

**1 MAI 2025**

**ORDONNANCE**

**SENTENCE ARBITRALE DU 3 OCTOBRE 1899**

**(GUYANA c. VENEZUELA)**

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**ARBITRAL AWARD OF 3 OCTOBER 1899**

**(GUYANA v. VENEZUELA)**

**1 MAY 2025**

**ORDER**

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**INTERNATIONAL COURT OF JUSTICE**

**YEAR 2025**

**2025  
1 May  
General List  
No. 171**

**1 May 2025**

**ARBITRAL AWARD OF 3 OCTOBER 1899**

**(GUYANA v. VENEZUELA)**

**REQUEST FOR THE MODIFICATION OF THE ORDER  
OF 1 DECEMBER 2023 INDICATING  
PROVISIONAL MEASURES**

**ORDER**

*Present:* President IWASAWA; Vice-President SEBUTINDE; Judges TOMKA, ABRAHAM, YUSUF, XUE, BHANDARI, NOLTE, BRANT, GÓMEZ ROBLEDÓ, CLEVELAND, AURESCU, TLADI; Judges ad hoc WOLFRUM, COUVREUR; Registrar GAUTIER.

The International Court of Justice,

Composed as above,

After deliberation,

Having regard to Article 41 of the Statute of the Court and Article 76 of the Rules of Court,

*Makes the following Order:*

1. By an Application filed in the Registry of the Court on 29 March 2018, the Co-operative Republic of Guyana (hereinafter “Guyana”) instituted proceedings against the Bolivarian Republic of Venezuela (hereinafter “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”.

2. In its Application, Guyana sought to found the jurisdiction of the Court, 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 (hereinafter the “Geneva Agreement”).

3. On 18 June 2018, Venezuela submitted a letter to the Court asserting that the Court manifestly lacked jurisdiction and stating that it had thus decided not to participate in the proceedings.

4. By an Order dated 19 June 2018, the Court held, 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.

5. By a Judgment dated 18 December 2020 (hereinafter the “2020 Judgment”), 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; [and]

(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” (*Arbitral Award of 3 October 1899 (Guyana v. Venezuela)*, *Jurisdiction of the Court, Judgment, I.C.J. Reports 2020*, p. 493, para. 138).

6. By an Order dated 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.

7. On 7 June 2022, within the time-limit prescribed by Article 79*bis*, paragraph 1, of the Rules of Court, Venezuela raised preliminary objections which it characterized as objections to the admissibility of the Application. By a Judgment dated 6 April 2023 (hereinafter the “2023 Judgment”), 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 the first subparagraph of the operative clause of the 2020 Judgment (see paragraph 5 above).

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

9. On 30 October 2023, Guyana, referring to Article 41 of the Statute and Articles 73 and 74 of the Rules of Court, filed a Request for the indication of provisional measures, with reference to the organization by the Government of Venezuela of a “Consultative Referendum” planned for 3 December 2023. According to the Applicant, the purpose of the questions asked in the context of this referendum was

“to obtain responses that would support Venezuela’s decision to abandon these proceedings, 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”.

10. After hearing the Parties, the Court, by an Order of 1 December 2023, indicated the following provisional measures:

- “(1) Pending a final decision in the case, the Bolivarian Republic of Venezuela shall refrain from taking any action which would modify the situation that currently prevails in the territory in dispute, whereby the Co-operative Republic of Guyana administers and exercises control over that area;
- (2) Both Parties shall refrain from any action which might aggravate or extend the dispute before the Court or make it more difficult to resolve.” (*Arbitral Award of 3 October 1899 (Guyana v. Venezuela), Provisional Measures, Order of 1 December 2023, I.C.J. Reports 2023 (II)*, p. 668, para. 45.)

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

12. On 6 March 2025, Guyana, referring to Article 41 of the Statute of the Court and Articles 73, 74 and 76 of the Rules of Court, filed a Request for the indication of provisional measures.

