



The Venezuela-Guyana controversy over the Essequibo

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In 1962, given the announced imminence of Guyana's independence within the framework of the British decolonization process in the Caribbean, Venezuela reactivated its claim over the territory of the Essequibo Guyana, stripped by Great Britain in the unjust Arbitral Award of 1899. After 4 years of negotiations, on February 17, 1966, Venezuela, Great Britain, and British Guiana, which upon independence acquired the name Guyana, signed the Geneva Agreement. From that date, Venezuela's claim to the Essequibo territory has as its fundamental legal and political framework that treaty.

The Agreement establishes the need to "seek satisfactory solutions for the practical settlement of the controversy, arising as a result of Venezuela's contention that the Arbitral Award of 1899 on the border between Venezuela and British Guiana is null and void." Guyana has always asserted that the purpose of the Agreement is to establish the

validity or nullity of the Award, while Venezuela, for its part, has argued that it makes no sense to propose a “practical and mutually satisfactory” solution to a strictly legal controversy. The Geneva Agreement also mentions that the UN Secretary-General, if the parties fail to agree on any settlement, may decide which of the peaceful means of dispute settlement provided for in Article 33 of the UN Charter should be used. Since the signing of the Agreement in 1966, the International Court of Justice (ICJ) has been Guyana’s preferred method.

Since 1989, bilateral negotiations have been assisted by a “Good Officer,” appointed by the UN Secretary-General, without reaching any agreement. In late 2013, with the onset of the “oil era” in Guyana and after the detention, by the Venezuelan Navy, of a seismic exploration vessel, the Guyanese government stated that, considering that the Good Offices process had yielded no results in 25 years, it proposed, to finally end the controversy, that the Secretary-General opt to bring the case to the ICJ. The Maduro government negligently insisted on continuing the Good Offices instead of proposing another means of settlement, such as Mediation or Arbitration “ex aequo et bono,” for example. This led to two UN Secretaries-General, Ban Ki-moon and Antonio Guterres, in agreement with the latest Good Officer, Norwegian Dag Nylander, deciding to select the International Court of Justice (ICJ) as the means to resolve the controversy. The Court, against the Venezuelan position, has decided that not only does it have jurisdiction to settle the controversy, but the issue to be determined is the validity and invalidity of the 1899 Award.

The lack of professionalism and irresponsibility of the governments of Chávez and Maduro have led to the worst possible scenario for Venezuela. President Chávez, with Maduro as Foreign Minister for 6 years, perhaps influenced by Fidel Castro, who always supported Guyana and the desire to secure the votes of Caribbean countries in the OAS and the UN, practically abandoned the claim. In 2004, Chávez declared that Venezuela did not oppose Guyana unilaterally granting concessions and contracts to transnational companies in the Essequibo if it favored regional development, thus ending almost 40 years of Venezuelan diplomacy and unilaterally handing over, for nothing in return, one of Venezuela’s few negotiation cards. To make matters worse, in 2007, he asserted that the reactivation of Venezuela’s claim over the Essequibo territory in 1962 was the result of pressure

from the United States, supposedly interested in destabilizing the left-wing “government” internally autonomous but still dependent on Great Britain, the Prime Minister of British Guiana, Cheddi Jagan. This is an absolute historical falsehood, probably caused by Chávez’s hyperbolic “ideological blindness,” but it delegitimizes the claim itself. Guyana’s then Ambassador to Caracas, Odeen Ishmael, in an interview with the newspaper *El Nacional*, relying on that presidential declaration, stated that President Chávez should “take a step forward to withdraw the Venezuelan claim.”

Venezuela has until April 8, 2024, to submit its “counter-memorial” to Guyana’s lawsuit. The vast majority of legal experts specializing in the subject affirm that Venezuela, as a member of the UN, respectful of the UN Charter and International Law, must prepare, with the support of the best national and international experts, to defend in court its position that the 1899 Award is null and void.

In the Maduro government, regarding the Essequibo issue, there were those who believed that Venezuela should defend itself in court, and indeed Venezuela appointed an ad hoc judge and filed a motion for inadmissibility of Guyana’s lawsuit, thereby agreeing to participate in the process. However, after the Court rejected the motion, the government sector that maintains that an “anti-imperialist” ideological “narrative” must be adopted and accuses the government of Guyana and the ICJ itself of being puppets of EXXON has definitively strengthened. Forgetting, “curiously,” that EXXON’s partners in Guyana are the Chinese National Oil Company (CNOOC) and CHEVRON, which operates in Venezuela. This position is extremely irresponsible, in addition to being unserious. The Court, with or without Venezuela’s presence, will continue the process and in a few years will render its judgment, which is mandatory and unappealable. Additionally, it should not be forgotten that, after the decision on the 1899 Award and the definition of the land border, it is very likely that the ICJ will also have to intervene in the delimitation of marine and submarine areas. Indeed, it must be emphasized that, regardless of the Essequibo claim, in the hundreds of thousands of square kilometers of the Exclusive Economic Zone and the Continental Shelf projected by the Venezuelan territory of the Orinoco Delta, there are immense oil and fishery resources, and Guyana has arbitrarily granted vast concessions to transnationals that include marine and submarine areas

projected by both the Essequibo territory and the Venezuelan state of Delta Amacuro.

