

N° 4087.

**BRÉSIL
ET GRANDE-BRETAGNE
ET IRLANDE DU NORD**

Echange de notes comportant un accord relatif à la délimitation des terrains riverains formant partie de la frontière entre le Brésil et la Guyane britannique. Londres, les 27 octobre et 1^{er} novembre 1932.

**BRAZIL
AND GREAT BRITAIN
AND NORTHERN IRELAND**

Exchange of Notes constituting an Agreement for the Delimitation of the Riverain Areas of the Boundary between Brazil and British Guiana. London, October 27th and November 1st, 1932.

No. 4087.— EXCHANGE OF NOTES¹
BETWEEN THE BRAZILIAN
GOVERNMENT AND HIS MA-
JESTY'S GOVERNMENT IN THE
UNITED KINGDOM CONSTI-
TUTING AN AGREEMENT FOR
THE DELIMITATION OF THE
RIVERAIN AREAS OF THE
BOUNDARY BETWEEN BRAZIL
AND BRITISH GUIANA. LON-
DON, OCTOBER 27TH AND NO-
VEMBER 1ST, 1932.

Nº 4087. — TROCA DE NOTAS¹
ENTRE O GOVERNO BRASI-
LEIRO E O GOVERNO DE SUA
MAJESTADE NO REINO UNIDO
RELATIVAS A UN ACCORDO
SOBRE A DELIMITACAO DAS
AREAS RIBEIRINHAS DA
FONTEIRA ENTRE O BRASIL E
A GUYANA BRITANNICA. LON-
DRES, EM 27 DE OUTUBRO E
EM 1 DE NOVEMBRO DE 1932.

*English and Portuguese official texts communi-
cated by the Brazilian Envoy Extraordinary
and Minister Plenipotentiary at Berne. The
registration of this Exchange of Notes took
place April 6th, 1937.*

*Textes officiels anglais et portugais communiqués
par l'envoyé extraordinaire et ministre pléni-
potentiaire du Brésil à Berne. L'enregistrement
de cet échange de notes a eu lieu le 6 avril 1937.*

I.

FOREIGN OFFICE, S.W.I.

No. A 7079/27/6.

October 27th, 1932.

YOUR EXCELLENCY,

In order to give effect to the desire expressed by the Brazilian Government that His Majesty's Government in the United Kingdom and the Brazilian Government should reach an agreement as to the principles to be adopted by the Mixed Commission in the delimitation of the riverain areas of the boundary between British Guiana and Brazil, I have the honour to make the following detailed proposals on the basis of the proposals already put forward by the Brazilian Government :

(i) Without prejudice to the provisions relating to the sovereignty of islands contained in paragraph (iii), the boundary line at any particular time shall be the thalweg of the river wherever the thalweg may be situated at that time. It is understood that the water and not the river bed is to be the boundary. The thalweg is understood to imply the line of minimum level along the bed of the river throughout its length. Where, owing to rapids or to any other cause, it is not possible to determine the position of the thalweg, the median line of the channel which offers the most favourable course for down-stream navigation shall be the boundary.

¹ Came into force November 1st, 1932.

¹ Entré en vigueur le 1^{er} novembre 1932.

(ii) Subject to the provisions of paragraph (iii) the sovereignty of islands shall be determined by their situation in relation to the thalweg at the time of demarcation, or to the median line in reaches where it forms the boundary. Islands shall belong to that State on whose side of the boundary they are situated.

(iii) The position of the thalweg cannot be relied upon to remain constant owing to the natural action of the water, e.g., the gradual deposit of alluvium silting up and perhaps even closing channels. The question of the change of sovereignty of islands on account of the movement of the thalweg through such causes shall be determined as follows :

(a) Where, owing to the gradual movement of the thalweg, an island situated at the time of demarcation on one side of it is found, at any subsequent time, to be situated on the opposite side of the thalweg and still remains an island, its sovereignty shall not change, despite the change in the position of the thalweg.

(b) Where, owing to the gradual movement of the thalweg or to the deposit of alluvium or to the other gradual and natural causes, an island situated at the time of demarcation in the territory of one State becomes joined to the territory of the other State its sovereignty shall change.

