

Guyana.



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WORLD RAINFOREST MOVEMENT

WHO'S WHO IN GUYANA'S FORESTS

by Marcus Colchester

Report prepared for the Amerindian Peoples Association

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WHO'S WHO IN GUYANA'S FORESTS

The Forest Situation: overview

Unlike in most other countries in South America, the forests in Guyana are not yet suffering accelerated rates of deforestation. Due to the very low population - only some 800,000 people inhabit this country of over 21 million hectares - and the fact that the majority of the population are concentrated along the coasts, pressure to convert forests to agriculture is limited. The slight forest loss that is occurring results mainly from fuelwood collection and charcoaling in forests near to the coast. The ecological consequences are not negligible, however, the loss of mangroves in particular threatens declining fishstocks due to loss of spawning grounds for coastal fisheries and increases the vulnerability of the lowlying coast to inundation.

But, even in the interior, as this brief report attempts to summarise, not all is well. Although the interior forests are not actually disappearing they are under assault. Vast areas of the forests have been leased out to foreign and national timber companies. Mining operations are seriously polluting and degrading the interior rivers and a planned road, linking Georgetown on the coast with Manaus in central Brazil, threatens to bring massive changes.

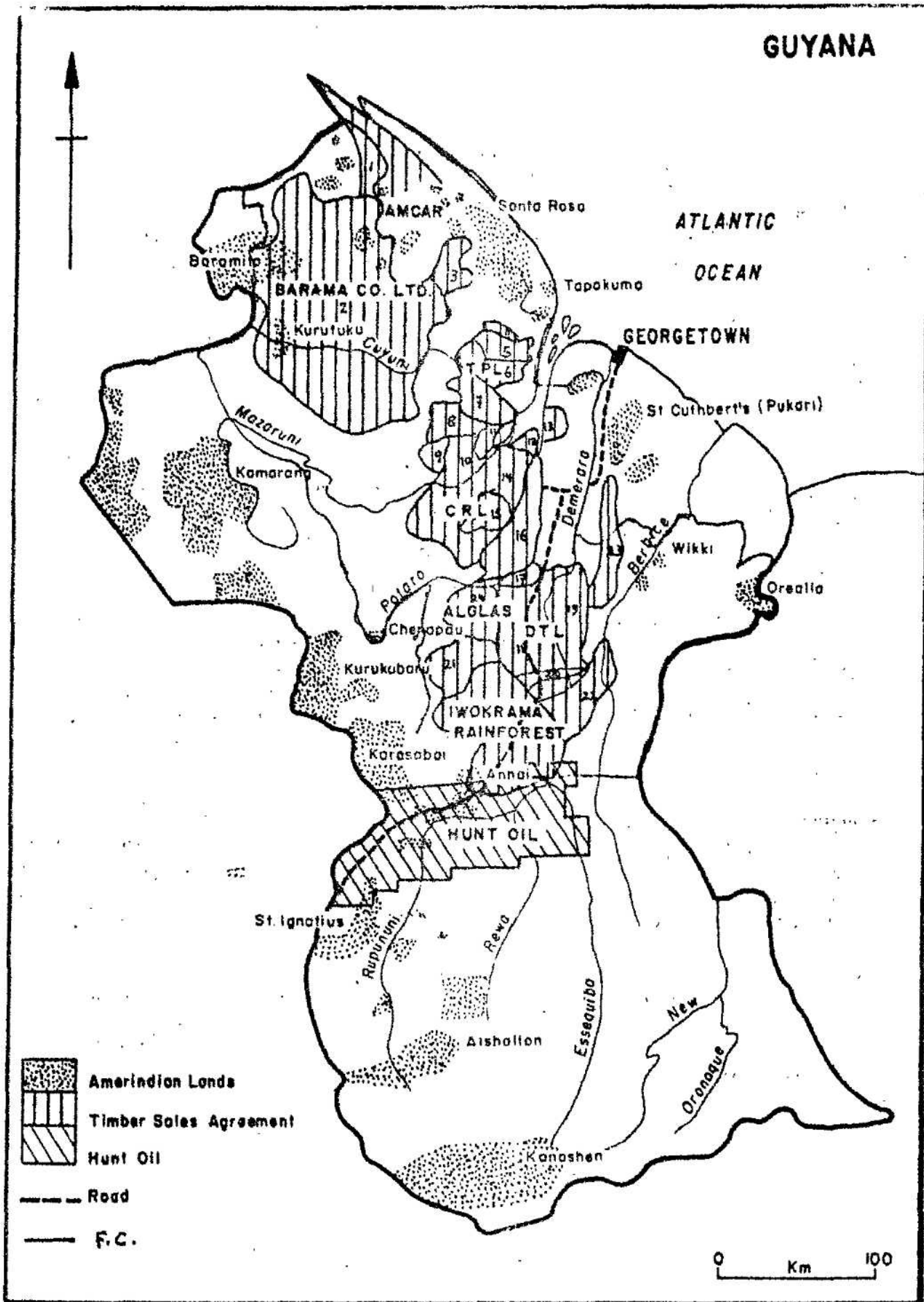
Those most vulnerable to the damaging effects of these developments are the Amerindians who make up the majority of the population in the sparsely settled interior. Numbering some 47,000 people (Forte 1990), and drawn from nine different ethnic groups, these peoples have begun to organise to demand clearer and more adequate rights to their lands, and to have a decisive voice in the formulation of policy about resource use in their areas. This report tries to take stock of some of the main forces that confront them and proposes measures to curb the damaging effects of resource extraction.

Logging:

Of the estimated 16 million hectares of the country that are under forests, at least 14 million hectares are considered to be exploitable for timber extraction. Not 25% of this forest is presently accessible and only 9.1 million hectares are defined as 'State Forests' and fall under the jurisdiction of the Forestry Commission under the Forests Act.

Forests are leased out to loggers in three ways. Large tracts of forests are leased out through 'Timber Sales Agreements' which include stipulations on the annual allowable cut and the need for management plans. The terms of operation under these agreements are set out in the Forests Act and accompanying schedules, which establish which fees are payable, the royalties due on the different classes of timber etc. 'Wood Cutting Leases' are for smaller areas of c. 5,000

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hectares and 'State Forest Permissions' (SFPs) are generally for areas of c. 2,000 hectares. These permits may be granted for forests outside of State Forests. The terms of extraction are set out in the State Lands Act.

In 1989, it was estimated that only some 2.4 million hectares of State Forest was being actively exploited. Even so, it was acknowledged that the timber extraction - mainly of greenheart - was probably unsustainable, and at the same time there was an almost total absence of institutional capacity on the part of the Forestry Commission to oversee logging operations (NFAP 1989).

Table 1: Forestry Concessions in Guyana

Form of contract	Date	License Holder	Map#
TSA	01/90	Amazon Caribbean Guyana Ltd.	1
TSA	04/91	Barama Company Ltd.	2
TSA	02/90	A. Mazaharally & Sons	3
WCL	01/88	Quan	4
TSA	06/85	A. Mazaharally & Sons	5
TSA	04/85	Toolsie Persaud Ltd.	6
TSA	07/85	Guyana Saw Mills (SS Rahaman)	7
TSA	01/91	Willems Timber Trading Ltd.	8
TSA	04/85	Toolsie Persaud Ltd.	9
TSA	09/85	A. Mazaharally & Sons	10
TSA	10/85	Willems Timber Trading Ltd.	11
TSA	10/85	Willems Timber Trading Ltd.	12
TSA	02/85	N. Sawh	13
TSA	04/89	Caribbean Resources Ltd(CLICO)	14
TSA	11/89	Interior Forest Industries	15
TSA	03/85	Interior Forest Industries	16
TSA	04/90	N. Sawh	17
TSA	02/91	Demerara Timbers Ltd.	18
TSA	03/91	Demerara Timbers Ltd.	19
TSA	03/91	Demerara Timbers Ltd.	20
TSA	03/91	Demerara Timbers Ltd.	21
TSA	05/91	UNAMCO	22
TSA	08/85	Mondeen	23
WCL	01/92	ALGLAS (Alan Glasgow Ltd.)	24

Sources: Note that these data are compiled from unofficial sources and are not considered to be fully accurate. Official information of this kind is not publicly available.

