

## Guyana-Venezuela Border Dispute

Allan R Brewer-Carías

### Table of Contents

[A. The Dispute](#)

[B. The Origin of the British Guiana Colonial Territory: From the Treaty of Münster \(1648\) to the Anglo-Dutch Treaty \(1814\)](#)

[C. Origins of the Dispute](#)

[D. The 1899 Arbitration](#)

[E. Venezuela's Challenge of the Validity of the 1899 Arbitral Award and the 1966 Geneva Agreement](#)

[F. The Development of the Dispute Following the Independence of British Guiana](#)

[G. The Current Status of the Dispute](#)

[Select Bibliography](#)

[Select Documents](#)

### A. The Dispute

- 1 The Guyana-Venezuela Border dispute is a long-standing diplomatic controversy referred to parts of the territories of what up to 1966 was called British Guiana. This dispute started in the 19th century between Venezuela and the United Kingdom ('UK'), and continued between Venezuela and Guyana, after the latter achieved independence on 26 May 1966 (see also → *Territorial Integrity and Political Independence*).
- 2 Venezuela has maintained that the eastern boundary of its territory extends eastward to the Essequibo River, an area which comprises most of the settled areas of Guyana. Venezuela considers this area as part of the former Guayana or El Dorado Spanish Colonial Province established in 1568 (→ *Colonialism*), which in 1810 was part of the General Captaincy of Venezuela (created in 1777). The UK and Guyana have successively claimed that the territory west of the Essequibo River is part of the colonies acquired from the Dutch by means of the 1814 Anglo-Dutch Treaty, also known as the Convention of London (→ *Territory, Acquisition*).
- 3 The contemporary diplomatic dispute was initiated a few years before the independence of Guyana, and after the 1961 Venezuelan constitution was sanctioned. In this, as in previous constitutions, the national territory is defined by referring it to that which appertained to the General Captaincy of Venezuela before the 1810 political transformation (independence) began, but adding: with the modifications resulting from treaties 'validly adopted by the Republic' (Art. 7 Constitution of the Republic of Venezuela). According to the explanatory document for the constitution, the word 'validly' in this article 'was added in order to demonstrate in an unequivocal manner, the will of the Republic to only accept those modifications to its territorial status resulting from a free and valid determination' ('se agregó el adverbio "válidamente" para demostrar, en forma inequívoca, la voluntad de la República de aceptar solo aquellas modificaciones en su status territorial que hayan sido el resultado de libre y válida determinación'; M Arcaya Constitución de la República de Venezuela [Constitución de 1961] [Empresa El Cojo, Caracas 1971] vol 1 Art. 1 al Art. 94 36).
- 3 This constitutional provision opened up the possibility of formally challenging the validity of treaties or arbitral awards concerning the borders of the country, and acquired particular significance in Venezuela in regard to the 1899 arbitration which established the border with the colonies latter known as British Guiana (→ *Arbitration*; → *Judicial and Arbitral Decisions, Validity and Nullity*).

### B. The Origin of the British Guiana Colonial Territory: From the Treaty of Münster (1648) to the Anglo-Dutch Treaty (1814)

- 4 The formal recognition of the possession of the territory of Guiana by European countries different from Spain began with the Treaty of Münster (30 January 1648), in which Spain recognized the Dutch Republic as an independent state, ending the Eighty Years' War, or Dutch Revolt (1566–1648) (→ *Westphalia, Peace of [1648]*). With this treaty, Spain and the Netherlands additionally agreed to maintain the navigation and trade to the East and West Indies as indicated by the charters which were granted, and respectively agreed to remain 'in possession and enjoyment of such lordships, towns, castles, fortresses, commerce and country' ('in possessione et fruitione talium Dominiorum, Urbium, Castellorum, propugnaculorum, commerciorum, et terrarum', Tractatus Pacis inter Hispaniae et Unitum Belgium [Treaty of Peace between Spain and the Netherlands] [signed 30 January 1648] (1648–49) 1 CTS 3, 9) in the East and West

Indies, in Brazil and on the coasts of Africa, Asia and America as they then respectively held and possessed at the time of the treaty.

