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Boundary between the Colony of British Guiana and the United States of Brazil.

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, DATED THE 6TH
JUNE, 1904.

Translation.

Victor Emmanuel III by the Grace of God and the will of the nation, King of Italy, Arbitrator to decide 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 decreed, by the Treaty concluded between them at London, on November 6th, 1901, to ask us to decide, in the quality of an Arbitrator, the question relating to the frontier between British Guiana and Brazil, we have accepted to define this boundary.

The High Parties in dispute having engaged themselves by the said treaty ratified at Rio de Janeiro, January 28th, 1902, to accept our arbitration award as a settlement, complete, perfect and definite of the question which they have referred to us, in our good wish to respond to the confidence that the said parties have placed in us, we have attentively examined all the memoranda and all the documents which have been shown us and we have sifted and weighed the reasons on which each of the two High Parties founds his special claim.

Having duly taken all into account we have considered—

1. That the discovery of new ways of traffic in regions which do not belong to any State cannot constitute by itself a claim of sufficient validity to give sovereignty over such regions to the State whose subjects made the discovery:

2. That, in order to acquire sovereignty over a region not in the domain of any State, it is indispensable to effect occupation in the name of the State which proposes to acquire dominion:

3. That occupation cannot be regarded as accomplished unless it be consequent upon an effective, uninterrupted, and permanent taking of possession in the name of the State, and that the simple affirmation of the rights of sovereignty or intention manifested of proposing to render occupation effective cannot suffice;

4. That the taking of effective possession of a part of a region, although it can be regarded as efficacious to acquire sovereignty over the whole region when the latter constitutes a single organism, cannot be regarded as efficacious for the acquisition of sovereignty over a whole region when, on account of its extent or physical configuration, it cannot be regarded as a *de facto* organic unity:

5. That as the result of the consideration given to the matter it cannot be admitted as established that Portugal first and then Brazil had carried out an effective taking of possession of the whole of the territory in dispute, but it can only be recognised that these States took possession of some places of the said territory and that they exercised their sovereign rights there.

On the other hand, we have considered—

1. That the arbitral award delivered on October 3, 1899, by the Anglo-American Tribunal, which, in deciding the differences between Great Britain and Venezuela, assigned to the former of these two Powers territory at present in dispute cannot be invoked as a title against Brazil, which had nothing to do with those proceedings:

2. That, notwithstanding that the right of the United Kingdom of Great Britain and Ireland, in its quality of successor to Holland, to which the colony formerly belonged, is based on the exercise of rights of jurisdiction by the Dutch West Indies Company, which, having been granted sovereign powers by the Dutch Government, performed acts of sovereign authority over certain localities in the zone in dispute, by regulating the trade which for a long time had been carried on there by the Dutch, controlling it, subjecting it to the orders of the Governor of the colony, and succeeding in making the natives partially recognise the powers of that official:

3. And that these acts of authority and jurisdiction with regard to merchants and native tribes were continued in the name of British sovereignty when Great Britain took possession of the colony belonging to the Dutch:

4. And that such an effective affirmation of the rights of sovereign jurisdiction was gradually developed and was not controverted, and that it came to be gradually accepted even by the independent native tribes dwelling in the regions which could not be regarded as included in the effective domain of Portuguese sovereignty and subsequently of Brazilian sovereignty.

5. And that in consequence of this successive development of the power of jurisdiction, the acquisition of sovereignty by Holland first, and later by Great Britain, was effected over a certain part of the territory in dispute:

6. And that the documents which have been submitted to us, and which we have duly appreciated and weighed, furnish historical and judicial claims on which very precise and clearly defined rights of sovereignty in favour of the one or the other of the two Powers concerned can be founded only as regards some portions of the territory in dispute and not as regards the entirety of the said territory:

7. And that the limit itself of the zone of territory over which the rights of sovereignty of one or the other of the two High Parties must be regarded as established cannot be fixed precisely:

8. And furthermore that it cannot be decided with certainty whether the preponderating right rests with Brazil or with Great Britain.

In the circumstances, as we have to fix a frontier line between the territories of the two Powers, we have arrived at the conviction that in the present state of geographical knowledge of the country it is not possible to divide the disputed territory into equal parts either as regards superficial area or value, but that it is necessary to divide it by taking into account the lines drawn by nature and to give preference to the line which being the best throughout its whole length lends itself best to an equitable division of the contested territory.

For these reasons we decide as follows—

The frontier between British Guiana and Brazil remains fixed by the line which starts from Mount Yakontipu, continues in an easterly direction along the watershed to the source of the Ireng (Mahu), proceeds down the course of that river to its confluence with the Tacutu, follows the course of the Tacutu to its source, where it joins the line of frontier established by the declaration annexed to the treaty of arbitration concluded in London by the high contracting Powers concerned on November 6th, 1901. In virtue of that declaration, all that part of the zone in dispute lying to the east of the line of frontier will belong to Great Britain, and all that part which is to the west will belong to Brazil. The frontier along the rivers Ireng (Mahu) and Tacutu remains fixed by the *Thalweg*, and the said rivers will be open to free navigation of the two States bordering on it. When the rivers divide into several branches, the frontier will follow the *Thalweg* of the most easterly branch.