heights. There are various factors in that country which set the zone alight and threaten the integrity and very existence of the country. In the Security Council, Spain exerted every effort in support of the establishment of a cease-fire, after which the position could be stabilized and an impetus given to national reconciliation, preserving the independence, national integrity and sovereignty of Lebanon under the authority of its legitimately established Government. The work of UNIFIL, to which I wish to pay a well-deserved tribute, must be extended and strengthened as much as necessary to make it more effective. It should be fully supported so that it may be respected by all the parties to the conflict.

230. It is necessary to put an end to armed actions which continually endanger an unstable truce. The Spanish Government, on learning of the attack carried out by the Israeli air force against the nuclear research facility in Iraq, issued a communiqué strongly condemning that inadmissible act of force, which was a serious violation of the basic rules of international law. The Security Council condemned that action in resolution 487 (1981), considering that Iraq has a right to proper compensation for damage which Israel has admitted causing. Spain hopes that Israel will carry out the obligations which it bears as a Member of the Organization under Article 25 of the Charter and will respect that resolution. Spain, as it said again in the Security Council, also recognizes the sovereign and inalienable right of all States—including Iraq—to establish technological and nuclear programmes for peaceful purposes.

231. The Spanish Government is still firmly convinced—and this conviction seems to have been shared by the States who attended the meeting in Venice in 1980 of the European Council of the European Communities—that the Middle East conflict cannot be understood or solved without the participation of the Palestinian people.

232. This year the situation has simply worsened, for peace cannot be envisaged as long as the legitimate national rights of the Palestinian people are not recognized. The illegal settlements in the occupied territories continue, making any prospect of a solution difficult. A political negotiating machinery must be set up whereby Israel and the Palestinian people can both be represented and where they can mutually accept each other as valid negotiators. The legitimate representative of the Palestinian people, as many General Assembly resolutions show, is the PLO.

233. An over-all agreement must be reached by which, based on the premise of the withdrawal from all Arab territories occupied since 1967, the enforcement of Palestinian national rights would be obtained through self-determination. That would allow all present and future States in the region to achieve peace within safe and recognized frontiers. Only within such a framework will it be possible to achieve the coexistence and co-operation we would all like to see as a tangible reality.

234. In this respect, as I have had occasion to point out, it is our view that the plan for a just and global peace, recently put forward by His Highness Crown Prince Fahd of Saudi Arabia,¹⁰ is a very positive contribution which must be given the consideration it deserves. These proposals are based on principles and criteria put forward in

the Organization on many occasions, and Spain has repeatedly supported them. As long as the political road is barred for the Palestinian people, we can never have peace.

235. As for Afghanistan, more than a year and a half ago Soviet aggression was perpetrated against the Afghan people, an act of aggression which has resulted in the loss of many lives, the destruction of the country and the inability of the inhabitants freely to choose their political structures. Almost two years after the invasion there is no glimmer of a solution to that foreign armed intervention, which we have repeatedly condemned. We therefore feel that international pressure in favour of Afghan liberation should be kept up.

236. We fully support the resolutions of the General Assembly concerning the need for the withdrawal of Soviet troops and the re-establishment of Afghanistan as a country free from foreign domination, as the basis for a just solution that would make it possible for the Afghan people to recover their independence and freely decide their own future. In this respect, we support the resolutions of the Islamic Conference [A/36/421 and Corr.1, annex II], the proposals of the European Community¹¹ and the joint communiqué issued by the participants at the Ottawa Summit.¹² We also deplore the attitude of the Soviet Union towards those efforts by the international community, as well as the threat to peace and security in the region and indeed throughout the world represented by that attitude.

237. Kampuchea is another problem for which a solution seems no closer than it was last year. It is quite true that the International Conference on Kampuchea was held recently as requested by the General Assembly last year in resolution 35/6, and Spain took part in it. But it may also be noted that not every party to the dispute attended the Conference, nor was a joint plan to settle the problem agreed to. The Cambodian people are still victims of military occupation and violence. We will spare no effort to contribute to any valid solution, any approach allowing Kampuchea to be free and to live in peace and recognizing the sovereignty of its people, its independence and its territorial integrity.

Mr. Kittani (Iraq) resumed the Chair.

238. One of the basic factors on which peace throughout the world depends is respect for human rights. Since 1948, when the Universal Declaration of Human Rights was adopted, we have had a legal model which makes it possible to compare international conduct, and enough time has passed since then to set up additional machinery to safeguard such rights and to control any violations. Democratic Spain has signed and ratified the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights [General Assembly resolution 2200A (XXI), annex]. A few months ago, within a regional framework, we took yet another step and in the Council of Europe, made a statement of acceptance of the individual recourse provided for in article 25 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950.

239. We base ourselves on the principle that any violation of human rights by a State is a violation of the

rules of international conduct, that such violation is a cause of instability and international insecurity and that all such acts are to be condemned. All those premises are supplemented by the unavoidable demand for an objective appraisal and determination of violations of human rights. This is a viewpoint which does not allow of any blind spots. This is not an asymmetrical concept which can be applied in one continent and not another at will, or in order to take advantage of the distress of people whenever it can be used for some monstrous reason of State. Human rights are the basis and cement of the social harmony and peace of States, and global defence of those rights is the irrevocable gain of contemporary human culture, the importance of which is such that it makes it possible to define limits in respect of the internal sphere of the State.

240. Based on these convictions, Spanish democratic pluralism will require of itself and others the same scrupulous respect for human rights, convinced that the civilized survival of the human race demands it. Spain will support the establishment of machinery that will make it possible to control and, in the final analysis, prevent violations of human rights, without territorial or ideological selection or discrimination.

241. Terrorism, which is a violation of the right to life, is the most brutal violation of human rights. The terrorist act which shamefully deprives innocent people of their life or threatens the vital security of a community by bloodshed cannot be justified. The consequences for international order are clear: we cannot compromise with terrorists without endangering peace. No one can claim to be persecuted for political reasons—an allegation all too often made by the terrorist—if that person is free in a free political society. Wherever political change can be sought without risk through regular elections allowing free expression of every option, none can claim to be persecuted for political reasons. There are no political offenders in a real democracy: if it is a democracy they do not exist; if they exist it is not a democracy.

242. It is abnormal to impose by force a non-existent and brutal 'right' to kill and to seek protection outside one's borders, claiming that political freedom is needed when it already exists.

243. Spain, like so many other European countries, is suffering from terrorism and has a legitimate interest in fighting for its eradication. But it is not only a desire for selfish security that makes us consider that international action against terrorism is called for. Peace and international security are directly affected. We do not live alone and the instability of any one member can result in instability for others. We must consider, as we have proposed in the European region—both in the Council of Europe and in the Conference on Security and Co-operation in Europe—concrete measures that will effectively express the solidarity of the democratic States against terrorism, racism and totalitarian ideologies.

244. In the spring of 1982 there will be a second special session of the General Assembly devoted to disarmament. The decade of the 1980s has been declared, most appropriately at this time, the 'Second Disarmament Decade'. However, there is undoubtedly some feeling that too many words have been wasted on this subject. It is plain that the world is rearming and that the arms escalation is con-

tinuing. Fresh conflicts break out, fresh invasions and acts of aggression, which do not augur well for any reduction in the stockpiling and production of war material—far from it. Promises of disarmament are belied by statistics, and even public proposals for disarmament are merely a smokescreen for very different measures.

245. The Spanish Government is ready to help ensure that the second special session of the General Assembly devoted to disarmament will have real meaning and achieve results, opening the way to general and complete disarmament under effective international control, covering both nuclear and conventional weapons. It accordingly welcomes the American-Soviet talks announced today.

246. The definition of a new international economic order is based on an ethical requirement and a practical premise. A large-scale crisis cannot be avoided unless we help the disinherited of the earth and contribute to their full development. In this connection, the recently held United Nations Conference on New and Renewable Sources of Energy and the United Nations Conference on the Least Developed Countries are joint endeavours designed to give new impetus to international solidarity.

247. I should like to mention the appeal made to the world and to the United Nations by 54 Nobel Prize winners, including a Spanish poet. That group of exceptional people called not only for compassion on the part of the rich world, but also for common sense in helping those on whom hunger and underdevelopment inflict real suffering, and who are the victims of international political and economic disorder. The United Nations cannot disregard this problem or postpone its solution to a future that many will not live to see unless proper measures are taken now. The Spanish Government undertakes to maintain a sustained effort to see to it that global negotiations, efforts to restructure the international economic order, and the North-South dialogue should go beyond both diatribe and rhetoric and overcome the dual obstacle of the desire for a miraculous utopia and the exaggerated realism of misconceived selfish interests.

248. We must say that a type of modernization consistent with the foreign policy of every industrial society organized as a pluralistic democracy requires the undertaking of international co-operation and the informing of national public opinion about the inevitability and collective benefit of international aid. The Spanish Government has given clear testimony of its position by radically increasing in 1981, within the limit of its resources, its co-operation with the least developed countries.

249. The Spanish Government is closely following, with some concern, the work of the Third United Nations Conference on the Law of the Sea: closely, because the importance of that effort to codify and develop international law fully deserves such attention; with concern, because events that have occurred at the Conference this year may threaten its final success.

250. The Spanish Government has made great efforts at accommodation in the interests of a final consensus. I would not deny here that there are still a few articles of the draft convention as it stands now which we could not fully support, but we hope that a final negotiating effort will make it possible to achieve a text that will respect

State sovereignty and jurisdiction and that will realistically and effectively develop the universally accepted principle of the common heritage of mankind for the exploitation of the resources of the sea-bed beyond the limits of national jurisdiction.

251. The Organization, which by reason of its universality of membership and functions accepts and deals with every conflict, has—as do its Members—a double duty: to fight for human freedom and to seek peace among peoples. It also has the obligation to propose solutions that are feasible today and to take action now.

