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**International Court
of Justice**

**Cour internationale
de Justice**

THE HAGUE

LA HAYE

YEAR 2025

Public sitting

held on Tuesday 25 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 mardi 25 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

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

The Court meets this morning to hear the first round of oral argument of Belize and Honduras on the Application for permission to intervene filed by Guatemala in the case concerning *Sovereignty over the Sapodilla Cayes/Cayos Zapotillos (Belize v. Honduras)*. Belize will take the floor first, followed by a 15-minute break. The Court will then hear Honduras for its first round.

I now give the floor to the Agent of Belize, His Excellency Mr Assad Shoman. You have the floor, Sir.

Mr SHOMAN:

INTRODUCTION

1. Mr. President and Members of the Court, I have the honour to address you as the Agent of Belize and to congratulate Judge Okowa on her election to the Court.

2. The narrow question before the Court is whether it should exercise its power to permit Guatemala to intervene in these proceedings between Belize and Honduras. Consistently with the position Belize adopted in correspondence with the Court¹, Belize does not object to Guatemala being permitted to intervene if the Court considers that it would be assisted by such an intervention.

3. There are two cases currently before the Court concerning Belize's territorial integrity.

4. First, in 2019, by way of a Special Agreement, Belize and Guatemala requested that the Court resolve any and all legal claims of Guatemala against Belize to land and insular territories and to any maritime areas pertaining to those territories, and to determine the boundaries between them.

5. Second, in 2022, Belize invoked the Court's jurisdiction in the present case with Honduras, which concerns a smaller area within the same territory, but one significant to Belize — a range of cays in the south of the Gulf of Honduras called the Sapodillas. There are disputes between Belize and each of Guatemala and Honduras concerning sovereignty over those cays.

6. Before Belize instituted these proceedings, it engaged in bilateral discussions and exchanges with Honduras, but Honduras did not abandon its claim to sovereignty over the Sapodillas. Belize

¹ Letter from Belize to the Court's Registry, 18 January 2024.

therefore commenced the present proceedings to ensure the full resolution of all territorial claims against it².

7. For Belize, the pressing issue remains the need for an efficient and complete resolution of all claims against Belize's territory by both Guatemala and Honduras. Belize considers that this objective will be best served by co-ordination of the two cases.

8. How to achieve such co-ordination is of course a matter for the Court. It would be logical for the Court to hear *Guatemala/Belize* first and then, immediately or very shortly thereafter, to hear the more confined case of *Belize v. Honduras*.

9. That would facilitate efficient use of the Court's resources. Participants in the second case could refer to matters already covered in the first, and so minimize repetition. Most importantly, such co-ordination would allow the Court to consider all evidence, arguments and formal submissions advanced by each of the three States before rendering its two separate judgments in two different disputes between two different pairs of States.

10. Members of the Court, I now turn to the issue of timing. *Guatemala/Belize* has been ready for hearing for more than two years, since Belize filed its Rejoinder in June 2023.

11. In *Belize v. Honduras*, the merits submissions of the Parties were concluded almost two years ago, in December 2023 — the same month in which Guatemala filed its Application for permission to intervene.

12. The two cases are fundamental to the protection of Belize's territorial integrity. Whatever the Court decides concerning intervention, it is crucial that the two proceedings advance towards merits judgments as efficiently as possible, in conformity with the sound administration of justice.

13. President and Members of the Court, I thank you for your kind attention and ask that you give the floor to Mr Juratowitch.

The PRESIDENT: I thank the Agent of Belize for his statement. I now invite Mr Ben Juratowitch to address the Court. You have the floor, Sir.

² See MB Annexes 248 and 249.

Mr JURATOWITCH:

OBSERVATIONS ON GUATEMALA'S SUBMISSIONS

1. Mr President and Members of the Court, I have the honour to address you and to do so on behalf of Belize.

2. We will simply make some discrete points arising from Guatemala's submissions yesterday.

3. We start by identifying aspects of those submissions that are common ground between Belize and Guatemala.

(a) The first is that it would be sensible for the Court to hold the hearings on the merits in the two cases "back-to-back"³. On the basis that Guatemala and Belize agree that the Court should hear and resolve the merits of both disputes in a way that allows its deliberations in each of them to overlap, Belize does not object to Guatemala's Application.

(b) The second point of common ground is that Honduras did not make known its claim to the Sapodillas until 1981⁴. That was when it became aware of the *Heads of Agreement*, which contemplated discussions aimed at a compromise resolution of the broader dispute between the United Kingdom and Guatemala concerning the territory of Belize, and which ultimately failed.

(c) The third point is that having made a claim in 1981, Honduras then left it dormant⁵.

(d) The fourth point is this. Honduras could have applied to intervene in *Guatemala/Belize* but elected not to do so⁶. It is undisputed as between the three States that there is no impediment to the complete resolution of all of Guatemala's claims against Belize.

4. Members of the Court, those are the points of common ground between Belize and Guatemala's submissions of yesterday.

5. The next issue concerns two matters that Guatemala identified yesterday on which it said that it would not have a chance to comment unless its intervention were permitted.

(a) The first is the Honduran claim to traditional fishing rights. Guatemala correctly observed yesterday that this claim seeks to expand the scope of the dispute submitted by Belize to the

³ CR 2025/21, p. 15, para. 6 (Guatemala, Rodríguez Pineda)

⁴ CR 2025/21, p. 18, para. 17 (Guatemala, Rodríguez Pineda).

⁵ CR 2025/21, p. 21, para. 26 (Guatemala, Rodríguez Pineda).

⁶ CR 2025/21, p. 22, para. 30 (Guatemala, Rodríguez Pineda).

Court⁷. Today is the first opportunity that Belize has had to address the Court, whether in writing or orally, since the Counter-Memorial of Honduras, when Honduras first raised its claim to traditional fishing rights. Belize therefore wishes now to indicate that at the main hearing it will be objecting to the jurisdiction of the Court over this new claim. At the time of Belize's Application and indeed at the time of the Honduran Counter-Memorial, there was simply no dispute on that question. In addition, because Honduras had never before raised its traditional fishing rights claim in any forum, that claim had not been through the processes which are mandatory prerequisites to jurisdiction under the Pact of Bogotá, including negotiations.

(b) Guatemala also mentioned yesterday the rather odd Honduran argument that the Sapodilla Cayes are all rocks for the purposes of Article 121 of UNCLOS⁸. Honduras makes no formal submission in this respect and so no objection to jurisdiction is necessary. Belize does however wish to indicate that this issue is simply not part of the dispute properly before the Court in the present case. Belize will elaborate on this at the merits hearing, but the dispute before the Court plainly concerns only *sovereignty* over the cays, not whether they constitute rocks under UNCLOS. Guatemala was explicit that this issue would arise only if the Court accepted an enlargement of the dispute from sovereignty over islands to encompass what Guatemala termed maritime dimensions⁹, but neither Party has contended that the Court should do so.

6. Whether concerning the traditional fishing rights claim or the argument about classification of the Sapodillas as rocks, the more fundamental point for present purposes is this. Even if, contrary to Belize's arguments, the Court were to determine Honduras' traditional fishing rights claim or say something about whether any of the Sapodillas is a rock, by virtue of Article 59 of the Court's Statute, such a finding would have no binding effect on Guatemala.

7. Members of the Court, that is a point to which we will return in more general form, but we move now to points of difference between Guatemala and Belize arising from Guatemala's submissions of yesterday.

⁷ CR 2025/21, p. 27, para. 14 and p. 28, para. 18 (Guatemala, Miron).

⁸ CR 2025/21, p. 27, para. 15 (Guatemala, Miron).

⁹ CR 2025/21, p. 27, para. 16 (Guatemala, Miron).

8. Guatemala said that Belize relies on the same facts in both cases, has the same basis of claim in both cases and presents largely the same evidence in both cases¹⁰. That, Members of the Court, is not correct.

9. This is of course not the time for any exploration of the merits of either case, but it is a time for the correct *characterization* of the claims in each case.

10. In the present case with Honduras, Belize claims sovereignty not only on the basis that the United Kingdom became sovereign before 1821, but much more importantly because of the bilateral course of conduct since Honduras' independence. For more than a century and a half, the United Kingdom exercised sovereign authority over the Sapodilla Cayes openly, continuously and peacefully, and Honduras not only acquiesced in the assertions of sovereignty constituted by that conduct but positively recognized British sovereignty. The result was that the settled position between Honduras and the United Kingdom in respect of the Sapodilla Cayes was that the United Kingdom was sovereign and Honduras was not. Belize then acquired sovereignty from the United Kingdom upon becoming an independent State in 1981. Those determinative facts leading to that determinative legal conclusion do not rely in any way on the position before 1821. They involve conduct occurring as between Honduras, on the one hand, and the United Kingdom and Belize, as its successor, on the other.

11. In the case involving Guatemala's claims against Belize, the key subject of debate is the terms and effect of the 1859 Convention between Guatemala and the United Kingdom relative to the Boundary of British Honduras, and of the 1931 Exchange of Notes that followed it. That is a debate about treaties and, again, does not depend on the position before 1821.

12. So, whilst it is correct that some common matters do arise in the two cases, Guatemala was quite wrong to say that the issues in the two cases "largely overlap"¹¹.

13. Of course the most striking overlap is the "partly similar views" between Honduras and Guatemala to which Guatemala alluded yesterday¹². Guatemala and Honduras agree with each other that, by operation of the doctrine of *uti possidetis juris*, one of them succeeded to the sovereignty of

¹⁰ CR 2025/21, p. 29, para. 22 (Guatemala, Miron).

¹¹ CR 2025/21, p. 31, para. 27 (Guatemala, Miron).

¹² CR 2025/21, pp. 15-16, para. 8 (Guatemala, Rodríguez Pineda).

the Central American Republic, which had in turn succeeded to Spanish sovereignty. They just disagree about the rather fundamental point of which one of them it was. Belize's answer is that neither of them did so but, much more importantly, that it does not matter at all because of what happened once each of them was independent.

14. Members of the Court, Belize and Guatemala also draw quite different conclusions from the decided cases on which Guatemala relied yesterday.

