

**SPECIAL AGREEMENT BETWEEN
BELIZE AND GUATEMALA TO SUBMIT GUATEMALA'S
TERRITORIAL, INSULAR AND MARITIME CLAIM TO THE
INTERNATIONAL COURT OF JUSTICE**

Signed in Washington, D.C. 8 December 2008

Alexis Rosado, Workshop for Facilitators, 6 Sept. 2018





Special Agreement

- The Government of Belize and the Government of the Republic of Guatemala (hereinafter "the Parties");
- *Wishing* to finally put an end to any and all differences regarding their respective land and insular territories and their maritime areas;
- *Bearing in mind* the recommendation of the Secretary General of the Organization of American States of November 19, 2007, based on article 5 of the "Agreement on a Framework for Negotiations and Confidence-Building Measures between Belize and Guatemala" of September 7, 2005, that the Parties submit the dispute to the International Court of Justice;
- Whereas said recommendation has been formally accepted by both Parties, subject to the approval of their citizens in national referenda;

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AGREEMENT ON A FRAMEWORK FOR NEGOTIATIONS AND CONFIDENCE BUILDING MEASURES BETWEEN BELIZE AND GUATEMALA, September 7, 2005

B. FRAMEWORK FOR NEGOTIATIONS:

1. Definition of the process of negotiations:

Belize and Guatemala agree, under the auspices of the Secretary General of the OAS, to commence a new round of negotiations, designed to reach an equitable solution of the Territorial Differendum between the countries **that is general, definitive, honourable and permanent on the land, insular and maritime issues**. To this end, the Parties agree that during this new round of negotiations, and with the assistance of the OAS, they will proceed to:

- a. Identify those issues of fact and law that shall be the subject of negotiation to resolve the Territorial Differendum;
- b. Identify the respective positions of the Parties on the issues already so identified;
- c. Seek to resolve differences, where possible, on the differing positions on the issues so identified;
- d. Make efforts to arrive at a closer understanding so that the Parties reach an equitable solution that includes a general, definitive, honourable and permanent solution of the Territorial Differendum on the land, insular and maritime issues, and
- e. Identify those issues of fact and law upon which the Parties are unable to resolve differences by way of negotiations.

AGREEMENT ON A FRAMEWORK FOR NEGOTIATIONS AND CONFIDENCE BUILDING MEASURES BETWEEN BELIZE AND GUATEMALA, September 7, 2005

2. Purpose of the Negotiation Process:

The Process of Negotiation has as its **objective the reaching of an agreement to solve all the issues pertaining to the Territorial Differendum**, that assures its approval in both countries within the constitutional and legal framework of each and that allows for the effective implementation of the said Agreement.

It also has as an objective the treatment of economic, commercial, tourism, cooperation, integration and other transitory measures of good neighbourliness.

3. Meeting Venues and Timetable:

To achieve the objectives of the present Agreement, the Parties accord to meet regularly in Washington, D.C., Belize and Guatemala or in other places at intervals of no more than 45 days.

AGREEMENT ON A FRAMEWORK FOR NEGOTIATIONS AND CONFIDENCE BUILDING MEASURES BETWEEN BELIZE AND GUATEMALA, September 7, 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.

Special Agreement

- Whereas said recommendation has been formally accepted by both Parties, **subject to the approval of their citizens in national referenda;**
- Have agreed as follows:

Special Agreement

Article 1

Pursuant to Article 36(1) of the Statute of the International Court of Justice (hereinafter, the "Court"), the Parties agree to submit to the Court the dispute described in Article 2 of this Special Agreement.

