

27th September 2020

Dear Mark Stephens CBE (Chair), Charmian Gooch, Patrick Alley, Simon Taylor, Mark Hannam, Gaby Darbyshire, Fatima Hassan, Chinmayi Arun, Juana Kweitel,

Guyana's sovereignty over its territory

Your report "Signed Away" claims in eight (8) different places that Guyana has a 'border dispute' with Venezuela. That is factually and legally incorrect. There is no border dispute.

Your report conflicts with the United Nations position as set out in statements issued by successive Secretaries-General describing the situation as a "border controversy" not a "border dispute." Your report contradicts the United Kingdom's long standing foreign policy position that there is a border controversy not a dispute. Your report undermines Guyana's international standing by describing the border controversy as a border dispute.

A border 'dispute' between Guyana and Venezuela calls into question Guyana's sovereignty over two-thirds of its territory. A border 'controversy' is limited to dealing peacefully with Venezuela's attempts to question the binding arbitration decision of 1899 which Venezuela had accepted for more than 60 years as the final settlement of the border.

The language of your report is intemperate and inflammatory e.g.

*"Guyana is also involved in a **long-standing border dispute** with its western neighbour Venezuela."*

*Guyana and Venezuela are currently **locked in a dispute** over the location of their mutual land and maritime border..."*

Your report was released several months after Guyana applied to the International Court of Justice for peaceful settlement of the controversy under the mechanism of the Geneva Agreement i.e. the "Agreement to resolve the controversy over the frontier between Venezuela and British Guiana".

Yet Global Witness misrepresented the case, stating instead,

*"Mar 29: Guyana files Venezuela **border dispute case before ICJ**".*

A report by a CSO like Global Witness would normally be of little consequence but this is an exception. Global Witness has promoted the report extensively in the national and international press. The border 'dispute' language has been picked up by the press even in Canada.¹ Such language may be prejudicial to Guyana's international position at a time when the matter is before the International Court of Justice.

We are a sovereign people. We object strongly to Global Witness' disrespect for our sovereignty and our security as Guyanese people as evidenced by Global Witness' use of language, escalating a 'controversy' into a 'dispute'.

¹ <https://www.thestar.com/news/world/americas/2020/02/03/watchdog-group-says-guyana-lost-billions-in-exxon-oil-deal.html>

Letter to Global Witness: Guyana's sovereignty over its territory

We request you as the Board of Directors of Global Witness to

- (i) publicly withdraw "Signed Away";
- (ii) issue a public apology to the people of Guyana for misrepresenting the border controversy as a border dispute; and
- (iii) undertake that Global Witness will not carry out any further work in Guyana.

Mark Stephens, the chair of the board, states on his website that he has acted for the governments of various sovereign states.² Mr Stephens must surely understand the importance of using language that fully respects the nuances of international law. In light of Global Witness' disregard for Guyana's sovereignty over its territory, it is difficult to see how Mr Stephens can act in good faith for governments while he remains chair of Global Witness.

Guyana is a small country with GDP per capita of less than US\$5,000. Nevertheless, we will continue to provide refuge and humanitarian assistance to our Venezuelan sisters and brothers whose country is in crisis and whose vast oil reserves have failed to bring peace and prosperity to its people.

Yours sincerely,

Anne Braithwaite
Concerned Guyanese

Leland De Cambra
Concerned Guyanese

Patrick Chesney
Guyana Shield Initiative

Fred Collins
President
Transparency Institute Guyana Inc.

Jerri Dias
Secretary
7 Re Inc.

Terence D'Aguiar
Businessman

Dacia De Freitas
Former teacher

Duane De Freitas
Tour Operator
Rupununi

² <https://www.howardkennedy.com/en/people/mark-stephens-cbe>

Justin De Freitas
Ranch Manager
Rupununi

Quaadad De Freitas
Tour Guide
Rupununi

Sandra De Freitas
Retired
Rupununi

Anthony de Goas
Miner

Ronnie Fernandes SJ
Rupununi

Marcel Gaskin
Engineer

Ramon Gaskin
Public Interest Research and Action Inc.

Charles Harley
Security manager

Leroy Ignacio
Businessman/tour guide
Shulinab, Rupununi

Anna Iles
A Fair Deal for Guyana – A Fair Deal for the Planet

Edward McTurk
Karanambu Ranch, Rupununi

Melanie Mcturk
Karanambu Ranch, Rupununi

Mary Peter Ngui
Concerned Citizen

Alam O'Connell
Wapisana
Artist/craftswoman
Maranau, Rupununi

Rayson O'Connell
Wapisana
Maranau, Rupununi

Lisa Orella
Guest house/tour operator
Rupununi

Deopaul Somaru
Student

Joel Thompson SJ
Concerned citizen; Environmental Advocate

Desmond Thomas PhD
Independent Economics Consultant

Ron Motilall
Attorney-at-Law

Ralph Ramkarran SC
Attorney-at-Law

Nadia Sagar
Attorney-at-Law

Josephine Whitehead SC
Attorney-at-Law

Melinda Janki
Attorney-at-Law
Justice Institute Guyana Inc.