15. Guatemala referred to the Judgment on intervention in the *Gulf of Fonseca* case. In it, the Court accepted that the alleged condominium régime, in which the interests of three States were necessarily implicated, was sufficient to give Nicaragua a legal interest which could be affected by the decision in that case¹³. A condominium involving three States is a very particular situation. It is different from two bilateral sovereignty disputes, and even more different from two bilateral sovereignty disputes being heard in co-ordinated cases. Even in the case of a condominium, the Court made clear that, if it found that the condominium existed, that finding would have effect only for the parties to the case and would *not* bind Nicaragua¹⁴, including by reference to Article 59¹⁵. The Court confirmed in its merits Judgment that its findings were not *res judicata* for Nicaragua¹⁶.

16. Guatemala also referred yesterday to the arbitral award in *Eritrea/Yemen*. Contrary to what was said, yesterday, that award shows that the Court's determination in this case cannot prejudice Guatemala's claim to sovereignty over the Sapodilla Cayes. In that case, it was common ground that, by the mid-nineteenth century, the Ottoman Empire had acquired sovereignty over all the relevant islands in the Red Sea. Following its defeat in the First World War, in the 1923 Treaty of Lausanne, the Ottoman Empire explicitly divested itself of sovereignty over those islands.

17. Yemen argued in the arbitration that that treaty had no legal consequences for it because it was not a party to it. The tribunal did not have any difficulty finding that, because the Ottoman Empire was the relevant sovereign at the time, it had full power to relinquish sovereignty. Yemen was not in a position to dispute the validity of the Ottoman Empire having done so. That is why, in

¹³ *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras), Application for Permission to Intervene, Judgment, I.C.J. Reports 1990*, pp. 121-122, para. 72.

¹⁴ *Ibid.*, p. 122, para. 73.

¹⁵ *Ibid.*, pp. 130-131, para. 90.

¹⁶ *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening), Judgment, I.C.J. Reports 1992*, p. 610, para. 424.

the paragraph to which Guatemala took you to just part of, the tribunal held that this treaty created a “legal reality” for Yemen¹⁷. In the same paragraph, the tribunal explicitly stated that, if Yemen *had* been able to establish a superior claim to sovereignty to that of the Ottoman Empire’s at the time of the Treaty of Lausanne, that treaty would indeed have had no legal consequence for Yemen.

18. That case and this one are materially different but, if there were to be a parallel, it would be the opposite of the one that Guatemala suggested. It would simply be that any finding in the present case would have no legal consequence for Guatemala’s claim.

19. Guatemala used those two cases to seek to restrict the significance of Article 59 of the Court’s Statute. Belize does not say that Article 59 is some sort of “panacea”¹⁸ — that was the word used in a rather confusing way by Guatemala — but Article 59 certainly does mean that what the Court decides in *Belize v. Honduras* will not bind Guatemala. That will be so, irrespective of whether the Court permits Guatemala to intervene. The jurisprudence of the Court is unequivocal about that¹⁹ and Belize’s formal submissions are framed to reflect that position.

20. Members of the Court, the dual premises of Guatemala’s Application are that it seeks, first, to *inform* the Court of its interest and, second, to *protect* that interest. Under Article 62, Guatemala must establish to the Court’s satisfaction that Guatemala’s interest “may be affected by the decision” in this case²⁰. Guatemala rightly emphasized yesterday that this is an *objective* test²¹. That means that it is not enough that Guatemala might *feel like* there is a party going on to which it is not invited.

21. Based on what we heard from Guatemala yesterday, when the Court comes to examine the matter objectively, the Court might genuinely wonder precisely what information Guatemala would be providing to the Court in this case which it will not already be providing to the Court in the other case. And the Court might genuinely wonder precisely how an intervention by Guatemala in this case would in concrete terms protect Guatemala’s interest in addition to the combined effect of Article 59

¹⁷ *Sovereignty and Maritime Delimitation in the Red Sea (Eritrea/Yemen), Award (Phase I: Territorial Sovereignty and Scope of the Dispute)*, *Reports of International Arbitral Awards*, Vol. XXII, p. 250, para. 153.

¹⁸ CR 2025/21, p. 33, para. 37 (Guatemala, Miron).

¹⁹ See e.g. *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras), Application for Permission to Intervene, Judgment, I.C.J. Reports 1990*, p. 122, para. 73, and pp. 130-131, para. 90; *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening), Judgment, I.C.J. Reports 1992*, p. 610, para. 424.

²⁰ See *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia), Application for Permission to Intervene, Judgment, I.C.J. Reports 2001*, pp. 597-598, para. 55.

²¹ CR 2025/21, pp. 40-41, paras. 20-22 (Guatemala, Bundy).

of the Statute, to the formulation of Belize's submissions, and to Guatemala's full participation in parallel as a party in *Guatemala/Belize*.

22. Whatever view the Court ultimately forms about the application of Article 62 of its Statute to this particular situation, what matters much more is sensible co-ordination of the two cases.

23. Members of the Court, Guatemala made a number of surprising allegations against Belize yesterday regarding Belize's commencement and conduct of the present case. It is difficult to imagine that the Court would be assisted by Belize responding to each of those allegations, so I will respond only to three that are relevant in the present context.

24. The first is Guatemala's puzzling allegation that there was something improper about Belize commencing this case with Honduras. This was said by Guatemala to involve "manoeuvres", a "back door" and the pursuit of "prejudging"²².

25. Belize's straightforward and legitimate motivation for commencing the present case was to achieve the complete resolution of all claims against its territory. Belize does not seek pre-judgment of any claims against it by either State. To the contrary, Belize actively seeks co-ordination of the Court's consideration of the evidence and arguments in each case. Since Guatemala quite sensibly agrees with such co-ordination, it is difficult to understand how Guatemala simultaneously alleges that Belize is seeking pre-judgment of anything, or is seeking to walk through any back door.

26. The second is Guatemala's allegation that Belize is, in its case with Honduras, providing only selective evidence. The only examples cited for this were four Notes Verbales concerning which it was said that Guatemala's responses were not provided²³. These are Notes from 1985, 1999, 2013 and 2018, well after either dispute had crystallized. They were submitted in the present case for the limited purpose of showing that after Belize's independence, Belize continued to act as sovereign, while Honduras did not. Guatemala's response to those Notes, if it made any, is not relevant to an analysis of the conduct of Belize and Honduras, which is what is before the Court in this case.

27. If that is what gives rise to the strongest allegation that Guatemala is able to make, the Court might again wonder what the "complete context" that Guatemala promises to provide²⁴ is

²² CR 2025/21, p. 16, paras. 9-10 (Guatemala, Rodríguez Pineda).

²³ CR 2025/21, p. 16, para. 10, fn. 10 (Guatemala, Rodríguez Pineda).

²⁴ CR 2025/21, p. 44, para. 37 (Guatemala, Bundy).

going to consist of which the Court is not already aware of and that matters for the resolution of any question before the Court. All three States already have access to the full record in each of the two cases and can make submissions accordingly.

28. The third allegation was that Belize's decision to commence the present case somehow impairs the equality of the parties in *Guatemala/Belize*. All we will say in addition arising from that, is that if the Court does grant the Application, Belize respectfully requests the Court to ensure that any participation by Guatemala in this case is not simply an additional opportunity to make submissions principally relevant to *Guatemala/Belize*.

29. As the Court knows from the written submissions in each case, Belize's case against Honduras is materially different from Belize's case against Guatemala, for the reasons I encapsulated a moment ago. In this case Belize will be fully engaged in arguing its case with Honduras, and those arguments will be of limited relevance to the other case with Guatemala. By contrast, Guatemala's position so far as it is relevant to the two cases is the same.

30. That is the context in which Belize asks the Court to be cautious to avoid creating any overall inequality across the two cases, effectively granting Guatemala more time to argue against Belize than Belize would have to argue against Guatemala.

31. The solution towards which this militates is that, if the Court decides to permit intervention, the Court should, in Belize's respectful submission, direct without further consultation short periods for written submissions and allocate only a short period of time to Guatemala at the hearing.

32. Mr President and Members of the Court, those are the opening submissions of Belize. We thank you for your attention.

The PRESIDENT: I thank Mr Juratowitch, whose statement brings to an end the first round of oral argument of Belize. Before I invite Honduras to present its first round of oral argument, the Court will observe a 15-minute break. The sitting is suspended.

The Court adjourned from 11.35 a.m. to 11.55 a.m.

The PRESIDENT: Please be seated. The sitting is resumed. We will now hear the first round of oral argument of Honduras. I now give the floor to the Agent of Honduras, Her Excellency Ms Patricia Licona. You have the floor, Madam.

M^{me} LICONA :

PRÉSENTATION DE LA POSITION DU HONDURAS

1. Merci, Monsieur le président, Mesdames et Messieurs les juges, c'est un honneur et un privilège de comparaître devant vous en ces audiences, en tant qu'agente de la République du Honduras. Félicitations à M^{me} la juge Okowa pour son élection comme juge à la Cour. Je salue également nos collègues qui comparaissent au nom du Belize et du Guatemala.

2. Avant tout, je veux affirmer notre confiance en la Cour internationale de Justice, qui reflète l'engagement permanent du Honduras en faveur du règlement pacifique des différends internationaux.

3. Monsieur le président, le 1^{er} décembre 2023, la République du Guatemala a présenté une requête à fin d'intervention en l'affaire relative à la *Souveraineté sur les cayes de Sapodilla/cayos Zapotillos (Belize c. Honduras)*, conformément à l'article 62 du Statut de la Cour.

4. Le Belize ne s'est pas opposé à l'intervention du Guatemala dans cette affaire, comme indiqué dans ses observations écrites du 18 janvier 2024. Le Honduras s'est en effet opposé à la requête à fin d'intervention du Guatemala pour les raisons exposées dans ses observations écrites. Le Honduras réitère les conclusions exprimées dans ses observations écrites du 15 février 2024. Et il demande respectueusement à la Cour que la requête à fin d'intervention du Guatemala soit rejetée.

