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International Court of Justice

THE HAGUE

Cour internationale de Justice

LA HAYE

YEAR 2026

Public sitting

held on Monday 4 May 2026, at 10 a.m., at the Peace Palace,

President Iwasawa presiding,

***in the case concerning* Arbitral Award of 3 October 1899**
(Guyana *v.* Venezuela)

VERBATIM RECORD

ANNÉE 2026

Audience publique

tenue le lundi 4 mai 2026, à 10 heures, au Palais de la Paix,

sous la présidence de M. Iwasawa, président,

***en l'affaire de la* Sentence arbitrale du 3 octobre 1899**
(Guyana c. Venezuela)

COMPTE RENDU

Present:	President	Iwasawa
	Vice-President	Sebutinde
	Judges	Tomka
		Xue
		Nolte
		Brant
		Gómez Robledo
		Cleveland
		Aurescu
		Tladi
		Hmoud
		Okowa
	Judges *ad hoc*	Wolfrum
		Couvreur
	Registrar	Gautier

Présents : M. Iwasawa, président
M^me^ Sebutinde, vice-présidente
MM. Tomka
M^me^ Xue
MM. Nolte
Brant
Gómez Robledo
M^me^ Cleveland
MM. Aurescu
Tladi
Hmoud
M^me^ Okowa, juges
MM. Wolfrum
Couvreur, juges *ad hoc*

M. Gautier, greffier

The Government of the Co-operative Republic of Guyana is represented by:

Hon. Hugh Hilton Todd, Minister for Foreign Affairs and International Cooperation,

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Hon. Carl B. Greenidge, former Minister for Foreign Affairs and International Cooperation,

as Agent;

Ms Sharon Roopchand-Edwards, Permanent Secretary of the Ministry of Foreign Affairs and International Cooperation,

HE Mr Keith George, Ambassador, Adviser to the Minister of Foreign Affairs and International Cooperation,

as Co-Agents;

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Ms Haymara Correa Díaz, Assistant to the Minister for Foreign Affairs of the Bolivarian Republic of Venezuela,

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_____

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M^me^ Haymara Correa Díaz, assistante du ministre des relations extérieures de la République bolivarienne du Venezuela,

comme membres de la délégation.

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The PRESIDENT: Please be seated. The sitting is open.

Before we start our judicial proceedings today, I would first like to pay solemn tribute to the memory of Judge Stephen Schwebel, our esteemed former colleague, who sadly passed away on 9 April. The late Judge Schwebel was a Member of the Court from 1981 until 2000 and he was elected by his peers as Vice-President from 1994 to 1996, and as President from 1997 to 2000.

Born in 1929 in New York, Judge Schwebel received a BA with highest honours in government from Harvard University, and then chose to focus his studies on international law, first at Cambridge University and then at Yale Law School, where he received an LLB. During his long and illustrious professional life, Judge Schwebel combined legal careers as a practitioner, an academic, a legal adviser to his Government, a judge and an arbitrator. In 1959, he was appointed Assistant Professor at Harvard Law School, where he founded what later became the Jessup Competition, where hundreds of universities around the planet participate every year. He then became the Burling Professor of International Law at Johns Hopkins School of Advanced International Studies. In the 1960s and 1970s, he served at the US State Department in various capacities, including as Assistant Legal Adviser and Deputy Legal Adviser. In parallel, from 1977 to 1981, he was a member of the International Law Commission. Judge Schwebel thus arrived at the Peace Palace in 1981 with a wealth of valuable experience which he translated into a rigorous intellectual approach to the Court's judicial deliberations without ever overlooking the importance of maintaining a grounded appreciation of the practical effects of the Court's rulings. By his own account, he had followed the creation and development of the United Nations with great enthusiasm, and thus relished the opportunity to put himself at the service of the principal judicial organ of the United Nations.

During his two mandates, Judge Schwebel was extremely active in the judicial work of the Court, in particular, overseeing plenary meetings and Drafting Committee sessions in his capacity as President. As a judge, he was involved in the adjudication of 38 cases, covering a range of complex and often profoundly far-reaching questions of international law. While he fervently believed that the strength of the Court lay in the collective nature of its deliberations, Judge Schwebel nonetheless remained a fiercely independent thinker. It was not uncommon for him to dissent from the majority

view, and his persuasively crafted opinions and declarations continue to provide much food for thought for students, scholars and practitioners.

Judge Schwebel left an indelible mark in terms of the general administration of the Court, thanks to various significant innovations he launched to improve the working conditions of the institution. In that regard, in the 1990s he was instrumental in negotiating with the host country an extension to the Judges' Wing of the Peace Palace in order to accommodate the increased number of *ad hoc* judges and to create a dining facility for judges for the first time. Just prior to his departure from the Court, he also spearheaded the initiative to establish the University Trainee Programme with New York University, which later became the Judicial Fellowship Programme and now involves recent law graduates from all over the world.

Following his retirement from the Court, Judge Schwebel channelled his indefatigable energy into international arbitration work. During the 2000s, he served as an arbitrator in various cases administered by the Permanent Court of Arbitration. He was also appointed as an arbitrator on various ICSID panels dealing with investment disputes and was a member of the Administrative Tribunal of the World Bank. In addition, he published widely on many topics of international law and was the recipient of numerous prestigious awards and honours.

Throughout his life, Judge Schwebel dedicated himself to international law and justice with unwavering commitment and integrity. He will be remembered as an exemplary judge who was greatly respected by his peers for his brilliant legal mind and his charming disposition. We extend our deepest sympathy to his family at this sad time.

I would now like to invite you to stand and observe a minute's silence in memory of Judge Stephen Schwebel.

The Court observes a minute of silence.

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Thank you very much. Please be seated. I shall now turn to the judicial proceedings before the Court. The Court meets today and in the coming days to hear the oral arguments of the Parties on the merits in the case concerning the *Arbitral Award of 3 October 1899 (Guyana* v. *Venezuela)*.

For reasons duly made known to me, Judge Bhandari is unable to participate in these proceedings, and Judge Abraham is unable to sit with us today.

I note that, in addition to interpretation from and into the Court's two official languages, English and French, interpretation from and into Spanish is available, in accordance with a specific arrangement made at the request of Venezuela.

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Since the Court included upon the Bench no judge of the nationality of either Party, each Party proceeded to exercise the right conferred upon it by Article 31, paragraph 3, of the Statute to choose a judge *ad hoc* to sit in the case. Guyana first chose Ms Hilary Charlesworth. Following Ms Charlesworth's election as a Member of the Court, Guyana chose Mr Rüdiger Wolfrum. Judge Charlesworth subsequently indicated that, in the circumstances, she had decided no longer to take part in the decision of the case. Venezuela chose Mr Philippe Couvreur to sit as judge *ad hoc* in the case. Mr Wolfrum and Mr Couvreur were duly installed as judges *ad hoc* on 17 November 2022, during the phase of the present case that was devoted to the preliminary objections raised by Venezuela.

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I shall now recall the principal steps of the procedure in the present case.

On 29 March 2018, Guyana filed in the Registry of the Court an Application instituting proceedings against Venezuela with respect to a dispute concerning "the legal validity and binding effect of the Award regarding the Boundary between the Colony of British Guiana and the United States of Venezuela, of 3 October 1899", to which I shall refer as the "1899 Award" or the "Award". To found the jurisdiction of the Court, Guyana invoked Article 36, paragraph 1, of the Statute of the Court, and Article IV, paragraph 2, of the Agreement to resolve the controversy between Venezuela and the United Kingdom of Great Britain and Northern Ireland over the frontier between Venezuela and British Guiana signed at Geneva on 17 February 1966, to which I shall refer as the "Geneva Agreement". Pursuant to Article IV, paragraph 2, of the Geneva Agreement, the Secretary-General

of the United Nations decided, on 30 January 2018, to choose judicial settlement by the Court as the means of settlement of the controversy.

By an Order of 19 June 2018, having been informed that the Venezuelan Government considered that the Court manifestly lacked jurisdiction and that Venezuela had decided not to take part in the proceedings, the Court decided that it was necessary first of all to resolve the question of its jurisdiction. Following the filing of a Memorial by Guyana on the question of jurisdiction, and the submission by Venezuela of a document titled "Memorandum of the Bolivarian Republic of Venezuela on the Application filed before the International Court of Justice by the Cooperative Republic of Guyana on March 29th, 2018", a public hearing was held on 30 June 2020 on the question of jurisdiction, in which Venezuela did not participate. In its Judgment of 18 December 2020, the Court found that it had jurisdiction to entertain the Application filed by Guyana in so far as it concerns the validity of the 1899 Award and the related question of the definitive settlement of the land boundary dispute between Guyana and Venezuela.

By an Order of 8 March 2021, the Court fixed 8 March 2022 and 8 March 2023 as the respective time-limits for the filing of a Memorial by Guyana and a Counter-Memorial by Venezuela on the merits. Guyana filed its Memorial within the time-limit thus fixed.

On 7 June 2022, Venezuela raised preliminary objections to the admissibility of the Application with reference to Article 79*bis* of the Rules of Court. Consequently, by an Order of 13 June 2022, the Court fixed 7 October 2022 as the time-limit within which Guyana could present a written statement of its observations and submissions on the preliminary objections raised by Venezuela. Guyana filed its written statement on 22 July 2022. Hearings on Venezuela's preliminary objections were held from 17 to 22 November 2022. By a Judgment dated 6 April 2023, the Court, which understood Venezuela to be making in substance only a single preliminary objection, rejected that objection and found that it could adjudicate upon the merits of the claims of Guyana, in so far as they fell within the scope of its competence according to the 2020 Judgment.

By an Order of 6 April 2023, the Court fixed 8 April 2024 as the new time-limit for the filing of the Counter-Memorial of Venezuela.

On 30 October 2023, Guyana filed a Request for the indication of provisional measures. By an Order of 1 December 2023, the Court, having heard the Parties, indicated two provisional measures, one addressed to Venezuela and the other addressed to both Parties.

On 8 April 2024, Venezuela filed its Counter-Memorial, within the time-limit fixed by the Court.

By an Order of 14 June 2024, the Court authorized the submission of a Reply by Guyana and a Rejoinder by Venezuela, and fixed 9 December 2024 and 11 August 2025 as the respective time-limits for the filing of those written pleadings. The Reply was filed within the time-limit prescribed.

On 6 March 2025, Guyana filed a new Request for the indication of provisional measures. By an Order of 1 May 2025, the Court — having heard the Parties by means of a written procedure — reaffirmed the provisional measures indicated in its Order of 1 December 2023 and indicated an additional provisional measure addressed to Venezuela.

On 11 August 2025, Venezuela filed its Rejoinder, within the time-limit fixed by the Court, and the case thus became ready for hearing on the merits of the case.

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Pursuant to Article 53, paragraph 2, of its Rules, the Court decided, after consulting the Parties, that copies of the written pleadings and documents annexed would be made accessible to the public on the opening of the oral proceedings. Further, in accordance with the Court's practice, these pleadings and documents annexed will be placed on the Court's website from today.

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I would now like to welcome the eminent representatives of the Guyana and Venezuela who are in the Great Hall of Justice today. In particular, I note the presence of His Excellency Honourable Hugh Hilton Todd, Minister for Foreign Affairs and International Cooperation of Guyana, His Excellency Mr Yvan Eduardo Gil Pinto, Minister for Foreign Affairs of the Bolivarian Republic of Venezuela, as well as of the Agent of Guyana and the Agent of Venezuela, each accompanied by members of their respective State's delegation. In accordance with the arrangements on the

organization of the proceedings which have been decided by the Court, the hearings will comprise a first and second round of oral argument. The first round of oral argument will begin today with the statements of Guyana and will close on the afternoon of Wednesday 6 May 2026, following Venezuela's first round of oral pleading. Each Party has been allocated two sessions of three hours for the first round. The second round of oral argument will begin on the afternoon of Friday 8 May 2026 and conclude on the afternoon of Monday 11 May 2026. Each Party will have a maximum of three hours to present its reply.

In this first sitting, Guyana may, if required, avail itself of a short extension beyond 1 p.m., in view of the time taken up by my introductory remarks.

I shall now give the floor to the Minister of Foreign Affairs of Guyana, His Excellency Honourable Hugh Hilton Todd. You have the floor, Sir.

Mr TODD:

OPENING STATEMENT

1. Mr President, Members of the Court, it is a singular honour to appear before you today on behalf of my country, the Co-operative Republic of Guyana. To open the proceedings in this matter is both a privilege and a solemn responsibility. This case has an existential quality for Guyana. At stake is more than 70 per cent of our sovereign territory, which has been recognized to be an integral part of the country for more than 126 years, including the past 60 years since independence. The Essequibo, as this land is known in Guyana, is named for the Essequibo River, the largest and most remarkable in Guyana, which runs through it.

2. For the Guyanese people, it is tragic even to think about having our country dismembered, by stripping from us a vast majority of our land, together with its people, its history, its traditions and customs, its resources and precious ecology. Guyana would no longer be Guyana without it, without them.

3. It is for this reason, and because we are convinced of our right and entitlement to the territory under international law, and in the fairness and scrupulous integrity of this Court, that the President of Guyana, His Excellency President Mohamed Irfaan Ali, has asked me, as Minister for Foreign Affairs and International Cooperation, to lead Guyana's delegation and to deliver the opening

remarks. In Guyana's view, it is appropriate here, in these circumstances, to underscore the existential nature of this case for Guyana and the Guyanese people.

4. Mr President, Members of the Court, Guyana respectfully submits that this case is as straightforward as it is consequential. It is about title to territory. Almost 160,000 sq km of territory. That territory was recognized to be a part of British Guiana, then a colony of Great Britain, by the award of a unanimous arbitral tribunal — consisting of five of the most eminent and highly-respected jurists of that era, in October 1899. That award was the culmination of an exhaustive legal process which involved the submission of more than 5,000 pages of written arguments and documentary evidence, followed by a hearing that lasted more than three months and which involved more than 200 hours of oral submissions by distinguished legal counsel, 54 sessions of four hours each. All of this was in conformity with the terms of a prior written *compromis*, executed in the form of a Treaty — the Treaty of Washington — in 1897.

5. The case is also about Venezuela's total and unreserved acceptance of that Award, not least by the Agreement of 1905, which faithfully implemented the boundary determined by the tribunal. For six decades, Venezuela fully respected and complied with that Award and that Agreement. Throughout that period, it never protested or challenged the Award or the Agreement. It is fact — established and uncontested — that Venezuela consistently respected the Award and the Agreement in practice, and that the boundary established by the Award and the Agreement were consistently reflected in Venezuela's official acts, maps, legislation and international agreements until at least 1962.

6. Mr President, Members of the Court, it is Guyana's submission that the 1899 Award is, without question, legally valid and binding on the parties, and that the 1905 Boundary Agreement is legally valid and binding on the Parties. It is Guyana's submission that none of the arguments Venezuela has raised prior to and during these proceedings against the Award or the Agreement has any merit whatsoever, and that Venezuela's challenges to the Award and the Agreement are in any event decades — no, a century — too late to be raised as a matter of international law. The inevitable consequence is that the international boundary described in the 1899 Award and demarcated in the 1905 Agreement is, in fact — and has for more than a century been — the lawful border between Guyana and Venezuela. Venezuela is obligated, under international law, to accept and respect that

border, and to refrain from any activities that infringe on the territory across that border, which constitutes Guyana's sovereign territory.

7. This is a historic moment. This is a moment of truth for Guyana — and for Venezuela. More than eight years have passed since Guyana filed its Application commencing these proceedings. We have now arrived at the final stage: the oral hearings on the merits, after which the Court will deliberate and issue its Judgment on the validity of the 1899 Award and the course of the international boundary between Guyana and Venezuela. We have arrived at this historic moment, despite Venezuela's persistent efforts to stop us from getting here. First, it objected to the Court's jurisdiction based on a strained and untenable reading of the 1966 Geneva Agreement, which the Court soundly rejected in its Judgment of 18 December 2020. Then it objected to the admissibility of Guyana's claims. The Court again resolutely rejected this effort in its Judgment of 6 April 2023.

