



**Why the ICJ**

# OUTLINE

**1. The Dispute**

**2. Why The Need For a Referendum**

**3. Resolution of Disputes Under the UN Charter**

**4. The ICJ Option is Not New**

**5. Unsuccessful Attempts to Settle Guatemala's Claim**

**6. What the Court Has to Consider**

**7. What does the International Court Say**

**8, What Does Guatemala Know**

**9. Why Now**

**10. Examples of Advisory Opinions**



“Good fences make good neighbours.”

– *Robert Frost*



# I. THE DISPUTE

# Belize Constitution 1981

## Schedule 1

### *Definition of Belize*

1. The territory of Belize comprises the mainland of Belize and all its associated islands and cayes within the area bounded by the frontiers with Guatemala and Mexico and the outer limit of the territorial sea of Belize described as follows:-

**(a) the frontier with Guatemala is the line prescribed by the Treaty between the United Kingdom and Guatemala signed on 30 April 1859;**

(c) the outer limit of the territorial sea of Belize is the limit provided by law measured from such baselines as may have been pre- scribed before Independence Day by law or otherwise, or as may be so prescribed thereafter, and also includes the Turneffe Islands, the Cayes of Lighthouse Reef and Glover Reef, together with all associated islets and reefs, and their adjacent waters as far as the outer limit of the territorial sea appertaining to them.

# CONSTITUCION POLITICA

DE LA

REPUBLICA DE GUATEMALA

DECRETADA POR LA

ASAMBLEA NACIONAL CONSTITUYENTE



REFORMADA POR  
CONSULTA POPULAR  
ACUERDO LEGISLATIVO

18-93

GUATEMALA, C. A.

## Guatemala's Constitution 1945:

“Guatemala declares that Belize is part of its territory and considers it a matter of national interest to take measures aimed at its effective reincorporation to the Republic.”

## Guatemala's Constitution 1985, Belize:

The Executive will have the faculty to adopt measures aimed at resolving the issue of Guatemala's rights in respect of Belize in accordance with the national interests. Any definitive agreement must be submitted by the Congress of the Republic to popular consultation as specified in Article 173 of the Constitution.

## ESSENCE OF POSITIONS

### GUATEMALA

The Anglo-Guatemalan Convention of 1859 was declared null and void because of the UK's failure to comply with Article VII.

Given that it was a Treaty of cession, the nullity of that Treaty means that Guatemala possesses rights over Belizean territory which it inherited from Spain.

Because the 1859 Treaty does not exist in Guatemalan law, it follows that there are no borders between Belize and Guatemala.

### BELIZE

The boundaries between Belize and Guatemala were established in the 1859 Anglo-Guatemalan Convention and reaffirmed in the 1931 Exchanged of notes

The boundaries were marked by a Bi-national Boundary Commission in 1861 and again in 1929.

International law provides that a boundary once established has a legal life of its own, independent of the treaty.

Belizeans have enjoyed peaceful possession and control of all our territories since before Guatemalan independence in 1821. We have a right to self determination and are entitle to territorial integrity



## PROPOSED NEGOTIATING SOLUTION OVER THE YEARS

### GUATEMALA

Belize should cede some or all its territory to Guatemala.

### BELIZE

Belize has good title to all its land, insular territories and their maritime areas; Guatemala must respect the boundaries already established.

# II. WHY THE NEED FOR A REFERENDUM



# Chapter 10, Referendum Act:

1. This Act may be cited as the Referendum Act.

2.-(1) Without prejudice to any law which provides for a referendum to be held on any specific issue, the National Assembly may by resolution passed in that behalf declare that a certain issue or matter is of sufficient national importance that it should be submitted to the electors for their approval through a referendum.

(2) Notwithstanding subsection (1) above, **a referendum shall be held on the following issues:-**

(a) any amendment to Part II of the Constitution which derogates from the fundamental rights and freedoms guaranteed therein; and

**(b) any proposed settlement with Guatemala for resolving the Belize/Guatemala dispute.**



# III. RESOLUTION OF DISPUTES UNDER THE UN CHARTER

## UN Charter, Chapter VI Pacific Settlement of Disputes

**Art. 33:** The Parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by **negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies** or arrangements, or other peaceful means of their own choice.

The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.



# UN Charter,

## Chapter VI Pacific Settlement of Disputes

**Art. 36:** The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.

The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.



**IV. THE ICJ OPTION FOR A  
DEFINITIVE SETTLEMENT IS  
NOT NEW**

# UK Proposes World Court

**17 August 1937, UK Foreign Secretary Lord Halifax proposed going to the World Court:**

“The reasons for this view are as follows: The issues in the present case are essentially of a legal character involving difficult questions of law and interpretation which could not satisfactorily be decided by any tribunal other than a legal tribunal of high standing, and of all possible legal tribunals The Hague Court by reason of the authority of its judges and the length and nature of its experience is, in the opinion of His Majesty’s Government, by far the most suitable to decide a question of this kind.”





# UK Submits to ICJ Jurisdiction Under International Law

**13 Feb. 1946:** Britain makes declaration to the ICJ accepting compulsory jurisdiction for a period of five years of:

“all legal disputes concerning interpretation, obligation, or validity of any Treaty relating to boundaries of British Honduras and, further, any question arising out of any conclusion which the Court may reach with regard to such Treaty.” (Renewed this for another five years in 1951)



# Guatemala Refuses to Submit to ICJ for Decision Under International Law

**27 January 1947:** Guatemala made a declaration under the Optional Clause of the Statute of the ICJ by which it accepted for a period of five years the jurisdiction of the Court in all legal disputes, but expressly excluded:

“ . . . the dispute between England and Guatemala concerning the restoration of the territory of Belize, which the Government of Guatemala would, as it has proposed, agree to submit to the judgment of the Court if the case were decided *ex aequo et bono*, in accordance with Article 38(2) of the Statute.”



# V. Unsuccessful Attempts to Settle Guatemala's Claim

1962 - 2008



# Spinning Wheels

- 1961/1962: Informal talks
- 1965: US Good Offices
- 1966 - 1968: Webster Proposals
- 1969 -1970: Two Treaty Package (TOR and TOC), Treaty of Recognition of the Territorial Integrity of Belize and the Treaty of Cooperation.
- 1948, 1972,1977, 2015 : Military Threats
- 1972 - 1981: Internationalization (CARICOM, The Commonwealth, Non-Aligned Movement and the UN)
- 1972 - 1980: Talks, Talks Talks
- 1981: Heads of Agreement
- 1980s: More Talks
- 1991: Points of Concurrence



# Efforts at Resolving the Dispute

- 1992: Establishment of Diplomatic Relations Belize/Guatemala
- 1994: Reassertion of Territorial Claim by Guatemala at the UN
- 1999: Kidnapping of BDF by GAF
- 2000 - 2003: Facilitation Process and CBMs
- 2005: Agreement for a Framework for Negotiations and CBMs
- 2007: Negotiations declared exhausted
- 2008: Special Agreement
- 2013: Guatemala unilaterally aborts referendum
- 2015: Protocol to the Special Agreement
- 2018: Guatemala referendum.



# Agreement on a Framework for Negotiations

7 Sept 2005

5. Eventual recommendation of the Secretary General for the solution of the controversy:

While the Territorial Differendum is being negotiated with the assistance of the OAS, if the Secretary General determines that it is not possible to arrive at an agreement on some of the issues, he shall recommend that the Parties submit those to either the International Court of Justice or an International Court of Arbitration, Juridical Bodies established under International Law for the solution of controversies.

The Parties agree to submit the recommendation of the Secretary General to the appropriate authorities of their respective countries for their consideration and decision





## VI. THE ICJ OPTION -

# What the Court Has to Consider



# Special Agreement, 2008

## Article 2

The Parties request the Court to determine in accordance with applicable rules of international law as specified in Article 38(1) of the Statute of the Court any and all legal claims of Guatemala against Belize to land and insular territories and to any maritime areas pertaining to these territories, to declare the rights therein of both Parties, and to determine the boundaries between their respective territories and areas.