13. In its Request, Guyana asks the Court to indicate the following provisional measures:

- “1. Venezuela shall not conduct any election in, or in respect of, any part of the territory on Guyana’s side of the boundary line as established by the 1899 Arbitral Award, including by doing any of the following acts:
  - (a) purporting to extend the right to vote in any Venezuelan elections to any individuals living within that territory;
  - (b) distributing ballot papers, poll cards, electoral materials or any other physical or electronic electoral documents to individuals within that territory;
  - (c) presenting or naming or otherwise supporting candidates for any Venezuelan elections within that territory;
  - (d) establishing polling stations, counting stations or electoral offices within that territory;

- (e) purporting to establish, elect or appoint any office of governor, legislative council, deputies or any other legislative or governmental official in respect of any part of that territory; and
  - (f) communicating directly or indirectly with any residents in that territory in regard to any elections planned by Venezuela.
- 2. Venezuela shall refrain from taking any action which purports to annex *de jure* or *de facto* any territory on Guyana's side of the boundary line established by the 1899 Arbitral Award, including by incorporating 'Guayana Esequiba' as part of Venezuela.
- 3. Venezuela shall refrain from taking any action which would seek to modify the situation that currently prevails in the territory in dispute, whereby Guyana administers and exercises control over that area."

14. The Registrar immediately communicated a copy of Guyana's Request to the Government of Venezuela, in accordance with Article 73, paragraph 2, of the Rules of Court. By letters dated 7 March 2025, the Registrar informed the Parties that the Court would hear them on Guyana's Request by means of a written procedure and that, to that end, the Court had fixed 17 March 2025 as the time-limit for Venezuela to present written observations on Guyana's Request and 24 March 2025 as the time-limit for Guyana to submit any comments it might wish to make on Venezuela's written observations.

15. By a letter dated 10 March 2025, the Agent of Venezuela stated that Venezuela does not recognize the jurisdiction of the Court to entertain Guyana's Request and made some observations on the Request. He further conveyed his Government's concern that the written procedure envisaged by the Court provided Guyana with two opportunities to present arguments in writing, as, in addition to submitting its Request, it was open to the Applicant to present written comments on Venezuela's written observations.

16. By letters dated 14 March 2025, the Registrar informed the Parties that the Court had decided to grant Venezuela a further possibility to present arguments in writing, by giving it the opportunity to submit, by 31 March 2025, any written comments it might wish to make on Guyana's comments on Venezuela's written observations.

17. Within the time-limit thus fixed, namely 17 March 2025 (see paragraph 14 above), no further written observations were received from Venezuela on Guyana's Request. By a letter dated 20 March 2025, the Registrar informed Guyana accordingly.

18. By a letter dated 24 March 2025, the Agent of Guyana informed the Court that, since Venezuela had not filed written observations within the time-limit fixed by the Court, and in view of the urgency of the situation, Guyana did not intend to make a further written submission, and asked that the Court proceed to make its decision on the request for the indication of provisional measures based on the documents already before it.

19. By a letter dated 28 March 2025, Venezuela reiterated its position as set out in its letter of 10 March 2025, according to which the Court lacked jurisdiction to rule on the territorial dispute between Guyana and Venezuela and thus to entertain Guyana's Request for the indication of provisional measures.

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### I. GENERAL OBSERVATIONS

20. The Court considers that Guyana's Request of 6 March 2025 is a request for the modification of the Court's Order of 1 December 2023. For this reason, the Court must determine whether the conditions set forth in Article 76, paragraph 1, of the Rules of Court have been fulfilled. That paragraph reads as follows:

“At the request of a party or *proprio motu*, the Court may, at any time before the final judgment in the case, revoke or modify any decision concerning provisional measures if, in its opinion, some change in the situation justifies such revocation or modification.”

21. The Court must ascertain whether, taking account of the information that the Parties have provided with respect to the current situation, there is reason to conclude that the situation that warranted the decision set out in its Order of 1 December 2023 has changed since that time. If so, it will consider whether such a change justifies a modification of its earlier decision concerning provisional measures. Any such modification would be appropriate only if the general conditions laid down in Article 41 of the Statute of the Court were also met in this instance (see *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan), Request for the Modification of the Order of 22 February 2023 Indicating a Provisional Measure, Order of 6 July 2023, I.C.J. Reports 2023 (II)*, p. 406, para. 16).

