

COUR INTERNATIONALE DE JUSTICE

# COMPROMIS

ENTRE LA RÉPUBLIQUE GABONAISE  
ET LA RÉPUBLIQUE DE GUINÉE ÉQUATORIALE

notifié à la Cour le 5 mars 2021  
par la République de Guinée équatoriale

DÉLIMITATION TERRESTRE ET MARITIME  
ET SOUVERAINETÉ SUR DES ÎLES

(GABON/GUINÉE ÉQUATORIALE)

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INTERNATIONAL COURT OF JUSTICE

# SPECIAL AGREEMENT

BETWEEN THE GABONESE REPUBLIC  
AND THE REPUBLIC OF EQUATORIAL GUINEA

notified to the Court on 5 March 2021  
by the Republic of Equatorial Guinea

LAND AND MARITIME DELIMITATION  
AND SOVEREIGNTY OVER ISLANDS

(GABON/EQUATORIAL GUINEA)

2021  
General List  
No. 179

1. NOTE VERBALE FROM THE EMBASSY OF THE REPUBLIC  
OF EQUATORIAL GUINEA TO THE INTERNATIONAL  
COURT OF JUSTICE

Brussels, 5 March 2021.  
No. 0061/21/PB-161

The Embassy of the Republic of Equatorial Guinea to the Kingdom of Belgium, the Kingdom of the Netherlands, the Kingdom of Denmark and the Grand Duchy of Luxembourg, presents its compliments to the Secretariat of the International Court of Justice and has the honor to present to you, pursuant to Article 40, paragraph 1, of the Statute of the International Court of Justice, Notification of the Special Agreement concluded on 15 November 2016 between the Republic of Equatorial Guinea and Gabonese Republic. The following documents are being presented with the Notification:

- (1) A certified true copy of the Special Agreement concluded on 15 November 2016 between the Republic of Equatorial Guinea and the Gabonese Republic;
  - (2) A certified true copy of the Parties' written communications notifying each other that the necessary formalities for the Special Agreement to enter into force have been fulfilled;
  - (3) A certified true copy of the 3 March 2020 comments of the Secretary-General of the United Nations on the occasion of the Ceremony of the Fulfillment of the Domestic Procedures on the Special Agreement between the Republic of Equatorial Guinea and the Gabonese Republic;
  - (4) The designation of His Excellency Mr. Carmelo Nvono Ncá, Extraordinary and Plenipotentiary Ambassador of the Republic of Equatorial Guinea to the Kingdom of Belgium, the Kingdom of the Netherlands, the Kingdom of Denmark and the Grand Duchy of Luxembourg, as the Agent of the Republic of Equatorial Guinea for the proceeding before the Court.
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2. COMMUNICATION FROM THE MINISTER FOR  
FOREIGN AFFAIRS AND CO-OPERATION OF THE REPUBLIC  
OF EQUATORIAL GUINEA TO THE REGISTRAR OF THE  
INTERNATIONAL COURT OF JUSTICE SUBMITTED UNDER  
COVER OF A NOTE VERBALE FROM THE EMBASSY OF THE  
REPUBLIC OF EQUATORIAL GUINEA DATED 5 MARCH 2021

Malabo, 23 February 2021.  
No. 165/021

Pursuant to Article 40, paragraph 1, of the Statute of the International Court of Justice and Article 6 of the Special Agreement concluded on 15 November 2016 between the Republic of Equatorial Guinea and the Gabonese Republic, I have the honor to transmit to you:

- (1) A certified true copy of the Special Agreement between Equatorial Guinea and Gabon, signed at Marrakesh on 15 November 2016;
- (2) A certified true copy of the Parties' written communications notifying each other that the necessary formalities for the Special Agreement to enter into force have been fulfilled.

The aforesaid Special Agreement entered into force, pursuant to its Article 4, paragraph 1, the date following the day the two Parties notified each other in writing that the necessary formalities have been completed, i.e. on 22 January 2020\*.

The subject of the dispute submitted by Equatorial Guinea and Gabon for decision by the Court is described in Article 1 of the Special Agreement.

In accordance with Article 35 of the Rules of Court, the Government of Equatorial Guinea hereby notifies the Court of its intention to exercise the power conferred by Article 31 of the Statute of the Court to choose a judge *ad hoc* in these proceedings.