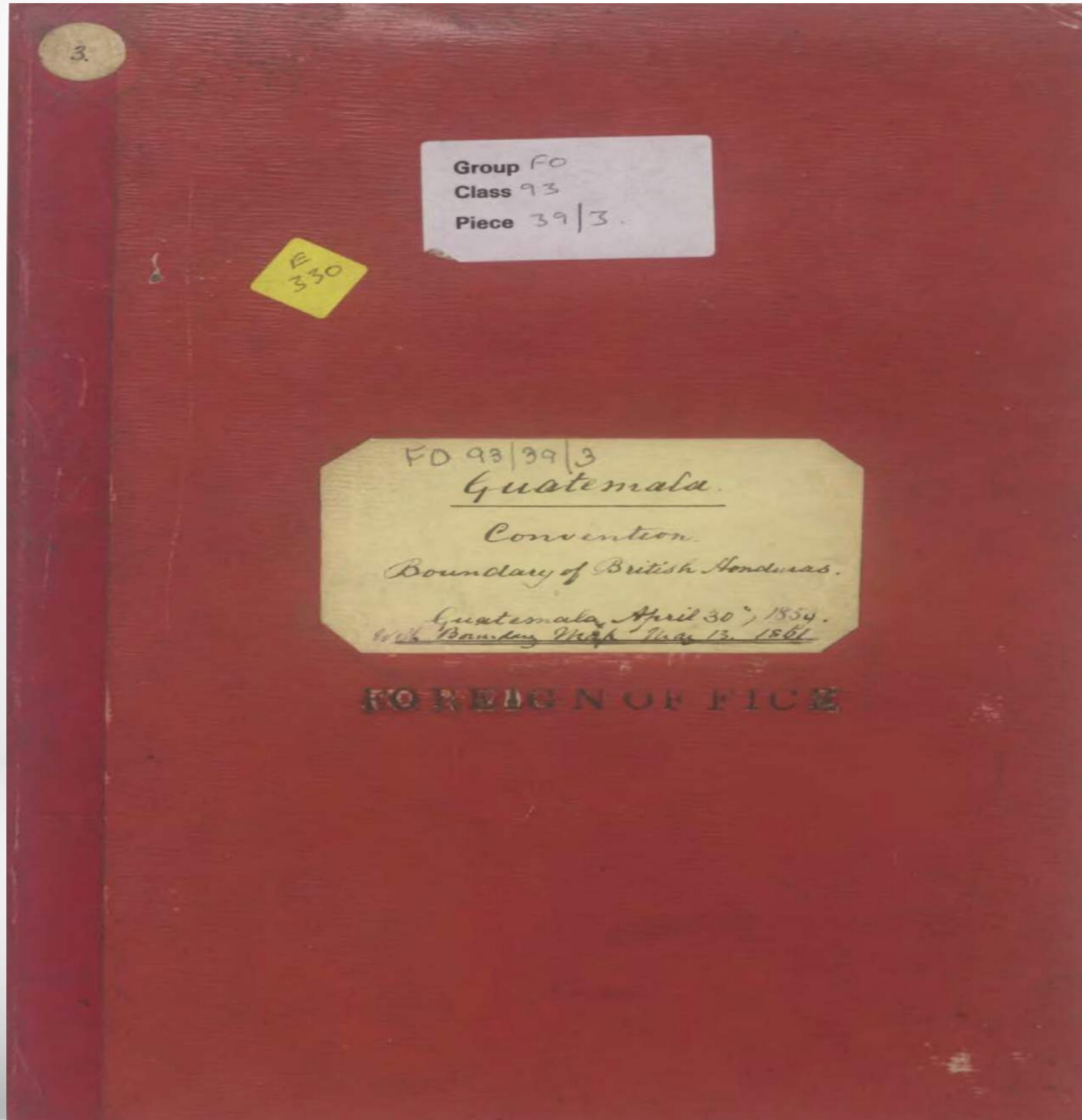


# Statute of the ICJ

## Article 38

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:
  - a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
  - b. international custom, as evidence of a general practice accepted as law;
  - c. the general principles of law recognized by civilized nations;
  - d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.
  
2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.





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FO 93/39/3  
Guatemala.  
Convention.  
Boundary of British Honduras.  
Guatemala, April 30, 1854.  
With Boundary Map May 13, 1861.

FOREIGN OFFICE



Convention between Her Majesty and the Republic of Guatemala, relative to the Boundary of British Honduras.

Convencion entre la Repu-  
blica de Guatemala y Su  
Majestad Britanica relativa  
a los limites de Honduras  
britanico.

Whereas the boundary between Her Britannic Majesty's Settlement and possessions in the Bay of Honduras, and the territory of the Republic of Guatemala, has not yet been ascertained and marked out;

Por cuanto: no han sido todavia averiguados y señalados los limites entre los territorios de la Republica de Guatemala y el Establecimiento y posesiones de Su Magestad en las bahia de Honduras; la Republica de Guatemala y

present Convention shall be ratified, and the ratifications shall be exchanged at London or Guatemala as soon as possible within the space of six months.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms. Done at Guatemala the thirtieth day of April, in the year one thousand eight hundred and fifty nine.

presente Convencion sera ratificada y las ratificaciones canjeadas en Guatamala o en Londres, tan pronto como fuere posible y en el espacio de seis meses.

En fe de lo cual los respectivos Plenipotenciarios la han firmado y sellado en Guatemala a treinta de Abril del año mil ochocientos cincuenta y nueve.

 Charles Sumner Wyke  J. Leizaola

The undersigned having met together for the purpose of exchanging the Ratifications of a Convention concluded and signed at Guatemala on the 30<sup>th</sup> of April 1859, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the Republic of Guatemala, relative to the Boundary of British Honduras; and the respective Ratifications of the said Convention having been carefully compared, and found to be exactly conformable to each other, the said Exchange took place this day in the usual form

In Witness whereof they have signed the present Certificate of Exchange, and have affixed thereto the seals of their arms.

Done at Guatemala, the 12<sup>th</sup> day of September 1859.

William Hall



A. de Aguirre



## Treaties and Conventions

### **The Convention Between Her Britannic Majesty and the Republic of Guatemala Relative to the Boundaries of British Honduras, signed on 30th April 1859:**

**Article 1.** It is agreed between Her Britannic Majesty and the Republic of Guatemala, that the boundary between the Republic and the British Settlement and its Possessions in the Bay of Honduras, as they existed previous to and on the 1st of January, 1850, and have continued to exist up to the present time, was, and is as follows:

Beginning at the mouth of the River Sarstoon in the Bay of Honduras and proceeding up the mid-channel thereof to Gracias a Dios Falls; then turning to the right and continuing by a line drawn direct from Gracias a Dios Falls to Garbutt's Falls on the River Belize, and from Garbutt's Falls due north until it strikes the Mexican Frontier.

"It is agreed and declared by the High Contracting Parties that all the territory to the north and east of the line of boundary above described, belongs to her Britannic Majesty; and that all the territory to the south and west of the same belongs to the Republic of Guatemala".



# ICJ Statute Article 38:1 Treaties

Aguas Turbias

Garbutt's Falls

Gracias A Dios Falls



## Treaties and Conventions

**The Convention Between Her Britannic Majesty and the Republic of Guatemala Relative to the Boundaries of British Honduras, signed on 30th April 1859:**

**Article VII.** With the object of practically carrying out the views set forth in the preamble of the present Convention for improving and perpetuating the friendly relations which at present so happily exist between the two High Contracting Parties, **they mutually agree conjointly to use their best efforts by taking adequate means for establishing the easiest communications** (either by means of a cart-road, or employing the rivers, or both united, according to the opinion of the surveying engineer), **between the fittest place on the Atlantic coast near the settlement of Belize and the capital of Guatemala;** whereby the commerce of England, on the one hand, and the material prosperity of the Republic of Guatemala on the other, cannot fail to be sensibly increased, at the same time that the limits of the two countries being clearly now defined, all further encroachments of either party on the territory of the other will be effectually checked and prevented in the future.





MAP  
OF PART OF THE BOUNDARY  
BETWEEN  
BRITISH HONDURAS AND GUATEMALA  
AS DEFINED IN THE  
CONVENTION OF THE 30<sup>TH</sup> APRIL 1859  
AND SURVEYED BY THE  
COMMISSIONERS APPOINTED  
UNDER THE SAID CONVENTION  
BETWEEN THE 4<sup>TH</sup> DECEMBER 1860 & THE 21<sup>ST</sup> APRIL 1861

NOTE

Station - (Name)	Latitude	Longitude	Height of
Station 1	17° 21' 30" N	92° 22' 00" W	1000
Station 2	17° 21' 30" N	92° 22' 00" W	1000

The Boundary line is shown by a red line-dotted where not surveyed.  
Stations that represent of stone were erected as a Boundary Mark at the place indicated.

*To certify that the boundary lines shown on this map are correct.*  
*Henry Leary*  
*Captain Royal Engineer and Major*  
*Boundary Commissioner*  
*Belize - 5<sup>th</sup> May 1861*

*Attest same Messrs*  
*J. C. and J. M. ...*  
*of the ...*  
*Belize, 7<sup>th</sup> May 1861*

GUATEMALA

BRITISH

HONDURAS

GULF OF HONDURAS

CHETUMAL RIVER

BERLIZ



MAP  
OF PART OF THE BOUNDARY  
BETWEEN  
BRITISH HONDURAS AND GUATEMALA

AS DEFINED IN THE  
CONVENTION OF THE 30<sup>th</sup> APRIL 1859  
AND SURVEYED BY THE  
COMMISSIONERS APPOINTED  
UNDER THE SAID CONVENTION  
BETWEEN THE 4<sup>th</sup> DECEMBER 1860 & THE 21<sup>st</sup> APRIL 1861

NOTE

Gracias a Dios	{ Latitude 15° 53' 55.67"	} West of Fort George Belize
	{ Longitude 1° 31' 00.5"	
Garbutt's Falls	{ Longitude 0° 57' 29.1"	}
	{ Latitude 17° 3' 40.84"	

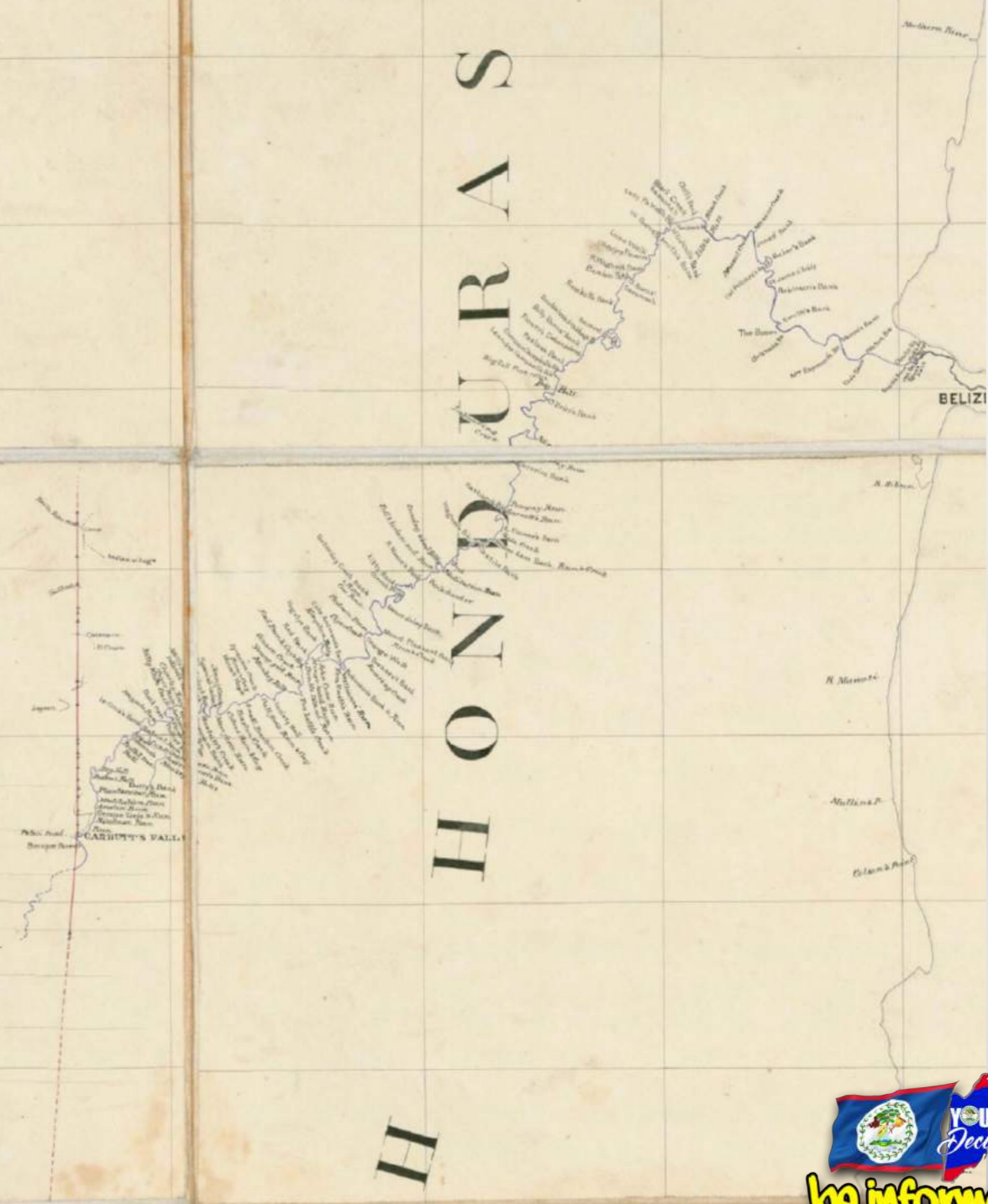
The Boundary Line is shown by a red line-dotted where not surveyed.

