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**International Court
of Justice**

THE HAGUE

**Cour internationale
de Justice**

LA HAYE

YEAR 2025

Public sitting

held on Monday 24 November 2025, at 10 a.m., at the Peace Palace,

President Iwasawa presiding,

*in the case concerning Sovereignty over the Sapodilla Cayes/Cayos Zapotillos
(Belize v. Honduras)*

VERBATIM RECORD

ANNÉE 2025

Audience publique

tenue le lundi 24 novembre 2025, à 10 heures, au Palais de la Paix,

sous la présidence de M. Iwasawa, président,

*en l'affaire relative à la Souveraineté sur les cayes de Sapodilla
(Belize c. Honduras)*

COMPTE RENDU

Present: President Iwasawa
 Vice-President Sebutinde
 Judges Tomka
 Abraham
 Xue
 Bhandari
 Nolte
 Charlesworth
 Brant
 Gómez Robledo
 Cleveland
 Aurescu
 Tladi
 Hmoud
 Okowa

Registrar Gautier

Présents : M. Iwasawa, président
M^{me} Sebutinde, vice-présidente
MM. Tomka
Abraham
M^{me} Xue
MM. Bhandari
Nolte
M^{me} Charlesworth
MM. Brant
Gómez Robledo
M^{me} Cleveland
MM. Aurescu
Tladi
Hmoud,
M^{me} Okowa, juges

M. Gautier, greffier

The Government of Belize is represented by:

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Ms Naomi Hart, member of the Bar of England and Wales, Essex Court Chambers,

Mr Ben Juratowitch, KC, member of the Bar of Belize, the Paris Bar and the Bar of England and Wales, Essex Court Chambers,

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Ms Mariana Verde, Chief Operations Officer, Office of Belize's Agent to the International Court of Justice, Ministry of Foreign Affairs, Foreign Trade, Culture and Immigration of Belize,

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M. Byron Gutiérrez Valdez, consultant de l'unité souveraineté et domaine, ministère des affaires étrangères de la République du Guatemala,

M^{me} Manuela María Rodríguez Melgar, conseillère politique, ambassade de la République du Guatemala au Royaume des Pays-Bas,

comme membres de la délégation.

The PRESIDENT: Please be seated. The sitting is open.

Before turning to the judicial business scheduled for this morning, it is necessary for me to say a few words about the composition of the Court.

I recall that former President, Judge Yusuf, resigned with effect from 30 September 2025 and that, following his resignation, the General Assembly and the Security Council, on 12 November 2025, elected Ms Phoebe N. Okowa to serve for the remainder of Judge Yusuf's term of office, which would have expired on 5 February 2027. We congratulate our new colleague and are looking forward to working with her and having the benefit of her participation in the exercise of the Court's judicial functions.

Article 20 of the Statute of the Court provides that "[e]very Member of the Court shall, before taking up his [or her] duties, make a solemn declaration in open court that he [or she] will exercise his [or her] powers impartially and conscientiously". Article 4, paragraph 2, of the Rules of Court states that the declaration in question "shall be made at the first public sitting at which the Member of the Court is present", and that "[s]uch sitting shall be held as soon as practicable after that Member's term of office begins". I shall now say a few words about Judge Okowa. I shall then invite her to make her declaration.

Judge Phoebe N. Okowa, who is of Kenyan nationality, graduated in law from the University of Nairobi and went on to obtain a Bachelor of Civil Law as well as a Doctorate in Public International Law at the University of Oxford. Prior to her election, she was Professor of Public International Law at Queen Mary University of London, a position she had held since 2014, having previously taught at that institution as a Reader and Senior Lecturer in Public International Law. In addition, she has held appointments at various prestigious universities and academic institutions around the world, including New York University, the Geneva Graduate Institute for International Studies and Princeton University. She has published widely on a range of international law issues, with a particular emphasis on accountability for environmental harms.

In addition to her illustrious academic career, Judge Okowa has undertaken extensive advisory work for States and non-governmental organizations. She has appeared on numerous occasions as counsel in cases before the Court, in both advisory proceedings and contentious cases. She has pleaded as counsel before the International Tribunal for the Law of the Sea. Judge Okowa has also

acted as legal adviser in the context of various expert groups dealing with pressing topics of international law, including the UNESCO Expert Group for the Study on the Legal Consequences for Violation of the Immunity of Cultural Property under Enhanced Protection. She was, until her election to the Court, a member of the International Law Commission and is an associate member of the Institut de droit international. She was also a Member of the Permanent Court of Arbitration from 2017 to 2022. Finally, let me add that Judge Okowa is the recipient of a number of academic awards and honours in recognition of her outstanding achievements.

I shall now invite Judge Okowa to make the solemn declaration prescribed by the Statute, and I request all those present to rise. Judge Okowa.

Judge OKOWA:

“I solemnly declare that I will perform my duties and exercise my powers as judge honourably, faithfully, impartially and conscientiously.”

The PRESIDENT: Thank you. Please be seated. The Court takes note of the solemn declaration made by Judge Okowa and I declare her duly installed as a Member of the Court.

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Having completed the composition of the Bench, I now turn to the judicial business before us today. The Court meets this morning, under Article 84, paragraph 2, of the Rules of Court, to hear the first round of oral argument of the Republic of Guatemala on its Application for permission to intervene in the case concerning *Sovereignty over the Sapodilla Cayes/Cayos Zapotillos (Belize v. Honduras)*.

*

I shall now recall the principal steps of the procedure in the present case.

On 16 November 2022, Belize filed in the Registry of the Court an Application instituting proceedings against the Republic of Honduras with regard to a dispute concerning sovereignty over the Sapodilla Cayes, referred to by Honduras as the “Cayos Zapotillos”.

In its Application, Belize sought to found the Court's jurisdiction on Article XXXI of the American Treaty on Pacific Settlement signed on 30 April 1948, officially designated, according to Article LX thereof, as the "Pact of Bogotá".

By an Order dated 2 February 2023, the Court fixed 2 May 2023 and 4 December 2023 as the respective time-limits for the filing of a Memorial by Belize and a Counter-Memorial by Honduras. The Memorial and the Counter-Memorial were filed within the time-limits thus fixed.

On 5 January 2024, a meeting was held by the President of the Court with the representatives of the Parties, pursuant to Article 31 of the Rules of Court, in order to ascertain their views with regard to the further procedure to be followed in the case. At this meeting neither Party indicated that it wished the Court to authorize or direct a second round of written pleadings. By letters dated 11 January 2024, the Registrar informed the Agents of Belize and Honduras that, in view of the agreement of the Parties, the Court had decided that a second round of written pleadings was not necessary.

By a Note Verbale dated 3 May 2023, referring to Article 53, paragraph 1, of the Rules of Court, the Government of the Republic of Guatemala asked to be furnished with copies of the pleadings and documents annexed in the case. Having ascertained the views of the Parties pursuant to the same provision, the Court decided to grant this request. The Registrar duly communicated this decision to the Government of Guatemala and to the Parties.

By a letter dated 4 May 2023, the Agent of Belize informed the Court that his Government would abstain from choosing a judge *ad hoc* in the case, on the condition of a like abstention by Honduras. A copy of this letter was immediately transmitted to the Government of Honduras and, by a letter dated 9 May 2023, the Co-Agent of Honduras informed the Court that her Government would also abstain from choosing a judge *ad hoc* in the case.

By a Note Verbale dated 19 May 2023, referring to Article 53, paragraph 1, of the Rules of Court, the Government of the United Mexican States asked to be furnished with copies of the pleadings and documents annexed in the case. Having ascertained the views of the Parties pursuant to that same provision, the Court decided to grant this request. The Registrar duly communicated this decision to the Government of Mexico and to the Parties.

On 1 December 2023, Guatemala filed in the Registry of the Court an Application for permission to intervene in the case pursuant to Article 62 of the Statute of the Court. It stated therein that the object of this Application was:

“(a) to protect the rights and interests of Guatemala over the Sapodilla Cays by all the legal means available, including that established by Article 62 of the Statute of the Court[; and]

(b) [t]o inform the Court of the nature and extent of Guatemala’s rights, which may be affected by the Court’s decision on the issue of sovereignty over the Sapodillas. Guatemala’s Application also seeks to ensure that the Court’s determinations do not touch upon or prejudice the legal rights and interests of the Republic of Guatemala.”

In accordance with Article 83, paragraph 1, of the Rules of Court, certified copies of Guatemala’s Application were communicated forthwith to Belize and Honduras, which were invited to furnish written observations on that Application. Within the time-limit fixed for that purpose by the Court, the Governments of Belize and Honduras submitted those written observations. In its observations, Belize indicated that it did not object to Guatemala’s Application. For its part, Honduras considered that the Application failed to comply with the Statute and the Rules of Court. Honduras having objected to the Application, the Parties and the Government of Guatemala were notified by letters dated 17 July 2025 that the Court would hold hearings, in accordance with Article 84, paragraph 2, of the Rules of Court, to hear the observations of Guatemala, the State applying to intervene, and those of the Parties to the case.

After ascertaining the views of the Parties, the Court decided that copies of the written observations which they had furnished on Guatemala’s Application for permission to intervene would be made available to the public on the opening of the oral proceedings.

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I note the presence at the hearing of the Agents, counsel and advocates of both Parties as well as of Guatemala. In accordance with the arrangements for the organization of the proceedings which have been decided by the Court, the hearings will comprise a first and a second round of oral argument. Guatemala will be heard first. During the first round of oral argument, Guatemala and each Party will speak for a maximum of 90 minutes: Guatemala will take the floor this morning until

11.30 a.m., and tomorrow Belize will take the floor between 10 a.m. and 11.30 a.m., and Honduras between 11.30 a.m. and 1 p.m. During the second round of oral argument, Guatemala and each Party will speak for a maximum of 45 minutes: Guatemala will take the floor on the morning of Wednesday 26 November 2025, between 10 a.m. and 10.45 a.m. On the afternoon of Wednesday 26 November 2025, Belize will take the floor between 4 p.m. and 4.45 p.m., and Honduras between 4.45 p.m. and 5.30 p.m.

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In this first sitting, Guatemala may, if required, avail itself of a short extension beyond 11.30 a.m., in view of the time taken up by the opening part of these oral proceedings.

I also note that, in addition to interpretation from and into the Court's two official languages, English and French, interpretation from and into Spanish is available, in accordance with a specific arrangement made at the request of Guatemala.

I now give the floor to the Agent of Guatemala, Her Excellency Ms Ana Cristina Rodríguez Pineda. You have the floor, Madam.

Ms RODRÍGUEZ PINEDA:

INTRODUCTION

1. Good morning, Mr President, distinguished judges, it is an honour and a privilege to appear before you in my capacity as Agent of the Republic of Guatemala.