5. Il convient de rappeler que nous avons été convoqués par la Cour pour examiner une requête à fin d'intervention et non pour débattre le fond de l'affaire. Cependant, après avoir entendu la présentation du Guatemala, il faut supposer que ses plaidoiries en l'audience se réfèrent à l'affaire *Zapotillos* comme s'il faisait déjà partie de l'affaire et non pas concernant l'audience d'une procédure incidente. Même au cours de l'audience, le Guatemala a proposé de fournir de nouveaux documents dans l'affaire *Zapotillos*. Le Belize, aujourd'hui, a fait de même.

6. D'emblée, il faut souligner le caractère singulier, unique, de cette requête : l'existence de deux affaires parallèles pendantes : l'affaire *Guatemala/Belize* et l'affaire *Zapotillos*.

7. Le Honduras considère qu'il s'agit d'un aspect essentiel dans l'examen tant des effets comme de la finalité de la requête du Guatemala. Il n'existe pas de précédents dans la jurisprudence de la Cour qui puissent être assimilés à cette requête.

8. Monsieur le président, dans les affaires portées devant la Cour il n'existe pas un droit général d'intervention sur la base uniquement de présomptions. Les conditions et les exigences du Statut et du Règlement doivent être respectées.

9. Il est bien entendu que la Cour jouit d'un pouvoir discrétionnaire pour apprécier toute requête²⁵. Cependant la décision de la Cour sera toujours subordonnée à la vérification préalable du respect des conditions d'intervention. Cette vérification doit être effectuée selon les circonstances particulières de l'affaire²⁶.

10. La Cour appréciera le droit applicable à toute requête à fin d'intervention, conformément à son Statut et à son Règlement. Et elle peut déterminer « les limites et la portée [de cette intervention] »²⁷.

11. Monsieur le président, Mesdames et Messieurs les juges, l'opposition du Honduras à la requête du Guatemala repose sur trois thèses principales.

12. Le Honduras soutient, tout d'abord, qu'il existe d'amples motifs juridiques pour rejeter *in limine* cette requête. Car il existe une autre affaire pendante dans laquelle le Guatemala est partie incluant partiellement les cayos Zapotillos²⁸.

13. Deuxièmement, à cause des circonstances particulières de cette affaire, le Honduras conclut que les principales conditions d'intervention prévues par le Statut et le Règlement de la Cour ne sont pas respectées. Il n'existe pas d'intérêt de nature juridique susceptible d'être affecté par la décision de la Cour. De même, l'objet de la prétendue intervention n'est ni propre ni précis, même si le Guatemala croit le contraire. Le Guatemala, seulement, cherche à convaincre la Cour qu'il a un

²⁵ *Différend territorial et maritime (Nicaragua c. Colombie), requête du Honduras à fin d'intervention, arrêt, C.I.J. Recueil 2011 (II), p. 433-434, par. 35.*

²⁶ *Différend frontalier terrestre, insulaire et maritime (El Salvador/Honduras), requête à fin d'intervention, arrêt, C.I.J. Recueil 1990, p. 118, par. 61.*

²⁷ *Immunités juridictionnelles de l'État (Allemagne c. Italie), requête à fin d'intervention, ordonnance du 4 juillet 2011, C.I.J. Recueil 2011 (II), p. 501-502, par. 22 et 25-26.*

²⁸ *Revendication territoriale, insulaire et maritime du Guatemala (Guatemala/Belize) : voir mémoire du Guatemala, 8 décembre 2020, et réplique du Guatemala, 8 décembre 2022.*

intérêt, même s'il n'est pas capable de montrer l'existence d'un intérêt précis, spécifique et bien établi.

14. Et, troisièmement, l'interprétation et l'application de l'intervention par le Guatemala sont en contradiction flagrante avec les principes qui fondent le droit applicable en la matière. En particulier, avec le principe de la bonne administration de la justice, qui jouit d'une tradition dans la jurisprudence internationale²⁹. Et avec le principe du procès équitable. Ces principes confèrent à la Cour la responsabilité de veiller, également dans le cadre de cette procédure incidente³⁰, à ce que les critères procéduraux les plus rigoureux soient préservés.

15. L'intervention prévue à l'article 62 du Statut³¹ est une institution avec une certaine marge de discrétion, à condition qu'elle respecte les exigences de l'article 81 du Règlement de la Cour, en tenant dûment compte de l'avis des parties au différend³². Elle respecte pleinement l'organisation bilatérale traditionnelle du règlement judiciaire des différends internationaux mais, surtout, reconnaît la réticence à admettre la participation d'un tiers dans une instance en cours (*pendente litis*)³³.

16. Le juge Bedjaoui, ancien président de cette Cour, a reconnu, lors des débats de l'Institut de droit international sur le sujet, l'importance que la Cour attache à la position des parties aux litiges³⁴. À ce propos, j'attire l'attention de la Cour sur l'onglet 1 du dossier des plaidoiries.

17. Monsieur le président, à ce stade, le Honduras souhaite ajouter deux importantes observations. La première est que le Guatemala présente une requête à fin d'intervention en qualité

²⁹ Reconnu dès 1938 par la Cour permanente de Justice internationale, qui valorisait déjà « les intérêts de la bonne administration de la justice » : voir *Chemin de fer Panevezys-Saldutiskis, ordonnance du 30 juin 1938, C.P.J.I. série A/B n° 75*, p. 56. Principe que l'actuelle Cour récupère dans l'affaire *Barcelona Traction : voir Barcelona Traction, Light and Power Company, Limited (nouvelle requête : 1962) (Belgique c. Espagne), exceptions préliminaires, arrêt, C.I.J. Recueil 1964*, p. 43.

³⁰ *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. 25.

³¹ En ce qui concerne les articles 81, 83, 84 et 85 du Règlement de la Cour.

³² *Frontière terrestre et maritime entre le Cameroun et le Nigéria (Cameroun c. Nigéria), requête à fin d'intervention, ordonnance du 21 octobre 1999, C.I.J. Recueil 1999 (II)*, p. 1034-1035, par. 12 et 16.

³³ Par exemple, la défense ferme de la délimitation bilatérale de leurs espaces maritimes par la Libye et Malte contre la requête de l'Italie à fin d'intervention dans la procédure : voir *Plateau continental (Jamahiriya arabe libyenne/Malte), requête à fin d'intervention, arrêt, C.I.J. Recueil 1984*, p. 14-18, par. 20-27.

³⁴ *Annuaire de l'Institut de droit international*, vol. 68, t. II (1999), p. 205.

de non-partie³⁵. Et, conformément aux dispositions de l'article 59 du Statut, l'arrêt sur le fond de ce différend ne sera pas contraignant pour le Guatemala³⁶.

18. La seconde observation est que, selon la résolution de 1999 de l'Institut de droit international, le droit d'intervenir prévu à l'article 62 du Statut constitue une procédure volontaire d'autoprotection. Par nature, il revêt un caractère incident. Son objet est de protéger les intérêts d'ordre juridique de l'État intervenant. Mais il ne s'agit pas — en aucun cas — d'un instrument permettant à l'intervenant de soumettre un nouveau différend à votre juridiction, ni d'un moyen de novation³⁷. C'est précisément ce que le Guatemala semble chercher à faire par la présente requête.

19. La Cour devrait déclarer la présente requête irrecevable, car elle ajoute de l'incertitude quant à l'étendue des intérêts juridiques invoqués par les Parties.

20. La Cour est appelée à exercer une fonction préventive, en particulier dans des situations complexes telles que celle-ci. Cela explique l'opposition du Honduras à la requête du Guatemala.

21. Monsieur le président, Mesdames et Messieurs les juges, il ne me reste qu'à résumer sommairement le contenu des plaidoiries du Honduras, qui seront dûment développées par notre équipe juridique :

- i) en premier lieu, le professeur del Valle Gálvez présentera un ensemble d'observations générales qui, de l'avis du Honduras, doivent être à la base de l'analyse de la requête du Guatemala. Ces observations soulignent le caractère unique de cette requête. Sur cette base, le Honduras prie respectueusement la Cour de déclarer la requête irrecevable *in limine* ;
- ii) en second lieu, les professeurs Pascual Vives et Jiménez Piernas examineront de façon plus précise le contenu et la portée de la requête du Guatemala.

22. Monsieur le président, Mesdames et Messieurs les juges, je vous remercie pour votre attention. Je vous prie à présent d'inviter le professeur del Valle Gálvez à s'adresser à vous. Merci.

³⁵ Le requérant n'est donc pas partie au différend : voir *Souveraineté sur Pulau Ligitan et Pulau Sipadan (Indonésie/Malaisie), requête à fin d'intervention, arrêt, C.I.J. Recueil 2001*, p. 588-589, par. 33-36.

³⁶ *Différend frontalier terrestre, insulaire et maritime (El Salvador/Honduras ; Nicaragua (intervenants)), arrêt, C.I.J. Recueil 1992*, p. 609, par. 423.

³⁷ « Le règlement judiciaire et arbitral des différends internationaux impliquant plus de deux États » : voir *Annuaire de l'Institut de droit international*, vol. 68, t. II (1999), p. 376-384.

The PRESIDENT: I thank the Agent of Honduras for her statement. I now invite Professor Alejandro del Valle Gálvez to address the Court. You have the floor, Sir.

Mr DEL VALLE GÁLVEZ:

I. GUATEMALA'S APPLICATION CONSTITUTES A MISUSE OF THE INSTITUTION OF INTERVENTION AND SHOULD BE DISMISSED *IN LIMINE*

1. Mr President, Members of the Court. It is a great honour to appear before you on behalf of the Republic of Honduras.

2. The purpose of my presentation is to expose the disruptive effects of Guatemala's Application, which run counter to the Statute and the Rules of Court. Guatemala's Application is a misuse of the institution of intervention. In performing this task, I would like to highlight four points:

- (i) first, Guatemala's Application goes beyond the object of an intervention as a non-party, and distorts the legal debate in the *Zapotillos* case;
- (ii) second, it is an unnecessary and superfluous application;
- (iii) third, Guatemala's Application creates a new dispute; and
- (iv) fourth, it constitutes an obvious abuse of process, contrary to the principle of a sound administration of justice, because Guatemala is trying to exercise a right recognized in the Statute in a manner contrary to the norm.