(P) denotes that a pyramid of stone was erected as a Boundary Mark at the place indicated

*We certify that the boundary lines shown in this map are correct.*

*Henry Loxley*  
Captain Royal Engineers and Major  
Belize: 13<sup>th</sup> May 1861. Boundary Commissioner.

*Mosand Carru Mosarago*  
7. Coronel y Comisario de  
por el Sr. Jefe de Guat.  
p<sup>a</sup> la demarcacion de limites  
Belize, 13 Mayo 1861



NOTE  
NOTE

Gracias a Dios	{ Latitude 15° 53' 55.87	} West of Fort George Belize
	{ Longitude 1° 31' 00.5	
Garbutt's Falls	{ Longitude 0° 57' 29.1	}
	{ Latitude 17° 34' 08.4	

The Boundary Line is shown by a red line-dotted where not surveyed.

(\*) denotes that a pyramid of stone was erected as a Boundary Mark at the place indicated



*We certify that the boundary lines shown in this map are correct.*

*Henry Leray*

*Captain Royal Engineer and Major.  
Boundary Commissioner.  
Belize: 13<sup>th</sup> May 1861.*

*Manuel Cano Macavazo  
7. Coronel y Comisionado  
por el Sr. Jefe de Guat.  
p<sup>o</sup> la demarcacion de limites  
Belize, 13 Mayo 1861*



ICJ Statute Article 38:1 Treaties

33.5587

31005 } West of  
57.291 } Fort George  
Belize

3.408±

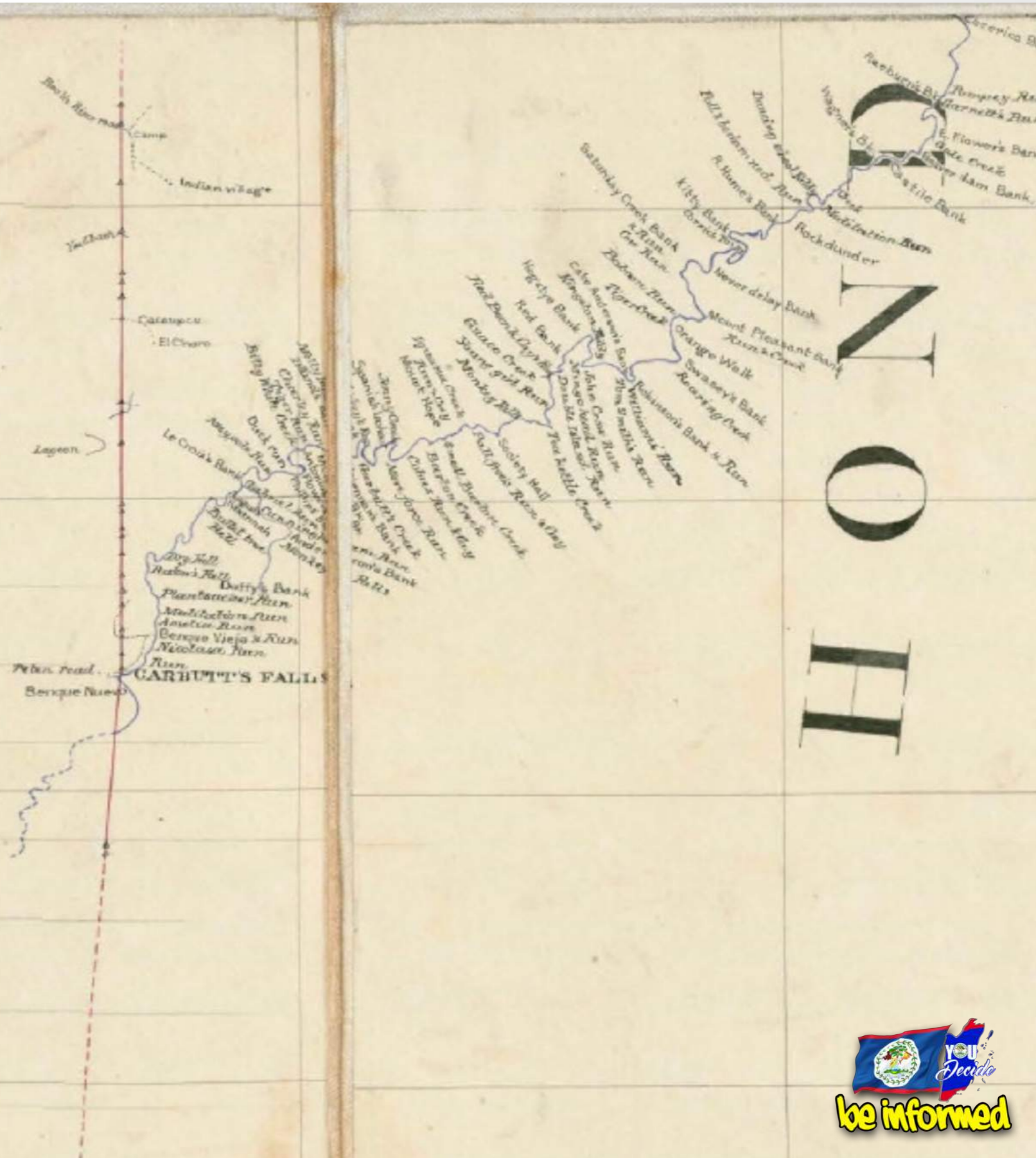
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*lines shown in this*

*ices and Major.  
Boundary Commissioner -  
1861.*

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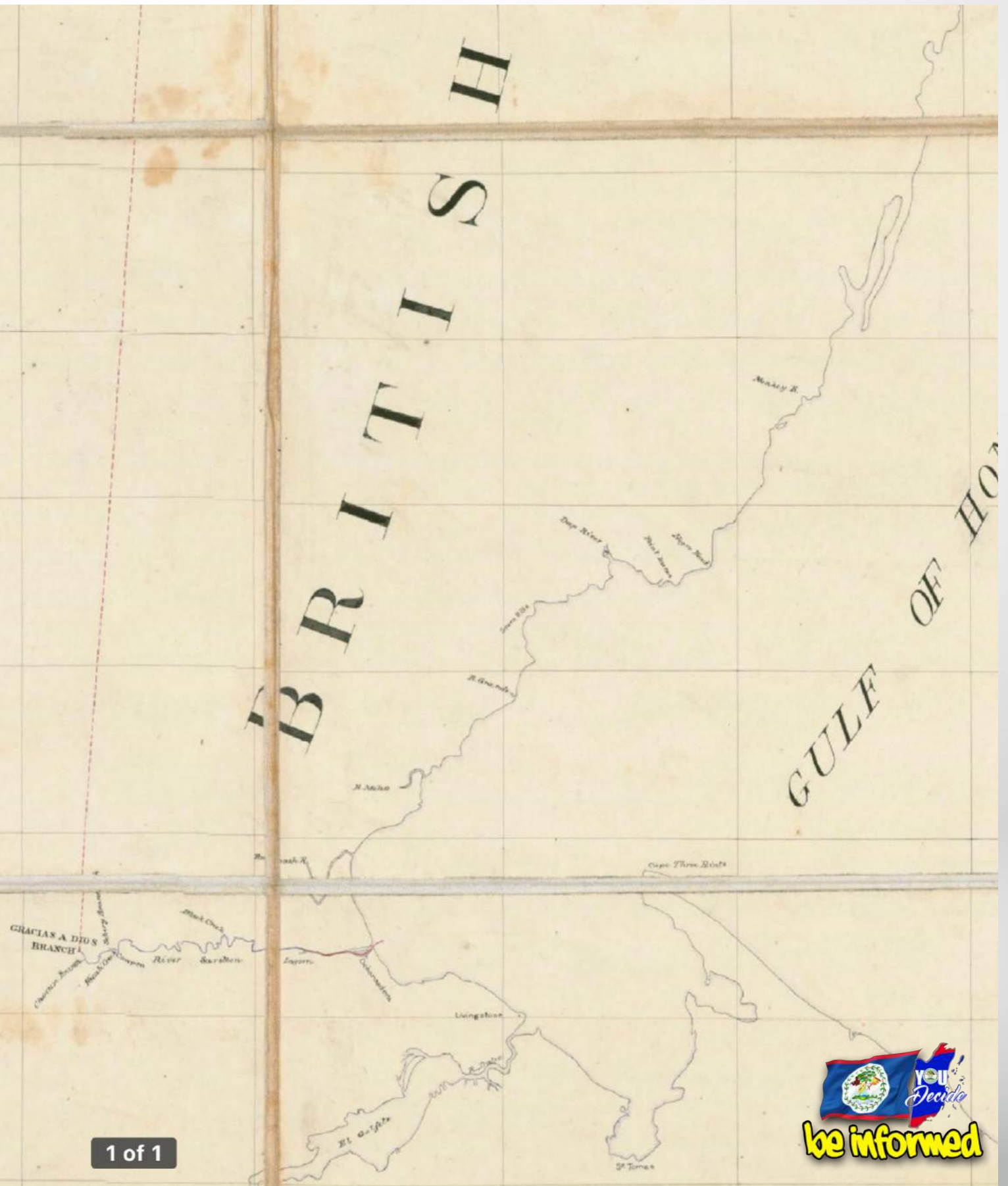