8. Unable to derail the case, Venezuela decided to take matters into its own hands. In late 2023, it purported to stage a so-called national referendum seeking popular support for rejecting the jurisdiction of the Court and disassociating itself in advance from any judgment the Court might issue on the merits of the case. The referendum called for endorsement of Venezuela's assertion of sovereignty over the Essequibo, and plan to formally incorporate it into Venezuela. On 1 December 2023, the Court, acting on Guyana's request, indicated provisional measures prohibiting Venezuela from taking any of these steps pending the final Judgment in the case. Venezuela proceeded to do exactly what the Court ordered it not to do: it issued executive decrees, followed by national legislation rejecting the Court's jurisdiction — including any judgment that might be forthcoming — and formally incorporating the Essequibo into Venezuela. Last year, after Venezuela announced that it would hold elections in Essequibo to choose a governor and legislative assembly for the territory, the Court issued another provisional measures Order prohibiting that intended activity.

9. Mr President, Members of the Court, Guyana is extremely grateful for the actions the Court has taken thus far: upholding its jurisdiction for Guyana's Application, upholding the admissibility of Guyana's claims, and issuing provisional measures orders to preserve the rights claimed by Guyana that are at issue in this case. We know that these rulings were based on the Court's faithful application of international law, nothing more and nothing less. But we are grateful, nonetheless.

10. Notwithstanding these actions, Guyana has suffered, and continues to suffer, greatly from Venezuela's unlawful claim and threats to the majority of our territory. This has been a blight on our existence as a sovereign State from the very beginning of our existence. It has been a threat to our peace and security, exacerbated in recent years by the ominous growth of Venezuela's military activities: construction of new bases and new airfields, and by its deployment of aircraft, heavy weapons and troops to the border area. Venezuela's intentions are unmistakable, as revealed in the executive decrees and national legislation to which I referred: the acquisition of our territory and its incorporation into Venezuela.

11. Facing a larger and more powerful neighbour's designs on our territory has not only threatened our peace and security; it has held back our development. To be sure, the international community supports Guyana's sovereignty and territorial integrity, including its title to all of the territory east of the international boundary, as defined in the 1899 Award and the 1905 Agreement. But economic development has been slowed by Venezuela's claims and its threats. Foreign investors, in particular, have been reluctant to risk their capital in such circumstances, and far too little investment has been the consequence.

12. For Guyana, which acceded to the 1966 Geneva Agreement upon its independence, it has taken 60 years to reach this climactic moment, and to be in a position to obtain a final, definitive and binding judgment from the world's highest judicial authority on the validity and permanence of the 1899 Arbitral Award and the boundary that it established. My predecessors scrupulously followed the processes mandated by the 1966 Agreement, and exhausted all of them, until, in January 2018, the Secretary-General, acting pursuant to his authority under Article IV (2) of the Agreement, decided that the controversy over the validity of the 1899 Award should be resolved by this honourable Court.

13. Sadly, not all of the Guyanese statesmen and stateswomen who were instrumental in bringing us to this point have survived to bear witness. As a Guyanese, and as head of our delegation, I would be remiss if I did not honour two of them this morning. Our first Agent was a truly towering figure, internationally as well as in Guyana: our friend and mentor, Sir Shridath Ramphal, after serving as Foreign Minister and Attorney General of Guyana, became Secretary-General of the Commonwealth, where, among other contributions, he worked long and hard for the freedom of

Nelson Mandela. Less well known to you, but equally beloved in Guyana and the diplomatic community that she enriched, Ambassador Elisabeth Harper, the heart and soul of Guyana's delegations to the Court in earlier oral proceedings, sadly passed away in September 2025. It is in their honour, as well as in the name of the entire Guyanese people, of past, present and future generations, that we carry on this struggle for Guyana's sovereignty and territorial integrity based on the rule of international law.

14. Mr President, Members of the Court, Guyana is privileged to be represented by a team of highly experienced and outstanding international lawyers, from whom you will hear today, and again on Friday. Our next speaker, who will follow me to the podium, is Professor Pierre d'Argent. He will respond to Venezuela's ongoing objections to the Court's jurisdiction, which consume more than half of its Rejoinder, its final written pleading and which Professor d'Argent will demonstrate to reflect a gross misreading and misinterpretation of the 1966 Geneva Agreement. We will then turn from jurisdiction to the merits. To introduce that part of the case, two of my fellow Guyanese will make brief presentations. First, Ambassador Donnette Streete of the Foreign Ministry will introduce you to the territory that underlies this controversy, focusing on its geography and its human and natural resources; and then Guyana's Agent, Mr Carl Greenidge, a former Minister for Foreign Affairs, will speak on the history of the territory, and the dispute between Great Britain and Venezuela, leading to the 1897 Treaty that provided for arbitration of the territorial dispute between the two States.

15. Mr Greenidge will be followed by Mr Paul Reichler, who will address you on the 1897 Treaty itself. Venezuela claims that the 1899 Award is invalid, based — *inter alia* — on the invalidity of the 1897 Treaty. Mr Reichler will demonstrate that Venezuela's arguments have no merit and that the 1897 Treaty was a valid treaty and agreement to arbitrate the territorial dispute.

16. In the afternoon session, Professor Alain Pellet will address and refute Venezuela's other arguments challenging the lawfulness of the 1899 Arbitral Award. He will be followed by Professor Nilufer Oral, who will describe Venezuela's acceptance, respect and compliance with the 1899 Award, as well as its failure to protest, for over 60 years, and the legal consequences to be drawn from such acquiescence.

17. Professor Philippe Sands, KC, who will demonstrate that the so-called Mallet-Prevost memorandum, which appeared in 1949 and, 13 years later, Venezuela invoked as grounds for nullifying the 1899 Award, provides no basis for calling the Award into question on any grounds. Guyana's final speaker will be Mr Edward Craven, KC, who will address Venezuela's breaches of the Court's two Orders on provisional measures and Guyana's submissions regarding the validity of the 1899 Award.

18. In closing, I would like to emphasize that Guyana places its fullest confidence in this Court, with no doubt that, whatever the Court ultimately decides, it will be a fair and just result, based entirely on the evidence before it and the even-handed application of international law. As we have done previously, Guyana reiterates its pledge to honour and comply with the Court's Judgment, whatever it may be, as it is bound to do in any event by the United Nations Charter and the Statute of the Court. Guyana hopes that Venezuela will make the same pledge.

19. Mr President, Members of the Court, I thank you for giving me the honour to appear before you, and for your generous indulgence in listening to my remarks. I ask you to please invite Professor d'Argent to the podium.

The PRESIDENT: I thank His Excellency for his statement. Je donne maintenant la parole au professeur Pierre d'Argent. Monsieur, vous avez la parole.

M. D'ARGENT : Merci, Monsieur le président.

LES PROPOS DU VENEZUELA AU SUJET DE L'ACCORD DE GENÈVE ET LA COMPÉTENCE DE LA COUR

1. Monsieur le président, Mesdames et Messieurs les juges, c'est un honneur de prendre la parole devant vous, ce matin, au soutien de la République coopérative du Guyana.

2. Comme vous l'avez certainement constaté, et comme vient de le rappeler S. Exc. M. le ministre des affaires étrangères, près de la moitié de la duplique du Venezuela est consacrée à l'accord de Genève. Selon le Venezuela, par son contenu et son effet — mais d'une manière qui demeure toutefois largement inexpliquée —, l'accord de Genève rendrait sans objet la compétence que la Cour a déclaré posséder par l'arrêt de 2020 et qu'elle a également déclaré pouvoir exercer par l'arrêt de 2023. Ces arguments n'ont rien de nouveau et ils ont déjà été rejetés par la Cour. Toutefois,

parce que les écritures du Venezuela sont longues, inutilement polémiques et confuses, il a paru nécessaire au Guyana d'y répondre brièvement. Et c'est la tâche qui me revient, à la lumière de vos arrêts ayant force de chose jugée que le Venezuela s'entête néanmoins à défier, en violation des obligations qui sont les siennes au titre de la Charte et du Statut.

3. Alors, compte tenu du fait que la composition de la Cour a fort changé depuis l'arrêt du 18 décembre 2020, le Venezuela se dit peut-être, et dans ce cas très étrangement, qu'il n'a rien à perdre. La tentative est assurément vaine en plus d'être sans fondement. La modification de la composition de la Cour est néanmoins, pour moi, un motif de solliciter votre indulgence pour une plaidoirie qui, en réalité, ne devrait pas être.

4. Monsieur le président, avant de répondre aux arguments présentés par le Venezuela dans sa duplique, il faut s'arrêter un instant sur les raisons profondes qui font qu'alors qu'il a enfin l'occasion de faire triompher sa thèse juridique devant la Cour, le défendeur fait tout pour éviter qu'elle ne se prononce. Cette situation paradoxale s'explique en réalité très simplement par le piège que le Venezuela s'est tendu à lui-même et dans lequel il s'est enfermé depuis plus de soixante ans.

5. Présentant l'accord de Genève au Congrès national en mars 1966, le ministre vénézuélien des affaires étrangères avait en effet souligné que cet accord « exige[] du Venezuela qu'il mobilise toutes ses forces de manière à pouvoir asseoir sa revendication sur une étude sérieuse et approfondie »[1]. L'exhortation du ministre Iribarren Borges est sans doute l'aveu le plus éclatant que la prétention de nullité de la sentence de 1899 avait été formulée en l'absence de toute « étude sérieuse et approfondie ». Cette prétention de nullité fut donc formulée de manière instinctive, émotionnelle et irréfléchie — sauf quant à son moment, alors que l'indépendance du Guyana se profilait à l'horizon. Comme mes collègues le démontreront, au cours des soixante années qui se sont écoulées depuis l'accord de Genève, le Venezuela n'a pas réussi à mieux asseoir sa revendication de nullité. Toutefois, une fois formulée et relayée à tous les échelons de la société, cette prétention est devenue un article de foi dont aucun politicien vénézuélien ne peut se départir sans immédiatement passer pour un traître à la patrie. Après tant d'années, ce qui compte désormais pour le Venezuela, c'est, comme l'indique l'intitulé de ses écritures, que sa « vérité » survive et ne soit pas contredite

[1] M. Ignacio Iribarren Borges, ministre des affaires étrangères du Venezuela, 17 mars 1966, duplique du Venezuela (ci-après, « DV »), vol. II, annexe 2, p. 38 (p. 25 de la traduction du Greffe en français).

par un arrêt de la Cour mettant à nu ce récit infondé et fallacieux. C'est pourtant, Mesdames et Messieurs de la Cour, en substance, la tâche qui vous revient.

6. L'argumentation du Venezuela au sujet de l'accord de Genève n'a donc pas d'autre but que d'essayer, une fois encore, de repousser ce moment de vérité. Après soixante ans, ce moment est toutefois venu et rien de ce qu'a déjà dit la Cour au sujet de sa compétence et de son exercice ne saurait être remis en cause par cette argumentation.

7. Monsieur le président, pour la clarté des débats, je vais rencontrer l'argumentation du Venezuela dans l'ordre de présentation de la duplique elle-même. Je commencerai donc par expliquer que le Guyana était fondé à ne plus revenir de manière détaillée sur l'accord de Genève dans sa réplique (**I**). Ensuite, je montrerai que l'interprétation de l'accord de Genève présentée par le Venezuela est erronée, et qu'elle a déjà été jugée comme telle par la Cour (**II**). J'examinerai enfin l'argument de la décolonisation (**III**) et l'argument de la novation juridique (**IV**) nouvellement présentés par le Venezuela. Ces arguments n'ajoutent rien au débat, mais, bien compris et comme je le montrerai, ils permettent en réalité de conforter et non d'infirmer les conclusions auxquelles la Cour est parvenue en 2020 et en 2023 lesquelles, et ce sera mon dernier point, sont à tous égards *res judicata* pour les Parties et pour la Cour (**V**).

I. Les prétendues omissions du Guyana dans sa réplique

8. Monsieur le président, dans le premier chapitre de sa duplique, le Venezuela reproche au Guyana d'ignorer délibérément l'accord de Genève dans sa réplique. Le reproche est évidemment déplacé dans la mesure où la réplique porte sur le fond et qu'elle fut déposée après les arrêts de 2020 et de 2023. Dans son mémoire de 2018 sur les questions de compétence, le Guyana s'était longuement expliqué sur l'accord de Genève, et il fut encore au centre des audiences de juin 2020 auxquelles le Venezuela décida de ne pas participer et qui débouchèrent sur l'arrêt du 18 décembre 2020. À nouveau, lors de la phase portant sur l'exception préliminaire soulevée par le Venezuela en juin 2022, les échanges écrits et oraux des Parties ont porté sur l'accord de Genève, tout comme l'arrêt du 6 avril 2023. Et c'est parce que le Venezuela n'accepte pas les arrêts de 2020 et de 2023 qu'il accuse le Guyana de ne pas s'attarder sur l'accord de Genève dans sa réplique alors que son sens et sa portée ont été examinés et fixés par ces arrêts.

9. Le premier chapitre de la duplique est donc l'occasion pour le Venezuela d'essayer de convaincre la Cour du fait que l'accord de Genève ne serait pas ce qu'elle a pourtant très clairement dit qu'il était. Et je lis le paragraphe 66 de votre arrêt de 2020 : « le différend que les parties sont convenues de régler au moyen du mécanisme établi en vertu de l'accord de Genève concerne la question de la validité de la sentence de 1899 ainsi que ses implications juridiques pour le tracé de la frontière entre le Guyana et le Venezuela »[2]. Pourtant, la duplique soutient que l'accord de Genève serait « en réalité bien plus qu'un simple mécanisme procédural ; il s'agit d'un instrument *de fond* [dit le Venezuela] conçu pour régler un différend spécifique et ouvrir la voie vers une solution pratique mutuellement acceptable »[3]. Selon le Venezuela, l'accord de Genève aurait délibérément tiré un trait[4] sur la question de la validité de la sentence, de telle manière que cette question serait dépassée et ne pourrait donc pas être tranchée, avec pour conséquence que la Cour n'aurait aucun rôle à jouer puisqu'une solution pratique mutuellement acceptable suppose l'accord des Parties tandis qu'un arrêt — nous dit le Venezuela — statuant dans un sens ou dans l'autre sur la validité de la sentence aboutirait prétendument à une situation de déséquilibre entre les Parties.

10. Monsieur le président, Mesdames et Messieurs les juges, il est évidemment piquant de constater que, tout en professant rechercher une solution *mutuellement* acceptable et négociée[5] à un différend qui ne serait pas celui que la Cour a identifié, le Venezuela considère en réalité, comme il l'avait déjà fait en 1965[6] et qu'il a continué de le faire *ne varietur* depuis, que la seule solution acceptable à ses yeux est celle lui reconnaissant ce qu'il estime être ses droits sur l'Essequibo tout entier[7]. Ainsi, c'est sans doute parce que le Venezuela recherche une solution mutuellement acceptable par voie de négociation qu'il a unilatéralement et illégalement cherché à annexer l'Essequibo tout entier au terme d'un référendum et d'élections ayant fait l'objet de deux ordonnances en indication de mesures conservatoires… ! Par son comportement unilatéral, par le fait

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[2] *Sentence arbitrale du 3 octobre 1899 (Guyana c. Venezuela), compétence de la Cour, arrêt, C.I.J. Recueil 2020*, p. 474, par. 66.

[3] DV, vol. I, par. 1.27 *[traduction du Greffe]*.

[4] DV, vol. I, par. 1.23.

[5] DV, vol. I, par. 2.14.