Statute of the ICJ

Article 36

- 1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.**
2. The states parties to the present Statute may at any time declare that they recognize as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:
 - a. the interpretation of a treaty;
 - b. any question of international law;
 - c. the existence of any fact which, if established, would constitute a breach of an international obligation;
 - d. the nature or extent of the reparation to be made for the breach of an international obligation.
3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain states, or for a certain time.
4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.
5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms.
6. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

Special Agreement

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Special Agreement

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.**

Special Agreement

Article 2

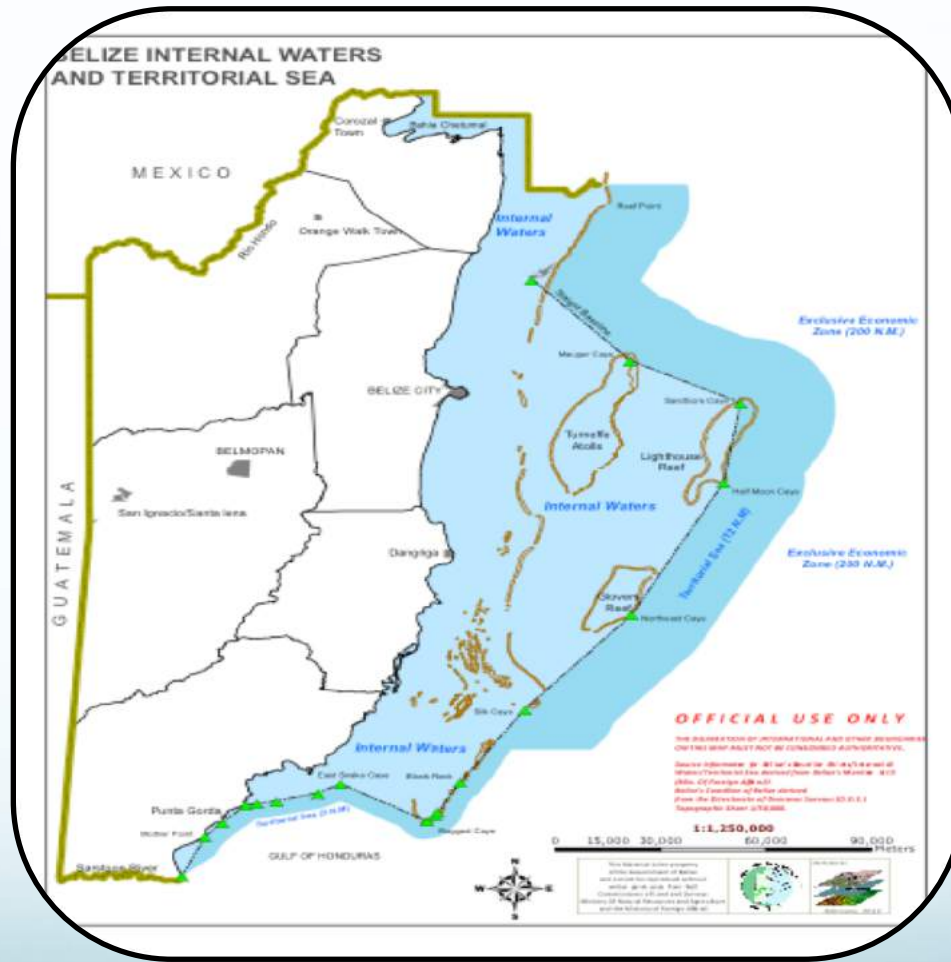
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THE MARITIME AREAS AND BORDER



Special Agreement

Article 3

1. The procedure shall consist of two stages: one for presentation of written pleadings and another for oral hearings.

Special Agreement

Article 3

2. The Parties request that the Court authorize the following written procedure:

- (a) The Government of Guatemala shall submit a Memorial within twelve months of the date on which this Special Agreement was notified to the Registrar of the Court;
- (b) The Government of Belize shall submit a Counter-Memorial within twelve months of the date on which it was notified of the submission and contents of the Memorial presented by Guatemala;
- (c) The Government of Guatemala may submit a Reply within six months of the date on which it was notified of the submission and contents of the Counter Memorial;
- (d) The Government of Belize may submit its Rejoinder within six months of the date on which it was notified of the submission and contents of Guatemala's Reply;
- (e) The Court may, ex officio or if both Parties so agree, prescribe or authorize the presentation of additional pleadings.

Protocol to the Special Agreement

Signed in 25th May 2015

- **Protocol to the Special Agreement, Article 3.2:** "For the purpose of implementing Article 3 sub paragraph 2.a of the Special Agreement, it is understood that the timeframe for the presentation of the Memorial shall begin to run from the date when both Parties have notified the Registrar of the International Court of Justice of their approval based on the results of the referendum to submit the dispute to its jurisdiction."