\* \*

22. Guyana contends that its Request of 6 March 2025 is prompted “by Venezuela's announcement that it will soon hold elections in Guyana's sovereign territory, which Venezuela has purported to annex in violation of the Court's Order of 1 December 2023 and fundamental norms of international law”. In particular, Guyana notes that the President of Venezuela's National Electoral Council announced 25 May 2025 as the date for elections of a governor of “Guayana Esequiba”, along with its legislative council and deputies. Guyana points out that the conduct of elections requires certain preparatory acts, all of which would take place in the disputed territory before the date announced for the election. According to Guyana, all such acts in the disputed territory would

“amount to a blatant exercise of purported sovereignty by Venezuela in violation of Guyana’s sovereignty, territorial integrity and political independence, as well as the Court’s Order of 1 December 2023”.

23. Guyana notes that, since the adoption of the Court’s Order of 1 December 2023, and despite the provisional measures indicated, the Government of Venezuela held a “Consultative Referendum” on 3 December 2023 and subsequently published various announcements relating to “the Protection and Defense of the Guayana Esequiba”. Guyana observes that on 8 December 2023, the President of Venezuela signed six decrees implementing the announced measures. Guyana further submits that on 21 March 2024, the National Assembly of Venezuela approved an “Organic Law” which, *inter alia*, purported to convert the territory in dispute into a new state of Venezuela.

24. According to Guyana, the elections planned for 25 May 2025 are intended to build upon and entrench the various measures which Venezuela has taken since the Court’s Order of 1 December 2023 and would constitute “a further stage in the purported annexation of more than two-thirds of Guyana’s territory, this time entailing Venezuela’s direct interference with the administration and control of the territory”.

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25. In its communications (see paragraphs 15 and 19 above), Venezuela submits that Guyana’s Request constitutes an abuse of process, which “intends to instrumentalize the Court, exposing a mere collection of grievances that form part of a long-standing media campaign to discredit and tarnish the reputation of Venezuela”. It alleges that the matters referred to by Guyana, in particular the holding of periodic regional elections in Venezuela to elect public officials in all of its states, “fall within the *domaine réservé* (reserved domain) of the Bolivarian Republic of Venezuela and are duly regulated in its Constitution and domestic legislation”. Consequently, Venezuela contends that the Court lacks jurisdiction to entertain this Request and asks the Court “to reject Guyana’s request for the indication of provisional measures or, failing that, invite Guyana to withdraw it”.

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26. The Court observes that, in its Order of 1 December 2023, it described the context of the dispute between the Parties and the situation which warranted the indication of provisional measures at the time. In particular, it noted that the strong tension that characterized the relations between the Parties, the referendum planned for 3 December 2023 and various official statements made in that context presented a serious risk of Venezuela acquiring and exercising control and administration over the territory in dispute (*Arbitral Award of 3 October 1899 (Guyana v. Venezuela)*, *Provisional Measures, Order of 1 December 2023*, *I.C.J. Reports 2023 (II)*, pp. 660-662, paras. 13-15; pp. 665-666, paras. 34-37).



27. Following the Court's Order of 1 December 2023, Venezuela held a "Consultative Referendum" on 3 December 2023 concerning the territory in dispute and its population. The Court understands that, after the referendum, on 8 December 2023, the President of Venezuela signed six decrees aimed at acquiring and exercising control and administration over the territory in dispute. In particular, the President: (i) decided to create a "Comprehensive Defense Zone" in the territory in dispute; (ii) designated a Venezuelan official as the "Sole Authority of the Guayana Esequiba"; (iii) authorized two State-owned companies to grant concessions for the exploitation of oil and minerals in disputed areas; (iv) ordered the incorporation of the territory in dispute in Venezuela's official maps; (v) declared environmentally protected areas and natural parks in the territory in dispute; and (vi) established the "High Commission for the Defense and Recovery of the Guayana Esequiba".

