

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

In the Matter of an Arbitration Between

GUYANA and SURINAME

**ORDER No. 2 of 18 July 2005
PRELIMINARY OBJECTIONS**

WHEREAS in his letter to the President dated 4 May 2005, counsel for Suriname noted that he was recommending to the Government of Suriname that Preliminary Objections on jurisdiction and admissibility pursuant to article 10(2)(a) of the Tribunal's Rules of Procedure be filed, and that if this were done, an oral hearing on those Objections would be requested;

WHEREAS Guyana, in its letter to the President dated 6 May 2005, responded that it would oppose any request by Suriname to alter the existing hearing schedule in order to accommodate a separate hearing on any objections of Suriname on admissibility and jurisdiction, and that any extension or enlargement of the current schedule would not only be unnecessary, but would add unjustifiably to the length and cost of this arbitration;

WHEREAS Suriname, in its letter to the President dated 13 May 2005, announced that it would be filing Preliminary Objections pursuant to article 10(2)(a) of the Tribunal's Rules of Procedure, and proposed that Guyana be given three months for a written response, and that the Tribunal reserve one week for a hearing in the Fall, and requested that, pending a decision on the Objections, proceedings on the merits be suspended;

WHEREAS Guyana, in its letter to the President dated 17 May 2005, opposed Suriname's proposals that the Tribunal set a separate pleadings schedule and fix an oral hearing to decide the issues raised by Suriname's Preliminary Objections;

WHEREAS Suriname filed Preliminary Objections on 20 May 2005, stating, *inter alia*, that this dispute was "mixed" and that, as "there is no agreed land boundary terminus upon which the tribunal can rely in its analysis of the maritime boundary", and "issues of territorial sovereignty do not arise under the 1982 Law of the Sea Convention", the Tribunal should decide that it does not have jurisdiction to hear Guyana's claim, and that if the Tribunal does not so decide, "Guyana's second and third submissions are inadmissible";

WHEREAS the President, in his letter to the Parties dated 24 May 2005, invited the Parties to submit, no later than 10 June 2005, their views on "whether or not the Preliminary Objections should be dealt with as a preliminary matter, and the proceedings suspended until these objections have been ruled on", and noted that the Tribunal would on the basis of those views determine whether to reserve time at the hearing on 7 and 8 July 2005 to discuss the procedure for dealing with Suriname's Preliminary Objections;

WHEREAS Suriname, in its letter dated 26 May 2005, submitted its views in response to the President's letter to the Parties dated 24 May 2005, and, *inter alia*, requested that its Preliminary

Objections “be dealt with as a preliminary matter and that the proceedings on the merits remain suspended until there has been a decision on those Preliminary Objections”, and that following submissions to be presented by Guyana on Suriname’s Preliminary Objections, the Tribunal hold an oral hearing;

WHEREAS Guyana submitted on 10 June 2005 its views in response to the President’s letter to the parties dated 24 May 2005 and stated, inter alia, that none of Suriname’s Preliminary Objections could “be said to be preliminary (or exclusively preliminary) in character, and none [could] properly be said to go exclusively to the question of the Tribunal’s jurisdiction”, and submitted that the proceedings should not be suspended, and that consideration of Suriname’s Preliminary Objections should be joined to the merits;

WHEREAS the President in his letter to the Parties dated 23 June 2005 invited the Parties to a meeting in The Hague to present their arguments on “whether the current schedule of the proceedings should be interrupted and Suriname’s Preliminary Objections ruled on as a preliminary issue, or whether a ruling on these Objections should be made in the Tribunal’s final award”;

WHEREAS the Tribunal met with the parties in The Hague on 7 and 8 July 2005, and heard the Parties’ arguments on this issue;

WHEREAS the Tribunal, in accordance with article 7(1) and 10(2)(b) of its Rules of Procedure, has given due consideration to the Parties’ submissions, and to the Parties’ presentations at the aforementioned hearing;

THE ARBITRAL TRIBUNAL UNANIMOUSLY DECIDES AND ORDERS:

1. under article 10 of the Tribunal's Rules of Procedure, the submission of Suriname's Preliminary Objections did not have the effect of suspending these proceedings;
2. because the facts and arguments in support of Suriname’s submissions in its Preliminary Objections are in significant measure the same as the facts and arguments on which the merits of the case depend, and the objections are not of an exclusively preliminary character, the Tribunal does not consider it appropriate to rule on the Preliminary Objections at this stage;
3. having ascertained the views of the parties, the Tribunal shall, in accordance with article 10(3) of the Tribunal’s Rules of Procedure, rule on Suriname’s Preliminary Objections to jurisdiction and admissibility in its final award;
4. after the Parties' written submissions have been completed, the Tribunal shall, in consultation with the Parties, determine the further procedural modalities for hearing the Parties' arguments on Suriname's Preliminary Objections in conjunction with the hearing on the merits provided for in article 12 of the Tribunal’s Rules of Procedure.

On behalf of the Arbitral Tribunal



L. Dolliver M. Nelson, President
18 July 2005