Special Agreement

Article 3

- 3.** The Court may extend these deadlines at the request of either of the Parties.
- 4.** The foregoing provisions are without prejudice to any question as to the burden of proof which might arise.
- 5.** All other procedural matters shall be governed by the provisions of the Statute and Rules of the Court.

Special Agreement

Article 4

The Parties may submit their cases in the English or Spanish languages, provided that any pleadings or documents submitted in Spanish shall be accompanied by a translation into English.

Special Agreement

Article 5

The Parties shall accept the decision of the Court as final and binding, and undertake to comply with and implement it in full and in good faith. In particular, the Parties agree that, within three months of the date of the Judgment of the Court, they will agree on the composition and terms of reference of a Bi-national Commission to carry out the demarcation of their boundaries in accordance with the decision of the Court. If such agreement is not reached within three months, either Party may request the Secretary General of the Organization of American States to appoint the members of the Bi-national Commission and to prescribe its Terms of Reference, after due consultation with the Parties.

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Special Agreement

Article 6

This Special Agreement shall enter into force upon the exchange of instruments of ratification, and remain in force unless and until terminated by agreement of the Parties.

Special Agreement

Article 7

- 1.** The Parties commit themselves to undertake the procedures set forth in their respective national systems to submit to referenda the decision to bring to the International Court of Justice the final settlement of the territorial dispute.

Special Agreement

Article 7

2. The referenda shall take place simultaneously in both countries on a date to be agreed between the Parties.

(Protocol to the Special Agreement, Article 3.1: “To amend Article 7.2 of the Special Agreement, which shall now read: “The referendum will be held simultaneously or separately on the dates most convenient to the Parties”.)

Special Agreement

Article 7

3. The question to be submitted to referenda shall be:

"Do you agree that any legal claim of Guatemala against Belize relating to land and insular territories and to any maritime areas pertaining to these territories should be submitted to the International Court of Justice for final settlement and that it determine finally the boundaries of the respective territories and areas of the Parties?"

Special Agreement

Article 8: This Special Agreement shall be notified to the Registrar of the Court jointly or by either of the Parties within a month after referenda in both countries have approved submission of the dispute to the Court.

(Protocol to the Special Agreement, Article 3.2: “To amend Article 8 of the Special Agreement, which shall now read, “The Registrar of the Court shall be notified of this Special Agreement jointly or by either of the Parties within a month after the referendum in each country has been approved, pursuant to Article 7.2, submission of the dispute to the International Court of Justice”.)

Special Agreement

Article 9

This Special Agreement shall be registered with the Secretariat of the United Nations pursuant to Article 102 of the United Nations Charter, jointly or by either of the Parties. At the same time it will be brought to the attention of the Organization of American States.

In witness whereof the undersigned have signed the present Special Agreement, in the English and Spanish languages, both versions being equally authentic.

Special Agreement

Done in triplicate at the Headquarters of the Organization of American States in Washington, D.C. on the 8 day of December 2008.

Signed:

The Honorable Wilfred Elrington, Minister of Foreign Affairs and Foreign Trade and Attorney General

The Honorable Haroldo Rodas Melgar, Minister of Foreign Affairs

The Honorable Jose Miguel Insulza, Secretary General of the Organization of American States (Witness of Honor)

Protocol to the Special Agreement

Signed in 25th May 2015

- **Convinced** that international law provides the basis for peaceful coexistence and for the pacific settlement of disputes between States;
- **Noting** that the Parties reached the conclusion in 2007 that all pacific means for the settlement of disputes between Belize and Guatemala have been exhausted, except by the juridical means;
- **Convinced** that all efforts must be made now to resolve the differences that still subsist so that they are not passed on to future generations;

Protocol to the Special Agreement Signed in 25th May 2015

The Parties now Agree as Follows:

- **Article 1:** To ensure, through public information efforts that their respective citizens are fully informed of the differences between the two Parties in respect of Guatemala's insular and maritime claim and of the need to resolve them finally and definitively in the International Court of Justice.