2. At the outset, allow me to take this opportunity to congratulate Judge Phoebe Okowa on her election.

3. On 16 November 2022, Belize introduced a case against Honduras asking the Court to settle the “dispute between Belize and Honduras concerning sovereignty over the Sapodilla Cayes”¹, or Cayos Zapotillos, as they are called in Guatemala. This followed less than three weeks after Belize's

¹ *Sovereignty over the Sapodilla Cayes/Cayos Zapotillos (Belize v. Honduras)*, Application, 16 November 2022, para. 1.

accession to the Pact of Bogotá on 27 October 2022, which provided a basis of jurisdiction between the two States.

4. To safeguard its rights and interests over Cayos Zapotillos, on 1 December 2023, Guatemala filed an Application for permission to intervene in accordance with Article 62 of the Court's Statute. Belize raised no objection to Guatemala's Application. Honduras objected on 15 February 2024, which brings us to this hearing.

5. As the Court is aware, the question of sovereignty over Cayos Zapotillos is not a new one. This question is already before the Court as a result of the case brought jointly by Guatemala and Belize through a special agreement concluded 14 years before Belize's Application against Honduras². That case, pending before this Court since 2019, concerns, *inter alia*, Guatemala's insular claim against Belize for sovereignty over Cayos Zapotillos. Notably, Belize commenced the present proceedings just a few days before Guatemala was due to file its Reply in the *Guatemala/Belize* case, on 8 December 2022.

6. This move by Belize has created an unfortunate procedural conundrum for the Court. For the sake of consistency and efficiency, hearing the merits of the two overlapping cases back-to-back could be appropriate, particularly if Guatemala is permitted to intervene.

7. The interplay between the two cases is obvious. It has specifically been acknowledged by Belize in correspondence and over the course of several meetings with Honduras³. For instance, in Notes Verbales between April and October 2022, Belize sought to obtain guarantees from Honduras that it "would not assert a claim to the Sapodilla Cayes by way of application to intervene in the case before the International Court of Justice pending between Belize and Guatemala"⁴.

8. Despite the case at hand being intrinsically related to its pending case with Guatemala, Belize unilaterally instituted proceedings against Honduras with no prior consultation or information provided to Guatemala. One can only imagine that Belize wished to avoid Honduras coming in support of Guatemala's legal position, especially since both Guatemala and Honduras share partly

² Special Agreement between Guatemala and Belize to submit Guatemala's territorial, insular and maritime claim to the International Court of Justice, Washington, 8 December 2008, United Nations, *Treaty Series (UNTS)*, No. 55299.

³ Letter from the Minister of Foreign Affairs of Belize to the Minister of Foreign Affairs of Honduras, 29 Sept. 2022, Memorial of Belize (MB), Ann. 248; Letter from the Minister of Foreign Affairs of Belize to the Minister of Foreign Affairs of Honduras, 25 Oct. 2022, MB, Ann. 249.

⁴ *Ibid.*

similar views with respect to the question of legal title over Cayos Zapotillos. Indeed, like Guatemala, Honduras considers that Spain had sovereignty over the cays until 1821 when Central America became independent⁵; that Great Britain recognized Spanish title on many occasions⁶; that the British settlers' activities could not and did not displace Spanish title before 1821⁷, nor that of the newly independent State that inherited it⁸; and, finally, that the Convention between the Republic of Guatemala and Her Britannic Majesty relative to the Boundary of British Honduras of 30 April 1859 did not apply to islands⁹.

9. Belize's actions impair equality between the parties in the *Guatemala/Belize* case and seek to introduce new arguments and evidence relating to *that* case through the back door of another case involving a third State, Honduras. At best, Belize's strategy in pursuing, at this point in time, a case against Honduras could only have been aimed towards prejudging its existing dispute with Guatemala, arrogating itself the procedural right of further presenting to the Court its case on the disputed islands. At worst, it is an attempt by Belize to prompt the Court to dispose of an important aspect of Guatemala's insular claim without Guatemala's involvement.

10. Belize's efforts to paint a biased narrative in this matter include its submission of the Notes Verbales it addressed to Guatemala¹⁰ without showing our replies. Guatemala trusts that the Court will not be led astray by Belize's procedural manoeuvres.

11. For all these reasons, for the Court to give a fully informed decision in the present case, Guatemala's participation as an intervener is essential.

12. Mr President, distinguished judges, it is without question that Guatemala's Application is not aimed at introducing a new claim over Cayos Zapotillos. Still, it is hard to imagine any hypothesis where a State in Guatemala's position could just sit back and wait for the outcome of a case

⁵ See Counter-Memorial of Honduras (CMH), paras. 93-140 and 190-201.

⁶ See CMH, paras. 124, 198, 238, 288-290 and Annexes 11, 12, 33 & 34.

⁷ See CMH, paras. 179-189.

⁸ See CMH, paras. 235-243.

⁹ See CMH, paras. 405-407.

¹⁰ See Note from the Permanent Mission of Belize to the United Nations to the Permanent Mission of the Republic of Guatemala to the United Nations, 14 June 1985, MB, Ann. 213; Note from the Ministry of Foreign Affairs of Belize to the Embassy of Guatemala in Belize, 16 Sept. 1999, MB, Ann. 226; Note from the Ministry of Foreign Affairs of Belize to the Ministry of Foreign Affairs of the Republic of Guatemala, 6 May 2013, MB, Ann. 237; Note from the Ministry of Foreign Affairs of Belize to the Ministry of Foreign Affairs of Guatemala, 24 Dec. 2018, MB, Ann. 244.

concerning a territory over which it considers itself sovereign and, moreover, whose sovereignty is an issue pending in another case before this same Court. Simply put, Guatemala had no other choice.

13. It is for this reason that, in its 2023 Application, Guatemala sets out the object of its intervention as is displayed on the screen:

“(a) to protect the rights and interests of Guatemala over the Sapodilla Cays by all the legal means available, including that established by Article 62 of the Statute of the Court.

(b) To inform the Court of the nature and extent of Guatemala’s rights, which may be affected by the Court’s decision on the issue of sovereignty over the Sapodillas. Guatemala’s Application also seeks to ensure that the Court’s determinations do not touch upon or prejudice the legal rights and interests of the Republic of Guatemala.”¹¹

14. In its written observations, Honduras criticized the object of Guatemala’s intervention that I just recalled as “being vague and imprecise, even artificial”¹². However, as Mr Rodman Bundy will further show, it is fully aligned with the objects previously put forward by States that were permitted to intervene pursuant to Article 62 of the Court’s Statute¹³. In fact, Honduras itself accepts that the purpose of an intervention under Article 62 is, among others, to inform the Court about the interests of a legal nature of the intervening State¹⁴. Moreover, the Court explained in the *Land, Island and Maritime Frontier Dispute* between El Salvador and Honduras that such object “accord[s] with the function of intervention”¹⁵.

15. Honduras also argues that my country’s interests of a legal nature are not liable to be affected by a decision in this case — one that involves sovereignty over *part of Guatemala’s own territory*. This is quite perplexing. Honduras’ insistence to challenge such a transparent interest and have the Court focus its limited time and resources on a question concerning intervention that is

¹¹ Guatemala’s Application for permission to intervene, para. 10.

¹² Honduras’ Written Observations on Guatemala’s Application for the permission to intervene (WOH), para. 40 (our translation).

¹³ See e.g. *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Application for Permission to Intervene, Order of 21 October 1999, I.C.J. Reports 1999 (II)*, p. 1032, para. 4 and p. 1035, para. 18 (1); *Jurisdictional Immunities of the State (Germany v. Italy), Application for Permission to Intervene, Order of 4 July 2011, I.C.J. Reports 2011 (II)*, p. 502, paras. 28-29.

¹⁴ See WOH, para. 13.

¹⁵ *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras), Application for Permission to Intervene, Judgment, I.C.J. Reports 1990*, p. 130, para. 90.

already settled by its jurisprudence, is regrettable. As Professor Alina Miron will explain, these arguments are untenable and Guatemala is confident that they will fail.

16. Mr President, distinguished judges, Guatemala's counsel will address each of the Honduran objections this morning. I will take advantage of the remaining minutes of this introductory speech to provide you with the context against which these objections can be assessed. Belize's and Honduras' written pleadings present a partial and self-serving view of the dispute. The Court *cannot* identify the scope of their dispute, and therefore the scope of its judgment, without an accurate presentation of Guatemala's legal interests over these cays.

17. For 160 years, between 1821 and 1981, only Guatemala and the United Kingdom claimed sovereignty over Cayos Zapotillos. Before Belize's independence in 1981, Honduras did not assert any formal claim to the continental or insular territory over which the United Kingdom had progressively established its control in the area at issue. To the contrary, it was strongly supportive of the Guatemalan position. It was only after the signature of the *Heads of Agreement* on 11 March 1981 by the Foreign Minister of Guatemala, the United Kingdom Minister of State for Foreign and Commonwealth Affairs and Belize's Prime Minister, that Honduras made its first claim to these cays¹⁶.

18. The *Heads of Agreement* represented a last attempt by all parties concerned — that is, Guatemala, the United Kingdom and Belize — to reach a political compromise over their long-standing dispute, which included Cayos Zapotillos¹⁷. You may find the text at tab 4 of your judges' folders. There are commentaries to the *Heads of Agreement* that are not yet on the record but that may be provided in due course or if directed by the Court to do so.

19. Guatemala shared a copy of the *Heads of Agreement* with Honduras in 1981¹⁸. This co-operative and friendly attitude has always been maintained by Guatemala. Unfortunately, Guatemala's transparency seems to have prompted Honduras to make its first claim to these cays a few days afterwards. It did so, initially, through a letter addressed by the Minister for Foreign Affairs

¹⁶ MB, Ann. 180.

¹⁷ MB, para. 102.

¹⁸ Letter from César Elvir Sierra, Minister for Foreign Affairs, Honduras, to John Barnard Weymes, British Ambassador, Honduras, 17 March 1981, MB, Ann. 181.

of Honduras to the British Ambassador in Tegucigalpa on 17 March 1981¹⁹ and, two days later, through a communiqué issued by the same Minister²⁰. After a few months, these cays were included in the Honduran Constitution of 20 January 1982²¹.

20. Honduras is trying to draw a veil over the causal link between its claim to Cayos Zapotillos and the conclusion of the *Heads of Agreement*, which is only mentioned *en passant* in its Counter-Memorial in this case²². But the timing of this first assertion of a Honduran claim to Cayos Zapotillos reveals the opportunism guiding Honduras' approach. For more than a century, Honduras stood idle watching Guatemala safeguard the territory unlawfully occupied by the United Kingdom. In fact, on many occasions, it publicly expressed its support for Guatemala's démarches.

21. By way of illustration, on 11 November 1975, in the Fourth Committee of the General Assembly of the United Nations, the Permanent Representative of Honduras, Mr Roberto Martínez Ordóñez, summarized his country's position regarding sovereignty over the territory administered by Belize in the following terms:

“58. Mr. MARTINEZ ORDOÑEZ (Honduras), speaking in exercise of the right of reply, recalled that the representative of Barbados, during his statement earlier in the meeting, had alleged that, in 1973, the Ambassador of Honduras had implied that Honduras had claims on the Territory of Belize. As the Ambassador of Honduras at that time, *he himself could state categorically that at no time in 1973, or at any other time, had he advanced any such idea. Furthermore, by a decision of its own Congress in 1948, Honduras had expressed its full solidarity with the Government of Guatemala.* The allegation was somewhat surprising, since the question of Belize had not been discussed in the United Nations for some 20 years, in order to avoid prejudicing the negotiations between Guatemala and the United Kingdom.