[6] *Sentence arbitrale du 3 octobre 1899 (Guyana c. Venezuela), compétence de la Cour, arrêt, C.I.J. Recueil 2020*, p. 466, par. 39, et p. 491, par. 132.

[7] DV, vol. I, par. 4.48.

accompli qu'il essaie d'imposer en violation des ordonnances de la Cour, force est donc de constater que le Venezuela contredit sa propre compréhension de l'accord de Genève — signe sans doute que l'attachement à ce dernier qu'il ne manque pas de proclamer est fictif et de pure forme. Les reproches adressés au Guyana dans le premier chapitre de la duplique relèvent donc d'une gesticulation à laquelle la Cour ne devrait pas prêter trop d'importance.

11. Monsieur le président, c'est toutefois dans ce premier chapitre de la duplique, au paragraphe 1.39, que l'on trouve la seule tentative du Venezuela d'expliquer comment la Cour pourrait décider de ne pas exercer sa compétence, retenue par l'arrêt de 2020, de statuer sur la validité de la sentence arbitrale. Selon le Venezuela, il en irait de la préservation de la fonction judiciaire de la Cour, de manière comparable à ce qui fut décidé dans l'affaire du *Cameroun septentrional*. Les deux affaires sont pourtant bien différentes. En effet, en 1963, la Cour décida de ne pas exercer sa compétence car toute décision judiciaire sur le fond du différend aurait été sans objet puisque, comme le Cameroun l'avait reconnu, un arrêt de la Cour ne pouvait avoir d'effet sur la décision de l'Assemblée générale rattachant le Cameroun septentrional au Nigéria conformément aux résultats du plébiscite surveillé par les Nations Unies. À l'opposé et en l'occurrence, une décision judiciaire tranchant la question de la validité de la sentence ne manquerait pas d'avoir un effet juridique, d'avoir « des conséquences pratiques », sur l'objet même du différend. Pour reprendre les mots de la Cour dans l'affaire du *Cameroun septentrional*, votre futur arrêt « dissip[era] … toute incertitude dans le[]s relations juridiques » des Parties[8]. Alors, bien sûr, dans la logique du Venezuela, une telle décision n'est pas permise car l'accord de Genève aurait un autre objet — mais à nouveau, ce n'est pas ce qu'a décidé la Cour en 2020, de telle manière que l'invocation de l'affaire du *Cameroun septentrional* est erronée car elle présuppose ce qu'elle entend obtenir et que la Cour a déjà rejeté.

12. Le premier chapitre de la duplique se termine par une menace à peine voilée à l'intention de la Cour — et je cite l'original en anglais : « the Court has no role to play in resolving the territorial dispute over the Guayana Esequiba. Any other approach would exacerbate the dispute. »[9] Monsieur le président, Mesdames et Messieurs les juges, il est difficile de lire ces mots autrement que comme une forme d'intimidation car le Venezuela annonce ainsi, en substance et sans vergogne, qu'il

[8] *Cameroun septentrional (Cameroun c. Royaume-Uni), exceptions préliminaires, arrêt, C.I.J. Recueil 1963*, p. 34.

[9] DV, vol. I, par. 1.42.

aggravera lui-même le différend si la Cour le tranche. Le Guyana ne doute pas que la Cour ne sera guère impressionnée et que, fidèle à sa mission, elle tranchera le différend qu'elle a correctement identifié et au sujet duquel elle a retenu sa compétence.

II. La Cour a déjà rejeté l'interprétation de l'accord de Genève présentée par le Venezuela

13. Monsieur le président, Mesdames et Messieurs les juges, le deuxième chapitre de la duplique soutient que les parties à l'accord de Genève entendaient par celui-ci « remplacer la sentence arbitrale de 1899, sur laquelle elles avaient des vues fondamentalement divergentes et inconciliables, par un nouveau règlement pratique, et ce, indépendamment du statut juridique de la sentence »[10]. Tout au long de son argumentation, le Venezuela prétend donc en substance que par l'accord de Genève, le Royaume-Uni et le Guyana auraient, à défaut de reconnaître explicitement la nullité de la sentence — ce qui ne fût évidemment pas fait dans l'accord de Genève —, accepté de renoncer à son bénéfice en s'engageant à chercher une solution négociée mutuellement acceptable.

14. Alors cette tentative de réécrire l'accord de Genève tout en s'en prévalant est, vous le savez, profondément erronée et totalement contraire à l'arrêt par lequel la Cour s'est déclarée compétente.

15. La Cour a en effet déjà statué, en la rejetant, sur l'affirmation du Venezuela selon laquelle « la question de la validité de la sentence de 1899 ne fait pas partie du différend visé par l'accord de Genève », cet instrument ayant prétendument « été adopté en partant du principe que la position consistant à soutenir que la[] sentence est nulle ne pouvait faire l'objet de discussions entre les Parties »[11]. Comme la Cour l'a relevé, le Royaume-Uni et le Guyana ont constamment considéré que l'assertion suivant laquelle la sentence aurait été nulle « était sans fondement »[12] et n'ont accepté l'accord de Genève que parce qu'il préservait les positions des parties à cet égard. Se penchant sur sa compétence *ratione materiae* et confirmant, comme je l'ai rappelé, que l'objet du différend que les parties étaient convenues de régler en vertu de l'accord de Genève était — je cite encore — « la validité de la sentence de 1899 et les implications de cette question sur la frontière terrestre entre le

[10] DV, vol. I, par. 2.46.

[11] *Sentence arbitrale du 3 octobre 1899 (Guyana c. Venezuela), compétence de la Cour, arrêt, C.I.J. Recueil 2020*, p. 489, par. 126.

[12] *Ibid.*, p. 491, par. 132.

Guyana et le Venezuela »[13], la Cour souligna qu'en utilisant l'expression « la position du Venezuela, qui soutient », l'article premier de l'accord de Genève exprimait le désaccord subsistant entre les parties au sujet de la validité de la sentence, lequel justifiait la recherche de solutions selon le mécanisme convenu dans l'accord. Comme la Cour l'a expressément relevé — je cite l'arrêt de 2020 —, « [c]ela ne signifie en rien que le Royaume-Uni ou le Guyana aient souscrit à la position défendue par le Venezuela, que ce soit avant ou après la conclusion de cet instrument »[14].

16. Ainsi, l'arrêt de 2020 a dit pour droit que la compétence matérielle de la Cour s'étendait à la question de la validité de la sentence arbitrale, cette question n'ayant pas été dépassée ni remplacée par l'accord de Genève et constituant d'ailleurs, ainsi que la Cour l'a relevé, un préalable nécessaire à tout règlement définitif du différend frontalier[15]. La Cour souligna encore que

> « l'argument du Venezuela selon lequel l'accord de Genève ne couvre pas la question de la validité de la sentence de 1899 est contredit par l'allocution prononcée par le ministre vénézuélien des affaires étrangères devant le Congrès national peu après la conclusion de cet instrument »[16].

La Cour releva en particulier que le ministre avait déclaré : « [à] supposer que la sentence de 1899 soit déclarée nulle, que ce soit d'un commun accord entre les parties concernées ou par une décision rendue par une autorité internationale compétente communément désignée [as per Agreement], la question se poserait de nouveau dans les termes initiaux »[17]. Outre ce passage, l'allocution ministérielle de 1966 manifestait clairement à deux autres reprises encore que la prétention de nullité, raison du différend créé par le Venezuela, devait être réglée par le mécanisme mis en place par l'accord de Genève : d'une part, le ministre vénézuélien estima qu'« une fois la nullité de la sentence reconnue, le Venezuela devrait considérer comme irrecevable … toute prétention visant lesdits territoires » ; d'autre part, il émit une opinion au sujet du territoire vénézuélien susceptible d'être revendiqué « si la nullité de la sentence était prononcée »[18]. Il est donc indubitable que « la validité

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[13] *Ibid.*, p. 474, par. 66, et p. 490, par. 129.

[14] *Ibid.*, p. 490, par. 129.

[15] *Ibid.*, p. 490, par. 130.

[16] *Ibid.*, p. 491-492, par. 134.

[17] *Ibid.*, p. 492, par. 134.

[18] M. Ignacio Iribarren Borges, ministre des affaires étrangères du Venezuela, 17 mars 1966, DV, vol. II, annexe 2, p. 36-37 (p. 25 de la traduction du Greffe en français).

de la sentence de 1899 se trouvait au cœur du différend à résoudre »[19] pour reprendre les mots de votre arrêt de 2020.

17. Les arguments présentés dans la duplique ont donc déjà été examinés et rejetés par la Cour, et il n'est assurément pas nécessaire de les examiner à nouveau. Je relève par ailleurs qu'aucun juge ayant voté contre le premier point du dispositif de l'arrêt de 2020 n'a estimé que la question de la validité de la sentence aurait été mise de côté par l'accord de Genève et ne relevait pas du différend qu'il entendait régler.

III. L'argument déduit de la décolonisation

18. Monsieur le président, la conclusion du troisième chapitre de la duplique soutient qu'« il y a lieu de voir en l'accord de Genève une étape cruciale du processus de décolonisation, qui témoigne de la volonté de répondre aux griefs de l'époque coloniale et de rechercher une solution juste et équitable à un différend territorial né des inégalités de cette période de l'histoire »[20]. Le Venezuela affirme en outre qu'en supposant même que la sentence de 1899 soit valable (je cite la duplique dans sa version anglaise), « its territorial consequences could not be applied in absolute and unconditional terms in a dispute where the law of decolonisation is the governing legal framework »[21].

19. Le Guyana ne conteste pas l'existence des principes bien établis du droit de la décolonisation mis en avant par le Venezuela dans sa duplique, pas plus qu'il ne nie que de nombreuses injustices résultent encore à travers le monde de la décolonisation et de la colonisation. Toutefois, il est douteux qu'un État ayant déclaré son indépendance en 1811, un État qui est un Membre fondateur de l'Organisation des Nations Unies (ONU) et qui n'a jamais été un territoire non autonome au sens de la Charte, puisse être considéré comme l'objet et le bénéficiaire du droit de la décolonisation. En effet, ce droit s'est développé dans la deuxième moitié du XX^{e} siècle, « la résolution 1514 (XV) du 14 décembre 1960 constitu[ant] [comme la Cour l'a dit] un moment

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[19] *Sentence arbitrale du 3 octobre 1899 (Guyana c. Venezuela), compétence de la Cour, arrêt, C.I.J. Recueil 2020*, p. 492, par. 134.

[20] DV, vol. I, par. 3.29.

[21] DV, vol. I, par. 3.19.

décisif »[22] à cet égard. Le droit de la décolonisation entendait libérer les peuples *alors* colonisés du joug colonial, y compris le peuple du Guyana britannique.

20. Quoi qu'il en soit, Mesdames et Messieurs de la Cour, il est difficile de voir à quoi le Venezuela veut concrètement en venir en invoquant le droit de la décolonisation.

21. S'il s'agit de soutenir que le traité de Washington ou la sentence arbitrale sont nuls car ils résulteraient d'une contrainte de la part d'une puissance coloniale contre un État alors indépendant depuis près de quatre-vingt-dix ans et bénéficiant du soutien de la plus grande puissance continentale, le Venezuela devrait le prouver et non simplement l'affirmer. Dans ses écritures, le Guyana a déjà répondu à l'argument fallacieux tardivement avancé par le Venezuela selon lequel il aurait été contraint d'accepter le traité de 1897. Mon collègue et ami M. Reichler y reviendra tout à l'heure.

22. S'il s'agit d'autre part de soutenir, comme semble le dire le Venezuela dans l'extrait de sa duplique que je viens de lire en anglais, que le Guyana n'aurait pas été en droit de succéder au Royaume-Uni sur le territoire délimité par la sentence alors même qu'elle était valable, le Venezuela devrait apporter la preuve de l'existence d'une telle exception à l'un des principes fondamentaux du droit de la décolonisation que la Cour a encore récemment rappelé[23]. Dans une telle et improbable hypothèse, voire même dans le cas où la sentence serait entachée de nullité, il appartiendrait aussi au Venezuela de prouver que la frontière convenue dans le traité de 1905 qui confirmait le tracé décidé par la sentence n'a pas acquis la « permanence que le traité lui-même ne connaît pas nécessairement »[24].

23. Au lieu d'adosser ses prétentions à une analyse juridique rigoureuse rencontrant précisément les obstacles que le droit international met sur sa route, le Venezuela se contente d'évoquer de manière très générale et très opportuniste le droit de la décolonisation alors qu'il ne lui est d'aucune assistance et que le véritable bénéficiaire de ce droit est le Guyana libéré du joug colonial en 1966.

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[22] *Effets juridiques de la séparation de l'archipel des Chagos de Maurice en 1965, avis consultatif, C.I.J. Recueil 2019 (I)*, p. 132, par. 150.

[23] *Délimitation terrestre et maritime et souveraineté sur des îles (Gabon/Guinée équatoriale), arrêt du 19 mai 2025*, par. 128.

[24] *Différend territorial (Jamahiriya arabe libyenne/Tchad), arrêt, C.I.J. Recueil 1994*, p. 37, par. 73.

24. Pour le reste, le Guyana estime que l'accord de Genève est un remarquable instrument de décolonisation car il témoigne de l'acceptation par la puissance coloniale de la possibilité de remettre en cause de prétendues injustices coloniales dans la mesure où elles seraient dûment établies au regard du droit international applicable. C'est tout le sens de la compétence de la Cour pour examiner la validité de la sentence arbitrale. Que le défendeur conteste cette compétence tout en se prévalant des principes de la décolonisation est profondément paradoxal — mais en même temps révélateur de la conscience qu'il a de l'absence de fondement juridique de ses prétentions. De plus, et ainsi qu'il résulte de l'arrêt de 2023 rejetant l'exception tirée du principe de l'Or monétaire soulevée par le Venezuela, la puissance coloniale accepta par l'accord de Genève que son comportement de l'époque puisse servir de fondement à la prétention de nullité. Ainsi, loin de défavoriser le Venezuela, l'accord de Genève lui a offert la possibilité de « rouvr[ir] le dossier de la Guayana Esequiba »[25] pour reprendre les mots du président vénézuélien Raúl Leoni au moment de sa conclusion. L'accord de Genève deviendrait toutefois un instrument de décolonisation se retournant contre le Guyana décolonisé s'il permettait à son voisin d'indéfiniment entretenir une prétention juridique exorbitante et infondée, faisant peser une épée de Damoclès sur près de trois quarts du territoire hérité lors de l'accession à l'indépendance.

IV. L'argument déduit de la novation

25. Monsieur le président, Mesdames et Messieurs les juges, le quatrième chapitre de la duplique présente l'accord de Genève « en tant qu'instrument de novation » ayant « substitu[é] à une situation antérieure fondée sur la domination coloniale []un nouveau cadre négocié »[26]. Selon le Venezuela, en concluant l'accord de Genève, le Venezuela, le Royaume-Uni et le futur État du Guyana sont « convenus d'un processus novatoire qui a exclu toute possibilité d'invoquer par la suite la sentence arbitrale nulle et non avenue de 1899 »[27].

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[25] M. Ignacio Iribarren Borges, ministre des affaires étrangères du Venezuela, citant le président Leoni, 17 mars 1966, DV, vol. II, annexe 2, p. 38 (p. 26 de la traduction du Greffe en français).

[26] DV, vol. I, par. 4.2.

[27] DV, vol. I, par. 4.22.

26. Sous un nouvel habit aux apparences savantes puisant ses racines dans le droit romain[28] et adossé au droit de la décolonisation, l'argument de la novation ressemble à celui, rejeté par la Cour en 2020 mais réitéré avec obstination dans la duplique, selon lequel l'accord de Genève aurait tiré un trait sur la question de la validité de la sentence.

