© 2021 by The American Society of International Law
DOI:10.1017/ilm.2021.16

BRIEFLY NOTED

(Not reproduced in *International Legal Materials*)

Judicial and Similar Proceedings

1. Guyana v. Venezuela (I.C.J. – December 18, 2020)

<https://www.icj-cij.org/public/files/case-related/171/171-20201218-JUD-01-00-EN.pdf>

On Friday, December 18, 2020, the International Court of Justice issued its decision in *Guyana v. Venezuela*, on the question of its jurisdiction in the case. Guyana asked the Court "to confirm 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)." According to a press release from the Court, Guyana argued that the 1899 award was the final settlement on all questions relating to the boundary line between British Guyana and Venezuela. According to Guyana, the Court's jurisdiction was based on the 1966 Agreement to Resolve the Controversy between Venezuela and the UK over the Frontier between Venezuela and British Guiana (the Geneva agreement), as well as the U.N. Secretary General's decision in 2018 to choose the ICJ as the means to settle the dispute between the two parties. Venezuela opposed the Court's jurisdiction and so the Court separated the question of jurisdiction from the merits of the case. By a judgment of twelve votes to four, the Court found that it has jurisdiction to hear the aspects of the application filed by Guyana that related to the validity of the 1899 award and the question of the definitive nature of the settlement of the land boundary dispute. It ruled that, pursuant to Article IV, paragraph 2, of the Geneva Agreement, the "'controversy' that the parties agreed to settle through the mechanism established under the Geneva Agreement concerns the question of the validity of the 1899 Award, as well as its legal implications for the boundary line between Guyana and Venezuela." Moreover, the Court found that the parties agreed to give the U.N. Secretary General the authority to choose, by a binding legal decision, the means to settle their dispute and that the parties consented to the Secretary General's choice of judicial settlement. This means, ultimately, that the parties consented to the jurisdiction of the ICJ.

Judge Abraham dissented on the point of consent, arguing that the parties did not give their consent in advance to judicial settlement. Judge Bennouna also dissented on that point, arguing against the conclusion by the majority that the Secretary General could consent to the jurisdiction of the Court in lieu of the parties.

Resolutions, Declarations, and Other Documents

1. Resolution S-29 Human rights implications of the crisis in Myanmar (U.N. General Assembly H.R. Council – February 12, 2021)

<https://undocs.org/en/A/HRC/S-29/L.1>

On February 12, 2021, the UN Human Rights Council (UNHRC) adopted a resolution calling for the "immediate and unconditional release of all persons arbitrarily detained . . . and the lifting of the state of emergency" in Myanmar. The resolution specifically refers to the release of State Counsellor Aung San Suu Kyi and President Win Myint. The resolution also "[s]trongly deplores the removal of the Government democratically elected by the people of Myanmar in the general election held on 8 November 2020, and the suspension of mandates of members of all parliaments, and calls for the restoration of the democratically elected Government." According to a press release from the UNHRC, the resolution was introduced by the United Kingdom and by Austria, on behalf of the European Union. The resolution follows an executive order on the matter signed by President Biden earlier this week (reported below) and licensing restrictions implemented by the U.S. Department of Commerce's Bureau of Industry and Security.

2. Executive Order on Blocking Property with Respect to the Situation in Burma (U.S. – February 11, 2021)

<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/11/executive-order-on-blocking-property-with-respect-to-the-situation-in-burma/>

https://doi.org/10.1017/ilm.2021.16 Published online by Cambridge University Press

On February 10, 2021, President Biden announced sanctions on military officials from Burma in response to their involvement in the recent coup, which overthrew the result of the November 2020 elections. An executive order published on February 11 states the President's finding that the situation in Burma (and especially the coup) "constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States" such that he declared a state of emergency to respond to the threat. The order sanctions the military leaders who directed the coup, their property, and their close family members, as well as people involved in other named activities, including "actions or policies that threaten the peace, security, or stability of Burma" and "the arbitrary detention or torture of any person in Burma or other serious human rights abuses in Burma." The order also imposes immigration restrictions on persons covered by the order, as well as prohibits specific donations "by, to, or for the benefit of any person whose property and interests in property are blocked" under the order. The Treasury Department has published its first list of designations in relation to this order.