3. Consequently, Guatemala's Application should be dismissed *in limine*.

A. Guatemala's Application as a non-party goes beyond the purpose of an intervention and misleads the *Zapotillos* case

4. Mr President, the Court has established that a State may be permitted to intervene under Article 62 of the Statute either as a non-party or as a party³⁸.

5. The status of intervener as a party requires the existence of a basis of jurisdiction as between the States concerned. For these proceedings there is no jurisdictional link between Guatemala and

³⁸ *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras), Application for Permission to Intervene, Judgment, I.C.J. Reports 1990*, pp. 134-135, para. 99. See tab 2 of the judges' folder.

Honduras, as expressly admitted by Guatemala³⁹. The absence of a jurisdictional link determines that Guatemala's Application is formulated as a non-party.

6. Intervention as a non-party implies that the intervener can only *inform* the Court. It cannot introduce a new dispute into the case, nor can it participate in a debate that only concerns the disputing parties.

7. Honduras wishes to draw the Court's attention to the following contradiction: Guatemala is, as a party, asserting sovereign rights in another case pending before you, the *Guatemala/Belize* case. And, in parallel, Guatemala wishes to inform you about certain issues related to this case as a non-party. But both cases are not similar: they do have a different scope and nature.

8. At this point, I would like to draw two preliminary issues:

- (i) first, under the guise of providing information to the Court in the *Zapotillos* case, Guatemala wishes to assert rights alleged in the *Guatemala/Belize* case; and,
- (ii) second, as a non-party, this attempt is not legitimate.

9. In conclusion, Guatemala's Application goes beyond the purpose of an intervention as a non-party and completely misleads the *Zapotillos* case.

B. Guatemala's Application is unnecessary and superfluous

10. Mr President. This brings me to the second point: Guatemala's Application is unnecessary and superfluous. A relevant fact stands out in this case, namely the existence of two parallel but separate cases pending before the Court that partially deal with the same object.

11. This fact renders Guatemala's Application into a unique incidental proceeding. And more importantly, it involves a misuse of intervention.

(a) The chronology of the cases demonstrates how Guatemala is misusing the institution of intervention

12. To demonstrate that this Application is unnecessary and contrary to the sound administration of justice, first, I will refer to the chronology of both cases.

³⁹ Application for permission to intervene by the Government of the Republic of Guatemala, 1 December 2023, para. 12.

13. I will highlight that, in May 2023, before the written proceedings of the *Guatemala/Belize* case were closed, Guatemala was already aware that Belize had initiated a new case against Honduras over the sovereignty of the Cayos Zapotillos. Moreover, it already had the documentation used to prepare this Application⁴⁰.

14. This is relevant if we take into consideration a very significant fact. The Special Agreement between Guatemala and Belize states that “[t]he Court may, ex officio or if both Parties so agree, prescribe or authorize the presentation of additional pleadings”⁴¹.

15. The Special Agreement allowed Guatemala, in 2023, to request the submission of new written pleadings to discuss with Belize the issues it considered appropriate in relation to the Cayos Zapotillos.

16. In the interest of the sound administration of justice, it would have been more consistent with the procedural economy of means to have requested a third round of written pleadings in the *Guatemala/Belize* case. Guatemala could have used this additional round to discuss — as a party — issues related to the Cayos Zapotillos. It seems that Guatemala’s intention is to intervene in a different case — our case — to transfer here what it could have developed in the *Guatemala/Belize* case. This can easily distort the *Zapotillos* case because both cases are different.

17. But Guatemala still has plenty of time. The *Guatemala/Belize* case is pending: its oral proceedings have yet to take place. Nothing prevents Guatemala from informing about the Cayos Zapotillos and even using the documentation in the *Zapotillos* case in the oral proceedings of the *Guatemala/Belize* case.

(b) Guatemala must inform the Court in its case pending with Belize

18. Mr President, Guatemala’s Application is based on the need to submit information on alleged interests of a legal nature that would require protection. But Guatemala has already informed the Court *à volonté*.

⁴⁰ Guatemala filed its Application before the Counter-Memorial of Honduras in the *Zapotillos* case was filed: see Written Observations of Honduras to Guatemala’s Application for permission to intervene, 15 February 2024, para. 22.

⁴¹ Article 3 (2) (e) of the *Special Agreement between Guatemala and Belize to submit Guatemala’s territorial, insular and maritime claim to the International Court of Justice*, notified to the Court on 22 August 2019 by Guatemala, and 7 June 2019 by Belize.

19. Guatemala has already exercised the right to be heard on the Cayos Zapotillos. And more importantly, nothing prevents Guatemala from continuing to do so in the oral proceedings of the *Guatemala/Belize* case.

20. In short, it is in that case where Guatemala can and must inform the Court.

**C. Guatemala's Application creates a fresh dispute with Honduras
and an inadequate round of litigation with Belize**

21. Mr President, my third point is that Guatemala's Application creates a new dispute *de facto* against Honduras and an inadequate round of pleadings in the *Guatemala/Belize* case.

22. As became clear yesterday at the hearings, Guatemala intends to transfer into this case a very small part of its big island dispute with Belize. Indeed, Guatemala's goal is to move its claims into the *Zapotillos* case. Guatemala's position here resembles the claims that Malta presented in the case concerning the *Continental Shelf (Tunisia/Libya)*. In that case, the Court unanimously rejected the application for permission to intervene finding that Malta was seeking permission to submit its views "not merely from the point of view of their operation as between Libya and Tunisia but also of their operation as between those States and Malta itself"⁴².

23. Similarly, Guatemala intends to inform the Court about aspects of the *Zapotillos* case that operate not only between Belize and Honduras, but also in the operation between both States and Guatemala. Honduras maintains that Guatemala's Application amounts to a misuse of the institution of intervention in accordance with the Court's jurisprudence.

24. The Court noted in the case concerning the *Continental Shelf (Libya/Malta)* that a State which considers that its legal interest may be affected by a decision in a case "has the choice . . . whether to intervene, thus securing a procedural economy of means . . .; or to refrain from intervening, and to rely on Article 59"⁴³.

25. However, Guatemala's Application does not aim to achieve this procedural economy of means. Guatemala's real pretensions are:

- (i) first, to unnecessarily prolong the *Zapotillos* case; and,

⁴² *Continental Shelf (Tunisia/Libyan Arab Jamahiriya), Application for Permission to Intervene, Judgment, I.C.J. Reports 1981*, p. 19, para. 33.

⁴³ *Continental Shelf (Libyan Arab Jamahiriya/Malta), Application for Permission to Intervene, Judgment, I.C.J. Reports 1984*, p. 26, para. 42.

(ii) second, to open, *de facto*, a third round of written pleadings in the *Guatemala/Belize* case.

26. Mr President. These pretensions are untenable and cannot be accepted.

27. This Application, in practice, creates a new dispute against Honduras. Guatemala requests the Court to safeguard its rights and interests⁴⁴, but this request produces the unavoidable practical effect of requesting the Court to make findings on the merits of the *Zapotillos* case. On such an issue, the Court has already stated in the case concerning the *Continental Shelf (Libya/Malta)*⁴⁵ that an application for permission to intervene should not be admitted when it has the effect of creating a new dispute.

28. Considering all the particular circumstances of the case, this Application is contrary to the purposes of the 1978 reform of the Rules of Court⁴⁶. In the words of Judge Ago, the reform of Article 81 was drawn for “the protection of the institution of intervention, properly so called against any effort to exploit it for other purposes”⁴⁷.

29. In conclusion, this is an unnecessary and superfluous application, which *de facto* creates a new dispute with Honduras and opens an inadequate round of litigation with Belize. In Honduras’ view, the Court has legal grounds to dismiss it *in limine*.

D. Guatemala’s Application should be dismissed *in limine*

30. This is my fourth and final point. Mr President, the existence of another case between Guatemala and Belize pending before you even more requires that Guatemala’s Application should be judged in relation to all the particular circumstances of this case⁴⁸. In view of these circumstances, the Court should declare Guatemala’s Application inadmissible *in limine*.

⁴⁴ Application for permission to intervene by the Government of the Republic of Guatemala, 1 December 2023, para. 10 (a).

⁴⁵ *Continental Shelf (Libyan Arab Jamahiriya/Malta), Application for Permission to Intervene, Judgment, I.C.J. Reports 1984*, pp. 20-22, paras. 31-34.

⁴⁶ Entered into force on 1 July 1978.

⁴⁷ *Continental Shelf (Libyan Arab Jamahiriya/Malta), Application for Permission to Intervene, Judgment, I.C.J. Reports 1984*, dissenting opinion of Judge Ago, p. 117, para. 6.

⁴⁸ *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras), Application for Permission to Intervene, Judgment, I.C.J. Reports 1990*, pp. 117-118, para. 61.

(a) Dismissal *in limine* based on the breach of the general legal principles of procedural law

31. In its Application, Guatemala asserts that there is an overlap in one of the claims that Belize maintains in both cases⁴⁹. However, they are distinct cases. Both cases may have an apparently similar legal object regarding the sovereignty over certain cays. Although, as the Honduran Counter-Memorial exhaustively highlights, they are very different in all other legal issues⁵⁰.

32. The Court must necessarily assess the particular circumstances that make Guatemala's Application a unique and unprecedented incident in its practice. You are indeed testing uncharted waters.

33. Guatemala cannot, at the same time, be a party and a non-party intervener in two parallel cases that are different, and which deal directly with an object that is only apparently similar. If granted, this Application would turn the *Zapotillos* case into a three-way dispute covering not only sovereignty over these rocks, but also other legal claims that are foreign to our case.

34. This situation constitutes an anomaly, which undermines the legal nature of the institution of intervention. Guatemala's interpretation of the applicable law on intervention, as my colleagues Professors Jiménez Piernas and Pascual Vives will demonstrate, only introduces legal uncertainties, and distorts the nature of intervention, setting a very dangerous precedent.

35. In *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)*, the Court found that the general legal principles of procedural law⁵¹ are relevant in determining the scope of an application for permission to intervene. Guatemala's Application to intervene constitutes an *aberratio processualis* contrary to the letter and spirit of the institution of intervention. It is a clear abuse of process contrary to the principles of the sound administration of justice, due process and equality of parties.