Protocol to the Special Agreement

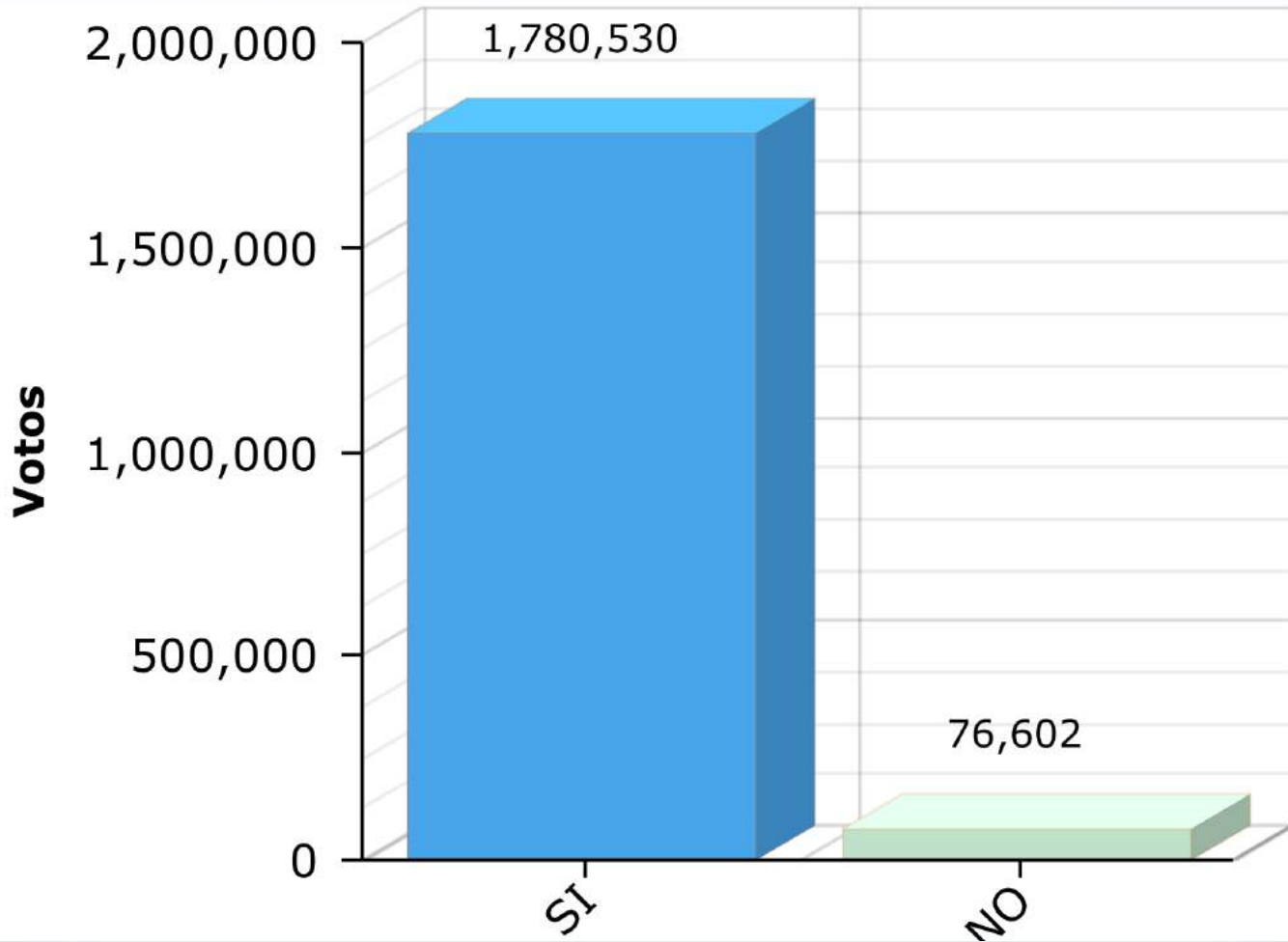
Signed in 25th May 2015

- **Article 2:** To take all suitable actions and measures within their respective internal normative requirements to submit Guatemala's territorial, insular and maritime claim to the International Court of Justice for the latter to hear the case, and decide and resolve it in a definitive manner.

