

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,
AVIS CONSULTATIFS ET ORDONNANCES

AFFAIRE DE LA DÉLIMITATION MARITIME
ENTRE LA GUINÉE-BISSAU ET LE SÉNÉGAL

(GUINÉE-BISSAU c. SÉNÉGAL)

ORDONNANCE DU 8 NOVEMBRE 1995

1995

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,
ADVISORY OPINIONS AND ORDERS

CASE CONCERNING MARITIME DELIMITATION
BETWEEN GUINEA-BISSAU AND SENEGAL

(GUINEA-BISSAU v. SENEGAL)

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DEPARTMENT OF STATE

OFFICE OF LEGAL ATTACHÉ

AMERICAN LEGATION, LISBON, PORTUGAL

*Delimitation maritime entre la Guinée-Bissau et le Sénégal,
ordonnance du 8 novembre 1995, C.I.J. Recueil 1995, p. 423*

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No. 85CASE CONCERNING MARITIME DELIMITATION
BETWEEN GUINEA-BISSAU AND SENEGAL(GUINEA-BISSAU *v.* SENEGAL)

ORDER

Present: President BEDJAOUÏ; *Vice-President* SCHWEBEL; *Judges* ODA, GUILLAUME, SHAHABUDDEEN, WEERAMANTRY, RANJEVA, HERCZEGH, SHI, FLEISCHHAUER, KOROMA, VERESHCHETIN, FERRARI BRAVO, HIGGINS; *Registrar* VALENCIA-OSPINA.

The International Court of Justice,

Composed as above,

Having regard to Article 48 of the Statute of the Court and to Article 89 of the Rules of Court,

Having regard to the Application filed in the Registry of the Court on 12 March 1991 by the Republic of Guinea-Bissau instituting proceedings against the Republic of Senegal in respect of a dispute concerning the maritime delimitation between the two States;

Whereas this Application was immediately communicated to the Senegalese Government, pursuant to Article 40, paragraph 2, of the Statute of the Court and whereas the Members of the United Nations, and also any other States entitled to appear before the Court, were notified pursuant to Article 40, paragraph 3, of the Statute;

Whereas in that Application Guinea-Bissau, referring to the proceedings pending before the Court in the case concerning the *Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)*, stated that “when those first

proceedings are concluded, and whatever the outcome, the delimitation of all the maritime territories will still not have been effected"; whereas in that Application Guinea-Bissau founded the jurisdiction of the Court on the declarations of acceptance of the compulsory jurisdiction of the Court made by the two States pursuant to Article 36, paragraph 2, of the Statute, while recognizing that if, when the above-mentioned proceedings were concluded, the Court were to find the Award of 31 July 1989 to be in-existent or null and void, the dispute now submitted to it "would, in every respect, be the one that was the subject of [the] Arbitration Agreement [of] 12 March 1985" and that "[i]n that case, because of the reservations made by Senegal, its declaration of acceptance of the jurisdiction of the Court . . . would not apply" and that the Application would then be submitted to the Court on the basis of Article 38, paragraph 5, of the Rules; and whereas at the end of its Application Guinea-Bissau asked the Court to adjudge and declare:

"What should be, on the basis of the international law of the sea and of all the relevant elements of the case, including the future decision of the Court in the case concerning the arbitral "award" of 31 July 1989, the line (to be drawn on a map) delimiting all the maritime territories appertaining respectively to Guinea-Bissau and Senegal";

Whereas the two Parties each appointed an Agent, Guinea-Bissau by a letter dated 12 March 1991 from its Ambassador to the Netherlands, with which the Application was enclosed, and Senegal by a letter dated 29 March 1991 from its Ambassador to the Netherlands, in which a communication from the Senegalese Minister for Foreign Affairs was transcribed; and whereas in that communication it was indicated, *inter alia*, that the fact, for Senegal, of its having appointed an Agent "[did] not imply acceptance on its part of the new proceedings set in motion by Guinea-Bissau", Senegal expressing "here and now every reservation as to the admissibility of this fresh claim, and possibly as to the Court's jurisdiction";