36. Guatemala is using a procedural instrument in violation of the purpose for which that instrument was created. This conduct by Guatemala is encased within the definition of abuse of process generally accepted under international law, as you can see in tab 3 of your folder.

⁴⁹ Application for permission to intervene by the Government of the Republic of Guatemala, 1 December 2023, para. 6.

⁵⁰ See Counter-Memorial of Honduras, 4 December 2023, paras. 35-40 and 57-86.

⁵¹ *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras), Application for Permission to Intervene, Judgment, I.C.J. Reports 1990*, p. 136, para. 102.

37. The Court has admitted the possibility of dismissing a claim for abuse of process under exceptional conditions⁵².

38. These exceptional conditions are met in this Application. Guatemala can inform and defend any alleged interest in the *Guatemala/Belize* case; at the same time, Guatemala's intervention seeks to open a new dispute with Honduras and to continue the litigation with Belize. These purposes are not consistent with the incidental character of intervention proceedings envisaged by the Statute and the Rules of Court.

39. Taking these facts into account, it is inevitable that Guatemala's intervention would introduce a substantial alteration of the nature of the dispute between Belize and Honduras, causing an indirect and illegitimate novation of this case, and expanding its scope⁵³.

40. The aim of Guatemala's Application is none other than to continue to litigate with Belize through the back door, misusing the institution of intervention for this purpose. The intervention could thus be used by Guatemala as a "Trojan horse". It would serve, in effect, to introduce itself inappropriately in the *Cayos Zapotillos* case. And, in this new situation, to distort the whole case with arguments already alleged in the *Guatemala/Belize* case, which are foreign to the *Zapotillos* case, and which do not concern Honduras.

41. Mr President. The Court should prevent the distortion of different objects of litigation in two parallel cases and dismiss Guatemala's Application *in limine*.

(b) Dismissal *in limine* based on the breach of the formal intervention requirements

42. The dismissal *in limine* of Guatemala's Application is also based on the failure to comply with the formal intervention requirements within the application to intervene. According to Article 81 of the Rules of Court: "The application shall contain a list of the documents in support, which documents shall be attached." Honduras argues that, in these exceptional circumstances, this requirement is necessary.

⁵² See *Immunities and Criminal Proceedings (Equatorial Guinea v. France)*, Preliminary Objections, Judgment, I.C.J. Reports 2018 (I), p. 336, para. 150. See also *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation: 32 States intervening)*, Preliminary Objections, Judgment, I.C.J. Reports 2024 (II), p. 411, para. 113.

⁵³ As the Court characterized Italy's application: see *Continental Shelf (Libyan Arab Jamahiriya/Malta)*, Application for Permission to Intervene, Judgment, I.C.J. Reports 1984, pp. 22-23, paras. 34-36.

43. Guatemala has neither submitted a list of documents, nor has attached them. Guatemala seeks to justify this omission by simply referring to documentation that the Court has already received. In fact, this referral to the *Guatemala/Belize* case unveils the real pretension of Guatemala's Application: to continue the litigation of that case in the *Zapotillos* case.

44. Honduras also considers that this omission by Guatemala causes obvious confusion and disorientation. For Guatemala, it seems that both disputes are a *totum revolutum*.

45. Such procedural confusion may alter the fundamental elements of due process to the detriment of the sound administration of justice. The absence of documentary evidence cannot be validated in a unique, unprecedented incident as the one before you today. This is a gross defect that cannot be accepted by the Court considering the circumstances of our case. This requirement is not purely formalistic. Professor Pascual Vives will explain its negative effects when analysing the substantive intervention requirements.

46. Therefore, in Honduras' view, Guatemala's Application violates the aforementioned general legal principles of procedural law recognized by the Statute and the Rules of Court and developed by the Court itself⁵⁴, and must be dismissed *in limine*.

47. Mr President, this concludes my presentation. Thank you very much for your patience and kind attention. I would be grateful if you could give the floor to Professor Pascual Vives to continue with Honduras' oral arguments. Thank you very much.

The PRESIDENT: I thank Professor del Valle Gálvez for his statement. I now call Professor Francisco Pascual Vives to the podium. You have the floor, Sir.

Mr VIVES:

II. ASSESSMENT BY THE COURT OF THE APPLICABLE LAW: NON-COMPLIANCE BY GUATEMALA WITH THE SUBSTANTIVE INTERVENTION REQUIREMENTS

1. Mr President, distinguished Members of the Court, it is a great honour and a privilege to appear before you on behalf of the Republic of Honduras.

⁵⁴ *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras), Application for Permission to Intervene, Judgment, I.C.J. Reports 1990*, pp. 135-136, para. 102.

2. Honduras just explained why this Application should be dismissed *in limine*. The purpose of this part of the presentation is to determine that the substantive intervention requirements are not fulfilled. Consequently, the Application must also be dismissed on these grounds.

3. First, Professor Jiménez Piernas will demonstrate that any alleged interest by Guatemala is generic and cannot be affected by a decision of the Court in the *Zapotillos* case. And second, I will establish that the object of this Application is improper and imprecise.

4. Before turning to this endeavour, I will devote the next minutes to present some arguments concerning the method that the Court, according to its own practice, must follow when analysing the substantive intervention requirements. I refer to the discretion that the Court enjoys when verifying these requirements.

A. The Court enjoys discretion to assess the intervention requirements considering the particular circumstances of this case

5. Mr President, the Court must determine the admissibility of any application in light of Articles 62 of the Statute and 81 of the Rules of Court⁵⁵.

6. As a general proposition, Honduras maintains that the existence of two pending parallel and separate cases is a key fact that the Court must consider when verifying whether the substantive intervention requirements are met. The analysis of these requirements is incomplete if this fact is not regarded or if it is neglected.

7. Articles 62 of the Statute and 81 of the Rules of Court set forth strict substantive requirements. Honduras argues that in the verification of these requirements, the Court enjoys some discretion. The Court must consider these requirements taking into account the particular circumstances of the case.

8. This assertion is based on your own practice. In *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)*, and in the case concerning the *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, the Court said that an analysis according to the facts specific to each case

⁵⁵ *Continental Shelf (Tunisia/Libyan Arab Jamahiriya), Application for Permission to Intervene, Judgment, I.C.J. Reports 1981*, p. 12, para. 17; *Continental Shelf (Libyan Arab Jamahiriya/Malta), Application for Permission to Intervene, Judgment, I.C.J. Reports 1984*, p. 9, para. 12. [See tab no. 4 of the judges' folder].

should be conducted. And the Court can only do so “*in concreto* and in relation to all the circumstances of a particular case”⁵⁶.

9. As the Court has discretion to interpret these requirements according to the circumstances of the case, Honduras wishes to emphasize two salient points. Both must inform your analysis of the substantive intervention requirements in this case:

- (i) First, the existence of another parallel case pending before the Court; and
- (ii) Second, the non-compliance by Guatemala with the formal intervention requirements.

(a) The Court must consider the existence of another pending case when verifying the substantive intervention requirements

10. Regarding the first point, the assessment of the intervention requirements in the *Zapottillos* case must inevitably include the evaluation of an objective fact that has been unknown in previous applications for permission to intervene: the existence of another parallel and separate case pending before the Court.

11. The existence of two parallel cases is a relevant circumstance. It is a decisive circumstance. We believe that this fact cannot be overlooked in the assessment of the substantive intervention requirements.

12. To accept Guatemala’s position, to completely disregard this circumstance, leads to an interpretation that is not only extremely flexible but contrary to the letter and spirit of Articles 62 of the Statute and 81 of the Rules of Court. This approach leads to a misuse of the intervention procedure and runs contrary to several principles of international procedural law, as Professor del Valle Gálvez just explained.

(b) The Court is already aware of any alleged interest by Guatemala over the Cayos Zapottillos

13. The second point to consider concerns how to interpret the non-compliance by Guatemala with the formal requirements set out in Article 81 of the Rules of Court.

⁵⁶ *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras), Application for Permission to Intervene, Judgment, I.C.J. Reports 1990*, p. 118, para. 61; *Territorial and Maritime Dispute (Nicaragua v. Colombia), Application by Costa Rica for Permission to Intervene, Judgment, I.C.J. Reports 2011 (II)*, p. 359, para. 28.

14. Guatemala did not submit a single document in support of its Application. Counsel for Guatemala asserted yesterday that the Court has in the past admitted applications that were not accompanied by a list of the documents in support⁵⁷.

15. Mr President, distinguished Members of the Court, Guatemala's one-dimensional approach to this matter is inadequate. Honduras reaffirms that this is not merely a formality, but rather a substantive issue. In this case, the absence of documentation has profound substantive repercussions.

16. Had Guatemala attached any documents to it, the major flaw of this Application would have emerged, namely that Guatemala is not lacking protection.

17. Guatemala has amply informed the Court by presenting documents about its alleged interest in the *Guatemala/Belize* case, as Professor Jiménez Piernas will demonstrate. Moreover, Guatemala is already protecting such interest in that case, still pending before you.

(c) The Court can exercise discretion when verifying the substantive intervention requirements in the *Zapotillos* case

18. The Court cannot ignore these arguments when assessing the substantive intervention requirements. In Honduras' view, only this methodological approach allows for a balanced interpretation of the intervention requirements. It combines the rigidity established by Articles 62 of the Statute and 81 of the Rules of Court, and the Court's discretion to interpret both requirements according to the circumstances of the case.

19. Mr President, Madam Vice-President, Members of the Court, this concludes my presentation. Thank you for your kind attention. Professor Jiménez Piernas will address now the non-compliance of the first substantive intervention requirement. Mr President, I respectfully ask that you invite him to the podium.

The PRESIDENT: I thank Professor Pascual Vives for his statement. I now invite Professor Carlos Jiménez Piernas to the podium. You have the floor.

⁵⁷ CR 2025/21, pp. 36-38, paras. 5-10 (Guatemala, Bundy).

