

Corrigé  
Corrected

*CR 2023/23*

**International Court  
of Justice**

**Cour internationale  
de Justice**

**THE HAGUE**

**LA HAYE**

**YEAR 2023**

*Public sitting*

*held on Tuesday 14 November 2023, at 10 a.m., at the Peace Palace,*

*President Donoghue presiding,*

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

---

**VERBATIM RECORD**

---

**ANNÉE 2023**

*Audience publique*

*tenue le mardi 14 novembre 2023, à 10 heures, au Palais de la Paix,*

*sous la présidence de M<sup>me</sup> Donoghue, présidente,*

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

---

**COMPTE RENDU**

---

*Present:*      President Donoghue  
                 Judges Abraham  
                         Bennouna  
                         Yusuf  
                         Xue  
                         Sebutinde  
                         Bhandari  
                         Salam  
                         Iwasawa  
                         Nolte  
                         Brant  
Judges *ad hoc* Wolfrum  
                         Couvreur  
  
Registrar    Gautier

---

*Présents* : M<sup>me</sup> Donoghue, présidente  
MM. Abraham  
Bennouna  
Yusuf  
M<sup>mes</sup> Xue  
Sebutinde  
MM. Bhandari  
Salam  
Iwasawa  
Nolte  
Brant, juges  
MM. Wolfrum  
Couvreur, juges *ad hoc*  
M. Gautier, greffier

---

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

Hon. Carl B. Greenidge,

*as Agent;*

Mr Paul S. Reichler, Attorney at Law, 11 King's Bench Walk Chambers, member of the Bars of the Supreme Court of the United States and of the District of Columbia,

Mr Alain Pellet, Professor Emeritus of the University Paris Nanterre, former Chairman of the International Law Commission, former President and member of the Institut de droit international,

*as Advocates;*

Mr Pierre d'Argent, *professeur ordinaire*, Catholic University of Louvain, member of the Institut de droit international, Foley Hoag LLP, member of the Bar of Brussels,

Mr Edward Craven, Matrix Chambers, London,

Mr Juan Pablo Hugues Arthur, Foley Hoag LLP, member of the Bar of the State of New York,

Mr Ysam Soualhi, Researcher, Center Jean Bodin (CJB), University of Angers,

*as Counsel;*

Hon. Mohabir Anil Nandlall, Member of Parliament, Attorney General and Minister of Legal Affairs,

HE Mr Ronald Austin, Ambassador, Adviser to the Leader of the Opposition on Frontier Matters,

Ms Donnette Streete, Director, Frontiers Department, Ministry of Foreign Affairs and International Cooperation,

Mr Lloyd Gunraj, First Secretary, Chargé d'affaires a.i., Embassy of the Co-operative Republic of Guyana to the Kingdoms of Belgium and the Netherlands, and to the European Union,

Ms Sharmayne Balram, Foreign Service Officer III, Ministry of Foreign Affairs and International Cooperation,

*as Advisers;*

Ms Héloïse Bajer-Pellet, FAR Avocats, member of the Paris Bar,

*as Assistant.*

***The Government of the Bolivarian Republic of Venezuela is represented by:***

HE Ms Deley Rodríguez, Executive Vice-President of the Bolivarian Republic of Venezuela;

***Le Gouvernement de la République coopérative du Guyana est représenté par :***

l'honorable Carl B. Greenidge,

*comme agent ;*

M. Paul S. Reichler, avocat au cabinet 11 King's Bench Walk, membre des barreaux de la Cour suprême des États-Unis d'Amérique et du district de Columbia,

M. Alain Pellet, professeur émérite à l'Université Paris Nanterre, ancien président de la Commission du droit international, ancien président et membre de l'Institut de droit international,

*comme avocats ;*

M. Pierre d'Argent, professeur ordinaire à l'Université catholique de Louvain, membre de l'Institut de droit international, cabinet Foley Hoag LLP, membre du barreau de Bruxelles,

M. Edward Craven, Matrix Chambers (Londres),

M. Juan Pablo Hugues Arthur, cabinet Foley Hoag LLP, membre du barreau de l'État de New York,

M. Ysam Soualhi, chercheur au Centre Jean Bodin (CJB), Université d'Anger,

*comme conseils ;*

l'honorable Mohabir Anil Nandlall, membre du Parlement, *Attorney General* et ministre des affaires juridiques,

S. Exc. M. Ronald Austin, ambassadeur, conseiller du chef de l'opposition sur les questions frontalières,

M<sup>me</sup> Donnette Streete, directrice du département des frontières du ministère des affaires étrangères et de la coopération internationale,

M. Lloyd Gunraj, premier secrétaire, chargé d'affaires *ad interim* à l'ambassade de la République coopérative du Guyana aux Royaumes de Belgique et des Pays-Bas et auprès de l'Union européenne,

M<sup>me</sup> Sharmayne Balam, diplomate III, ministère des affaires étrangères et de la coopération internationale,

*comme conseillers ;*

M<sup>me</sup> Héloïse Bajer-Pellet, FAR Avocats, avocate associée, membre du barreau de Paris,

*comme assistante.*

***Le Gouvernement de la République bolivarienne du Venezuela est représenté par :***

S. Exc. M<sup>me</sup> Delcy Rodríguez, vice-présidente exécutive de la République bolivarienne du Venezuela ;

HE Mr Samuel Reinaldo Moncada Acosta, PhD, University of Oxford, Ambassador, Permanent Representative of the Bolivarian Republic of Venezuela to the United Nations,

*as Agent;*

Ms Elsie Rosales García, PhD, Full Professor of Criminal Law, Universidad Central de Venezuela,

*as Co-Agent;*

HE Mr Reinaldo Muñoz, Attorney General of the Bolivarian Republic of Venezuela,

HE Mr Calixto Ortega, Ambassador, Permanent Mission of the Bolivarian Republic of Venezuela to the OPCW, ICC and other international organizations,

*as Senior National Authorities;*

Mr Carmelo Borrego, PhD, Universitat de Barcelona, Full Professor of Procedural Law, Universidad Central de Venezuela,

Mr Carlos Espósito, PhD, Full Professor of Public International Law, Universidad Autónoma de Madrid,

Mr Makane Moïse Mbengue, Professor of International Law, University of Geneva, member of the Curatorium of the Hague Academy of International Law, associate member of the Institut de droit international,

Ms Esperanza Orihuela, PhD, Full Professor of Public International Law, Universidad de Murcia,

Mr Alex Oude Elferink, Director, Netherlands Institute for the Law of the Sea, Professor of International Law of the Sea at Utrecht University,

Mr Paolo Palchetti, PhD, Professor, Paris 1 Panthéon-Sorbonne University,

Mr Christian J. Tams, PhD, Professor of International Law, University of Glasgow and 11 King's Bench Walk, London,

Mr Andreas Zimmermann, LL.M., Harvard, Professor of International Law, University of Potsdam, Member of the Permanent Court of Arbitration,

*as Counsel and Advocates;*

Ms Anne Coulon, Attorney at Law, member of the Bar of the State of New York, Temple Garden Chambers,

Mr Alfredo De Jesús O., PhD, Paris 2 Panthéon-Assas/Sorbonne University, member of the Bars of Paris and the Bolivarian Republic of Venezuela, Member of the Permanent Court of Arbitration,

Mr Edgardo Sobenes, Consultant in International Law, LL.M., Leiden University, Master, ISDE/ Universitat de Barcelona,

*as Counsel;*

S. Exc. M. Samuel Reinaldo Moncada Acosta, PhD, Université d'Oxford, ambassadeur, représentant permanent de la République bolivarienne du Venezuela auprès de l'Organisation des Nations Unies,

*comme agent ;*

M<sup>me</sup> Elsie Rosales García, PhD, professeure de droit pénal, Universidad Central de Venezuela,

*comme coagente ;*

S. Exc. M. Reinaldo Muñoz, procureur général de la République bolivarienne du Venezuela,

S. Exc. M. Calixto Ortega, ambassadeur, mission permanente de la République bolivarienne du Venezuela auprès de l'OIAC, de la CPI et d'autres organisations internationales,

*comme hauts représentants de l'État ;*

M. Carmelo Borrego, PhD, Universitat de Barcelona, professeur de droit processuel, Universidad Central de Venezuela,

M. Carlos Espósito, PhD, professeur de droit international public, Universidad Autónoma de Madrid,

M. Makane Moïse Mbengue, professeur de droit international à l'Université de Genève, membre du curatorium de l'Académie de droit international de La Haye, membre associé de l'Institut de droit international,

M<sup>me</sup> Esperanza Orihuela, PhD, professeure de droit international public, Universidad de Murcia,

M. Alex Oude Elferink, directeur de l'Institut néerlandais du droit de la mer, professeur de droit international de la mer à l'Université d'Utrecht,

M. Paolo Palchetti, PhD, professeur à l'Université Paris 1 Panthéon-Sorbonne,

M. Christian Tams, PhD, professeur de droit international à l'Université de Glasgow, cabinet 11 King's Bench Walk (Londres),

M. Andreas Zimmermann, LL.M., Harvard, professeur de droit international à l'Université de Potsdam, membre de la Cour permanente d'arbitrage,

*comme conseils et avocats ;*

M<sup>me</sup> Anne Coulon, avocate, membre du barreau de l'État de New York, Temple Garden Chambers,

M. Alfredo De Jesús O., PhD, Paris 2 Panthéon-Assas/Sorbonne Université, membre des barreaux de Paris et de la République bolivarienne du Venezuela, membre de la Cour permanente d'arbitrage,

M. Edgardo Sobenes, consultant en droit international, LL.M., Université de Leyde, Master, ISDE/Universitat de Barcelona,