28. The Court further notes that on 21 March 2024, the National Assembly of Venezuela adopted an "Organic Law for the Defense of Guayana Esequiba", which entered into force on 3 April 2024. That law, *inter alia*, creates the state of "Guayana Esequiba" within the territorial and political organization of Venezuela; vests Venezuela with executive, legislative and judicial prerogatives over "Guayana Esequiba"; orders that every map of Venezuela include the territory of the state of "Guayana Esequiba" as an integral part of its national territory; authorizes the President of Venezuela to prohibit the conclusion of contracts with legal entities that operate, or collaborate in operations, in the territory of "Guayana Esequiba" based on concessions or authorizations unilaterally granted by Guyana in violation of the Geneva Agreement and international law; and authorizes the President of Venezuela to adopt the necessary reciprocal measures, in accordance with international law, to guarantee the rights of Venezuela over the territory of "Guayana Esequiba".

29. The Court observes that on 7 January 2025, the President of Venezuela announced that elections would be organized in which "the people of Guayana Esequiba" would elect the "Governor of Guayana Esequiba state". On 19 February 2025, the President of the National Electoral Council of Venezuela announced that the elections for a governor, along with the legislative council and deputies for "Guayana Esequiba", initially planned for 27 April 2025, would be held on 25 May 2025.

30. In light of the foregoing, the Court observes that, since the delivery of its Order of 1 December 2023, the serious risk of Venezuela acquiring and exercising control and administration over the territory in dispute has significantly increased as a result of its adoption of measures that are intended to secure control over that territory. The Court considers that the presidential decrees of 8 December 2023, the adoption of the "Organic Law for the Defense of Guayana Esequiba" and the announcement of the preparation for and conduct of elections in the territory in dispute, which Guyana currently administers and over which it exercises control, represent grave developments which constitute a change in the situation within the meaning of Article 76 of the Rules of Court.

31. The Court is also of the view that the change in the situation described above justifies modifying the decision concerning the provisional measures set out in its Order of 1 December 2023, by further specifying its scope. However, in order to modify its earlier decision concerning provisional measures, the Court must still satisfy itself that the general conditions laid down in Article 41 of the Statute of the Court are met in the current situation.

## II. CONDITIONS FOR THE INDICATION OF PROVISIONAL MEASURES

32. The Court recalls that, in the present case, it has already found, in its 2020 Judgment, that it has jurisdiction to entertain the Application filed by Guyana on 29 March 2018 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 (see paragraph 5 above). The Court cannot revisit that conclusion for the purpose of deciding on the present Request and will now proceed to consider the other requirements for the indication of provisional measures.

33. The Court further recalls that, in its 2023 Judgment, it found that it can adjudicate upon the merits of Guyana's claims, in so far as they fall within the scope of the first subparagraph of the operative clause of the 2020 Judgment (see paragraph 7 above).

34. In its Order of 1 December 2023, the Court found that Guyana's right to sovereignty over the territory in question was plausible (*Arbitral Award of 3 October 1899 (Guyana v. Venezuela), Provisional Measures, Order of 1 December 2023, I.C.J. Reports 2023 (II)*, p. 663, para. 23). The Court sees no reason to depart from this finding for the purpose of deciding on the present Request. It further considers that, by their very nature, at least some of the provisional measures sought in the present Request (see paragraph 13 above) are aimed at preserving the right claimed by the Applicant that the Court has found to be plausible.

35. The Court must now consider whether the current situation entails a risk of irreparable prejudice to the plausible right claimed by Guyana and whether there is urgency.

36. The Applicant contends that Venezuela's plan to conduct elections in "Guayana Esequiba" confirms Venezuela's intention to acquire and exercise control and administration over that territory. Guyana submits that should Venezuela conduct such elections, there is a real risk that Venezuela would refuse to revoke its purported exercise of sovereignty over that territory and would continue to control and administer the territory as though it were its own, even if the Court were to deliver a judgment on the merits finding that the Essequibo region falls under Guyana's sovereignty, which would cause serious and irreparable prejudice to Guyana's rights. Guyana further submits that the need for provisional measures is urgent. It notes that the planned elections are due to take place on 25 May 2025 and will inevitably be preceded by extensive preparatory acts, including acts within Guyana's Essequibo region affecting the Guyanese population. Guyana thus considers it necessary for the provisional measures to be indicated by the Court well before that date.