By early 1993, unofficial data suggest that the area of State Forest leased out to concessionaires had increased to some 7.1 million hectares, about 80% of the State Forests. In addition, it is estimated that there are some 374 SFPs comprising a further 1.1 million hectares concentrated in the Demerara, Berbice and Corentyne areas. Most of this timber is processed by the 72 small scale mills that have been licensed (NFAP 1989) (see map 1). In addition a good deal of illegal timber cutting takes place much of which is processed by so-called 'sprinters', small-scale portable saws which move around from one timber area to another opportunistically.

As in most other tropical forest countries, political patronage has to a large extent determined who it is that gains logging concessions in Guyana. Most of the large concessions given out to Guyanese nationals between 1985 and 1991 have been to Ministers, members of parliament and supporters of the political party, which ruled until 1992, the PNC. Moreover, in the five years preceding 1989, seven companies absorbed 94% of foreign assistance given to the sector, with two companies alone getting 75% (NFAP 1989:21).

Under the liberalization policies of the Hoyte administration, foreign companies investing in forestry were accorded extraordinarily generous terms to exploit massive timber concessions. The agreements that they reached with the Government have normally been kept secret, but the details of the deal done with the Malaysian/Korean consortium, the Barama Company Ltd., have been leaked to the public and reveal the lengths to which the previous administration went to attract foreign investment.

The Barama agreement grants the company a 25 year license - automatically extendable for a further 25 years - to exploit some 1.69 million hectares of forests in the North West of the country for the export of raw logs, sawn lumber, veneer and processed plywood. The company expects to export some 300,000 cubic metres of timber in the early years, rising to 1.2 million cubic metres per year after ten years, which may be compared to a total annual export for the entire country in 1989 of some 94,000 cubic metres (NFAP 1989:ii).

The company will also enjoy a ten year tax holiday, including income tax, corporation tax, withholding tax, consumption tax, property tax and income duties on just about everything including machinery, fuel, building materials, office equipment and medical supplies. Export taxes will only be payable on greenheart, while even royalty payments have been fixed in Guyanese dollars over the first twenty year period - a gift to the company if the currency devalues.

Yet the company is also permitted to hold external accounts, foreign currency accounts within Guyana, employ 15% foreign workers - more if local labour with the right skills is unavailable - and have disagreements with the Government subject to the arbitration of the 'International Centre for Settlement of Investment Disputes' in Washington DC, in which case the company 'shall be deemed as a national of a State other than Guyana' (Basic Agreement 1991: article 21).

The contracts setting up the Barama concession stipulate that it will attempt to extract timber

according to the principle of sustained yield. However, whereas both the Forestry Commission and the Barama Company Ltd. admit that knowledge about how to achieve this is lacking, the company has invested in the enterprise on the basis that it will extract 25 cubic metres of timber per hectare with a cutting cycle of 25 years. This is judged to allow a sustained yield because it is assumed that the forests can naturally regenerate at a mean rate of regrowth of 1 cubic metre per hectare per year. It is very doubtful if the low canopy forests of the NW, where tree diameters are below average, can in fact regenerate merchantable timber at this rate. A survey of the concession by the Edinburgh Centre for Tropical Forests noted that excessive timber harvesting was a major risk that 'could potentially jeopardize the objective of the entire BCL programme' (ECTF 1993:37).

In short, the Barama concession is a classic example of the kind of enclavistic development that has led throughout much of the tropics to the overexploitation of forests for little national gain (cf Westoby 1987; 1989).

A second controversial operation is Demerara Timbers Ltd. (DTL), which controls some 1 million hectares on the middle Essequibo and Upper Demerara. Although full details of the contract establishing this operation have not been made public, the company has advertised the generous fiscal incentives that it was able to secure from the Government (including a seven year tax holiday) in order to attract foreign investors.

Just who owns DTL is something of a mystery. The original buyer, Lord Beaverbrook, paid some US\$16 million to acquire the original concession, and the associated mill, from the parastatal, Demerara Woods Ltd., and passed this on to the United Dutch company in a deal whereby he retained a 50% share in DTL, while United Dutch agreed to capitalise the company with an additional US\$40 million. Recently, however, United Dutch went into receivership. Bids were solicited for DTL, and amongst those interested was the Commonwealth Development Corporation, which sought to buy the company with additional capital from the World Bank's private sector arm, the International Finance Corporation. The deal fell through as the receivers got a better offer from another quarter, which they accepted. It is believed, but remains unconfirmed, that the buyer is a Singaporean businessman.

Like BCL, DTL aims to selectively log its concession according to a 'Green Charter' which supposedly establishes criteria for sustained yield management. According to company literature, DTL aims for a 40 year cutting cycle, but whether or not the proposed extraction rate of ten trees per hectare can be accommodated by natural regeneration remains guesswork.

Of greater concern for Guyanese loggers is their ability to compete in the international market with these highly capitalised and lucratively subsidised foreign concerns. They note in particular that the tax-free fuel the foreign companies enjoy reduces the costs of logging and transport by as much as 50%, giving them a very unfair advantage over local enterprises.

This is not to say that the Guyanese loggers themselves are paragons of virtue. Few if any of the Guyanese loggers invest in forest management, almost none have proper management plans

based on inventories of the timber in their concessions. Most practise what is called 'high-grading', the extraction of only the choicest timbers - mainly greenheart - leaving behind depleted forests that invite re-entry and the subsequent extraction of second grades of timber.

In addition to the extraction of timber, the Forestry Commission has also granted a substantial concession to the French-owned company Amazon Caribbean (Guyana) Ltd. to extract palm hearts from *Euterpe edulis* in the coastal forests of the North West. Local labourers and Amerindians employed in this concession complain of the extremely low payments they receive on a piece-work basis for the palm hearts extracted. It is widely believed that the rate of extraction far exceeds the ability of the palm to replace itself. No scientific studies have been done to establish what might be a sustainable rate.

Forest Policy:

In 1988 and 1989, the Guyanese Forestry Commission with the help of the Canadian International Development Agency (CIDA), carried out a review of forestry in the country and proposed a 'National Forestry Action Plan' (NFAP) to revive the forest sector and establish effective government control of logging, reforestation and non-timber forest products use (NFAP 1989). The plan was heavily criticised for giving too much emphasis to an expansion of logging, while the country patently lacked the institutional capacity to regulate the industry (Colchester and Lohmann 1990).

The NFAP had proposed that logging be expanded to include a total area of 3.6 million hectares and advised that - to ensure adequate control over such an area of forests - the staffing of the moribund Forestry Commission be expanded from some two qualified foresters. The NFAP suggested that some US\$ 23 million dollars would be needed in the short term for building up the institutional capacity for effective administration, based on an estimate that such a large forest area would require 76 trained forestry technicians to oversee it properly (NFAP 1989).

Since then, as noted, the area of forest that has been leased out has increased to some 8.2 million hectares, yet the Forestry Commission still only has a staff of five trained foresters and the recent Commissioner of Forests has resigned for lack of political support. On top of this, the future status of the Guyana Natural Resources Agency, to which the Commission is responsible is in doubt and the vacancy in the agency left by the departure of the previous head has still not been filled. The Commission appears to be accountable to no one. It is clear that the Forestry Commission, as it stands, is inadequate to the massive tasks that confront it, yet it continues to offer concessions to foreign businesses.

Most recently the Commission has been in negotiations with a new foreign consortium variously referred to as Forest Management Investments Ltd. or Mazaruni Forest Industries Limited (MFIL) to lease some 600,000 hectares of forest in the Mazaruni. The consortium includes companies such as BP Batu Ampar Wood Industries of Indonesia, Turama Forest Industries Pty. Ltd. of Papua New Guinea, Forest Management Services of Singapore and the SK Timber Corporation. A Canadian company, Buchanan Industries Ltd is also hoping to open up a 1.4 million hectare concession in the Berbice area (*Catholic Standard* 17 October 1993; *Stabroek*

News 22 October 1993; *Sunday Chronicle* 24 October 1993).