*comme conseils ;*

Mr Rhonal Lee Fonseca Alvarado, Minister-Counsellor, Director General of the Strategic Office for Monitoring and Evaluation of Public Policies, Ministry of People's Power for Foreign Relations of the Bolivarian Republic of Venezuela,

Ms Lea Köhne, Assistant at the Faculty of Law, University of Potsdam,

Ms María Josefina Quijada, LLM, BA, Modern Languages,

Ms Arianny Seijo Noguera, PhD, University of Westminster,

*as Professional Assistant Counsel;*

Ms Alejandra Carolina Bastidas, Head of Protocol, Office of the Vice-President of the Republic,

Mr Héctor José Castillo Riera, Security of the Vice-President,

Mr Larry Davoe, Head Legal Director and Counselor of Vice-President, Office of the Vice-President of the Republic,

Mr Kenny Díaz, LLM, Director, Office of the Vice-President of the Republic,

Mr Manuel Jiménez, LLM, Private Secretary and Personal Assistant to the Vice-President of the Republic,

Mr Euclides Sánchez, Director of Security, Office of the Vice-President of the Republic,

*as Authorities from the Office of the Vice-President of the Republic;*

Mr Daniel Alexander Quintero, Assistant to the Vice-President,

*as Member of the Delegation.*



M. Rhonal Lee Fonseca Alvarado, ministre-conseiller, directeur général du service stratégique pour le suivi et l'évaluation des politiques publiques, ministère des affaires étrangères de la République bolivarienne du Venezuela,

M<sup>me</sup> Lea Köhne, assistante à la faculté de droit de l'Université de Potsdam,

M<sup>me</sup> María Josefina Quijada, LLM, BA, langues modernes,

M<sup>me</sup> Arianny Seijo Noguera, PhD, Université de Westminster,

*comme conseils adjoints professionnels ;*

M<sup>me</sup> Alejandra Carolina Bastidas, cheffe du protocole de la vice-présidence de la République,

M. Héctor José Castillo Riera, sécurité de la vice-présidence de la République,

M. Larry Davoe, directeur des affaires juridiques et conseiller de la vice-présidence de la République,

M. Kenny Díaz, LLM, directeur de cabinet de la vice-présidente de la République,

M. Manuel Jiménez, LLM, secrétaire privé et assistant personnel de la vice-présidente de la République,

M. Euclides Sánchez, directeur de la sécurité de la vice-présidence de la République,

*comme représentants de la vice-présidence ;*

M. Daniel Alexander Quintero, assistant, vice-présidence de la République,

*comme membre de la délégation.*

The PRESIDENT: Please be seated. The sitting is open. For reasons duly made known to me, Judge Tomka will not sit with us in these oral proceedings. Vice-President Gevorgian and Judge Robinson are unable to join us for this morning's sitting.

The Court meets this morning, under Article 74, paragraph 3, of the Rules of Court, to hear the single round of oral argument of the Co-operative Republic of Guyana on its request for the indication of provisional measures in the case concerning the *Arbitral Award of 3 October 1899 (Guyana v. Venezuela)*.

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

On 29 March 2018, the Co-operative Republic of Guyana filed in the Registry of the Court an Application instituting proceedings against the Bolivarian Republic of 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. In its Application, Guyana sought to found the Court's jurisdiction, under Article 36, paragraph 1, of the Statute of the Court, on 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.

By an Order of 19 June 2018, the Court decided, pursuant to Article 79, paragraph 2, of the Rules of Court of 14 April 1978 as amended on 1 February 2001, that in the circumstances of the case, it was necessary first of all to resolve the question of its jurisdiction, and that this question should accordingly be separately determined before any proceedings on the merits.

By a Judgment of 18 December 2020, the Court found:

"1. . . .that it has jurisdiction to entertain the Application filed by the Co-operative Republic of Guyana on 29 March 2018 in so far as it concerns the validity of the Arbitral Award of 3 October 1899 and the related question of the definitive settlement of the land boundary dispute between the Co-operative Republic of Guyana and the Bolivarian Republic of Venezuela;

2. . . .that it does not have jurisdiction to entertain the claims of the Co-operative Republic of Guyana arising from events that occurred after the signature of the Geneva Agreement".

On 7 June 2022, within the time-limit prescribed by Article 79*bis*, paragraph 1, of the Rules of Court, Venezuela raised a preliminary objection which it characterized as an objection to the

admissibility of the Application. By a Judgment dated 6 April 2023, the Court rejected Venezuela's preliminary objection and found that it could adjudicate on the merits of the claims of Guyana, in so far as they fell within the scope of the first subparagraph of the aforementioned operative clause of the Judgment of 18 December 2020.

On 30 October 2023, Guyana filed a Request for the indication of provisional measures, referring to Article 41 of the Statute and to Articles 73 and 74 of the Rules of Court. In its Request, Guyana states that on 23 October 2023, the Government of Venezuela, through its National Electoral Council, published a list of five questions that it plans to put before the Venezuelan people on 3 December 2023 in what is referred to as a "Consultative Referendum". According to the Applicant, the purpose of this referendum is

"to obtain responses that would support Venezuela's decision to abandon [the present proceedings before the Court], and to resort instead to unilateral measures to 'resolve' the controversy with Guyana by formally annexing and integrating into Venezuela all of the territory at issue in these proceedings, which comprises more than two-thirds of Guyana".

The Registrar will now read out the passage from the Request specifying the provisional measures which the Government of Guyana is asking the Court to indicate. You have the floor, Mr Registrar.

The REGISTRAR: Thank you, Madam President.

"Guyana submits that the Court should indicate the following provisional measures, which would remain in effect until the issuance of the Court's Judgment on the Merits:

1. Venezuela shall not proceed with the Consultative Referendum planned for 3 December 2023 in its present form;
2. In particular, Venezuela shall not include the First, Third or Fifth questions in the Consultative Referendum;
3. Nor shall Venezuela include within the "Consultative Referendum" planned, or any other public referendum, any question encroaching upon the legal issues to be determined by the Court in its Judgment on the Merits, including (but not limited to):
  - (a) the legal validity and binding effect of the 1899 Award;
  - (b) sovereignty over the territory between the Essequibo River, and the boundary established by the 1899 Award and the 1905 Agreement; and

- (c) the purported creation of the State of “*Guayana Esequiba*” and any associated measures, including the granting of Venezuelan citizenship and national identity cards.
4. Venezuela shall not take any actions that are intended to prepare or allow the exercise of sovereignty or *de facto* control over any territory that was awarded to British Guiana in the 1899 Arbitral Award.
  5. Venezuela shall refrain from any action which might aggravate or extend the dispute before the Court or make it more difficult to resolve.”

Merci, Madame la présidente.

The PRESIDENT: I thank the Registrar. Immediately after the Request for the indication of provisional measures was filed, the Registrar transmitted an original copy thereof to the Government of Venezuela. He also notified the Secretary-General of the United Nations.

According to Article 74, paragraph 1, of the Rules of Court, a request for the indication of provisional measures shall have priority over all other cases. Paragraph 2 of the same article states that the Court shall proceed to a decision on the request as a matter of urgency. This imperative must however be balanced with the need to fix the date of the oral proceedings in such a way as to afford the parties an opportunity to be represented at the hearings. Consequently, the Parties were informed that the oral proceedings, during which they could present their observations on the request for the indication of provisional measures, would be held on Tuesday 14 November 2023. Subsequently, at the request of Venezuela, the Court postponed the single round of oral argument of the Respondent to the morning of Wednesday 15 November 2023.

By letters dated 10 November 2023, the Registrar informed the Parties that the Court, with reference to Article 62, paragraph 1, of its Rules, had identified certain issues on which it wished to obtain further information from each Party during its respective single round of oral argument. The following list of questions was attached to the Registrar’s letter:

1. The resolution of the National Electoral Council of Venezuela that is annexed to Guyana’s Request (Annex 1) is, by its own terms, remitted to the Constitutional Chamber of the Supreme Tribunal of Justice so that the latter may pronounce on the constitutionality of the five questions to be asked in the Consultative Referendum. Has the Constitutional Chamber of the Supreme Tribunal of Justice pronounced on this matter and, if so, what was its pronouncement and when was it issued?

2. Will the Consultative Referendum be held on 3 December 2023, as envisaged in the Resolution of the National Electoral Council? If not, has another date been set?
3. What is the legal effect, under Venezuelan law, of the Consultative Referendum? In particular, are the answers to the questions binding on the executive and legislative authorities of Venezuela?

I would now like to welcome the delegations of the Parties. In particular, I recognize the presence of Her Excellency Ms Delcy Rodríguez, Executive Vice-President of the Bolivarian Republic of Venezuela, as well as the Agent of Guyana and the Agent of Venezuela, accompanied by members of their respective State's delegations. This morning, the Court will hear Guyana, which has submitted the Request for the indication of provisional measures. The Court will hear Venezuela tomorrow morning at 10 a.m. For the purposes of this single round of oral argument, each of the Parties will have available to it a sitting of one hour and a half.

In this first sitting, Guyana may, if required, avail itself of a short extension beyond 11.30 a.m. today, in view of the time taken up by these introductory remarks.

Before giving the floor to the Agent of Guyana, I wish to draw the attention of the Parties to Practice Direction XI, which states as follows:

“In the oral pleadings on requests for the indication of provisional measures parties should limit themselves to what is relevant to the criteria for the indication of provisional measures as stipulated in the Statute, Rules and jurisprudence of the Court. They should not enter into the merits of the case beyond what is strictly necessary for that purpose.”

I now give the floor to the Agent of Guyana, His Excellency Mr Carl B. Greenidge. You have the floor, Your Excellency.