3. Joint Law Report 2019 (Afr. Ct. H.P.R., Eur. Ct. H.R., Inter-Am. Ct. H.R. – January 2020)

<https://www.echr.coe.int/Documents/Joint_Report_2019_AfCHPR_ECHR_IACHR_ENG.pdf>

The first joint law report of the African Court on Human and Peoples' Rights, European Court of Human Rights, and the Inter-American Court of Human Rights has been published. The 107-page report covers 2019 and is the product of the three courts' "solid judicial dialogue" on human rights. The report presents a selection of the leading decisions of each court from that year, some of which, according to the report's introduction (signed by each of the courts' respective presidents), "illustrate how the courts are increasingly having regard to each other's approach to human rights protection." The report is presented by court, and within each court section, cases are grouped by the human rights at issue in the cases selected. The report does not make any conclusions, but its introduction notes that it is "hope[d] that this selection will assist in showing both the similarities and where the judicial approach differs."

4. Regional Comprehensive Economic Partnership (November 15, 2020)

<https://rcepsec.org/legal-text/>

On November 15, 2020, fifteen Asia-Pacific states signed the Regional Comprehensive Economic Partnership, after nearly a decade of negotiations. According to the agreement's preamble, the parties aim to "broaden and deepen economic integration in the region," "create new employment opportunities, raise living standards, and improve the general welfare of their peoples," and "establish clear and mutually advantageous rules to facilitate trade and investment, including participation in regional and global supply chains." The agreement establishes a partnership and free trade area and sets out a number of provisions on subjects including trade in goods, trade in services, temporary movement of natural persons, investment, intellectual property, competition, and dispute settlement. However, India pulled out of negotiations over concerns relating to its domestic industry and the potential for increasing trade deficits with member states. Due to its population and industry, India's non-participation in the Partnership is significant. Therefore, the Partnership members remain hopeful that India will join the Partnership in the future.

5. Procedure for decision-making in the General Assembly when an in-person meeting is not possible (United Nations General Assembly – November 13, 2020)

<https://www.undocs.org/en/A/75/L.7/Rev.1>

On November 13, 2020, the United Nations General Assembly adopted a decision on remote voting procedures. According to a UN press release, the decision was adopted with 123 in favor, 19 against, and 29 abstentions. The decision sets out a procedure by which the General Assembly can continue to carry out its business in situations where it cannot meet in person. The decision specifies that the procedure will only apply "in the most exceptional circumstances, when an in-person meeting of the General Assembly is not possible for a prolonged period of time owing to concrete and ongoing risks to the safety and well-being of representatives of Member States and United Nations personnel." It is for the President of the General Assembly to determine when such circumstances exist. The decision authorizes the President to circulate proposed resolutions or

https://doi.org/10.1017/ilm.2021.16 Published online by Cambridge University Press

decisions in all official languages to all the UN member states and to adopt the proposed document if no one objects after 72 hours. The decision also permits a remote vote if a vote is requested during the 72 hours and specifies the procedures in that regard. In particular, the decision states that "Member States may vote "in favour" or "against" or indicate "abstain" through an electronic means provided by the Secretariat within existing resources and specified by the President before the voting period." Therefore, the decision does not specify the technical means by which remote voting will take place. The decision also discusses how matters should be handled if a state raises a point of order regarding the conduct of the voting in accordance with rule 88 of the General Assembly rules of procedure. Finally, the last provision of the decision tasks the Secretariat with "provid[ing] technical support and assistance upon request by Member States to ensure the full and equal access by all States to the procedure outlined" in the decision.

https://doi.org/10.1017/ilm.2021.16 Published online by Cambridge University Press