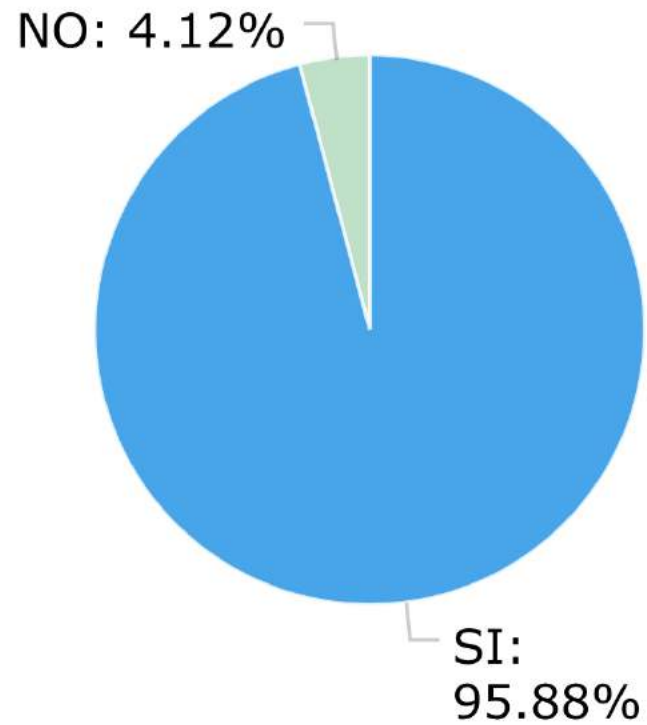
REFERENDUM IN GUATEMALA



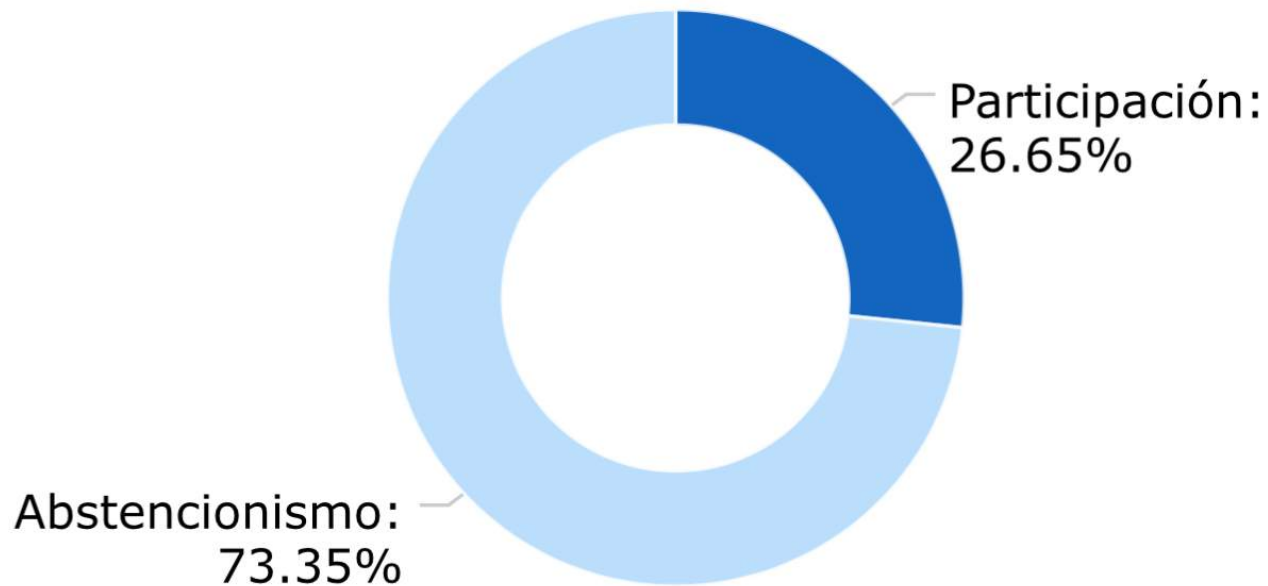
MAP OF GUATEMALA



NUMBER OF VOTES YES OR NO



PERCENTAGE OF VOTES FOR YES OR NOT



Participación:	2,004,729
Abstencionismo:	5,518,191

PARTICIPATION RATE

REFERENDUM PARTICIPATION IN GUATEMALA

REFERENDUM YEAR	PARTICIPATION RATE
1994	15.9%
1999	18.6%
2018	26.6%

Elections of Presidents of Guatemala

PRESIDENTS	VOTES RECEIVED
Jimmy Morales, 2015	2,393,269
Otto Perez Molina, 2011	2,300,979
Alvaro Colom, 2007	1,449,153
Oscar Berger, 2003	1,046,868
Alfonso Portillo, 1999	1,184,932
Alvaro Arzu, 1996	671,354

NUMBER OF VOTES RECEIVED

Thank YOU



RESORT TO THE UN SECURITY COUNCIL

CHARTER OF THE UNITED NATIONS, Chapter VI, Pacific Settlement of Disputes

Chapter VI

“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.

CHARTER OF THE UNITED NATIONS, 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

CHARTER OF THE UNITED NATIONS, Chapter VI, Pacific Settlement of Disputes

Art. 37. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.

If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

CHARTER OF THE UNITED NATIONS, Chapter XIV International Court of Justice

Article 94(1): Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

CHARTER OF THE UNITED NATIONS, Chapter XIV International Court of Justice

Article 94(2)

If any party to a case fails to perform the obligations incumbent upon it under the judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems it necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

GENERAL ASSEMBLY OF THE

UN Resolution 35/20. Question of Belize

57th Plenary Meeting, 11 November 1980

Welcoming the fact that, in accordance with General Assembly Resolution 34/48, negotiations have recently taken place between the Government of Guatemala and the Government of the United Kingdom in close consultation with the Government of Belize and that the respective positions of both sides were clarified with a view to continuing the process of negotiations,

Noting with regret, however, that despite their best efforts and good faith it has not yet proved possible for the parties concerned to agree upon a settlement of their differences,