27. L'argument de la novation s'en distingue néanmoins car, en soutenant que l'accord de Genève aurait entièrement remplacé le régime juridique antérieurement établi par la sentence, il présuppose nécessairement que ce régime avait institué des obligations. En effet, comme le Venezuela l'écrit, la novation est la « transformation … opérée par le remplacement mutuellement convenu d'un ensemble d'obligations par un autre »[29]. La novation, c'est donc le remplacement d'obligations existantes, et donc valables, par un autre ensemble d'obligations. Toutefois, puisque le Venezuela soutient que la sentence est nulle, son argument de novation est profondément bancal. En effet, cet argument suppose ce que le défendeur rejette : si la sentence est nulle, elle ne peut pas être source d'obligations, et s'il n'y a pas d'obligations, il ne saurait être question de les remplacer pour le tout par un nouveau régime obligataire contenu dans l'accord de Genève. L'argument vénézuélien de la novation est donc affecté d'une contradiction interne indépassable.

28. S'il était sérieux, le point de départ de tout argument de novation devrait donc accepter que la sentence est valable et ainsi créatrice d'obligations car, pour reprendre les mots de la Cour permanente de Justice internationale (CPJI), elle est

> « de la nature d'un jugement déclaratoire qui … est destiné à faire reconnaître une situation de droit une fois pour toutes et avec effet obligatoire entre les Parties, en sorte que la situation juridique ainsi fixée ne puisse plus être mise en discussion, pour ce qui est des conséquences juridiques qui en découlent »[30].

Partant de là, le Venezuela devrait démontrer que l'accord de Genève contient un consentement, comme il le dit, « sans équivoque ni ambiguïté »[31] d'opérer une novation, c'est-à-dire de remplacer la situation de droit établie par la sentence avec effet obligatoire, par une autre situation obligatoire régissant le même objet. Mais, Mesdames et Messieurs de la Cour, l'accord de Genève n'a en rien eu un tel effet juridique. L'effet de l'accord de Genève n'est pas d'avoir reconnu la nullité de la

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[28] DV, vol. I, par. 4.5.

[29] *Ibid*.

[30] *Interprétation des arrêts n^os^ 7 et 8 (usine de Chorzów), arrêt n^o^ 11, 1927, C.P.J.I. série A n^o^ 13*, p. 20.

[31] DV, vol. I, par. 4.7.

sentence, ni d'avoir tiré un trait sur cette question, ni d'avoir par lui-même remplacé les effets obligatoires de la sentence par un nouveau régime juridique puisqu'il ne dessinait pas une nouvelle frontière. Le seul effet de l'accord de Genève est d'avoir permis qu'une discussion au sujet de la validité de la sentence puisse avoir lieu et d'avoir institué un mécanisme pour que cette discussion aboutisse à un règlement définitif du différend né de la prétention de nullité vénézuélienne, débouchant, soit sur la confirmation de la sentence et de sa validité et donc de la situation juridique établie par elle, soit sur une déclaration de nullité et une nouvelle délimitation de la frontière entre le Guyana et le Venezuela si le traité de 1905 et la frontière ainsi convenue devaient également et distinctement en être affectés. En somme, l'accord de Genève ne peut raisonnablement pas être interprété comme opérant une novation, sous quelque forme que ce soit.

V. *Res judicata*

29. Monsieur le président, Mesdames et Messieurs les juges, je termine : il est indubitable que la première partie de la duplique du Venezuela vise à remettre en cause vos arrêts de 2020 et de 2023. Le défendeur ne s'en cache pas puisqu'il les rejette. Pourtant, il n'en remet jamais frontalement en cause la force de chose jugée et il n'a pas introduit de demande de révision au titre de l'article 61 du Statut, seule procédure permettant de remettre en cause le principe de la chose jugée[32]. Il faut donc en déduire que le Venezuela n'a découvert aucun « fait nouveau » « de nature [s'il avait été connu] à exercer une influence décisive » sur les conclusions auxquelles la Cour est parvenue dans ses arrêts de 2020 et de 2023.

30. Dans ces conditions, ces arrêts demeurent *res judicata* pour les Parties et pour la Cour elle-même. Dans l'arrêt de 2020, la Cour a d'ailleurs souligné qu'« [u]n arrêt sur la compétence, comme sur le fond, est définitif et obligatoire pour les parties aux termes des articles 59 et 60 du Statut »[33]. Dès lors, « [p]river une partie du bénéfice d'un arrêt rendu en sa faveur doit, de manière

[32] *Application de la convention pour la prévention et la répression du crime de génocide (Bosnie-Herzégovine c. Serbie-et-Monténégro), arrêt, C.I.J. Recueil 2007 (I)*, p. 92, par. 120.

[33] *Sentence arbitrale du 3 octobre 1899 (Guyana c. Venezuela), compétence de la Cour, arrêt, C.I.J. Recueil 2020*, p. 464, par. 26.

générale, être considéré comme contraire aux principes auxquels obéit le règlement judiciaire des différends »[34].

31. En l'espèce, tous les arguments présentés dans la duplique portent sur des points qui ont déjà été tranchés soit explicitement, soit par implication logique[35], points qui sont dès lors revêtus de la force de chose jugée. Le critère utilisé par la Cour pour accepter d'examiner une question de compétence au stade du fond n'est en effet pas de savoir si les arguments qui lui sont présentés sont nouveaux ou s'ils recyclent des arguments antérieurement formulés, mais de savoir si la décision devant être rendue à leur sujet est « susceptible de contredire la conclusion par laquelle la Cour s'était déclarée compétente dans l'arrêt antérieur »[36]. Or, il est indéniable que « s'ils étaient retenus, les arguments avancés par le défendeur dans la [duplique] auraient pour effet — et tel est d'ailleurs leur but — de renverser »[37] les décisions prises par la Cour dans ses arrêts de 2020 et de 2023.

32. Le Guyana demande donc respectueusement à la Cour de ne pas le priver du bénéfice de ces arrêts et de procéder au règlement du différend portant sur la validité de la sentence arbitrale de 1899.

33. Je remercie la Cour pour sa bienveillante attention et puis-je vous demander, Monsieur le président, de bien vouloir donner la parole à M[me] l'ambassadrice Donette Streete au sujet du contexte géographique du différend ?

Le PRÉSIDENT : Je remercie le professeur d'Argent. I now give the floor to Ambassador Donnette Streete. You have the floor, Madam.

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[34] *Application de la convention pour la prévention et la répression du crime de génocide (Bosnie-Herzégovine c. Serbie-et-Monténégro), arrêt, C.I.J. Recueil 2007 (I)*, p. 91, par. 116.

[35] *Ibid.*, p. 95, par. 126 ; *Sentence arbitrale du 3 octobre 1899 (Guyana c. Venezuela), exception préliminaire, arrêt, C.I.J. Recueil 2023 (I)*, p. 282, par. 67.

[36] *Application de la convention pour la prévention et la répression du crime de génocide (Bosnie-Herzégovine c. Serbie-et-Monténégro), arrêt, C.I.J. Recueil 2007 (I)*, p. 96, par. 128.

[37] *Ibid.*, p. 96, par. 128.

Ms STREETE:

THE ESSEQUIBO REGION: GUYANA'S GEOGRAPHY AND THE TERRITORY AT STAKE

1. Mr President, Members of the Court, it is my privilege to address the Court on the nature of the territory that lies at the very heart of this case — the Essequibo.

2. Before the Court turns to the legal questions surrounding the 1899 Arbitral Award and its validity, Guyana considers it appropriate to set out, concretely, what is at stake in these proceedings. As the Court will see, Venezuela's claim is not directed at some remote frontier land. It is directed at the heart of my country, the vast majority of its sovereign territory, over 70 per cent of it.

I. The scale of the territory in dispute

3. Let me begin with the sheer scale of what is being claimed. Guyana is the third-smallest country by geographic area in South America comprising no more than 215,000 sq km of land[38]. Venezuela, by contrast, is more than four times larger[39].

4. The area claimed by Venezuela comprises all of Guyana's land territory lying to the west of the Essequibo River, after which the region is named. It accounts for almost three-quarters of Guyana's total land territory — a vast expanse of about 159,500 sq km[40]. Six of Guyana's ten administrative regions are located within it[41].

5. I respectfully ask the Court to pause on this figure: Venezuela is claiming almost three-quarters of Guyana's sovereign territory — the land in which much of Guyana's population lives; where much of its economic activity takes place; and where its most precious natural, ecological and cultural treasures are found. For a small, developing nation, the loss of nearly

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[38] Guyana Lands and Surveys Commission, "Fact Page on Guyana: Geographic Location of Guyana", available at https://factpage.glsc.gov.gy/geography/.

[39] Government of Guyana, Ministry of Foreign Affairs, Memorandum on the Guyana/Venezuela Boundary (2 Nov. 1981), reprinted in UN General Assembly, 36th Session, Review of the Implementation of the Declaration on the Strengthening of International Security, UN doc A/C.1/36/9 (9 Nov. 1981), p. 2, Memorial on the merits of Guyana (MMG), Vol. III, Annex 54.

[40] Guyana Ministry of Foreign Affairs, Annual Report, 1998, p. 101, available at https://parliament.gov.gy/documents/acts/4979-annual_report_foreign_affairs_1998.pdf.

[41] Guyana Lands and Surveys Commission, "Fact Page on Guyana: Administrative Regions", available at https://factpage.glsc.gov.gy/admin-regions-detailed/.

three-quarters of its territory would not be a border adjustment; it would be the dismemberment — indeed the effective destruction — of the country.

II. Geographical, ecological and economic features

6. I turn now from the size to the character of the territory Venezuela claims, because its significance to Guyana is not only a matter of size — it is a matter of what the land contains and what it means to our Guyanese people.

7. Guyana's name is aptly derived from an Amerindian word "Guiana", meaning the "land of many waters". That is because Guyana possesses a vast hydrographic network consisting of 14 major drainage basins[42]. The Essequibo River is by far the longest, extending some 1,014 km, making it one of the largest rivers in South America. Its major tributaries — the Potaro, the Cuyuni, the Mazaruni and the Rupununi — all flow through the Essequibo region[43].

8. These rivers are the arteries of our national life. For the people who live in the Essequibo, they are how communities stay connected and communicate and trade with one another; they are the source of fresh water, and the lifeblood of ecosystems that support biodiversity and vital carbon sinks for current and future generations.

9. The natural endowment of the Essequibo region includes more than its rivers. The region is also lined by interconnected mountain ranges, including the Pakaraima Mountains. This is where Guyana's highest mountain — Mount Roraima — forms a tripartite boundary among Guyana, Venezuela and Brazil[44].

10. In the very centre of the Essequibo region, lies the Iwokrama Rainforest — the "green heart" of Guyana — one of the last four untouched tropical rainforests in the world and a site of global ecological significance. This pristine and delicate environment encompasses a vast area that

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[42] U.S. Army Corps of Engineers, "Water Resources Assessment of Guyana" (Dec. 1998), available at https://www.sam.usace.army.mil/Portals/46/docs/military/engineering/docs/WRA/Guyana/Guyan a%20WRA.pdf, p. 17.

[43] Guyana Lands and Surveys Commission, "Fact Page on Guyana: Major Rivers" (undated), MMG, Vol. II, Figure 2.2.

[44] *Ibid*., Figure 2.3.

is universally recognized as rich in diverse species of plants, animals and insects[45] — including many threatened with extinction[46]. It is a sanctuary for conservation, scientific research and ecotourism[47].

11. Guyana has designated 371,000 hectares of pristine forest at Iwokrama to "promote the conservation and the sustainable and equitable use of tropical rainforests" [48].

12. The ecological significance of the Essequibo region is matched by its economic importance. The region is the engine of our economic development. Gold-mining in parts of the region dates back to the nineteenth century[49]. Considerable deposits of bauxite and manganese are also found in the Essequibo region[50]. There is significant potential for the exploitation of oil and natural gas in the waters adjacent to its coasts[51]. These natural endowments are essential to Guyana's economic development.

13. The region also supports substantial agricultural activity, from rice cultivation[52] along the low-lying coastal areas — to cattle ranching in the Upper Essequibo area, which supplies beef for export[53].

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[45] Counter-Memorial of Venezuela on the Merits, 8 April 2024, Appendix, p. 9. See also Wildlife World, "Iwokrama Rainforest", available at https://www.wildlifeworldwide.com/locations/iwokrama-rainforest.

[46] Dr Mark Engstrom & Dr Burton Lim, Guide to the Mammals of the Iwokrama (1999), p. 14.

[47] Iwokrama Rainforest, "Wildlife World", available at https://www.wildlifeworldwide.com/locations/iwokrama-rainforest.

[48] Memorial of Guyana on Jurisdiction, 19 November 2018, Vol. IV, Annex 106: Address of the President of the Republic of Guyana to the UN General Assembly, 71st Session, UN doc. A/71/PV.8 (20 Sept. 2016), p. 23.

[49] M. Moohr, "The Discovery of Gold and the Development of Peasant Industries in Guyana, 1884-1914: A Study in the Political Economy of Change", *Caribbean Studies*, Vol. 15, No. 2 (July 1975), p. 61.

[50] Counter-Memorial of Venezuela (CMV), 8 April 2024, Appendix at p. 12.

[51] Extractive Industries Transparency Initiative Guyana: Oil and Gas Sector, available at https://eiti.gy/oil-gas-sector/.

[52] Guyana Lands and Surveys Commission, "Fact Page on Guyana: Major Rivers" (undated), available at https://factpage.glsc.gov.gy/region-ii/. See also, Ministry of Communities, "Child-Friendly Regional Profile: Region Two: Pomeroon-Supenaam, available at https://www.unicef.org/lac/media/4581/file/PDF%20Portada%20Region%20two:%20Pomeroon-Supenaam.pdf.

[53] *Ibid.*

III. Human settlement and governance

14. I have described our land. Let me now speak of the people — because the Essequibo is not merely territory. It includes the people who inhabit it, who administer it and who belong to it, including my own family.

15. According to the most recent census, conducted in 2022, the Essequibo region has a population of 313,175, more than one-third of Guyana's entire population[54]. These include members of nine indigenous groups, the first inhabitants of this land[55]. The remainder of the population reflects Guyana's rich ethnic and racial diversity, including descendants of Dutch settlers — the first Europeans to occupy the territory — and descendants of Africans and Asians brought to this land, as slaves and indentured servants — respectively, by Dutch and later British colonizers between the seventeenth and nineteenth centuries[56]. As Guyana's Agent, Mr Greenidge, will shortly explain, it is a historical fact that there was no Spanish colonization or permanent settlement anywhere in this territory. The Spanish may have been the first Europeans to set their eyes on the vast northern coast of South America, or to claim it, but they never established a presence of any significance there. Nor have they ever administered it.

16. As Mr Greenidge will explain, the British followed the Dutch into the Essequibo region during the first half of the nineteenth century, forged alliances with the various indigenous communities, explored and mapped the area, and expanded British settlement and administration beyond the coast, into the interior. There was never any Spanish or Venezuelan administration there. British administration deepened in the second half of the nineteenth century and continued until Guyana's independence in May 1966. Since then, Guyana has exercised full sovereignty and governance over the Essequibo region. It administers education through schools across the region[57].

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[54] Guyana Bureau of Statistics, "Population and Housing Census – 2022, Household by Dwelling Ownership and by Village", available at https://statisticsguyana.gov.gy/census/.

[55] Inter-American Development Bank, p. 7, available at https://publications.iadb.org/publications /english/ document/Guyana-Technical-Note-on-Indigenous-Peoples.pdf.

[56] Encyclopedia Britannica, "People of Guyana", available at https://www.britannica.com/place/Guyana/People.

[57] Guyana Ministry of Education, "List All Schools", available at https://education.gov.gy/web2/index.php/other-resources/other-files/list-of-schools.