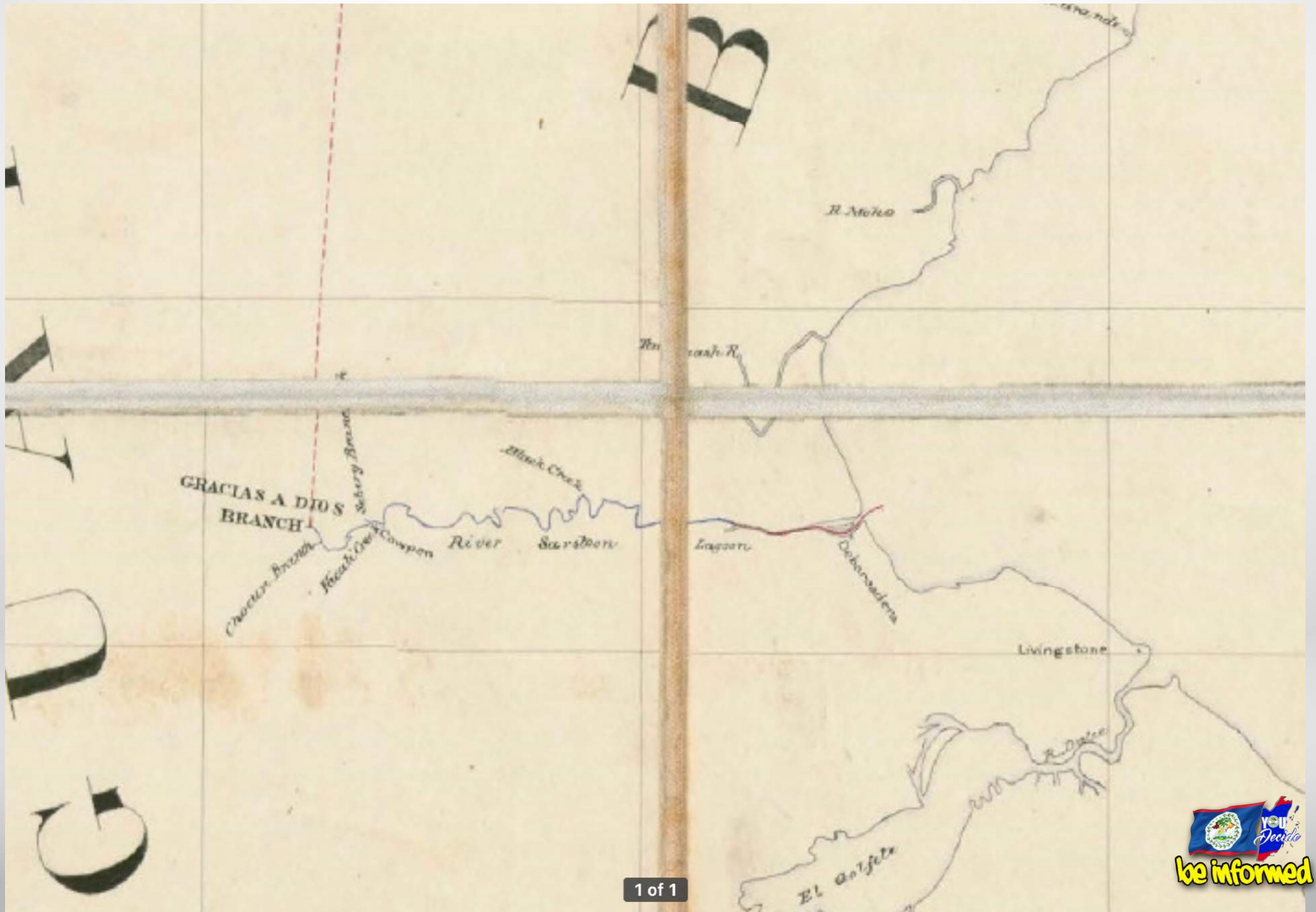
*7. Coronel y Comisariado  
por el Sr. Juan de Guat<sup>a</sup>  
p<sup>a</sup> la demarcacion de limites  
Belize, 13 Mayo 1781*

GUATEMALA

BRITISH

GULF OF HONDURAS





**The Convention Between Her Britannic Majesty and the Republic  
of Guatemala Relative to the Boundaries of British Honduras,  
signed on 30th April 1859:**

Article 6. It is further agreed that the channels in the waterline of boundary described in Article I of the present Convention shall be equally free and open to the vessels and boats of both Parties; and that any islands which may be found therein shall belong to that part on whose side of the main navigable channel they are situated.

## 1931 Exchange of Notes

### Report of the Joint Boundary Commission of British Honduras and Guatemala

“We, the commissioners appointed by the Governments of Guatemala and British Honduras to establish the permanent boundary marks at Garbutt’s Falls, Belize River and at Gracias á Dios Falls, Sarstoon River, met at Fallavon, Belize River, on the 7th day of May, 1929. On the 8th we proceeded to demolish the pile of stones erected at Garbutt’s Falls by the commissioners of 1861, and to erect in its place a concrete monument bearing on its top two copper plates marked “Guatemala” and “British Honduras” respectively. We completed this work on the 10th. From the 11th to the 15th we were engaged upon other work for our respective Governments, and on the 16th we left for Belize, where we arrived on the night of the 20th. Having made necessary preparations, we left Belize for Sarstoon River on the 24th and arrived at Gracias á Dios Falls on the 26th. There we erected a monument similar to that at Garbutt’s Falls, which we finished on the 29th. We then proceeded down the river to Sarstoon Bar, where we separated.

“Signed at Sarstoon River Bar this 29th day of May, 1929,

Fernando Cruz, Commissioner for the Government of Guatemala

Fred W. Brunton, Commissioner for the Government of British Honduras.”





## 1931 Exchange of Notes

**26 August 1931**

“I have the honour to acknowledge receipt of your note of the 25th instant.

“The Government of Guatemala agree to accept the concrete monuments erected at Garbutt’s Falls and the Rapids of Gracias á Dios which were set up by the commissioners of both Governments, Engineers Fernando Cruz and Frederick W. Brunton, on the 8 and the 26 May 1929, on the frontier between Guatemala and British Honduras according to the report drawn up at the Sarstoon River Bar by both delegates on the 29th day of the same month. A copy of the report duly certified is enclosed herewith.

“These monuments, thus determined, form part of the boundary line between British Honduras and the Republic of Guatemala.

“I avail, etc.

A. Skinner Klée”



005/010

2 cms PUBLIC RECORD OFFICE ins 1 1 2

Ref: FO 93 - 39/13

M. P. 8.8.68 / 29 (4) *1929*

We, the Commissioners appointed by the Governments of Guatemala and British Honduras to establish the permanent boundary marks at Garbutt's Falls, Belize River and at Gracias a' Dios Falls, Sarstoon River, met at Fallavon, Belize River, on the seventh day of May, 1929. On the eighth we proceeded to demolish the pile of stones erected at Garbutt's Falls by the Commissioners of 1861, and to erect in its place a concrete monument bearing on its top two copper plates marked "Guatemala" and "British Honduras" respectively. We completed this work on the tenth. From the eleventh to the fifteenth we were engaged upon other work for our respective Governments, and on the sixteenth we left for Belize, where we arrived on the night of the twentieth. Having made necessary preparations, we left Belize for Sarstoon River on the twenty-fourth and arrived at Gracias a' Dios Falls on the twenty-sixth. There we erected a monument similar to that at Garbutt's Falls, which we finished on the twenty-ninth. We then proceeded down the river to Sarstoon Bar, where we separated.

Signed at Sarstoon River Bar this twenty-ninth day of May, 1929.

*Fernando Arce*  
Commissioner for the Government of Guatemala.

*W. S. Brunkie*  
Commissioner for the Government of British Honduras.

ENCLOSURE No. 4 IN BRITISH HONDURAS  
DESPATCH No. 253 OF 4. 12. 30

ENCLOSURE No. 6 IN BRITISH HONDURAS  
DESPATCH No. 6 OF 9. 1. 33



SECRETARIA DE RELACIONES EXTERIORES  
REPUBLICA DE GUATEMALA

CLASIFICACION ..... .....
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SE USA REFERENCIA AL NUMERO Y CLASIFICACION DE ESTA NOTA

EL INFRASCRITO SUBSECRETARIO DE RELACIONES EXTERIORES  
CERTIFICA : que para el efecto ha tenido a la vista el acta  
que dice :

"Los suscritos comisionados y nombrados por Guatemala y Honduras Británica para colocar los mojones definitivos en Garbutt's Falls y en Gracias a Dios, en el río Sarstún nos reunimos en Fallabón, sobre el río Belice, el siete de mayo de 1929. El ocho procedimos a demoler la pirámide de piedra colocada en Garbutt's Falls por los Comisionados de 1861, y construimos en su lugar un monumento de concreto que lleva en la cara superior dos placas de cobre que dicen respectivamente : "Guatemala" y "British Honduras". Terminamos dicho trabajo el día diez. Del once al quince nos ocupamos de otros asuntos que nos habían encargado nuestros gobiernos y el diez y seis salimos para Belice, a donde llegamos en la noche del veinte. Después de hacer los preparativos del caso el veinticuatro salimos de Belice en dirección al río Sarstún y llegamos a los rápidos de Gracias a Dios el veintiseis. Allí se construyó un monumento semejante al de Garbutt's Falls, el cual quedó terminado el veintinueve. Después caminamos río abajo hasta la Barra del Sarstún, en donde nos separamos.- Firmamos la presente en la Barra del Sarstún el 29 de mayo de 1929.- (f) Fernando Cruz. Com. por el Gob. de Guatemala.- (f) Fred. W. Bruntos. Com. por el Gob. de Honduras British.