M. JIMÉNEZ PIERNAS :

B. Il n'existe aucun intérêt d'ordre juridique susceptible d'être affecté par la décision de la Cour

1. Monsieur le président, Mesdames et Messieurs les juges, c'est un grand honneur pour moi de comparaître à nouveau devant cette illustre Cour au nom de la République du Honduras.

2. L'objet de mon intervention est de prouver l'inexistence de la condition d'un « intérêt d'ordre juridique » qui, selon l'État demandant à intervenir, « [est] pour lui en “cause” ». Comme la Cour l'a déjà souligné dans plusieurs précédents⁵⁸, l'État qui présente une requête à fin d'intervention doit :

- i) d'abord, identifier un intérêt d'ordre juridique ; et,
- ii) d'autre part, indiquer comment cet intérêt peut être affecté par la décision à rendre dans cette affaire.

3. La Cour considère cette notion, l'intérêt juridique, comme une catégorie qualifiée. Dans l'affaire du *Différend territorial et maritime*, la Cour a jugé ainsi à ce propos : « [I]l 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. »⁵⁹

4. Dans d'autres requêtes à fin d'intervention, toujours conformément à l'article 62 du Statut et pendantes devant la Cour, les parties requérantes soutiennent cette même interprétation. Ainsi, le Belize⁶⁰ soutient que l'intérêt d'ordre juridique constitue une catégorie qualifiée.

5. L'État qui sollicite l'intervention doit démontrer, en premier lieu, qu'il possède un intérêt d'ordre juridique précis, spécifique et bien établi. En second lieu, il faut justifier que cet intérêt juridique est susceptible d'être affecté par la décision en l'espèce. Ces deux conditions sont cumulatives.

⁵⁸ *Plateau continental (Jamahiriya arabe libyenne/Malte), requête à fin d'intervention, arrêt, C.I.J. Recueil 1984, p. 18, par. 28 ; Différend frontalier terrestre, insulaire et maritime (El Salvador/Honduras), requête à fin d'intervention, arrêt, C.I.J. Recueil 1990, p. 118, par. 61 ; Différend territorial et maritime (Nicaragua c. Colombie), requête du Costa Rica à fin d'intervention, arrêt, C.I.J. Recueil 2011 (II), p. 359, par. 28.*

⁵⁹ *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.*

⁶⁰ *Application de la convention pour la prévention et la répression du crime de génocide dans la bande de Gaza (Afrique du Sud c. Israël) : voir requête à fin d'intervention et déclaration d'intervention déposée par le Belize, 30 janvier 2025, par. 39.*

a) L'intérêt d'ordre juridique doit être précis, spécifique et bien établi

6. Pour la Cour, l'intérêt d'ordre juridique n'est pas « n'importe quel intérêt »⁶¹. Un tel intérêt doit être — j'insiste — précis, spécifique, et bien établi. C'est précisément pour cette seule raison que la Cour a admis, à titre exceptionnel et limité, des demandes antérieures en autorisant d'intervenir.

7. Monsieur le président, l'intervention a été permise par la Cour uniquement dans trois affaires. Ces trois précédents ont un commun dénominateur, absent dans l'affaire *Zapotillos* : les trois États intervenants avaient des droits et intérêts bien établis, reconnus préalablement par des décisions judiciaires. Ces droits et intérêts, en faveur d'États tiers, avaient été formellement reconnus par des tribunaux nationaux ou internationaux.

8. En outre, lors de ces trois requêtes à fin d'intervention accordées, la décision de la Cour pouvait substantiellement modifier le régime juridique préexistant, avec un impact direct sur les droits et intérêts d'États tiers. Les circonstances particulières de ces précédents, l'existence de régimes juridiques antérieurs susceptibles d'être modifiés affectant d'autres États, justifiaient que la Cour permette lesdites interventions.

9. Dans le *Différend frontalier terrestre, insulaire et maritime (El Salvador/Honduras)*, une chambre de la Cour a partiellement accepté la requête à fin d'intervention du Nicaragua. Cependant, elle l'a fait après avoir affirmé qu'il existait des droits, préalablement acquis, en sa faveur qui étaient contestés dans ce différend. Ces droits avaient été reconnus par un arrêt de la Cour de justice centraméricaine, rendu en 1917⁶². La chambre a tenu compte de ces circonstances lorsqu'elle a déclaré que le Nicaragua avait un intérêt d'ordre juridique susceptible d'être affecté par sa décision quant à savoir si les eaux du golfe de Fonseca relevaient d'un *condominium* ou d'une « communauté d'intérêts » des trois États côtiers.

10. Dans l'affaire de la *Frontière terrestre et maritime entre le Cameroun et le Nigéria*, la Cour a expressément noté dans son arrêt que l'une des prétentions des parties pouvait affecter les

⁶¹ *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.*

⁶² Voir *Différend frontalier terrestre, insulaire et maritime (El Salvador/Honduras), requête à fin d'intervention, arrêt, C.I.J. Recueil 1990, p. 104, par. 28.*

intérêts d'États tiers (tels que la Guinée équatoriale et Sao Tomé-et-Principe⁶³). C'est sur la base de cette conclusion, énoncée par la Cour elle-même dans son arrêt sur les exceptions préliminaires, que la Guinée équatoriale a introduit sa requête⁶⁴. Il convient de rappeler que le Cameroun⁶⁵ et le Nigéria⁶⁶ ne se sont pas opposés à cette requête. Le fait pertinent en l'espèce est que c'est la Cour elle-même qui, en 1998, a été la première à indiquer l'intérêt juridique de la Guinée équatoriale à intervenir.

11. Dans l'affaire relative aux *Immunités juridictionnelles de l'État*, la requête de la Grèce ne fut pas contestée par l'Allemagne⁶⁷, et non plus par l'Italie⁶⁸. Il y a lieu de rappeler que l'affaire initiale fut jugée devant les tribunaux grecs, lesquels ont établi des droits individuels et reconnu la responsabilité de l'État allemand. Ces questions étaient au cœur de l'affaire portée devant la Cour, et l'arrêt pouvait produire des conséquences juridiques sur les jugements préalables de la juridiction grecque. C'est précisément pour cette raison que la Cour a accepté, mais dans une mesure très limitée⁶⁹, la demande présentée par la Grèce, ayant conclu que la Cour « pourrait estimer nécessaire d'examiner ... les décisions rendues par la justice grecque ... aux fins de se prononcer sur ... les conclusions de l'Allemagne »⁷⁰.

12. Dans ces trois affaires, la Cour a admis l'intervention à titre exceptionnel et dans une mesure très limitée parce que les parties requérantes avaient démontré des intérêts juridiques antérieurs et bien établis, ce que le Guatemala n'a pas été en mesure de faire au cours de ces audiences.

⁶³ *Frontière terrestre et maritime entre le Cameroun et le Nigéria (Cameroun c. Nigéria), exceptions préliminaires, arrêt, C.I.J. Recueil 1998*, p. 324, para. 116. [Voir onglet n° 5 du dossier des plaidoiries.]

⁶⁴ *Frontière terrestre et maritime entre le Cameroun et le Nigéria (Cameroun c. Nigéria ; Guinée équatoriale (intervenante))*, requête à fin d'intervention du Gouvernement de la Guinée équatoriale, 30 juin 1999, p. 5-7.

⁶⁵ *Frontière terrestre et maritime entre le Cameroun et le Nigéria (Cameroun c. Nigéria), requête à fin d'intervention, ordonnance du 21 octobre 1999, C.I.J. Recueil 1999 (II)*, p. 1033-1034, par. 9-12.

⁶⁶ *Ibid.*, par. 10-12.

⁶⁷ Observations écrites de l'Allemagne sur la requête à fin d'intervention déposée par la Grèce, 23 mars 2011, par. 3-4.

⁶⁸ Observations écrites de l'Italie sur la requête à fin d'intervention déposée par la Grèce, 28 mars 2011 ; observations additionnelles de l'Italie sur l'admission de la requête à fin d'intervention déposée par la Grèce, 27 mai 2011.

⁶⁹ *Immunités juridictionnelles de l'État (Allemagne c. Italie), requête à fin d'intervention, ordonnance du 4 juillet 2011, C.I.J. Recueil 2011 (II)*, p. 502, par. 26.

⁷⁰ *Ibid.*, p. 501-502, par. 25. [Voir onglet n° 6 du dossier des plaidoiries.]

13. Monsieur le président, les circonstances sont, en l'espèce, opposées et entièrement différentes. Le Guatemala invoque un intérêt prétendu dans l'affaire *Zapotillos*. Le Guatemala pourrait faire valoir un tel intérêt dans une affaire où le Belize est partie et où la question de la souveraineté sur les cayes a été soulevée dans le golfe du Honduras.

14. Mais la simple existence d'un *lien* entre les deux affaires, qui se déroulent actuellement et en parallèle devant la Cour, ne constitue pas en soi-même un intérêt d'ordre juridique au sens de l'article 62 du Statut.

15. L'existence d'un intérêt d'ordre juridique est toujours une catégorie qualifiée. Selon la jurisprudence de la Cour, l'intérêt d'ordre juridique affecté doit être — j'insiste — précis, spécifique et bien établi.

16. Le Guatemala justifie sa requête par l'existence d'une prétendue superposition dans les conclusions formulées par le Belize dans les deux affaires⁷¹. De plus, le Guatemala indique qu'il « a prié la Cour de dire et juger que les Sapodillas lui appartiennent »⁷².

17. Ces affirmations ne sont pas correctes. Le Guatemala a déclaré dans les conclusions de son mémoire du 8 décembre 2022⁷³, réitérées par renvoi dans les conclusions de sa réplique⁷⁴, qu'il revendiquait la souveraineté « sur toutes les îles occupées par le Belize dans le golfe du Honduras ». Il s'agit d'une prétention générale portant sur un nombre indéterminé d'îles, sans mention de rochers ni d'autres accidents géographiques mineurs.

18. Une simple référence générique ne prouve pas l'existence de cet intérêt d'ordre juridique qualifié requis par le Statut. Il convient de rappeler deux points :

- i) D'abord, le Guatemala ne précise pas quelles sont les cayes Zapotillos, ni leur composition exacte. Il convient de remarquer qu'il existe une divergence à cet égard entre le Honduras et le Belize dans le cadre de notre affaire.
- ii) Ensuite, le Guatemala ne précise pas la nature juridique des cayes Zapotillos, notamment s'il s'agit d'îles ou de rochers.