It operates postal services[58], manages fisheries[59], enforces environmental regulations[60] and invests in infrastructure projects[61]. It collects taxes through the Guyana Revenue Authority[62].

17. Guyana also conducts national and regional elections in the Essequibo region, as it does everywhere in Guyana[63]. In the last elections, held on 1 September 2025, nine Members of Parliament were elected from geographical constituencies in the Essequibo[64]. These are not abstractions. In exercising their democratic right to vote and choosing their representatives, the people of the Essequibo affirm their commitment to, and identification with, the sovereign State of Guyana.

IV. Conclusion

18. Mr President, Members of the Court, I have sought to show — in concrete, human and physical terms — what the Essequibo region is. It is an integral and essential part of Guyana. Its geography, its economic activity, its culture and the continuous governance of its land and peoples — first by the Dutch, and then by the British, and since 1966 by Guyana itself — are not matters of abstract historical interest. They are the substance of Guyana's national life; they are an indelible feature of Guyana's national and cultural identity; and they are the crucial foundation for Guyana's security and development.

19. Guyana has no designs on anyone else's territory. But we insist on our rights to our own territory, which by virtue of the Arbitral Award of 3 October 1899, includes Essequibo. Guyana's

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[58] Guyana Post Office Corporation, "About Us", available at https://guypost.gy/about-us/; Guyana Post Office Corporation, "Post Office Telephone Directory", available at https://guypost.gy/directory/.

[59] Guyana Ministry of Agriculture, "Fisheries", available at https://agriculture.gov.gy/fisheries/.

[60] See e.g. Government of the Cooperative Republic of Guyana, Proceedings and Debates of the National Assembly of the First Session (2015-2016) of the Eleventh Parliament of Guyana under the Co-operative Republic of Guyana held in the Parliament Chamber, Public Buildings, Brickdam, Georgetown (11 Feb. 2016), p. 90. MMG, Vol. IV, Annex 102. See also, Iwokrama, "About Us", available at https://iwokrama.org/about-us/.

[61] See e.g. World Bank, "Staff Appraisal Report, Guyana, Infrastructure Rehabilitation Project" (22 Feb. 1993), available at http://documents1.worldbank.org/curated/en/263761468250853522/text/multi-page.txt.

[62] Guyana Revenue Authority, "About Us", available at https://www.gra.gov.gy/about-us/.

[63] Guyana Elections Commission (GECOM), About GECOM, available at https://www.gecom.org.gy/public/home/about; GECOM, Election Result: 2025 – General and Regional, available at https://www.gecom.org.gy/public/home/results/gre2025.

[64] Parliament of the Co-Operative Republic of Guyana, "Who's Who in Parliament", available at https://www.parliament.gov.gy/about-parliament/who-in-parliament.

legal team will explain why that Award remains legally valid and binding on both Venezuela and Guyana and why Venezuela's challenges to it should be rejected.

20. I am very grateful for the Court's attention and I ask that you invite Mr Carl Greenidge to the podium to make Guyana's next presentation. Thank you.

The PRESIDENT: I thank Ambassador Streete. I now invite the Agent of Guyana, HE Mr Carl Greenidge, to address the Court. Sir, you have the floor.

Mr GREENIDGE:

THE COLONIAL HISTORY AND ORIGINS OF THE BOUNDARY DISPUTE

1. Mr President, Members of the Court, it is my great privilege to address you this morning. I will continue Guyana's presentation on the territory in dispute. Ms Streete discussed the land and its people; I will now briefly describe its history as part of a Dutch and then a British colony, in the period leading up to the boundary dispute with Venezuela that began in the middle of the nineteenth century. Mr Reichler will then carry the story forward through efforts by Great Britain and Venezuela to resolve this dispute, with the support of the United States, culminating in 1897 with the execution and ratification of the Treaty of Washington which enshrined the agreement to submit the dispute to arbitration.

I. The Dutch legacy and the British acquisition

2. The post-Columbian history of our territory begins with the arrival of the Dutch in 1598. They were the first Europeans to establish themselves in what is now Guyana. By 1616, they had founded the Colony of Essequibo, erected Fort Kykoveral along the Mazaruni River west of the Essequibo as their seat of government and begun to settle and administer the territory stretching westward toward the Orinoco[65]. Five years later, in 1621, the States General granted the Dutch West

[65] Jacobus van der Schley, "Caart van Essequibo en Demerary" (G. Tielenburg, 1770). MMG, Vol. II, Figure 2.4.

India Company its Charter, by which it took charge of running the colony[66]. In 1744, the seat of Dutch administration was moved to Fort Zeelandia[67].

3. And the Spanish? They were nowhere to be found — not east of the Orinoco at any rate. Their nearest outpost was Santo Thomé, on the banks of the Orinoco. This was the easternmost Spanish settlement. The Spanish Governor there was candid about his predicament: the settlement, he wrote, was "so far distant from" other Spanish possessions, "the nearest being Venezuela" — more than 650 km away[68]. Later, a settlement at Upata, slightly south of Santo Thomé, was established. Spain never settled any territory farther east of the Orinoco. Spanish attempts to do so were repelled by the Dutch.

4. The reality was enshrined by the Treaty of Münster in 1648. Spain recognized Dutch independence and expressly accepted the territorial status quo on South American mainland[69]. In 1713, the Treaty of Utrecht reinforced that of 1648, confirming Dutch authority over the territory and settlements it had established in its South American colonies, which then included territory west of the Essequibo River[70].

5. Over the course of the eighteenth century, the Dutch moved deeper into the interior of the Essequibo region and further westward along the Atlantic Coast. This map, produced in 1781, shows the extent of Dutch settlement and administration of the Essequibo River at that time. The Dutch were then settled along the Pomeroon River, which still bears its original name, as well as at Cape Nassau, Moruga, Spruyt, Wayma and Amacura, at the mouth of the Orinoco River. The extensive Dutch settlement of this territory during the seventeenth and eighteenth centuries is evidenced by the Dutch names maintained to the present day, of the villages, towns, rivers and other geographic features. Thirty-five of these place names are now listed on your screens, at tab 4 of your folders, along with their geographical co-ordinates.

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[66] Venezuela-British Guiana Boundary Arbitration, The Case of the United States of Venezuela (1898), Vol. I, pp. 54-55. MMG, Vol. IV, Annex 123; Venezuela-British Guiana Boundary Arbitration, The Case of the United States of Venezuela (1898), Vol. I, p. 75. MMG, Vol. IV, Annex 124.

[67] Boundary between the Colony of British Guiana and the United States of Venezuela, The Case on behalf of the Government of Her Britannic Majesty (1898), pp. 35-36.

[68] Letter of the Request of the City of Santo Thomé and Island of Trinidad of the Presidency of Guayana for Help (undated, likely issued in 1621), p. 50. MMG, Vol. III, Annex 11.

[69] Articles of the Peace of Münster (30 Jan. 1648), Art. V. MMG, Vol. IV, Annex 78.

[70] Treaty of Utrecht (1713) available at https://primarydocuments.ca/wp-content/uploads/2018/04/TreatyUtrecht1713.pdf.

6. In sharp contrast to the widespread Dutch settlement of the territory lying between the Essequibo and Orinoco Rivers, there were no Spanish settlements east of the Orinoco. Venezuela recognizes "Dutch presence on the west bank of the Essequibo" but seeks to characterize this as "very limited" and "temporary" in nature[71]: that is historically inaccurate and not supported by the evidence. What Venezuela does not say — and what it cannot say — is that there was any Spanish settlement or administration in this territory.

7. By the early nineteenth century, the Dutch were displaced, but neither by Spain nor by Venezuela. They were displaced by Great Britain. After tensions arose between the two Powers — in part because the Dutch had backed the American colonies in their struggle for independence — Britain seized the Dutch possessions in this area and in the early 1800s. In 1803, the Netherlands ceded its colonies to Britain under the Articles of Capitulation of Demerara and Essequibo[72].

8. At the close of the Napoleonic Wars, the Dutch formalized the transfer. The 1814 Convention of London ceded the colonies of Essequibo-Demerara and Berbice to Britain[73]. The Treaty of Paris of 1815 confirmed it[74]. Only Suriname, in the east, was territory returned to the Dutch.

9. For the first decade and a half after the Treaty of Paris, Britain maintained the separation of Berbice and Essequibo-Demerara. In 1831, King William IV merged them into one, to form the colony of British Guiana[75].

II. Schomburgk and the demarcation of British Guiana's boundaries

10. With a newly consolidated colony, Britain set about increasing its understanding of what it possessed. It began by commissioning a survey of the territory which included an effort to determine its western boundary, that is, where British Guiana ended and the nascent Republic of Venezuela began[76].

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[71] CMV, paras. 4.52, 4.54, 4.55.

[72] Articles of Capitulation of Demerara and Essequibo (18-19 Sept. 1803). MMG, Vol. IV, Annex 79.

[73] Convention of London (1814) available at https://hansard.parliament.uk/Commons/1815-06-09/debates/0e7491ad-421f-4e13-9843-e5a4e4591f6c/ConventionBetweenGreatBritainAndTheNetherlands.

[74] Treaty of Paris (1815) available at https://avalon.law.yale.edu/19th_century/conv1816.asp.

[75] British Guiana, Letters Patent constituting the Colony of British Guiana and appointing Major General Sir Benjamin D'Urban, KCB, Governor (4 Mar. 1831). MMG, Vol. IV, Annex 80.

[76] Letter from Mr Schomburgk to Governor Light (1 July 1839) (Inclosure in Letter from the Colonial Office to the Foreign Office (6 Mar. 1840)). MMG, Vol. III, Annex 16.

11. Robert Schomburgk was entrusted with this task. Schomburgk, a German-born botanist, surveyor and geographer of considerable distinction. Between 1835 and 1839 Schomburgk carried out three major expeditions into the territory west of the Essequibo under the auspices of the Royal Geographical Society[77]. In the process he traversed vast swathes of the interior. Venezuela's Counter-Memorial dismisses Schomburgk as a mere "Prussian technician" who drew boundary lines "different from the one that had been known until then" [78]. In fact, until then there was no known boundary, much less one that was recognized or agreed. The Schomburgk expedition was an effort to establish such a boundary.

12. In 1840, following his earlier excursions through the territory west of the Essequibo River, Great Britain directly commissioned Schomburgk to map out the colony's borders. The intention had been to share the results with Brazil and Venezuela, and to inform Venezuela in advance of Schomburgk's mission and its objectives[79]. The Venezuelan President, José Antonio Páez, did not protest. In fact, he welcomed Schomburgk's mission. British colonial records report that President Páez "conceived this to be the best opportunity to settle definitively this affair, which interests both nations" [80]. He also proposed that the two countries set up a joint commission to conduct the survey, prefatory to concluding a Treaty of Limits[81]. But, by the time the Venezuelan President's message reached London, Schomburgk had already set out on his mission[82].

13. Between 1841 and 1844, Schomburgk conducted five expeditions into the interior shown on this map. In the first trip (shown on the map as "Trip 1"), he journeyed along the Barima and Cuyuni Rivers and raised British flags and markers at Barima Point on the coast[83]. In his own words:

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[77] "Map Depicting the Expeditions of Robert Schomburgk (1835-1839)" in Vol. II, Annex of Maps and Figures shows the routes that Schomburgk followed on these expeditions. MMG, Vol. II, Figure 3.1 (in Vol. II only).

[78] CMV, paras. 4.80-4.81.

[79] Letter from Lord J. Russell to Governor Light (23 Apr. 1840) (Inclosure in Letter from Colonial Office to Foreign Office (28 Apr. 1840)). MMG, Vol. III, Annex 17.

[80] Letter from Viscount Palmerston to Sir R. Ker Porter (28 Nov. 1840), Letter from Mr O'Leary to Viscount Palmerston (24 Jan. 1841) and Letter from Mr O'Leary to Viscount Palmerston (2 Feb. 1841). MMG, Vol. III, Annex 18 (charging Sir Ker Porter to communicate the commission of Mr Schomburgk to the Government of Venezuela).

[81] *Ibid*.

[82] Letter from Señor Aranda to Governor Light (31 Aug. 1841) and Letter from Governor Light to Señor Aranda (20 Oct. 1841) (Inclosures in Letter from Governor Light to Lord Stanley (21 Oct. 1841)). MMG, Vol. III, Annex 19.

[83] *Ibid*.

> "The British Empire acquired, therefore, Guiana, with the same claims to the termini of its boundaries as held by the Dutch before it was ceded by Treaty to Great Britain . . . Of equal importance is the determination of the western boundary of British Guiana, the limits of which have never been completely settled."[84]

14. In this report, Schomburgk documented the chain of Dutch settlements stretching westward to the Barima River and noted that disinterested scholars in the eighteenth century had uniformly treated the Barima River as the western edge of Dutch territory[85]. He placed the British frontier at the Amakura River, four miles west of Barima Point — "as it is no doubt the most natural limit west of the former possessions of the Dutch"[86].

15. The map and boundary line he produced became what is known as the "Schomburgk Line". It became the basis of British territorial claims in the late nineteenth century, including in the arbitration against Venezuela, that resulted in the Award of 3 October 1899. The Schomburgk Line that the British presented to the arbitral tribunal is shown here, highlighted in yellow. The actual British claim line in the arbitration is highlighted in green.

III. Venezuela's reaction — A claim is born

16. The Schomburgk line triggered consternation in Venezuela, which protested it and asserted its own claim to the territory east of the Orinoco River, extending to the Essequibo River — as shown here, highlighted in red[87].

17. In asserting this claim, Venezuela did not point to any military bases or to settlements it had built, officials it had posted, or taxes it had collected. It pointed to the heavens — quite literally. Venezuela invoked the Papal Bull of 1493, issued by Pope Alexander VI, a Spaniard, and declared on that basis that "[t]he right of Spain to the territory of America has always been indisputable in the eyes of all the nations of the world"[88]. The treaties by which Britain inherited the Dutch colonies were, in Venezuela's view, void because the Netherlands had conveyed to England "what did not belong to her and what she knew did not belong to her"[89].

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[84] Letter from Mr Schomburgk to Governor Light (1 July 1839) (Inclosure in Letter from the Colonial Office to the Foreign Office (6 Mar. 1840)). MMG, Vol. II, Annex 16.

[85] Letter of Mr Schomburgk to Governor Light (30 Nov. 1841) enclosing Memorandum by Mr Schomburgk. MMG, Vol. III, Annex 21.

[86] *Ibid*.

[87] See e.g. Letter from Señor de Rojas to the Earl of Derby (13 Feb. 1877). MMG, Vol. III, Annex 23.

[88] Letter from Señor Calcaño to the Earl of Derby (14 Nov. 1876). MMG, Vol. III, Annex 22.

[89] *Ibid*.

18. Great Britain rejected Venezuela's claim and continued to promote settlement of the region under its administration within the area encompassed by the Schomburgk line[90]. The British made efforts to reach an understanding with Venezuela on the location of the boundary[91]. Various proposals were exchanged, beginning in the 1840s, but no agreement was reached. In the meantime, British settlement continued to expand westward within the Schomburgk line[92]. Venezuela felt powerless to stop it and grew increasingly desperate in attempting to prevent further British consolidation.

IV. The 1850 Agreement — marking a standstill period

19. Some progress toward a resolution was made in 1850, when Britain and Venezuela exchanged letters in which each undertook not to encroach further on any disputed territory until a final settlement on the boundary was reached[93]. There was a problem with the so-called "1850 agreement," however: it did not define or describe the territory that was disputed, leaving this for each party to determine for itself. Over the course of the following decades, Venezuela repeatedly complained about what it considered Britain's frequent violations of the 1850 Agreement, including its extension of control over the disputed territory between the Essequibo and Orinoco Rivers.