- 5 In South America, the Dutch, after being driven from Brazil in 1656 by the Portuguese, concentrated their efforts upon Guiana, establishing colonies and trading regulations in the Wild Coast and the Essequibo, with the West India Company controlling the whole of the coast between the Orinoco and the Amazon. Britain captured the colony for one year in 1665, and later in 1796. In 1802 the Dutch took it back, but only for one year, being ousted again by the British in 1803, this time as a result of the beginning of the Napoleonic Wars (1803–15).
- 6 On 13 August 1814, the Anglo-Dutch Treaty, also known as the Convention of London (one of several) was signed between the UK and the Netherlands, which returned the colonial possessions of the Dutch to what they were at the outbreak of the war on 1 January 1803, in the Americas, Africa, and Asia with the exceptions of the Cape of Good Hope and the South American settlements of Demerara, Essequibo and Berbice, which were then officially ceded to the UK (→ *Cession*). In 1831 they were consolidated as British Guiana.
- 7 During the time of the Napoleonic Wars, Napoleon invaded Spain, where after obtaining the abdication of the Spanish Kings Charles IV and Ferdinand VII (1808) he installed his brother Joseph Bonaparte as King of Spain. From 1808–12, an independence war was fought in the Peninsula, and eventually in 1812 the first Spanish monarchical constitution, sanctioned by the Cortes, convened in Cádiz. In May 1814 that constitution was abolished by Ferdinand VII who restored the absolute monarchy.
- 8 During the same years of the Napoleonic Wars and of the Spanish independence struggle against France, the movements towards independence also began in the Spanish South American colonies, starting with the revolution in the General Captaincy of Venezuela on 19 April 1810. This resulted in the declaration of independence (5 July 1811) of the Venezuelan provinces and in the establishment of the first independent State of Hispanic America, the States of Venezuela (December 1811).
- 9 The coincidence of all these political and military events in Europe and in the Spanish South American colonies explain the lack of any Spanish contention regarding the territorial effects of the Anglo-Dutch Treaty of 1814, signed in London the same year in which a war of independence was being fought in the new Venezuela State against Spain.

### C. Origins of the Dispute

- 10 The Venezuelan war of independence ended in 1824, and in 1830, the State of Venezuela, as a separate State from the greater Republic of Colombia established in 1821, was consolidated. As has been set forth in all the constitutions of the country since that date, the national territory has always been defined by identifying it with the territory of the former General Captaincy of Venezuela as it existed before the 1810 political transformation.
- 11 The 1814 Anglo-Dutch Treaty did not define a western boundary of what in 1835 would be called British Guiana, so the British commissioned Robert Schomburgk, a German surveyor and naturalist, to delineate that boundary. His 1835 survey set the beginning of the border at the mouth of the → *Orinoco River*, resulting in what came to be known as the Schomburgk Line, a boundary that effectively claimed an additional 30,000 square miles for Guiana.
- 12 After the publication in 1840 of the map of the British colony according to the Schomburgk Line (→ *Maps*), the Venezuelan boundary dispute officially began when the Venezuelan government in 1840 protested British encroachment on Venezuelan territory. Venezuela claimed the territorial delineations established at the time of the beginning of independence process from Spain in 1810, when the borders of the Guayana Province of the General Captaincy of Venezuela extended as far east as the Essequibo River. Thereafter, both countries began negotiations over the boundaries (→ *Boundary Disputes in Latin America*) and, without reaching any settlement, they agreed in 1850 not to occupy the disputed zone. Nonetheless, the dispute reignited in the late 1850s with the movement of British settlers into the region and with the formation of the British Guiana Mining Company to mine the gold deposits discovered in the zone.

### D. The 1899 Arbitration

- 13 During the second half of the 19th century, due to the border claims with British Guiana, Venezuela made repeated protests, proposed arbitration, and finally, in 1887 broke diplomatic relations with the UK (→ *Diplomatic Relations, Establishment and Severance*). Relying on the Monroe Doctrine, Venezuela also called on the United States of America (US) for help (→ *Doctrines [Monroe, Hallstein, Brezhnev, Stimson]*). Reluctantly, and due to the US's threats of intervention (→ *Intervention, Prohibition of*), the UK agreed in 1897, by means of the Treaty of Washington, entered into

by the UK and Venezuela, to let an international tribunal arbitrate the boundary (→ *International Courts and Tribunals*; → *Boundaries*).