Whereas at a meeting held by the President of the Court with the representatives of the Parties on 5 April 1991, the latter agreed that no measure should be taken in the case until the Court had delivered its decision in the case concerning the *Arbitral Award of 31 July 1989*; whereas the Court delivered its Judgment in that case on 12 November 1991 and whereas, among other things, it indicated in paragraph 68 of that Judgment that it considered it

"highly desirable that the elements of the dispute that were not settled by the Arbitral Award of 31 July 1989 be resolved as soon as possible, as both Parties desire" (*I.C.J. Reports 1991*, p. 75);

and whereas at a meeting held by the President with the representatives of the Parties on 28 February 1992, the latter requested that no time-limit

be fixed for the initial pleadings in the case, pending the outcome of negotiations on the question of maritime delimitation, which were to continue for six months in the first instance;

Whereas at a meeting held by the President with the representatives of the Parties on 6 October 1992, the latter stated that some progress had been made towards an agreement and that the two Parties jointly requested that a further period of three months, with a possible further extension of three months, be allowed for continuation of the negotiations;

Whereas after several exchanges of letters between the Registry and the Parties, and the granting to the latter of further extensions, the President received their representatives on 10 March 1994 and whereas on that occasion the representatives handed the President the text of an agreement entitled “Accord de gestion et de coopération entre le Gouvernement de la République de Guinée-Bissau et le Gouvernement de la République du Sénégal”, done at Dakar on 14 October 1993 and signed by the two Heads of State; whereas this agreement provided, *inter alia*, for the joint exploitation, by the two Parties, of a “maritime zone situated between the 268° and 220° azimuths drawn from Cape Roxo” (Art. 1), and the establishment of an “International Agency for the exploitation of the zone” (Art. 4), and whereas that agreement stated that it would enter into force “upon conclusion of the agreement concerning the establishment and functioning of the International Agency and with the exchange of the instruments of ratification of both agreements by both States” (Art. 7); and whereas in letters dated 16 March 1994, addressed to the Presidents of both States, the President of the Court expressed his satisfaction and informed them that the case would be removed from the list, in accordance with the terms of the Rules of Court, as soon as the Parties had notified him of their decision to discontinue the proceedings;

Whereas at a meeting held by the President with the representatives of the Parties on 1 November 1995, the latter furnished him with an additional copy of the above-mentioned agreement as well as the text of a “Protocole d’accord ayant trait à l’organisation et au fonctionnement de l’agence de gestion et de coopération entre la République du Sénégal et la République de Guinée-Bissau instituée par l’accord du 14 octobre 1993”, done at Bissau on 12 June 1995 and signed by the two Heads of State; and whereas the representatives at the same time notified him of the decisions of their Governments to discontinue the proceedings and whereas the President asked them to confirm that decision in writing to the Court in whatever manner they deemed most appropriate;

Whereas by a letter of 2 November 1995, received in the Registry the same day, the Agent of Guinea-Bissau, referring to Article 89 of the Rules of Court, confirmed that his Government, by virtue of the agreement reached by the two Parties on the disputed zone, had decided to discontinue the proceedings instituted by its Application dated 12 March 1991;

Whereas a copy of that letter was communicated to the Agent of Senegal directly by the Agent of Guinea-Bissau and after receipt of that letter by the Registrar; and whereas by a letter dated 6 November 1995, which arrived in the Registry the same day by facsimile, the Agent of Senegal confirmed that his Government “agreed to the discontinuance of proceedings”,

Places on record the discontinuance by the Republic of Guinea-Bissau of the proceedings instituted by the Application filed on 12 March 1991; and

Orders that the case be removed from the list.

Done in French and in English, the French text being authoritative, at the Peace Palace, The Hague, this eighth day of November, one thousand nine hundred and ninety-five, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Republic of Guinea-Bissau and the Government of the Republic of Senegal, respectively.

(Signed) Mohammed BEDJAOU,
President.

(Signed) Eduardo VALENCIA-OSPINA,
Registrar.