

INTERNATIONAL COURT OF JUSTICE

**APPLICATION
INSTITUTING PROCEEDINGS**

filed in the Registry of the Court
on 16 November 2022

THE SAPODILLA CAYES

(BELIZE v. HONDURAS)

APPLICATION INSTITUTING PROCEEDINGS

I. SUBJECT MATTER OF THE DISPUTE

1. This Application submits to the Court for final and binding resolution in accordance with international law the dispute between Belize and Honduras concerning sovereignty over the Sapodilla Cayes.

II. JURISDICTION OF THE COURT

2. The Court has jurisdiction over this dispute pursuant to Article XXXI of the American Treaty on Pacific Settlement concluded at Bogotá on 30 April 1948, known as the Pact of Bogotá, and pursuant to Article 36(1) of the Statute of the Court.
3. Honduras signed the Pact of Bogotá on 30 April 1948 and its instrument of ratification was deposited with the Pan American Union in accordance with Article LII of the Pact on 7 February 1950.¹
4. Belize acceded to the Pact of Bogotá in conformity with Article LIV by transmission of an instrument of accession to the Organization of American States on 24 October 2022.² The General Secretariat of the Organization of American States issued a certificate of receipt of this instrument dated 27 October 2022.³ Also in conformity with Article LIV of the Pact, the

¹ Republic of Honduras, Instrument of Ratification of the American Treaty on Pacific Settlement, 7 February 1950, **BA Annex 2**.

² Belize, Instrument of Accession to the American Treaty on Pacific Settlement, 24 October 2022, **BA Annex 13**.

³ General Secretariat of the Organization of American States, Certificate of Receipt of Instrument of Accession by Belize to the American Treaty on Pacific Settlement, 27 October 2022, **BA Annex 15**.

Organization of American States notified the other High Contracting Parties on 27 October 2022 of Belize's accession to the Pact of Bogotá.⁴

5. Neither Belize nor Honduras has made any reservation to the Pact of Bogotá.
6. By Article XXXI of the Pact of Bogotá, the High Contracting Parties confer jurisdiction on the Court over disputes of a juridical nature that arise between them concerning any question of international law.
7. There is a dispute of a juridical nature concerning a question of international law between Belize and Honduras regarding sovereignty over the Sapodilla Cayes, as further detailed in Section III below. It follows that the Court has jurisdiction over the dispute submitted to it by way of this Application.

III. FACTS

8. The Sapodilla Cayes are a group of cayes lying in the Gulf of Honduras at the southern tip of the Belize Barrier Reef, approximately 75 kilometres east of the Belizean mainland town of Punta Gorda. The most prominent of these cayes include Northeast Sapodilla Caye, Frank's Caye, Nicholas Caye, Hunting Caye, Lime Caye, Ragged Caye, West Ragged Caye and Seal Caye.
9. Since the early nineteenth century, the Sapodilla Cayes have formed part of the territory of Belize, initially as part of the settlement of Belize and later the colony of British Honduras, and since 1981 as part of the independent

⁴ Department of International Law of the Secretariat for Legal Affairs of the General Secretariat of the Organization of American States, Note informing States parties to the American Treaty on Pacific Settlement of Belize's accession, 27 October 2022, **BA Annex 16**.

State of Belize. There have been over 200 years of uninterrupted peaceful possession by the United Kingdom (as the relevant colonial power) and by Belize since its independence in 1981.

10. Prior to 1981, British sovereignty over the Sapodilla Cayes was manifested through numerous public, peaceful and continuous sovereign acts. These included (among others):
 - (a) Exercises of jurisdiction by magistrates over the Sapodilla Cayes (such as in relation to criminal matters, salvage claims and the suppression of piracy);
 - (b) Express statements confirming sovereignty, including as expressed in official maps;
 - (c) Protests against conduct on the part of other States that was inconsistent with British sovereignty;
 - (d) The construction of lighthouses;
 - (e) The granting of licences and concessions in relation to natural resources;
 - (f) The regulation of land ownership, fishing and entry to the Sapodilla Cayes; and
 - (g) The performance of military activities in and around the Sapodilla Cayes.