The Maduro government, following the position of the “anti-imperialist” sector, decided to convene a consultative referendum on December 3, 2024, regarding the controversy. Of the five questions presented to the electorate, two are absolutely inconsequential and are equivalent to asking: “Do you love your mother?” In the question asking the people whether they support the 1966 Geneva Agreement as the sole instrument for resolving the controversy, the regime conveniently forgets to mention that we are in the ICJ process because two UN Secretaries-General, the last “good officer-mediator,” and the ICJ itself interpreted the Geneva Agreement in such a way that the UN Secretary-General had the authority to bring the case to the ICJ. The question asking whether to agree not to recognize the jurisdiction of the ICJ to resolve the controversy obviously shows that the government sought “popular ratification” to withdraw from the process initiated in the ICJ. In the last question, the possibility of creating a new Venezuelan state in the disputed territory, incorporating it into Venezuela’s map, and preparing an accelerated plan to grant citizenship and all the “services” of the Venezuelan state to the Essequibians was raised. An evidently unrealistic question, which has also provided a basis for Guyana, CARICOM countries, and the Commonwealth, among others, to denounce to the international community that Venezuela intends to militarily occupy the region. It is unrealistic, among other things, because it is ridiculous to think that the Essequibians, who live in the world’s fastest-growing economy, would be interested in the citizenship of a country in full socioeconomic disaster from which over 7 million inhabitants have emigrated in a few years, 35,000 of them to Guyana itself. To make matters worse, after convening this referendum, the Foreign Ministry, in a very unserious official statement, after asserting that the Guyanese government is a puppet of EXXON and the US Southern Command, asks the same government to sit down for bilateral negotiations.

It was essentially a maneuver for domestic politics to distract public attention from the enormous socioeconomic failure, given the announced elections of 2024, while waving the nationalist flag. Furthermore, it also sought to make people forget the irresponsible and unprofessional handling of the controversy for over two decades.

The tension generated by the referendum and some Venezuelan military movements created the conditions for CELAC, CARICOM, and Brazil, in particular, to organize a meeting between Presidents Maduro and Ali in Saint Vincent and the Grenadines, which concluded with the signing of the Argyle Declaration on December 14, 2023, where the parties committed to peacefully resolve their differences through a process of diplomatic dialogue. However, in both this meeting and the subsequent one between Foreign Ministers Hugh Todd and Yvan Gil, the statements say little, except that the parties agreed to continue talking and that in the next meeting each party will present the topics they want to discuss. However, listening to their statements at the end of the meetings, it is evident that the parties are entrenched in two mistaken monologues, where, as Octavio Paz said: “we never hear what the other is saying or, if we hear it, we always believe they are saying something else.” Indeed, both President Ali and the Guyanese Foreign Minister reaffirmed with extreme clarity that, for Guyana, the Essequibo controversy will be resolved in the International Court of Justice, and it will not participate in any other means of dispute resolution until the ICJ decides on the matter. In the meantime, it is willing to discuss all other topics of interest to the two neighboring countries. Maduro and Foreign Minister Gil, on the other hand, hinted that the meeting was a diplomatic victory for Venezuela and that dialogue was, in practice, the reopening of a bilateral negotiation on the controversy.

The highly influential think tank, the Center for Strategic and International Studies (CSIS) in Washington, has published an extensive and detailed report on the current situation of the controversy between Venezuela and Guyana over the Essequibo territory. The CSIS, using satellite photos as evidence, asserts that the Maduro government is reinforcing and expanding its military capacity on the border with Essequibo, a territory under Guyana’s administration and control. According to CSIS researchers, the Venezuelan government’s strategy combines the “carrot” of diplomatic dialogue, initiated with the Argyle Agreement, with the “stick” of the threat of potential military action. A strategy that the academic Thomas Schelling, who applied game theory to international conflicts, coined with the neologism “compellence”. The goal would be to pressure Guyana into reopening bilateral negotiations on the Essequibo controversy.

More recently, President Maduro has reaffirmed that his government definitely does not recognize the jurisdiction of the International Court of Justice (ICJ) to resolve the controversy with Guyana over the Essequibo territory. He says that the ICJ is controlled by the United States and the European Union, that Venezuela rejects the “judicial colonialism” of the West, and that the only way to resolve the dispute is through the Geneva Agreement (GA). Perhaps it is worth mentioning that the 15 judges of the ICJ are elected by the UN General Assembly and that they currently represent the following nationalities: China, Russia, Mexico, Japan, Brazil, India, Morocco, the United States, Somalia, New Zealand, the United Kingdom, Italy, Uganda, France, and Slovakia. The Maduro government tries to confuse public opinion when it repeats that the process already activated in the ICJ is contrary to the GA, when in reality, as we have already explained, we are in the ICJ because of the decision of two UN Secretaries-General, the last “good officer-mediator,” and the ICJ itself. Maduro claims that Venezuela has never accepted the jurisdiction of the ICJ. However, former Foreign Minister Ignacio Iribarren Borges, in his speech to the National Congress on March 17, 1966, in the discussion of the Approving Law of the GA, mentioned that Venezuela, during negotiations with the United Kingdom, “proposed that the function of choosing the means of settling the dispute be entrusted to the ICJ.” When Great Britain objected, it was agreed to “entrust that function to the UN Secretary-General.” Finally, Iribarren says: “in accordance with the terms of Article IV of the GA, the so-called Award of 1899, in the event of no satisfactory solution for Venezuela, must be reviewed through arbitration or **judicial recourse**.” Certainly, it would have been much better for Venezuela to go to arbitration “ex aequo et bono,” where the arbitrators act as “friendly mediators” and seek a satisfactory solution for both parties.

Maduro has irresponsibly decided not to defend our rights in the ICJ. In a few years, the Court will render its judgment. Maduro claims that he will not respect that judgment and that Guyana will be obliged to negotiate with Venezuela. Guyana will negotiate, particularly the delimitation of marine and submarine areas, but in the light of a judgment from the ICJ in its favor and the support of the vast majority of the international community. Certainly, Brazil, China, and India, as well as the US, the EU, the UK, and Canada, among many others, are

already increasing their investments in Essequibo and in general their trade and cooperation agreements with Guyana, the fastest-growing economy in the world.