Recognizing the special responsibility of the United Kingdom, as the administering Power, to take immediate steps to enable the people of Belize to exercise freely and without fear their right to the secure and full independence of all their territory,

UN Resolution 35/20

1. *Reaffirms* the inalienable right of the people of Belize to self-determination, independence and territorial integrity, and urges all States to render all practical assistance necessary for the secure and early exercise of that right;
2. *Declares* that Belize should become an independent State before the conclusion of the thirty-sixth session of the General Assembly;
3. *Calls upon* the United Kingdom of Great Britain and Northern Ireland to convene a constitutional conference to prepare for the independence of Belize.
4. *Calls upon* the parties concerned to respect the principle that the threat or use of force should not be applied to prevent the people of Belize from exercising their inalienable right to self-determination, independence and territorial integrity;
5. *Urges* the Government of the United Kingdom acting in close consultation with the Government of Belize, and the Government of Guatemala to continue their efforts to reach agreement without prejudice to the exercise by the people of Belize of their inalienable rights and in furtherance of the peace and stability of the region and, in this connexion, to consult as appropriate with other specially interested States in the region;
9. *Calls upon* Guatemala and independent Belize to work out arrangements for post-independence co-operation on matters of mutual concern;

UN Res. No. 3232, Review of the Role of the International Court of Justice, 12 Nov. 1974. UN Doc. A/RES/3232(XXIX)

Para. 1 states:

“The General Assembly ... (1) *Recognizes* the desirability that States study the possibility of accepting, with as few reservations as possible, the compulsory jurisdiction of the International Court of Justice in accordance with Article 36 of its Statute;...”

UN Res. No. 3232, Review of the Role of the International Court of Justice, 12 Nov. 1974. UN Doc. A/RES/3232(XXIX)

Para. 2 states:

“Draws the attention of States to the advantage of inserting in treaties, in cases considered possible and appropriate, clauses providing for the submission to the International Court of Justice disputes which may arise from the interpretation or application of such treaties...”