I further have the honour to inform you, in accordance with Article 40 of the Rules of Court, that the Honorable Carmelo Nvono Ncá, Ambassador of the Republic of Equatorial Guinea to the Kingdom of Belgium, the Kingdom of the Netherlands, the Kingdom of Denmark and the Grand Duchy of Luxembourg, has been appointed as Agent for Equatorial Guinea for the purpose of the present case, and his address for service shall be: Embassy of the Republic of Equatorial Guinea, Place Guy d'Arezzo 6, 1180 Brussels, Belgium.

(Signed) Don Simeón OYONO ESONO ANGUÉ.

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\* Note by the Registry: According to the information available at United Nations Treaty Series Online, the Special Agreement entered into force on 4 March 2020.

### 3. SPECIAL AGREEMENT BETWEEN THE GABONESE REPUBLIC AND THE REPUBLIC OF EQUATORIAL GUINEA

*[Translation]*

The Gabonese Republic and the Republic of Equatorial Guinea (hereinafter “the Parties”),

*Whereas* there is a dispute between them, the subject of which is set forth in Article 1 of this Special Agreement,

*Recognizing* that several years of efforts devoted to seeking a solution through negotiation have failed to achieve the desired result,

*Recalling* their acceptance of the mediation offered by the United Nations Secretary-General with a view to the peaceful settlement of the dispute,

*Conscious* of the longstanding fraternal ties between the peoples of Gabon and Equatorial Guinea, and wishing to maintain and strengthen the respectful, friendly and co-operative relations between the two States,

*Being resolved* to settle their dispute peacefully and, to that end, to bring it before the International Court of Justice (hereinafter “the Court”),

*Have agreed as follows:*

#### *Article 1*

##### *Submission to the Court and Subject of the Dispute*

1. The Court is requested to determine whether the legal titles, treaties and international conventions invoked by the Parties have the force of law in the relations between the Gabonese Republic and the Republic of Equatorial Guinea in so far as they concern the delimitation of their common maritime and land boundaries and sovereignty over the islands of Mbanié/Mbañe, Cocotiers/Cocoteros and Conga.

To this end:

2. The Gabonese Republic recognizes as applicable to the dispute the special Convention on the delimitation of French and Spanish possessions in West Africa, on the coasts of the Sahara and the Gulf of Guinea, signed in Paris on 27 June 1900, and the Convention demarcating the land and maritime frontiers of Equatorial Guinea and Gabon, signed in Bata on 12 September 1974.

3. The Republic of Equatorial Guinea recognizes as applicable to the dispute the special Convention on the delimitation of French and Spanish possessions in West Africa, on the coasts of the Sahara and the Gulf of Guinea, signed in Paris on 27 June 1900.

4. Each Party reserves the right to invoke other legal titles.

#### *Article 2*

##### *Applicable Law*

The Court is requested to settle the dispute in accordance with Article 38, paragraph 1, of its Statute.

*Article 3  
Procedure*

1. The Parties, mindful of Practice Direction I adopted by the Court, agree, without prejudice to the burden of proof, that the number and order of pleadings will be governed by the following provisions:

- (a) One Party will file the first pleading no later than seven months after the date on which this Special Agreement is notified to the Registrar of the Court.
- (b) The other Party will file the second pleading no later than seven months after receiving from the Registrar a certified copy of the first pleading.
- (c) The Party that filed the first pleading will file the third pleading no later than five months after receiving from the Registrar a certified copy of the second pleading.
- (d) The Party that filed the second pleading will file the fourth pleading no later than five months after receiving from the Registrar a certified copy of the third pleading.

2. If one Party requests an extension of a time-limit, the Court will make a decision in accordance with Article 44 of its Rules.

3. The order in which the Parties are heard during the oral proceedings will be the same as that followed during the written proceedings.

*Article 4  
Entry into Force*

1. This Special Agreement shall enter into force the day after the date on which both Parties have notified each other in writing that the necessary formalities have been completed.

2. Each of the two Parties agrees to make every effort, in good faith, to ensure that this Special Agreement enters into force promptly, in so far as possible within six months of its signature. To this end, each Party agrees to implement the applicable constitutional provisions and complete the necessary formalities with all due dispatch.

*Article 5  
Registration with the United Nations Secretariat*

This Special Agreement shall be registered with the United Nations Secretariat, pursuant to Article 102 of the Charter of the United Nations, at the request of either Party.

*Article 6  
Notification*

This Special Agreement shall be notified to the Registrar of the Court by either Party as soon as possible after it enters into force.

Done in French and Spanish, both versions being equally authoritative, and signed in Marrakesh on fifteen November, two thousand and sixteen.

On behalf of the Gabonese Republic,  
*(Signed)* H.E. Mr. Ali BONGO ONDIMBA,  
President of the Republic.