⁷¹ Requête à fin d'intervention déposée par le Gouvernement de la République du Guatemala, 1^{er} décembre 2023, par. 6.

⁷² *Ibid.*, par. 6.

⁷³ Affaire relative à la *Revendication territoriale, insulaire et maritime du Guatemala (Guatemala/Belize)*, voir mémoire du Guatemala, 8 décembre 2020, p. 429.

⁷⁴ *Ibid.*, voir réplique du Guatemala, 8 décembre 2022, p. 305.

19. Le Guatemala a choisi de ne pas aborder ces points dans ses pièces écrites dans l'affaire l'opposant au Belize. Il paraît, pour le moins, contre-intuitif de les soulever maintenant, et dans le cadre de la présente affaire.

20. Les moyens de preuve sont nécessaires pour démontrer un intérêt d'ordre juridique et clairement lié à l'affaire *Zapotillos*. La requête du Guatemala n'apporte aucun moyen de preuve fiable et convaincant⁷⁵, pour illustrer de quelle façon concrète ses intérêts d'ordre juridique seraient affectés.

21. En somme, l'intérêt apparent du Guatemala n'est absolument pas un intérêt d'ordre juridique au sens du Statut et du Règlement de la Cour. Car il manque de spécificité et de concrétion.

b) L'intérêt invoqué par le Guatemala ne peut être affecté par l'arrêt rendu dans l'affaire *Zapotillos*

22. Monsieur le président, le Guatemala invoque un large éventail de circonstances qui motiveraient sa nécessité d'intervenir dans notre litige.

23. Dans le seul but d'assister la Cour, le Honduras se propose de lever le voile sur le prétendu intérêt d'ordre juridique allégué par le Guatemala et de démontrer pourquoi il ne peut être affecté par un arrêt rendu dans l'affaire *Zapotillos*. À ce propos, j'attire l'attention de la Cour sur l'onglet 7 du dossier des plaidoiries :

- i) Premièrement, s'il s'agit de la souveraineté sur les cayos *Zapotillos*, le Guatemala a déjà dûment fourni les informations opportunes dans les conclusions de son mémoire en l'affaire *Guatemala/Belize*⁷⁶. La prétention de souveraineté du Guatemala dans le golfe du Honduras est extrêmement générique et étroitement liée à la délimitation des espaces marins avec le Belize. Ce n'est pas le cas dans l'affaire *Zapotillos*. La nature juridique des deux affaires est bien différente ;
- ii) Deuxièmement, quant à la possibilité pour la Cour de débattre si le Royaume-Uni aurait pu exercer sa souveraineté sur les cayos *Zapotillos* avant 1821, le Guatemala en a dûment

⁷⁵ *Différend frontalier terrestre, insulaire et maritime (El Salvador/Honduras), requête à fin d'intervention, arrêt, C.I.J. Recueil 1990, p. 117, par. 61.*

⁷⁶ Affaire relative à la *Revendication territoriale, insulaire et maritime du Guatemala (Guatemala/Belize)*, voir mémoire du Guatemala, 8 décembre 2020, p. 429-430.

informé la Cour dans son mémoire⁷⁷ et sa réplique⁷⁸ en l'affaire *Guatemala/Belize*. La revendication du Guatemala dans cette affaire est fondée sur le fait que la Couronne espagnole a exercé une pleine souveraineté sur les espaces insulaires du golfe du Honduras. C'est exactement la position que soutient le Honduras⁷⁹ ;

- iii) Troisièmement, il en va de même quant au débat sur les instruments invoqués par le Belize concernant le Guatemala, ce dernier en a déjà dûment informé la Cour dans son mémoire⁸⁰ et sa réplique⁸¹ dans ladite affaire *Guatemala/Belize*. En outre, le traité conclu entre la Couronne britannique et le Guatemala en 1859 est *res inter alios acta* pour le Honduras⁸².
- iv) Quatrièmement, s'il s'agit du débat sur tout échange bilatéral entre le Royaume-Uni, le Belize et le Guatemala au sujet des cayos Zapotillos, le Guatemala en a aussi dûment informé la Cour dans son mémoire⁸³ et sa réplique⁸⁴ en l'affaire *Guatemala/Belize*. Ces échanges sont sans rapport avec le Honduras et vont au-delà de la portée de l'affaire *Zapotillos* ; et,
- v) Enfin, s'il s'agit du débat sur la reconnaissance de la souveraineté du Belize par des États tiers, nous renvoyons une fois de plus à la documentation présentée dans l'affaire *Guatemala/Belize*⁸⁵.

24. En résumé, même en adoptant une interprétation très généreuse des arguments du Guatemala, sa demande vise à informer la Cour de questions qui sont soit actuellement examinées dans l'affaire *Guatemala/Belize*, soit étrangères au Honduras.

⁷⁷ *Ibid.*, voir mémoire du Guatemala, 8 décembre 2020, p. 81-127 et 333-350.

⁷⁸ *Ibid.*, voir réplique du Guatemala, 8 décembre 2022, p. 19-40 et 212-229.

⁷⁹ Affaire relative à la *Souveraineté sur les cayes de Sapodilla/cayes Zapotillos (Belize c. Honduras)*, voir contre-mémoire du Honduras, 4 décembre 2023, par. 220-226.

⁸⁰ Affaire relative à la *Revendication territoriale, insulaire et maritime du Guatemala (Guatemala/Belize)*, voir mémoire du Guatemala, 8 décembre 2020, p. 153-270 et 336-372.

⁸¹ *Ibid.*, voir réplique du Guatemala, 8 décembre 2022, p. 59-159 et 189-211.

⁸² Affaire relative à la *Souveraineté sur les cayes de Sapodilla/cayes Zapotillos (Belize c. Honduras)*, voir contre-mémoire Honduras, 4 décembre 2023, par. 406-407.

⁸³ Affaire relative à la *Revendication territoriale, insulaire et maritime du Guatemala (Guatemala/Belize)*, voir mémoire du Guatemala, 8 décembre 2020, p. 235-245 et 271-281.

⁸⁴ *Ibid.*, voir réplique du Guatemala, 8 décembre 2022, p. 285-289.

⁸⁵ *Ibid.*, voir mémoire du Guatemala, 8 décembre 2020, p. 290-297 et 360-365 ; réplique du Guatemala, 8 décembre 2022, p. 81-91, 161-170 et 203-231.

25. En tout état de cause, et c'est là que se situe le cœur du problème, tous ces intérêts allégués sont déjà connus de la Cour. Cela explique encore l'absence de toute documentation à l'appui de la demande du Guatemala.

26. Ce raisonnement conduit à une conclusion claire : les intérêts allégués par le Guatemala ne présentent pas le caractère qualifié exigé par le Statut et le Règlement de la Cour, pour qu'une demande d'autorisation d'intervenir puisse être acceptée.

27. Compte tenu des circonstances *in concreto* de notre affaire, il n'existe aucune possibilité que la décision de la Cour dans l'affaire *Zapotillos* puisse affecter négativement un quelconque intérêt allégué par le Guatemala. Votre arrêt au fond n'aura aucune incidence sur ces intérêts, qui doivent être protégés par la Cour dans le cadre naturel de l'affaire *Guatemala/Belize*. Tous les intérêts d'ordre juridique invoqués par le Guatemala ont déjà été soigneusement développés dans cette affaire. La Cour en a donc connaissance et en a été dûment informée. La prétention de prévenir des interprétations dans une affaire (*Zapotillos*) qui pourraient être incompatibles avec les réponses de la Cour dans une autre affaire (*Guatemala/Belize*) ne saurait fonder une requête à fin d'intervention⁸⁶.

c) La nature indicative et ouverte des intérêts invoqués par le Guatemala ne fait que confirmer l'incertitude de cet incident de procédure

28. De plus, le Guatemala note que ses intérêts d'ordre juridique présumés ont un caractère purement indicatif et ne constituent pas un *numerus clausus*, c'est-à-dire qu'il se réserve le droit de faire valoir d'autres intérêts qui pourraient être affectés.

29. Le Honduras estime que si ces intérêts inconnus et présumés se rapportaient à des documents ou instruments se référant au Belize, ce raisonnement du Guatemala conduirait directement à les débattre dans leur affaire avec le Belize.

30. Mais si ces intérêts inconnus et présumés se rapportaient à des documents ou instruments juridiques concernant le Honduras, la réponse est très claire. La prétention du Guatemala, en tant qu'intervenant non partie, dépasserait clairement l'objet d'une requête à fin d'intervention. En agissant de la sorte, le Guatemala chercherait à tirer avantage de la poursuite, dans l'affaire *Zapotillos*, du débat opposant les parties dans l'affaire *Guatemala/Belize*. Par conséquent, si

⁸⁶ *Souveraineté sur Pulau Ligitan et Pulau Sipadan (Indonésie/Malaisie), requête à fin d'intervention, arrêt, C.I.J. Recueil 2001, p. 604, par. 83.*

l'intervention du Guatemala était admise, cela modifierait la nature même de la présente affaire. En termes simples, la demande du Guatemala n'est pas conforme au principe consensuel sur lequel repose la compétence de la Cour.

31. Il est compréhensible que le Belize puisse, dans une certaine mesure — seulement dans une certaine mesure — se montrer complaisant à l'égard des prétentions du Guatemala dans sa requête. Le Belize est partie aux deux affaires. Mais ce n'est pas le cas du Honduras. Voilà la principale différence. C'est pourquoi le Honduras n'accepte pas l'intervention du Guatemala, notamment et entre autres, en raison du risque d'un éventuel changement dans la nature elle-même de l'affaire *Zapotillos*.

32. L'existence de deux affaires parallèles a permis au Guatemala, au Belize et au Honduras de faire connaître et valoir leurs intérêts devant la Cour. Le Guatemala a disposé de deux séries de pièces écrites dans l'affaire *Guatemala/Belize* pour les présenter en détail. Le Honduras est convaincu que la Cour peut sauvegarder les intérêts de toutes les parties à la fois qu'elle maintient l'autonomie des deux affaires.