Mr GREENIDGE:

**ADDRESS BY THE AGENT OF THE CO-OPERATIVE REPUBLIC OF GUYANA**

1. Madam President, distinguished Members of the Court, it is a pleasure for me to appear before you on behalf of Guyana.

2. I will begin by expressing my gratitude to the Court for convening this hearing on Guyana's request for provisional measures at the earliest possible date. In the Request itself, and in my covering

letter to the Court, we underscored the urgency of the request, given the existential threat to Guyana, and to more than two thirds of its national territory, that Venezuela's publicly stated plans portend.

3. It is not an exaggeration to describe the current threat to Guyana as existential and the need for provisional measures as urgent. The referendum Venezuela has scheduled for 3 December 2023 is designed to obtain an overwhelming popular mandate for the Government to reject the jurisdiction of the Court; to pre-empt a future judgment of the Court and, in so doing, undermine the authority and effectiveness of the principal judicial organ of the United Nations. It is a refusal to accept the Court as the means of settlement of the dispute in relation to the validity of the 1899 Arbitral Award and the related question of the determination of the land boundary between Guyana and Venezuela. It seeks to create a new Venezuelan state that purports to annex and incorporate into its own territory Guyana's entire Essequibo region — more than two thirds of its national territory — and to grant Venezuelan citizenship to the population. This is what Venezuela seeks from its so-called popular referendum, as Venezuela's highest civilian and military officials have openly and audaciously declared in their public statements.

4. What would become of Guyana's rights to the Essequibo region? These are the rights that Guyana seeks to confirm in this case; the very rights whose existence this Court has twice affirmed it has jurisdiction to determine. Once Venezuela creates a new state incorporating this territory and grants Venezuelan citizenship to the population, how will this seizure of Guyana's territory be reversed if, in its judgment on the merits, the Court rules that the 1899 Award is valid and that Guyana is the lawful sovereign? How will Venezuela's actions be reversed, and Guyana's rights to the territory be restored, if Venezuela rejects the Court's jurisdiction and refuses to recognize the validity of its judgment on the merits? As I stand here today, Guyana's rights to over two thirds of its territory are threatened not only by irreparable injury, but by permanent loss.

5. As I stand before the Court, there is still time to act to protect the authority of the Court and to stop Venezuela from carrying out its intended *fait accompli*. Before it secures the purported mandate to reject the Court as the means of settlement of the dispute over which the Court has already determined that it has jurisdiction. Before it secures a purported mandate to turn the Essequibo region into the new Venezuelan state of Guayana Esequiba and incorporate it into the map of Venezuelan territory.

6. I cannot stress enough the urgency of the situation that brought us here today and the necessity of provisional measures to prevent irreparable and potentially permanent loss of the rights claimed by Guyana in this case.

7. Madam President, for Guyana, the international rule of law is sacrosanct and respect for it is indispensable to international peace and security. In Guyana's case, in particular, it is essential to Guyana's territorial integrity and survival as a sovereign and independent State. In March 2018, Guyana placed its trust in the Court to exercise its jurisdiction under the 1966 Geneva Agreement and the 2018 decision of the Secretary General to resolve the controversy over the validity of the 1899 Arbitral Award and the related question of the settlement of the land boundary between Guyana and Venezuela. The Court has given two Judgments confirming its jurisdiction in regard to these issues. Guyana has not wavered in its trust in the Court. It is the only means for achieving a just, final and binding solution to the controversy between the two Parties, in accordance with international law. The Court alone stands between such a solution and chaos, a chaos that would threaten peace and security for Guyana, and for the Caribbean Region and beyond. This was underscored in a statement by CARICOM issued on 25 October:

“CARICOM further notes that two of the questions approved to be posed in the Referendum, if answered in the affirmative, would authorise the government of the Bolivarian Republic of Venezuela to embark on the annexation of territory, which constitutes part of the Cooperative Republic of Guyana, and to create a state within Venezuela known as Guyana Essequibo.

CARICOM reaffirms that international law strictly prohibits the government of one State from unilaterally seizing, annexing or incorporating the territory of another state. An affirmative vote as aforesaid opens the door to the possible violation of this fundamental tenet”.

8. Madam President, it would be naïve to pretend that an affirmative vote in Venezuela's referendum is not inevitable, having regard to the choice of questions and their formulation. As CARICOM has noted, the intention is to open the gate — a gate that Venezuela's Government has already indicated, in their public declarations, that they are eager to pass through with the popular blessing of the Venezuelan public. Only the Court stands as the guardian to that gateway. Only the Court can protect Guyana — and its rights at issue in this case — from the irreparable harm that will certainly befall it if Venezuela is permitted to cross that threshold into the seizure and incorporation of the territory whose ultimate fate is to be determined by the Court — not by the unilateral actions

of either of the two Parties. Only the Court can prevent the imminent annexation of tens of thousands of square kilometres of Guyanese territory.

9. In these circumstances, Guyana looks to the Court to safeguard these rights by applying the principles of international law faithfully, fairly and impartially. Guyana remains steadfast in its trust that the Court will do so.

10. Madam President, Members of the Court, Guyana's case for the indication of provisional measures will be presented this morning by two eminent members of its legal team: Mr Paul Reichler and Professor Alain Pellet.

11. Mr Reichler will address the relevant facts and context of Venezuela's impending referendum and the actions planned by Venezuela in consequence of it, and he will show why it will result in irreparable prejudice for Guyana, particularly through the irrecoverable loss of the very territorial rights which are the subject of Guyana's claims before the Court; and he will show that all of the specific criteria for the indication of provisional measures are satisfied here.

12. Professor Pellet will then address and elaborate upon the specific provisional measures that Guyana is requesting and he will demonstrate why each of them is both justified and urgently needed to prevent irreparable prejudice to the rights Guyana is seeking to vindicate in these proceedings.

13. I thank you, Madam President and distinguished Members of the Court, for your kind attention, and I ask that you now invite Mr Reichler to the podium. Thank you.

The PRESIDENT: I thank the Agent of Guyana for his statement. I now invite Mr Paul Reichler to take the floor. You have the floor, Sir.

Mr REICHLER:

**GUYANA'S URGENT NEED FOR PROVISIONAL MEASURES TO PREVENT  
IRREPARABLE HARM TO THE RIGHTS IT CLAIMS IN THIS CASE**

1. Madam President, Members of the Court, good morning. As always, it is an honour for me to appear before you, although I wish, on this occasion, it had not been necessary for me to be here, or for these hearings to be held, or for Guyana to be compelled urgently to seek the Court's assistance in preventing incalculable and irreparable injury to the very rights that are at issue in this case,



including its right to the integrity of its own national territory. Nothing less is at stake, or else Guyana would not have imposed on the Court's valuable time with this request for provisional measures.

2. Guyana's written Request for provisional measures is before the Court and its contents need not be repeated aloud this morning. I will simply highlight some key points to put Venezuela's impending referendum in context and further demonstrate why it portends irreparable prejudice for Guyana, especially in the form of irrecoverable loss of the territorial rights that are the subject of these proceedings.

### **A. The disputed territory**

3. I begin with this map. This is a map of Guyana, with its Essequibo region shaded. As the Court will recall, this is the territory that was determined to belong to British Guiana in the unanimous Arbitral Award of 3 October 1899. The land boundary between British Guiana and Venezuela, fixed by the five arbitrators, is shown by the thick black line. This is the same boundary that was subsequently demarcated by a joint commission and formally agreed to by Venezuela in 1905, and then ratified by its National Congress. It is the same boundary that Venezuela consistently recognized as the international boundary with British Guiana, without interruption, and without formal protest, until 1962.

4. This is the territory that is now claimed by both Parties to these proceedings, as a result of Venezuela's belated challenge to the validity of the 1899 Arbitral Award and its resurrection of the same territorial claims that were rejected unanimously by the five arbitrators many decades earlier. This is the territory, the rights to which will be finally determined by the Court in its judgment on the merits in this case. In particular, and for the purposes of the request for provisional measures, *Guyana's* rights to this territory will be determined in the judgment on the merits. These are the rights that are at urgent risk of irreparable prejudice from Venezuela's impending actions.

### **B. The nature of Venezuela's referendum**

5. Venezuela has made clear that the referendum it plans to hold on 3 December is for the purpose of obtaining a popular mandate to carry out actions that it has already decided to take. What are these actions? According to public statements by Venezuela's highest officials, they include the definitive and final rejection of the 1899 Arbitral Award; the rejection of the Court's jurisdiction (in

defiance of its Judgments of 18 December 2020 and 6 April 2023); the refusal to recognize the Court as the means of settlement of its territorial dispute at the heart of this case; the annexation of the disputed territory and its incorporation into Venezuela as a new Venezuelan State; the granting of Venezuelan citizenship and national identity cards to the population; and the defence of the territory against Guyana's assertion of its rights.

6. Venezuela has made clear that the purpose of this referendum is not merely to assess public opinion. It is to obtain popular support for decisions that the Government has already made and a license to act on those decisions. This is how President Nicolás Maduro explained the referendum on 23 October: "It is the first time that all the political, diplomatic, legal, historic territorial arguments are given to our people so that we [can] take a *collective decision* as a country."

7. The nature of that "collective decision" is revealed by the questions themselves, both in their form and their content. They are far from neutral, as would be the case for a true test of public opinion. Madam President, it does not take an expert on public polling to see that these five questions have been deliberately crafted so as to leave no possible outcome other than an overwhelming mandate for the Government to take actions that it has already decided upon.