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[90] *British Guiana Boundary*, *Arbitration with the United States of Venezuela*, *The Case on Behalf of the Government of Her Britannic Majesty*, London, 1898, Volume I (extracts), p. 26. MMG, Vol. III, Annex 27 ("The journals and reports of the Superintendents of Rivers and Creeks and of the Postholder at Moruka also show that planting, boat-building, and wood-cutting were actively prosecuted in the Pomeroon district, giving employment to a large number of Indiana from all the rivers as far as the Amakuru. Mention is also made of residents and wood-cutters in the Essequibo, Massaruni, and Cuyuni."). See also, Extracts from Letter of Henry Light, Governor of British Guiana to Lord Glenelg, 1 September 1838, CMV, Annex 16 ("The Pomaroon river, at the western extremity of Essequibo, may be taken as a limit to the country, though there is a mission supported by the colony on the Maracca river or creek, a short distance westward, where 500 Spanish Indians are collected in a settlement under a Roman-catholic priest, recommended from Trinidad for that purpose; he is reported to be effecting good.")

[91] Letter from The Marquess of Salisbury to Señor de Rojas (10 Jan. 1880), MMG, Vol. III, Annex 24.

[92] Memorandum by the Ministry of Foreign Affairs of Venezuela: relative to the note of Lord Salisbury to Mr Olney, dated 26 November 1895, pp. 34-35. Rejoinder of Venezuela (RV), Vol. II, Annex 33 ("From these citations, it results that from 1844 new settlements began to be secretly founded on the territory to which Lord Aberdeen's line referred; that the agreement of 1850 not to occupy any part of the territories in dispute, did not serve as an obstacle to the fresh occupations; that consequently the British Government and its authorities violated it, notwithstanding the emphatic assertions and promises of Mr Wilson").

[93] CMV, Vol. I, 8 April 2024, paras. 4.90-4.92.

V. Failed diplomatic negotiations and the call for arbitration

20. In 1877, Venezuela's Minister in London, José Rojas approached the British Foreign Office with a proposal for an amicable settlement[94]. By 1880, formal negotiations had begun but no progress was made.

21. In November 1883, with the prospects for a diplomatic settlement bleak, Venezuela proposed, for the first time, that the territorial dispute be settled by arbitration, pursuant to which "the decision of an Arbitrator who, freely and unanimously chosen by the two Governments, would judge and pronounce a sentence of a definite character"[95].

22. Great Britain rejected Venezuela's proposal for arbitration. Ultimately, it offered to arbitrate only the territory west of the Schomburgk line — that is, on Venezuela's side of that line. This was, quite understandably, not acceptable to Venezuela. Faced with British intransigence on the scope of the arbitration, on 20 February 1887, Venezuela broke off diplomatic relations with Great Britain[96].

23. In its exasperation with the British, Venezuela turned to the United States for support and assistance, asking the United States to use its power and influence to persuade the British to submit to arbitration title to the entire territory claimed by both Britain and Venezuela, that is, all the land lying between the Essequibo and Orinoco Rivers. The history is clear and established by the evidence before the Court. It was *Venezuela* that insisted on arbitration. It was *Venezuela* that brought the United States into the picture to help it obtain the arbitration agreement with Great Britain that it was unable to obtain on its own.

24. And, ultimately, as Mr Reichler will show you, with the support of the United States, Venezuela secured the arbitration agreement on which it had been insisting for more than a decade, in the form of the 1897 Treaty of Washington. Right up to the President, Venezuela heralded and celebrated the Treaty as the accomplishment of its long-sought objective and profusely expressed gratitude to the United States for its indispensable contribution to that end. Venezuela maintained this attitude toward the Treaty — and its implementation — for the next 60 years. It neither questioned, challenged nor criticized the Treaty.

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[94] Letter from Señor de Rojas to the Earl of Derby (13 Feb. 1877). MMG, Vol. III, Annex 23.

[95] Letter from Señor Seijas to Colonel Mansfield (15 Nov. 1883). MMG, Vol. III, Annex 25.

[96] Letter from Señor Urbaneja to Mr F.R. St. John (20 Feb. 1887). MMG, Vol. III, Annex 28, p. 131.

25. In contrast, in these proceedings, Venezuela takes exactly the opposite position: it attacks that very Treaty, claiming now that it was unlawful and invalid on several grounds. At this point, I pass the baton to Mr Reichler, and invite you to call him to the bar, to show that there is no merit to any of Venezuela's belated and totally unpersuasive challenges to the Treaty.

26. Mr President, Members of the Court, I thank you for your kind attention, and I ask that you invite Mr Reichler to the podium, perhaps after a short break.

The PRESIDENT: I thank the Agent for his presentation. Before I give the floor to the next speaker, the Court will observe a break of 10 minutes. The hearing is suspended.

The Court adjourned from 11.40 a.m. to 12 noon

The PRESIDENT: Please be seated. The sitting is resumed. I now call Mr Paul Reichler to the podium. You have the floor, Sir.

Mr REICHLER:

THE VALIDITY OF THE TREATY OF WASHINGTON

1. Thank you. Mr President, Members of the Court, it is, as always, an honour for me to appear before you. And it is a privilege, as well as a great responsibility, for me to represent the Cooperative Republic of Guyana in a case that the Honourable Foreign Minister has described as "existential" for his State.

2. I will address you on the 1897 Treaty of Washington, the treaty between Venezuela and Great Britain by which they agreed to arbitrate their territorial dispute, and pursuant to which the dispute was arbitrated two years later, resulting in the Award of 3 October 1899.

3. In these proceedings, of course, Venezuela challenges the validity of that Award. The first reason it gives for the alleged invalidity of the Award is the purported invalidity of the 1897 Treaty. Venezuela contends that the Treaty was invalid and therefore that the arbitration that was conducted pursuant to it was also invalid. For this reason, the legality of the 1897 Treaty has been put into issue in this case.

4. As the Court is well aware, Venezuela accepted, respected and complied with the 1899 Arbitral Award for more than 60 years. The very first time it formally challenged the validity of the Award was in a letter from its Permanent Representative to the United Nations to the Secretary-General in February 1962[97]. At that time, and in subsequent presentations to the United Nations, Venezuela made clear that, although it had changed its position on the Award of 1899, it continued to regard the 1897 Treaty as a valid treaty. It was not until 1963, 66 years after it ratified the Treaty, that Venezuela first began to find fault with it.

5. My presentation on the Treaty will be in four parts. In the first part, I will set out the issues in this case on which both Venezuela and Guyana agree, or, at least, which they do not dispute. In Parts II to IV, I will address the three specific challenges Venezuela has made to the Treaty's validity, all of which Guyana considers groundless. I turn to part I.

I. Issues that are agreed or undisputed

6. As a general matter, the Parties do not dispute the circumstances that led up to the 1897 Treaty. In particular, they agree that the dispute over the boundary between Venezuela and British Guiana began to heat up in the 1840s, and that, between then and the early 1880s, Venezuela and Great Britain exchanged various proposals for delimitation of the boundary, all without success. Both States claimed the entire territory between the Essequibo River in the east and the Orinoco River in the west. Their respective proposals and counterproposals failed to resolve, or even substantially narrow, this dispute.

7. Throughout this 40-year period, Venezuela complained about what it considered the westward expansion of British settlement in the territory between the two rivers. Although, as you have heard, an agreement was reached in 1850 not to expand further into what they both referred to as "disputed" territory, Venezuela complained that British expansion continued. Recognizing that it was unable to stop the British diplomatically or militarily, Venezuela implored them to settle the dispute by arbitration, but the British refused. As Venezuela acknowledged in its Counter-Memorial,

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[97] Letter from the Permanent Representative of Venezuela to the Secretary-General of the United Nations (14 Feb. 1962), reprinted in UN General Assembly, Fourth Committee, 16th Session, *Information from Non-Self-Governing Territories transmitted under Article 73 of the Charter*, UN Doc A/C.4/536 (15 Feb. 1962). MMG, Vol. II, Annex 17.

it "had repeatedly proposed to Great Britain to settle the territorial dispute by arbitration", but "Great Britain had systematically refused such solution"[98].

8. It is also undisputed that between 1883 and 1895, in the face of what it claimed to be ongoing British settlement in the disputed territory, Venezuela turned to the United States for support, specifically requesting US intervention with the British to obtain their agreement to settle the dispute by arbitration.

9. To this end, this is what Venezuela's Foreign Minister wrote to the US Secretary of State in 1883:

> "To carry this controversy to a practical ground and possible termination, there is, in the opinion of the President of Venezuela, only one and at the same time very simple way — arbitration. And for arbitration, there is only one Government who could propose it with real effect and decide the question of boundaries to the satisfaction of Venezuela — the United States of America."[99]

10. It is also agreed that the United States responded sympathetically to Venezuela's entreaties, that it remonstrated with the British over the alleged westward expansion of British Guiana, and that it insisted on arbitration of the territorial dispute[100]. No less a figure than the President of the United States, Grover Cleveland, championed Venezuela's cause. In September 1888, Venezuela's mission in Washington wrote this:

> "To the President of the United States, Grover Cleveland, my country is largely indebted for his sympathy and the notion taken by him toward the Government of Great Britain, in showing that Government that the United States was not indifferent to the unwarranted acts of encroachment by Great Britain on the territory of the Republic of Venezuela.
>
> The timely interference on the part of President Cleveland has for the present stopped the English Government in her attempted acts of spoliation, encroachment, and appropriation to herself of very nearly one-third of our whole republic . . . My government and people feel that in President Cleveland they have a friend and protector."[101]

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[98] CMV, para. 5.9.

[99] Letter from the Venezuelan Foreign Minister, Mr Simón Camacho, to United States Secretary of State, Mr Frederic Frelinghuysen (15 Jan. 1883). Reply of Guyana (RG), Vol. III, Annex 2.

[100] Letter from Mr Olney to Mr Bayard (20 July 1895), in United States Department of State, *Papers Relating to the Foreign Relations of the United States, with the Annual Message of the President, Transmitted to Congress December 2, 1895*, Part 1 (1896), Document 527, available at https://history.state.gov/historicaldocuments/frus1895p1/d527.

[101] Letter from Venezuelan Chargé d'Affaires in the United States of America, Fr. Antonio Silva, to Diplomatic Agent of Venezuela in New York, Col. George Gibbons (18 Sep. 1888), available at http://www.guyananews.org/Western/1888-1891.pdf, p. 910.

11. Despite the efforts of President Cleveland and his administration, the British remained opposed to arbitration with Venezuela, leading Venezuela to break diplomatic relations[102]. In December 1894, with the territorial dispute continuing to fester, Venezuela's Minister in Washington, José Andrade, a name you will hear frequently in this presentation, wrote to the US Secretary of State citing the threat of further British expansion and urging the United States once again to intervene on Venezuela's behalf:

> "As your Excellency will understand, the dispute already has a phase that we would call threatening, given that the Colonial Authorities are preparing to expand their jurisdiction even further . . . and to thus enter into regions where the Republic has established regular centers. In view of this . . . [my Government] reiterate[s] to the United States Government its request for effective and direct intervention, which our Minister Plenipotentiary presented to the Department of State in Washington some time ago and has continually ratified."[103]

12. Within days, President Cleveland responded in an address to the US Congress:

> "I shall renew the efforts heretofore made to bring about a restoration of diplomatic relations between the disputants and to induce a reference to arbitration, a resort to which Great Britain so conspicuously favors in principle and respects in practice and which is earnestly sought by her weaker adversary."[104]

13. When the British continued to resist President Cleveland's demand for arbitration, the United States applied greater pressure. In July 1895, the new US Secretary of State, Richard Olney, another name that features prominently in the narrative, instructed the US Mission in London to convey the following admonition to the British authorities:

> "The duty of the President appears to him unmistakable and imperative. Great Britain's assertion of title to the disputed territory combined with her refusal to have that title investigated being a substantial appropriation of the territory to her own use, not to protest and give warning that the transaction will be regarded as injurious to the people of the United States as well as oppressive in itself would be to ignore an established policy with which the honor and welfare of this country are closely identified."[105]

14. When the British ignored this warning, President Cleveland took matters into his own hands. In his December 1895 address to the US Congress, he expressly invoked the Monroe Doctrine

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[102] CMV, para. 23.

[103] Letter from Mr Andrade to Mr Gresham (19 Dec. 1894). MMG, Vol. III, Annex 29.

[104] Speech of President Grover Cleveland of 3 December 1894, available at https://millercenter.org/the-presidency/presidential-speeches/december-3-1894-second-annual-message-second-term.

[105] Letter from Mr Olney to Mr Bayard (20 July 1895), in United States Department of State, *Papers Relating to the Foreign Relations of the United States, with the Annual Message of the President, Transmitted to Congress December 2, 1895*, Part 1 (1896), Document 527, available at https://history.state.gov/historicaldocuments/frus1895p1/d527.

against the expansion of British Guiana, warning the British that "its enforcement is important to our peace and safety as a nation and is essential to the integrity of our free institutions and the tranquil maintenance of our distinctive form of government."[106]

15. Sentiments in the United States — including at its highest levels of government — ran so strongly in favour of Venezuela and against Great Britain that, as Venezuela's Foreign Minister told the UN General Assembly in 1962: "the United States was on the verge of going to war with Great Britain."[107]

16. In this "extremely grave situation"[108] — that is how Venezuela described it — President Cleveland, with the full support of the US Congress, went beyond words to concrete action. He announced the creation of a new presidential commission of experts, headed by a US Supreme Court Justice, David Brewer, to investigate and report on the "true" boundary between Venezuela and British Guiana, which the United States would then seek to enforce. As President Cleveland explained:

> "When such report is made and accepted it will, in my opinion, be the duty of the United States to resist by every means in its power, as willful aggression upon its rights and interests, the appropriation by Great Britain of any lands or the exercise of governmental jurisdiction over any territory which after investigation we have determined of right belongs to Venezuela."[109]

17. This measure, with its implicit suggestion of military intervention by the United States, finally broke Britain's resistance to arbitration of the dispute. In its written pleadings, Venezuela acknowledges this:

> "If the British finally accepted to enter into an arbitration process, it was under US pressure, and to ward off the risk of seeing the work of the Venezuelan Boundary Commission concluding, as it had to, that the 'true boundary' had always been the one claimed by Venezuela."[110]

18. As Venezuela further acknowledged in its Counter-Memorial, it is "a fact" that

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[106] Speech of Grover Cleveland, "Message Regarding Venezuelan-British Dispute" (17 Dec. 1895), available at https://millercenter.org/the-presidency/presidential-speeches/december-17-1895-message-regarding-venezuelan-british-dispute.

[107] UN General Assembly, 17th Session, Statement of Dr Marcos Falcón Briceño, Minister for External Relations of Venezuela, UN doc. A/SPC/71 (12 Nov. 1962), p. 9. CMV, Annex 143, Vol. III.

[108] *Ibid*.

[109] Speech of Grover Cleveland, "Message Regarding Venezuelan-British Dispute" (17 Dec. 1895), available at https://millercenter.org/the-presidency/presidential-speeches/december-17-1895-message-regarding-venezuelan-british-dispute.

[110] CMV, para. 5.1.

> "Venezuela requested the protection of the United States in order to resist Great Britain's conduct and reach a peaceful solution to the territorial dispute. It was clear that the possibility of submitting the dispute to arbitration could have materialized only with the support of the United States."[111]

19. And Venezuela continued: "Great Britain accepted arbitration only because of the pressure put on it by the United States."[112]

20. Neither this conclusion, nor the antecedent events that led up to it, can legitimately be disputed by Venezuela at this stage of the proceedings.

21. Nor can the fundamental features of the ensuing negotiations that led to the 1897 Treaty. In particular, it is beyond dispute that the negotiations were conducted, until the final stage, directly between US Secretary of State Richard Olney and the British Ambassador in Washington, Lord Julian Pauncefote. It is uncontested that Venezuela appointed a team of two representatives — José Andrade, its Minister in Washington, and James Storrow, an American attorney who had represented Venezuela before President Cleveland's boundary commission — to liaise and engage directly with Secretary Olney and assure that Venezuela's interests were reflected in the treaty negotiations.