Comparable experiences:

Guyana's forestry situation is far from unique. Indeed the pattern is typical - whereby a runaway expansion of the timber industry streaks ahead of an inadequately staffed, under-funded and politically marginal forestry department, which fumbles along behind in a vain attempt to keep pace with developments. What is somewhat unique about the Guyana case is that this exponential acceleration in logging is relatively recent and, to a large extent results from deals made by a previous and largely discredited administration. Guyana thus has a chance of learning from the bad experiences of other countries and making a fresh start. This will require political courage.

The problems with an inadequately regulated and controlled industry are legion as the well documented experiences in Papua New Guinea (Marshall 1990), Malaysia (Colchester 1989), Indonesia (DTE 1992) and Africa (Reitbergen 1989; Rice and Counsell 1993; Colchester 1993) testify all too well. Sustained yield objectives are soon overridden by profit motives; excessive timber is extracted and no one is there in the field to check on actual practice. Poor roading, chemical spills, and abusive labour practice damage the forests, undermine public health and bring poverty instead of wealth. Incidental damage to soils and to the residual stands caused by careless felling, poor tractor use and repeated re-entry may terminally limit the ability of a forest to regenerate. Even quite selective logging, if carelessly carried out, can cause a loss of the majority of the forest canopy, leading to erosion, laterization and a chronic decline in fauna. Scrappy regrowth dominated by large herbs, such as *Marantaceae*, and secondary softwoods, like *Cecropia*, impedes the regeneration of timber species.

Lack of supervision tempts loggers to underdeclare the volume of timber extracted, or misdeclare its quality, in order to avoid royalties. An almost normal practice is for companies to sell on timber to overseas parent companies, or cronies, at artificially low prices. The purpose is to ensure local companies show little or no profit and thus pay no tax, while the overseas companies make all the profits. The scams are endless and it is the local communities, the national economies and the environments that they both depend on that are the real losers. Unregulated logging causes terrible waste.

The experience of other countries also shows that, unless properly supervised and made publicly accountable, the timber industry may damage the evolution of democratic institutions. The handing out of logging concessions promotes the domination of the political economy by nepotistic, patronage politics. This undermines democratic principles and causes an increasing marginalization of rural people, who find they can no longer rely on their political representatives to defend their interests.

The experience in South East Asia is that this political hijacking of the process by which forestry concessions are handed out leads to a demoralisation and corruption of the forestry departments themselves. Frustrated forestry officials find themselves unable to control or regulate the activities of loggers whose political connections effectively protect them from criticism. Honest officials resign their posts and less scrupulous individuals prepared to overlook, or profit from,

malpractice fill their positions. Damaging forest use is the inevitable consequence of abuse of office by politicians, whose vested interests in quick profits override the long term interests of the nation. Such vested interests are the most severe obstacles facing sound forest management; obstacles often coyly referred to as 'lack of political will'. Those who suffer most from all this are indigenous forest dwellers (Westoby 1987; 1989; Colchester 1989; WRM/SAM 1990; Colchester and Lohmann 1990; Marshall 1990; DTE 1992; Rice and Counsell 1993; Johnson and Cabarle 1993; Colchester 1993).

A detailed survey of tropical forest logging carried out for the International Tropical Timber Organisation showed that in 1989 less than one eighth of one percent of moist tropical forests were being commercially managed on an operational scale on a sustained yield basis (Poore 1989).

It is unclear to what extent these kinds of problems have taken root, or are prevalent, in Guyana. Certainly present timber extraction practices are believed to exceed sustainable rates (NFAP 1989), while the intensive silvicultural management that might allow forest regrowth to match rates of extraction are not being practised. Poor roading has been noted in some concessions and chemical spills have been alleged in another. Abuse of office has led to logging concessions being handed out as political favours and on terms unfavourable to the nation or to pay for sound administration and regulation. Compromised companies, their spokesmen, and Government officials are seeking to discredit and marginalise indigenous peoples' expressions of concern. The Forestry Commission is understaffed and there is little evidence of strong political support to reform the industry. At least some companies are known to misdeclare the amount and quality of timber they extract (Interview with ex Forestry Ranger) and for at least one concession the Forestry Commission lacks any record at all of timber sales for the last five years (Letter from Forestry Commission to the APA, 29 September 1993).

Patching up:

Recognising the worrying and growing gap between the Government's capacity to regulate the industry and the industry's own explosive expansion, foreign aid agencies have offered assistance to the Guyanese government to help strengthen the Forestry Commission. During 1991-1992, international aid to the Government was suspended as a result of concern about the electoral process. Rather than delay, the Canadian government, keen to follow up its National Forestry Action Plan, thus provided indirect aid by putting in place an autonomous 'Forestry Support Unit' which now focuses on making inventories of Guyanese forests and providing training to Forestry Commission staff. The project is also assisting the Commission to elaborate new criteria for the management plans required by TSAs, with much stricter guidelines on the need for inventories, silvicultural practice etc. It is unclear to what extent all this work can be applied retroactively to companies that have already signed TSAs - which, as we have seen, already cover the vast majority of the accessible forests of the country.

Britain's ODA, too, is finalising an aid project to support the Forestry Commission. The project emphasises institution building and training, with a welcome focus on independent monitoring of forestry practice.

The road from Brazil:

In 1989, the Brazilian Government made a concessional loan of US\$15 million through its external lending agency, CACEX, for the construction of an all weather road from Lethem in the Rupununi savannahs through to the Essequibo river at Kurupukari. The tied aid package secured the services of the Brazilian mining transnational, Paranapanema, which has a notorious record within Brazil for its abuse of indigenous rights, to construct the road. The eventual aim of the project was to create a road link between Boa Vista in Brazil and Georgetown following the route of the old cattle trail along which cattle from the Rupununi had been brought to market on the coast.

Human rights organisations were quick to protest. Survival International pointed out that the consequences of this project were likely to be similar to those long associated with road building throughout the Amazonian region. "The road link will penetrate right into the central Guyanese forests. Accelerated forest loss seems likely as are illegal cross-border penetrations by colonists and miners such as have already occurred in Venezuela, Peru, Paraguay and Bolivia. These kinds of problems are likely to be quite severe and quite beyond the capacity of the Guyanese Government institutions to control" the organisation noted. "Commercialization of ranching [expected to rapidly develop once the road is completed] in the Rupununi savannahs is likely to have very negative effects on the Indians there, in terms of land invasion, the displacement of the indigenous peoples' own herds and introduced diseases". Both Survival International and the Guyana Human Rights Association called on the Government to carry out a social and environmental impact study before continuing with the road building. The Government did not comply with these requests, however (Colechester 1991).

A study by the University of Guyana showed that some of these concerns were well founded. As a result of the road, Brazilians were found to be moving in and out of south Guyana without regulation. Amerindian lands had been taken over without proper consultation and without payment of compensation for damaged crops (Forte 1989).

The road has now been completed from Lethem to Kurupukari on the Essequibo, though it is of very variable quality and some parts are of single lane width, lack proper culverts and are rapidly being washed out. Since 1991, ex-British army Bedford 4x4 trucks, run by Georgetown based haulage companies, have begun an irregular service between the frontier and the capital taking supplies (mainly food stuffs) down to Lethem and Brazilian exports to Georgetown at about one third of the cost of airfreight. The very poor quality of the trail between Kurupukari and Mabura Hill, where the track has been churned into a muddy slot impassable to other less powerful vehicles, means that the trucks take up to 24 hours to accomplish the 90 mile stretch, which the Bedfords can only achieve due to their awesomely powerful winches and four wheel drive.

Amerindian communities on the road express mixed opinions about the potential benefits of it being upgraded. Whereas some believe the road may lead to their demise as distinct peoples others see that the road link could provide essential communications allowing the communities

to travel to the capital for trading and health reasons. On two points all are agreed; strict controls on movement across the border and up and down the road must be instituted and Amerindian lands must be secured and clearly demarcated first before the road building proceeds.

