

12 JUILLET 2013

ORDONNANCE

**DIFFÉREND FRONTALIER
(BURKINA FASO/NIGER)
DÉSIGNATION D'EXPERTS**

**FRONTIER DISPUTE
(BURKINA FASO/NIGER)
NOMINATION OF EXPERTS**

12 JULY 2013

ORDER

INTERNATIONAL COURT OF JUSTICE

YEAR 2013

**2013
12 July
General List
No. 149**

12 July 2013

**FRONTIER DISPUTE
(BURKINA FASO/NIGER)**

NOMINATION OF EXPERTS

ORDER

Present: President TOMKA; Vice-President SEPÚLVEDA-AMOR; Judges KEITH, SKOTNIKOV, CANÇADO TRINDADE, YUSUF, GREENWOOD, XUE, DONOGHUE, GAJA, SEBUTINDE, BHANDARI; Judges ad hoc MAHIOU, DAUDET; Registrar COUVREUR.

The International Court of Justice,

Composed as above,

After deliberation,

Having regard to Article 48 of its Statute,

Makes the following Order:

Having regard to Article 7 of the Special Agreement concluded between the Parties on 24 February 2009, whereby the Parties agreed to effect the demarcation of their common frontier in the disputed area within 18 months following the Judgment of the Court, and to request the Court “to nominate, in its Judgment, three (3) experts to assist them as necessary in the demarcation”,

Having regard to the Judgment delivered by the Court on 16 April 2013, paragraph 113 of which states:

“The Court is ready to accept the task which the Parties have thus entrusted to it. However, having regard to the circumstances of the present case, the Court is of the opinion that it is inappropriate at this juncture to make the nominations requested by the Parties. It will do so later by means of an Order, after ascertaining the views of the Parties, particularly as regards the practical aspects of the exercise by the experts of their functions (see *Frontier Dispute (Burkina Faso/Republic of Mali)*, Judgment, *I.C.J. Reports 1986*, p. 648, para. 176)”,

Whereas the Agent of Burkina Faso and the Agent of Niger have communicated the views of their respective Governments on, *inter alia*, the practical aspects of the work of the experts to be appointed by the Court; whereas the Agent of Burkina Faso indicated, by letter of 30 May 2013, that “[the said] experts w[ould] be able to assist in particular with: the determination of the conversion parameters between the map system (Clarke 1880) and WGS 84; the determination of the median line of the Sirba in accordance with the reasoning of the Court; the course of the frontier in the areas where the IGN line is broken and where a straight line must be used or a natural line followed”; and whereas the Agent of Niger stated, in a letter of 23 May 2013, that the said experts should help the Parties to identify “the 1960 IGN France line, from the Tao astronomic marker to the River Sirba at Bossébangou” and the “points defined by the Court in its Judgment of 16 April 2013 (points SB, A, B, C and I) through which the frontier passes”;

Whereas the Parties are requesting the Court, not to order an expert opinion within the meaning of Article 50 of the Statute of the Court, the purpose of which would be “to assist the Court in giving judgment upon the issues submitted to it for decision” (*Application for Revision and Interpretation of the Judgment of 24 February 1982 in the case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* (*Tunisia v. Libyan Arab Jamahiriya*), *I.C.J. Reports 1985*, p. 228, para. 65), and any costs of which would be borne by the Court under Article 68 of its Rules, but to exercise a power, conferred upon it by the Special Agreement, of nominating three persons whom the Parties have themselves decided to entrust with the task of giving an expert opinion for the purpose of implementing the Judgment of the Court;

Whereas there is nothing in the Statute to prevent the Court from exercising this power, the very purpose of which is to enable the Parties to achieve a final settlement of their dispute in implementation of the Judgment which it has delivered; and whereas the Court has already exercised such a power in the past (see *Frontier Dispute (Burkina Faso/Republic of Mali)*, *Nomination of Experts, Order of 9 April 1987*, *I.C.J. Reports 1987*, p. 7);

THE COURT,

1. *Nominates*, pursuant to Article 7, paragraph 4, of the Special Agreement, the following three experts who will assist the Parties in the operation of demarcation of their frontier in the disputed area:

Mr. Gérard Cosquer, of French nationality, State Senior Survey Engineer;

Mr. Luc Ghys, of Belgian nationality, Surveyor and geodetic, cartographic and topographic consultant;

Mr. Cyril Romieu, of French nationality, Topographic and Geodetic Surveyor, geodetic and topographic consultant;

2. *Authorizes* the President, in the event of a vacancy in the group of three experts thus appointed, to nominate a substitute to carry out or complete the demarcation.

Done in French and in English, the French text being authoritative, at the Peace Palace, The Hague, this twelfth day of July, two thousand and thirteen, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of Burkina Faso and the Government of the Republic of Niger, respectively.

(Signed) Peter TOMKA,
President.

(Signed) Philippe COUVREUR,
Registrar.