252. We cannot afford to indulge in wishful thinking. I do believe, however, that a firm stand on questions of human rights, a reopening of the North-South dialogue and of disarmament negotiations, the success of the Conference on Security and Co-operation in Europe and a cleaning up of the many peripheral crises can all be achieved through political decisions that are within the realm of the possible.

253. We are at a dangerous stage. The United Nations, as the witness of our times, must bring all of us together so that it shall not be said of the coming year, in the words of that sombre verse of a contemporary Spanish poet, that "Wounded peace with its dead wings was again covering the world".

254. Mr. ULLSTEN (Sweden): Mr. President, allow me at the outset to congratulate you on your election to the high office of President of the thirty-sixth session of the General Assembly. You bring to that office an uncommonly solid and variegated experience of work in and for the United Nations. I have every confidence that the Assembly will be most competently guided.

255. I wish also to join in the tributes paid by other speakers to the outstanding and tireless work of the President of the thirty-fifth session, Mr. von Wechmar.

256. Our thanks and appreciation go also to the Secretary-General for his tireless work in the service of the Organization and in the pursuit of solutions to many of the most intractable problems facing the international community.

257. Let me also welcome the most recent Member of the United Nations, Vanuatu. The admission of this new nation to the Organization brings us a step closer to the goal of complete decolonization and the United Nations ideal of universality.

258. Since the previous session of the General Assembly the international climate has deteriorated even further. Détente has, to an increasing extent, been replaced by distrust. Some features of the situation certainly remind us of the days of the cold war. Once again we see the foreign policy of the super-Powers being dominated by the fear that one adversary might gain, either directly or indirectly, an advantage over the other. Once again, they both seem inclined to view local conflicts and problems primarily in the light of the struggle for power between the two systems they represent. Once again they both seem to fear that the opponent is on the verge of acquiring military superiority. Both see the actions of the opposite side as threats to their own security. Neither sees its own actions as threats against the other side.

259. The struggle of the super-Powers to rectify the perceived imbalances in some areas, or to compensate for them by attempts to achieve superiority in others, leads to increased insecurity for all of us. By reason of their nuclear arsenals, the two super-Powers hold the fate of the entire world in their hands. Therefore, every State has the right to demand that the super-Powers maintain a stable pattern of contacts in order to avoid misunderstandings and over-reactions. We therefore welcome the fact that the Foreign Ministers of the Soviet Union and the United States are using the occasion of this session of the General Assembly to hold bilateral meetings.

260. However, we cannot rest content with the resumption of the necessary dialogue between the two super-Powers. We must call upon them to review and reconsider the course their global actions have taken, the most dangerous dimension of which is the nuclear arms race. The negotiations on theatre nuclear forces in Europe, which are now scheduled to begin later this year, should have been commenced long ago.

261. Four years have passed since the Soviet Union started deploying a new medium-range ballistic missile, the SS-20, and two years since NATO decided to install new medium-range nuclear missiles on West European soil. It is reported that more than 300 SS-20s have already been deployed and that at least two thirds of them may be targeted on Western Europe.

262. The recent decision of the United States to produce the neutron weapon constitutes a further dangerous escalation of the nuclear arms race between the super-Powers. It is therefore high time for the super-Powers to sit down at the negotiating table and agree on measures to restrain the arms race and reduce the risk of war. No category of weapons should be excluded from negotiations, but we urge the super-Powers in particular to resume in the near future their talks on limitations and reductions of strategic arms.

263. That demand is supported by a wave of popular protests in Western Europe against nuclear armaments. All slogans are not as unbiased as they may seem and some ideas put forward may be less realistic than others, but in general the protests against nuclear weapons must be seen as an expression of a genuine and legitimate concern about what people feel is the lunacy of the nuclear arms race and the incapacity of political leaders to do anything about it.

264. All human beings yearn for peace, no matter in what country they live. The fact that there is no freedom of expression in some countries should not diminish the importance of popular protests in countries where such freedom can be enjoyed. Nor should the fact that some devote more and more attention to planning for the eventuality of war prevent others from dedicating themselves to planning for peace. Every region and every country, no matter how small, has the right and the duty to interfere in international affairs for the sake of peace.

265. In the northern region of Europe the desire to uphold the vision of a more peaceful world has been reflected in the idea of establishing a Nordic nuclear-weapon-free zone. The active discussion on this idea can be seen as an expression of strong concern over the intensified nuclear arms race in Europe and as a demonstration

of the strong desire of the Nordic peoples to maintain the low level of tension in our part of the world.

266. My Government is in favour of exploring the possibilities of establishing a Nordic nuclear-weapon-free zone and the conditions under which such a zone could improve the already existing stable pattern of Nordic security. As the Nordic countries do not have nuclear weapons, such an improvement would, in the view of my Government, have to include concessions from the Soviet Union and the United States as regards nuclear weapons relevant to the Nordic region.

267. So far the United States has not been willing to consider a Nordic nuclear-weapon-free zone.

268. The Soviet Union has suggested that it subscribes to the idea. It has also hinted that it could consider concessions relating to its own territory. However, what has been said so far has been more than vague. If we are to have a meaningful debate, further clarifications from the Soviet Union are necessary as to what concessions it has in mind.

269. World peace is not something to be discussed exclusively in closed sessions between the major Powers. All States should be given the possibility of making their voices heard on matters which relate to their security and to world peace. This is the idea behind the proposal to convene a conference on confidence- and security-building measures and disarmament in Europe with the participation of the Soviet Union and the United States.

270. Many States—not least, neutral and non-aligned countries in Europe—are working hard towards this goal at the current follow-up meeting in Madrid of the Conference on Security and Co-operation in Europe.

271. A conference on confidence-building and security-building measures and disarmament in Europe, held in successive stages, could result in the adoption of new confidence-building and security-building measures as well as progress towards limitation of nuclear and conventional weapons. Concrete, practical results of a first stage of the conference would certainly be conducive to a situation where meaningful negotiations on disarmament proper in Europe could be initiated. The conference could thus also promote progress towards a military balance between the two alliances at substantially lower armament levels.

272. The super-Powers may have differing views on many of these and other issues discussed at the Madrid meeting, but they must not forget that the preservation of the process of the Conference on Security and Co-operation in Europe is in their common interest. They must therefore mobilize the political will for the adjustments and compromises necessary for reaching a substantial and balanced result in Madrid covering all fields of the Final Act of Helsinki.

273. It is important that we develop the contents of the Final Act of Helsinki with new initiatives. It is just as important that we uphold respect for the principles already enshrined in that very Act. The Helsinki Act reaffirms the right of every State to territorial integrity, freedom and independence. Any interference in the internal affairs of another State, as well as any use or threat of

force, is a breach of the principles of direct co-operation between the States of Europe.

274. These solemnly worded principles also apply to Poland. During the last year we have witnessed a promising development towards the implementation of certain fundamental democratic rights in Poland. However, at the same time and with increasing concern, we have noted the open and brutal demands of the Soviet Union that the trends in Poland be turned back. We see no reason why an internal political process in Poland should cause its great-Power neighbour to make menacing statements. On the contrary, we see strong reasons why the Poles should be allowed to determine their own future without any foreign interference.

275. The Charter of the United Nations bestows no mandate on the great Powers to impose their will on smaller nations. On the contrary, the Charter confers greater responsibilities on the great Powers as guardians of international peace.

276. Regional conflicts throughout the world can easily escalate to a confrontation between the super-Powers and become a threat to world peace.

277. In southern Africa, the Pretoria régime, emboldened by the regional strategic concepts recently put forward by the United States, has escalated its attacks against its neighbours, Angola in particular, in flagrant violation of international law.

278. The internal developments in South Africa are also ominous. The vague talk of reforming the *apartheid* system has served only, as I see it, as an attempt to mislead the critics of *apartheid*. In reality, the system has remained as rigid as ever. The human degradation in which the majority of the country's population still has to live is surpassed only by the human, and indeed moral, degradation of the régime itself. But despite the efforts of the régime to silence trade unions, writers, students, churches and other civic groups, opposition is obviously stiffening. Events now taking place in the country could eventually lead to a violent show-down.

279. Every nation devoted to democratic ideals and human rights should strive for the abolition of the *apartheid* system. No democracy should support a system which violates the very idea of democracy itself. It is now high time that massive world opinion be reflected in firm demands that South Africa finally co-operate in implementing the United Nations plan for the independence of Namibia endorsed by the Security Council in resolution 435 (1978). None of the five Western Powers with special responsibility for implementing this plan must through its own actions give Pretoria the impression that the demands that the South African régime end its illegal occupation of Namibia are not seriously meant.

280. In this process the Security Council must, as Sweden has repeatedly stated, be prepared to impose sanctions against South Africa. This may be the only language South Africa understands.

281. South-West Asia is another area where tension is reaching a dangerous level. The Soviet intervention in Afghanistan, the war between Iran and Iraq, the terror and bloodshed in Iran, the conflict between Israel and the

Arabs, the increased American and Soviet presence in the Indian Ocean, the arms flow to that region, the social and political unrest, the economic and strategic importance of the Middle East and Gulf region—all these factors combine to make this part of the world a powder keg. What is needed in that region is not more violence, not more terror, not more bombing, not more violations of the principles of the Charter of the United Nations, but more efforts for peace.

282. The Soviet armed intervention in Afghanistan continues, however, in open contempt both of massive world opinion and of the Charter. The only results the Soviet troops have achieved are increased international tension and instability. Popular resistance to the invaders is as vigorous as ever and shows that a lasting solution of the Afghanistan problem can be found only when foreign interference has ceased.