11. By contrast, Honduras has never had nor purported to exercise any sovereignty over the Sapodilla Cayes. Indeed, prior to 1981, it repeatedly acknowledged British sovereignty. For example, at various points in time

the Government of Honduras was concerned that the Sapodilla Cayes were being used as a base by revolutionary movements plotting against it. The Government of Honduras accordingly requested the British authorities in Belize to take action in respect of such movements. These requests plainly constituted acknowledgement by Honduras of the sovereignty of the United Kingdom over the Sapodilla Cayes, and indeed were requests by Honduras for the United Kingdom to exercise its sovereignty over the Sapodilla Cayes. Such acknowledgements included, for instance, a letter in 1913 from the Foreign Minister of Honduras, expressed as being on behalf of the President of Honduras, to the British Consul General. In that letter, Honduras thanked the Government of the United Kingdom for having placed a ship of war at the disposal of the “Colonial Government at Belize” so as to prevent revolutionary activity on the Sapodilla Cayes, which the Honduran Foreign Minister expressly referred to as “Islands belonging to the Colony”.⁵

12. It was only in 1981, with the independence of Belize from the United Kingdom imminent, that Honduras first made a claim to the Sapodilla Cayes. It did so in a note to the British Ambassador to Honduras, reserving the right to have recourse to all means established by international law to “make Honduran sovereignty prevail”.⁶ The United Kingdom rejected the Honduran claim and made clear that it had no doubt concerning the sovereignty of the United Kingdom over the Sapodilla Cayes.⁷ Honduras

⁵ Letter from Mariano Vasquez (Minister for Foreign Affairs, Honduras) to J. P. Armstrong (British Consul General), 8 September 1913, **BA Annex 1**.

⁶ Letter from Cesar Elvir Sierra (Minister for Foreign Affairs, Honduras) to John Barnard Weymes (British Ambassador to Honduras), 17 March 1981, **BA Annex 4**.

⁷ United Kingdom Note to Honduras, 26 March 1981, **BA Annex 5**.

nonetheless maintained its claim in further exchanges with the United Kingdom.⁸

13. On 21 September 1981, Belize achieved independence from the United Kingdom. Upon the unanimous recommendation of the United Nations Security Council, the United Nations General Assembly voted on 25 September 1981 to admit Belize as a member of the United Nations,⁹ with Guatemala the only State voting against the resolution. This resolution was passed in the context of multiple General Assembly resolutions referring to the importance of Belize's independence being achieved with its territorial integrity intact.¹⁰
14. During the United Nations General Assembly proceedings, Honduras made a statement asserting that the "Cayos Zapotillos historically, geographically and legally belong to Honduras".¹¹ The representative of the United Kingdom stated in reply that:

"My delegation has been instructed to state that the United Kingdom does not accept that claim. The United Kingdom has no doubt of its sovereignty over the Cayos Zapotillos as part of the territory of Belize up to the date of Belize's independence. On the granting of independence to Belize on 21 September this year — which we note with pleasure has been welcomed by the

⁸ Communiqué from the Government of Honduras to the British Embassy in Honduras, 10 April 1981, **BA Annex 6**; Note from the Ministry of Foreign Affairs of Honduras to the British Embassy in Honduras, Note No. 202-DSM, 21 May 1981, **BA Annex 7**.

⁹ General Assembly Resolution 36/3, Admission of Belize to membership in the United Nations, UN Doc. A/RES/36/3, 25 September 1981, **BA Annex 10**.

¹⁰ See, e.g., General Assembly Resolution 35/20, Question of Belize, UN Doc. A/RES/35/20, 11 November 1980, **BA Annex 3**, para. 7.

¹¹ Statement by Mr Elvir Sierra (Honduras) at the United Nations General Assembly, thirty-sixth session, 10th plenary meeting, UN Doc. A/36/PV.10, 23 September 1981, **BA Annex 8**, paras 183-185.