Y para agregarla como anexo a la nota número 11443, de esta fecha, extendiendo, sello y firma la presente certificación, confrontada con su original, en la ciudad de Guatemala, a los veintiseis días del mes de agosto de mil novecientos treinta y uno.

*Fernando Cruz*



VISTO BUENO.

*Guillermo Glee*



SECRETARIA DE RELACIONES EXTERIORES  
REPUBLICA DE GUATEMALA  
SECCIÓN DIPLOMÁTICA  
Nº 1145  
224.5(43-0)(04)

Guatemala, 26 de agosto de 1931.

Señor Ministro :

Tengo el honor de acusar recibo de la nota de  
Vuestra Excelencia, fechada el 25 del mes en curso.

El Gobierno de Guatemala está de acuerdo en  
reconocer los mojones de concreto erigidos en las caídas  
de Garbutt y en los rápidos de Gracias a Dios, que  
fijaron los comisionados de ambos Gobiernos, Señores  
Ingenieros Fernando Cruz y Frederick W. Burton, el 8 y  
26 de mayo del año de 1929, entre la frontera de  
Guatemala y Belice, según consta en el acta levantada  
en la Barra del Río Sarstoon por ambos delegados, el  
día 29 del mismo mes.- Una copia del Acta, debidamente  
certificada, se acompaña como anexo.-

Estos Mojones, así terminados, forman parte  
de la línea fronteriza entre Belice y la República de  
Guatemala.

Aprovecho esta oportunidad para reiterar a  
Vuestra Excelencia, las seguridades de mi más alta  
consideración,

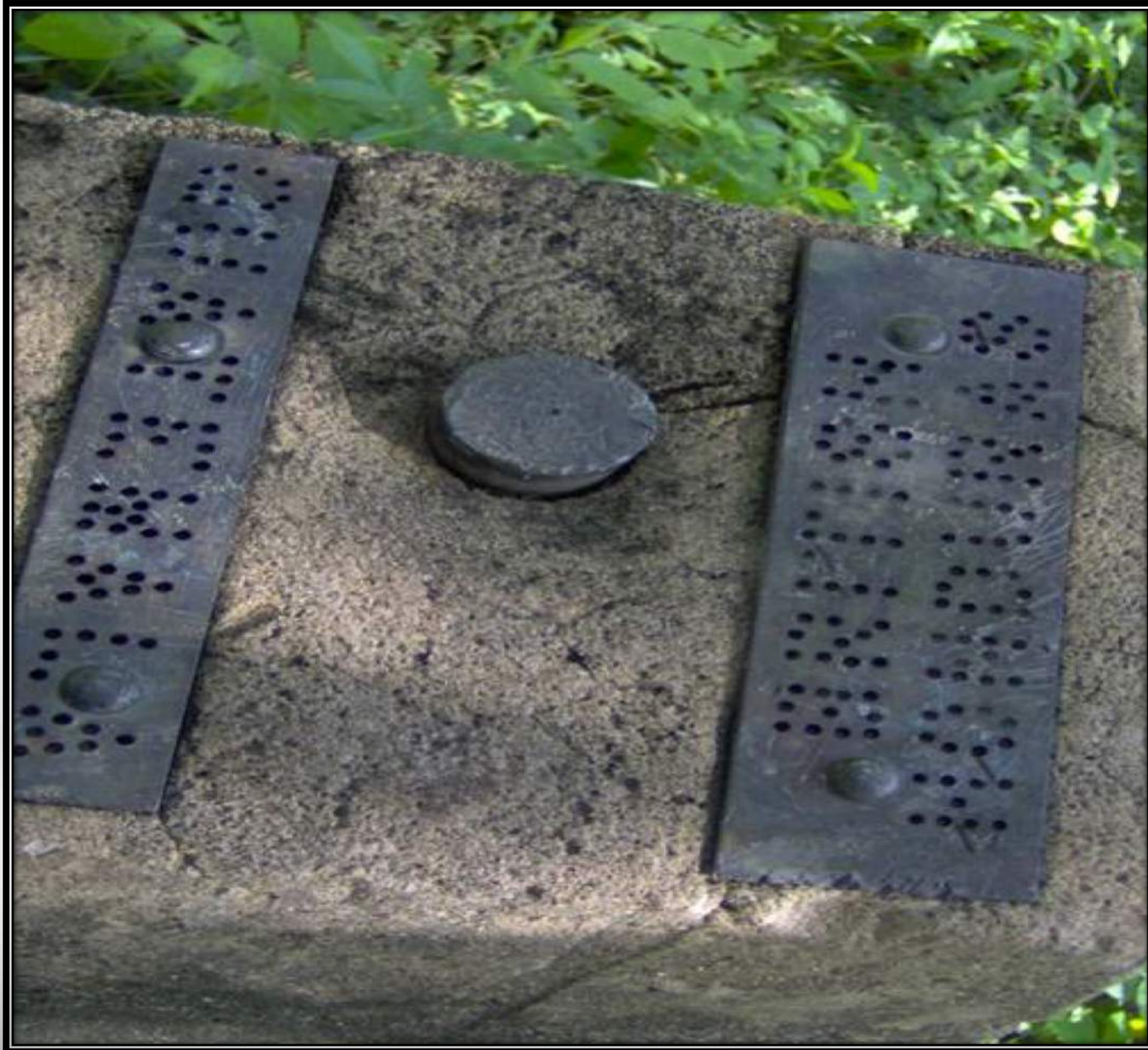
Excelentísimo Señor H. A. Grant Watson,  
Enviado Extraordinario y Ministro Plenipotenciario de la  
Gran Bretaña,

Presente.

scl/-







## VIENNA CONVENTION ON THE LAW OF TREATIES

### PART III. OBSERVANCE, APPLICATION AND INTERPRETATION OF TREATIES, SECTION I. OBSERVANCE OF TREATIES

#### **Article 26. "*PACTA SUNT SERVANDA*":**

Every treaty in force is binding upon the parties to it and must be performed by them in good faith.





# **VIENNA CONVENTION ON THE LAW OF TREATIES**

## **PART III. OBSERVANCE, APPLICATION AND INTERPRETATION OF TREATIES, SECTION I. OBSERVANCE OF TREATIES**

### **Article 27. INTERNAL LAW AND OBSERVANCE OF TREATIES**

A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty



## VIENNA CONVENTION ON THE LAW OF TREATIES

### **PART III. OBSERVANCE, APPLICATION AND INTERPRETATION OF TREATIES, SECTION 3. INTERPRETATION OF TREATIES**

#### **Article 31, GENERAL RULE OF INTERPRETATION**

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

## VIENNA CONVENTION ON THE LAW OF TREATIES

### **PART V. INVALIDITY, TERMINATION AND SUSPENSION OF THE OPERATION OF TREATIES**

#### **Article 43. OBLIGATIONS IMPOSED BY INTERNATIONAL LAW INDEPENDENTLY OF A TREATY**

The invalidity, termination or denunciation of a treaty, the withdrawal of a party from it, or the suspension of its operation, as a result of the application of the present Convention or of the provisions of the treaty, shall not in any way impair the duty of any State to fulfil any obligation embodied in the treaty to which it would be subject under international law independently of the treaty.

## **VIENNA CONVENTION ON Succession of States in respect of Treaties, 1978**

### **Article 11 Boundary regimes**

A succession of States does not as such affect: (a) a boundary established by a treaty;

# VII. What does the International Court Say

### **ICJ, Libya/Chad case, 3 Feb. 1994:**

“72. . . The establishment of this boundary is a fact which, from the outset, has had a legal life of its own, independently of the fate of the 1955 Treaty. Once agreed, the boundary stands, for any other approach would vitiate the fundamental principle of the stability of boundaries, the importance of which has been repeatedly emphasized by the Court (Temple of Preah Vihear, ICJ Reports 1962, p.34; Aegean Sea Continental Shelf, ICJ Reports 1978, p.36).

“73. A boundary established by treaty thus achieves a permanence which the treaty itself does not necessarily enjoy. The treaty can cease to be in force without in any way affecting the continuance of the boundary. In this instance the Parties have not exercised their option to terminate the Treaty, but whether or not the option be exercised, the boundary remains. ... When a boundary has been the subject of agreement, the continued existence of that boundary is not dependent upon the continuing life of the treaty under which the boundary is agreed.”

## **ICJ, Libya/Chad case, 3 Feb. 1994:**

75. It will be evident from the preceding discussion that the dispute before the Court, whether described as a territorial dispute or a boundary dispute, is conclusively determined by a Treaty to which Libya is an original party and Chad a party in succession to France. The Court's conclusion that a Treaty contains an agreed boundary renders it unnecessary to consider the history of the "Borderlands" claimed by Libya on the basis of title inherited from the indigenous people, the Senoussi Order, the Ottoman Empire and Italy. Moreover, in this case, it is Libya, an original party to the Treaty, rather than a successor State, that contests its resolution of the territorial or boundary question. Hence there is no need for the Court to explore matters which have been discussed at length before it such as the principle of *uti possidetis*"

## **Arbitral Tribunal in the Eritrea/Yemen case, 1998:**

“But an historic title has also another and different meaning in international law as a title that has been created, or consolidated, by a process of prescription, or acquiescence, or by possession so long continued as to have become accepted by law as a title. These titles too are historic in the sense that continuity and the lapse of a period of time is of the essence.”