59. It should be clear from his statement at the previous meeting that Honduras had no territorial claim to Belize . . .”²³

22. In the Honduran Ambassador's words, “*at no time in 1973, or at any other time, had he advanced any such idea*”. Indeed, “Honduras had *no territorial claim* to Belize” and “by a decision of its own Congress in 1948, Honduras had expressed its *full solidarity* with the Government of Guatemala”.

¹⁹ *Ibid.*

²⁰ Communiqué issued by the Minister for Foreign Affairs of Honduras, 19 March 1981, MM, Ann. 182.

²¹ See MB, paras. 9, 36, 102 and 122-123 and CMH, paras. 317-318, 332-333 and 414.

²² CMH, para. 363.

²³ Statement by Mr Roberto Martínez Ordóñez (Honduras) to the Fourth Committee, UN doc. A/C.4/SR.2165, 11 Nov. 1975, paras. 58-59, emphasis added.

23. Ten days later, on 21 November 1975, speaking again before the Fourth Committee, Mr Martínez Ordóñez clarified once more the Honduran position regarding the territory administered by Belize.

“The specific problem of the future of Belize was one that should be resolved by means of direct negotiations between the representatives of the people of Belize and *the authorities that were traditionally and legally the rightful owners of the Territory, namely the Guatemalan authorities.*”²⁴

24. Here, Honduras describes in the clearest terms its position as to who has sovereignty over the territory administered by Belize — including Cayos Zapotillos. In its own words: “the authorities that were *traditionally and legally the rightful owners* of the territory” were “the *Guatemalan authorities*”.

25. When Guatemala’s efforts to reach a negotiated solution with the United Kingdom finally appeared to lead to some results, Honduras changed course. It voiced its opposition to the *Heads of Agreement* and advanced its first claim to Cayos Zapotillos and their surrounding maritime areas²⁵. The connection between the signature of the *Heads of Agreement* and Honduras’ assertion of sovereignty over the cays was stated unequivocally by Honduras’ representatives, including at the General Assembly of the United Nations. Remarkably, less than six years after reassuring the Fourth Committee that it had “no territorial claim to Belize”, Honduras decided to radically change its tune with the following statement:

“184. During one of the various stages of the search for a solution to the dispute between the United Kingdom and Guatemala over the territory of Belize, the Ministers for Foreign Affairs of those two countries and the Prime Minister of Belize signed a document entitled “Heads of Agreement”. In one of those Heads, Guatemala is granted the use and enjoyment of the Cayos Zapotillos. *The Cayos Zapotillos historically, geographically and legally belong to Honduras.*

²⁴ Statement by Mr Roberto Martínez Ordóñez (Honduras) to the Fourth Committee, UN doc. A/C.4/SR.2173, 21 Nov. 1975, para. 47, emphasis added.

²⁵ Letter from César Elvir Sierra, Minister for Foreign Affairs, Honduras, to John Barnard Weymes, British Ambassador, Honduras, 17 March 1981, MB, Ann. 181; Communiqué issued by the Minister for Foreign Affairs of Honduras, 19 March 1981, MB, Ann. 182; Telegram from John Weymes, British Ambassador, Honduras, to Foreign and Commonwealth Office, transmitting text of Note issued by the Foreign Minister of Honduras, 20 March 1981, MB, Ann. 185; Communiqué from the Government of Honduras to the British Embassy in Honduras, 10 April 1981, M, Ann. 195; Note from the Ministry of Foreign Affairs of Honduras to the British Embassy in Honduras, 21 May 1981, quoted in Telegram from F.T. Webster, British Chargé d’Affaires in Tegucigalpa, to the Foreign and Commonwealth Office, 26 May 1981.

185. For this reason, Honduras submitted to the Government of the United Kingdom, with which we maintain very cordial and friendly relations, *a note of protest at the alleged cession of a sovereignty which belongs to Honduras.*²⁶

26. Mr President, distinguished judges, in any event, the *Heads of Agreement* were not implemented due to Belize's disengagement. Interestingly, the failure of the *Heads of Agreement* led to Honduras going silent about its claim to Cayos Zapotillos. While the cays were mentioned, for the first time, in Honduras' Constitution of 20 January 1982, the claim was not referred to publicly again for four decades until Belize brought the present case before the Court in 2022. Despite this silence, Belize and Honduras continued to discuss bilaterally the situation of the maritime areas surrounding the cays, which are under Guatemala's sovereignty. The record of meetings submitted by Belize in the case at hand shows that Guatemala's two neighbouring States discussed the delimitation of the maritime areas without having regard for Guatemala's rights at sea²⁷.

27. In 1982, Honduras' focus was to secure fishing rights for its population in the maritime area around Cayos Zapotillos²⁸. In the 2000s, in parallel with the facilitation process with Guatemala under the auspices of the Organization of American States, Belize proposed to Honduras the conclusion of a bilateral agreement on the co-use of these maritime areas, excluding Guatemala. The then head of the Belizean delegation and current Agent of Belize in the present proceedings, Ambassador Assad Shoman, emphasized that

“Belizeans would never consider Guatemala's involvement in a joint administration of an ecological park over the Sapodillas. Therefore it is up to Belize and Honduras to come up with a bilateral approach. Belize could reach an amicable agreement with Honduras over fishing rights, since this seems to be one of Honduras major concerns.”²⁹

²⁶ Statement by Mr Elvir Sierra (Honduras) at the United Nations General Assembly, Thirty-sixth session, 10th plenary meeting, 23 Sept. 1981, UN doc. A/36/PV.10 (extract), MB, Ann. 202, emphasis added.

²⁷ Correspondance entre M. E. Paz Aguilar (Ministre des Affaires étrangères du Honduras) et M. G. Martínez Blanco (représentant permanent du Honduras auprès des Nations Unies), 3 novembre 1994, CMH, Ann. 128; Belizean note of conference between representatives of Belize and Honduras, drafted by Belize's Ambassador Alfredo Martinez, 3 July 2000, MB, Ann.228 and Belizean note of conference between representatives of Belize and Honduras, drafted by Belize's Ambassador Moises Cal, 17 Oct. 2001, MB, Ann. 230.

²⁸ CMH, para. 326 and Correspondance entre M. S. Jiménez Castro (Commission sur la souveraineté et les frontières du Honduras) et M. R. Valladares Soto (Commission mixte des limites du Honduras), 7 mai 1982, CMH Annex 65; Correspondance entre M. M.A. Caballero (Chargé d'Affaires de l'Ambassade du Honduras au Belize) et M. J. A. Lara Bueso (Vice-Ministre des Affaires étrangères du Honduras), 29 avril 1985, CMH Annex 66; Correspondance entre M. R. Palma Gálvez (Commission sur la souveraineté et des frontières du Honduras) et M. A. Pineda López (sous-secrétaire aux affaires étrangères du Honduras), 14 février 1983, CMH Annex 75; Correspondance entre l'ambassadeur du Honduras au Belize et M. E. Paz Barnica (Ministre des Affaires étrangères du Honduras), 1^{er} juin 1982, CMH Annex 79 and Correspondance entre M. G. Martínez Blanco (directeur de la section de documentation de la Commission sur la souveraineté et les frontières du Honduras) et M. J. Güell Bográn (sous-secrétaire aux Affaires étrangères du Honduras), 31 décembre 1990, CMH Annex 104.

²⁹ Belizean Note of conference between representatives of Belize and Honduras, drafted by Belize's Ambassador Moises Cal, 17 October 2001, MB, Ann. 230.

28. During these discussions, Honduras did not seek to reassert its claims or to gain control of the cays occupied by Belize. In fact, the Honduran representative, Ambassador Carlos Lopez Contreras, indicated that Honduras saw no need to solve the underlying sovereignty dispute over Zapotillos, as the Court can observe in the text on the screen:

“The Sapodillas must be looked at from a tripartite position. However, *it [is] not Honduras’ intention to affect the ‘status quo’, nor sovereignty*. Perhaps the Sapodillas could be declared an Ecological Park managed and conserved by three countries. Leave the sovereignty affair out of this . . . keep it frozen. With time Belize will forever end up with the cays. This approach can save face for both Honduras and Guatemala.”³⁰

29. There is nothing in the record to show that, after these meetings in the early 2000s, the question of sovereignty over Cayos Zapotillos and the use of the surrounding maritime areas, were discussed again between Honduras and Belize. Guatemala, in any case, has not been informed of such discussions. It was only in late September 2022, shortly before the closure of the written proceedings in the case *Guatemala’s Territorial, Insular and Maritime Claim*, that this matter was raised again by Belize, with the obvious aim at laying the ground for the introduction of the present proceedings³¹.

30. Guatemala cannot help but notice a pattern in this historical record. The situation before the Court today echoes Honduras’ opportunism regarding the Zapotillos question. In 1981, when the *Heads of Agreement* proposed a possible way to safeguard Guatemala’s rights over Cayos Zapotillos, Honduras attempted to forestall it by laying its own claim to these islands. Now, more than four decades later, the same attitude is on full display again. Honduras is intent on blocking Guatemala’s efforts, this time by objecting to its Application for permission to intervene — a right available to Guatemala under Article 62 of the Statute, which Honduras did not avail itself of in the *Guatemala/Belize* case.

31. Mr President, distinguished judges, the rest of the first round of Guatemala’s oral pleadings will be in two parts. First, Professor Alina Miron will demonstrate that Guatemala has an interest of a legal nature concerning Cayos Zapotillos which may be affected by the decision of the Court in the present case. Second, Mr Rodman Bundy will establish that Guatemala’s Application for permission

³⁰ *Ibid.*

³¹ Letter from the Minister for Foreign Affairs of Belize to the Minister for Foreign Affairs of Honduras, 29 Sept. 2022, MB, Ann. 248. See also Letter from the Minister for Foreign Affairs of Belize to the Minister for Foreign Affairs of Honduras, 25 Oct. 2022, MB, Ann. 249.

to intervene complies fully with the requirements of Article 81 of the Rules of Court, contrary to Honduras' assertions.

32. Mr President, distinguished judges, this concludes the introductory speech of Guatemala. I thank you for your attention and respectfully request you, Mr President, to give the floor to Professor Alina Miron.

The PRESIDENT: I thank the Agent of Guatemala for her statement. Je donne à présent la parole à la professeure Alina Miron. Je vous en prie.

M^{me} MIRON :

L'INTÉRÊT D'ORDRE JURIDIQUE EN CAUSE POUR LE GUATEMALA

1. Monsieur le président, Mesdames et Messieurs les juges, c'est un honneur pour moi de représenter la République du Guatemala dans cette procédure. Il m'incombe de démontrer que l'affaire introduite par le Belize met en cause un intérêt d'ordre juridique du Guatemala au sens de l'article 62 du Statut de la Cour.