### C. Question one

8. This is obvious in every single question. Here is the first one: "Do you agree to reject, by all means, in accordance with the Law, the line fraudulently imposed by the 1899 Paris Arbitral Award, that seeks to strip us of our *Guayana Esequiba*?" Is there any doubt that the Venezuelan public, whether or not they have ever heard of the 1899 Arbitral Award or know anything about its contents, will reject something said to be "fraudulent" that "strips" Venezuela of "our *Guayana Esequiba*"?

9. But where will this inevitable rejection of the Arbitral Award leave the Court? Will there be any role left for you to decide upon the validity of the Award after the referendum produces an overwhelming popular mandate to "reject" it and the boundary it "fraudulently imposed", so that Venezuela can take back the territory that was "stripped" from it?

#### **D. Question three**

10. Well, in case there is any doubt, Venezuela provides the Court with the answer in its third question: “Are you in agreement with the historic position of Venezuela of not recognizing the jurisdiction of the International Court of Justice to resolve the *Guyana Esequiba* territorial controversy?” There is no doubt that Venezuela’s intention here is to produce another overwhelming popular mandate, this one to endorse its rejection not only of the 1899 Arbitral Award, but of the Court and whatever judgment you may ultimately issue on the merits of this case.

11. President Maduro himself has made this abundantly clear, in this Venezuelan government video: “We are going to respond because for us it is very clear that in the case of the dispute over the Guayana Esequiba, Venezuela has never recognized and will never recognize the International Court of Justice as an instance for the attention or resolution of this matter. Never! Never!”

12. How can the President of Venezuela declare, a month before the referendum is held, that the outcome will be a rejection of the Court as a means for resolution of the territorial controversy with Guyana? Have they already counted the votes? Or is the result so obviously preordained that the referendum is no more than a rubber stamp, a device to obtain popular backing for a policy decision that has already been made at the highest level of government?

13. And what of Guyana’s rights? Including its rights under the 1966 Geneva Agreement, Article IV (2) and the decision of the Secretary-General that the controversy over the validity of the 1899 Arbitral Award is to be resolved by the Court? According to President Maduro, this right, which goes to the very core of these proceedings, will not only be irreparably injured; it will be permanently extinguished. *Jamás*: never! Never to be respected.

#### **E. Question five**

14. The same tragic fate awaits Guyana’s right to the territory comprising its Essequibo region, more than two thirds of its national territory, as question five makes clear:

“Are you in agreement with the creation of a *Guayana Esequiba* state and for an accelerated plan to be developed for comprehensive attention to the present and future population of that territory that would include among other things the granting of Venezuelan citizenship and identity cards, in conformity with the Geneva Agreement and International Law, consequently incorporating said state on the map of Venezuelan territory?”

15. The outcome intended by the Venezuelan Government could not be clearer. The “collective decision” called for here involves nothing less than the annexation of the territory in dispute in this case. This is a textbook example of annexation. What else would we call the “creation” of a new Venezuelan State comprising the territory — this territory — the conferral of Venezuelan citizenship on its inhabitants and the “incorporation” of the new State into Venezuelan territory? What would be the effect on Guyana’s rights in that territory — the rights it seeks to confirm in these proceedings — after the annexation of the territory by Venezuela takes place? How likely is it that Venezuela will ever reverse its annexation and accept Guyana’s sovereignty over the territory, especially after it rejects the Court as the means for resolution of this matter?

16. Madam President, I wish I could say that annexation by one State of another State’s territory is a historical footnote, consigned to the period before World War II, before the creation of the United Nations, and before the adoption of a Charter that has Article II, paragraph 4, as one of its principal foundations. Unfortunately, unlawful annexation is an infectious disease, like polio, which was once thought to have been eradicated, but has re-emerged, among other places, in Kuwait 30 years ago, and more recently in Ukraine, and the occupied Palestinian territories. What is different here, is that the Court has jurisdiction, and still has enough time, to stop it from occurring, because the intended annexation has not yet taken place. It awaits the holding of the 3 December referendum. And that is the reason Guyana submitted its request for provisional measures and asked the Court to hold hearings on it at the earliest possible date.

#### **F. Venezuela’s military preparations**

17. Unless the Court indicates these measures — the contents of which Professor Pellet will more fully describe — there can be little doubt that Guyana’s rights to the Essequibo region, should the Court find that it has such rights in its judgment on the merits, will be irreparably prejudiced, if not lost forever. Venezuela has made clear that, after the referendum, it will count on its armed forces to defend its annexation of its new State of *Guayana Esequiba*. Military preparations have already begun. This is a map which shows the location, on the Venezuelan side of the international boundary, where Venezuelan armed forces are now constructing a military airfield to carry out the Government’s plans for the Essequibo region of Guyana. And this is an article from a Venezuelan

publication quoting Colonel Juan Gutiérrez Ortiz that Venezuela is building a landing strip that “will serve as a logistical support point for the integral development of the Essequibo”. And next is a video of the actual construction work, concluding with the statement by Colonel Gutiérrez Ortiz, posted on Twitter by the Chief of the Operational Strategic Command of the Venezuelan armed forces: “I am in the area of integral development of La Camorra, in the construction of the airstrip that will serve as a logistical support point for the integral development of the Essequibo.”

18. Venezuela’s Minister of Defence, General Vladimir Padrino López, has posted a series of videos and tweets emphasizing the readiness of the armed forces to intervene directly, following the referendum on 3 December, to assert and defend Venezuela’s territorial claim to the Essequibo region, as shown in this video:

“National Bolivarian Armed Forces, to combat! National Bolivarian Armed Forces, to the defense of our Venezuela, and our territorial integrity! National Bolivarian Armed Forces! Let’s go to combat! Let’s go to the fight! Let’s go also to victory! The sun of Venezuela rises in the Essequibo! The Essequibo is ours! We shall prevail!”

Next is another tweet from Venezuela’s Minister of Defence, on 24 October:

“We are absolutely determined to recover our Guayana Esequiba. We have ample historical and legal reasons. No imperial power will be able, against the will, conscience and wisdom of an entire people who, in a Consultative Referendum, will say five times [— in response to the five questions —] ‘Yes, Essequibo is ours’.”

19. As the public declarations of Venezuela’s highest civilian and military leaders demonstrate, the upcoming referendum is not a purely internal matter, but an integral part of Venezuela’s plan to breach its most solemn international obligations: by rejecting resolution of its territorial dispute with Guyana by the Court; by ignoring and defying the Court’s Judgments on jurisdiction and, ultimately, the merits; and by resorting to unilateral action to “resolve” the dispute by seizing and annexing the entirety of the very territory that is the subject of these proceedings, and by extinguishing Guyana’s hopes of ever enjoying its rights to that territory. The referendum may consist of words, but they are words intended to lead directly to actions that have already been planned and announced and that Venezuela stands ready to carry out.

### **G. The Court's questions to the Parties**

20. I turn to the three questions posed by the Court on 10 November. Since they involve matters of Venezuelan law and procedure, our colleagues on the other side may have their own answers to these questions. For Guyana's part, it understands (1) that the Venezuelan Supreme Court upheld the constitutionality of the referendum in a ruling issued on 31 October<sup>1</sup>; (2) that the Government intends to go forward with the referendum, as scheduled, on 3 December; and (3) that the results will not be legally binding under Venezuelan constitutional law. However, whether the results are legally binding or not, the Government has already declared its intention to act in accordance with them — and to use them as a springboard to enforce Venezuela's purported rights in respect of the territory at issue in this case, to the exclusion of Guyana's rights in the same territory. The Government has already made this clear, including in a communiqué issued on 24 October.

“[T]he National Assembly of the Bolivarian Republic of Venezuela, in full exercise of its powers, has decided to consult the people of Venezuela on the master lines of legal, diplomatic and political actions, in order to assert the legitimate rights over the territory of the *Guyana Esequiba*.”

The results of this “consultation” will thus be an assertion of Venezuela's so-called “legitimate rights”: to reject the 1899 Arbitral Award without waiting for the Court to rule on its validity, as per question one; to reject the Court itself as the means of settlement of this dispute, as per question three; and to incorporate the disputed territory into a newly created Venezuelan State, as per question five. These are Venezuela's publicly declared intentions. These are the actions that Venezuela is preparing to carry out. The referendum does not need to be legally binding to serve its intended purpose as an instrument to generate public enthusiasm in support of these internationally unlawful actions.

### **H. The requirements for provisional measures are satisfied**

21. Madam President, as Guyana has shown in the written Request for provisional measures that it submitted to the Court on 30 October, all the elements necessary for the indication of provisional measures are present here. There is no doubt about the Court's jurisdiction, let alone prima facie jurisdiction, following the Judgment of 18 December 2020 confirmed by that of 6 April

---

<sup>1</sup> “Venezuelan Supreme Approves Essequibo Referendum Questions”, *teleSUR*, 1 Nov. 2023, available at <https://www.telesurenglish.net/news/Venezuelan-Supreme-Approves-Essequibo-Referendum-Questions-20231101-0011.html>.

2023. There is no question about the plausibility of Guyana's rights to the territory at issue here; its rights are based on a unanimous Arbitral Award, a demarcation agreement signed and ratified by Venezuela, and Venezuela's long-standing acceptance and acknowledgment that the territory belonged to British Guiana. Nor can there be any uncertainty about the irreparable prejudice that would befall Guyana's rights if Venezuela were to unilaterally reject the Arbitral Award, reject and ignore the Court and its Judgments, and proceed to formally incorporate the disputed territory into itself. Urgency is shown by the impending referendum, to be held less than three weeks from now, which would be the trigger for the execution of Venezuela's annexationist plans, and by the preparations of the National Bolivarian Armed Forces to secure Venezuela's claim to the territory. As the Court has explained on various occasions: "The condition of urgency is met when the acts susceptible of causing irreparable prejudice can 'occur at any moment' before the Court makes a final decision on the case."<sup>2</sup> All the requirements for the indication of provisional measures are therefore satisfied here.