“The modern international law of the acquisition (or attribution) of territory generally requires that there be an intentional display of power and authority over the territory, by the exercise of jurisdiction and State functions, on a continuous and peaceful basis. The latter two criteria are tempered to suit the nature of the territory and the size of its population, if any.”





**ICJ, Case Concerning Sovereignty over Pulau Ligitan and Pulau Sipidan (Indonesia/Malaysia) 2001:**

"Modern international law does not recognize the survival of a right of sovereignty based solely on historic title; not, in any event, after an exercise of self-determination conducted in accordance with the requisites of international law, the bona fides of which has received international recognition by the political organs of the United Nations. Against this, historic claims and feudal pre-colonial titles are mere relics of another international legal era, one that ended with the setting of the sun on the age of colonial imperium."



## ICJ Case, Nigeria-Cameroon, Judgement of 10 October 2002

224. The Court considers that the foregoing shows that Nigeria could not have been acting *a titre de souverain* before the late 1970s, as it did not consider itself to have title over Bakassi; and in the ensuing period the evidence does not indicate an acquiescence by Cameroon in the abandonment of its title in favour of Nigeria.

For all of these reasons the Court is also unable to accept the second and third bases of title to Bakassi advanced by Nigeria.

225. The Court accordingly concludes that the boundary between Cameroon and Nigeria in Bakassi is delimited by Articles XVIII to XX of the Anglo-German Agreement of 11 March 1913, and that sovereignty over the peninsula lies with Cameroon.

# VIII. WHAT DOES GUATEMALA KNOW

## **Extract from Minister Aycinena's Address to the Chamber of Deputies, 4th January 1860**

**“...On examining this situation, we could not fail to recognize that the right we had constantly alleged of being presumptive heirs of Spain's sovereignty, was considerably weakened due to our lack of means to take possession of these territories that had been deserted and abandoned by Spain herself and subsequently by us . . . It was recognized that we could not argue against the sovereignty already being exercised with full Spanish acquiescence in 1821 when we became independent . . . the truth was that since we had never taken possession of these territories, nor had we recognized them, nor maintained agents to represent us in them, it would make it impossible for us to determine or fix which part was occupied during Spanish rule and which part was occupied thereafter. This loomed as an insurmountable obstacle against materializing our claim.”**

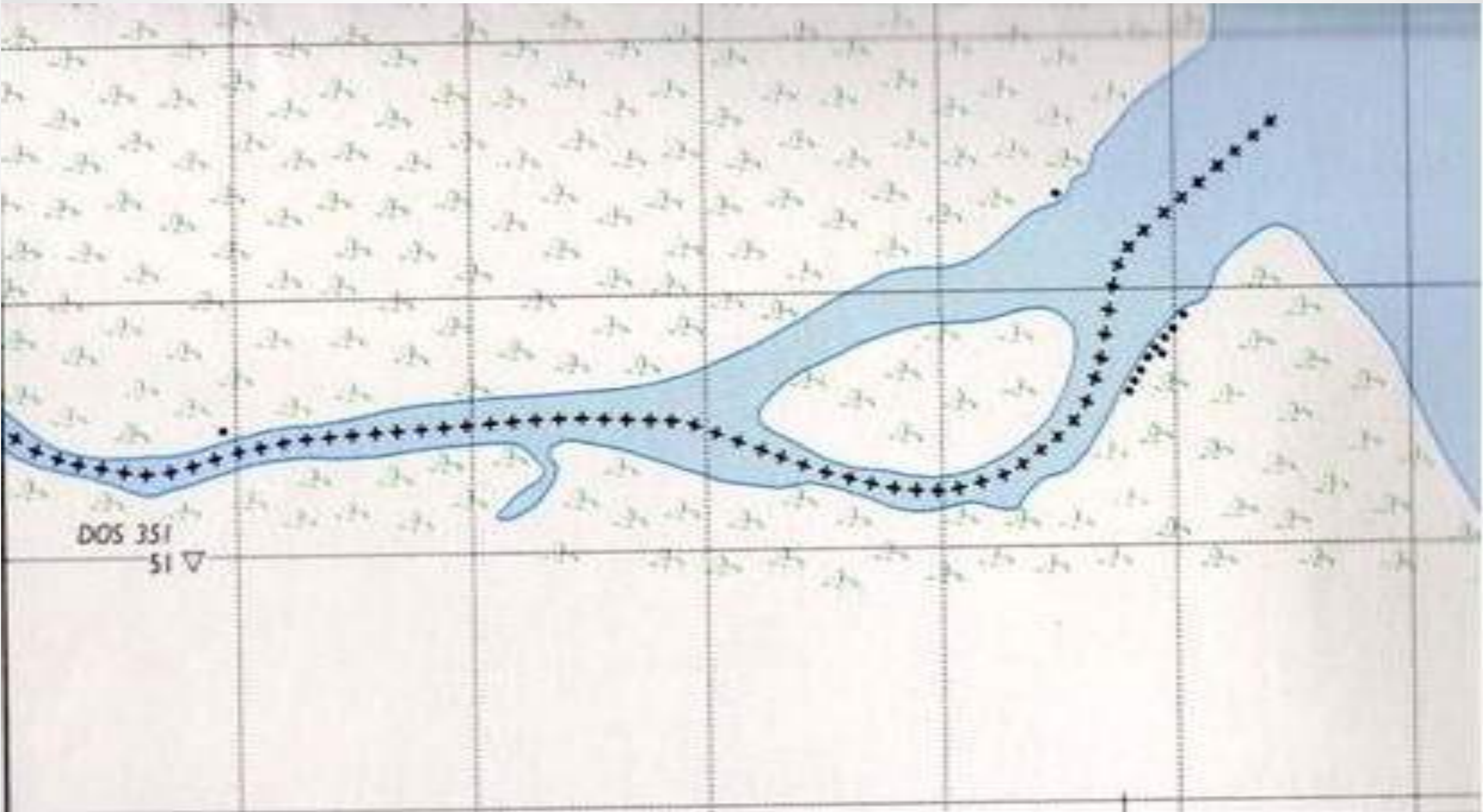


December 9th, 2008

Reporter:  
Why not just drop the claim?

# IX. WHY NOW

# SARSTOON ISLAND













# Gold Panning



# Illegal Hunting



# Illegal Hunting



# XATEROS



## Illegal Logging

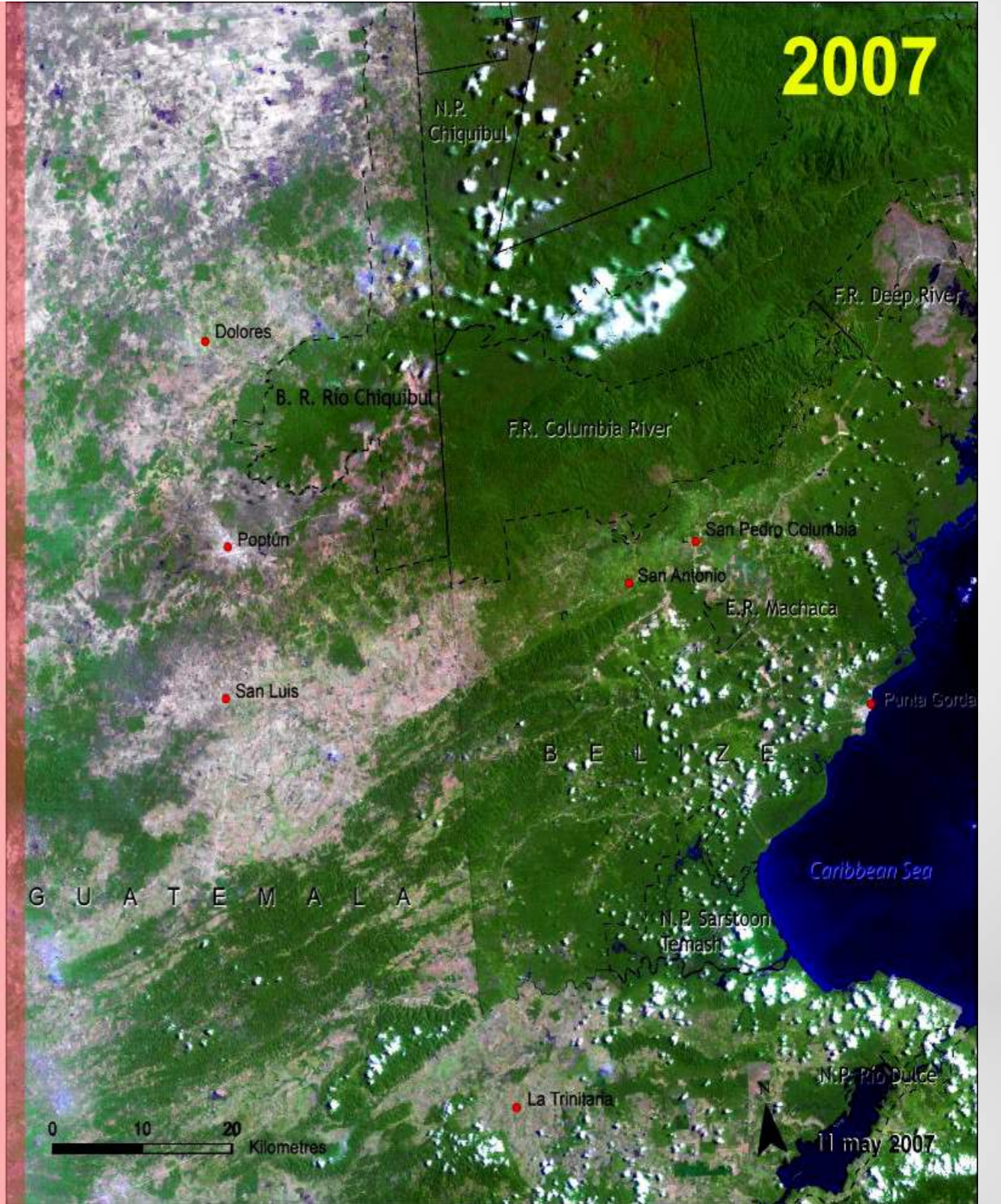
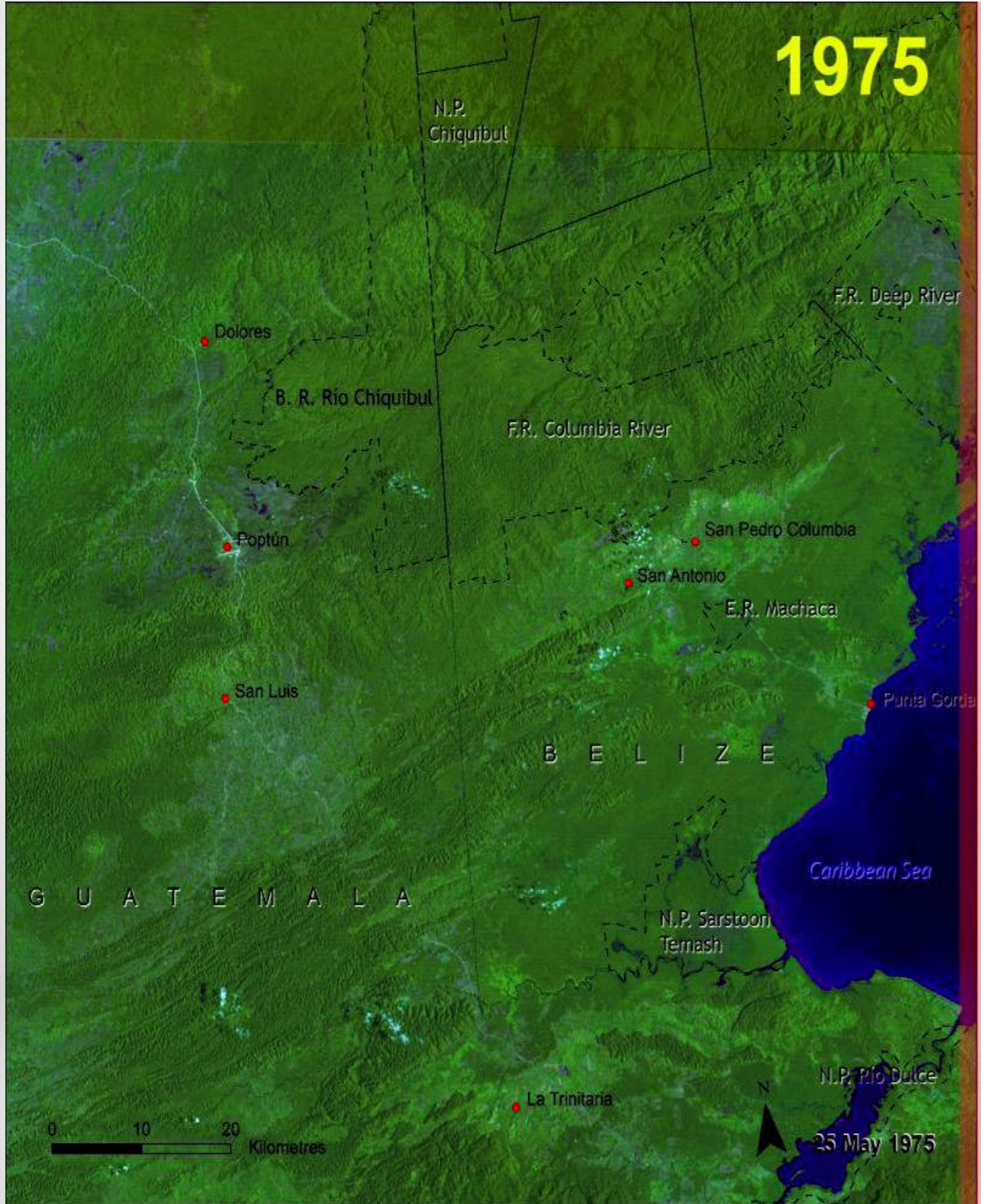