283. In the Middle East two adversaries, Israel and the PLO, stand face to face. We urge them to recognize each other and start negotiating for peace. This is to say that the PLO must recognize Israel's right to exist within secure and recognized boundaries. This is also to say that Israel must recognize the legitimate national rights of the Palestinians, including their right to establish, should they so wish, a State of their own, living in peace side by side with Israel. Security Council resolutions 242 (1967) and 338 (1973), supplemented by an endorsement of the legitimate national rights of the Palestinians, remain the basis for a peaceful solution to the Middle East problem.

284. When Israel recently attacked Lebanon, causing many casualties among Palestinians as well as Lebanese, the United States took prompt and decisive diplomatic action and was able to contribute to a cease-fire. However precarious that cease-fire may be, it represents a welcome attempt to set in motion the difficult process of peace with the involvement of all the parties concerned.

285. We also welcome the fact that further steps have been taken in preparation for the final withdrawal in April 1982 of Israeli forces from the occupied areas of Sinai. A dismantling of the Israeli settlements on the West Bank and in the Gaza Strip would be a constructive next step. Human rights in the occupied territories must be observed in a way that is compatible with Israel's tradition of democracy and the rule of law.

286. In the Middle East the price of inaction might be very high. The mere lack of initiatives for peace constitutes in itself a danger. If no progress is seen towards solving the crucial Palestinian question, bitterness and hostility will deepen and tension rise. In few other regions of the world is it therefore as important to maintain the momentum for peace through initiatives to implement the resolutions of the Security Council.

287. The war between Iran and Iraq has now lasted a whole year. Tens of thousands of people have been killed, and destruction is widespread. The economic development of both Iran and Iraq is being hindered by the continuation of the conflict. The efforts of the United Nations in sending the Special Representative of the Secretary-General, Mr. Olof Palme, to help lead the parties onto a course of peaceful settlement have the whole-hearted support of the Swedish Government. The parties should explore every possibility for a negotiated settlement, based

on the principles of the Charter of the United Nations, via an impartial third party.

288. In Indo-China, shattered by decades of war, peace is being sacrificed to the attempts of some States to gain regional power and to the strategic ambitions of the great Powers. The Swedish Government has given its support to United Nations efforts to find a political solution to the Kampuchean problem. We regret that Viet Nam did not choose to take part in the International Conference on Kampuchea, since a dialogue between the parties to the conflict could create a favourable political climate necessary for a solution. Every avenue should be explored for the bringing about of such a dialogue with the participation of all the parties concerned.

289. Both the Heng Samrin régime installed by Viet Nam and the earlier Pol Pot régime claim the right to rule over the people of Kampuchea. Sweden regards neither of these régimes as the legitimate representative of the Kampuchean people. An acceptable settlement of the conflict must include the withdrawal of all foreign troops and the restoration to the Kampuchean people of its right to self-determination. In our view, it is open to question whether the continued recognition of the Pol Pot régime by the United Nations is not an obstacle to a solution of the Kampuchean problem within the framework of the United Nations.

290. Few people have fought so hard and so long for self-determination as have the Vietnamese. It is a tragic irony that Viet Nam now seems unable to recognize that same fundamental right when it comes to the sorely afflicted people of Kampuchea.

291. Another nation urgently in need of peace is El Salvador. More than 20,000 people have been killed in the civil war raging in that unfortunate country. The opposition in El Salvador has declared that it is willing to negotiate in order to arrive at a peaceful settlement of the conflict. Sweden has long advocated the idea of a negotiated settlement, and we note with satisfaction that this idea is gaining in international support. A negotiated settlement which establishes a cease-fire and a coalition Government in control of the army and the guerrilla forces would make peace and democracy possible.

Mr. Martynenko (Ukrainian Soviet Socialist Republic), Vice-President, took the Chair.

292. The struggle in El Salvador is a struggle between a prevailing oligarchy and the demands of the people for greater justice. In the final analysis it is in this conflict that the democracies of the world have to choose sides.

293. El Salvador is not only a country with a high level of political violence. It is also one of the many poor nations of the world. Just as violent upheavals in many countries have their origins in deep economic and social injustices, so the widening gap between the rich and the poor countries may ultimately lead to international conflicts.

294. One fifth of mankind is living on the margin of existence, in hunger, unemployment and illness and without adequate shelter. This is intolerable from the point of view of human solidarity and, in the long run, incompatible with world peace and stability.

295. The crying needs exist, not only because resources are limited or not fully used, but also because the resources available are expended in an unwise and unjust way. The sums that the world spends for military purposes exceed the total income of that half of mankind which lives in low-income countries. The per capita consumption of energy in the industrialized countries, one of the most vital world resources, is 120 times as high as in the least developed countries.

296. In a month's time a summit meeting on North-South questions will be held in Mexico. It is not intended to take the place of global negotiations within the framework of the United Nations, but Sweden hopes that the meeting will give the necessary political impetus to break the present deadlock and set the North-South dialogue in motion. We trust that it will identify so many areas of common interest that a global round of negotiations will be unanimously agreed upon and launched at this session of the General Assembly.

297. There are a few areas where mutual interests dictate joint discussions.

298. The first concerns food security. No question can be more vital than how to work out policies and measures that ensure sufficient food for all mankind. Such discussions must deal with short-term disaster measures as well as longer-term policies to stimulate food production on a sustainable basis.

299. Secondly, action concerning commodities, trade and industrialization is necessary. Growth in international trade is of mutual interest to developing and industrialized countries. Resistance to protectionism is therefore a necessity.

300. Thirdly, we know that a serious international disequilibrium exists, with pressing balance-of-payments problems for many countries. Concerted efforts are therefore needed which aim at curbing inflation and unemployment and at increasing the transfer of resources. The establishment of an energy affiliate attached to the World Bank would be an important and constructive measure.

301. Fourthly, and finally, the United Nations Conference on New and Renewable Sources of Energy has recently stressed the necessity of expediting the transition from oil to alternative sources of energy. It also pointed to the risks of a too intensive exploitation of firewood and charcoal in developing countries. Continued stimulation of conservation and efficient use of all forms of energy are needed. Stable and predictable market developments are in the interest of all countries.

302. The idea of having a global round of negotiations is based on the knowledge that all countries, whether rich or poor, would benefit from international economic co-operation.

303. The demand is there. The developing countries have an enormous need for imported goods for the development of their resources and infrastructures. The human resources are there. Millions of people are unemployed in the member countries of the Organization for Economic Co-operation and Development. The capital is also there. Oil production has created a vast surplus of capital in search of a productive use.

304. What is lacking is the imagination and the political will to utilize the potentials available and to turn the problems into possibilities. This will can be mobilized only if we increase the awareness among political leaders and among the public that development co-operation is a matter of survival, not of charity, and that the North in the wider perspective is just as dependent on the South as the South is on the North. Solidarity between the two will mean better chances of survival for both.

305. In the present tense world climate it is more important than ever that we vigorously defend the principles of self-determination, territorial integrity, the non-use of force or the threat of force and respect for human rights. These principles are equally applicable to conditions in East and West, North and South. The rights of peoples or individuals must be protected whether they live in Afghanistan, El Salvador, Kampuchea, Namibia, Poland or any other country. We cannot accept the suppression of fundamental human rights or the erosion of the principle of self-determination in the name of any ideology or for the protection of any strategic interests.

306. In the nuclear age the risks involved in any great-Power conflict are immeasurable. That is why we must not let tension grow to a point where the process of escalation can no longer be controlled. That is why we demand a halt to the arms race between the super-Powers. That is why we urge the super-Powers to start spending for development instead of spending for destruction. That is why we urge the super-Powers to reconsider the course their actions have taken in Asia, the Middle East, southern Africa and Latin America. In many of these areas the present policies of the super-Powers combine to heighten the risks of war. In all those areas the principles of the Charter of the United Nations provide the guide-lines for peace.

307. Mr. van der STOEL (Netherlands): On behalf of the delegation of the Kingdom of the Netherlands, I wish to congratulate the Assembly on having Mr. Kittani as President of this session. His experience and profound knowledge of the United Nations system will give us invaluable guidance in our work.

308. The Government of the Netherlands wishes to extend a warm welcome to the new Member of the Organization, the Republic of Vanuatu. We are also looking forward to the forthcoming admission of Belize to membership. On behalf of the Kingdom, the Prime Minister of the Netherlands Antilles was present at the independence ceremonies.

309. The thirty-sixth session of the General Assembly is taking place in a political and economic context which challenges the purposes and principles the Organization has embodied over the past decades. There is cause for concern about the direction in which mankind seems to be moving. This session must summon the efforts of the whole international community to head off the dangers with which humanity is confronted.

310. After almost two years, the 1980s present themselves as a critical and dangerous decade for the survival of mankind. The global problems of the nuclear arms race, the deterioration of the environment, the ever-growing mass poverty and the lack of progress in the restructuring of the world economy, the alarming levels of un-

employment everywhere, the continued violations of human rights, the disrespect for the rule of law in international relations pose the question: in what direction is our world heading?

311. The international political climate has further deteriorated. The situations in Afghanistan, the Middle East, Kampuchea, Central America and southern Africa, in particular, show no sign of easing. Notwithstanding various serious efforts, little real momentum towards solutions has been generated.

312. In his report on the work of the Organization [A/36/1], the Secretary-General points to a disturbing weakening of the international co-operative effort and an erosion of the system of multilateral co-operation, as well as the dangers of unilateral action which inevitably evoke retaliatory measures. Centrifugal forces are at work within the international system. An increasing number of international consultations on various issues fails to produce concrete results. In some cases international negotiations, which could more fruitfully have been pursued within a recognized multilateral framework, take place outside this Organization, thus frustrating adequate representation of all parties.