- 14 Among the Venezuelan arguments before the tribunal was the fact that Spain was the first country to discover and occupy the territory of Guiana, which until the independence of Venezuela was under its exclusive sovereignty; that at the time of the Treaty of Münster, Spain merely recognized Dutch rights to the ports which it held at that time, and that the insignificant Dutch posts which subsequently appeared west of the Essequibo were considered as transgressions of the Treaty of Münster; that Spain by recognizing on 30 March 1845 the independence of Venezuela, formally renounced in its favour all the sovereignty, rights and claims previously belonging to Spain in the territory formerly known as the General Captaincy of Venezuela, which included the region in dispute; and that when Great Britain acquired the Guiana territories in 1814, the Colony's boundary was the Essequibo River, as shown on various maps printed in London; that the Essequibo line was the original Schomburgk Line of 1835 as shown on the map that Schomburgk drew before he showed partiality for British interests.
- 15 The British government's case before the tribunal was based among others, on the following arguments:
  - a) that from the end of the 16th century the Dutch constantly, and with right, traded on the coast of Guiana between the Orinoco and the Amazon Rivers;
  - b) that at least as early as 1616, the Dutch began to establish settlements in the territory between the Corentyne and the Orinoco, and from that time until the acquisition of British Guiana by Great Britain, they continually extended their settlements in various parts of this area;
  - c) that after they acquired the colonies of Guiana, the British further developed the trade and resources of the area;
  - d) that from 1596 until 1723 the only settlement of the Spaniards in the province was Santo Thome de Guayana, on the southern bank of the Orinoco River, and that between 1723 and 1796 the only additional points occupied by Spaniards or Spanish subjects were the Capuchin Mission stations south of the Orinoco, in the vicinity of the Yuruari River;
  - e) that neither the Spaniards nor the Venezuelans had ever effectively occupied any part of the territory in dispute (→ *Effectiveness*; → *Occupation, Belligerent*; → *Occupation, Pacific*);
  - f) that from the early part of the 17th century, the Dutch and, since their acquisition of the colonies, the British, controlled the trade of the entire disputed territory;
  - g) that after the acquisition of the colony by the British, Great Britain exercised over the disputed territory all those rights by which nations usually indicated their claim to territorial possession (→ *Claims, International*); and
  - h) that neither Spain nor Venezuela had ever exercised any jurisdiction or control over any part of the disputed territory (→ *Jurisdiction of States*).
- 16 On 3 October 1899, after two years of deliberations in Paris, the tribunal issued a decision determining the boundary-line between the Colony of British Guiana and the then United States of Venezuela without any written opinion or explanation setting forth the facts and principles upon which the award was reached. The decision awarded more than 90% of the disputed territory of British Guiana to the UK, with Venezuela receiving the mouth of the Orinoco River and a short strait of the Atlantic coastline just to the east (see also → *Straits, International*).

- 17 The 1899 arbitral award coincided with one of the main 19th century internal political struggles of Venezuela, in which a revolution (23 October 1899) seized State power and consolidated the authoritarian government that controlled the country for almost the entire first half of the 20th century; and also with another extraordinary international conflict, which led to the → *blockade* of the Venezuelan coasts. The newly established government was in fact involved in a new international struggle which arose because of unpaid loans, which provoked Great Britain, Germany and Italy to send a joint naval expedition to the Venezuelan coast to blockade seaports and capture Venezuelan gunboats.
- 18 The matter was embarrassing to the United States of Venezuela because of the Monroe Doctrine, which was nonetheless considered not to be extended to include such cases as unpaid loans, and led the then United States of Venezuela to work toward an amicable settlement. This ended in 1904 with the Hague tribunal decision favouring the blockading powers. The dispute became significant in international law because it led to the development of the Drago Doctrine (see also → *Calvo Doctrine/Calvo Clause*). The coincidence of all these international and national facts explains the lack of Venezuelan protest at the 1899 award, which was considered as → *acquiescence* on the part of Venezuela and thus, consequently, the new boundary was fixed in 1905.