(c) Where, in virtue of the gradual and natural action of the river, two islands of different sovereignty unite and form one island, the sovereignty of the island resulting from that union shall be determined by its position with relation to the thalweg at that time.

(d) An island shall be deemed to be joined to another island or to the mainland when the level of the bed separating the two shall have risen to a height greater than that of the water at other than flood periods in that part of the river.

(e) Where, owing to the deposit of alluvium, or other gradual and natural causes, a new island is formed attaining a height greater than that of the water at other than flood periods in that part of the river, where previously no land existed, it shall belong to that State on whose side of the thalweg it may be situated, wherever the thalweg may be at the time of the appearance of the island.

(f) Each State shall have the right both to protect its own banks and islands from the gradual and natural action of the river and also to effect works in its own territory to prevent any local deviation of the current of the main stream, or of any branch of the river, from its course at the time, provided in both cases that such works do not themselves cause any such deviation elsewhere.

(iv) If the river should suffer complete dislocation of its course, on account of any sudden natural phenomenon, in such a way as to abandon its bed and to open up another, the boundary line shall continue to be the thalweg of the river. In such a case the State affected by the loss of territory shall have the right to force the river back into its abandoned bed within a space of four years from the date on which the change of course became known to it.

(v) Nevertheless, in every case where change of sovereignty of land is involved, the property rights of the population shall be observed, and the State affected by the loss of territory shall have the right to a reasonable indemnity from the other State, the amount to be fixed by mutual agreement. In the event of the two States failing to agree upon the amount of the indemnity, the matter shall be submitted for arbitration by the Permanent Court of International Justice and both States shall abide by the decision of the Court.

(vi) The river shall be open to free navigation and fishing to both States throughout that portion of its length which constitutes the boundary but no works shall be permitted other than those intended solely to retain the river in its present course and not involving any risk of altering that course except with the mutual consent of the Governments of both States and any work such as canalisation, irrigation, or the development of electrical power shall only be undertaken subject to the mutual consent of both riparian States.

2. If the Brazilian Government agree to the adoption of these principles by the Mixed Commission, I have the honour to suggest that the present note and Your Excellency's note in reply accepting the proposals be regarded as constituting an Agreement between the two Governments to this effect.

I have the honour to be, with the highest consideration, Your Excellency's obedient Servant.

(For the Secretary of State) :

(Signed) R. L. GRAIGIE.

His Excellency

Monsieur Raul Régis de Oliveira, G.B.E.,
etc., etc., etc.

Confere :

(a) Decio Moura,
Secretario da Embaixada do Brasil.

Conforme :

(a) Carlos Taylor,
Conselheiro da Embaixada.

E copia autentica :

Secretaria de Estado das Relações Exteriores.
Rio de Janeiro D.F., em 13 de Fevereiro de 1937.

R. Mendes Gonçalves,
Chefe do Serviço dos Limites e Actos Internacionaes.

II.

TEXTE PORTUGAIS. — PORTUGUESE TEXT.

Nº 59.

LONDRES, 1 de Novembro de 1932.

SENHOR SECRETARIO DE ESTADO,

Tenho a honra de accusar recebida a Nota Nº A 7079/27/6, de 27 de Outubro ultimo, pela qual Vossa Excellencia, com o fim de attender ao desejo manifestado pelo Governo brasileiro de que o Governo de Sua Majestade britannica no Reino Unido e o Governo brasileiro cheguem a um accôrdo sobre os principios a serem adoptados pela Comissão Mixta de delimitação das áreas ribeirinhas da fronteira entre o Brasil e a Guyana britannica, faz a seguinte proposta detalhada, baseada na proposta já anteriormente apresentada pelo Governo brasileiro, que tenho a honra de aceitar :

(I) Sem prejuizo das disposições, contidas no paragrapho n. III, relativamente á soberania das ilhas, a linha de fronteira

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

II.

¹ TRADUCTION. — TRANSLATION.

No. 59.

LONDON, November 1st, 1932.