313. The Government of the Netherlands wishes to reaffirm its feelings of responsibility as a Member of the Organization and its dedication to the purposes and principles of the Charter. The system of international co-operation laid down in the Charter provides a framework for peaceful change, a framework for which there is no alternative. In our times, effective use of this instrument is essential.

314. The United Kingdom Secretary of State for Foreign Affairs and Commonwealth Secretary, Lord Carrington, has on behalf of the 10 member States of the European Community [8th meeting] clearly set out the principles guiding their activities in the world today and their position on a number of issues. I want to add the following on behalf of the Government of the Netherlands.

315. Three issues are, in the eyes of the Netherlands Government, of critical importance. I am thinking of arms control and nuclear arms limitation, the combating of poverty in the developing world and the restructuring of the economic system, and the promotion and encouragement of respect for human rights.

316. The single most dangerous threat to the survival of mankind is that of nuclear annihilation. Therefore, the quest for nuclear arms control should be vigorously pursued, regardless of the international climate. In a period of mounting tension, the rationale for arms control and disarmament should be even more apparent to all. By their very nature, the nuclear Powers, particularly the United States and the Soviet Union, have a special responsibility. Within and outside the framework of NATO, the Netherlands Government aims at arms control, and in particular the reduction of the role of nuclear arms. It attaches the utmost importance to the forthcoming negotiations between the Governments of the United States and the Soviet Union with a view to a mutual and substantial reduction of the level of armaments, in particular through the reduction and, if possible, elimination of certain types of long-range theatre nuclear weapons.

317. The Netherlands Government considers these negotiations, which will be pursued within the framework of the Strategic Arms Limitation Talks [SALT], to be vitally important. This pertains also to the rest of the SALT process. Failure to achieve results in that process would lead to an unrestrained nuclear arms race. Such unrestrained vertical proliferation could increase the danger of a widening proliferation in a horizontal sense.

318. A viable non-proliferation régime is essential for the security and survival of us all. The threat of a steadily growing number of potential nuclear Powers calls for the speedy achievement of a consensus in the field of the peaceful use of nuclear energy. Therefore, the Netherlands Government will continue to work actively for an international plutonium storage system and for the improvement and strengthening of the safeguards régime of IAEA.

319. The Netherlands supports the creation of nuclear-weapon-free zones where they are conducive to increased stability in the regions concerned. We voted for the resolutions on the establishment of such zones in the Middle East and South Asia last year [resolutions 35/147 and 35/148, respectively], and we shall do so again. We also recognize the need for a comprehensive test ban treaty and for security assurances to non-nuclear-weapon States, a subject on which we have recently made a contribution in Geneva.

320. Finally, do not let us forget that there are non-nuclear armaments which are threatening as well, and which call for measures of control. Among these are chemical weapons, the use of which was outlawed long ago, but which should be made to disappear altogether as soon as possible. The preparation of a treaty on chemical weapons is, to my mind, one of the major tasks of the Committee on Disarmament.

321. The record of the United Nations in the vital field of disarmament over the past 35 years has been limited, but the international community and its constituent parts must persevere in their efforts. My Government pledges its active participation.

322. A comprehensive settlement of the Middle East conflict remains of critical importance to world peace. In its meeting at Venice last year, the European Council of the European Communities made clear the two principles on which such a settlement should be based¹³ and its preparedness to play a role in reaching such a settlement. Lord Carrington, on behalf of the European Community, has already set out our position in regard to this conflict. I should like to stress the urgency of reaching a negotiated and comprehensive settlement in the Middle East that is just and lasting, and that provides security for all States in the area. There can be no just and lasting peace without a solution to the Palestinian problem.

323. The continued and arduous search for a settlement in the Middle East suffered another setback as renewed and violent hostilities flared up once again in Lebanon, increasing even more the sufferings of the unhappy people in that country. The subsequent cease-fire arrangement, on the other hand, constituted a step forward and proved that moderation and the conciliation of all parties concerned were possible; a full-scale confrontation was avoided in the end.

324. We continue to believe that the territorial integrity of Lebanon constitutes a prerequisite for stability in the area. The peace-keeping activities of UNIFIL in southern Lebanon, which are of paramount importance for that country's integrity, and in which the Netherlands has been participating as a troop-contributing country over the last three years, continue to be hampered. I wish to reiterate our call on all parties concerned to enable UNIFIL to fulfil in safety its difficult and important mandate. We shall welcome and support any initiative in this regard. In view of the extremely difficult circumstances in which UNIFIL operates, I wish to express the high esteem of the Netherlands Government for the contingents of the United Nations and to express our deep sympathy to the Governments and peoples of Fiji, Ireland and Nigeria on the losses their contingents have suffered this year in the service of peace.

325. The continued Soviet military intervention in Afghanistan and the lack of implementation of the resolutions adopted by this Assembly on the situation in that country give the Netherlands Government cause for concern. The violation of the rule of law with regard to the self-determination and sovereignty of a people cannot be condoned. We hope that the parties involved will accept the proposals made by the European Council to bring an end to foreign military intervention and to restore the independence and non-aligned status of that stricken country. It is, in the view of the Netherlands Government, the responsibility of the international community to work for a speedy and peaceful solution and for the alleviation of the suffering of the Afghan people within and outside the borders of their country.

326. The principles of equal rights and self-determination of peoples and of refraining from the threat or use of force against the territorial integrity of any State are at the very basis of our existence as a civilized international community. These principles are embodied in the Charter of the United Nations and they are valid all over the world. They are at least as relevant to the situation in Poland as they are to Afghanistan. They have been solemnly reconfirmed in the Final Act of the Helsinki Conference.

327. Persistent violations of the rule of law also continue to be tragic features of the situation in southern Africa. Successive Governments of the Netherlands have fundamentally rejected the policy of *apartheid*. The refusal of the Government of South Africa to abide by United Nations resolutions on *apartheid* and Namibia makes further pressure, including economic measures, inevitable. My country has a positive attitude towards the use of economic instruments, taking into consideration the opinion of the international community. With due regard to its international obligations, the Netherlands Government is urgently looking for the most effective way to participate in the existing voluntary oil embargo against South Africa and to institute regulations concerning investment in South Africa and the limitation of certain imports from that country.

328. The Netherlands Government fully implements the arms embargo and discourages contacts with the South African authorities in the fields of culture, science and sport.

329. We will continue to render financial support, in particular, to the front-line States and we will work for an increase in international assistance to those States. Humanitarian assistance will be given to movements that oppose *apartheid* policies. Victims of *apartheid* policies, including political refugees, can count on our support.

330. A peaceful solution of the question of Namibia on the basis of self-determination remains an essential condition of peace in southern Africa. The continuous efforts by the Secretary-General, the group of five Western States and the front-line States in implementing the settlement proposal for Namibia approved by the Security Council by resolution 435 (1978) regrettably have not led to a solution. So far, South Africa's position, as demonstrated during the pre-implementation meeting of last January, has not permitted the achievement of this objective.

331. In recent weeks the situation in southern Africa has been further aggravated by the operations of the South African army inside the territory of Angola. The Netherlands Government condemns the military actions of the Government of South Africa, which violate the sovereignty and territorial integrity of Angola.

332. Change in southern Africa has long been on the agenda of the Assembly. The margins for peaceful change have steadily narrowed, while the forces of violent change are dangerously increasing. We shall have to do our utmost to make sure that the necessary changes come about while they can still be realized in a peaceful manner.

333. The Kingdom of the Netherlands follows closely the political, economic and social developments in Central America and the Caribbean.

334. Last December the General Assembly expressed its dismay about the climate of repression and violence prevailing in El Salvador and appealed for a cessation of violence and for the establishment of full respect for human rights in El Salvador [resolution 35/192]. This appeal has not been heeded. Human rights violations continue as before and are a matter of deep concern to the Government and people of the Netherlands. The people of El Salvador are entitled to determine their own future, free from outside interference, in a process of genuinely free elections. But as long as terrorism by paramilitary forces and other forms of violence continue, no free expression of the will of the people is possible.

335. It is our sincere hope that a comprehensive political settlement process will be initiated in which the representative political forces will participate. Such a settlement should lead to a new internal order creating the conditions for free elections, leading to the establishment of genuine democracy.

336. We give our support to the recent resolution of the European Parliament, directly elected by the peoples of the European Community, calling for a settlement between the Government on the one hand and the opposition Revolutionary Democratic Front on the other. The Netherlands Government feels that no effort should be spared to facilitate the rapprochement of the parties involved, with a view to ending the plight of the people of El Salvador.

337. A tragic example of the apparent powerlessness of the international community is the conflict in and around Kampuchea. The continuing human drama, with its disregard for both the sovereignty and integrity of a nation and the elementary human rights and freedom of the individual, is threatening peace and stability in the area. We regret the failure to implement last year's General Assembly resolution [resolution 35/6] and the Declaration of the International Conference on Kampuchea¹⁴ held last July. My Government feels that this Assembly should consider ways and means of ensuring their implementation. We continue to support the efforts of the countries of the Association of South-East Asian Nations [ASEAN] in this respect.

338. The United Nations has a central role to play in achieving the withdrawal of all foreign forces and a political solution aimed at allowing the Kampuchean people freely to decide upon their own future without outside interference. We admire the efforts of international and non-governmental organizations to alleviate the burden of the Kampuchean people.

339. I call upon all parties concerned fully to utilize the framework of the United Nations in seeking a lasting solution that would end this tragic conflict.

340. The promotion and encouragement of respect for and faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women are at the heart of the objectives of the Organization. As an organization of States, it has in essence been designed by its founding fathers as an organization of the peoples and for the peoples of the world. The same idea of solidarity with human beings everywhere constitutes a cornerstone of the foreign policy of the Netherlands. We are fully committed to the recognition of the fundamental rights and freedoms of the oppressed and the destitute in all parts of the world.