#### **E. Venezuela's Challenge of the Validity of the 1899 Arbitral Award and the 1966 Geneva Agreement**

- 19 The boundary established in the 1899 arbitration tribunal was considered to be settled for the next half-century, until a memorandum written by Severo Mallet-Provost (11 August 1944), a lawyer who had acted as a junior counsel for Venezuela at the Paris tribunal, was published posthumously in the 1949 issue of the American Journal of International Law (O Schoenrich 'The Venezuela-British Guiana Boundary Dispute' (1949) 43 AJIL 523, 528–30). The memorandum adduced that the arbitral tribunal's president had coerced several members into assenting to the final decision, the result of a political deal between Britain and Russia. Reportedly, this memorandum had been dictated five years earlier by Mallet-Provost to Judge Otto Schoenrich, his partner in the US law firm of Curtis, Mallet-Provost, Colte and Mosle, with instructions that it was not to be published until after his death, and even then, only at Judge Schoenrich's discretion. Mallet-Provost died on 10 December 1948, and his memorandum appeared in print some six months later.
- 20 Based on the contents of Art. 7 Constitution of 1961, and relying on the new information derived from the Mallet-Provost memorandum, Venezuela declared in 1962 that it would no longer abide by the 1899 arbitration. To question the award's validity, Venezuela claimed that their rights to Essequibo territory had been ignored by a tribunal which had settled the frontier based not on a judicial process, but on a political deal. Both the Venezuelan ambassador to the → *United Nations (UN)* and the foreign minister of Venezuela made public such position in their addresses before the 17th session of the → *United Nations, General Assembly* in 1962. This prompted a formal territorial reclaim sent to the British foreign minister, as a result of talks held in London between 5 and 7 November 1962.
- 21 Between 1963 and 1965 the talks continued and negotiations ensued until 10 December 1965 when a joint communiqué was issued by the British and Venezuelan foreign ministers (→ *Negotiation*). The communiqué stated that the governments had 'discussed means and procedures to end the controversy that threatened to break the traditionally cordial relations' between the countries, and that both exchanged ideas and proposals in order to achieve a practical arrangement of the controversy.
- 22 The ministers agreed to hold a conference in Geneva, where on 17 February 1966, the Agreement to Resolve the Controversy between Venezuela and the United Kingdom of Great Britain and Northern Ireland Regarding the Venezuela and British Guiana Borders ('Geneva Agreement') was signed, in consideration that the independence of British Guiana was imminent and that any pending controversy between Venezuela and the UK and British Guiana could harm the collaboration that should exist among the countries.
- 23 Both sides agreed to an amicable resolution to the controversy and established a mixed commission set forth in Art. I Geneva Agreement (→ *Mixed Commissions*). This commission would seek 'satisfactory solutions for the practical arrangement of the controversy between Venezuela and the United Kingdom which arose as consequence of the Venezuela contention that the Arbitral decision of 1899, regarding the Venezuelan and British Guiana border, is null and void' (Art. 1 Geneva Agreement). The Geneva Agreement established that if the mixed commission did not arrive at a complete agreement over the controversy in a period of four years, in its final report the matter would be referred to the governments of Venezuela and Guyana, in order for them to choose one of the pacific settlement means set forth by Art. 33 → *United Nations Charter* (Art. IV (1) Geneva Agreement).