### **I. Questions two and four**

22. Madam President, before I ask that you call Professor Pellet to the podium, for the sake of completeness I would like to briefly address the two referendum questions that I have not thus far mentioned, questions two and four.

23. Question two asks: "Do you support the 1966 Geneva Agreement as the only valid legal instrument for reaching a practical solution satisfactory to Venezuela and Guyana, in relation to the controversy over the *Guyana Esequiba* territory"? Context is critical here. Venezuela continues to swear by the Geneva Agreement, but not the Agreement as written, or as interpreted by the Court. According to Venezuela, the 1966 Agreement requires the Parties to resolve the controversy only and exclusively by negotiation, and by no other means. This is directly contrary to what the Court ruled in its Judgment of 18 December 2020, and it ignores completely Article IV (2) of the Agreement, which is the basis of the Court's jurisdiction to resolve this controversy. Question two appears to have been designed by Venezuela to promote the fiction that it is committed to the Geneva

---

<sup>2</sup> *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), Provisional Measures, Order of 16 March 2022, I.C.J. Reports 2022 (I)*, pp. 226-227, para. 66, quoting from *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar), Provisional Measures, Order of 23 January 2020, I.C.J. Reports 2020*, p. 24, para. 65.

Agreement, and that Guyana is not — when in fact the reverse is true. Professor Pellet will have more to say about this and he will explain why Guyana does not believe there is need for a provisional measure specifically addressed to this question.

24. Question four asks: “Do you agree to oppose, by all means, in conformity with the Law, Guyana’s pretension of unilaterally making use of a sea pending delimitation, illegally and in violation of international law?” This question, and the inevitable answer, pose a grave threat to Guyana’s economic development activities in the maritime area adjacent to the Essequibo coast. Venezuela has been issuing increasingly harsh and menacing statements against Guyana over these activities. This is a communiqué issued by Venezuela on 19 September. It says that:

“Finally, the Government of the Bolivarian Republic of Venezuela warns all the companies that participate in the illegal bidding process convoked by Guyana that it will apply all the necessary measures to prevent the illegitimate exploitation of the natural resources that belong to our country.”

This is a Venezuelan communiqué issued on 25 October. It accuses Guyana of “the illegal, abusive, and arbitrary conduct of disposing of a territorial sea still pending delimitation” and it says that “[t]his behavior threatens the stability of the region, fed by Guyana’s stubborn association with the interests of the United States Southern Command”. Three days later, on 28 October, another communiqué stated: “Venezuela denounces, once again, the buy off of the entire Guyanese leadership by Exxon Mobil, a transnational corporation that designs plans to threaten and attack the Venezuelan people and steals the resources that belong to them.”

25. Even more ominously, Venezuela’s Minister of Defence, General Padrino López, has posted a series of tweets threatening armed intervention against Guyana and its licensees in these maritime areas. This is one of them, posted on 13 October:

“[T]he Cooperative Republic of Guyana has granted concessions to transnationals in blocks that penetrate into spaces *UNDOUBTEDLY VENEZUELAN*. Now, thanks to the forcefulness of the [National Bolivarian Armed Forces] in defense of our sovereignty, they can be sure that they will get a proportional response, timely and legitimate to *DEFEND WHAT IS OURS. LONG LIVE VENEZUELA!*”

26. This is a direct threat to Guyana’s rights in the maritime area adjacent to its coast. However, Guyana’s request for provisional measures does not seek the Court’s protection of these rights. This is because it cannot, as a result of the Court’s Judgment on jurisdiction of 18 December 2020. In that Judgment, as you will recall, the Court decided unanimously that it has no jurisdiction *ratione*



*temporis* over any claims arising after the entry into force of the 1966 Geneva Agreement, including the claims Guyana made in its Application of 29 March 2018 concerning Venezuela's interference with its economic development activities in the sea adjacent to the Essequibo coast.

27. As Professor Pellet will explain, this is the basis on which Guyana has refrained from asking the Court for a provisional measure specifically addressed to question four and the threats Venezuela has made to interfere with its activities in the sea. Because the Parties' maritime dispute arose after the entry into force of the Geneva Agreement and is not covered by the dispute resolution provisions of Article IV (2), Guyana has proposed to Venezuela that their respective maritime claims, including delimitation of a maritime boundary, be resolved peacefully and definitively in bilateral negotiations or by impartial international adjudication or arbitration, whichever Venezuela prefers. This could include a new case before the Court addressed to the Parties' maritime claims, to which they both could give their consent. Guyana's proposal is set out in its Note Verbale to Venezuela of 15 August 2023, which is in your judges' folders this morning. Regrettably, Venezuela has not accepted Guyana's proposal for the peaceful settlement of the maritime issues that divide them, and now, as you have seen, it is threatening to press its own claims by the use of force against Guyana and its licensees.

28. Guyana's willingness, indeed, its eagerness, to engage directly and diplomatically with Venezuela on the maritime issues stands in contrast with its unwillingness to do so on the land issues, particularly, its unwillingness to agree to bilateral negotiations on the validity of the 1899 Arbitral Award or the settlement of the land boundary. Unlike the maritime issues, the Court has ruled that it has jurisdiction over the land issues and that it will resolve them in its judgment on the merits. Guyana will do nothing to undermine these proceedings or the judgment of the Court. It views Venezuela's ongoing insistence on a bilateral dialogue to settle the land issues as a ploy to evade the Court's jurisdiction, diminish its authority and trap Guyana in an endless negotiation without possibility of success. As the Court is well aware, a prolonged and fruitless negotiation has already taken place, in the form of a 27-year good offices process managed by the Secretary-General. Guyana committed itself to that process for more than two decades and participated in it in good faith. It was because of the inability of that process to achieve any progress toward a settlement over more than a quarter century that the Secretary-General, in 2018, declared it a failure and chose the Court as the means of

settlement of the Parties' territorial dispute. Guyana is fully committed to having the Court settle it and will continue to resist Venezuela's entreaties to abandon the Court in favour of other forms of settlement.

#### **J. Venezuela's regard for the "law"**

29. Madam President, it is notable that Venezuela's five referendum questions pay the same kind of homage to "the Law" or "International Law" as they do to "the Geneva Agreement", which is to say, to Venezuela's twisted reading of both the law and the Agreement. How would it be possible, for example, to "reject, by all means in accordance with the Law", as in question one, the boundary fixed by the 1899 Arbitral Award, if the Court rules that the Award is valid, or that the boundary should be settled in accordance with it? While piously invoking "the Law", the question deliberately invites illegal behaviour by Venezuela in the event of a judgment in Guyana's favour.

30. The same legal casuistry can be found in the other questions, including especially question five. How can it be possible for Venezuela to reject the jurisdiction of the Court and proceed unilaterally to convert Guyana's Essequibo region into a new Venezuelan state, grant Venezuelan citizenship to the population and carry out an accelerated plan for comprehensive attention to the present and future population, "in conformity with the Geneva Agreement and International Law"?

31. By its referendum, and the "collective decision" and action that are intended to follow it, Venezuela manifests its contempt for, not its conformity with, both the Geneva Agreement and international law. Its intended actions, spelled out in its official communiqués, and in the public statements of its highest civilian and military officials, are an affront to international law. Venezuela's defiance of the Court — its rejection of the Court's jurisdiction and refusal to recognize it as the means of settlement of the present dispute — is an affront to the rule of law itself. And its "creation" of a new Venezuelan state, "incorporating" the entire Essequibo region, fully usurps the rights claimed by Guyana in these proceedings, which will be irreparably injured, if not completely eviscerated, without the Court's protection.

32. In contrast to Venezuela, Guyana has taken no action — nor does it intend to take any action — that would disrespect the Court or prejudice the rights claimed by Venezuela to the territory at issue in this case. There is nothing that Guyana or British Guiana before it has done, in the

124 years it has been administering the territory following the 1899 Arbitral Award, that would prevent it from ceding the territory to Venezuela if the Court were to set aside the Award and establish a new boundary along the line that Venezuela now claims. Nor is there a scintilla of evidence that Guyana would adopt measures irreparably prejudicial to Venezuela's claim during the time until the Court issues its final judgment on the merits. The evidence is all to the contrary. It establishes that only one Party to these proceedings is acting to the irreparable prejudice of the other's rights and that the transgressive Party is Venezuela. There are thus no grounds for the indication of provisional measures against Guyana, or against both Parties. If Venezuela were to ask tomorrow for what it might describe as a "balanced" order, with provisional measures indicated against both Parties, Guyana trusts that the Court will not be deterred from dispensing justice by such claims of false equivalence.

#### **K. Final words**

33. Madam President, Members of the Court, this completes my presentation. I thank you for your kind courtesy and patient attention. Since I have no other appearances here scheduled before February, I would like to express, if I may, what a privilege and a pleasure it has been for me to appear before you, Madam President, and before Judges Bennouna, Robinson and Gevorgian, many times during your tenures on the Court. I congratulate all of you on the completion of your terms and wish you all the very best. And now I ask you to call Professor Pellet to the podium.

The PRESIDENT: I thank Mr Reichler and I now invite the next speaker, Professor Alain Pellet, to address the Court. You have the floor, Professor.

M. PELLET :

#### **LES MESURES CONSERVATOIRES DEMANDÉES PAR LE GUYANA**

1. Madame la présidente, Mesdames et Messieurs de la Cour, en ratifiant la Charte des Nations Unies, les deux Parties à la présente instance se sont déclarées résolues « à préserver les générations futures du fléau de la guerre ». En ces temps troublés où le recours à la force armée prend de plus en plus souvent le pas sur le règlement pacifique des différends, en dépit des principes

énoncés aux paragraphes 2 et 3 de la Charte, l'affaire qui nous réunit revêt une importance toute particulière et qui est loin de n'être que symbolique.