2. Depuis son indépendance en 1821, le Guatemala revendique sa souveraineté sur les cayes Zapotillos. C'est une revendication notoire et connue des Parties à cette procédure. Comme l'observe le Belize dans son mémoire, d'ailleurs,

« Guatemala ... also claims to be sovereign over the Sapodilla Cayes, such claim forming part of the subject matter of the dispute before the Court in Guatemala's Territorial, Insular and Maritime Claim. »³²

3. L'intérêt d'ordre juridique du Guatemala dans la présente affaire relève donc de l'évidence. D'ailleurs, ni le Belize ni le Honduras ne s'emploient à nier son existence même. Le Honduras toutefois n'en est pas moins quelque peu évasif : il concède certes l'existence d'un intérêt d'ordre juridique, mais il le fait sur le mode dubitatif : un « intérêt d'ordre juridique apparent »³³, dit le Honduras. Et il objecte à l'admission de notre requête au motif que cet intérêt « ne peut être considéré

³² *Souveraineté sur les cayes de Sapodilla/cayes Zapotillos (Belize c. Honduras)*, mémoire du Belize (ci-après, « MB »), 2 mai 2023, par. 11.

³³ Observations écrites de la République du Honduras sur la requête à fin d'intervention déposée par la République du Guatemala (ci-après, « OéH »), 15 février 2024, par. 34 et p. 6, titre 1.

comme susceptible d'être en cause en l'espèce »³⁴, car il serait protégé par le principe de l'effet relatif de la chose jugée³⁵ de l'article 59 du Statut.

4. Monsieur le président, comme c'est bien connu,

« [c]'est à l'État désireux d'intervenir qu'il appartient d'identifier l'intérêt d'ordre juridique considéré par lui comme susceptible d'être affecté par la décision à rendre en l'espèce et de montrer en quoi cet intérêt risque d'être affecté »³⁶.

5. Conformément donc à cette jurisprudence, je m'emploierai d'abord à identifier l'intérêt juridique du Guatemala (I.), avant de mettre en évidence les risques que la procédure en cours fait peser sur lui (II.). Et cela me permettra de montrer, enfin, que, dans les circonstances de l'espèce, l'article 59 du Statut n'offre qu'une protection illusoire et que donc l'objection du Honduras doit être rejetée (III.).

I. L'intérêt d'ordre juridique en cause pour le Guatemala

6. Pour identifier l'intérêt d'ordre juridique que le Guatemala entend protéger, je renvoie à votre formule désormais consacrée :

« L'article 62 requiert que l'intérêt dont se prévaut l'État qui demande à intervenir soit d'ordre juridique, dans le sens où cet intérêt doit faire l'objet *d'une prétention concrète et réelle* de cet État, *fondée sur le droit*, par opposition à une prétention de nature exclusivement politique, économique ou stratégique »³⁷.

7. En l'espèce, le Guatemala a une « prétention concrète et réelle » de souveraineté sur les cayes Zapotillos. Sa revendication est « fondée sur le droit » et étayée par de nombreux documents qui se trouvent en possession de la Cour³⁸, ainsi que des Parties à la procédure³⁹. Donc, l'existence et la nature de cet intérêt juridique sont bien identifiées. Si le Honduras souhaite les contester, il devra

³⁴ *Ibid.*, par. 34.

³⁵ OéH, par. 34, 41.

³⁶ *Souveraineté sur Pulau Ligitan et Pulau Sipadan (Indonésie/Malaisie), requête à fin d'intervention, arrêt, C.I.J. Recueil 2001*, p. 598, par. 58, citant *Différend frontalier terrestre, insulaire et maritime (El Salvador/Honduras), requête à fin d'intervention, arrêt, C.I.J. Recueil 1990*, p. 117-118, par. 61.

³⁷ *Différend territorial et maritime (Nicaragua c. Colombie), requête du Costa Rica à fin d'intervention, arrêt, C.I.J. Recueil 2011 (II)*, p. 358, par. 26 (les italiques sont de nous) ; voir aussi *Différend territorial et maritime (Nicaragua c. Colombie), requête du Honduras à fin d'intervention, arrêt, C.I.J. Recueil 2011 (II)*, p. 434, par. 37.

³⁸ *Revendication territoriale, insulaire et maritime du Guatemala (Guatemala/Belize)*, mémoire du Guatemala, 8 décembre 2020, p. 333-378, par. 10.1-10.75, p. 375, figure 10.4 et p. 429, Conclusions ; *ibid.*, réplique du Guatemala, 8 décembre 2022, p. 189-231, par. 7.1-7.60, p. 302, figure R-7.5 et p. 305, Conclusions.

³⁹ Lettre en date du 7 janvier 2021 adressée à la Cour par le Honduras, et lettre en date du 18 janvier 2021 adressée à la Cour par le Guatemala. Voir aussi OéH, par. 34.

le faire ouvertement et non par insinuation. Faute d'une telle contestation, il ne me semble pas nécessaire de retenir la Cour plus longuement à ce sujet.

II. Cet intérêt risque d'être singulièrement affecté

8. J'en viens ainsi au risque que l'affaire en cours fait peser sur les revendications du Guatemala sur les îles qui font son objet même. Comme votre Cour l'a également établi, « il ne s'agit pas de n'importe quel intérêt d'ordre juridique ; encore faut-il qu'il soit *susceptible d'être affecté*, dans son contenu et sa portée, *par la décision future* de la Cour dans la procédure principale »⁴⁰.

9. De plus, il ressort de l'affaire *Pulau Ligitan et Pulau Sipadan* que « l'intérêt d'ordre juridique qu'un État cherchant à intervenir en vertu de l'article 62 doit démontrer n'est *pas limité au seul dispositif* d'un arrêt. Il peut également *concerner les motifs* qui constituent le support nécessaire du dispositif. »⁴¹

10. Dans la présente affaire, l'intérêt juridique du Guatemala, qui découle encore une fois de ses revendications de souveraineté sur les cayes Zapotillos, peut être affecté aussi bien par le dispositif que par les motifs du jugement sur le fond.

1. L'intérêt risque d'être affecté par le dispositif

11. S'agissant du dispositif, il suffit de rappeler que, dans le cadre de leurs conclusions/*submissions* respectives, aussi bien le Belize que le Honduras invitent la Cour à reconnaître leur souveraineté sur les cayes Zapotillos. Leurs conclusions, telles qu'elles ont été formulées dans la procédure écrite, se lisent comme suit :

D'une part,

« Belize respectfully requests the Court to adjudge and declare that, as between Belize and Honduras:

(a) Belize is sovereign over the Sapodilla Cayes ;

⁴⁰ *Différend territorial et maritime (Nicaragua c. Colombie), requête du Costa Rica à fin d'intervention, arrêt, C.I.J. Recueil 2011 (II), p. 358, par. 26 (les italiques sont de nous) ; Différend territorial et maritime (Nicaragua c. Colombie), requête du Honduras à fin d'intervention, arrêt, C.I.J. Recueil 2011 (II), p. 434, par. 38.*

⁴¹ *Souveraineté sur Pulau Ligitan et Pulau Sipadan (Indonésie/Malaisie), requête à fin d'intervention, arrêt, C.I.J. Recueil 2001, p. 596, par. 47 (les italiques sont de nous), repris dans Différend territorial et maritime (Nicaragua c. Colombie), requête du Honduras à fin d'intervention, arrêt, C.I.J. Recueil 2011 (II), p. 434, par. 38. Voir aussi requête à fin d'intervention déposée par la République du Guatemala, 1^{er} décembre 2023, par. 9.*

(b) Honduras does not have any valid claim to the Sapodilla Cayes. »⁴²

Et d'autre part,

« La République du Honduras demande respectueusement à la Cour de déclarer et de juger :

1. Rejeter la prétention de souveraineté du Belize sur les cayes Zapotillos.
2. Déclarer que la République du Honduras est souveraine sur les cayes Zapotillos. »⁴³

Et j'en viendrai au troisième point plus tard.

12. Ces conclusions ont en commun la question de la souveraineté insulaire et la Cour est appelée à y répondre dans le dispositif de son arrêt sur le fond. Or si la Cour en venait à adjuger ces conclusions d'une manière positive et à reconnaître, par extraordinaire, la souveraineté sur ces cayes d'un État autre que le Guatemala, il ne fait aucun doute que notre intérêt d'ordre juridique serait affecté dans son contenu et dans sa portée. Une telle conclusion aurait en outre un effet indéniable sur la procédure en cours entre le Guatemala et le Belize, puisque les cayes Zapotillos font partie des revendications insulaires du Guatemala dans cette affaire-là.

13. La présente situation est donc à l'opposé de celle vous ayant conduits à rejeter la requête à fin d'intervention du Honduras dans l'affaire du *Différend territorial et maritime (Nicaragua c. Colombie)*. En l'espèce, vous aviez déjà déterminé l'étendue des *droits maritimes* du Honduras par un arrêt de 2007 — *Différend territorial et maritime entre le Nicaragua et le Honduras dans la mer des Caraïbes*. Dans sa requête en intervention — introduite trois ans plus tard —, le Honduras mettait en avant des intérêts qui ne risquaient pas d'être affectés, car soit ils n'étaient pas en jeu, soit ils outrepassaient les droits clairement déterminés par votre arrêt de 2007. Ainsi, au sud de la bissectrice à l'écran représentant la frontière maritime entre le Nicaragua et le Honduras délimitée en 2007, ce dernier ne pouvait plus faire état d'un intérêt d'ordre juridique sans outrepasser l'autorité de la chose jugée⁴⁴. Quant au nord de la bissectrice, l'intérêt d'ordre juridique du Honduras ne risquait pas d'être affecté, puisque « [l]es droits du Honduras sur [cette] zone ... n'[avaie]nt été contestés ni par le Nicaragua ni par la Colombie »⁴⁵, comme vous l'aviez constaté dans votre arrêt

⁴² MB, « Submissions », p. 87.

⁴³ *Ibid.*, contre-mémoire du Honduras (ci-après, « CMH »), 4 décembre 2023, « Petitum », p. 189.

⁴⁴ *Différend territorial et maritime (Nicaragua c. Colombie)*, requête du Honduras à fin d'intervention, arrêt, C.I.J. Recueil 2011 (II), p. 443, par. 66-70.

⁴⁵ *Ibid.*, p. 443, par. 68.

concernant l'intervention. Dans notre affaire — celle qui nous réunit ici —, aucun arrêt antérieur n'est intervenu pour établir l'étendue des droits insulaires du Guatemala, qui font partiellement l'objet de la présente procédure.

14. Mesdames et Messieurs les juges, il y a un autre aspect de l'affaire en cours qui risque de porter atteinte aux intérêts juridiques du Guatemala. Il découle du point 3 du *petitum* du Honduras selon lequel le Honduras demande à la Cour de « [d]éclarer que la République du Honduras détient des droits traditionnels de pêche artisanale et de subsistance dans les eaux autour des cayes Zapotillos »⁴⁶. Le Honduras tend à élargir de la sorte le différend de souveraineté insulaire soumis par le Belize dans sa requête introductive d'instance, en lui donnant une dimension maritime.

