

Background brief on the history of the Venezuelan challenge to Guyana's sovereignty

1. HISTORICAL CONTEXT OF THE GUYANA/ VENEZUELA CONTROVERSY

The controversy that exists between Guyana and Venezuela has its genesis in the Venezuela rejection, after over sixty years, of the 1899 Arbitral Award that delimited the land boundary between the two states. In 1962, Venezuela claimed that the Award was the result of a political deal among the Arbitrators who handed down the results in 1899. No evidence was ever produced by Venezuela to substantiate this claim, but Venezuela began to lay ownership to the entire Essequibo region based on these allegations. Over the years, Venezuela's claims graduated beyond the Essequibo, to the maritime spaces appurtenant to it, as well as spaces off the coasts of Demerara and Berbice.

In 1966, the Geneva Agreement was signed between the United Kingdom and Venezuela to provide a mechanism to address the concerns raised by Venezuela about the Award. Guyana became a Party to the Agreement when it gained independence later that year. From 1966 to date the Parties have utilized the various mechanisms under the Geneva Agreement to seek to resolve the controversy, but to no avail.

Article IV of the Geneva Agreement provides that if the Parties could not agree on a means of settlement of the controversy then they would leave the choice to another body or the Secretary-General of the United Nations. Since the Parties could not agree on the means of settlement, they jointly agreed to confer the choice of a means of settlement on the United Nations Secretary-General.

The Secretary-General took the decision to try a Good Offices Process from around 1990 to 2017, to resolve the matter. The Parties were still unable to come to a resolution during this time and for the entire period Venezuela continually perpetrated aggressive actions against Guyana which affected the economy and violated our sovereignty and territorial integrity, including the killing of one Guyanese citizens by Venezuelan armed forces in 2006.

Finally, at Guyana's insistence, the Secretary-General in January 2018, determined that the matter should be resolved at the International Court of Justice (ICJ). Guyana then filed a matter against Venezuela in the Court in March 2018, asking the Court to determine that the 1899 Award is valid and binding on both Parties.

The Court agreed to determine the matter and requested that Guyana file documents to support its claim of validity of the 1899 Award by March 8, 2022 and that Venezuela file its response to Guyana by March 8, 2023. Guyana submitted its Memorial on Jurisdiction on November 19th, 2018, and its Oral Arguments were presented at a Virtual Hearing on June 30th, 2020. Venezuela failed to submit a Counter-Memorial on Jurisdiction by the stipulated deadline of April 18th, 2019. It later sent a Memorandum "to assist the Court" in its deliberations.

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On December 18th, 2020, the ICJ delivered its Judgment on the question of its jurisdiction in the case concerning the Arbitral Award of 3 October 1899 between Guyana and Venezuela. By twelve (12) votes to four (4), the Court found that it has jurisdiction to entertain the Application filed by Guyana on March 29th, 2018, insofar as it concerns the validity of the Arbitral Award of October 3, 1899, and the related question of the definitive settlement of the controversy regarding the land boundary between the territories of the Parties.

Further, on March 8th, 2022, Guyana filed its Memorial on the merits of its case against Venezuela in accordance with the Order of March 8th, 2021, of the Court. Following Guyana's submission, Venezuela by letter to the Court dated June 6th, 2022, informed the Court that the Venezuelan Government had appointed an Agent and two Co-Agents to the case.

On 7th June 2022, Venezuela filed preliminary objections to the admissibility of Guyana's Application. Therefore, as outlined in the Rules of Court, the proceedings on the merits were suspended to October 7th, 2022, as the time limit within which Guyana may present a written statement of its observations and submissions on the preliminary objections. However, Guyana was able to provide its written observations in July 2022, well within the time limits set by the Court. Venezuela for its part, asked the Court to be provided an opportunity to respond to Guyana's observations in writing. The Court agreed with Guyana that this was highly unusual and instead fixed a date for the oral hearings on Venezuela's preliminary objections.

The Court held oral pleadings on Venezuela's preliminary objections from November 17-22, 2022, at the Peace Palace in The Hague, on Venezuela's objection to the judicial proceedings on technical grounds as well as its demand that the United Kingdom (UK) should have been a party to them.

On Thursday, 6 April 2023, the ICJ ruled in Guyana's favour that its case before it seeking to affirm the validity of the 1899 Arbitral Award settling the boundaries between it and Venezuela is admissible; and that the United Kingdom has no place in the proceedings as the Bolivarian Republic of Venezuela had argued.

The Court has since notified both Parties that it has fixed April 8, 2024, as the time limit for the filing of the Counter-Memorial of Venezuela.

Ministry of Foreign Affairs & International Cooperation
October 24, 2023

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