22. It is also undisputed that the negotiation of the Treaty took place between January and November 1896; that a draft agreement was presented to the Venezuelan government in November 1896; that further negotiations took place directly between Venezuela and Great Britain thereafter; and that Venezuela then authorized Mr Andrade, as Minister Plenipotentiary, to sign it, which he did, in Washington, on 2 February 1897. Later that month, on 20 February, the President of Venezuela, General Joaquín Crespo, submitted the Treaty to the Venezuelan Congress with a message calling for its ratification. In so doing, the Venezuelan President expressed gratitude to the United States for the part it played in negotiating the Treaty:

> "It is eminently just to acknowledge that the Great Republic endeavoured persistently to direct the matter by the most favourable route, and that the outcome achieved represents an effort of intelligence and will, worthy of praise and gratitude from those of us who are familiar with the intricate details of this very complicated matter."[113]

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[111] CMV, para. 5.10.

[112] CMV, para. 5.12.

[113] *Presidencia de la República, Mensajes Presidenciales*, Tomo III, 1971, p. 99. RG, Vol. III, Annex 13.

23. The Treaty was ratified by the Venezuelan Congress by a legislative Decree on 17 April 1897. The final page of the Decree is at tab 5.1 of your folders. None of these facts, none of them, are or can legitimately be disputed[114].

II. Alleged collusion and fraud in the negotiation of the Treaty

24. I turn to Part II: Venezuela's main challenge to the validity of the 1897 Treaty. This is its contention that it was excluded from the treaty negotiations and that the Treaty was, in its words, negotiated by the US and Great Britain "behind Venezuela's back" in collusion with one another, to further Britain's interests at Venezuela's expense[115]. With the result that, to cite Venezuela's written pleadings, the Treaty was "prejudicial to the interests and dignity of Venezuela in respect to crucial issues"[116]. Venezuela argues, in particular, that as a result of this purported British and American conspiracy, its views on two issues that it considered most critical — concerning the acquisition of title by prescription and respect for the 1850 agreement between Venezuela and Great Britain — were not taken into account or reflected in the Treaty. The argument is that this purported Anglo-American cabal not only prejudiced its interests, but constituted a fraud on Venezuela, within the meaning of Article 49 of the Vienna Convention on the Law of Treaties, sufficient to invalidate the Treaty. On the same allegations, Venezuela argues that it ratified the 1897 Treaty in error, as defined by Article 48 of the Vienna Convention, on the mistaken understanding that the Treaty text negotiated on its behalf by the United States had protected its vital interests only to find out during the arbitration, two years later, that it did not.

25. Mr President, neither Venezuela's contention of fraud nor its contention of error withstands scrutiny or is even plausible. In the first place, its contentions are counter-intuitive. They strain credulity, requiring you to conclude that the United States, which between 1883 and 1896 had consistently supported Venezuela in opposing British colonial expansion and demanding that Britain accede to arbitration of the territorial dispute, made a complete volte-face when negotiation of the arbitration agreement began, by switching sides and supporting Britain's interests in the disputed territory to the prejudice of Venezuela's. For Venezuela, this would be a hard sell in any case, let

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[114] *El Libro Amarillo de los Estados Unidos de Venezuela 1898*, p. 16. RG, Vol. III, Annex 16.

[115] RV, para. 25.

[116] CMV, para. 5.7.

alone a case in which it expressly agrees — as you have seen — that, but for the full support of the United States and the pressure it applied to Great Britain — including the threat of US military intervention — the British would never have agreed to arbitration, and would have continued to strengthen their hold on the disputed territory in the face of Venezuela's incapacity to stop them.

26. Beyond its illogic, Venezuela's argument is also counterfactual. Completely so. It is thoroughly contradicted by the contemporaneous documentary evidence of the treaty negotiation process that is part of the record in this case. I will take you to the key documents presently.

27. The arbitration agreement was largely negotiated directly by the British Ambassador to the United States, Lord Pauncefote, and the US Secretary of State, Richard Olney, on behalf of Venezuela. At the time, there was no objection by Venezuela. There is no evidence of any kind of such an objection. To the contrary, the evidence shows that Venezuela trusted Mr Olney — as well as his boss, President Cleveland — to protect its interests, and it believed Secretary Olney would have more influence with the British than its own representatives. This is confirmed by what Venezuela's Ministry of Foreign Affairs reported contemporaneously in August 1896, upon reviewing the correspondence between the US and Great Britain in the negotiation process:

> "This correspondence once again highlights the positive role of the Great Republic of the North in an issue of paramount interest to the entire hemisphere, due to its close connection with the integrity of the territories constituted as free and sovereign Nations. Furthermore, having been considered by the President of the Republic in the Council of Ministers, the nature of this publication — expertly and wisely defended by the Department of State in Washington, and setting out the principles and doctrines to which Venezuela adheres in order to uphold its rights and dignity in one of the gravest issues recorded in its political annals — has led to the decision to produce a special edition in Spanish of all the notes comprising the above-mentioned correspondence . . . as both a pledge of recognition to the Government of the United States and a welcome contribution to the promotion of principles so gallantly supported by the Great People of the North in support of common security and international peace."[117]

28. This contemporaneous Venezuelan assessment of the role played by the United States demonstrates that Venezuela was manifestly content with the way Secretary of State Olney handled the treaty negotiations to that point. Venezuela thus focuses on a later stage of the negotiations, between September and November 1896, during which the subjects about which it expresses most concern — the acquisition of title by prescription and preservation of the 1850 Agreement — were directly addressed by Secretary of State Olney and Lord Pauncefote. Venezuela's principal

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[117] *Correspondencia entre los Estados Unidos y la Gran Bretaña*, Caracas, 1896, pp. 3-4. RG, Vol. III, Annex 18.

contention now — as opposed to what it said contemporaneously — is that, during this stage of the negotiations, the two representatives of Venezuela, Messrs Andrade and Storrow, were kept in the dark by Secretary of State Olney and denied the opportunity to defend or even explain Venezuela's interests. This is entirely fallacious. It is completely refuted by the documentary evidence, as you will now see.

29. Far from keeping Venezuela's representatives at arm's length, on 12 September 1896, Secretary of State Olney sent Mr Storrow an early draft of the clause on prescription, indicating he would come to meet Mr Storrow at Mr Storrow's home in the evening, prior to a meeting with Lord Pauncefote the following day. On your screens is a copy of Mr Olney's message to Mr Storrow, and the enclosed treaty text on prescription. You will note the highlighted portion of the text showing a proposed prescription period of 40 years, explaining that any of the disputed territory which had been under the actual, exclusive and continuous dominion and control of one of the parties for that period would be held to form part of the territory of that party[118].

30. Mr Storrow wrote back to Mr Olney on 17 September 1896. Referring to their recent meeting at his home, he said: "Our views agreed the other day so that I thought it enough to answer your telegram 'no change'". Mr Storrow continued, however, by advocating for a longer period of prescription than the 40-year period initially presented by Mr Olney: "Settlements by British subjects, living under British rule, in territory administered solely by British rule, if long continued, will certainly (I think) give title. Sixty years is the classic period. I would agree to less as a rule rather than lose an arbitration."[119]

31. Further down the page, Mr Storrow also highlighted the importance to Venezuela of the 1850 Agreement: "I do not think that the truce of 1850 could be waived or impaired or that it ought to be."[120]

32. The evidence shows, that far from ignoring them, Mr Olney received Mr Storrow's proposals, acted upon them and incorporated them into his own proposals to Lord Pauncefote. And he succeeded in achieving them.

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[118] Letter from Mr Olney to Mr Storrow (12 Sep. 1896). RG, Vol. III, Annex 8.

[119] Letter from Mr Storrow to Mr Olney (17 Sep. 1896). RG, Vol. III, Annex 9.

[120] *Ibid.*

33. This is apparent from the next set of documents, from October 1896, which comprise the written communications between Mr Storrow and Mr Olney, and between Mr Olney and Lord Pauncefote. On these issues — prescription and the 1850 Agreement — they show unmistakably that Venezuela's views were fully taken into account and advanced by Mr Olney in his negotiations with Lord Pauncefote. And Venezuela's objectives were achieved.

34. On 26 October, for example, Mr Storrow sent Mr Olney a revised draft of the prescription clause, accompanied by a handwritten note. It states, in reference to the number of years required for prescription to take effect: "Filling in the blanks with 60, I see no objection to the actual occupation part." Mr Storrow's note continues: "I will try to write a couple of sentences more . . . and send these to your house this afternoon."[121]

35. And Mr Storrow did just that. Here is the text he sent to Mr Olney that afternoon:

> "The arbitrators shall adjudge a title by prescription or adverse occupation to be a good title, and shall consider 60 years as a sufficient period to establish a title by prescription. But the arbitrators may and shall [illegible] and apply all the rules of law and of fact appropriate to this case, as far as they do not contravene the foregoing provision."

36. The British position was that the prescription period should be no more than 30 years, which would have facilitated their claim of title to any of the disputed territory that they had consistently occupied since as late as 1867, 30 years before the treaty then under negotiation would enter into effect. The British proposal can be found in Venezuela's Counter-Memorial, at Annex 169[122].

37. Mr Storrow sent another note to Mr Olney on 28 October 1896 — and again it shows the intimacy of the relationship between Venezuela's representatives and the US Secretary of State: "Mr Andrade and I will come to your house at 8.15 tonight unless we hear to the contrary."[123]

38. The date of this meeting was propitious, because the following day, 29 October, after consulting with Venezuela's two representatives the previous evening, Mr Olney sent to Lord Pauncefote a new draft of the treaty. In respect of prescription, Mr Olney wrote: "I cannot

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[121] Letter from Mr Storrow to Mr Olney (26 Oct. 1896). RG, Vol. III, Annex 10.

[122] Letter from Pauncefote to Salisbury (29 Oct. 1896). CMV, Vol. III, Annex 169.

[123] Letter from Mr Storrow to Mr Olney (28 Oct. 1896). RG, Vol. III, Annex 11.

recede from my original suggestion as to a conventional term of prescription further than to consent to fifty years being substituted for sixty."[124]

39. Mr Olney explained to Lord Pauncefote that he could not agree to a shorter term than 50 years, because anything less might undermine the force of the 1850 Agreement, by which the parties had pledged to forego further expansion into the disputed territory. A 50-year prescription period would preserve the 1850 Agreement, because it would disregard any occupation of the disputed territory that commenced after 1847 (assuming again that the treaty would enter into force in 1897). By contrast, the 30-year prescription period proposed by the British, or even a 40-year period, would have conferred title on any continuous occupation commenced by 1857, and that of course would contravene the 1850 Agreement, which is why Mr Olney would not agree to that. As Mr Olney explained: "If a shorter term be stipulated it is certain to be urged, and with great force, that the Agreement of 1850 is thereby waived at least pro tanto."[125] The documentary evidence thus shows Mr Olney's firm advocacy of Venezuela's positions on both the prescription period and on the 1850 Agreement.

40. Earlier in that letter, Mr Olney explained to Lord Pauncefote that, with a 50-year prescription period, there would be no need for the arbitration agreement to include an express reference to the 1850 Agreement, because the 50-year prescription period would accomplish the same result, precluding recognition of any occupation of the disputed territory that commenced after 1850. In fact, the 1850 Agreement had a major gap — a major lacuna, as our Agent told you earlier this morning. Consisting of an exchange of letters between Great Britain and Venezuela, in which they each abjured any further expansion into "disputed territory", they conspicuously failed to identify what or where the "disputed territory" was, leaving this critical term open to interpretation. Hence, Mr Olney wrote to Lord Pauncefote:

> "An attempt to construe it will involve us in protracted debate and indefinitely postpone the attainment of the object we now have in view. The Agreement will come, and should come, before the arbitral Tribunal in the natural course and will be interpreted by that Tribunal by the aid of facts, documents and considerations of which we cannot now know anything."[126]

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[124] Letter from Mr Storrow to Mr Olney (26 Oct. 1896). RG, Vol. III, Annex 10.

[125] Letter from Mr Olney to Sir Julian Pauncefote (29 Oct. 1896). RG, Vol. III, Annex 12.

[126] *Ibid*.

41. On 30 October, Lord Pauncefote reported to his Prime Minister, Lord Salisbury, on his exchanges with Mr Olney on these subjects:

> "I have in vain tried every argument and put the greatest pressure on him to obtain a further reduction. He says he cannot consent in justice to Venezuela. He contends that a limit of thirty, or even forty, years would nullify the Agreement of 1850, to which the Arbitrators must be left to give such effect as they think right, and that fifty years is the lowest period of prescription suggested by jurists, and does not preclude or affect claims to the territory based on any other title."[127]

42. It bears emphasis that what this evidence shows is that, far from turning his back on Venezuela's representatives or colluding with the British to protect their interests rather than Venezuela's, the US Secretary of State did exactly the opposite of what Venezuela has pleaded in this case. As these contemporaneous documents demonstrate, Mr Olney took Venezuela's representatives directly into his confidence; shared drafts of the treaty text with them; received their proposals on the key issues with which Venezuela was concerned; incorporated them into his exchanges with Lord Pauncefote; refused to concede any ground in spite of what Lord Pauncefote called "every argument" and "the greatest pressure"; and, ultimately, he delivered what Venezuela's representatives had requested: a prolonged period of prescription of 50 years, and preservation of the 1850 Agreement.

43. The terms of the draft treaty were in fact agreed with the approval of Venezuela's two representatives. This is what Mr Olney reported to Justice Brewer, then the Chairman of President Cleveland's Venezuela Boundary Commission, on 10 November 1896, shortly after the conclusion of his exchanges with Lord Pauncefote:

> "The United States and Great Britain are in entire accord as to the provisions of a proposed treaty between Great Britain and Venezuela. The treaty is so eminently just and fair as respects both parties — so thoroughly protects the rights and claims of Venezuela — that I cannot conceive of it not being approved by the Venezuelan President and Congress. It is thoroughly approved by the counsel of Venezuela here and by the Venezuelan Minister at this capital"[128] — referring to Mr Storrow and Minister Andrade.

44. Mr President, the evidence you have now seen — from the contemporaneous documentary record — thoroughly defeats Venezuela's challenge to the 1897 Treaty: that it was somehow negotiated behind Venezuela's back without involvement of its representatives, and failed to take

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[127] Letter from Pauncefote to Salisbury (29 Oct. 1896), p. 2. CMV, Vol. III, Annex 169.

[128] Letter from Mr Olney to Mr Brewer (10 Nov. 1896). RG, Vol. III, Annex 5.

account of its interests. There is absolutely nothing in this record to contradict Mr Olney's statement that the Treaty he negotiated with Lord Pauncefote was "thoroughly approved by the counsel of Venezuela and by the Venezuelan Minister in this capital". Mr Olney's sense that the Treaty would be approved by the President and Congress of Venezuela also proved to be spot on, as you will now see.

45. At the very time of Mr Olney's letter to Justice Brewer, Mr Storrow and Mr Andrade were en route to Caracas to obtain the Venezuela government's approval of the draft treaty. On 29 November, Mr Storrow sent Mr Olney a detailed report of their meetings with the President, the Foreign Minister, other government officials and a commission of experts the government had established to analyse the Treaty. Because of the report's length — nine pages — I will show you now only the most important parts, but I think you will find it helpful to read it in its entirety. For that reason, we have included it at tab 5.2 of your folders.