In 1992, the Brazilian Government offered Guyana a further US\$14 million, in a similar package to the first, for Paranapanema to finish the last section of uncompleted road between Kurupukari and Mabura Hill. However, the deal fell through due to objections from the IMF, whose continued financial support for structural adjustment in Guyana, gives it the right to veto government acceptance of further foreign loans. In October 1993, the Brazilian State Governor of Roraima stepped up the pressure for the completion of the road which he noted was vital to promote the development of northern Brazil. Offering to complete the road in exchange for bartered rice and sugar to the value of US\$5 million, the Governor urged that the road construction be initiated immediately and be completed within six months.

The advantages of the road to the northern Brazilian states are obvious: ready access for Brazilian exporters to the small market in Georgetown and through its port to the huge markets in the Caribbean and NAFTA regions. The advantages to Guyana are not so clear and there is no evidence that the Government has studied the likely impact of the road on domestic businesses and haulage contractors - would they be outcompeted by the economies of scale of Brazilian companies? would a flush of cheap imports undermine local producers and upset the country's balance of payments? would new settlers and property speculation cause housing and land prices to soar beyond the reach of local residents?

Despite the calls going back several years for a social and environmental impact study of the road, none has been forthcoming. Yet already, without the road even being completed, illegal cross-border penetrations from Brazil has become a serious problem in the Rupununi and Pakaraimas regions; rustling has increased over the years and land conflicts between ranchers and indigenous communities are gradually intensifying. Border controls at Lethem are absent and it is possible to travel all the way from Brazil to the Georgetown without once having one's papers checked. There appear to be no customs checks on goods moving north apart from a sporadic check on the bridge across the Demerara at Linden (Personal observation).

It can confidently be predicted that *if such laxness continues* the completion of the road would lead to an increasing invasion of Guyana by landless settlers, miners, timber cutters and urban squatters. There have also been increasing reports of drug smuggling from South America through Guyana which provides a convenient jumping off point for the Caribbean and North America. The road could encourage this.

The uncontrolled inflow of people into Guyana would have serious consequences for the Amerindian communities but towns like Georgetown could also suffer. Typically Amazonian towns that are connected by roads double in size in five years and continue growing. Population growth overwhelms town planning leading to shanties on the outskirts, water shortages, sanitation problems and all the social pathologies associated with poverty and inadequate

housing. Guyana needs to evaluate these and other risks before being pushed hastily into a deal: the road **may** be both necessary and inevitable, but the Guyanese Government needs to make sure that the right controls are in place **before** it goes ahead.

It is worth pointing out that were the Government of Guyana to request financing for such a road from a multilateral development agency, like the World Bank, a full social and environmental impact assessment would be mandatory. Given that the road passes through indigenous territories and vulnerable tropical forests, the road building programme would be immediately classified by the World Bank as a 'Category A' project, requiring a detailed process of consultation with those likely to be affected - Amerindians, town dwellers and other representatives of civil society alike - as part of this assessment. The Guyanese Government should demand no less.

Amerindians:

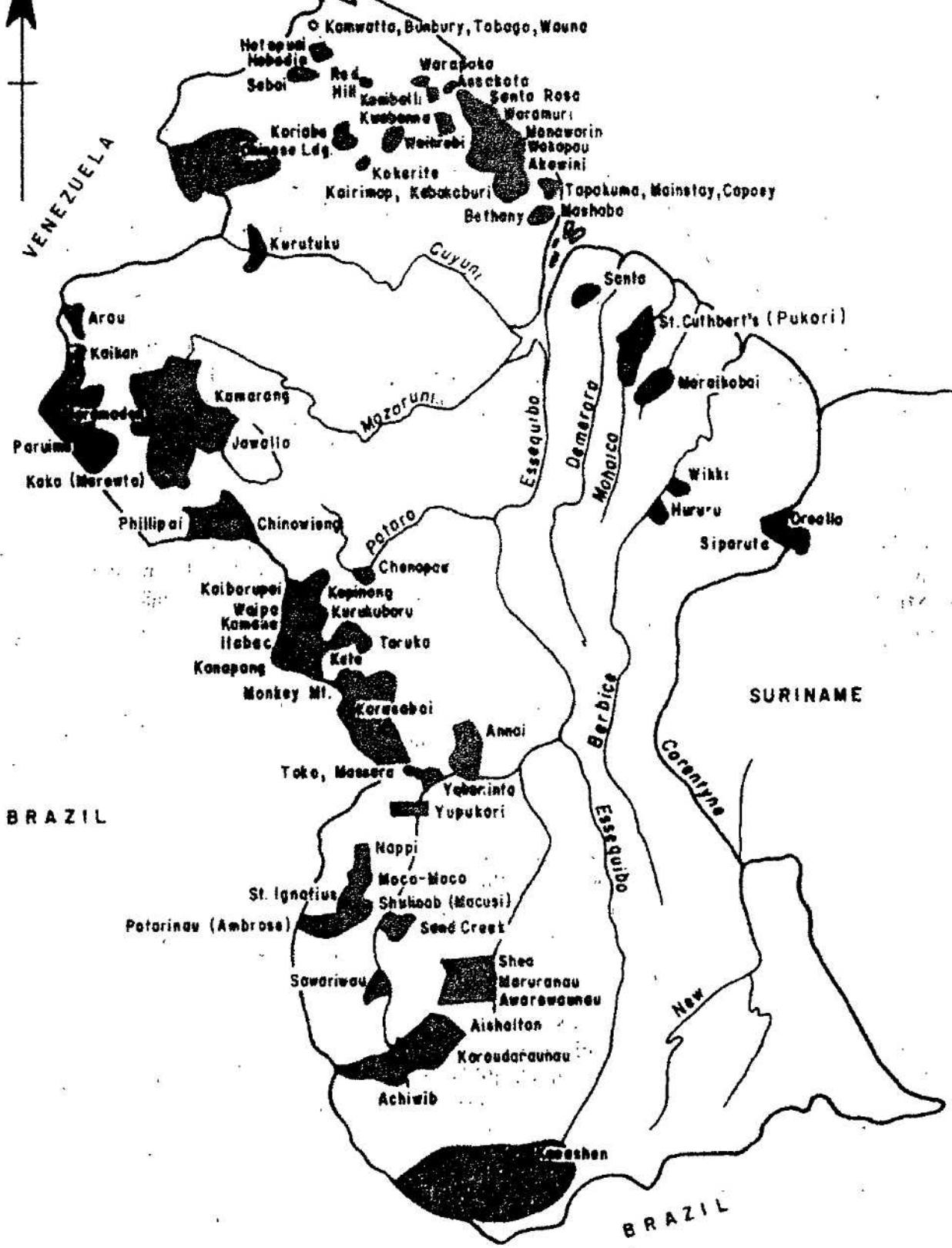
With over 90% of Guyanese concentrated along the coast, Amerindians constitute the majority population in the interior. Recognition of Amerindian land rights was a condition of Guyanese independence. Accordingly, an Amerindian Lands Commission was established in 1966 and made a comprehensive, but not exhaustive, review of the Amerindians' land situation, documented indigenous land claims and made clear recommendations for the provision of community titles to the majority of Amerindian communities in the country (Amerindians Lands Commission 1969).

There were some notable exceptions: land titling was not recommended for a scatter of communities on the lower rivers - Mazaruni, Cuyuni and Demerara - and in the mining districts - eg Middle Mazaruni, Barama-Kaituma. Moreover, in a number of cases - notably in the NW District (Arawak and Warrau), Upper Mazaruni (Akawaio and Arekuna), South Rupununi (Wapishana) and the North Rupununi (Makushi) - the Commission recommended community titling of areas substantially smaller than the territorial claims made by the Amerindians to the Commission. Exactly these areas have now become the subjects of land disputes: between Amerindians and logging companies (NW District); miners (Upper Mazaruni); ranchers (South Rupununi) and conservationists (North Rupununi-Iwokrama project).