On behalf of the Republic of Equatorial Guinea,  
*(Signed)* H.E. Mr. Obiang NGUEMA MBASOGO,  
President of the Republic.

On behalf of the United Nations, as witness,  
*(Signed)* H.E. Mr. BAN Ki-moon,  
Secretary-General.

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4. INSTRUMENT RATIFYING THE SPECIAL AGREEMENT  
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF  
EQUATORIAL GUINEA AND THE GOVERNMENT OF THE  
GABONESE REPUBLIC, CONCERNING THE SUBMISSION  
TO THE INTERNATIONAL COURT OF JUSTICE IN  
THE HAGUE OF THE DISPUTE RELATING TO THE  
DELIMITATION OF THEIR COMMON MARITIME  
AND LAND BOUNDARIES AND THEIR COUNTRIES'  
SOVEREIGNTY OVER THE ISLANDS OF MBAÑE,  
COCOTEROS AND CONGA

[*Translation*]

*Whereas* the plenipotentiaries of the Republic of Equatorial Guinea and of the Gabonese Republic signed in Marrakesh on 15 November 2016 the Special Agreement between their Governments concerning the submission to the International Court of Justice in The Hague of the dispute relating to the delimitation of their common maritime and land boundaries and their countries' sovereignty over the islands of Mbañe, Cocoterros and Conga,

*Having seen and examined* the six articles constituting the said Special Agreement,

*In accordance with* the provisions of Article 41, paragraph (i), of the Basic Law of Equatorial Guinea,

*I hereby approve and ratify* the contents of the Special Agreement, and will ensure full observance of and compliance with all parts thereof, to which end, in order to confirm its validity and force, I issue this *instrument of ratification*, signed by me and duly sealed.

Done in Malabo on the ninth of January, two thousand and seventeen.

(*Signed*) Obiang NGUEMA MBASOGO,  
Head of State,  
President of the Republic of Equatorial Guinea.

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5. NOTE VERBALE FROM THE PERMANENT MISSION  
OF THE REPUBLIC OF EQUATORIAL GUINEA TO THE  
UNITED NATIONS TO THE PERMANENT MISSION  
OF THE GABONESE REPUBLIC  
TO THE UNITED NATIONS

New York, 21 January 2020.  
No. 101/MPGE-NY/020

The Permanent Mission of the Republic of Equatorial Guinea to the United Nations in New York, presents its compliments to the Permanent Mission of the Gabonese Republic to the United Nations in New York, and has the honor to welcome the positive steps from the Secretariat of the United Nations, following the submission from both our Governments of the ratification document to the International Court of Justice, concerning the delimitation of its common maritime and land border, as well as the sovereignty of the Islands of Mbañe, Cocoteros and Conga.

In that connection, the Permanent Mission of Equatorial Guinea wishes to inform the Permanent Mission of Gabon that both Governments having mutually exchanged communication about the deposition of the Ratification instrument to the United Nations constitutes a fulfillment of the internal steps towards resolving a Longstanding Maritime Border Dispute between the Republic of Equatorial Guinea and the Gabonese Republic.

The Permanent Mission of the Republic of Equatorial Guinea to the United Nations avails itself of this opportunity to renew to the Permanent Mission of the Gabonese Republic to the United Nations in New York, the assurances of its highest consideration.

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6. INSTRUMENT OF RATIFICATION BY THE GABONESE  
REPUBLIC OF THE SPECIAL AGREEMENT SEISING THE  
INTERNATIONAL COURT OF JUSTICE OF THE BOUNDARY  
DISPUTE BETWEEN GABON AND EQUATORIAL GUINEA  
REGARDING THE ISLANDS OF MBANIÉ, CONGA  
AND COCOTIERS SIGNED IN MARRAKESH  
ON 15 NOVEMBER 2016

*[Translation]*

*We, the President of the Gabonese Republic,*

*To all to whom these presents shall come,*

*Greetings:*

*Having seen and examined* the provisions of the Special Agreement of Marrakesh seising the International Court of Justice of the boundary dispute between Gabon and Equatorial Guinea regarding the islands of Mbanié, Conga and Cocotiers signed by the Gabonese Republic on 15 November 2016;

*Have approved it* and approving each and every part of it, in accordance with the legislation in force in the Gabonese Republic;

*Declare* it accepted and confirmed;

*Promise* that it will be fully and inviolably observed;

*In witness whereof,* we have signed this instrument of ratification bearing the seal of the Republic.

Done in Libreville on 11 November 2019.