2. M<sup>e</sup> Reichler a décrit le contexte factuel qui a conduit le Guyana à vous saisir de la présente requête en mesures conservatoires. Je vais entrer brièvement dans le détail de celles-ci. Elles sont au nombre de cinq et figurent en anglais et en français, telles que reproduites dans le communiqué de presse du Greffe du 31 octobre 2023, à l'onglet n<sup>o</sup> 3.1 de vos dossiers. Je les examinerai successivement pour en montrer le caractère indispensable.

3. Madame la présidente, en premier lieu, le Guyana vous prie d'indiquer — avec force juridiquement obligatoire, conformément à votre jurisprudence<sup>3</sup> — que « Venezuela shall not proceed with the Consultative Referendum planned for 3 December 2023 in its present form ». Il s'agit d'une demande à la fois très générale — elle est explicitée par celles qui suivent — et très modérée. Il ne vous est pas demandé, Mesdames et Messieurs les juges, de vous prononcer globalement sur cette initiative du Venezuela, aussi contestable soit-elle, ni même de suspendre l'exécution de la résolution du 20 octobre 2023 dans son ensemble. Nous vous demandons seulement d'empêcher qu'elle puisse produire des effets irrémédiables, et irrémédiablement contraires à des principes fondamentaux du droit international et au maintien de la paix et de la sécurité internationales. Ce serait la conséquence inéluctable du référendum, s'il devait se tenir, le 3 décembre ou plus tard, dans la formulation actuelle ou équivalente des questions.

4. Au demeurant, la retenue du Guyana ne signifie pas que la résolution en question soit acceptable en elle-même et indépendamment de son contenu actuel : elle ne l'est pas dans son principe même — puisqu'elle vise, à l'évidence, à tenir en échec l'arrêt que vous rendrez sur le fond et à rendre impossible son application. Cela constitue un pur outrage à la justice, quelque chose qui s'apparente à un « contempt of Court » et qui devrait assurément être sanctionné, d'autant plus qu'il s'ajoute à plusieurs épisodes antérieurs qui ne témoignent pas — c'est le moins que l'on puisse dire — d'un ferme engagement vénézuélien en faveur d'une procédure ordonnée. Je ne m'attarderai pas sur ce point car il faut parer au plus pressé.

---

<sup>3</sup> Voir notamment *LaGrand (Allemagne c. États-Unis d'Amérique)*, arrêt, C.I.J. Recueil 2001, p. 506, par. 109 ; *Application de la convention pour la prévention et la répression du crime de génocide (Gambie c. Myanmar)*, mesures conservatoires, ordonnance du 23 janvier 2020, C.I.J. Recueil 2020, p. 29, par. 84 ; ou *Application de la convention internationale sur l'élimination de toutes les formes de discrimination raciale (Arménie c. Azerbaïdjan)*, mesures conservatoires, ordonnance du 7 décembre 2021, C.I.J. Recueil 2021, p. 392, par. 96.

5. La raison pour laquelle nous ne vous demandons pas, Mesdames et Messieurs les juges, de censurer la question 2 envisagée par la résolution — et qu'a rappelée déjà M<sup>e</sup> Reichler — est que, malgré une rédaction tout en sous-entendus, elle ne menace pas la paix et la sécurité internationales, en tout cas *prima facie*, et qu'elle ne remet pas ouvertement en cause l'application du droit international ou l'autorité de la Cour. Quant à la question 4, comme M<sup>e</sup> Reichler l'a expliqué aussi, elle porte sur les activités maritimes — que vous avez d'ores et déjà considérées comme ne relevant pas de votre juridiction.

6. La deuxième question incite les électeurs vénézuéliens à soutenir l'accord de Genève de 1966 comme étant « the only valid legal instrument for reaching a practical solution satisfactory to Venezuela and Guyana, in relation to the controversy over the *Guayana Esequiba* territory ». Avec quelques nuances, à commencer par le nom du différend, ceci reflète la position du Guyana même si, comme l'a fait remarquer M<sup>e</sup> Reichler, il n'est nullement question dans l'accord de 1966 de solution « pratique » devant satisfaire les deux États ; mais nous convenons volontiers que l'accord de Genève est, sans aucun doute, le seul instrument juridique permettant de résoudre *définitivement* et pacifiquement le différend dans l'intérêt des deux États. C'est ainsi que l'ont interprété tant le Secrétaire général des Nations Unies que la Cour elle-même dans son arrêt du 18 décembre 2020. Les termes vous en sont bien connus et il ne me semble pas nécessaire d'y revenir, même si le Venezuela s'obstine, en violation du paragraphe 1 de l'article 94 de la Charte et des articles 59 et 60 du Statut, à ne pas en tenir le moindre compte.

7. De même, la quatrième question envisagée par la résolution ne soulève pas d'objection — si, du moins, on l'interprète conformément au sens naturel des mots. Il n'y a pas de raison, Madame la présidente, d'empêcher le Venezuela de faire valoir ses droits en matière de délimitation maritime, encore que « par tous moyens » (« by all means ») puisse inquiéter ; et que les nombreux communiqués et « tweets » des responsables politiques ou militaires vénézuéliens, y compris ceux émanant du ministre de la défense, suggèrent fortement le risque d'une intervention armée. Cela étant, si le Venezuela s'en tient à la lettre de ses intentions proclamées, la suite devrait rassurer : il n'entend agir que « conformément au Droit » (« conforme a Derecho ») — qu'il a même le souci d'honorer d'un D majuscule (« in conformity with the Law — capital L »).

8. Nous n'accordons qu'une foi très limitée à cet attachement proclamé au droit et au droit international mais, de toute manière, comme la Cour l'a d'ores et déjà constaté, les activités maritimes, visées par cette quatrième question, ne sont pas en cause dans la présente instance<sup>4</sup>. Il ne s'en agit pas moins d'une menace directe pour les droits du Guyana dans la zone maritime adjacente à ses côtes. Néanmoins, je précise à nouveau que la Partie guyanaise ne cherche pas à obtenir de la Cour la protection de ses droits dans cette zone maritime dans le cadre des mesures conservatoires dont l'examen nous réunit ce matin : le Guyana ne le pouvait pas du fait de l'absence de compétence de la Cour pour en traiter. Je rappelle à cet égard, comme l'a fait M<sup>e</sup> Reichler, que le Guyana a inclus, dans sa requête du 29 mars 2018, une demande fondée sur la violation de ses droits maritimes, visant à empêcher le Venezuela

« from threatening or using force against any person and/or company licensed by Guyana to engage in economic or commercial activity in Guyanese territory as determined by the 1899 Award and 1905 Agreement, or in any maritime areas appurtenant to such territory over which Guyana has sovereignty or exercises sovereign rights ».

9. Mais, encore une fois, au paragraphe 136 de son arrêt sur la compétence de 2020, la Cour a considéré que cette compétence était « limitée *ratione temporis* aux demandes que les Parties avaient pu formuler à la date de la signature de l'accord de Genève, à savoir le 17 février 1966 ». En conséquence, et comme l'a rappelé aussi M<sup>e</sup> Reichler, dans le dispositif, au paragraphe 138 2), la Cour a décidé, à l'unanimité, qu'« elle n'a pas compétence pour connaître des demandes de la République coopérative du Guyana qui sont fondées sur des faits survenus après la signature de l'accord de Genève ». Et c'est pour cette raison que le Guyana, qui, lui, respecte vos décisions, a limité la demande de mesures conservatoires à la protection de ses revendications concernant le territoire terrestre, objet du présent différend, pour lequel la Cour s'est déclarée compétente.

10. Les trois autres questions que le Venezuela entend soumettre à référendum sont plus préoccupantes. Si, comme le Venezuela déclare expressément en avoir la ferme intention, elles venaient à être posées, et si les réponses devaient être positives — ce qui ne fait guère de doute —, cela reviendrait à récuser par avance, au mépris de votre Statut, l'arrêt que vous êtes appelés à rendre ; il en résulterait aussi une très grave menace pour la paix et la sécurité de la région. Madame la

---

<sup>4</sup> *Sentence arbitrale du 3 octobre 1899 (Guyana c. Venezuela), compétence de la Cour, arrêt, C.I.J. Recueil 2020, p. 493, par. 138, conclusion 2).*

présidente, l'intention affichée du Venezuela d'organiser un référendum contenant ces trois questions crée de manière imminente une menace de préjudice irréparable pour les droits plausibles du Guyana sur l'Essequibo, alors même que ces droits sont précisément l'objet de la procédure sur le fond et que votre futur arrêt attribuera nécessairement le territoire contesté à l'une ou à l'autre Partie.

11. Aux termes de la première question, il est prévu de demander aux votants : « Do you agree to reject, by all means in accordance with the Law, the line fraudulently imposed by the 1899 Paris Arbitral Award, that seeks to strip us of our *Guayana Esequiba*? » Toute symétrie avec la quatrième question, dont je viens de parler, serait trompeuse : certes, ici aussi, le Venezuela prétend agir « conformément au Droit » — toujours gratifié d'une majuscule. Mais il y a une contradiction interne et autrement inquiétante dans cette première question : ici, le Gouvernement vénézuélien postule que la sentence de 1899 est frauduleuse et que le soi-disant *Guayana Esequiba* appartient au Venezuela. C'est tout l'enjeu de la requête que le Guyana vous a soumise le 29 mars 2018, et par laquelle il vous demande précisément, d'une part, de confirmer que la sentence de 1899 est valide et, d'autre part, que le Guyana jouit de la pleine souveraineté sur le territoire que le Venezuela désigne comme étant le *Guayana Esequiba*.