It was not until international controversy about a proposed hydropower project on the Upper Mazaruni focused attention on the Government's failure to abide by its commitment at independence to secure Amerindian land title (Survival International 1976), that the Government passed the Amerindian (Amendment) Act No. 6 of 1976 providing Amerindians with community title and the right to administer their areas through their Captains and Councils.

The Act was not comprehensive and there were some notable exceptions where the Government chose not to follow the Commission's recommendations. The Amerindians of the Upper Mazaruni, where the Government still planned a big dam which would displace some 3,000 Akawaio, were left without land title. The Caribs of the Upper Barama, where the Government was encouraging foreign mining investments, were similarly excluded. In the extreme south the Wai Wai were ignored.

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From the map collection of the Cartographic Lab UG.

Since 1976, the Government has issued two further schedules, the latest in 1991, providing land titles to some of these excluded communities - notably, now that it had abandoned its plans for the Upper Mazaruni dam, to the Akawaio and Arekuna of the Upper Mazaruni.

Amerindian Rights in International Law.

Indigenous peoples rights have been the subject of international law for a very long time often being traced back to the treaties signed between North American Indians and the British Crown in the 17th and 18th centuries.

The International Labour Organisation's Convention 107 on Tribal and Indigenous Populations, passed in 1957, was, for a long time, the most important international legislation on the issue. Article 11 of the Convention states that:

'The right of ownership, collective or individual, of the members of the populations concerned over the lands which these populations traditionally occupy shall be recognised.'

The Convention was revised in 1989 and reissued the following year as ILO Convention 169 on Tribal and Indigenous Peoples. Articles 14 - 17 of the Convention explicitly recognise indigenous peoples rights to their lands and territories and to control the resources on their territories as well as establishing norms for the extraction of sub-surface minerals.

The Convention goes further than any other piece of international law, with the exception of the African Charter on the Rights of Peoples, in recognising collective rights and affirms the principle that indigenous people's consent should be sought through their representative institutions in decisions affecting their future.

Guyana has ratified neither Convention.

The United Nations, through its Working Group on Indigenous Populations, has for several years been finalising a Declaration on the Rights of Indigenous Peoples, which likewise affirms indigenous peoples' rights to their lands and goes further than previous laws in recognising the rights of indigenous peoples to self-determination. The Declaration is due to be considered by the Human Rights Commission before being passed to the General Assembly, shortly.

The Rio Summit on Environment and Development also recognised indigenous peoples as a 'major group' which should be integrally involved in following up the work programme established at the meeting under the rubric 'Agenda 21'. This document stresses the partnership between indigenous communities and states in managing resources and achieving sustainable development and recognizes indigenous peoples intellectual property rights, and, significantly, their right to be involved in all decisions affecting their territories.

The community titles have also been inadequately followed up on. Although documentary proof of ownership was provided to most of the communities with textual descriptions of the boundaries, no accompanying maps showing the actual extent of community titles were provided. With only one or two exceptions, the Government has not surveyed and demarcated the community titles. As a result, many communities are unclear of the actual extent of their titles and this has exacerbated disputes with non-Amerindians neighbours. Many communities report overlapping claims with settlers and ranchers.

Lack of attention to Amerindian concerns has led to further problems when mining and logging concessions have been handed out with little regard for pre-existing Amerindian claims and even titles. For example, the Barama Company Limited's concession not only encloses four communities with titles but also overlaps the Carib reserve proposed by the Lands Commission in 1969 - but not recognised in the 1976 Act or subsequent schedules. It also encloses a large number of other homesteads scattered along the main rivers - Kaituma, Barima, Barama, Cuyuni - which likewise lack land titles.

In response to the pressure of international environmental organisations who observed that the parent company of Barama Company Limited - the Sarawak-based Samling Timbers Sdn. Bhd. - had a long and continuing history of conflict with indigenous peoples in the area of its logging operations in Borneo, BCL contracted the forestry consultancy, the Edinburgh Centre for Tropical Forests, both to oversee the implementation of the forestry practice and to carry out an 'independent' social and environmental impact assessment of the companies future operations.

The ECTF visited the area in early 1993 and made their report public in September. The report noted that 'some Amerindians [actually the majority within the concession] live in areas not legally designated as Amerindian land' (ECTF 1993:iv). The report also noted some potentially serious negative impacts of the BCL's operations, including:

- reduction or elimination of traditional food, shelter and other forest resources of local communities
- increased hunting pressure, wildlife trade and illegal timber felling
- increased settlement and shifting cultivation
- increased mining, likely to be a major impact of the road network
- friction with local residents: many potential social conflicts over jobs, markets, prices and split communities
- pollution of the Oronoque log pond and contamination from spills of wood preservatives, insecticides and fungicides
- culture shock for communities in remote areas

- disruption of traditional subsistence economies
- introduction of diseases by incomers, especially miners, possibly including venereal diseases and AIDS.

On the positive side, the ECTF noted that while most of the Amerindians interviewed lacked information about the project, they expected benefits in terms of employment, improved standards of living, better health services and improved schooling. Although the ECTF found some of the Amerindians expectations to be 'high and unrealistic' - and thereby might lead to conflict over job opportunities - they did expect most of these benefits to accrue to at least some of those affected.

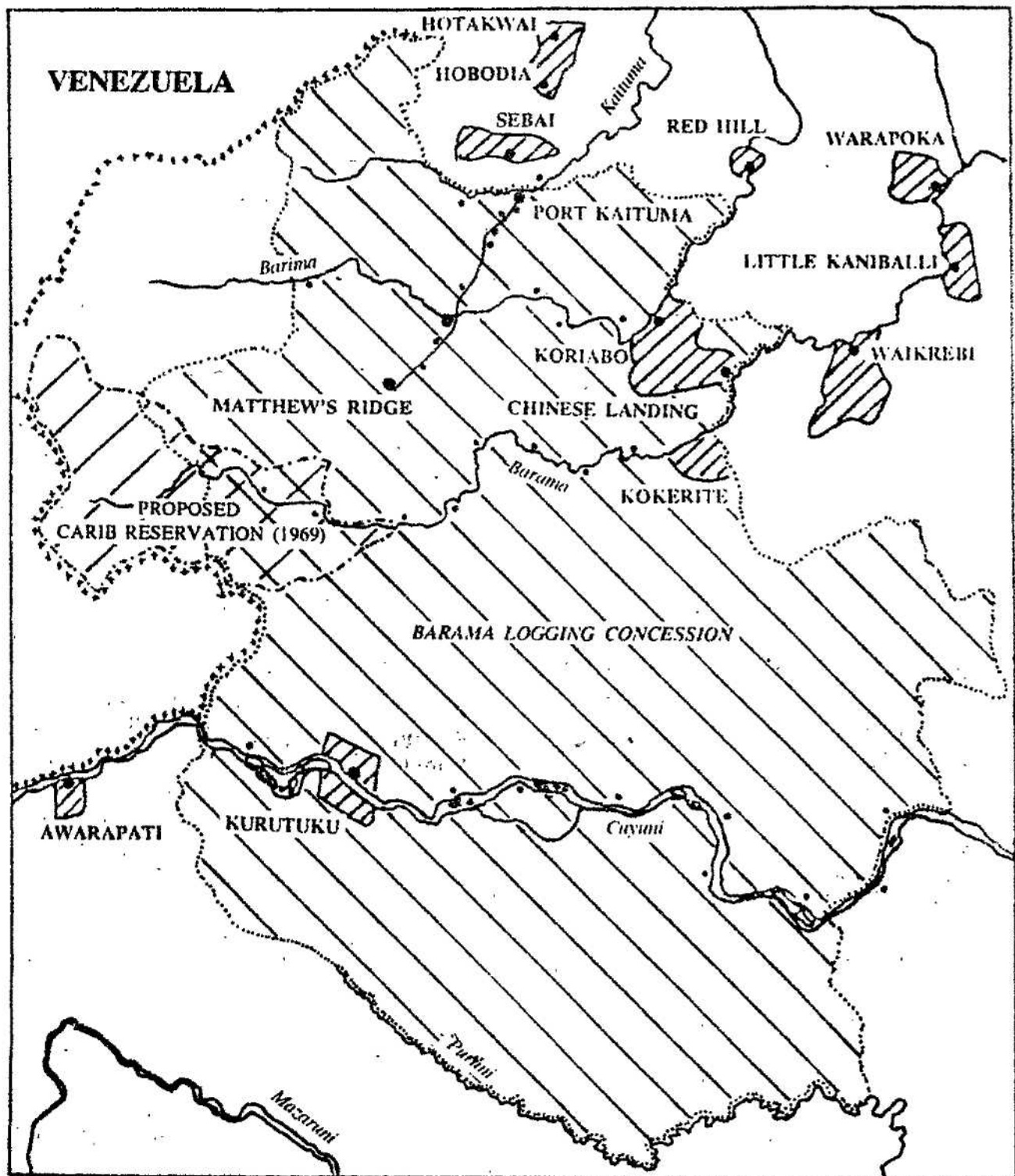
To mitigate the potential negative impacts of the Barama operation the ECTF recommended, inter alia, that BCL recruit a community liaison officer, regulate the use of roads, appoint an Amerindian as an 'Amerindian Liaison Officer', establish a local committee to advise on interactions with Amerindian groups in the concession, the demarcation of the boundaries of Amerindian land titles and the inclusion of Amerindian areas on BCL maps. Improved community health care, educational facilities and the promotion of community development initiatives were also recommended.