15. De plus, le Honduras consacre de longs développements au statut des cayes Zapotillos, en les qualifiant de rochers au regard de l'article 121 de la convention des Nations Unies sur le droit de la mer⁴⁷. Mais ces arguments sont développés uniquement dans le corps du contre-mémoire hondurien, sans qu'ils soient formalisés par des conclusions correspondantes.

16. À ce stade de la procédure, et par précaution, le Guatemala est toutefois fondé à relever que, si la Cour en venait à accepter un élargissement du différend de souveraineté insulaire pour englober ces dimensions maritimes, l'affectation de son intérêt juridique devrait être appréciée par rapport aux demandes les plus larges soumises par les Parties⁴⁸ — et ceci est conforme à votre jurisprudence.

17. Dès lors, si la Cour devait se prononcer sur le statut juridique des cayes Zapotillos au regard de l'article 121 de la convention de Montego Bay, cela risquerait d'affecter les revendications maritimes en jeu dans l'affaire *Guatemala/Belize*. En effet, dans cette affaire, le Belize a placé des points de base sur ces îles aux fins de la construction de sa ligne d'équidistance provisoire. Le Guatemala conteste que les cayes Zapotillos soient des points de base valides : d'une part parce que le Belize ne saurait placer des points de base sur des territoires sur lesquels il n'a pas la souveraineté,

⁴⁶ CMH, « *Petitum* », p. 189.

⁴⁷ CMH, par. 24, 57-91.

⁴⁸ *Différend frontalier terrestre, insulaire et maritime (El Salvador/Honduras), requête à fin d'intervention, arrêt*, C.I.J. Recueil 1990, p. 117, par. 59.

d'autre part parce que les normes applicables et les circonstances géographiques, en particulier la faible superficie de ces cayes, s'opposent à ce qu'on leur accorde un traitement d'équidistance⁴⁹.

18. Quant aux droits de pêche traditionnels qui font l'objet de la conclusion 3 du *petitum* du Honduras, ils sont revendiqués par celui-ci dans une zone maritime que le Guatemala considère comme sienne. Selon le Honduras, ces droits de pêche auraient vocation à s'appliquer dans « les eaux des cayes Zapotillos »⁵⁰ ou encore « dans les eaux au large des cayes Zapotillos »⁵¹, sans que l'on connaisse l'étendue exacte de ces eaux. En outre, le Honduras, comme notre agent vient de le dire, s'engage à proposer une « zone commune protégée de pêche » tripartite⁵², qui concernerait inévitablement le Guatemala, alors même que celui-ci n'a jamais été consulté à ce sujet. Par sa nature, une telle zone tripartite affecterait elle aussi les intérêts juridiques du Guatemala⁵³.

2. L'intérêt juridique du Guatemala risque d'être affecté par les motifs de la décision à venir

19. Mesdames et Messieurs les juges, le Guatemala a en outre un intérêt d'ordre juridique dans l'interprétation que la Cour est appelée à donner de certains traités et principes coutumiers ou dans l'application qu'elle pourrait en faire dans le cas *sub judice*. Cet intérêt risque alors d'être affecté, non pas par le dispositif mais par les motifs du jugement sur le fond et, conformément à votre jurisprudence, notre demande en intervention mérite d'être admise également à ce titre.

20. Dans l'affaire de la *Souveraineté sur Pulau Ligitan et Pulau Sipadan*, il était établi que l'intérêt des Philippines ne portait pas « sur l'objet même de l'affaire »⁵⁴. En effet, les Philippines n'avaient « aucun intérêt territorial relatif aux îles de Sipadan et de Ligitan »⁵⁵, mais elles avaient formulé une revendication de souveraineté sur le Nord-Bornéo, qui n'était pas en litige. Dès lors, les Philippines arguaient d'un intérêt juridique résidant dans l'interprétation et l'application par la Cour d'un certain nombre d'instruments juridiques à la base de leur titre territorial putatif sur le Nord-

⁴⁹ *Revendication territoriale, insulaire et maritime du Guatemala (Guatemala/Belize)*, réplique du Guatemala, 8 décembre 2022, par. 8.10.-8.12.

⁵⁰ CMH, par. 424. Voir aussi *ibid.*, par. 15, 323, 457, 483.

⁵¹ *Ibid.*, par. 440, 443, 484.

⁵² *Ibid.*, par. 488-490.

⁵³ Voir *mutatis mutandis* *Différend frontalier terrestre, insulaire et maritime (El Salvador/Honduras)*, requête à fin d'intervention, arrêt, C.I.J. Recueil 1990, p. 121 par. 72.

⁵⁴ *Souveraineté sur Pulau Ligitan et Pulau Sipadan (Indonésie/Malaisie)*, requête à fin d'intervention, arrêt, C.I.J. Recueil 2001, p. 595, par. 46 ; voir aussi *ibid.*, p. 596, par. 49.

⁵⁵ *Ibid.*, p. 595, par. 45 ; voir aussi p. 592, par. 42.

Bornéo. Dès lors, votre Cour a soigneusement cherché à déterminer si les instruments juridiques identifiés par les Philippines avaient effectivement été invoqués comme source de titre, soit pour Ligitan et Sipadan, soit pour le Nord-Bornéo. Après un examen minutieux de chacun de ces instruments, vous avez constaté que tel n'était pas le cas⁵⁶, et vous avez logiquement conclu que l'intérêt d'ordre juridique des Philippines n'était pas « susceptible d'être mis en cause par le raisonnement ou les interprétations de la Cour »⁵⁷.

21. Dans la présente affaire, la situation du Guatemala est à l'exact opposé de celle des Philippines. En effet, comme je l'ai montré précédemment, le Guatemala a un intérêt d'ordre juridique dans l'objet même de l'affaire, qui risque d'être affecté par le dispositif de votre arrêt sur le fond. Mais, de surcroît, cette affaire met également en jeu la source même du titre juridique du Guatemala sur les cayes Zapotillos.

22. Comme notre agent vient de le souligner⁵⁸, la raison principale tient au fait que, dans la présente procédure, le Belize met en avant les mêmes fondements — instruments juridiques et règles coutumières — et très largement les mêmes faits que ceux avancés dans *Guatemala/Belize*. En d'autres termes, la source de son prétendu titre insulaire est identique dans les deux affaires et, en plus, les moyens de preuves se recoupent aussi largement.

23. En introduisant la requête à l'encontre du Honduras, le Belize tente visiblement d'obtenir un préjugement qui pourrait servir sa cause dans le litige qui l'oppose au Guatemala. Et cette cause serait d'autant mieux servie que le titre invoqué par le Belize dans la présente affaire, et les preuves qu'il avance à l'appui, s'appliquent non seulement aux cayes Zapotillos eux-mêmes (que l'on voit à l'écran), mais concernent l'ensemble des îles en litige dans l'affaire *Guatemala/Belize*. Or, cet ensemble est bien plus large, puisqu'il englobe de nombreuses îles à l'ouest et au nord des cayes Zapotillos. La carte à l'écran donne une idée de la grandeur de cet ensemble, même si elle n'identifie pas avec précision les revendications insulaires du Guatemala, puisque ce n'est pas l'objet de la présente procédure.

⁵⁶ *Ibid.*, p. 599-601, par. 65-67, 69, 70.

⁵⁷ *Ibid.*, p. 603, par. 81.

⁵⁸ Discours de l'agente, CR 2025/21 du 24 nov. 2025, par. 8.

24. La coïncidence de fondements et de preuves est telle qu'il serait impossible d'en faire un recensement exhaustif. Je me bornerai à donner quelques exemples de ces raisonnements croisés, avec des références en note aux écritures dans les deux affaires. Dans l'une et l'autre des affaires, le Belize avance comme fondement principal de sa revendication insulaire la succession au titre de souveraineté prétendument acquis par le Royaume-Uni avant l'indépendance de la République fédérale d'Amérique centrale en 1821⁵⁹. Il soutient que, par la convention de 1859, le Guatemala et le Royaume-Uni — et je cite le Belize dans la traduction fournie par le Greffe — « convenaient et déclaraient que “tout le territoire” situé au nord et à l'est de cette frontière appartenait au Royaume-Uni »⁶⁰ et que ce territoire incluait les cayes Zapotillos. Le Belize allègue par ailleurs que « [l]es travaux préparatoires de ce traité confirment que le Royaume-Uni considérait comme britanniques toutes les cayes situées entre les latitudes du fleuve Hondo et du fleuve Sarstoun, ce qui incluait les cayes de Sapodilla »⁶¹. Tous ces arguments, le Guatemala les conteste âprement dans l'affaire l'opposant au Belize⁶² et un prononcé à leur sujet risquerait d'affecter d'autant plus son intérêt juridique que ce raisonnement s'appliquerait par extension à l'ensemble des îles en litige comme je viens de le dire.

25. De plus, l'argumentaire du Honduras se télescope avec la position juridique du Guatemala. D'une manière générale, s'agissant de la période critique du XIX^e siècle, le Honduras endosse le raisonnement du Guatemala : il considère qu'avant les indépendances de 1821, l'Espagne n'avait pas cédé à la Grande-Bretagne son titre de souveraineté sur les cayes. Dès lors, ce titre a été transmis à

⁵⁹ MB, par exemple par. 43-46, 155-158 ; *Revendication territoriale, insulaire et maritime du Guatemala (Guatemala/Belize)*, contre-mémoire du Belize, 3 juin 2022, par. 2.22, 2.61, A2-A4 ; *ibid.*, duplique du Belize, 7 juin 2023, par. 3.38, A5-A17, A26, A63.

⁶⁰ MB, par. 55 [traduction du Greffe]. Voir aussi *Revendication territoriale, insulaire et maritime du Guatemala (Guatemala/Belize)*, contre-mémoire du Belize, 3 juin 2022, par. A7, A76 ; *ibid.*, duplique du Belize, 7 juin 2023, par. 3.16, A4.

⁶¹ MB, par. 55 [traduction du Greffe]. Voir aussi *Revendication territoriale, insulaire et maritime du Guatemala (Guatemala/Belize)*, contre-mémoire du Belize, par. 3.115-3.116, *ibid.*, duplique du Belize, 7 juin 2023, par. 3.18.

⁶² Sur la contestation par le Guatemala de la succession par le Belize au titre de souveraineté prétendument acquis par le Royaume-Uni avant l'indépendance de la République fédérale d'Amérique centrale en 1821, voir *Revendication territoriale, insulaire et maritime du Guatemala (Guatemala/Belize)*, mémoire du Guatemala, 8 décembre 2020, par. 3.75-3.76, 10.3, 10.25 ; *ibid.*, réplique du Guatemala, 8 décembre 2022, par. 7.34-7.36, 7.48, 7.56. Sur la contestation par le Guatemala de l'interprétation donnée par le Belize de la convention de 1859 et de ses travaux préparatoires, voir *Revendication territoriale, insulaire et maritime du Guatemala (Guatemala/Belize)*, mémoire du Guatemala, 8 décembre 2020, par. 10.56-10.67 ; *ibid.*, réplique du Guatemala, 8 décembre 2022, par. 7.6-7.14.

l'État successeur en « application du principe de l'*uti possidetis juris* »⁶³. Et comme le Guatemala dans l'affaire l'opposant au Belize, le Honduras fait ici une large place dans sa démonstration au statut et à la portée des accords anglo-espagnols de 1783 et 1786, qui fondent, selon nous, les droits territoriaux du Belize, mais dans la limite des concessions octroyées par leur biais⁶⁴.