12. Du reste, toute ambiguïté est levée par la troisième question que le Gouvernement vénézuélien entend poser : « Are you in agreement with the historic position of Venezuela of not recognizing the jurisdiction of the International Court of Justice to resolve the *Guayana Esequiba* territorial controversy? ». C'est clair : il s'agit, au mépris de l'autorité de la chose jugée, de réaffirmer le refus du Venezuela de reconnaître votre compétence alors même que vous l'avez fermement affirmée à deux reprises :

— par votre arrêt de 2020, vous avez conclu que la Cour

« a compétence pour connaître des demandes du Guyana se rapportant à la validité de la sentence de 1899 relative à la frontière entre la Guyane britannique et le Venezuela ainsi qu'à la question connexe du règlement définitif du différend concernant la frontière terrestre entre les territoires respectifs des Parties »<sup>5</sup> ;

— puis, à nouveau, dans votre arrêt de 2023, vous avez considéré qu'il n'existait pas d'« obstacle à ce qu[e la Cour] exerce sa compétence, qui est fondée sur l'application de l'accord de Genève »<sup>6</sup>.

---

<sup>5</sup> *Ibid.*, p. 493, par. 137.

<sup>6</sup> *Sentence arbitrale du 3 octobre 1899 (Guyana c. Venezuela), exception préliminaire, arrêt du 6 avril 2023*, par. 107.

13. Quant à la cinquième question, elle est libellée ainsi — je ne pense pas qu'il soit utile de la relire ; elle est projetée à l'écran et M<sup>e</sup> Reichler l'a lue tout à l'heure. Comme il l'a montré, il s'agit tout simplement de faire approuver une annexion à peine déguisée qui, bien sûr, préjuge, elle aussi, l'issue de l'instance introduite par le Guyana : le nouvel « État » de *Guayana Esequiba* qu'il s'agit de créer en tant que province vénézuélienne correspond très exactement au territoire que la sentence de 1899 a reconnu comme étant guyanais — ce que la Cour est appelée à confirmer par la requête du Guyana.

14. Ici encore, l'objectif est de créer un fait accompli avant que vous ayez pu, Mesdames et Messieurs les juges, vous prononcer sur la requête guyanaise et dans l'espoir évident de l'empêcher.

15. Ces trois questions font de la procédure devant la Cour une moquerie tendant à priver l'arrêt à venir — et l'autorité des décisions de la Cour — de tout effet pratique. C'est pourquoi, par sa deuxième demande, le Guyana vous prie de bien vouloir indiquer que « Venezuela shall not include the First, Third or Fifth questions in the Consultative Referendum [should it take place] ».

16. Notre troisième demande est prospective. Il vous est demandé, Mesdames et Messieurs de la Cour, d'indiquer au Venezuela, avec force obligatoire jusqu'au prononcé de l'arrêt, qu'il ne peut en aucun cas inclure ni dans les questions posées dans le cadre de ce « référendum consultatif », ni dans une autre, toute question qui pourrait concerner et préjuger les questions juridiques, les problèmes juridiques, auxquels seule la Cour a compétence pour répondre, conformément à l'accord de Genève du 17 février 1966 auquel le Venezuela proclame son attachement. Cette demande présente d'autant plus d'importance que, par son comportement passé, le Venezuela a multiplié les manœuvres visant à vous empêcher de vous prononcer sur la requête du Guyana. La résolution du 20 octobre dernier n'est en effet que l'avant-dernier épisode de cette guérilla juridique dont vous avez, Madame la présidente, rappelé les étapes dans votre présentation introductive.

17. Pour mémoire : avant même que la Cour ait fixé le délai pour le dépôt des écritures des Parties<sup>7</sup>, le président vénézuélien signifiait au président de la Cour que celle-ci n'avait pas compétence pour se prononcer sur le différend et que son pays ne participerait pas à la procédure<sup>8</sup>.

---

<sup>7</sup> *Sentence arbitrale du 3 octobre 1899 (Guyana c. Venezuela)*, ordonnance du 19 juin 2018, C.I.J. Recueil 2018 (I), p. 402.

<sup>8</sup> Lettre en date du 18 juin 2018 adressée au président de la Cour internationale de Justice par le président de la République bolivarienne du Venezuela, annexe 132.



Cela n'a pas empêché le Venezuela, après avoir à plusieurs reprises exprimé son refus de participer à la procédure, de soumettre, hors délais, un « memorandum sur la requête du Guyana » concernant la compétence de la Cour. Et puis, après avoir annoncé son intention de ne pas participer aux audiences orales du 30 juin 2020, cela ne l'a pas non plus empêché de transmettre des observations écrites sur les arguments présentés par le Guyana — et à nouveau tardivement. Plus tard, après que la Cour s'est déclarée compétente pour régler le différend par son arrêt du 18 décembre 2020 et après que le Guyana a déposé son mémoire au fond le 8 mars 2022, et alors que celui du Venezuela était attendu pour le 8 mars de l'année suivante, le Venezuela a soulevé, le 7 juin 2022, une exception d'irrecevabilité assez inédite à laquelle la Cour a répondu par l'arrêt du 3 avril 2023.

18. Dernier épisode en date (et pas le moins extravagant) : en réponse à l'appel plein de sagesse du Secrétaire général du 9 novembre dernier, qui, dans les mots de son porte-parole, a dit suivre « with concern the recent escalation of tension between Guyana and Venezuela over the border controversy between the two countries » and urged « both parties [to] demonstrate good faith and avoid any action that would aggravate or extend the controversy »<sup>9</sup>, le Venezuela a publié, le lendemain, un communiqué au vitriol réitérant son intention irrévocable de tenir le référendum le 3 décembre. Il y impute au Secrétaire général la responsabilité de ses déboires judiciaires et déclare : « Nothing and no one will divert [the Venezuelan people] from this path.<sup>10</sup> » On ne peut être plus clair : foin de votre arrêt ! Les deux communiqués figurent dans votre dossier sous les onglets n<sup>os</sup> 3.2 et 3.3.

19. Vous savez tout cela, Mesdames et Messieurs de la Cour ; mais, si je me suis permis de le rappeler, c'est pour mettre en lumière la conception très particulière qu'a le Venezuela du respect du droit international — y compris en matière procédurale. En outre et surtout, il est difficile de se défendre contre l'idée que le Venezuela s'emploie, par tous les moyens (« by all means »), à essayer d'échapper à la compétence de la Cour, voire de l'« intimider » — comme si vous étiez « intimidables », Mesdames et Messieurs les juges ! Vous avez entendu le président Maduro tout à l'heure.

---

<sup>9</sup> Voir Nations Unies, *Statement attributable to the Spokesperson for the Secretary-General - on Guyana and Venezuela*, 9 novembre 2023 (non disponible en français).

<sup>10</sup> République bolivarienne du Venezuela, communiqué, 10 novembre 2023.

20. Parallèlement à cette regrettable stratégie judiciaire, le Venezuela — par l'intermédiaire de ses représentants les plus autorisés — a tenu une rhétorique belliqueuse à l'encontre du Guyana et de son peuple. M<sup>e</sup> Reichler en a donné des exemples topiques, sur lesquels je ne reviens pas. Il a montré à suffisance que la menace est immédiate et n'est pas un « tigre de papier » et que, dans la quasi-certitude d'une réponse positive à ses questions référendaires, le Venezuela se préparait effectivement à une action militaire. Notre troisième demande vise à éviter que le Gouvernement vénézuélien puisse se prévaloir de l'appui artificiel du peuple, endoctriné depuis deux générations, pour légitimer le passage à l'acte annoncé.

21. Tous ces éléments alertent sur la nécessité de ne pas laisser le Venezuela créer le fait accompli annoncé par sa résolution du 20 octobre dernier. Il s'agit en quelque sorte de transposer, dans le cadre de mesures conservatoires, les garanties de non-répétition que vous êtes parfois appelés à décider en application de l'alinéa *b*) de l'article 30 des articles de la CDI (Commission du droit international) sur la responsabilité de l'État. De telles mesures sont dues « lorsque l'État lésé a des raisons de penser que le simple retour à la situation préexistante ne le protège pas de manière satisfaisante »<sup>11</sup> ; le Guyana a d'amples raisons de le penser étant donné l'attitude antérieure du Venezuela à l'égard de la présente procédure et compte tenu de ses menaces répétées d'obtenir par la force sur le terrain ce qu'il semble craindre que l'arrêt de la Cour lui refusera — non sans raison pensons-nous : la Cour dit le droit... Dans une telle situation, « l'État lésé peut demander à l'État responsable d'adopter des mesures spécifiques ou d'agir d'une manière déterminée pour éviter que le fait illicite ne se reproduise »<sup>12</sup>. C'est ce que nous vous demandons, Mesdames et Messieurs les juges, dans l'espoir que la suite positive que vous donnerez à cette demande préservera la possibilité de mettre en œuvre votre futur arrêt — quelle que soit la position que vous y prendrez. Comme les demandes en garanties de non-répétition, cette troisième mesure a l'avantage d'être tournée vers l'avenir et vise à prévenir d'autres actions, malheureusement fort probables, visant à empêcher que votre arrêt soit susceptible d'application effective<sup>13</sup>.

---

<sup>11</sup> Commission du droit international (CDI), projet d'articles sur la responsabilité de l'État pour fait internationalement illicite, avec commentaires, article 30, *Annuaire de la Commission du droit international*, 2001, vol. II, deuxième partie, p. 95, par. 9.

