

**ARBITRAL TRIBUNAL CONSTITUTED PURSUANT TO ARTICLE 287, AND IN ACCORDANCE
WITH ANNEX VII OF
THE UNITED NATIONS CONVENTION ON THE LAW OF SEA**

In the Matter of an Arbitration Between

GUYANA and SURINAME

ORDER N^o. 5

Whereas the Tribunal in Order No. 3 appointed Professor Hans van Houtte as independent expert pursuant to Terms of Reference attached thereto;

Whereas the Tribunal set out in paragraph 1(b) of Order No. 4 that, “the independent expert shall, in accordance with paragraph 5 of Order No. 1 and the Terms of Reference, review Suriname’s proposal(s) for removal or redaction of documents [in Files 169A and 161 in the Netherlands’ Foreign Ministry],” and in paragraph 2(a) that, “The independent expert shall review Guyana’s request in its letter dated 20 July 2005 for access to documents pursuant to paragraph 3 of Order No. 1, in order to determine whether those files have been identified with reasonable specificity and appear relevant”;

Whereas Suriname, in its letter dated 24 October 2005, attached a memorandum setting out which documents in Files 169A and 161 Guyana should be given access to, and which should be withheld;

Whereas Guyana, in its letter dated 28 October 2005, communicated its views on which documents and files the independent expert should review and why, “in connection with paragraph 2 (a)” of Order No. 4;

Whereas on 18 January 2006, the independent expert submitted to the Tribunal a report of his findings and recommendations following an examination of the files in question;

Whereas on 26 January 2006, at the President’s request, the Registrar communicated to the Parties a copy of the independent expert’s report and invited comments thereon by 31 January 2006;

Whereas Suriname, in two letters dated 31 January 2006, concurred with several of the independent expert’s findings and recommendations, but objected to the disclosure of a specific document in File 161, and took issue with the independent expert’s finding that Suriname’s position and practice with regard to the criteria proposed for Suriname’s eastern maritime boundary “might be relevant” to the present dispute concerning Suriname’s western maritime boundary;

Whereas Guyana in its letter dated 31 January 2006, invited the Tribunal to “adopt the findings and recommendations [in the report] without delay”;

Whereas Suriname and Guyana, in letters dated 1 February 2006 and 2 February 2006, respectively, further elaborated their views on the issue of relevance of documents concerning Suriname’s eastern maritime boundary;

Whereas the Tribunal considers that the report of the independent expert was made fully in accordance with Orders No. 3 and 4, and the Terms of Reference;

Whereas the Tribunal has fully considered the Parties' arguments in the above-mentioned correspondence, as well as the findings and recommendations made in the report of the independent expert;

Whereas the Tribunal reaffirms the language in the last preambular paragraph of its Order No. 1;

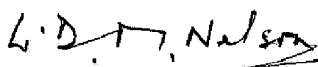
Whereas the Tribunal considers that the documents in File 169A concerning Suriname's position and practice with regard to the criteria proposed for Suriname's eastern maritime boundary have sufficient prima facie relevance to the present maritime boundary dispute to warrant their disclosure to Guyana;

Whereas the Tribunal recalls the language of paragraph 2.0 of the Terms of Reference noting that it will ultimately decide in its final award on "the relevance, cogency, and weight to be given to any files or documents, or parts thereof, ultimately disclosed and relied upon by the Parties in their pleadings";

THE ARBITRAL TRIBUNAL UNANIMOUSLY ORDERS:

1. The recommendations of the independent expert in Sections 5 and 6 of his report (concerning documents in Files 161 and 169A) are hereby adopted, and Suriname is hereby requested to grant Guyana immediate access to the files in accordance with those recommendations;
2. The documents compiled from Files 162, 311, 2022, and 2949 and referred to by the independent expert, in Section 7 of his report, shall be sent immediately to Suriname for comment and possible redaction;
3. Suriname, on an expedited basis and in any case no later than 22 February 2006, shall transmit directly to Guyana any documents that it does not propose to redact or withhold, and shall indicate to the independent expert any proposals for redaction or withholding and the reasons therefor.

(On behalf of the Tribunal)
H.E. Judge L. Dolliver M. Nelson



President
16 February 2006