33. En conclusion, tous les intérêts invoqués par le Guatemala sont protégés par sa participation à l'affaire *Guatemala/Belize* et, ne l'oublions pas, par l'article 59 du Statut. Puisqu'il n'y a aucun intérêt d'ordre juridique éventuellement affecté par une future décision de la Cour, les conditions requises par l'article 81 du Règlement de la Cour ne sont donc pas remplies.

34. Monsieur le président, Mesdames et Messieurs les juges, ainsi se termine mon intervention. Je vous remercie de votre attention et vous prie de bien vouloir inviter le professeur Pascual Vives à prendre la parole.

The PRESIDENT: I thank Professor Jiménez Piernas for his statement. I now give the floor back to Professor Francisco Pascual Vives. You have the floor, Sir.

Mr PASCUAL VIVES:

C. The object of the intervention is improper and imprecise

1. Thank you, Mr President, Members of the Court. It is an honour to address you again. I will now concentrate on the second substantive requirement: the object of the intervention and

demonstrate that the objects presented by Guatemala are improper and imprecise. Therefore, they are not in accordance with Article 81 of the Rules of Court.

2. Guatemala bases its Application in three different objects. Honduras argues that you must analyse all of them considering the circumstances of this case. In the next 15 minutes I will examine in detail how these circumstances tear the three objects invoked by Guatemala apart.

(a) The alleged interest is already protected in the *Guatemala/Belize* case

3. The first object argued by Guatemala is to protect by all means available its alleged interest, which may be affected by the decision of the Court⁸⁷. This argument was successfully used in the three applications for permission to intervene that the Court has so far granted, respectively, in favour of Nicaragua⁸⁸, Equatorial Guinea⁸⁹ and Greece⁹⁰. But none of those cases included the circumstance that Honduras has been highlighting and which makes the *Zapotillos* case a unique precedent.

4. At the time when Nicaragua, Equatorial Guinea and Greece submitted their applications to the Court, they did not have a parallel and separate case pending with any of the parties. As Professor Jiménez Piernas just explained, in those cases Nicaragua, Equatorial Guinea and Greece had specific and well-established interests arising from judgments that had been rendered by international or domestic courts.

5. Article 81 of the Rules of Court does not allow Guatemala to apply for intervention as a party because there is no jurisdictional link between Guatemala and Honduras⁹¹. Guatemala had no choice but to admit this fact in its Application⁹².

⁸⁷ Application for permission to intervene by the Government of the Republic of Guatemala, 1 December 2023, para. 10 (a).

⁸⁸ Application for permission to intervene by the Government of Nicaragua, 17 November 1989 (para. 5), in the case concerning *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras), Application for Permission to Intervene, Judgment, I.C.J. Reports 1990*, p. 92.

⁸⁹ Application for permission to intervene by the Government of Equatorial Guinea, 30 June 1999 (p. 12), in the case concerning *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. 1029.

⁹⁰ Application for permission to intervene by the Government of the Hellenic Republic, 13 January 2011 (p. 10), in the case concerning *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. 494.

⁹¹ *Territorial and Maritime Dispute (Nicaragua v. Colombia), Application by Honduras for Permission to Intervene, Judgment, I.C.J. Reports 2011 (II)*, p. 432, paras. 28-29. See tab 8 of the judges' folder.

⁹² Application for permission to intervene by the Government of the Republic of Guatemala, 1 December 2023, para. 12.

6. The only intervention Guatemala can aspire to is as a non-party. But Guatemala is already a party to a case still pending before this Court. And in the framework of those proceedings, it is protecting the alleged interests claimed this week over the Cayos Zapotillos by all means available.

7. Mr President, the Court found in the case concerning the *Continental Shelf (Libya/Malta)* that, where a State claims as the object of its application the protection of alleged interests, it is necessary to examine to what extent those interests may be affected by a decision of the Court⁹³.

8. The proper and precise nature of the object depends on whether the alleged interest might be affected by the Court's decision. Therefore, it is essential to demonstrate that the Court's decision could have a negative influence on the alleged interest. If the alleged interest cannot be adversely affected, as it happens in this case, the object of the application becomes imprecise and contrary to Article 81 of the Rules of Court.

9. Honduras argues that the object of an application for permission to intervene ceases to be proper and precise when an alleged interest is already protected in other proceedings pending before the Court.

(b) Guatemala has already informed the Court *à volonté*

10. The second object alleged by Guatemala is the need 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”⁹⁴.

11. Guatemala is requesting to inform the Court. But as a matter of fact, Guatemala has been informing the Court extensively since 8 December 2020. That is, two years (more than seven hundred days) before the *Zapotillos* case, this case, even began.

12. There is another fact that should not go unnoticed. The number of pages that Guatemala devotes in its two written pleadings in the *Guatemala/Belize* case to addressing its alleged interests in the *Zapotillos* case is more extensive than the total number of pages devoted by Belize and

⁹³ *Continental Shelf (Libyan Arab Jamahiriya/Malta), Application for Permission to Intervene, Judgment, I.C.J. Reports 1984*, pp. 16-17, para. 28. See also *Territorial and Maritime Dispute (Nicaragua v. Colombia), Application by Costa Rica for Permission to Intervene, Judgment, I.C.J. Reports 2011 (II)*, p. 363, para. 49. See tab 9 of the judges' folder.

⁹⁴ Application for permission to intervene by the Government of the Republic of Guatemala, 1 December 2023, para. 10 (b).

Honduras in their respective Memorial and Counter-Memorial combined. The exact number of pages can be found in tab 10 of your folder. These numbers, Mr President, speak for themselves.

13. In response to Guatemala's assertions as to the alleged precision and propriety of this Application⁹⁵, two questions need only be asked:

- (i) First, can Guatemala claim that it has not had the opportunity to properly inform the Court on any alleged interests since 8 December 2020?
- (ii) Second, can Guatemala claim that it has no further opportunity to properly inform the Court when the oral proceedings of the *Guatemala/Belize* case are still pending?

14. There is only one answer to these questions: no. A resounding no.

15. Yesterday, Mr Bundy twice made a highly selective and self-serving interpretation⁹⁶ of an excerpt from *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)* so as to justify that the object of their intervention in the present case is proper and precise. Mr President, distinguished Members of the Court, allow me another attempt, perhaps this third time will be the charm for a proper understanding of paragraph 90 of that case, in which the Chamber found:

“[I]t 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”⁹⁷.

16. The Chamber's conclusion in that case is enlightening, and of paramount importance in resolving the dilemma posed by Guatemala about the object of this Application.

17. Mr President, Members of the Court: without the intervener being heard; *sans que l'intervenant ait été entendu*. This is the standard that you set in 1990 to determine when the object of an application for intervention is proper and precise.

18. Guatemala is currently being amply heard in the *Guatemala/Belize* case. It is crystal clear that Guatemala falls short of this standard. Consequently, the object of its Application is improper and imprecise.

⁹⁵ CR 2025/21, p. 42, para. 29 (Guatemala, Bundy).

⁹⁶ CR 2025/21, p. 43, para. 31, and p. 44, para. 36 (Bundy).

⁹⁷ *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras), Application for Permission to Intervene, Judgment, I.C.J. Reports 1990*, p. 130, para. 90.

(c) Any alleged rights and interests by Guatemala cannot be prejudiced in the *Zapotillos* case, since the Court will protect them in the *Guatemala/Belize* case

19. The third object alleged by Guatemala is that its Application is intended to “ensure that the Court’s determinations do not touch upon or prejudice the legal rights and interests of the Republic of Guatemala”⁹⁸.

20. This argument creates confusion for at least two reasons:

- (i) first, the alleged rights of Guatemala have not been recognized. They are neither certain nor specific, but presumptive; and,
- (ii) second, those alleged rights and interests are already protected within the *Guatemala/Belize* case.

21. Honduras trusts that the Court will not prejudice the alleged rights and interests of any of the Parties in both pending cases (including, of course, those of Honduras). Especially in view of all the information that the Parties have provided during the written proceedings of both cases and may still provide in the oral proceedings.

22. In brief, there is no doubt that the Court will take all necessary measures to ensure that its judgment in this case respects Article 59 of the Statute.

23. Mr President, Honduras considers that, in view of the particular circumstances of the *Zapotillos* case, the object of Guatemala’s Application does not comply with Article 81 of the Rules of Court. The object of this Application is improper and imprecise for three main reasons:

- (i) first, Guatemala is already protecting its alleged interests within the *Guatemala/Belize* case;
- (ii) second, Guatemala has already informed the Court about its alleged rights and interests, and may continue to do so in that case; and
- (iii) third, a decision of the Court in the *Zapotillos* case cannot, by any means, prejudice Guatemala’s alleged rights and interests. The Court will render another judgment in the *Guatemala/Belize* case. And that judgment will protect any alleged rights and interests.

⁹⁸ Application for permission to intervene by the Government of the Republic of Guatemala, 1 December 2023, para. 10 (b) *in fine*.

24. To conclude. What is truly remarkable is that Guatemala⁹⁹ has even more information it wishes to provide the Court. Their eagerness to introduce new documents can only be explained by the need to complete in this case omissions made in the *Guatemala/Belize* case.

25. Guatemala cannot be allowed to use the institution of intervention opportunistically. Guatemala should not continue its claim against Belize in the *Zapotillos* case. Nor can Guatemala bring a new case against Honduras. Those will be precisely the main legal effects of this Application, if granted.

26. Mr President, distinguished Members of the Court. This concludes my presentation, and the first round of oral argument of Honduras. Thank you very much for your kind patience and attention.

The PRESIDENT: I thank Professor Pascual Vives for his presentation, whose statement brings to an end the first round of oral argument of Honduras. I wish to thank Guatemala and the Parties, namely, Belize and Honduras, for their statements presented in the course of this first round of oral argument. The Court will meet again tomorrow at 10 a.m. to hear the second round of oral argument of Guatemala. The sitting is closed.

The Court rose at 12.10 p.m.

⁹⁹ CR 2025/21, pp. 37-38, para. 9, and p. 44, para. 37 (Bundy).