<sup>12</sup> *Ibid.*, p. 96, par. 13.

<sup>13</sup> Voir *ibid.*

22. Il ne le serait pas, Madame la présidente, si le Venezuela donne suite à sa résolution sous sa forme actuelle. Votre arrêt ne pourrait pas non plus s'appliquer si le Venezuela convoque le corps électoral pour se prononcer dans le cadre d'une autre consultation qu'il viendrait à organiser sur une ou plusieurs questions préjugant la solution que la Cour est appelée à trancher. Les trois exemples de questions inacceptables qui figurent dans la liste des mesures requises par le Guyana ont pour objet d'éviter que ceci se reproduise. Elles ne sont pas limitatives car nous avons renoncé à essayer de rivaliser d'imagination avec le Venezuela et ses conseils sur les moyens qu'ils pourraient inventer pour tenter de vous empêcher d'exercer votre juridiction.

23. La quatrième demande formulée par le Guyana, qui est également projetée à l'écran, est faite dans le même esprit : il s'agit d'éviter que le Venezuela s'adjuge sur le terrain ce qu'il redoute que votre arrêt ne lui reconnaisse pas : la souveraineté sur le territoire que la sentence de 1899 a reconnue au Royaume-Uni et qu'exerce le Guyana depuis son accession à l'indépendance en 1966. À vrai dire, tout ce que je viens de dire à l'appui de la troisième demande s'applique également à la quatrième : il s'agit, là aussi, d'empêcher que la force l'emporte sur le droit, que les droits plausibles du Guyana soient définitivement lésés, et que votre arrêt soit vidé de toute substance avant même d'être rendu. Il en irait évidemment ainsi si le Venezuela prenait des mesures visant à exercer sa souveraineté ou un contrôle de fait sur tout ou partie du territoire reconnu comme relevant de la Guyane britannique par la sentence de 1899.

24. Et il ne s'agit pas là d'une vaine crainte : ce sera inévitablement le cas si le Venezuela, fort de réponses positives à ses questions référendaires biaisées, procède à la création sur ce territoire d'un « État » (c'est-à-dire d'une province vénézuélienne) appelé le « Guayana Esequiba », ou s'il entreprend de donner sa nationalité et de délivrer des cartes d'identité aux citoyens guyanais qui y vivent, ou s'il édite des cartes officielles l'incorporant dans le territoire vénézuélien. Il en irait de même si le Venezuela procédait à de quelconques autres actes d'administration ou de contrainte sur ce territoire que le Guyana administre et contrôle paisiblement depuis plus de 150 ans. Et cette éventualité non plus n'est pas une crainte vaine : le 3 octobre dernier, la garde nationale vénézuélienne patrouillait sur le fleuve Cuyuní dans la région de l'Essequibo lourdement armée et affirmant « [n]ous nous retrouvons ... à patrouiller dans notre Essequibo dans le cadre du système défensif territorial ... nos troupes militaires patrouillent comme une seule personne, exerçant leur

souveraineté. Parce que le soleil du Venezuela est né à Essequibo. »<sup>14</sup> « The Essequibo is ours », they say, comme vous avez pu l'entendre.

25. Notre cinquième et dernière demande — que M<sup>e</sup> Reichler a citée tout à l'heure — n'appelle pas non plus de très longs développements. Depuis 1951, la Cour précise, de façon presque routinière, lorsqu'elle indique des mesures conservatoires, que les parties doivent, chacune, veiller « à empêcher tout acte qui pourrait préjuger les droits de l'autre Partie à l'exécution de l'arrêt que la Cour peut être appelée à rendre au fond »<sup>15</sup>. Indiquer une telle mesure est, pour la Cour, une façon de manifester son souci d'empêcher qu'une partie modifie la situation sur le terrain et empêche l'arrêt à venir de produire ses effets. La présente affaire appelle une telle décision avec une urgence toute particulière : toute la stratégie du Venezuela consiste précisément à multiplier les agissements dont l'effet attendu est d'aggraver le différend, et de l'étendre.

26. Toutefois, en l'espèce, il nous semble qu'il n'y a aucune raison de « bilatéraliser » la mesure de non-aggravation que sollicite le Guyana. Il est clair que seul le Venezuela se livre à des actes qui aggravent, étendent ou rendent plus difficile le règlement du différend et qu'il envisage d'en prendre de nouvelles plus contraires encore à la paix et à la sécurité de la région. Le Guyana pour sa part ne recherche qu'une chose : apaiser et limiter les tensions et faciliter le règlement du différend, que la Cour s'est déclarée compétente pour trancher. Il n'y a dès lors aucune raison de « bilatéraliser » la mesure de non-aggravation sollicitée.

27. Madame la présidente, l'objectif évident du Venezuela est non seulement de compliquer et d'étendre le différend, mais bien de rendre son règlement pacifique impossible. Le « référendum consultatif » que prévoit la résolution est une nouvelle manifestation claire de cette volonté : en posant, dans la précipitation, des questions spécieuses au peuple vénézuélien avant que la Cour ait rendu son arrêt, il ne peut faire de doute que le Gouvernement de Caracas tente de faire barrage par avance à l'application de l'arrêt en se donnant un argument péremptoire : la souveraineté du peuple.

---

<sup>14</sup> *Venezuela News*, « Venezuelan Army patrols the Cuyuní River next to the Essequibo (+Video) », 3 octobre 2023, accessible à l'adresse suivante : <https://venezuela-news.com/ejercito-venezolano-patrulla-rio-cuyuni-junto-esequibo>.

<sup>15</sup> *Anglo-Iranian Oil Co. (Royaume-Uni c. Iran), mesures conservatoires, ordonnance du 5 juillet 1951, C.I.J. Recueil 1951*, p. 93. Voir aussi, par exemple, *Différend frontalier (Burkina Faso/République du Mali), mesures conservatoires, ordonnance du 10 janvier 1986, C.I.J. Recueil 1986*, p. 8, par. 13. Voir aussi *LaGrand (Allemagne c. États-Unis d'Amérique), mesures conservatoires, ordonnance du 3 mars 1999, C.I.J. Recueil 1999 (I)*, p. 16, par. 28 ou *Affaire Jadhav (Inde c. Pakistan), mesures conservatoires, ordonnance du 18 mai 2017, C.I.J. Recueil 2017*, p. 245, par. 58.

Le préambule de la résolution le dit assez clairement : les Vénézuéliens « dans lesquels réside l'intransférable souveraineté » (« the Venezuelans, in whom the untransferable sovereignty resides ») sont appelés à exprimer « la volonté du peuple » (« the will of the people »). Vous ne sauriez, Mesdames et Messieurs de la Cour, tolérer un tel stratagème.

28. Je vous remercie vivement pour votre attention et je vous prie, Madame la présidente, de bien vouloir appeler à la barre notre agent pour quelques remarques terminales et la lecture des conclusions du Guyana.

The PRESIDENT: I thank Professor Pellet for his statement. I now invite the Agent of Guyana, His Excellency Mr Carl B. Greenidge, to take the floor. You have the floor, Excellency.

Mr GREENIDGE:

1. Thank you Madam President. Madam President, Members of the Court, it remains for me to close Guyana's presentation this morning and to read our submissions, which are also set out in the letter I have given to the Registrar in two originals.

2. On behalf of the Co-operative Republic of Guyana and its legal team, I thank the Court, starting with you, Madam President, and all the judges, for giving your precious time and attention to Guyana's request for provisional measures, and for convening these hearings as promptly as you did. I would also like to express our gratitude to the Registrar and his outstanding staff, to the excellent interpreters and to all the hard-working Court personnel who facilitated these hearings and contributed to their efficiency.

3. As always, Guyana places its complete confidence and trust in the Court, convinced that the Court will deliberate earnestly and respond fairly and justly to the request that Guyana has placed before it. I shall remain available to the Court, pending your notice of the date for the reading of the Court's order.

4. And I will now read Guyana's submissions.

“Having regard to the facts and law set out in its Request for Provisional Measures and its argument during the oral proceedings, the Co-operative Republic of Guyana respectfully submits that the Court should indicate the following provisional measures, which would remain in effect until the issuance of the Court's Judgment on the Merits:

1. Venezuela shall not proceed with the Consultative Referendum planned for 3 December 2023 in its present form;
2. In particular, Venezuela shall not include the First, Third or Fifth questions in the Consultative Referendum;
3. Nor shall Venezuela include within the ‘Consultative Referendum’ planned, or any other public referendum, any question encroaching upon the legal issues to be determined by the Court in its Judgment on the Merits, including (but not limited to):
  - a. the legal validity and binding effect of the 1899 Award;
  - b. sovereignty over the territory between the Essequibo River, and the boundary established by the 1899 Award and the 1905 Agreement; and
  - c. the purported creation of the State of ‘*Guayana Esequiba*’ and any associated measures, including the granting of Venezuelan citizenship and national identity cards.
4. Venezuela shall not take any actions that are intended to prepare or allow the exercise of sovereignty or *de facto* control over any territory that was awarded to British Guiana in the 1899 Arbitral Award.
5. Venezuela shall refrain from any action which might aggravate or extend the dispute before the Court or make it more difficult to resolve.”

5. Madam President, Members of the Court, this concludes Guyana’s presentation. It has once again been an honour and a privilege to appear before you. I thank you.

The PRESIDENT: I thank the Agent of Guyana, whose statement brings to an end the single round of oral argument of the Co-operative Republic of Guyana, as well as this morning’s sitting. The Court will meet again tomorrow, at 10 a.m., to hear the Bolivarian Republic of Venezuela present its single round of oral argument.

The sitting is adjourned.

*The Court rose at 11.40 a.m.*

---