**What has the UN Secretary
General said about the ICJ?**

In Larger Freedom: Towards Development, Security and Human Rights For All, Report of the UN Secretary General, para. 139, UN Doc. A/59/2005 (21 Mar. 2005):

“The International Court of Justice lies at the centre of the international system for adjudicating disputes among states. In recent years, the Court’s docket has grown significantly and a number of disputes have been settled...I urge those States that have not yet done so to consider recognizing the compulsory jurisdiction of the of the Court - generally if possible or, failing that, at least in specific situations.”

UN Secretary General's Statement at the 60th Anniversary of the World Court, SG/SM/10414-ICJ/621, 12 APRIL 2006

“For sixty years, the International Court of Justice has adjudicated disputes between sovereign States... As a result, international law has been clarified, and world order strengthened. Sometimes, contentions here have calmed conflicts elsewhere....These rules -- international law -- play an increasing role in our global society. They regulate relations between States. They provide frameworks for cooperation and coexistence. They encourage multilateral action to address multifaceted problems.

Like this Court, these rules reflect the reality, but also the promise, of our international order. They show the world not only as it is, but as it ought to be.

That is why, at last year's World Summit, world leaders unanimously recognized “the important role of the international Court of Justice ... in adjudicating disputes among States”, and acknowledged “the value of [the Court's] work”.

This praise reflects the fact that the Court is thriving. Today, more than ever before, UN Member States are turning to it, not just to resolve land and maritime boundary disputes, or to complain of treaty violations, but also on matters of genocide and the use of force. As a result, the Court has never been more in demand. It has also never been more productive and efficient.”



PRESS RELEASE

SECRETARY-GENERAL > STATEMENTS AND
MESSAGES

SG/SM/14659-CA/54
20 NOVEMBER 2012

Secretary-General Lauds Progress by Belize, Guatemala to Resolve Dispute

The Secretary-General salutes the progress made by Belize and Guatemala under the auspices of the Organization of American States to resolve their longstanding territorial dispute. He welcomes their decision to hold simultaneous referendums on 6 October 2013 to consult their populations on referring the dispute to the International Court of Justice. Belize and Guatemala have requested financial support from the international community for the referendums and possible eventual legal proceedings. The Secretary-General believes that this process is in line with the objective of pacific settlement of disputes enshrined in the United Nations Charter and merits international support.



Vienna Convention on the Law of Treaties, 1969

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.

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. This rule is without prejudice to article 46.

Vienna Convention on the Law of Treaties, 1969

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 the Law of Treaties, 1969

Article 56. DENUNCIATION OF OR WITHDRAWAL FROM A TREATY CONTAINING NO PROVISION REGARDING TERMINATION, DENUNCIATION OR WITHDRAWAL

1. A treaty which contains no provision regarding its termination and which does not provide for denunciation or withdrawal is not subject to denunciation or withdrawal unless:

(a) It is established that the parties intended to admit the possibility of denunciation or withdrawal; or