MONSIEUR LE SECRÉTAIRE D'ÉTAT,

I have the honour to acknowledge receipt of note No. A.7079/27/6, dated October 27th last, in which Your Excellency, for the purpose of giving effect to the desire expressed by the Brazilian Government that His Majesty's Government in the United Kingdom and the Brazilian Government should reach an agreement as to the principles to be adopted by the Mixed Commission in the delimitation of the riverain areas of the boundary between Brazil and British Guiana, made the following detailed proposals, which are based on the proposals already put forward by the Brazilian Government, and which I have the honour to accept :

(I) Without prejudice to the provisions relating to the sovereignty of islands contained in paragraph (III), the boundary

¹ Translated by the Secretariat of the League of Nations, for information.

em qualquer momento determinado, será o thalwegue do rio, onde quer que o thalwegue possa estar situado nesse momento. Fica assente que a agua, e não o leito do rio, será o limite. Entende-se por thalwegue a linha do nivel mais baixo no leito do rio, em toda a sua extensão. Quando, em virtude de saltos ou de qualquer outra causa, não fôr possível determinar a posição do thalwegue, o limite será a linha mediana do canal que offerecer o curso mais favoravel para a navegação rio abaixo.

(II) Observadas as disposições do paragrapho n. III, a soberania das ilhas será determinada pela sua situação em relação ao thalwegue no momento da demarcação, ou á linha mediana, nas extensões em que esta seja o limite. As ilhas pertencerão ao Estado, em cujo lado da fronteira estiverem situadas.

(III) Não se póde confiar em que a posição do thalwegue permaneça constante, em consequencia da acção natural das aguas, por exemplo o deposito gradual de alluvião que enche de lodo e até ás vezes obstrue canaes. A questão da mudança de soberania de ilhas por motivo do deslocamento do thalwegue, em razão de taes causas, será resolvida como se segue :

(a) Quando, em virtude do deslocamento gradual do thalwegue, uma ilha, situada no momento da demarcação de um dos seus lados, ficar, em qualquer momento subsequente, situada do lado opposto, e continuar a ser uma ilha, — a sua soberania não mudará, apesar de alterada a posição do thalwegue.

(b) Quando, em virtude de deslocamento gradual do thalwegue ou do deposito de alluvião ou de outras causas graduas e naturaes, uma ilha, situada, no momento da demarcação, no territorio de um Estado, se unir ao territorio do outro Estado, — a sua soberania mudará.

(c) Quando, em virtude da acção gradual e natural do rio, duas ilhas de soberania differente se unirem e formarem uma só ilha, — a soberania da ilha resultante dessa união será determinada pela sua posição, nesse momento, em relação ao thalwegue.

line at any particular time shall be the thalweg of the river wherever the thalweg may be situated at that time. It is understood that the water and not the river bed is to be the boundary. The thalweg is understood to imply the line of minimum level along the bed of the river throughout its length. Where, owing to rapids or to any other cause, it is not possible to determine the position of the thalweg, the median line of the channel which offers the most favourable course for downstream navigation shall be the boundary.

(II) Subject to the provisions of paragraph (III) the sovereignty of islands shall be determined by their situation in relation to the thalweg at the time of demarcation, or to the median line in reaches where it forms the boundary. Islands shall belong to that State on whose side of the boundary they are situated.

(III) The position of the thalweg cannot be relied upon to remain constant owing to the natural action of the water, e.g., the gradual deposit of alluvium silting up and perhaps even closing channels. The question of the change of sovereignty of islands on account of the movement of the thalweg through such causes shall be determined as follows :

(a) Where, owing to the gradual movement of the thalweg, an island situated at the time of demarcation on one side of it is found, at any subsequent time, to be situated on the opposite side of the thalweg and still remains an island, its sovereignty shall not change, despite the change in the position of the thalweg.

(b) Where, owing to the gradual movement of the thalweg or to the deposit of alluvium or to the other gradual and natural causes, an island situated at the time of demarcation in the territory of one State becomes joined to the territory of the other State its sovereignty shall change.

(c) Where, in virtue of the gradual and natural action of the river, two islands of different sovereignty unite and form one island, the sovereignty of the island resulting from that union shall be determined by its position with relation to the thalweg at that time.

(d) Entender-se-á que uma ilha se uniu a outra ilha ou ao continente quando o nível do leito intermedio houver subido, nessa parte do rio, a uma altura maior do que a da agua em periodos que não os de enxurradas.