#### **F. The Development of the Dispute Following the Independence of British Guiana**

In May 1966, the independence of British Guiana was proclaimed and Venezuela declared that it would recognize the new State of Guyana with the stipulation that 'the independence of British Guiana does not imply recognition

- 24 or in any way renouncement or diminishment of the territorial rights that Venezuela is claiming'. Moreover, since its independence, Guyana became a State Party of the Geneva Agreement (Art. VII Geneva Agreement), and in the recognition note of the independence of Guyana, dated 26 May 1966, Venezuela reiterated its claim that the Paris arbitral tribunal decision of 1899 was 'null and void', stating 'before the new country and before the international community that Venezuela expressly reserves its sovereignty rights to the left bank of the Essequibo river; thus consequently, the Guayana Essequibo territory has its east border with the new State of Guyana, on the Essequibo river line, from its origins to its discharge on the Atlantic Ocean'.
- 25 During the works of the mixed commission several border disputes arose. On 12 October 1966, Venezuelan military and civilian personnel occupied what was claimed as the Guyanese half of Anakoko island in the Cuyuni river, and began to develop an airfield and mining facility on the island (see also → *Islands*), an occupation which was unsuccessfully protested by the Guyanese government. The Anakoko island incident was followed in July 1968 by Venezuela's extension of its territorial waters to 12 nautical miles off its coast (→ *Territorial Sea*), including waters from 3–12 nautical miles off Guyana's western coast; which was immediately condemned by Guyana.
- 26 On 4 January 1969, disturbances occurred in the Rupununi region of southern Guyana, where independent-minded ranchers had already attempted an unsuccessful secessionist revolt (→ *Secession*). A police station was attacked, and the insurgents seized and blocked most of the area's airstrips. The Guyanese government responded quickly, forcing the insurgents to flee to Venezuela, where they took refuge in Venezuelan border towns. Venezuela denied any involvement in the rebellion, but declared the insurgents Venezuelan citizens since they had inhabited land claimed by Venezuela, and promised them land and jobs. All this was protested by the Guyanese government. The following year, new incidents took place along the border, when Guyanese and Venezuelan forces skirmished for several days. On 3 March 1970 Venezuela closed the border.

#### **G. The Current Status of the Dispute**

- 27 After 16 sessions, the mixed commission's four-year term expired in early 1970 with the dispute unresolved. Nonetheless, in order to continue direct negotiations with Guyana and to avoid the immediate application of the means set forth in the Geneva agreement, on 18 June 1970, the governments of Venezuela, Britain, and Guyana signed the Protocol of Port-of-Spain, which suspended for a period of 12 years the application of Art. IV Geneva Agreement. The protocol allowed the parties to explore the possibility of improving their understanding and to create a more convenient environment to continue with the procedures set forth in the Geneva Agreement.
- 28 The Protocol of Port-of-Spain provided that at the time of the expiration of its term, the functioning of Art. IV Geneva Agreement would resume to the point of its suspension, considering the final report as filed on such date. The protocol was to end on 18 July 1982, but one year prior to that, by means of a communiqué dated 10 April 1981, the Venezuelan government publicly announced its decision not to extend its term, provoking the reactivation of the Geneva Agreement provisions. In another communiqué dated 11 December 1981, the Venezuelan government announced that its 'claim would be regulated by the Geneva Agreement, and particularly, by Article IV, which refers to the peaceful settlement means set forth in Article 33 of the United Nations Charter which are: 1) negotiation, 2) enquiry, 3) mediation, 4) conciliation, 5) arbitration, 6) judicial settlement, 7) resort to regional agencies or arrangements; or, 8) other peaceful means of their own choice' (→ *Mediation*; → *Conciliation*).
- 29 At the time of the Protocol of Port-of-Spain term, Venezuela ratified its government's decision to signatory States of the Geneva Agreement and to the Secretary-General of the United Nations (→ *United Nations, Secretary-General*). Within the three month term set forth in Art. IV Geneva Agreement, the parties were to choose one of the abovementioned peaceful settlement means (→ *Peaceful Settlement of International Law Disputes*), and Venezuela insisted on negotiation. Guyana rejected the proposal and, instead, proposed to bring the matter before the → *International Court of Justice (ICJ)*, an alternative that was rejected by Venezuela. After the parties failed to reach an agreement in the three-month term, Venezuela referred the election of the peaceful settlement means to the UN Secretary-General.
- 30 Thus, since 1982, as was ratified by the foreign ministers of both countries in 1985, the matter is in the hands of the UN Secretary-General, through a UN-based Good Officer process, with the appointment of a Secretary-General Special Representative. Both countries have expressed confidence in the process, which has involved meetings between the Good Officer and leaders of both countries, meetings between the facilitators of both countries, and discussions between the foreign ministers and meetings of the Secretary-General with the foreign ministers.