341. The promotion and protection of human rights is not the concern of Governments alone. Involvement of the people themselves has vital significance for the struggle for human rights. Many individuals play an invaluable role in this struggle, acting either on their own or in the framework of non-governmental organizations. In many cases such organizations have taken the lead in standing up for the victims of discrimination and repression. In my view, human rights activists and human rights non-governmental organizations are vanguards of human solidarity.

342. I want to pay a tribute here to those human rights activists in many countries who are being penalized and persecuted because of their exercise of rights that have been recognized in the Universal Declaration of Human Rights: freedom of expression and freedom of peaceful assembly and association, including the right to form trade unions. Such activists have fallen victim to publication bans, to dismissal from their jobs, to internal banishment and to loss of liberty, sometimes through political trials and sometimes without any trial, for instance, by confinement to psychiatric institutions. In several cases such activists have paid with their lives for their efforts in promoting respect for human rights.

343. Within the United Nations, the work to ensure the observance of basic standards of human dignity must be

carried on with vigour. In many places in the world such standards are still being trampled upon notwithstanding their explicit formulation in United Nations declarations and conventions. Several countries are afflicted with a rising tide of intolerance and group hatred, leading to the torture and physical liquidation of citizens who do not share the views of the ruling régime.

344. After the unanimous adoption in 1975 of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [*General Assembly resolution 3452(XXX), annex*], it is an affront to international solidarity that torture is still being practised today and that it is still being excused with references to exceptional circumstances, which are specifically excluded as grounds for justification in the Declaration.

345. In recent years the authorities of certain countries have turned to new methods of terror designed to help them evade their own responsibility. I am referring to the method of having political opponents simply assassinated by anonymous executioners and the method of having people abducted, equally anonymously, to secret places of detention. As to the second method, I hope that the excellent work of the Working Group on Enforced or Involuntary Disappearances set up by the United Nations Commission on Human Rights will contribute to the stopping of that detestable practice.

346. From my own experience in the Commission I am convinced that that body still has many important contributions to make to the achievement of a more just and a more humane world. I note with satisfaction that next year the Commission will be able to give serious attention to the rights of indigenous peoples, whose position is increasingly being imperilled by the expanding needs of modern society.

347. During this session of the Assembly there will be an opportunity to discuss the draft optional protocol on the abolishment of capital punishment, submitted by the Federal Republic of Germany.¹⁵ My Government hopes that many delegations will be in a position to support that initiative.

348. We welcome the submission by the Economic and Social Council to the Assembly of a complete text of the draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief. Almost two decades have passed since the Assembly first asked for the elaboration of such a document. I urge the Assembly to adopt and proclaim that Declaration at the present session.¹⁶ The subject-matter of the Declaration is no less relevant today than it was 20 years ago. On the contrary, it may be even more relevant nowadays. It is my deep conviction that the Organization should combat religious intolerance and discrimination as vigorously as it has combated racial intolerance and discrimination.

349. The Netherlands Government attaches fundamental importance to the continued struggle against all forms of discrimination, and strongly supports the endeavours of the United Nations in this field. In particular we regard the recent entry into force of the Convention on the Elimination of All Forms of Discrimination against Women [*General Assembly resolution 34/180, annex*] as a milestone in this struggle. It is widely felt in my country

that Governments have the responsibility to devise policies aimed at the prevention and elimination of discriminatory practices in society.

350. Political oppression, social discrimination and economic misery and exploitation are equally incompatible with intrinsic human dignity. The struggle for human rights therefore requires an integrated approach extending to social and economic as well as to civil and political relationships. In this context the discussions on the emerging concept of the right to development are of great importance. The Netherlands delegation is determined to participate in a constructive way in the further elaboration of this concept.

351. The progressive development of international law and its codification have always been among the important tasks of the General Assembly. Over the past years the foundation has been laid for the drafting of a comprehensive convention on the law of the sea, based on the concept of a common heritage of mankind as adopted by the Assembly at its twenty-fifth session [*resolution 2749 (XXV)*]. The tenth session of the Third United Nations Conference on the Law of the Sea has indicated that the overwhelming majority of the world community of nations feels that a generally acceptable régime of the seas is now within reach.

352. Such a convention, scheduled to be signed next year in Caracas, will constitute a monumental achievement. The centuries-old idea of the seas being open to all has been moulded to the modern-world reality of widely divergent capacities of States to benefit from this openness of the oceans and to the need to protect the oceans and their resources against indiscriminate use. Effective international co-operation with full regard for the special interests of developing countries is the key for the new régime of the seas as a shared resource of all countries. Next year the international community will basically have no alternative, for the law of the sea no longer has a "no-treaty" option.

353. In 1983 we shall commemorate the birth of my learned compatriot, Hugo Grotius, four centuries ago. He was one of the earliest advocates of the idea that the seas are the common heritage of mankind. I hope that the Convention on the Law of the Sea will be a reality when that commemoration takes place.

354. The staggering problems of mass poverty, hunger and unemployment facing the developing countries continue to command top priority on the international agenda. Over the past years, conditions have often deteriorated, particularly for the poorest countries. Recent conferences, such as the United Nations conferences on the least developed countries and on new and renewable sources of energy, have drawn the attention of the international community to specific problem areas and have indicated ways to approach the issues. Nevertheless, we, like others, are distressed by the over-all lack of concrete progress towards solutions for the problems facing the developing world.

355. We are concerned to see that it has not yet been possible to reach an agreement on the new round of global negotiations, notwithstanding the general recognition of the need for those negotiations and notwithstanding the admirable and tireless efforts of the distinguished

predecessor of Mr. Kittani, Mr. von Wechmar, who deserves our special gratitude. We hope that we shall soon be in a position to build on the foundation he has laid for us, and we are happy that Mr. Kittani has undertaken to continue the work in this field.

356. There seems to be a need for a bold, imaginative move to break through the present stalemate that by and large characterizes the North-South negotiations. Concerted international action is required. In that context we appreciate the proposal to convene the summit meeting at Cancún focused on the North-South relationship, as presented in the Brandt Commission's report.¹⁷ Such an unprecedented meeting can, and we hope will, provide the necessary impetus to unblock the North-South negotiating process and, through a common understanding on broad orientations, facilitate the substantial action that is so urgently needed.

357. It is evident that the areas of food, finance and energy, in particular, need immediate action.

358. As to the food issue, the overwhelming dimensions of present and foreseeable problems provide every reason to call for stepped-up efforts with regard to food production, food security and food aid. It is almost shameful to find ourselves squabbling over procedures and percentage shares when the urgency of the problem does not allow for further delay.

359. None of us will disagree that there is a necessity to address, in an alert and effective manner, the energy issues that confront us all. The interrelated problems of energy consumption, energy production and energy trade will figure dominantly in this and coming years. With so much to be gained all round by improving consumption patterns and increasing and diversifying supplies, it should be possible for us to step up efforts and agree on joint action.

360. An effective approach to energy problems will imply the mobilization of additional finances. In this connection I wish to reaffirm our interest in the establishment of an energy affiliate within the framework of the World Bank.

361. In the area of finance, I hardly need to restate the problem. We are all aware of the greatly increased need for financial transfers to meet acute balance-of-payments problems as well as longer-term development needs.

362. As an expression of the continued priority given to development co-operation, and in spite of important budgetary cuts in a number of fields, the Netherlands Government has committed itself to keeping its official aid at least at the same level. At present, approximately 1 per cent of our gross national product is spent on official development assistance.

363. We have noted recent statements stressing the importance of private flows. While we agree that private flows are crucial for many developing countries, I should like to emphasize that private flows do not and cannot lessen the need for increased public transfers, without which large areas and sectors will remain bypassed or neglected.

364. Our commitment to the needs of the developing countries must not falter. The question remains how best to approach the various North-South issues, to some of which I have just referred.

365. It is of the highest importance that the functional approach pursued in the appropriate specialized forums should be adhered to in a manner which offers the best chance for concrete and tangible results.

366. Given the world-wide and interrelated nature of the problems at stake, there is also a need for a process of negotiations that allows for an overview which provides for over-all objectives and ensures general guidance and progress within a specific timespan. The Netherlands is prepared to play an active role in such a process.

367. I have touched upon a number of vital problems with which the international community is faced. At the beginning of my statement I spoke of a dangerous decade. If we are to solve the numerous and formidable problems facing us, we must use the Organization fully and effectively. We must use it to attain the purposes and principles for which it was created, and enable it to fulfil its mission as an instrument for peaceful change. Then the United Nations will be able to take up the challenge of the 1980s to improve the co-operative and decision-making capacity of the international community, and to meet the needs of future generations.

368. Mr. ROLANDIS (Cyprus): This is the time of the year when New York is characterized by a festive atmosphere, caused by the numerous receptions, dinners and other gatherings which mark the commencement of the work of a new session of the General Assembly—thirty-third session, thirty-fourth, thirty-fifth, thirty-sixth and so on. The higher figure each year indicates that we are getting further and further away from the calamities and tribulations of the Second World War. Unfortunately, it also indicates and reminds us that we are getting further away from the possibility of arresting and containing an undesirable vicious circle of events, which may take us back to where we started: the world war.

369. Sometimes one wonders what the reason is for the revelry and the festivities in New York each September. Do we celebrate in order to divert our attention from the fact that we have failed to make the Organization effective and consequently worthwhile? Do we celebrate because we no longer care about the fate of this mammoth entity which has been reduced to a cul-de-sac in which problems enter but never emerge because they are never resolved and settled?

370. In extending my warmest congratulations to Mr. Kittani and in expressing my deep satisfaction at his election as President of the thirty-sixth session of the General Assembly, I should like to refer to the wise and correct assessment in his opening statement:

"The General Assembly is not in need of new resolutions but rather a commitment to the resolutions it has already adopted and to the implementation of those resolutions by translating them into concrete actuality, thereby contributing to the principles and purposes of the United Nations". [*1st meeting, para. 60.*]

This session should rightly, therefore, be devoted to work, to implementation and follow-up, rather than to repetitious and lengthy statements and resolutions.