The ECTF also recommended a detailed population survey should be undertaken which should advise on the gazettelement of further Amerindian lands should this be necessary.

Some of these negative consequences have already begun to show up. Amerindian residents on the Port Kaituma - Matthews Ridge road have complained to the Minister of Amerindian Affairs about the pollution of their waters downstream of the Oronoque log pond, which they claim is causing them to fall sick. They also complain that they are being prevented from practising their traditional form of rotational agriculture as this encroaches on the company's concession and that some residents have even been resettled out of the logging concession to the roadside (Interview with Emelda Jones 17 October 1993; *Stabroek News* 21 October 1993).

Ever since the Barama deal was announced, the Amerindian Peoples Association (APA) has been strongly critical of the fact that the concession does not respect Amerindian land rights and that there was no consultation with Amerindians in the decision to grant a logging concession in the area. Since March 1993, the organisation has repeatedly called on the Minister for Amerindian Affairs to review the contract and, faced with stonewalling tactics, threatened to call for an international boycott of Guyanese timber products unless the Minister took decisive action. It was only in September, after the APA - their patience finally exhausted - did call for such a boycott that the Minister acceded to their requests and promised to institute a Commission of Enquiry to review the Amerindians' claims and the Barama contract.

CONFLICTING LAND CLAIMS 1: THE BARAMA CONCESSION



Four Amerindian communities - totalling some 550 people - with very small land titles are found within the Barama concession. They are demanding an extension of their reservations. In addition, an estimated 650 further Amerindians also live within the concession. They lack - and are demanding - communal land title. Some live in scattered homesteads along the major rivers (shown above *schematically*), while others live in the small townships and along the road between Port Kaituma and Matthew's Ridge. Other Amerindian communities, notably Sebai and Red Hill, work lands or use forest resources within the concession.

International norms regarding natural forest logging.

International norms relating to forestry and sustainable forest management insist on the recognition of indigenous rights.

For example, the World Bank's new Forest Policy places great emphasis on the need to respect forest dwellers' rights and detailed norms are established by the World Bank for development projects in indigenous areas. The World Bank's Operational Directive on Indigenous Peoples (OD 4.20) sets out explicit steps for the involvement of indigenous peoples in project planning and the effective recognition of their land rights.

In the same vein, the International Tropical Timber Organisation has established 'Guidelines for the Sustainable Management of Natural Forests'. These also set out specific conditions for involving indigenous peoples in planning and management and specify the need to respect the rights of customary rights holders in accordance with the ILO's Conventions and the standards of the World Bank.

Non-Governmental organisations are likewise in the process of developing standards for the acceptable extraction of timber from tropical forests. The Forestry Stewardship Council (FSC), for example, which aims to bring together enlightened loggers, timber merchants, certification organisations, environmentalists, conservation groups and indigenous peoples' organisations, has developed draft 'Principles and Criteria' for logging in natural forests, which give a high priority on the need to respect indigenous peoples' customary rights.

The aim of the FSC is to establish common criteria for the accreditation of organisation which make independent evaluations of forestry practice in all types of forests to certify whether the timber is being extracted and processed by acceptable standards.

The days when logging operations could take place unchallenged on the lands of indigenous peoples without their free and informed consent, as expressed through their own representative institutions, are over.

The Amerindian Peoples Association appears to have a strong case. Not only are the historical records of an Amerindian presence in the area unambiguous - they have inhabited the area since first contact with the Dutch in the c16th (Gravesande 1992) - but recommendations of special measures to secure at least some of their lands have been made repeatedly in the past, notably by the Peberdy Commission of 1946 and the Amerindian Lands Commission of 1969.

Moreover the contract between the Barama Company Limited and the Guyanese Government charges the Government with responsibility for maintaining good relations between the company

and the Amerindians and makes a specific provision for the 'Reservation of Areas' for various purposes. Article D of the Schedule attached to the Timber Sales Agreement notes that the Government, as the 'Grantor', 'shall have the right to propose at any time to the Grantee [BCL] to reserve for silvicultural, environmental or any other purpose, any or such lands within the boundaries of the [concession] area... as he [the Grantor] considers to be more suited for purposes other than timber production...' (emphasis added).

It remains to be seen whether the Minister for Amerindian Affairs will keep his promise and institute the Commission of Enquiry.

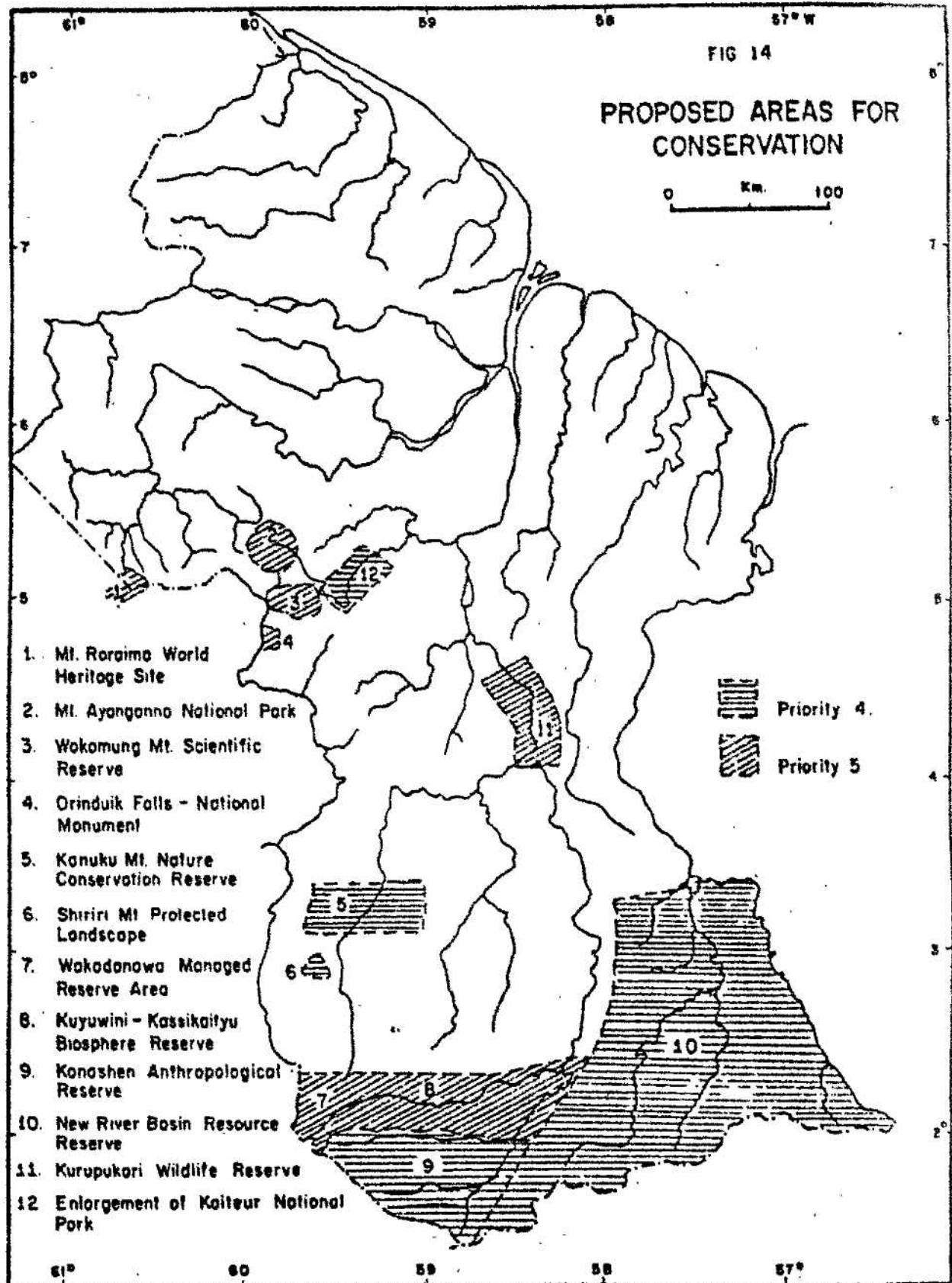
Protected Areas:

Guyana's one and only national park is the tiny - 11,600 hectares - protected area surrounding the Kaieteur Falls, established largely for its scenic value. It is not in a good state. 'There has been little management of the Park. The boundaries have not been demarcated and no management plan has been formulated...' Miners, who are illegally working the Potaro river for gold and diamonds above and below the falls, even occupy the park's buildings (Ramdass and Hanif 1990:22). Attempts to increase the size of the Park so that it encompasses an area large enough to conserve viable populations of fauna and flora have been fiercely resisted by the mining lobby and it appears that the present administration has little will to force the issue.

More interest has been expressed by the present government in the proposed 'Iwokrama Rainforest Programme', which encompasses a 360,000 hectare area of forest between the Rupununi savannahs and the Essequibo. The project was initially criticised by international and local NGOs for failing to take account of the needs and rights of the Amerindians who live in and make use of the resources of the area. The World Rainforest Movement also expressed concern over whether the project could be said to respond to the environmental priorities of the country. In response to questions in a letter from President Jagan, the organisation expressed concern that the project might absorb the country's limited institutional capacity to deal with the environment, thereby diverting attention away from the more crucial problems facing the country such as: effectively regulating logging and mining; carrying out a social and environmental impact study of the proposed Boa Vista-Georgetown road; securing Amerindian lands; and combatting the epidemics of malaria and cholera. The WRM also expressed concern that the project, which envisaged a vigorous 'biotechnologies and biofutures' programme, based on detailed documentation of Amerindian plant lore, made no provisions to secure Amerindian intellectual property rights.

To their credit the project's international sponsors gave very serious consideration to these concerns and the revised project now proposes some measures to deal with all of them - though how adequately is another matter (Commonwealth Secretariat 1993; NRI 1993).

One final concern raised by the WRM about the project has not yet been dealt with convincingly. The project proposes using half the area for experimental logging operations creating the serious risk - so near the Brazilian border and directly on the Boa Vista - Georgetown road - that the road network necessary to accomplish this will facilitate the illegal



Source: Ramdass and Hanif 1990.

penetration of the area by poachers, miners, settlers and loggers.

The forest set aside for the Iwokrama project is relatively sparsely populated even by Guyana's standards, but the whole area falls within the territory claimed by the Makushi people in 1966 (Amerindian Lands Commission 1969). Although this claim was not upheld by the Lands Commission on the grounds that the area was too large for the Amerindians to develop and administer and instead smaller areas were recognised in 1976, some Makushi and other Amerindians do continue to make use of the wider area for farming, hunting, fishing, small-scale mining and community logging.

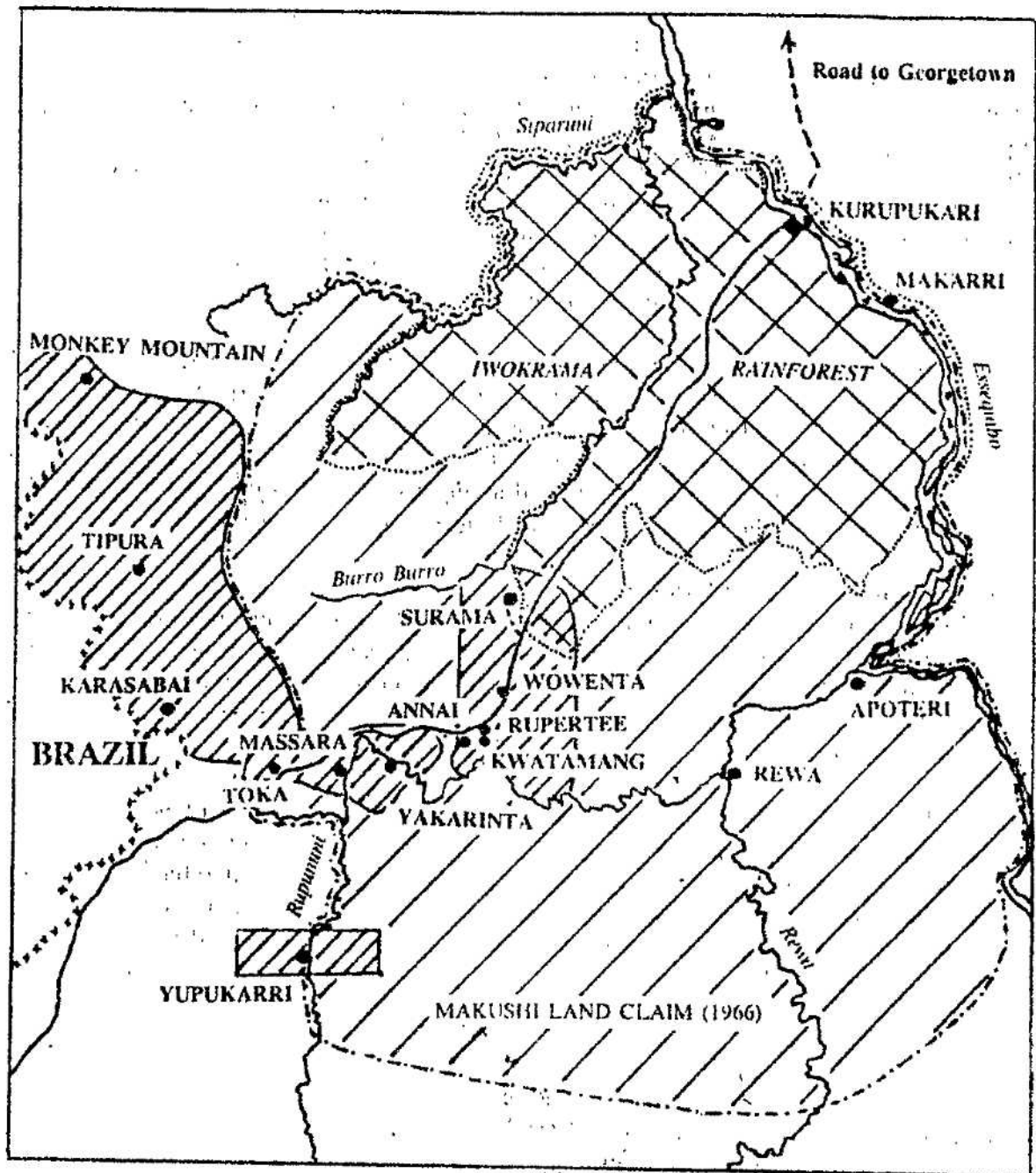
Since the Commonwealth Secretariat and other project sponsors were alerted by NGO protests to the social implications, there have been a number of missions to the area to consult with the local people. However, whereas the local communities now feel that their concerns have been understood and that the project will be modified accordingly, the official position seems to be that the project 'will need to pay particular attention to the participation of local people in future development' and 'local suggestions... will need to be evaluated' (NRI 1993:7).