Note on the border controversy

2nd February 1897: Treaty of Arbitration between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the United States of Venezuela for an amicable settlement of the boundary. Article XIII states: 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.”

3rd October 1899: Award regarding the Boundary between the Colony of British Guiana and the United States of Venezuela.

November 1900 to June 1904: Anglo-Venezuelan Boundary Commission identified, demarcated and permanently fixed the boundary established by the 1899 Award.

10th January 1905, the Commissioners signed a Joint Declaration and accompanying maps in accordance with the 1899 Award.

1962: Venezuela announced that it would not recognize the border.

1966: Geneva Agreement: Agreement to resolve the controversy over the frontier between Venezuela and British Guiana. The Geneva Agreement provides for recourse to the UN and the International Court of Justice.

2018: UN Secretary-General Guterres chose the International Court of Justice as the means to be used as the “solution to the controversy.”³

References to a border ‘dispute’ in Global Witness report ‘Signed Away.’

1. Page 5: “For his part, Greenidge argues that Guyana focused on security concerns when negotiating Stabroek and that Guyana benefits from Exxon’s presence during the country’s border dispute with Venezuela.”

NB. Global Witness does not quote the actual words used and provides no evidence that ‘Greenidge’ used the words “border dispute”. Mr Greenidge was Minister of Foreign Affairs and dealt with what he repeatedly called the “border controversy”. See press statement at the end of this letter.

2. Page 6: “Guyana is also involved in a long-standing border dispute with its western neighbour Venezuela.”
3. Page 9: “Guyana and Venezuela are currently locked in a dispute over the location of their mutual land and maritime border, and since 2013 the Venezuelan navy has twice harried oil survey ships operating in waters claimed by Guyana.”
4. Page 9: “In 2018, Guyana filed a suit before the International Court of Justice to resolve the border dispute.”

³ <https://www.un.org/sg/en/content/sg/statement/2018-01-30/statement-attributable-spokesman-secretary-general-border>

5. Page 9: "Global Witness does not believe Guyana's border dispute with Venezuela can be used to adequately justify the exploitative nature of Exxon's Stabroek deal, a point that is discussed further below."
6. Page 13: "Mar 29: Guyana files Venezuela border dispute case before ICJ"
7. Page 18: "Among other reasons, Trotman felt that the company could help Guyana in its border dispute with Venezuela."

NB. Global Witness does not quote the actual words and provides no evidence that 'Trotman' broke with Cabinet and used the words "border dispute". Mr Trotman was Minister of Natural Resources.

8. Page 19: "In part this is because the money has been kept in a bank account not reported in the national budget, an exceptional decision the government defended by saying it needed quick access to the funds so it could pay border dispute legal bills."

PRESS STATEMENT BY MINISTRY OF FOREIGN AFFAIRS ON DECISION BY UNITED NATIONS SECRETARY-GENERAL ON BORDER CONTROVERSY BETWEEN GUYANA AND VENEZUELA

<https://www.minfor.gov.gy/statements/press-statement-by-ministry-of-foreign-affairs-on-decision-by-united-nations-secretary-general-on-border-controversy-between-guyana-and-venezuela/>

Guyana welcomes the decision of the Secretary-General of the United Nations to refer the controversy between Guyana and Venezuela to the International Court of Justice (ICJ).

Guyana has always held the view that the ICJ is the appropriate forum for the peaceful and definitive settlement of the controversy, and is pleased that that view has prevailed under the process developed by both Secretary-General Ban Ki-Moon and Secretary General Antonio Guterres.

Guyana will not allow factors extraneous to the controversy to influence its referral to the Court; but it will continue the advancement of peaceful relations with Venezuela whose people are the brothers and sisters of Guyanese. In this context, Guyana acknowledges the Secretary General's suggestions for the immediate future.

That Guyana has stood firm against Venezuela's attempt to re-open a territorial boundary settled and recognised for half a century before its independence, and done so despite the manifest unequal strengths between the two countries, is to our national credit. Guyana, as one of the world's small developing countries, is pleased that its reliance on the rule of law internationally has been the underpinning of its national sovereignty.

Ministry of Foreign Affairs

January 30, 2018