371. The remark I have cited, the substance of which is reflected in many reports of the Secretary-General as well, constitutes the quintessence of the very existence of the United Nations. Member States, and especially those which are small, weak and undefended, should have the opportunity to inscribe on the agenda not only their problems but also their hopes, their visions and their ambitions. As things are at the moment, they only inscribe their frustration and their scepticism about the future of the world.

372. On this score, a proposal made by the President of the Republic of Cyprus, Mr. Spyros Kyprianou, for the holding of a special session of the General Assembly on the vital issue of the implementation of United Nations resolutions may be recalled and repeated.

373. As I stand at the rostrum of the General Assembly, I ask myself: are we really united in the causes we are supposed to cherish, promote and protect? Are we really united as far as social and economic justice, human rights, political independence and the principles of international behaviour are concerned? Are we united in our efforts to buttress plans for the upgrading and moral evolution of man? Or are we simply united in witnessing the predicament and misery of the human being, unable to halt the nosedive which man has taken in his national and international affairs and activities?

374. We are nearing the end of this year, with many of the world problems no nearer to a solution. New and ominous events have taken place and relations between East and West are ever strained, thus creating a bleak world outlook. The problems of the Middle East, Namibia, that of my own country and many others remain unresolved, despite the efforts of the international community through the Organization, and new acts of aggression and violations of the Charter of the United Nations have occurred in the past year. We are further confronted by the inability to make progress on the global disarmament and economic issues, while poverty and famine continue to ravage a large part of the world population.

375. Beset by an atmosphere of poisoned East-West relations, the international community becomes all the more obligated to find ways for tangible progress towards solving the global issues and such regional conflicts, the persistence of which directly affects the maintenance of international peace and security.

376. The point is pertinently reflected in the report of the Secretary-General on the work of the Organization, where it is stated:

“The setbacks to East-West relations and a number of unresolved regional conflicts are a dangerous combination. The main thrust of the efforts of the United Nations has therefore been devoted to attempts to resolve or to contain such conflicts.” [A/36/1, sect. IV.]

377. In maintaining world peace and security, peace-keeping operations play a significant, indeed vital, role. Essential to peace-keeping is peace-making. Otherwise,

peace-keeping would become an end in itself and would perpetuate an unjust *status quo*. It would soothe the pain without curing the trauma. Necessary for effective peace-keeping and peace-making efforts is the implementation of the relevant United Nations resolutions, if a situation is to be brought to a just and lasting settlement. In connection with the aforementioned, I wish to express once again the appreciation and gratitude of my Government to UNFICYP, as well as to the countries contributing to the peace-keeping operation, and repeat once again that we sincerely hope that these valuable and praiseworthy services will be necessary for the shortest possible period of time.

378. Posing a major threat to international peace and stability is the escalation of the arms race. The increased tension in East-West relations and the doctrines of balance of power and deterrence have triggered an unprecedented competition, the world over, for the acquisition of armaments. Our goal for achieving disarmament, and in particular nuclear disarmament, as set out in the Final Document of the Tenth Special Session of the General Assembly, contained in resolution S-10/2, appears to be very far from realization. We cannot afford any more setbacks, and strenuous efforts should continue to ensure the cessation of the arms race, nuclear disarmament, a comprehensive nuclear-test-ban treaty and strict adherence to the Treaty on the Non-Proliferation of Nuclear Weapons [General Assembly resolution 2373 (XXII), *annex*].

379. Today, more than \$100 per annum for each and every living person are spent world-wide on armaments. That amount is equal to 50 per cent of the per capita income in many countries of the world. It is indeed paradoxical to have to spend 50 per cent of the amount needed to preserve life for life's destruction and extermination.

380. This year the United Nations and every non-aligned country are observing the twentieth anniversary of the First Conference of Heads of State or Government of Non-Aligned Countries, held at Belgrade. We retain with gratitude fond memories of the founding fathers of the movement and their broad and all-embracing vision that has literally transformed the world scene and given a new dimension to international relations. Great names—such as Tito, Nehru, Nasser, our own Makarios and so many others—are identified with the noble ideals and principles of non-alignment, ideals and principles that account for the unprecedented growth of the movement, which now encompasses the great majority of the membership of the United Nations and plays a positive and constructive role in the quest for solutions to many of the problems of the world.

381. One of the major initiatives of the non-aligned movement has been in connection with the efforts for the transformation of the present unbalanced and unjust world economic system through the establishment of a new international economic order. In the absence of such an order, many millions will remain in abject poverty and the gap between the North and the South, between the “haves” and “have-nots”, will become wider. The continuation of such an unacceptable situation constitutes yet another threat to world peace, stability and security. Despite the urgency involved, the launching of the global round of negotiations and the implementation of the new International Development Strategy have, regrettably, not materialized. None the less, we wish to commend the

constructive and persistent efforts of your predecessor, Mr. President, and express our earnest hope that, given the necessary political will on the part of all countries concerned and especially the developed ones, the task will be completed under your guidance. In this respect, we trust that the Cancún meeting will take decisive steps towards the launching of those negotiations.

382. Closely linked with the new international economic order is the establishment of the new world information and communication order, which in fact constitutes an integral part of the development strategy. The increasing awareness of the influence which news media can exert on the life and progress of peoples, coupled with existing and growing disparities among nations in this area, has led to demands, mainly by the non-aligned countries, for the establishment of the new information order which would provide and safeguard a free and balanced flow of information based, among other things, on diversity of sources and free access to information.

383. The Programme of Action adopted by consensus at Nairobi at the United Nations Conference on New and Renewable Sources of Energy,¹⁸ though not living up to the developing countries' expectations, is an important first step that, given the necessary follow-up and faithful implementation, could lead to the beginning of the solution of one of the most acute problems facing the world today. Further broadening of co-operation and more effective utilization of existing sources, as well as the transfer of technology, are necessary prerequisites for the completion of the task, provided that adequate financing is also secured.

384. The recently concluded United Nations Conference on the Least Developed Countries has identified the need for concerted efforts and international co-operation in order to provide the urgently needed assistance to those countries, which would help alleviate their plight. Here, again, a lot more needs to be done.

385. The resumed tenth session of the Third United Nations Conference on the Law of the Sea, held at Geneva this year under the leadership of Mr. Koh, has somewhat mitigated the disappointment at not having a convention on the law of the sea in 1981 and, it is hoped, brings us closer to a convention in 1982. The Conference was thus able to achieve positive results on the outstanding issue of maritime boundary delimitation. It is earnestly hoped that the remaining issues will be satisfactorily resolved at the next session of the Conference.

386. The intensive and arduous efforts of the past 15 years should not be frustrated by the reopening of substantive and difficult issues which have already been negotiated and agreed to by all delegations to the Conference. Otherwise, we would be depriving mankind of one of its vital common heritages and jeopardizing efforts for a regulated and just régime for the seas.

387. The lack of any progress of substance at the Madrid follow-up meeting of the Conference on Security and Co-operation in Europe is causing considerable apprehension. The Conference will reconvene next month, and Cyprus, together with all other participating countries—and particularly the neutral and non-aligned—will exert every effort to achieve a breakthrough and thus safeguard and promote an important process for détente,

co-operation and confidence-building in Europe and, by extension, throughout the world.

388. Among the most serious international problems, the perpetuation of which greatly threatens international peace and security, are the problems of the Middle East and Palestine. The position of my Government on these problems has been stated time and again before the Assembly as well as other international forums and can be summarized as follows:

389. It is our firm belief that the question of Palestine constitutes the core of the Middle East problem, and there can be no comprehensive, viable and just solution without taking into account the legitimate aspirations and inalienable rights of the Palestinian people to self-determination, national independence and sovereignty, the right of all refugees and displaced Palestinians to return to their ancestral homes and properties and their right to establish their own independent sovereign State in Palestine.

390. We recognize the PLO as the sole and legitimate representative of the Palestinian people, whose active participation, on an equal footing, is indispensable in all efforts, deliberations and conferences on the Middle East. Partial agreements, in their absence, in so far as they purport to solve this problem, are not valid.

391. Cyprus strongly adheres to the fundamental principle that the acquisition of territory by force is inadmissible and can never be legitimized, whether in Palestine or elsewhere. We therefore believe that the complete and unconditional withdrawal of Israel from all Palestinian and Arab territories is imperative and long overdue.

392. We deplore the continuing creation of faits accomplis, such as the annexation of Jerusalem, and the sustained policies of colonization through new settlements aiming at altering the legal status of the occupied territories and changing their demographic characteristics. We firmly believe that belligerency must come to an end and that the sovereignty, territorial integrity and political independence of every State in the area must be recognized and respected, as should be the right of all States to live in peace within secure and recognized boundaries.

393. Cyprus deplores the grave developments that have recently taken place in Lebanon as a consequence of the Israeli acts of aggression against civilian targets in Beirut and southern Lebanon, which constitute a blatant violation of all norms of international law. Once again, we reaffirm our total commitment to the sovereignty, territorial integrity, unity and independence of Lebanon.

394. The Israeli air raid on the Iraqi nuclear installations constitutes yet another totally unjustified and unwarranted act of aggression directed against the sovereignty and independence of Iraq. The Government and people of Cyprus joined the international community in strongly condemning that gross and flagrant violation of the principles of the Charter, which has created additional dangers to peace in that sensitive area of the world.