FILE PHOTO  
Courtesy FCD

**Taking stock of illegal logging in Chiquibul**







2004.01.01



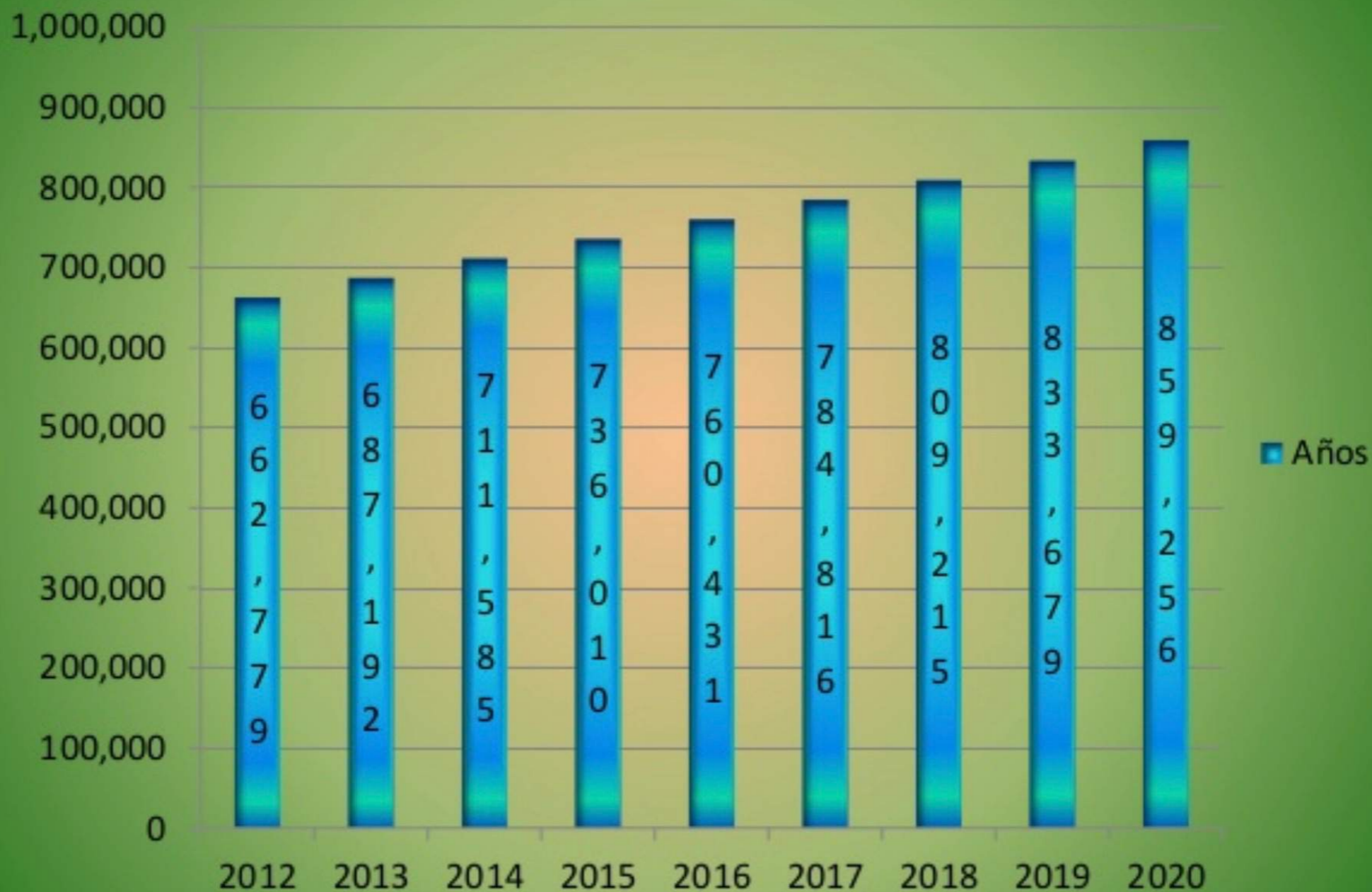
Google

Map data ©2003 MapLab, Tele Atlas, Imagery ©2003 NASA

# CENSOS OFICIALES EN PETÉN

AÑO	HOMBRES	MUJERES	TOTAL
1964	--	--	26,277
1973	34,096	30,010	64,114
1981	68,803	63,124	131,927
1994	116,464	108,420	224,884
2002	187,228	179,507	366,735

## PROYECCIONES DE POBLACIÓN DE PETÉN.



# **X: Examples of Advisory Opinions**

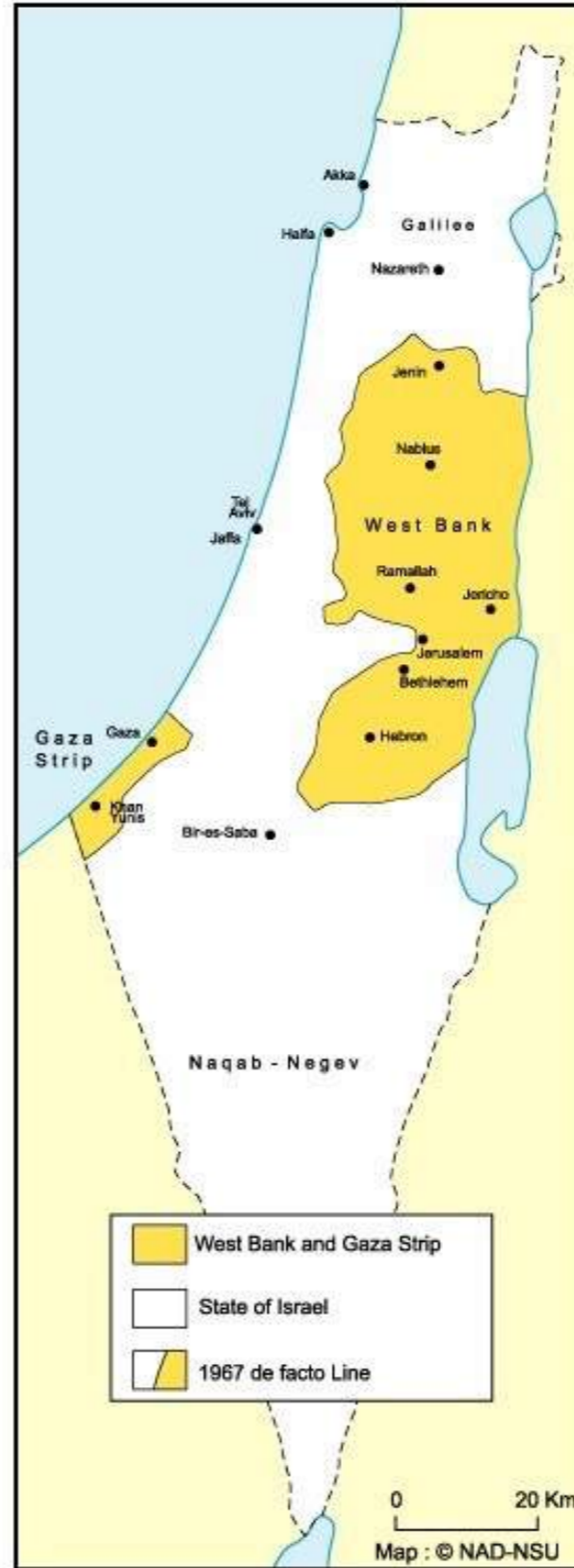
**Pre-1948**  
100% of Historic Palestine