26. Enfin, s'agissant de la convention de 1859, le Honduras endosse l'interprétation que nous en faisons, puisqu'il affirme que « [l]e traité conclu entre le Guatemala et la Couronne britannique "concernant les limites du Honduras britannique"⁶⁵ ne mentionne pas expressément les cayes Zapotillos, pas plus que ses travaux préparatoires »⁶⁶.

27. Ces quelques exemples montrent à quel point les positions juridiques des trois États sont imbriquées, puisque les titres de souveraineté invoqués par chacun d'entre eux, dans deux affaires distinctes devant la Cour, se chevauchent largement.

III. L'article 59 du Statut ne protège pas suffisamment l'intérêt juridique du Guatemala

28. Monsieur le président, j'en viens maintenant à l'argument du Honduras selon lequel « [l]e caractère relatif des effets des arrêts de la Cour reconnu[] à l'article 59 du Statut ... empêche[] que tout droit et intérêt d[u] Guatemala[] puisse être lésé par une décision rendue »⁶⁷ dans la présente affaire.

29. Cet argument purement formel n'est pas crédible. Si l'article 59 du Statut suffisait à protéger les intérêts juridiques d'un État tiers, quel serait encore l'effet utile de l'article 62 du Statut ? Votre jurisprudence est d'ailleurs constante et catégorique : « la protection offerte par l'article 59 du Statut peut ne pas être toujours suffisante »⁶⁸.

⁶³ CMH, par. 92, 169-178. Voir aussi *Revendication territoriale, insulaire et maritime du Guatemala (Guatemala/Belize)*, mémoire du Guatemala, 8 décembre 2020, par exemple par. 10.3 ; *ibid.*, réplique du Guatemala, 8 décembre 2022, par exemple par. 0.4, 7.3, 7.59 (ii).

⁶⁴ CMH, par. 96-126 ; *Revendication territoriale, insulaire et maritime du Guatemala (Guatemala/Belize)*, mémoire du Guatemala, 8 décembre 2020, par. 10.10-10.26 ; *ibid.*, réplique du Guatemala, 8 décembre 2022, par. 7.35-7.36.

⁶⁵ Note dans l'original : « MB, annexe 44 ».

⁶⁶ CMH, par. 406 ; *Revendication territoriale, insulaire et maritime du Guatemala (Guatemala/Belize)*, mémoire du Guatemala, 8 décembre 2020, par. 10.56-10.62 ; *ibid.*, réplique du Guatemala, 8 décembre 2022, par. 7.10, 7.15-7.16.

⁶⁷ OéH, 15 février 2024, par. 41.

⁶⁸ *Frontière terrestre et maritime entre le Cameroun et le Nigéria (Cameroun c. Nigéria ; Guinée équatoriale (intervenante)), arrêt, C.I.J. Recueil 2002, p. 421, par. 238, cité dans Différend territorial et maritime (Nicaragua c. Colombie), requête du Costa Rica à fin d'intervention, arrêt, C.I.J. Recueil 2011 (II), p. 361, par. 41.*

30. Le parallèle établi par le Honduras⁶⁹ avec des demandes en intervention rejetées dans certaines affaires de délimitation maritime ne lui est d'aucun secours. Au contraire, les affaires auxquelles il se réfère confortent la position du Guatemala selon laquelle l'article 59 du Statut n'est pas toujours suffisamment protecteur. Et il ne l'est pas dans la présente affaire.

31. Ainsi, dans l'affaire du *Plateau continental (Jamahiriya arabe libyenne/Malte)*, votre Cour avait certes rejeté la requête en intervention de l'Italie non pas parce que l'article 59 du Statut offrait une protection suffisante, mais parce que l'Italie cherchait « non seulement [à] informer la Cour de ses prétentions, mais aussi [à] présenter des *arguments de fond en faveur de leur reconnaissance* »⁷⁰. C'est cet objet inapproprié qui a été fatal à la requête en intervention de l'Italie. Comme le montrera par la suite M. Rodman Bundy, dans la présente affaire, le Guatemala ne demande pas à la Cour de lui adjuger ses revendications de souveraineté : contrairement à celui de l'Italie, l'objet de l'intervention du Guatemala est donc pleinement conforme à la fonction de la procédure.

32. Puis, dans l'affaire du *Différend territorial et maritime (Nicaragua c. Colombie)*, la requête du Costa Rica a été, elle aussi, rejetée. Mais, pour quelle raison ? Parce que le Costa Rica n'avait pas démontré que « son intérêt d'ordre juridique *dans l'espace maritime bordant la zone en litige* entre le Nicaragua et la Colombie requiert une protection qui n'est pas offerte par l'effet relatif des décisions de la Cour consacré à l'article 59 du Statut »⁷¹.

33. La demande du Costa Rica ne visait donc pas la zone en litige, mais une zone maritime *bordant* la zone en litige. En effet, la Colombie et le Nicaragua s'étaient gardés d'étendre leurs revendications à une zone sur laquelle le Costa Rica avait des revendications concurrentes, comme vous l'avez d'ailleurs constaté dans votre arrêt :

« [L]a Colombie a affirmé que ses revendications laissaient délibérément ouverte la détermination des points terminaux de la délimitation, de manière à ne pas affecter les intérêts d'États tiers. [L]e Nicaragua a convenu "que toute ligne de délimitation

⁶⁹ OéH, 15 février 2024, par. 41, note n° 22.

⁷⁰ *Plateau continental (Jamahiriya arabe libyenne/Malte)*, requête à fin d'intervention, arrêt, C.I.J. Recueil 1984, p. 20-21, par. 32 (les italiques sont de nous).

⁷¹ *Différend territorial et maritime (Nicaragua c. Colombie)*, requête du Costa Rica à fin d'intervention, arrêt, C.I.J. Recueil 2011 (II), p. 372, par. 87 (les italiques sont de nous).

établie par la Cour devrait s'arrêter bien avant la zone dans laquelle, selon le Costa Rica, celui-ci a un intérêt d'ordre juridique ...". »⁷²

34. La situation du Guatemala dans la présente affaire n'est en rien comparable à celle du Costa Rica. En effet, l'intérêt du Guatemala ne porte pas sur un espace « *bordant* la zone en litige », mais sur la « zone » litigieuse elle-même, puisque les mêmes îles font l'objet de revendications concurrentes de trois États. Dès lors, la Cour n'a que des possibilités limitées de rendre une décision dont l'effet s'arrête à « la zone où les droits d'États tiers [ici le Guatemala] peuvent entrer en jeu »⁷³. Si, comme nous le pensons, la Cour admet notre intervention, le Guatemala tentera d'esquisser ces solutions limitées dans ses observations sur le fond.

35. S'il faut trouver une situation analogue, c'est plutôt celle du Nicaragua dans l'affaire du *Différend frontalier terrestre, insulaire et maritime (El Salvador/Honduras)* de 1990 qui vient à l'esprit. La Cour avait alors admis la requête en intervention du Nicaragua, car

« [l]a “communauté d'intérêts”, qui forme le point de départ de l'argumentation du Honduras, est une communauté qui, à l'égal du condominium invoqué par El Salvador, inclut le Nicaragua en tant qu'un des trois États riverains ... Le Nicaragua allègue qu'à cet égard

“toute décision que prendra la Chambre ... est *nécessairement une décision dont l'objet même sera la détermination des droits des trois États riverains* dans le golfe de Fonseca et sur les eaux situées à l'extérieur de ce dernier”. »⁷⁴

36. La chambre de la Cour n'aurait pu décider d'un régime juridique pour les eaux à l'intérieur du golfe de Fonseca qui, sur le fond, incluait le Nicaragua, tout en excluant celui-ci de la procédure. C'est la raison pour laquelle la chambre a décidé d'admettre le Nicaragua comme intervenant non partie. La même conclusion s'impose dans notre affaire, où trois États revendiquent la souveraineté sur les mêmes îles. Et, à ce stade de la procédure, cela suffit à démontrer que la requête à fin d'intervention du Guatemala doit être admise.

37. Mesdames et Messieurs les juges, l'effet relatif des arrêts de la Cour n'est pas une panacée qui autoriserait le Belize et le Honduras à isoler le présent différend de celui dont la Cour est appelée à connaître en vertu du compromis par lequel a été introduite l'affaire *Guatemala/Belize*. Le

⁷² *Ibid.*, par. 88.

⁷³ *Délimitation maritime en mer Noire (Roumanie c. Ukraine)*, arrêt, C.I.J. Recueil 2009, p. 131, par. 219.

⁷⁴ *Différend frontalier terrestre, insulaire et maritime (El Salvador/Honduras)*, requête à fin d'intervention, arrêt, C.I.J. Recueil 1990, p. 121-122, par. 72 (note de bas de page omise) (les italiques sont de nous).

Guatemala ne saurait être ainsi exclu d’une discussion qui l’intéresse au plus haut point. Or c’est bien ce que le Belize également tente de faire, en rappelant lui aussi l’article 59 du Statut, pour se rassurer et sans doute pour rassurer la Cour que :

« Each of the two disputes concerning sovereignty over the Sapodilla Cayes — between Belize and Honduras, and between Belize and Guatemala, respectively — can be dealt with as between the parties to each case, consistently with Article 59 of the Statute of the Court. »⁷⁵

38. Cette position formaliste ne résiste pas à l’analyse. Comme l’a jugé le tribunal arbitral dans l’affaire *Érythrée/Yémen*, les titres de souveraineté sont par nature exclusifs et tendent à revêtir une portée *erga omnes* :

« Boundary and territorial treaties made between two parties are *res inter alios acta* vis-à-vis third parties. But this special category of treaties also represents a legal reality which necessarily impinges upon third states, because they have effect *erga omnes*. If State A has title to territory and passes it to State B, then it is legally without purpose for State C to invoke the principle of *res inter alios acta*, unless its title is better than that of A (rather than of B). In the absence of such better title, a claim of *res inter alios acta* is without legal import. »⁷⁶

39. Transposons ce raisonnement à l’affaire qui nous occupe : les États A et B d’*Érythrée/Yémen* sont ici le Belize et le Honduras. Le traité est remplacé par l’arrêt de la Cour dans l’affaire des *Cayes Zapotillos*, ce qui, au passage, conforte l’effet *erga omnes* du titre ainsi reconnu, en raison de l’autorité particulière d’un arrêt de la Cour. L’État C, dans cette configuration, est le Guatemala. Il ne pourrait se prévaloir utilement du principe *res inter alios acta* que si la Cour pouvait juger qu’il détient un titre meilleur que celui des deux autres États ; en somme, la Cour devrait pouvoir juger *de novo* que c’est le Guatemala qui détient la souveraineté, et non le Belize ou le Honduras. Mais puisque les mêmes titres juridiques sont discutés dans les deux affaires, ce raisonnement a des limites évidentes. En conclusion, ce n’est pas seulement l’intérêt, c’est la position juridique du Guatemala qui risque d’être singulièrement affectée : nous revendiquons ce même territoire, devant cette même Cour, à l’encontre de l’une des Parties à cette affaire et sur la base des mêmes titres juridiques que ceux discutés dans la présente procédure. Rarement un État a présenté autant de raisons pour qu’il soit admis à intervenir au titre de l’article 62 du Statut.