Government of Honduras — sovereignty over the Cayos Zapotillos passed to the State of Belize.”¹²

15. Following the independence of Belize, Honduras promulgated a new Constitution in January 1982 which expressly referred to the Sapodilla Cayes (and, separately, Seal Caye, which forms part of the Sapodilla Cayes) as part of the territory of Honduras.¹³
16. Since its independence from the United Kingdom, Belize has exercised its exclusive sovereignty over the Sapodilla Cayes. Consistently with the sovereignty previously exercised by the United Kingdom, the sovereign acts of Belize in relation to the Sapodilla Cayes since 1981 have included (among others):
 - (a) Regulatory acts concerning fishing, entry and land ownership in relation to the Sapodilla Cayes;
 - (b) The performance of military and coast guard functions on and around the Sapodilla Cayes;
 - (c) Express inclusion of the Sapodilla Cayes in Belize’s Constitution as part of its territory;
 - (d) The definition of its territorial sea by reference to the Sapodilla Cayes; and

¹² Statement by Mr Goulding (United Kingdom) at the United Nations General Assembly, thirty-sixth session, 12th plenary meeting, UN Doc. A/36/PV.12 and Corr. 1, 24 September 1981, **BA Annex 9**, paras 442-444.

¹³ Constitution of Honduras, 20 January 1982, Article 10, **BA Annex 11**.

(e) Protests against incursions into the Sapodilla Cayes or their appurtenant waters.

17. Despite Belize's clear sovereignty over the Sapodilla Cayes, in exchanges this year between Belize and Honduras it has become clear that Honduras considers itself constrained by its Constitution to assert its claim to the Sapodilla Cayes on the international plane and that, notwithstanding the excellent relations between Belize and Honduras, a legal dispute has persisted between them.¹⁴ Belize desires the full and final resolution of all territorial claims against it and so now turns to the Court for the prompt resolution of the legal dispute between Belize and Honduras concerning the Sapodilla Cayes. Belize emphasises that it does so in support and furtherance of its friendly relations with Honduras, to have the legal dispute between them authoritatively and definitively resolved.

IV. LEGAL GROUNDS

18. Under international law, Belize is sovereign over the Sapodilla Cayes. The Honduran claim to the Sapodilla Cayes, articulated in its 1982 Constitution, which remains in force as a matter of the internal law of Honduras, has no basis in international law.

19. In 1981 the people of Belize exercised their right to self-determination with territorial integrity when Belize obtained its independence from the United Kingdom. In doing so, Belize succeeded to the sovereignty over the

¹⁴ Letter from the Minister of Foreign Affairs of Belize to the Minister of Foreign Affairs of Honduras, 29 September 2022, **BA Annex 12**; Letter from the Minister of Foreign Affairs of Belize to the Minister of Foreign Affairs of Honduras, 25 October 2022, **BA Annex 14**.

Sapodilla Cayes that the United Kingdom had held and exercised for well more than a century.

20. Honduras had long recognised and accepted the sovereignty of the United Kingdom over the Sapodilla Cayes, and the United Kingdom had exercised that sovereignty publicly, peacefully and continuously in manifold ways.
21. Since Belize succeeded in 1981 to the sovereignty of the United Kingdom over the Sapodilla Cayes, Belize has continuously exercised exclusive sovereignty over the Sapodilla Cayes.

V. RELIEF SOUGHT

22. Belize respectfully requests the Court to adjudge and declare that, as between Belize and Honduras, Belize is sovereign over the Sapodilla Cayes.

VI. RESERVATION OF RIGHTS

23. Belize reserves the right to supplement or amend in the course of these proceedings the matters introduced by this Application, including in respect of the facts relied on, the legal grounds invoked, and the relief requested.

VII. APPOINTMENT OF AGENT AND CO-AGENT

24. The Government of Belize appoints Ambassador Assad Shoman as Agent and Ambassador Alexis Rosado as Co-Agent for Belize in these proceedings.

Raineldo Urbina
Chargé d'affaires ad interim
Embassy of Belize accredited to the
Kingdom of the Netherlands
16 November 2022

CERTIFICATION

I certify that the documents annexed to this Application and listed overleaf are true copies of the originals and that any translations into English are accurate.

Raineldo Urbina
Chargé d'affaires ad interim
Embassy of Belize accredited to the
Kingdom of the Netherlands
16 November 2022