(e) Quando, em virtude do deposito de alluvião ou de outras causas graduas e naturaes, se formar uma ilha nova, que attinja uma altura maior do que a da agua em periodos que não os de enxurradas nessa parte do rio, onde antes nenhuma terra existia, — a ilha pertencerá ao Estado de cujo lado do thalwegue estiver situada, seja qual fôr o lugar do thalwegue na occasião do apparecimento da ilha.

(f) Cada Estado terá o direito tanto de proteger as suas proprias margens e ilhas contra a acção gradual e natural do rio, como de effectuar trabalhos no seu proprio territorio para prevenir qualquer desvio local do curso da corrente principal, ou de qualquer braço do rio, no momento, — contanto que, em ambos os casos, esses trabalhos não causem por sua vez desvios semelhantes em qualquer outra parte.

(IV) Se o rio soffrer completa deslocação do seu curso, em virtude de qualquer phenomeno natural repentino, de tal sorte que abandone o proprio leito e abra outro, a linha de fronteira continuará a ser o thalwegue do rio. En tal caso, o Estado prejudicado pela perda de territorio terá o direito de forçar a volta do rio ao leito abandonado, dentro do espaço de quatro annos, a contar da data em que a mudança do curso tiver chegado ao seu conhecimento.

(V) Entretanto, em todos os casos em que a mudança de soberania da terra estiver envolvida, os direitos de propriedade da população serão respeitados, e o Estado prejudicado pela perda de territorio terá direito a uma indemnisação razoavel por parte do outro Estado, devendo o montante ser fixado por mútuo accôrdo. Dado o caso em que os dois Estados não cheguem a accôrdo sobre a importancia da indemnisação, será a divergencia submettida á arbitragem da Côte permanente de Justiça Internacional, a cuja decisão ambos os Estados terão que se sujeitar.

(d) An island shall be deemed to be joined to another island or to the mainland when the level of the bed separating the two shall have risen to a height greater than that of the water at other than flood periods in that part of the river.

(e) Where, owing to the deposit of alluvium, or other gradual and natural causes, a new island is formed attaining a height greater than that of the water at other than flood periods in that part of the river, where previously no land existed, it shall belong to that State on whose side of the thalweg it may be situated, wherever the thalweg may be at the time of the appearance of the island.

(f) Each State shall have the right both to protect its own banks and islands from the gradual and natural action of the river and also to effect works in its own territory to prevent any local deviation of the current of the main stream, or of any branch of the river, from its course at the time, provided in both cases that such works do not themselves cause any such deviation elsewhere.

(IV) If the river should suffer complete dislocation of its course, on account of any sudden natural phenomenon, in such a way as to abandon its bed and to open up another, the boundary line shall continue to be the thalweg of the river. In such a case the State affected by the loss of territory shall have the right to force the river back into its abandoned bed within a space of four years from the date on which the change of course became known to it.

(V) Nevertheless, in every case where change of sovereignty of land is involved, the property rights of the population shall be observed, and the State affected by the loss of territory shall have the right to a reasonable indemnity from the other State, the amount to be fixed by mutual agreement. In the event of the two States failing to agree upon the amount of the indemnity, the matter shall be submitted for arbitration by the Permanent Court of International Justice and both States shall abide by the decision of the Court.

(VI) O rio será aberto á livre navegação e á pesca de ambos os Estados, de uma extremidade á outra da parte limitrophe, mas só serão permittides as obras que visem apenas manter o rio no seu curso actual e não envolvam risco algum de alterar esse curso, excepto com o mútuo consentimento dos Governos de ambos os Estados, e qualquer trabalho, tal como canalização, irrigação ou captação de energia electrica, só será emprehendido mediante mútuo consentimento de ambos os Estados marginaes.

2. Fica entendido que a presente nota e a de Vossa Excellencia, de 27 de Outubro ultimo, constituem um accôrdo entre os Governos brasileiro e o de Sua Majestade britannica no Reino Unido para os effeitos acima referidos.

Tenho a honra de reiterar a Vossa Excellencia os protestos da minha mais alta consideração.

(a) Raul Régis DE OLIVEIRA.