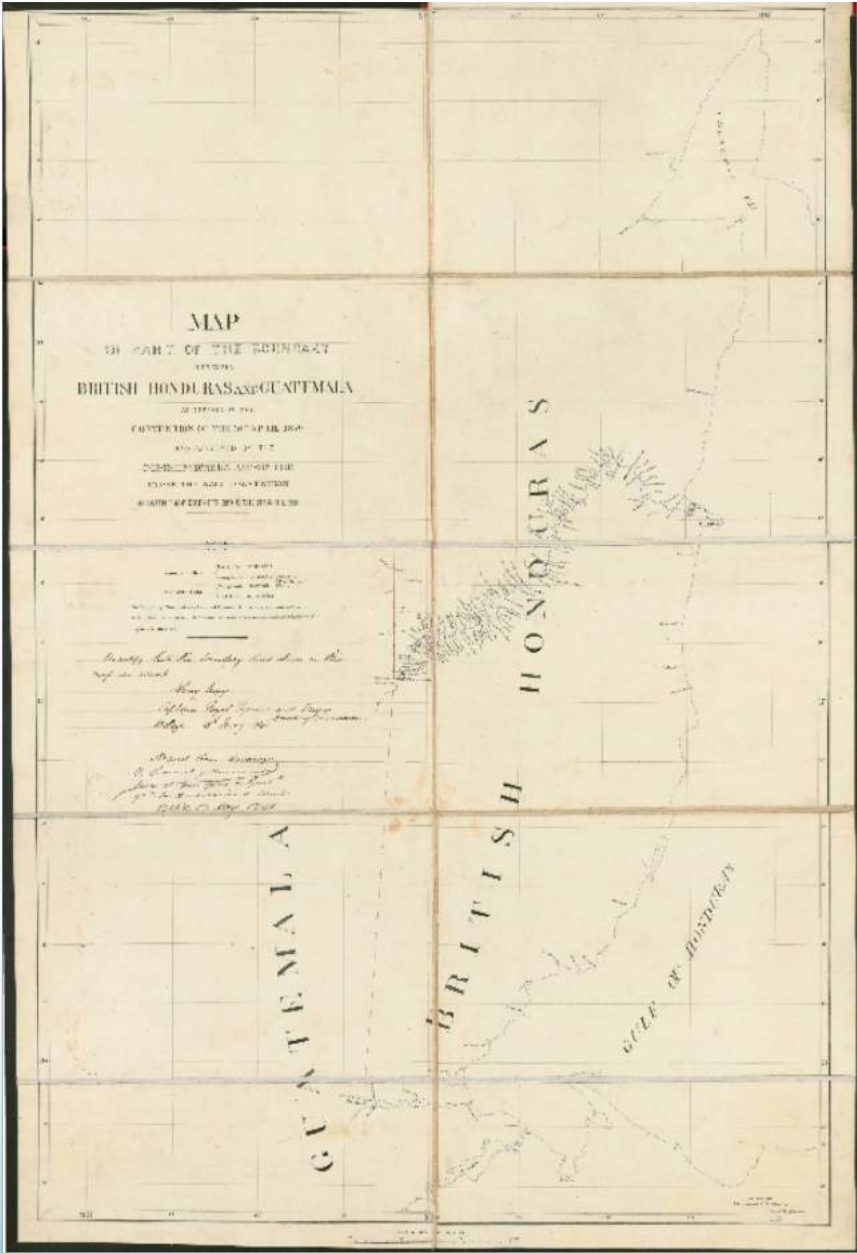
(b) A right of denunciation or withdrawal may be implied by the nature of the treaty.

THANK YOU

MAP
OF PART OF THE BOUNDARY
OF THE
BRITISH HONDURAS AND GUATEMALA
AS SETTLED IN 1852
CONSEQUENCE OF THE TREATY
SIGNED AT GUATEMALA
ON THE 21ST OF SEPTEMBER
1852

Scale of the Map
1 inch = 10 miles
1 mile = 1609 meters
1 meter = 39.37 inches
1 mile = 1.609 kilometers
1 kilometer = 0.621 miles
1 meter = 1.094 yards
1 yard = 0.914 meters
1 mile = 1.609 kilometers
1 kilometer = 0.621 miles
1 meter = 1.094 yards
1 yard = 0.914 meters

It is to be observed that the boundary line shown on the map is not a straight line but a line which follows the course of the river Usumacinta and the course of the mountains.



MAP
 OF PART OF THE BOUNDARY
 BETWEEN
BRITISH HONDURAS AND GUATEMALA

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

NOTE

Coahuila a Dios	Latitude 15° 33' 55.67	West of North (angle) Ditto
	Longitude 1° 31' 09.8	
Garbarr's Falls	Longitude 0° 57' 29.6	Ditto
	Latitude 17° 38' 00.2	

The Boundary Line is shown by a red line - dotted where not surveyed.
 s) 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 Lewis
 Captain Royal Engineers and Major
 Boundary Commissioner.
 Belize, 13th May, 1861.

Alfonso Cano Mesas
 1^o Coronel y Comandante
 Jefe de las Fuerzas de Guerra
 p^o la demarcacion de límites
 Belize, 13 Mayo 1861