The Amerindians of the area expect the project, on balance, to bring them some real benefits. In the short term they expect that the project will provide them jobs as tree spotters, and as informants in herbal lore. The project should also stimulate the trade in handicrafts. In the longer term they expect their younger community members to benefit from direct training from the visiting scientists, which should allow them, once trained, to take over the management of the area. This they believe will help them to become a fully recognised part of Guyanese society, while at the same time the attention to the traditional forest use and herbal lore will help ensure cultural continuity by gaining respect for the traditional knowledge of the elders among the younger generation.

For the project to work well the Amerindians also note that certain conditions would need to be met. The project would first of all have to help clarify the boundaries of indigenous areas and demarcate them effectively. In addition, the Amerindians would need clear rights to be able to continue non-commercial hunting within the reserve area. Effective guard posts, coordinated by radios, would need to be established at the entrances to the reserve at Kurupukari and Annai to control access. An adequate area of forest within the reserve should be set aside to provide timber on a long term basis to the community sawmill at Surama. A proportion of any profits made on drugs and medicines developed from the ethnobotanical research would need to be put into a development fund for the benefit of the communities. These and other matters should be established in the form of a written contract to ensure that the Amerindians interests are properly protected (Interviews 19-20 October 1993).

The Kanuku Mountains have long attracted the interests of conservationists. They are believed to be home to some 80% of the harpy eagles of the country and contain a wide diversity of forest types, including mountain vegetation. The area is among the 24 priority conservation zones proposed for protected area status by Ramdass and Hanif (1990). Two more recent studies

CONFLICTING LAND CLAIMS 2: THE IWOKRAMA RAINFOREST PROGRAMME



In 1966 the Makushi of the northern Rupununi submitted a territorial claim to the Amerindian Lands Commission for an area bounded by the Siparuni river on the north, the Essequibo on the east and the Rupununi and Benoni on the west. Some of these communities were granted small titled areas, while others did not receive any. Recently, the north east corner of this territorial claim has been taken over by the Iwokrama Rainforest Programme. As well as overlapping part of the Annai-Surama land title, the area is used by Amerindians of a number of nearby communities for hunting, fishing, shifting cultivation and small-scale mining.

of the region, by Conservation International and the European Commission, have also recommended the establishment of a protected area in the region. The latter - set out in a comprehensive draft report (Agriconsult July 1993 [not publicly available]) - proposes the creation of a 'Kanuku Amerindian National Park' of some 290,000 hectares, which envisages an integrated parks development programme that would directly involve the local people. As the EC study notes there are 7 Amerindian reservations, including sixteen villages and some 4,600 Amerindians within the area of influence of the proposed park. EC staffers say the project would not go ahead without the explicit support of the local communities.

As with the other protected area proposals, the main obstacle that the EC sees facing the Kanuku project is a lack of an effective governmental institutional counterpart. Not only is suitable National Parks legislation lacking, but there is no government agency with the capacity or interest in handling such a project. The GAHEF has now been closed and the proposed Environmental Protection Agency is still on the drawing board. Thus although some US\$800,000 is presently available for the project, it is unlikely to be implemented for some time.

Conclusions and Recommendations:

A critical factor confronting Amerindians and environment alike in Guyana is the apparent lack of government policy regarding the interior. Foreign governmental observers note that the present administration has shown itself unwilling to stand up to the pressures of the various economic interest groups - the mining, logging and road-building lobbies - and its commitment to sustainable development is little more than lip service.

This may change. Political liberalisation has encouraged the emergence of non-governmental organisations, and public sympathy for environmental issues is considered to be quite high. Amerindian rights appear to have broad public support and there is considerable public suspicion of the activities of foreign companies. Indeed the main obstacle to a more active public involvement in the evolution of national policies on Amerindian rights and the environment is a chronic lack of good information. Even the press, while vigorous, reports the issues in terms of accusation and counter-accusation with little apparent capacity for independent investigation or verification of allegations.

As this brief report makes clear, the Amerindians' future is intimately tied up with the overall development process in the interior. As researcher Desrey Fox of the University of Guyana has noted mining and forestry concessions 'are being farmed out by the State, with seeming disregard for the communal rights of the indigenous peoples' (*Sunday Chronicle* October 24, 1993). Like it or not, the Amerindians future will thus be affected by the policies that the Government develops, or fails to develop, to regulate and control these industries, as well as other infrastructural programmes such as the proposed construction of the Boa Vista - Georgetown road.

To this extent the concerns of the Amerindian communities for a rational and environmentally sensitive development policy in the interior, which both respects their rights and prudently husband the country's natural resources, should coincide with the long term interests of the

Guyanese as a whole. The problem is that while Amerindians have long voiced concerns about development policy in the interior, coastal communities have kept relatively silent.

Confronting the problems identified in this study requires the following measures:

The road:

There is an urgent need to commission a detailed social and environmental impact assessment of the Brazil-Georgetown road to identify the risks of the road to both Amerindian and coastal environments and communities. After this assessment has been carried out and published along with proposed mitigatory measures, there should be an informed public debate on the matter. A decision on whether and how to go ahead with the road should then be made accordingly.

Barama Concession:

In the short term the Commission of Enquiry into the rights of the Amerindian communities affected by the Barama concession needs to be carried out forthwith. As the APA notes this commission should:

1. be able to function independently and accountably;
2. have a composition agreeable to both the Government and the APA;
3. publicly report its findings within one month;
4. enquire into the adequacy of lands available to the titled Amerindian communities affected by the Barama concession and make recommendations for the recognition of the land rights of the other Amerindian settlements in the area which presently lack title.
5. be mandated to make recommendations to resolve the problems it identifies.

Timber industry:

The government should also commission a broader public enquiry into the whole functioning of the timber industry. While this is underway there should be a complete freeze on the handing out of new concessions. As well as reviewing the effects on Amerindians, paying special attention to their land rights, the enquiry should:

- publish full information on who has gained forestry concessions and on what terms;
- review the contracts of both national and foreign logging companies;
- assess the conditions of the labour force in forestry operations, paying special attention to the issues of health, safety, injury compensation and pay;
- document the extent to which companies are correctly declaring their timber production;

- check on the extent to which companies have filed and are observing forest management plans;
- detail the extent to which trained forestry technicians from the Forestry Commission are fulfilling their role of overseeing forestry operations;
- uncover any corrupt practices.

The public enquiry should also be mandated to make clear recommendations to ensure adequate State control of forestry operations with the goal of promoting responsible forestry practice. This may require the freezing of some concessions which are not being well operated while the capacity of the Forestry Commission to carry out its functions is built up.

Amerindian Lands:

The widespread dissatisfaction of Amerindian communities with their land titles urgently needs to be resolved. Steps towards achieving this include:

- the provision of each titled community with a clear map showing the exact extent of the title.
- the provisional marking out of these areas on the ground.
- the effective identification of all Amerindian communities and homesteads which lack land title.
- a clear and untrammelled bureaucratic process by which communities can apply for the modification or extension of their titles, or for the provision of title, to suit their present needs and future development.

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The WORLD RAINFOREST MOVEMENT is a network of citizen's groups concerned about the destruction of the rainforests worldwide and involved in activities attempting to reverse this process. The World Rainforest Movement is based in the Third World Network (TWN) and Asia Pacific Peoples Environment Network (APPEN) in Penang, Malaysia. International Secretariat, 87 Cantonment Road, 10250 Penang, Malaysia. Forest Peoples Programme, 8 Chapel Row, Chadlington, OX7 3NA, England, Tel: 0608 76691 Fax: +44 608 76743 Email: gn:wrwm.