37. The Court recalls in this regard its previous finding that there was "a serious risk of Venezuela acquiring and exercising control and administration of the territory in dispute in the present case" (see paragraph 26 above), and its conclusion that

"Venezuela's expressed readiness to take action with regard to the territory in dispute in these proceedings at any moment following the referendum scheduled for 3 December 2023 demonstrates that there is urgency, in the sense that there is a real and imminent risk of irreparable prejudice to Guyana's plausible right before the Court gives its final decision" (*Arbitral Award of 3 October 1899 (Guyana v. Venezuela), Provisional Measures, Order of 1 December 2023, I.C.J. Reports 2023 (II)*, p. 666, para. 37).

38. The Court notes that by adopting legislative measures and decrees concerning the territory in dispute and by announcing the holding of elections therein, the Respondent has confirmed its intention of acquiring and exercising control and administration over the territory in dispute. The acts taken by Venezuela since 1 December 2023 further confirm that the Respondent intends to incorporate the territory in dispute into its own territory.

39. The Court observes that the acts taken or planned to be taken by Venezuela after the Court's Order of 1 December 2023 have given rise to expressions of concern by the Security Council in a statement dated 15 April 2024 "about the possible escalation of tensions between Venezuela and Guyana".

40. In light of the foregoing, the Court finds that the current situation arising from Venezuela's planned elections in the territory in dispute entails a risk of irreparable prejudice to the plausible right claimed by Guyana and that there is urgency, in the sense that there is a real and imminent risk that such prejudice will be caused to those rights before the Court gives its final decision on the merits.

### III. CONCLUSION AND MEASURES TO BE ADOPTED

41. The Court concludes, on the basis of the above considerations, that the change in the situation justifies modifying the decision set out in its Order of 1 December 2023, by further specifying its scope in light of the situation underlying the present Request.

42. The Court considers that Venezuela must, in conformity with its obligations under paragraph 45 of the Order of 1 December 2023, refrain from conducting elections, or preparing to conduct elections, in the territory in dispute, which Guyana currently administers and over which it exercises control.

43. The Court further considers that in light of the tenuous situation between the Parties, the acts recently taken or planned to be taken by Venezuela concerning the territory in dispute confirm the need for the immediate and effective implementation of the provisional measures indicated in its Order of 1 December 2023. In these circumstances, the Court finds it necessary to reaffirm the measures indicated in that Order.

44. The Court recalls that its orders on provisional measures under Article 41 of the Statute have binding effect and thus create international legal obligations for any party to whom the provisional measures are addressed (*Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, *Provisional Measures*, Order of 26 January 2024, *I.C.J. Reports 2024 (I)*, p. 29, para. 83).

45. The Court underlines that the present Order is without prejudice to any findings concerning the Respondent's compliance with the Order of 1 December 2023.

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46. For these reasons,

THE COURT,

(1) Unanimously,

*Reaffirms* the provisional measures indicated in its Order of 1 December 2023, which should be immediately and effectively implemented;

(2) By twelve votes to three,

*Indicates* the following provisional measure:

Pending a final decision in the case, the Bolivarian Republic of Venezuela shall refrain from conducting elections, or preparing to conduct elections, in the territory in dispute, which the Co-operative Republic of Guyana currently administers and over which it exercises control.

IN FAVOUR: *President* IWASAWA; *Vice-President* SEBUTINDE; *Judges* TOMKA, ABRAHAM, YUSUF, BRANT, GÓMEZ ROBLEDÓ, CLEVELAND, AURESCU, TLADI; *Judges ad hoc* WOLFRUM, COUVREUR;

AGAINST: *Judges* XUE, BHANDARI, NOLTE.

Done in French and in English, the French text being authoritative, at the Peace Palace, The Hague, this first day of May, two thousand and twenty-five, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Co-operative Republic of Guyana and the Government of the Bolivarian Republic of Venezuela, respectively.

(Signed) IWASAWA Yuji,  
President.

(Signed) Philippe GAUTIER,  
Registrar.

Judges XUE, BHANDARI and NOLTE append a joint dissenting opinion to the Order of the Court; Judge BRANT appends a declaration to the Order of the Court; Judge *ad hoc* WOLFRUM appends a declaration to the Order of the Court; Judge *ad hoc* COUVREUR appends a separate opinion to the Order of the Court.

(Initialled) I.Y.

(Initialled) Ph.G.

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