46. At page 2, the report describes the reactions of the Venezuelan President and other senior officials with whom Mr Storrow and Mr Andrade had met. This is Mr Storrow writing:

> "Mr Andrade afterwards had a long talk with him [the President], and afterward with the Minister of Foreign Affairs and Dr Bruynal Arra, Minister of the Treasury, the strongest man in the Cabinet. They were all satisfied with the treaty and said that there should not be a moment's hesitation about adopting it. I have myself seen Dr Bruynal and Dr Rojas [that is the Minister of Foreign Affairs], the latter quite frequently, and they are entirely clear on the subject."[129]

47. At page 4, the report describes the meeting Mr Storrow and Mr Andrade had with the commission of experts appointed to analyse the treaty, and their discussion on the subject of prescription. One of the experts, Dr Seijas, opposed, on constitutional grounds, any recognition by Venezuela of prescription as a source of title to territory. He was the only commission member to take this view. However, "Dr Seijas finally admitted that he had no doubt prescription applied, and that the arbitrators would apply it: but that to admit it in terms of the treaty would be to violate the rule of the Constitution against cessions of territory"[130].

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[129] Letter from Mr Storrow to Mr Olney (29 Nov. 1896), p. 2. RG, Vol. III, Annex 15.

[130] Letter from Mr Storrow to Mr Olney (29 Nov. 1896). RG, Vol. III, Annex 15.

48. Mr Storrow and Mr Andrade responded: "[W]e said it was *not* a concession. Prescription was, *I* thought, *our* strongest ground, and I wanted G.B. to agree to it; and of all possible terms, 50 years was the best for us."[131]

49. A week later, on 7 December, Mr Andrade, sent a telegram to Mr Olney, in which he reported this:

> "Memorandum accepted. Will be published here Monday afternoon. Extra session of Congress will be called as soon as possible. Am authorized to sign the treaty with small exceptions such as provisions filling vacancies in case of death or disability but Venezuela expect by treaty or by diplomatic correspondence through you agreement to prevent aggressive or unfriendly acts near line of contact and also no new mine concessions shall be granted."[132]

50. Two days later, Dr Rojas, the Foreign Minister, wrote to Mr Andrade indicating Venezuela's desire for other changes to the Treaty, two of which he regarded as particularly important. One involved the appointment of arbitrators, which I will discuss in Part III of my presentation. The other concerned prescription. Dr Rojas was content with prescription as a source of title to territory, noting that "Venezuela has declared itself in favor of this system"[133]. He was also content with the 50-year prescription period already included in the draft treaty. But he wanted to add to the Treaty a clause requiring application of the principles of international law to territorial claims based on prescription. He proposed that the following text be inserted into the Treaty: "The adverse possession for fifty years referred to in rule *(a)* must be, in accordance with the principles of international law, possession in the name of the State and in the capacity of owner, public, continuous, uninterrupted, and peaceful."[134]

51. Dr Rojas's letter is particularly significant because it directly and fully contradicts Venezuela's argument in the Rejoinder that they were opposed to prescription as a source of title, and that Mr Olney betrayed them, and even defrauded them, by agreeing with the British on a 50-year prescription rule. That argument is entirely false.

52. At the conclusion of his letter, Dr Rojas gave this instruction to Mr Andrade:

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[131] *Ibid*.

[132] Telegram of Minister Andrade to Mr Olney (7 Dec. 1896). RG, Vol. III, Annex 19.

[133] Letter from Rojas to Andrade (9 Dec. 1896), p. 2. CMV, Vol. II, Annex 59.

[134] *Ibid*.

> "If despite the efforts that are urged upon you to make, any of the stated modifications should be rejected in terms that make clear the impossibility of their acceptance, you may dispense with it in the course of the negotiations and even sign the document without the need for new consultation with this Office."[135]

53. So determined was Venezuela to get this Treaty signed. Mr Andrade communicated Dr Rojas's proposal to Mr Olney in a telegram sent the following day, on 10 December. Later that month, on 28 December, after he returned to Washington, he met with Mr Olney at his home to discuss the proposals. After the meeting, Mr Andrade wrote this to Dr Rojas in Caracas:

> "Mr Olney found all the additions commendable, save the one regarding prescription, about which he expressed some discouragement that he deemed it superfluous, believing such an interpretation as that here [that is, one that is inconsistent with international law] to be neither possible or likely, and that, without need, it would give occasion for Great Britain to delay us with a discussion lasting months or perhaps years, from which no benefit would ultimately result."[136]

54. Mr Andrade, to whom Venezuela granted full powers to sign the Treaty, then described how he responded to Mr Olney: "I hinted that if such were his view, I would not insist upon submitting the aforementioned clarification to the British Ambassador — and with a nod unmistakable in its meaning, he approved of such disposition."[137]

55. To conclude part II of this presentation, it is crystal clear that Venezuela has no legal or evidential basis — none whatsoever — to argue that the 1897 Treaty is invalid on the grounds that the United States failed to consult with Venezuela during negotiation of the Treaty, or that it colluded with Britain behind Venezuela's back, or that it accepted terms that favoured British interests to the prejudice of those of Venezuela. The evidence makes clear that United States did not contravene Venezuela's position on prescription, which was duly reflected in the Treaty's final text, or on the continuing validity of the 1850 Agreement. In both cases, the United States considered that it had fully protected Venezuela's interests, and the contemporaneous documentary evidence shows that Venezuela agreed that it had done so.

III. Alleged prejudice in the appointment of arbitrators

56. I turn to Part III, which I can cover much more quickly. In its written pleadings, Venezuela challenges the validity of the 1897 Treaty on the ground that, without its consent, the Treaty excluded

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[135] *Ibid*.

[136] Letter from José Andrade to Pedro Ezequiel Rojas (28 Dec. 1896). RV, Vol. II, Annex 39.

[137] *Ibid*.

the appointment of any Venezuelan arbitrators. This, too, is a groundless argument, again, completely defeated by the contemporaneous evidence.

57. The draft treaty delivered to Caracas in November 1896 addressed the appointment of arbitrators in Article II. It provided for a tribunal of five members, two to be nominated by "the Judges of the Supreme Court of the United States", two to be nominated by "the British High Court of Justice, and the fifth to be appointed by the four so nominated"[138]. This left open the possibility that a Venezuelan could be appointed to the tribunal by the US Justices, a possibility of which the British were quite aware and quite uncomfortable. On 8 December 1896, Lord Pauncefote wrote to his Prime Minister that he was "a little uneasy whether the US judges may not be urged by [Mr Olney] to appoint a Venezuelan as Arbitrator", because "we know of no Venezuelan jurist worthy of the name, or whom we could consent to entrust with the function of Arbitrator in such a case"[139]. The statement is certainly offensive, to us as well as to Venezuela. We call attention to it only to underscore the adamance of Britain's stance on the clause regarding appointment of arbitrators.

58. Understandably, Venezuela bristled at Lord Pauncefote's dismissive view of its desire to appoint one of its nationals to the arbitral tribunal. On 10 December, Venezuela's representative Mr Storrow cabled Mr Olney from Caracas that the "Treaty stands accepted as cabled but there are sharp attacks about the appointment of arbitrators and Cabinet very desirous have one Venezuelan on the Tribunal. This would help much with public and Congress"[140].

59. Mr Olney duly transmitted Mr Storrow's message to Lord Pauncefote the next day. The day after that, on 12 December, Lord Pauncefote responded to Mr Olney rejecting Venezuela's request. In his words:

> "It would be a most dangerous departure from the long established practice of International Arbitration. The very reason for taking the nomination of the arbitrators on the side of Venezuelan [sic] out of the hands of the Venezuelan Govt and confiding

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[138] Letter from Pauncefote to Salisbury (29 Oct. 1896), p. 3. CMV, Vol. III, Annex 169.

[139] Letter from Sir Julian Pauncefote, British Ambassador in Washington, to Lord Salisbury (8 Dec. 1886), in *Report on the Boundary Question with British Guiana submitted to the National Government by the Venezuelan Experts*, 1967, p. 36. CMV, Vol. III, Annex 150.

[140] Cable sent by James Storrow to Richard Olney (10 Dec. 1896) (Library of Congress, Manuscript Division, Richard Olney Papers, Reel 24, Box 67, p. 11990).

> that duty to two judges of the Supreme Court was that the latter should appoint arbitrators of U.S. nationality."[141]

60. Faced with this British rejection, Mr Olney sent a telegram to Mr Storrow informing him that "Matter closed between Great Britain and United States. Changes Treaty must be made between Great Britain and Venezuela."[142]

61. And that is precisely what happened. On 28 December, Mr Andrade, having returned to Washington from Caracas, met first with Mr Olney and then directly with Lord Pauncefote, and they reached an agreement on the appointment of arbitrators, an agreement reached by Mr Andrade with Lord Pauncefote, his British counterpart. As recorded in Mr Andrade's report to Dr Rojas of 9 January 1897, he, Mr Andrade, and Lord Pauncefote agreed that Article II of the Treaty would be revised to "attribute to Venezuela the appointment of only one of the arbitrators on her side, and the other to the United States, it being noted that the Venezuelan appointee would be a judge from the Supreme Court of this country [the United States]."[143]

62. Mr Andrade added that he considered this agreement beneficial to Venezuela: "The more I think of it, the more I think that Venezuela, far from wishing to restrict the participation of the United States in the composition of the Tribunal, should seek to augment it"[144].

63. The Venezuelan government agreed to the arrangement negotiated by Mr Andrade and Lord Pauncefote, and it decided to exercise its right of appointment by nominating the Chief Justice of the US Supreme Court, Melville Fuller. This meant that Venezuela would be represented on the tribunal by two US Supreme Court Justices, since it had already been decided that the other representative would be Justice David Brewer, the same Justice David Brewer who was serving as the Chairman of President Cleveland's Venezuela Boundary Commission. Mr Storrow, Venezuela's counsel, considered that this solution gave Venezuela exactly what it wanted. On 26 January, he wrote to Foreign Minister Rojas: "I think you have got what you desired — a clear and formal

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[141] Letter of Lord Pauncefote to Secretary Olney (12 Dec. 1896), pp. 2-3 (Library of Congress, Manuscript Division, Richard Olney Papers, Reel 24, Box 68, p. 12010).

[142] Telegram from Richard Olney to James Storrow (12 Dec. 1896). RV, Vol. II, Annex 15.

[143] Letter from Minister Andrade to Minister Ezequiel Rojas (9 Jan. 1897). RG, Vol. III, Annex 21.

[144] *Ibid*.

appointing power of Venezuela on the face of the treaty; precisely the same two Jurists whom, at Caracas, you told me you preferred."[145]

64. President Crespo also regarded this as a win for Venezuela. In his address of 20 February 1897, he emphasized that "[t]he Government deemed it indispensable to introduce into the Treaty a modification aimed at ensuring the appointment of the arbitral tribunal with the effective participation of the Venezuelan authorities. This proposal was promptly submitted and the arbitration was accepted."[146]

65. Plainly, there was no fraud or error in regard to the agreement on appointment of the arbitrators. Venezuela was fully informed of the draft treaty text, the subsequent exchanges between Mr Olney and Lord Pauncefote, and the necessity of direct negotiations between Venezuela and Great Britain to resolve the issue; and those negotiations resulted in an agreement with which Venezuela professed its satisfaction. These indisputable facts doom Venezuela's challenge to the validity of the 1897 Treaty based on the appointment of arbitrators.

IV. Alleged coercion to sign the Treaty

66. I come to Part IV, the final part of my presentation, and this concerns Venezuela's claim that it agreed to the 1897 Treaty under coercion, as prohibited by Article 52 of the 1969 Vienna Convention. It will take me even less time to dispense with this argument. In the first place, Article 52 of the 1969 Convention has no retroactive application. As the ILC commented: "The Commission considered that there is no question of the article having retroactive effects on the validity of treaties concluded prior to the establishment of the modern law."[147] In 1897, customary international law did not recognize coercion as a basis for invalidating a treaty. For the legal discussion, I refer the Court to Guyana's Reply, at paragraphs 2.102 to 2.110. But even if there were such a rule in 1897, *quod non*, what coercion is Venezuela talking about? How was it coerced into signing the 1897 Treaty and by whom? There is absolutely no evidence that Mr Olney or President Cleveland or the United States coerced Venezuela in any way. The evidence is all to the contrary — particularly, as Mr Olney wrote

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[145] Letter from James J. Storrow to Dr P. Ezequiel Rojas, Venezuelan Minister for Foreign Relations (26 Jan. 1897). MMG, Vol. III, Annex 31.

[146] *Presidencia de la República, Mensajes Presidenciales*, Tomo III, 1971, pp. 188-189. RG, Vol. III, Annex 13.

[147] Draft Articles on the Law of Treaties with commentaries, Art. 49, p. 247, para. 7.

to Justice Brewer, both of Venezuela's representatives, Mr Andrade and Mr Storrow, were fully satisfied with the draft treaty that had been negotiated. In February 1897, in submitting the Treaty to the Venezuelan Congress for ratification, President Crespo himself made clear that Venezuela was not coerced into signing the Treaty. These are his words: "The settlement plan was presented to Venezuela for its consideration, with no coercive intent and in full respect of the sovereignty and independence of the Republic . . . "[148]. How can they say they were coerced?

67. The official yearbook published by Venezuela's Foreign Ministry for 1897 declared that the final terms of the Treaty demonstrated that "the Government has neither paused nor spared any effort in the task of safeguarding the territorial integrity of the Republic", and it included this statement by the Foreign Minister expressing gratitude to the United States for its support in the Treaty negotiations:

> "[A]llow me to express my conviction that the foundations of this Treaty represent, on the part of the United States, a noble and eminent effort for the sake of continental peace. These terms alone . . . will serve as an enduring reminder for Venezuela of the interest with which its powerful sister nation sought to reconcile it with the Great British Nation in a dispute lasting more than half a century, marked by bitter incidents and perilous situations."[149]

68. Faced with this contemporaneous documentary evidence, how can Venezuela, in the present case, possibly argue that it was coerced to accept the Treaty? In fact, it fails to identify any acts of coercion against it, or any persons or entities who might have perpetrated such acts. Instead, it complains of what it calls "structural coercion". In Venezuela's telling, it found itself in a situation in which it had no choice but to accept arbitration of its territorial dispute with Great Britain because the alternative would have been to subject itself to further British expansion which it was powerless to stop.

69. But in making this argument, Venezuela conveniently forgets, or deliberately ignores the fact that it had been pleading for precisely this outcome — an arbitration agreement with Great Britain — for the better part of two decades; that it repeatedly beseeched the United States to come to its assistance and to press the British to accept arbitration of the territorial dispute; that under US pressure the British finally agreed; and that the treaty negotiated by the United States in close

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[148] *Presidencia de la República, Mensajes Presidenciales*, Tomo III, 1971, p. 99. RG, Vol. III, Annex 13.

[149] *El Libro Amarillo de los Estados Unidos de Venezuela 1897*, p. XXXV. RG, Vol. III, Annex 23.

consultation with Venezuela's representatives was deemed by Venezuela to be acceptable and worthy of signature. Venezuela's very belated contention — 66 years after the fact — that it was coerced into signing the Treaty, physically or structurally, has no factual support. It is completely contradicted by the evidence before you.

70. The bottom line, Mr President, is that Venezuela cannot come up with any basis — any legitimate basis whatsoever — for invalidating the 1897 Treaty, or for invalidating the 1899 Arbitral Award on the basis of an allegedly invalid *compromis*. This afternoon, my colleagues will demonstrate convincingly that there are no other bases, no other bases, for invalidating the 1899 Award, or the international boundary that resulted from it, and that the Award was and remains valid and binding on both Venezuela and Guyana.

71. Mr President, Members of the Court, I thank you for your kind courtesy and patient attention. This concludes Guyana's submissions in this session. We wish you a pleasant lunch, and we look forward to resuming our submissions this afternoon.

The PRESIDENT: I thank Mr Reichler. This concludes this morning's sitting. The oral proceedings will resume this afternoon, at 3 p.m.

The sitting is closed.

The Court rose at 1 p.m.