A Sua Excellencia
The Right Honourable
Sir John Simon,
G.C.S.I., K.C.V.O., K.C., M.P.,
Principal Secretario de Estado
de Sua Majestade Britannica
para os Negocios Estrangeiros.

E copia authentica :
Secretaria de Estado das Relações Exteriores.

Rio de Janeiro D.F.,
em 13 de Fevereiro de 1937.

R. Mendes Gonçalves,
*Chefe do Serviço dos Limites
e Actos Internacionaes.*

(VI) The river shall be open to free navigation and fishing to both States throughout that portion of its length which constitutes the boundary, but no works shall be permitted other than those intended solely to retain the river in its present course and not involving any risk of altering that course except with the mutual consent of the Governments of both States and any work such as canalisation, irrigation, or the development of electrical power shall only be undertaken subject to the mutual consent of both riparian States.

2. It is understood that the present note and Your Excellency's note, dated October 27th last, constitute an agreement between the Brazilian Government and His Britannic Majesty's Government in the United Kingdom to this effect.

I have the honour to be, etc.

(Signed) Raoul Régis DE OLIVEIRA.

The Right Honourable
Sir John Simon,
G.C.S.I., K.C.V.O., K.C., M.P.,
His Britannic Majesty's
Principal Secretary
of State for Foreign Affairs.

¹ TRADUCTION. — TRANSLATION.

N^o 4087. — ÉCHANGE DE NOTES ENTRE LE GOUVERNEMENT BRÉSILIEN ET LE GOUVERNEMENT DE SA MAJESTÉ DANS LE ROYAUME-UNI COMPORTANT UN ACCORD RELATIF A LA DÉLIMITATION DES TERRAINS RIVERAINS FORMANT PARTIE DE LA FRONTIÈRE ENTRE LE BRÉSIL ET LA GUYANE BRITANNIQUE. LONDRES, LES 27 OCTOBRE ET 1^{er} NOVEMBRE 1932.

I.

FOREIGN OFFICE, S.W.I.

N^o A 7079/27/6.*Le 27 octobre 1932.*

MONSIEUR L'AMBASSADEUR,

Pour répondre au désir exprimé par le Gouvernement brésilien de voir le Gouvernement de Sa Majesté dans le Royaume-Uni et le Gouvernement brésilien se mettre d'accord sur les principes qui devront être adoptés par la Commission mixte pour la délimitation des terrains riverains formant partie de la frontière entre la Guyane britannique et le Brésil, j'ai l'honneur de faire les propositions détaillées suivantes sur la base des propositions déjà présentées par le Gouvernement brésilien :

i) Sans préjudice des dispositions relatives à la souveraineté des îles, contenues au paragraphe iii), la ligne frontière à quelque époque que ce soit sera le thalweg de la rivière, quelle que soit la place du thalweg au moment donné. Il est entendu que c'est l'eau, et non pas le lit de la rivière, qui forme la frontière. On entend par thalweg l'étiage de la rivière dans toute la longueur de son lit. Lorsque, par suite de l'existence de rapides ou pour toute autre cause, il n'est pas possible de préciser la position du thalweg, la ligne médiane du chenal qui offre le parcours le plus favorable à la navigation descendante formera la frontière.

ii) Sous réserve des dispositions du paragraphe iii), la souveraineté des îles sera déterminée par leur situation par rapport au thalweg à l'époque de la délimitation, ou par rapport à la ligne médiane dans les endroits où celle-ci forme la frontière. Les îles appartiendront à l'Etat du côté duquel elles se trouvent par rapport à la frontière.

iii) Par suite de l'action naturelle des eaux, comme, par exemple, du dépôt graduel d'alluvions envasant et peut-être même comblant entièrement certains chenaux, on ne peut s'attendre à ce que la position du thalweg demeure constante. La question du changement de souveraineté des îles par suite d'un déplacement du thalweg dû à des causes de ce genre sera résolue comme suit :

a) Lorsque, par suite du déplacement graduel du thalweg, une île située d'un côté de ce thalweg à l'époque de la délimitation se trouve, à une époque ultérieure, située du côté opposé, tout en restant une île, sa souveraineté ne changera pas, malgré le changement de position du thalweg.

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.