- 31 In 1999, a new constitution sanctioned by a national constituent assembly was approved in Venezuela, also identifying the territory with that which appertained to the General Captaincy of Venezuela before the political transformation initiated on 19 April 1810, but this time adding, 'with the modifications resulting from the treaties and arbitral awards not affected of nullity' (Art. 10 Constitution of the Bolivarian Republic of Venezuela), directly referring to the 1899 arbitration, which had been considered by Venezuela as null and void. On the other hand, Guyana has always insisted on the validity of the arbitration and that Venezuela's claim to more than two-thirds of Guyana's national territory forms a serious threat to the development of the country, insisting on resolving the issue within the framework of international law.
- 32 In September 2003, the Secretary-General of the United Nations, along with his Special Representative, met with the foreign ministers of Guyana and Venezuela, to review the state of discussions on the border controversy between the two countries. In reviewing the situation, the foreign ministers noted that relations between the two countries were constructive and at a point that would ensure future cooperation (see → *Regional Co-operation*).
- 33 Over the past few years, the UN Secretary-General has not made new proposals to Venezuela and Guyana, and the relations between both countries had been marked by public discussions between high officers of their governments, mostly referring to the possible development of aerospace, mining and oil exploitation activities in the claimed zone, generally objected to by Venezuela. Nonetheless, in 2005 the Venezuelan president in a visit to Guyana stated that his government would no longer raise objections to foreign investment invited by Guyana into the western Essequibo, which in spite of the dispute, has been seen by Guyana as a positive advance in the relations between both countries.

### Select Bibliography

RA Rojas *Los límites de Venezuela con la Guayana Británica* (Ministerio de Relaciones Exteriores Caracas 1962).

Ministry of External Affairs, Guyana *Guyana-Venezuela Relations* (Government Printery Georgetown 1968).

A de Pedro Fernández *La historia y el derecho en la reclamación venezolana de la Guayana Esequiba* (Editorial Mediterráneo Caracas 1969).

P Ojer *Robert H Schomburgk: explorador de Guayana y sus líneas de frontera* (Universidad Central de Venezuela, Facultad de Humanidades y Educación, Instituto de Estudios Hispanoamericanos Caracas 1969).

Ministerio de Relaciones Exteriores, República de Venezuela *Reclamación de la Guayana Esequiba* (Ministerio de Relaciones Exteriores Caracas 1981).

JN Singh *Diplomacy or War: the Guyana-Venezuela Border Controversy* (privately published Georgetown 1982).

JA Zambrano Velasco *Sumario Jurídico de la Territorialidad* (Biblioteca Corpozulia Maracaibo 1983).

JA Braveboy-Wagner *The Venezuela-Guyana Border Dispute* (West View Press Bolder 1984).

MA Osorio Jimenez *La Guayana Esequiba* (Academia Nacional de la Historia Caracas 1984).

MA Donis Ríos *Evolución histórica de la cartografía en Guayana y su significación en los derechos venezolanos sobre el Esequibo* (Academia Nacional de la Historia Caracas 1987).

I Sequera Tamayo *Venezuela y su espacio fronterizo* (Universidad Central de Venezuela, Facultad de Humanidades y Educación, Instituto de Geografía y Desarrollo Regional Caracas 1987).

RA Sureda Delgado *La Guayana Esequiba: dos etapas en la aplicación del Acuerdo de Ginebra* (Academia Nacional de la Historia Caracas 1990).

I Sequera Tamayo *Guayana Esequiba* (Academia Nacional de Ciencias Economicas 1992).

### Select Documents

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 17 February 1966, entered into force 17 February 1966) 561 UNTS 325.

*Laudo de Paris del 3 de octubre de 1899 (Estados Unidos de Venezuela v Su Majestad la Reina del Reino Unido de la Gran Bretaña e Irlanda)* (Tribunal Arbitral, 3 October 1899)  
<<http://www.colegiosanagustin.edu.ve/sap/aldea/documentos2.asp?which=174#Documentos>> (25 October 2006).