395. The hostilities between Iran and Iraq, two neighbouring non-aligned countries, continue to cause anxiety, particularly to the members of the non-aligned movement. Cyprus, together with the rest of the world, expresses the earnest hope that sustained efforts, and particularly those

of the Foreign Ministers of Cuba, India, Zambia and the Head of the Political Department of the PLO, will soon bear fruits and the whole issue will be peacefully resolved. These were the considerations that prompted my Government to offer Cyprus as a venue for preparatory work connected with the aforesaid initiative of the non-aligned countries. I wish to reiterate that we shall continue to offer every facility, and shall spare no effort to assist in the quest for achieving a settlement.

396. Another issue which is causing grave concern is the situation in South-East Asia, which should be solved in accordance with the purposes and principles of the Charter of the United Nations, in such a way as to preserve the independence, sovereignty and territorial integrity of all countries concerned. It is in this respect that we are encouraged by the progress, however limited to date, of the Special Representative of the Secretary-General, Mr. Pérez de Cuéllar. We express the hope that his efforts will be crowned by complete success as soon as possible and that, similarly, the Kampuchean problem will also be resolved.

397. The situation in Namibia continues to pose a serious threat to international peace and security. The present impasse created by the constant provocation and arrogance with which South Africa flouts the decisions of the international community, coupled with the failure of the Security Council to impose mandatory sanctions against South Africa, leads to the escalation of an already explosive situation in the region.

398. I do not propose to reiterate the well-known position of my Government on the question of Namibia, as I did so only a few days ago at the sixth meeting of the eighth emergency special session of the General Assembly. Suffice it for me to quote from the statement of the current chairman of the group of African States, Mr. Bedjaoui of Algeria, who said that that session was "a very special phase in the mobilization of the international community for the just cause of the Namibian people" and that the resolution adopted at that session served "to maintain the ever-growing momentum of our solidarity with the Namibian people's legitimate struggle for national liberation".

399. My country, a member of the United Nations Council for Namibia, was among the original sponsors of the resolution finally adopted [resolution ES-8/2] and will continue to associate itself fully with all United Nations efforts for the genuine independence of a united Namibia. We shall continue to oppose all efforts aimed at an internal settlement in Namibia and support the implementation of the United Nations plan, in accordance with Security Council resolution 435 (1978), without any prevarication, qualification or modification. We shall similarly implement the provisions of the resolutions adopted at the ninth special session.

400. We strongly and vehemently condemn the large-scale incursions of South Africa into neighbouring frontline States, as manifested by the latest invasion of Angola, and wish to repeat our total support for SWAPO, the sole and authentic representative of the Namibian people in their hard struggle for self-determination and independence.

401. Our commitment is equally strong concerning the final eradication of the abhorrent doctrine of *apartheid* practised by the Pretoria régime. Cyprus strongly condemns the continuing terror and brutal repression in South Africa, a recent manifestation of which was the death sentences imposed on the three freedom fighters. These sentences emphasize once again the urgency of the problem and the necessity for speedy implementation of the United Nations resolutions on South Africa.

402. Concerning the question of Western Sahara, we welcome the constructive and dedicated efforts of the OAU to ensure a peaceful solution of this problem through the exercise of the right to self-determination by the people of that Territory. The United Nations should play an active role in the implementation of the relevant decision of the OAU in order to ensure that the referendum is organized and conducted in the most proper, fair and impartial way.

403. In the field of human rights and fundamental freedoms, the United Nations can look back with pride to what has already been achieved, especially in the domain of the promulgation of binding international standards. Much more effort is still needed in the sphere of implementation, especially in cases of mass, flagrant and continuous violations of human rights coming in the wake of aggression from without or upheaval and oppression from within. That is why my delegation holds the firm view that what we need is not idealistic declarations alone; more important, and indeed more urgent, is the need to concentrate on ways and means for their effective and full implementation.

404. Determined and co-ordinated efforts are still needed, but let us not forget that human rights coincided with creation, that they fulfil the aspirations of individuals and that the tide of the quest for their implementation now sweeping the world cannot be stemmed by the prevarications or negative attitudes of individual Governments.

405. In rededicating ourselves to the defence of human rights let us all resolve to co-operate fully with international mechanisms of implementation that we have ourselves set up. In this connection, my delegation would like to commend and express its satisfaction at the work done by such human rights organs as the Commission on Human Rights, the Committee on the Elimination of Racial Discrimination and the Human Rights Committee.

406. We warmly welcome the admission of the Republic of Vanuatu and the accession to independence of Belize. Thus have additional steps been taken towards the achievement of universality by the United Nations and the elimination of colonialism.

407. The question of my country, Cyprus, is part of the long list of subjects on the agenda of the thirty-sixth session. The just and correct remedial actions contained in past resolutions of the Organization providing for the sovereignty, independence, territorial integrity, unity, non-alignment and demilitarization of Cyprus, as well as for the withdrawal of foreign troops, the voluntary return of the refugees to their homes in safety and tracing and accounting for the fate of the missing persons, have unfortunately remained a dead letter, a dismal reminder of the fact that this international giant has the muscles of an in-

fant on its executive arms. The foreign occupation—and not just “the *coup* and subsequent events”—is still the cause of the political malaise which permeates the country.

408. The problem of Cyprus was not discussed in this forum last year. The Government of Cyprus, after extensive consultations with the Governments of the non-aligned countries and many other Governments, decided that this was the right course of action in the circumstances prevailing at that time. This year the question of Cyprus is inscribed on the agenda, while efforts, through negotiations, still continue. This time, however, there is an additional factor: the 12-month-long frustrating experience of the negotiations, during which the grip of the occupying forces has not loosened. Moreover, the situation was not improved in any substantive way by the Turkish Cypriot proposals of 5 August, which were minimal and inadequate.

409. The Turkish Cypriot leader has alleged that he has offered us the stars in his proposals. If he thinks that the stars are equal to 2.7 per cent of an occupied land, then certainly Mr. Denktas's notion of the universe must be erroneous.

410. In view of those factors, we shall insist on a full-scale discussion of the question of Cyprus, either during this session or at a resumed or other session later on, if developments necessitate such a course of action.

411. Since September last year the Secretary-General and his Special Representative in Cyprus, Mr. Gobbi, have been at pains to ensure the achievement of some progress. Mr. Waldheim worked with dedication, and his work is commendable. The results, however, have been trivial compared to the efforts exerted. Despite this situation and despite the very poor progress hitherto, the Greek Cypriot side has expressed the will to continue the dialogue, and in this context it has presented further proposals which will facilitate the negotiating process.

412. In his report on the work of the Organization the Secretary-General, in referring to Cyprus, says:

“To take advantage of this situation, I and my Special Representative may find it necessary to make special efforts and present some new ideas, as appropriate, to sustain the momentum of the negotiating process. I hope that any such moves on my part will be accepted in the spirit in which they are offered, as tools of the negotiating process for the purpose of facilitating progress towards an agreed solution. It bears repeating that continued delay in this effort only serves to consolidate the *status quo*, which both parties have found to be unsatisfactory.” [A/36/1, sect. IV.]

413. We are at the moment meticulously considering the possible initiative just mentioned. We trust that any proposed action of the Secretary-General will be based on his good offices mandate, and they must be within the framework of the United Nations resolutions relevant to the question of Cyprus and the high-level agreements between President Makarios and Mr. Denktas and President Kyprianou and Mr. Denktas which were concluded in the Secretary-General's presence and under his auspices.¹⁹ We are viewing this new development with the seriousness it deserves and we shall not hesitate to express to the Secre-

tary-General our well-considered opinion as soon as possible in the course of the next few weeks.

414. Cyprus is one of the small countries of the world, but its wish and will to contribute towards the solution of problems is enormous. We may be physically maimed but we are mentally and morally unbent and unflappable. We believe that, with hard work, perseverance, goodwill, fairness of mind and devotion to principles, not only small countries like ours but the whole world may find the way to more promising and prosperous days.

415. The PRESIDENT (*interpretation from Russian*): I shall now call on those representatives who wish to speak in exercise of their right of reply. Before giving them the floor, I should like to remind them that, in accordance with General Assembly decision 34/401, statements in right of reply are limited to 10 minutes for the first intervention and 5 minutes for the second. Delegations will speak from their seats.

416. Mr. ZAMBRANO VELASCO (Venezuela) (*interpretation from Spanish*): Unfortunately, the rules of the General Assembly allow only 10 minutes for the right of reply. Hence, I shall mention only the main issues, referring representatives to the text I shall request the President's permission to have distributed.

417. It is with great regret that I am obliged to address the General Assembly in exercise of the right of reply on behalf of Venezuela because of references made by the Prime Minister of Guyana in his statement about my country. I say with great regret because Venezuela's foreign policy is based on solidarity and co-operation among the countries of the third world and, in particular, among the nations of Latin America, as was stated before the Assembly by our President, Mr. Luis Herrera Campíns [5th meeting].

418. The intent of the references made to Venezuela is to present our country as expansionist and interventionist, as one seeking to take advantage of those who are weaker. Internal repression may mean that the people of Guyana can be kept in ignorance of the facts, but other countries can and must be made familiar with the historical and legal bases on which Venezuela's position rests.

419. Our dispute with Guyana does not derive from litigations between the Spanish and British Empires. Its cause is to be found in the plundering by the British of a poor, defenceless Venezuela bled white by the enormous undertaking of liberating the continent.

420. Until the Napoleonic wars, Great Britain had no possessions on the South American sub-continent. When Napoleon invaded Holland, the Dutch king and queen took refuge in England and the latter took under its protection the Dutch colonies of the New World, among them Dutch Guiana. At that time, the western limit of that colony was the Essequibo River. Once Napoleon was overthrown and Holland had returned to normal, when the time had come to return its colonies to its ally, England, in a move very typical of its imperial era, decided to keep the western part of Dutch Guiana—the settlements of Berbice and Demerara.