⁷⁵ MB, par. 11.

⁷⁶ *Sovereignty and Maritime Delimitation in the Red Sea (Eritrea/Yemen), Phase I*, PCA, 9 October 1998, p. 47, par. 153.

40. Monsieur le président, cela conclut ma présentation et je remercie la Cour de son attention et je vous prie, Monsieur le président, de bien vouloir donner la parole à M. Rodman Bundy.

Le PRÉSIDENT : Je remercie la professeure Miron. I now call Mr Rodman Bundy to the podium. You have the floor, Sir.

Mr BUNDY:

**GUATEMALA HAS FULLY COMPLIED WITH ARTICLE 81
OF THE RULES OF COURT**

1. Thank you, Mr President, distinguished judges, I am honoured to appear before the Court as always, this time on behalf of the Republic of Guatemala.

Introduction

2. My presentation will show that, contrary to Honduras' assertions, Guatemala has fully complied with the requirements of Article 81 of the Rules of Court. In particular, I will focus on three arguments that Honduras has raised regarding the requirements of Article 81 in its written observations as grounds for rejecting Guatemala's request in order to demonstrate that they are without merit.

3. In so doing, I will be referring to the Rules of Court that were in force as of 1 December 2023, which was the date of Guatemala's Application. Article 81, as we know, was amended on 28 February 2024, and those amendments came into force on 1 June 2024. But it is the previous version of the Rules that are applicable to this request, although, as I shall presently show, Guatemala's request also fully complies with the amended Rules.

4. The three objections of Honduras that I will address are the following:

- (i) The first objection is that Guatemala's request should be rejected "*in limine*" because Guatemala failed to provide a list or attach any documents in its Application allegedly in breach of paragraph 3 of Article 81 of the Rules of Court (which is now paragraph 6 of Article 81)⁷⁷. That is the first objection.

⁷⁷ Honduras' written observations, para. 4.

- (ii) The second objection is that Guatemala filed its request on 1 December 2023, just three days before Honduras lodged its Counter-Memorial; in other words, as Honduras says, before knowing Honduras' position in the present case. Based on the timing of Guatemala's request, and I have to say as a complete non sequitur, Honduras then asserts that this shows that Guatemala wishes to use its intervention in *Belize v. Honduras* for the purposes of serving its own interests in the case between Guatemala and Belize, and that this is an abuse of process⁷⁸. That is the second objection.
- (iii) The third objection of Honduras is that the object of Guatemala's intervention is "vague and imprecise" and thus contravenes the condition set out in paragraph 2 (b) of Article 81 (now paragraph 5 (b)) that the applicant must indicate the precise object of the intervention⁷⁹.

None of these objections withstand scrutiny.

A. The question of documents

5. Let me turn to my first point — Honduras' complaint that Guatemala did not provide a list or attach documents to its Application.

6. On this point, Honduras asserts that Article 81, paragraph 3, of the Rules in force on the date of Guatemala's Application contains an obligatory requirement that the application be accompanied with a compendium and a list of documents in support. In fact, Honduras goes so far as to argue that this is a condition *sine qua non* for the admissibility of the request and then, in rather intemperate language, accuses Guatemala's failure to do so as being "inexcusable"⁸⁰. And it further insists that the Court ought not to "validate" Guatemala's Application because to do so would be to the detriment of the good administration of justice⁸¹.

7. Mr President, distinguished judges, this, purely formalistic, line of argument is untenable. There is no requirement for a party seeking permission to intervene to include documents or a list with its application. The Court made this abundantly clear in its Judgment on the Philippines'

⁷⁸ *Ibid.*, paras. 22 and 23.

⁷⁹ *Ibid.*, para. 40.

⁸⁰ *Ibid.*, para. 4.

⁸¹ *Ibid.*, para. 5.

application for permission to intervene in the *Pulau Ligitan and Pulau Sipadan* case between Indonesia and Malaysia. There the Court stated:

“The Court confines itself to observing in this regard that, while Article 81, paragraph 3, of the Rules of Court indeed provides that the application shall contain a list of *any* documents in support, there is *no requirement* that the State seeking to intervene necessarily attach any documents to its application in support. It is only where such documents have in fact been attached to the said application that a list thereof must be included”⁸².

Now that ruling which you see on the screen was specifically affirmed again by the Court in its Judgment on Costa Rica’s application for permission to intervene in the *Nicaragua v. Colombia Territorial and Maritime Dispute* case⁸³.

8. If we go back to the Philippines’ application, the Court further added that it considered that “the choice of the means whereby the State wishing to intervene seeks to prove its assertions lies in the latter’s sole discretion”⁸⁴. Accordingly, the Court found that the Philippines’ request could not be rejected on the basis of Article 81, paragraph 3, of the Rules of Court for failing to provide a list or documents.

9. It is noteworthy, in this respect, that Honduras itself emphasizes that the Court, as well as the Parties, are already informed about Guatemala’s interest in the Sapodilla Cays by virtue of the written pleadings submitted in the *Guatemala/Belize* case⁸⁵. Guatemala’s claim to the Sapodilla Cays as against Belize was indeed developed in that case and supported by a wealth of material annexed to its written pleadings, which both Belize (as a party to that case) and Honduras (as a State that was granted access to the file⁸⁶), both of them have full access. Honduras has extensively used some of this material and annexed it to its own Counter-Memorial in the present case⁸⁷. Belize has also

⁸² *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia), Application for Permission to Intervene, Judgment, I.C.J. Reports 2001*, p. 587, para. 29 (emphasis added).

⁸³ *Territorial and Maritime Dispute (Nicaragua v. Colombia), Application by Costa Rica for Permission to Intervene, Judgment, I.C.J. Reports 2011 (II)*, pp. 362-363, para. 48.

⁸⁴ *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia), Application for Permission to Intervene, Judgment, I.C.J. Reports 2001*, p. 587, para. 29.

⁸⁵ Honduras’ written observations, paras. 27 and 33.

⁸⁶ See Letter from Honduras to the Court, 7 January 2021, and Letter from Guatemala to the Court, 18 January 2021.

⁸⁷ Honduras’ Counter-Memorial, 4 December 2023, para. 17.

annexed numerous documents in this case that were produced in the *Guatemala/Belize* case. Consequently, Guatemala saw no need to submit with its Application a list of documents in support since both Belize and Honduras, as well as the Court, are familiar with these documents and have access to them. If Guatemala is granted permission to intervene, it will of course annex as appropriate relevant documents to its written statement provided for in Article 85, paragraph 1, of the Rules of Court.

10. But for present purposes, there are no grounds for rejecting Guatemala's Application for a failure to provide documents or a list of such documents with its Application.

B. The timeliness of Guatemala's Application and Honduras' contention that Guatemala is engaged in an abuse of process

11. Let me turn to my second point, which is the timeliness of Guatemala's Application and the allegation of abuse of process. While Honduras does not make a formal submission that the Application should be dismissed because it was not made in time, it does complain, as I said, that Guatemala's Application was lodged three days before Honduras filed its Counter-Memorial and thus before knowing Honduras' position in this case⁸⁸. According to Honduras, therefore, the timing of Guatemala's Application somehow shows Guatemala's desire to use the dispute between Belize and Honduras to serve Guatemala's own interests in the *Guatemala/Belize* case⁸⁹.

12. Once again, these contentions are baseless. Let me start with the question of timeliness.

13. Article 81, paragraph 1, of the Rules of Court in force when Guatemala's Application was submitted provides that an application for permission to intervene "shall be filed as soon as possible, and not later than the closure of the written pleadings". Obviously, Guatemala's Application met that requirement. It was filed before Honduras filed its Counter-Memorial and thus *a fortiori* before the closure of the written pleadings.

14. Guatemala took this step because it knew from the Court's Order of 2 February 2023 in this case that the time-limit for Honduras' Counter-Memorial in this case was 4 December 2023. However, Guatemala could not know whether there would be a further round of written pleadings in

⁸⁸ Honduras' written observations, para. 22.

⁸⁹ *Ibid.*

the *Belize v. Honduras* case because the Court in its February Order had reserved the subsequent procedure for future decision. Guatemala could not take the risk that the written pleadings would be closed shortly after the filing of Honduras' Counter-Memorial if there was no further round, as in fact turned out to be the case. Honduras is fully aware that the participation of Guatemala could have been foreclosed if Guatemala had not submitted its request for permission to intervene before the filing of the Honduran Counter-Memorial. That is the reason Guatemala filed its request before the Counter-Memorial was due, because it was afraid the written pleadings might be closed right afterwards and thus it would be too late.

15. That situation can be compared to that which existed with respect to the Philippines' application for permission to intervene in the *Pulau Ligitan and Pulau Sipadan* case between Indonesia and Malaysia. There, the Philippines filed its request on 13 March 2001, after three rounds of written pleadings had been submitted — Memorials, Counter-Memorials and Replies⁹⁰. However, the Special Agreement in that case provided for one more possible round of written pleadings — the exchange of Rejoinders “if the Parties so agree or if the Court decides ex officio or at the request of one of the Parties”⁹¹. It was only on 28 March 2001 that the parties notified the Court that they had agreed that it was not necessary to have a fourth round⁹². Thus, although the third round of written pleadings terminated on 2 March 2001, neither the Court, nor third parties, such as the Philippines, could have known on the date of the filing of the Philippines' application for permission to intervene whether the written proceedings had indeed been closed or not. That decision was only made after the application was submitted.

16. In these circumstances, the Court stated that the Philippines “cannot be held to be in violation of . . . [Article 81 (1)], which establishes a specific deadline for an application for permission to intervene, namely ‘not later than the closure of the written proceedings’”⁹³.

17. Finally, it is worth noting that Article 81, paragraph 1, of the Rules, as amended in 2024, now provides that an application for permission to intervene “shall be filed as soon as possible, and

⁹⁰ *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia), Application for Permission to Intervene, Judgment, I.C.J. Reports 2001*, pp. 579-580, paras. 2-7.

⁹¹ *Ibid.*, p. 579, para. 1.

⁹² *Ibid.*, p. 580, para. 4.