**1947 UN Partition Plan**  
48% of Historic Palestine



**1967 De Facto Line**  
22% of Historic Palestine

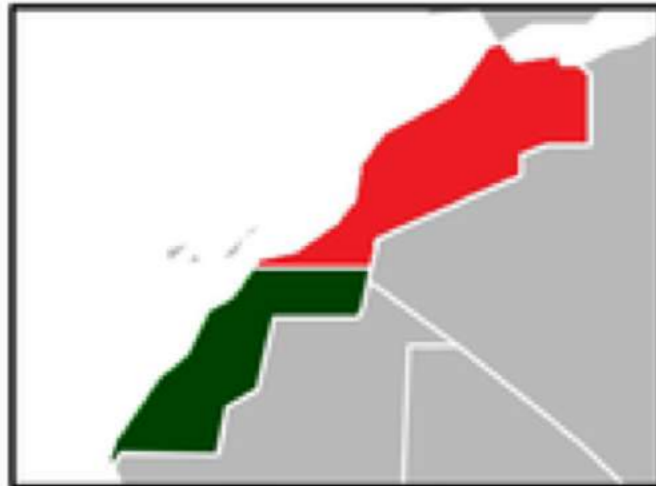


**Settlements, Wall, and Jordan Valley**  
12% of Historic Palestine

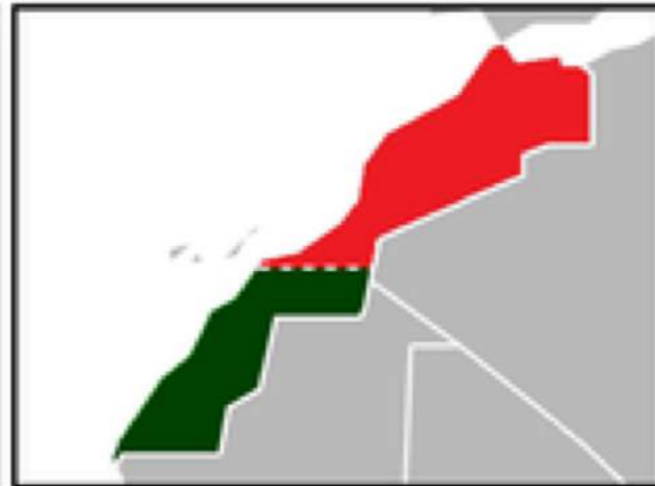


These maps are for illustrative purposes only. Boundary representations are not authoritative.

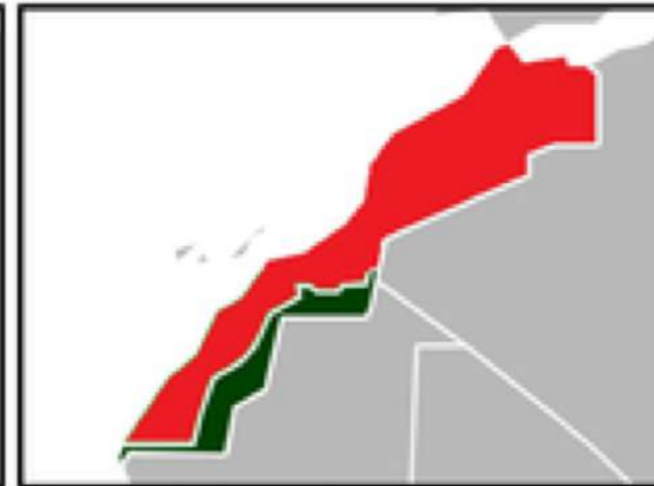
## 4 WAYS TO SHOW WESTERN SAHARA



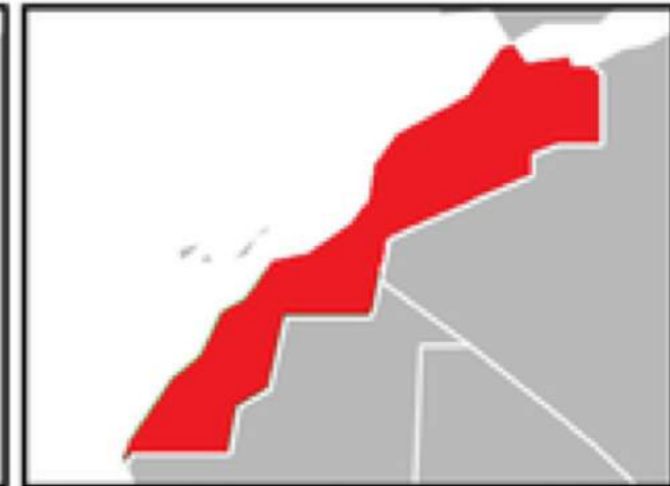
Morocco and Western Sahara shown separately



Western Sahara shown as disputed territory

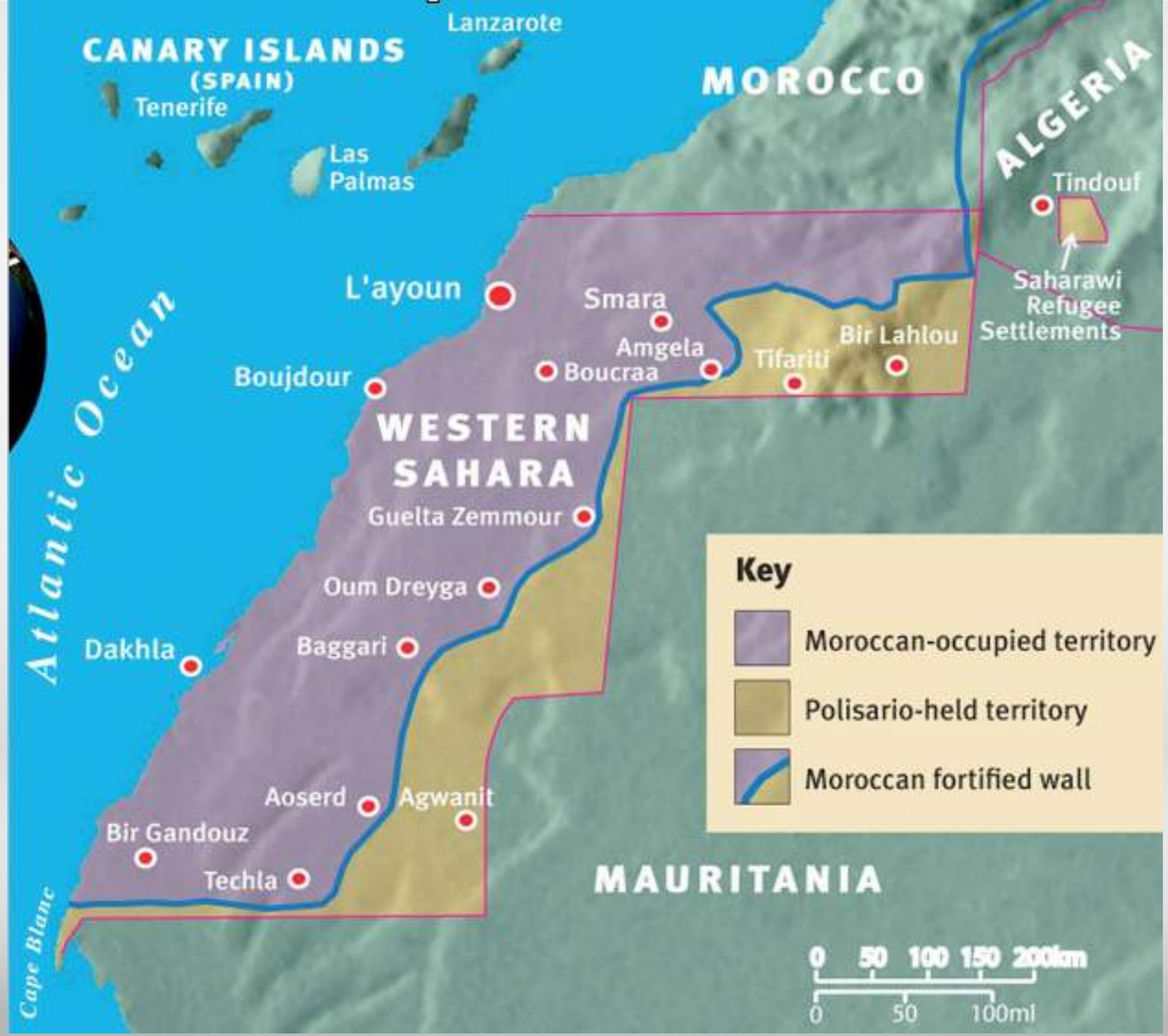


Western Sahara shown separately, but only the zones controlled by SADR.  
The rest of the territory shown as part of Morocco.



Western Sahara shown as part of Morocco







**MOROCCO**

**WESTERN SAHARA**



# ICJ



# be informed



MFA Referendum Belize

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**THANK YOU**