421. From the time the British Empire reached South America, the plunder of Venezuelan territory began, al-

though Venezuela had proclaimed its independence and was fighting to consolidate it. Year by year, almost day by day, Great Britain extended its incursions and its claims west of the Essequibo until, towards the end of the century, the Orinoco and Caroní Rivers, in the very heart of our country, were in danger. At that point, through an agreement between Great Britain and the United States, Venezuela was obliged to submit to the cynical farce of a travesty of arranged arbitration with neither Venezuelan judges nor lawyers, under threat that if it did not do so the British advance into our territory would continue indefinitely. Thus, it was sought to give a grotesque semblance of legality to the plundering of one sixth of our national territory.

422. In no way do we seek to blame the young nation of Guyana for these events. Those who seized our country's territory were the very same who enslaved and then ruthlessly exploited, under the colonial régime, the ancestors of the Guyanese of today. Hence Venezuela, following a line of conduct which some might deem naive—but one of which we Venezuelans are proud—did not allow its just claim to serve as an excuse for hampering or deferring Guyana's independence. We accepted and promoted the freedom of our neighbours without selfishness and without prior conditions.

423. On the contrary, in 1966 we negotiated and signed the Geneva Agreement⁶ to resolve the dispute with Guyana, inherited from Great Britain, by peaceful and civilized means. Under that Agreement, the signatory countries were solemnly committed to seeking satisfactory solutions for a practical settlement of the dispute.

424. This is the core of the matter: Guyana and Venezuela, freely and without pressure or threats, entered into an obligation to seek satisfactory solutions for a practical settlement of the territorial dispute between them.

425. Unfortunately, the present Government of Guyana has shown a tendency to accept the infamies of the past. Venezuela's attempts at dialogue met with a wall of intransigence, and the stated policy of the Government of Guyana is at all costs to make the *de facto* situation in the territories under dispute such that any settlement is impeded or rendered impossible. The unbelievable horror of the Jonestown massacre showed the world the evil results of that policy.

426. We Venezuelans are aware of the serious and growing economic and social difficulties afflicting the young nation of Guyana. In so far as our modest means allow, we have tried to offer our co-operation. None the less, we believe that any attempt to distract the attention of public opinion from immediate real problems and towards outside, non-existent threats must be resisted.

427. Venezuela is not asking friendly countries for any support that would mean taking sides against Guyana, because we are aware that territorial issues cannot be properly resolved through the interference of other States in matters not within their competence. Venezuela seeks only understanding and study, the more thorough the better, of the territorial problem between our country and Guyana.

428. I clearly condemn the actions and statements of the Government of Guyana as designed to seek international

support or to publicize alleged or non-existent backing, or to create enmity towards Venezuela. I condemn such activities as machinations designed to see Venezuela fall into the trap of an ill-considered reaction.

429. The arrogant, disobliging, provocative and even insulting attitudes displayed by personages from the present Government of Guyana towards Venezuela are only to be understood as their attempt to seek excuses not to carry out their contractual obligation to negotiate satisfactory solutions for a practical settlement of the dispute.

430. I admit that we are, for economic, demographic, military and other reasons, in a stronger position than Guyana. I am aware that the responsibility for the defence and security of a growing country means better equipping our armed forces. But I emphatically deny that Venezuela harbours any aggressive intentions towards Guyana.

431. Venezuela wishes above all to win the battle of peace and brotherhood with Guyana, because we are inevitably neighbours and because, to a great extent, we are children of the same American history. Thousands of Venezuelans are descendants of people from beyond the Essequibo. Francisco Isnardi, secretary and drafter of our Act of Independence, had, prior to coming to Caracas, been the owner of land in the Demerara region. Army doctors in colonial Stabroek, now Georgetown, came to the Orinoco before and during our wars of independence. But above all, thousands of slaves from Demerara gained freedom by fleeing to the Orinoco Strait, to enrich the complex of races that go to make up today's Venezuelans. First and foremost, however, we have our Amerindian ancestors in common.

432. Let me repeat and assure you that Venezuela wishes to win the battle of peace, because it is within peace and understanding that is to be found the goal of achieving a satisfactory solution for a practical settlement of the dispute.

433. Therefore I wish to conclude this statement about Guyana with an appeal for friendship to the Government of Guyana, so that in sincerity and with good faith it will fulfil its responsibilities under the Geneva Agreement of 1966 and so that the Guyanese and Venezuelan peoples together, in a spirit of responsibility and good-neighbourly relations, can finally eradicate the unfortunate vestiges of the crimes of colonialism of which we were both victims.

434. With reference to Cuba, we are exercising our right of reply because of the Foreign Minister's rhetoric. The delegation of a country with such mortgaged sovereignty as Cuba cannot have anything to say about a democratic, sovereign, fully independent and free State such as Venezuela.

435. Fidel Castro's dictatorial régime finances, directs, trains and supports all the adventurism in Central America, South America and the Caribbean and, as the instrument of a super-Power's policy, also takes part in actions in other parts of the world.

436. The Assembly heard the statement of Luis Herrera Campíns, a president who is aware of the sovereignty of his country. The President of Venezuela talks with his own voice. Unfortunately, Cuba cannot say as much.

437. The present Constitution of Cuba, adopted under the tyranny of Castro, is the only Constitution in the entire Latin American region that pays the vassal's tribute to a super-Power. President Castro takes part, led by the hand by the aggressors, in the sad chorus of those who support the invasion of non-aligned countries such as Afghanistan and Kampuchea. Castro's tyranny undertakes military adventures, in many parts of the third world.

438. My country itself suffered in the 1960s from military aggression on the part of Cuba. We beat it militarily and otherwise. It was the first resounding defeat for Cuban military interventionism. Cuba also supports terrorism.

439. I have the greatest affection for the people of Cuba, but we condemn the Cuban executioners.

440. Today, the voice of the executioner speaks for Cuba, not the voice of José Martí.

441. The PRESIDENT (*interpretation from Russian*): I appeal to representatives speaking in exercise of the right of reply to abide by the 10-minute rule.

442. Mr. GOULDING (United Kingdom): In his statement in the general debate yesterday afternoon the Foreign Minister of Honduras [10th meeting] stated, with reference to the Heads of Agreement signed by the United Kingdom, Guatemala and Belize last March, that the group of islands known as the Cayos Zapotillos belonged to Honduras. My delegation has been instructed to state that the United Kingdom does not accept that claim. The United Kingdom had no doubt of its sovereignty over the Cayos Zapotillos as part of the territory of Belize up to the date of Belize's independence. On the granting of independence to Belize on 21 September this year—which we note with pleasure has been welcomed by the Government of Honduras—sovereignty over the Cayos Zapotillos passed to the State of Belize. In the view of the British Government, the Heads of Agreement, including the paragraph that envisages that Guatemala should be given certain rights of use and enjoyment of the Cayos Zapotillos, represent a satisfactory basis for a settlement of the dispute between Belize and Guatemala.

443. Before the independence of Belize, the British Government made this position clear to the Government of Honduras and also expressed the hope that it would be possible for Belize and Honduras to reach a mutually acceptable understanding on the matter.

444. The statement I have just made has been made after consultation with the Government of Belize.

445. On a separate question, I should like to state that my delegation looks forward to studying at leisure the transcript of the interesting statement just made in exercise of the right of reply by the representative of Venezuela, in order to discover whether there are any points in it on which my delegation would like to exercise its right of reply at some later date.

446. Mr. CASTRO ARAÚJO (El Salvador) (*interpretation from Spanish*): The Soviet Union's puppet in the Caribbean made a public statement here this afternoon that Cuba had the right to give military assistance to the groups of terrorists and guerrillas who are trying—in

vain—to destabilize the Government of El Salvador. Therefore, in exercise of that right, it is solely responsible for the bloodshed that this violent Cuban military aid has caused in my country, as it has caused bloodshed and continues to do so in many developing countries. Cuba is solely responsible for the violent events which are now occurring and which will occur in Central America.

447. Respect for the principle of non-intervention is a victory for the Americas which dates back more than 50 years. Unfortunately, the Government of Cuba lost it more than 20 years ago, because all its orders come directly from the Soviet Union.

448. The large majority of Latin American countries support the Government of El Salvador, maintaining the traditional principle of non-interference in the internal or external affairs of other States.

449. It is ridiculous for the most ferocious tyranny known to Latin America, where human rights have no place and where the people have no possibility of self-expression, to set itself up as a defender of so-called freedom when its unavowed designs on democracy are well known.

450. The statement made this afternoon by the Government of Sweden indicates a crass ignorance of the problem in El Salvador, offering frank support to guerrilla and terrorist movements which cause all the violence, which all honest Salvadorians are determined to end by democratic and peaceful means.

451. We should like to remind Sweden that underdevelopment is not confined to El Salvador and neither are the causes of internal discontent. We are aware that there is a need for structural change, and in this regard we have begun the most radical internal changes, which will lead to democracy, justice and general well-being in El Salvador.

452. It is regrettable that people uninformed about the El Salvador question should make irresponsible judgments and thereby support Marxism and intervention.

453. Mr. SINCLAIR (Guyana): My delegation has listened carefully—or tried to do so—to the Minister for Foreign Affairs of Venezuela speaking in exercise of the right of reply.

454. We have received the documentation which the delegation of Venezuela was kind enough to make available to members of the Assembly. I should have liked to reply this evening to the presentation made by the Minister, but on account of the detailed and voluminous nature of this documentation I would at this stage merely reserve my right to exercise my right of reply at a later stage in the proceedings of the Assembly.

455. Mr. MARTÍNEZ URDANETA (Venezuela) (*interpretation from Spanish*): I simply want to inform the President on my country's behalf that we reserve the right to speak in exercise of the right of reply should Guyana do so.

The meeting rose at 8.45 p.m.