⁹³ *Ibid.*, pp. 585-586, para. 23.

not later than the date fixed for the filing of the Counter Memorial”. The timing of Guatemala’s Application also conforms to the amended Rules. The amended Rules that say not later than the filing of the Counter-Memorial underscore the Court’s view that it is not necessary for a State seeking permission to intervene to wait for a party’s Counter-Memorial before doing so.

18. Equally misguided is Honduras’ assertion that the fact that Guatemala’s Application was filed shortly before the Honduran Counter-Memorial somehow evidences Guatemala’s “desire to use the dispute between Belize and Honduras to serve [its] own interests [in the *Guatemala/Belize* case]”⁹⁴, and that this is an “abuse of procedure”⁹⁵.

19. Our colleagues to my left do not offer a shred of evidence for this rather serious accusation. As I will explain presently when I come to the object of Guatemala’s request, Guatemala is seeking permission to intervene to protect its interests of a legal nature that may be affected by a decision in the present case, and to provide the Court with information that would enable the Court in so far as possible to avoid prejudicing those interests, including Guatemala’s claims in the *Guatemala/Belize* case. Guatemala does not seek to obtain a judicial pronouncement on those claims in the *Guatemala/Belize* case. It does not seek any judicial pronouncement on its own claims, obviously in this case as an intervener, but it does wish to inform the Court of its claims and their legal basis so that its legal interests may be protected.

20. Even though the present proceedings concern an application for permission to intervene under Article 62 of the Statute, I think it is instructive to refer to what the Court has said about a State’s motivation in applying to intervene under Article 63 of the Statute since, in this respect, similar considerations apply here.

21. For example, in its Order of 5 June 2023 on the admissibility of declarations of intervention in *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, the Court “considers that the question of a State’s motivation when filing a declaration of intervention is not relevant for the purposes of the

⁹⁴ Honduras’ written observations, para. 22 (my translation).

⁹⁵ *Ibid.*, para. 23 (my translation).

admissibility of that declaration”⁹⁶. Instead, the Court’s task, under Article 63, is limited “to ascertain[ing] whether th[at] declaration of intervention relates to the interpretation of the convention in question” in the proceedings⁹⁷.

22. By the same token, Honduras’ speculation about Guatemala’s motivation in submitting its Application for permission to intervene is irrelevant. The key issue under Article 62 of the Statute is whether Guatemala has shown that it has an interest of a legal nature that may be affected by a decision in the case, and Professor Miron, I think, has made that showing.

23. That cannot be said to be an abuse of procedure. As the Court observed in its recent Advisory Opinion on *Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory*:

“While arguments relating to abuse of process have been invoked by parties in previous contentious cases, the Court has never accepted them. It has stated that only in ‘exceptional circumstances’ may the Court refrain from exercising its jurisdiction on the ground of abuse of process”⁹⁸.

24. Honduras knows this, it recognizes this. Because in its written observations, it quoted from the Court’s Judgment on Equatorial Guinea’s preliminary objections in the *Immunities and Criminal Proceedings* between Equatorial Guinea and France for the proposition that “[i]t is only in *exceptional circumstances* that the Court should reject a claim based on a valid title of jurisdiction on the ground of abuse of process”⁹⁹.

25. Moreover, even if the Court’s statement on exceptional circumstances could be extended to requests for permission to intervene, as to which Honduras has not cited any precedent, the mere fact that Guatemala is a party to a separate case with Belize that involves, in part, the question of sovereignty over the Sapodilla Cays is not an exceptional circumstance warranting dismissal of

⁹⁶ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, *Admissibility of the Declarations of Intervention*, Order of 5 June 2023, I.C.J. Reports 2023 (II), p. 365, para. 44.

⁹⁷ *Ibid.*, p. 368, para. 58.

⁹⁸ *Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory*, Advisory Opinion of 22 October 2025, para. 39, citing *Immunities and Criminal Proceedings (Equatorial Guinea v. France)*, Preliminary Objections, Judgment, I.C.J. Reports 2018 (I), p. 336, para. 150; and *Certain Iranian Assets (Islamic Republic of Iran v. United States of America)*, Preliminary Objections, Judgment, I.C.J. Reports 2019 (I), pp. 42-43, paras. 113-114).

⁹⁹ Honduras’ written observations, para. 23, citing *Immunities and Criminal Proceedings (Equatorial Guinea v. France)*, Preliminary Objections, Judgment, I.C.J. Reports 2018 (I), p. 336, para. 150 (emphasis added).

Guatemala's Application for permission to intervene in this case. Nor does it mean by any stretch of the imagination that there has somehow been an abuse of process.

26. I would suggest that it follows that there are no grounds for rejecting Guatemala's Application, either based on the timing of that Application, or on the allegation that Guatemala is involved in abuse of process. Guatemala has not engaged in any abuse of process by seeking what Article 62 of the Statute specifically permits — permission to intervene to protect a State's interests of a legal nature that may be affected by a decision of the Court.

C. The precise object of the intervention

27. Mr President, that brings me to the last part — and I will try to be as brief as possible — of my presentation: the precise object of the intervention, which is a requirement under Article 81, paragraph 2 (*b*), of the Rules in force in 2023. That provision has remained unchanged in the amended Rules except that it appears in paragraph 5 (*b*) now instead of 2 (*b*).

28. As the Agent has recalled, in its Application¹⁰⁰, Guatemala explained the object of its request to intervene in the way that you see on the screen. I do not need to read it again, it is in your folders and you have seen this.

29. Honduras criticizes this object as being vague and imprecise¹⁰¹. But that is not so. Indeed, on several occasions the Court has stated that objects of the same nature and formulation satisfy the requirements of Article 81, paragraph 2 (*b*), of the Rules of Court.

30. For example, with respect to Nicaragua's Application for permission to intervene in the *Land, Island and Maritime Frontier Dispute* with respect to the Gulf of Fonseca — a case to which Honduras was a party — the Chamber of the Court noted: "So far as the object of Nicaragua's intervention is 'to inform the Court of the nature of the legal rights of Nicaragua which are in issue in the dispute', it cannot be said that this object is not a proper one: it seems indeed to accord with the function of intervention"¹⁰². Honduras itself quoted that very statement regarding the object of an intervention when it applied to intervene in the *Territorial and Maritime Dispute* case between

¹⁰⁰ Guatemala's Application, para. 10.

¹⁰¹ Honduras' written observations, para. 40.

¹⁰² *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras), Application for Permission to Intervene, Judgment, I.C.J. Reports 1990*, p. 130, para. 90.

Nicaragua and Colombia¹⁰³. It cited the same language the Court did in the Gulf of Fonseca case to support its own application with respect to the object of the intervention. It is difficult to know why they are complaining about this now.

31. The Chamber in the *Land, Island and Maritime Frontier* case also observed the following and I will quote from the Chamber's Judgment:

"It seems to the Chamber however that it is perfectly proper, and indeed the purpose of intervention, for an intervener to inform the Chamber of what it regards as its rights or interests, in order to ensure that no legal interest may be 'affected' without the intervener being heard; and that the use in an application to intervene of a perhaps somewhat more forceful expression [Nicaragua may have used a more forceful expression but Guatemala has not] is immaterial, provided the object actually aimed at is a proper one"¹⁰⁴.

32. Moreover, in accepting Equatorial Guinea's application to intervene in the *Cameroon/Nigeria* case, the Court quoted with approval these statements of the Chamber that I have just referred to¹⁰⁵. And going back to the *Sovereignty over Pulau Ligitan and Pulau Sipadan*, the Court noted, with respect to the Philippines' applications, that similar formulations had been employed in other applications for permission to intervene, and I quote from the Court's Judgment "have not been found by the Court to present a legal obstacle to intervention"¹⁰⁶.

33. In the light of this *jurisprudence constante*, there are no grounds for rejecting Guatemala's Application based on a failure to identify the precise object of that intervention.

34. Mr President, I could end there since the stated object of Guatemala's request for permission to intervene clearly meets the requirements of Article 81 of the Rules but it may be helpful if I just say a few more very brief words on what the object of Guatemala's request is and, equally important, what it is *not*.

35. Guatemala is cognizant of the fact that the Court has cautioned that "a State requesting permission to intervene may not, under the cover of intervention, seek to introduce a new case

¹⁰³ *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, Application by Honduras for Permission to Intervene, Judgment, I.C.J. Reports 2011 (II), p. 435, para. 41.

¹⁰⁴ *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)*, Application for Permission to Intervene, Judgment, I.C.J. Reports 1990, pp. 130-131, para. 90.

¹⁰⁵ *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*, Application for Permission to Intervene, Order of 21 October 1999, I.C.J. Reports 1999 (II), p. 1034, para. 14.

¹⁰⁶ *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*, Application for Permission to Intervene, Judgment, I.C.J. Reports 2001, p. 606, para. 87.

alongside the main proceedings”¹⁰⁷. Despite Honduras’ insinuation that Guatemala is trying indirectly to provoke some kind of new dispute¹⁰⁸, that is most certainly not the case. Once more, Honduras has not adduced any support, let alone explanation, for that accusation. Suffice it to say, and I need to emphasize this, that Guatemala does not seek by means of its Application either to provoke a hypothetical dispute with Honduras or to submit any dispute to this Court. It is only intervening to inform the Court of its legal interest to protect those legal interests under Article 62.

36. At the same time, the Court has made it clear that it is perfectly proper for an intervener to inform the Court of what it regards as its rights or interests, in order to ensure that no legal interest may be “affected” without the intervener being heard¹⁰⁹.

37. For instance, Guatemala seeks to provide more complete context to some of the arguments and materials made by the Parties and relied on them in the present case because the Parties here have been selective in what documents they filed. In order to inform the Court of its rights and legal interests, and to protect them by all legal means available, Guatemala would wish to draw the Court’s attention to the fact that the materials relied on by Belize and Honduras are partial and incomplete, and do not provide the full picture, because they fail to take into account Guatemala’s legal interests and rights and its position, as often expressed in documents that have not been filed in this case. That does not mean that Guatemala is asking the Court to adjudicate its claims here — it is not.

38. Seen in this light, Guatemala submits that the object of its intervention is an entirely proper one, and that Honduras’ objections to the contrary should, with respect, be rejected.

39. Mr President, that concludes my presentation, and it concludes Guatemala’s first round. I appreciate the extra time we have been afforded and I trust we have shown why Honduras’ objections are unsustainable, and I thank the Court very much for its attention. Thank you.

¹⁰⁷ *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, Application by Honduras for Permission to Intervene, Judgment, I.C.J. Reports 2011 (II), p. 436, para. 47. See also, *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*, Application for Permission to Intervene, Judgment, I.C.J. Reports 2001, p. 598, para. 60.

¹⁰⁸ Honduras’ written observations, para. 24.

¹⁰⁹ *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)*, Application for Permission to Intervene, Judgment, I.C.J. Reports 1990, p. 131, para. 92.

The PRESIDENT: I thank Mr Bundy, whose statement brings to an end the first round of oral argument of Guatemala, as well as this morning's sitting. The Court will meet again tomorrow, at 10 a.m., to hear the first round of oral argument of Belize and Honduras.

The sitting is closed.

The Court rose at 11.45 a.m.