*(Signed)* Ali BONGO ONDIMBA.

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7. NOTE VERBALE FROM THE PERMANENT MISSION  
OF THE GABONESE REPUBLIC TO THE UNITED NATIONS  
TO THE PERMANENT MISSION OF THE REPUBLIC  
OF EQUATORIAL GUINEA TO  
THE UNITED NATIONS

New York, 20 January 2020.  
No. 000031/MPRG/NY-20  
AO/SR

The Permanent Mission of the Gabonese Republic to the United Nations presents its compliments to the Permanent Mission of the Republic of Equatorial Guinea to the United Nations, and has the honor to inform the latter that, in agreement with the Permanent Mission of the Republic of Equatorial Guinea to the United Nations, our two (2) countries will be exchanging their respective ratification Instrument relating to the *Compromis* [Special Agreement] between the Gabonese Republic and the Republic of Equatorial Guinea, signed in Marrakesh on 15 November 2016, in the presence of the Secretary-General of the United Nations at the United Nations Headquarters in New York.

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8. SECRETARY-GENERAL'S REMARKS AT CEREMONY  
OF THE EXCHANGE OF NOTIFICATION OF FULFILLMENT  
OF DOMESTIC PROCEDURE ON THE SPECIAL AGREEMENT  
REGARDING THE BORDER DISPUTE BETWEEN  
THE REPUBLIC OF EQUATORIAL GUINEA  
AND THE GABONESE REPUBLIC

*[Translation]*

3 March 2020.

His Excellency, Mr. Michel Xavier Biang, Permanent Representative of Gabon to the United Nations, His Excellency, Mr. Anatolio Ndong Mba, Permanent Representative of Equatorial Guinea to the United Nations, esteemed colleagues, ladies and gentlemen,

Today we are celebrating the successful conclusion of the United Nations' mediation process, the purpose of which was to facilitate a peaceful solution to the prolonged border dispute between the Gabonese Republic and the Republic of Equatorial Guinea.

By entering into the agreement to submit their dispute to the International Court of Justice, both countries reaffirmed their commitment to the letter and spirit of the United Nations Charter.

Both countries, assisted by the United Nations, worked tirelessly for more than two decades to be able to arrive at this point. This step demonstrates the firm commitment of the United Nations to peacefully resolve international disputes and emphasizes the pertinence of various multilateral instruments within the changing international context.

I must congratulate the Gabonese Republic and the Republic of Equatorial Guinea for having demonstrated the political will, courage and perseverance in achieving their respective domestic procedures in order for the Special Agreement to enter into force.

By this exchange of notifications, the Parties have confirmed their intent to seek a legal settlement, placing their trust in the International Court of Justice to find a fair and sustainable solution to their dispute.

I would like to take advantage of this occasion to thank everyone who made this possible, especially the United Nations mediators, Mr. Yves Fortier and Mr. Nicolas Michel, as well as my predecessor, the former Secretary-General, Mr. Ban Ki-moon, the former Under-Secretary-General for Political Affairs, Mr. Jeffrey Feltman, and the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, Mr. Miguel de Serpa Soares.

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9. THE MINISTER FOR FOREIGN AFFAIRS AND  
CO-OPERATION OF THE REPUBLIC OF EQUATORIAL  
GUINEA TO THE REGISTRAR OF THE INTERNATIONAL  
COURT OF JUSTICE

Malabo, 19 February 2021.  
No. 166/021

DESIGNATION OF AGENT

I, Mr. Simeón Oyono Esono Angué, Minister of Foreign Affairs and Cooperation, hereby certify that His Excellency Mr. Carmelo Nvono Ncá, Extraordinary and Plenipotentiary Ambassador of the Republic of Equatorial Guinea to the Kingdom of Belgium, the Kingdom of the Netherlands, the Kingdom of Denmark and the Grand Duchy of Luxembourg, has been appointed as Agent by the Government of the Republic of Equatorial Guinea in accordance with Article 42 of the Statute and 40 of the Rules of Court, for the purpose of representing the Republic of Equatorial Guinea before the International Court of Justice, in the procedure referred to in the Agreement of Compromise signed by the Excellencies, the President of the Republic of Equatorial Guinea and the President of the Gabonese Republic, in New York, on 15 November 2016. To this effect, his address for notifications shall be: Place Guy d'Arezzo 6, 1180 Brussels, Phone: 00240 222 712111. E-mail: guineaecuatorial.brux@skynet.be.

*(Signed)* Don Simeón OYONO ESONO ANGUÉ.

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