

INTERNATIONAL COURT OF JUSTICE  
PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

**CASE CONCERNING THE LAND, ISLAND  
AND MARITIME FRONTIER DISPUTE**

(EL SALVADOR/HONDURAS : NICARAGUA intervening)

VOLUME VII  
Conclusion of Oral Arguments ; Correspondence



COUR INTERNATIONALE DE JUSTICE  
MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

**AFFAIRE DU DIFFÉREND FRONTALIER  
TERRESTRE, INSULAIRE ET MARITIME**

(EL SALVADOR/HONDURAS ; NICARAGUA (intervenant))

VOLUME VII  
Suite et fin de la procédure orale ; correspondance



## FIFTY-SEVENTH PUBLIC SITTING (11 IX 92, 10 a.m.)

*Present*: [See sitting of 15 IV 91, 10 a.m.]

## READING OF THE JUDGMENT

The PRESIDENT OF THE CHAMBER: The Chamber of the International Court of Justice formed under Article 26 of the Statute by an Order made by the Court on 8 May 1987 to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* is sitting today in order to read its Judgment in the case in open court in accordance with Article 58 of the Statute of the Court and Articles 93 and 94 of the Rules of Court. It is with great pleasure that I note the presence in Court not only of the Agents, counsel and Advisers of the two Parties and of the intervening State but also of His Excellency Dr. José Manuel Pacas Castro, Minister for Foreign Affairs of El Salvador and His Excellency Dr. Mario Carias Zapata, Minister of External Relations of Honduras.

Since the Court was seised of the matter by joint notification of 11 December 1986, some six years have elapsed during which the case has been dealt with in depth, in all the intricacies of its complexity and the variety of its multifarious aspects. It has probably been the most extensive case ever entertained by the Court, involving three rounds of written pleadings totalling some 12,000 pages and hearings amounting to no less than 50 public sittings. The proceedings also involved the intervention of Nicaragua, the first instance in the history of the Court, or its predecessor, in which intervention was granted under Article 62 of the Statute.

During this long and laboriously dealt with case the questions of law and fact were multiple and difficult. The fundamental principle of *uti possidetis juris* which was at the basis of most of the decisions and findings of the Chamber involved complex problems of definition and application due to the "lack of trustworthy information during the colonial time with respect to a large part of the territory in dispute", to use the language of the 1933 Arbitral Award of Chief Justice Hughes. The uncertainty and the ever changing course of the delimitations of the administrative units of the Spanish Empire made it extremely difficult to establish the *uti possidetis juris* line of 1821, date of the independence of the Central American Republics.

The determination of the legal situation of the islands in dispute and of the Gulf of Fonseca, an historic bay of a so generous character surrounded by the coast of three States whose waters are subject to a special régime and of the maritime spaces outside the Gulf, were equally marked by extreme doubts and difficulties. This dispute, which can be traced back to 1861 when the first proposals for negotiations concerning a section of the land boundary was put forward by El Salvador and which has been the object of all sorts of efforts towards the peaceful settlement through negotiations, conferences, mediations and frustrated arbitration agreements which are mentioned in detail in the Judgment, was not fully resolved even by the conclusion of the General Treaty of Peace of 1980 and has come finally to the adjudication of the Court. It has been the source of misunderstandings and frictions between two sister republics which even did reach the point of armed conflict in 1969.

The present Judgment, on a case of such considerable complexity and diversity was the result of a careful and detailed examination of the aspects of every question involved and most of its findings represent the unanimous agreement of the Members of the Chamber. It is inevitable that one or the other Party will not be fully satisfied with the result of certain specific points. The Chamber is nevertheless convinced that it has reached conclusions that are soundly based in law and thus the more likely to open the door to definitive solutions for difficult and long-lasting problems dividing the two Parties.

The Chamber considers it its duty to appeal to both Parties to take the necessary measures to carry out fully the present Judgment so as to lay the foundations for understanding and friendly relations between them, together with the establishment of the necessary machinery capable of assuring the pacific and successful development of the two countries.

The decision of the Chamber delivered today is the result of great efforts and ceaseless search for the right ways and means of a due administration of justice. The Chamber trusts that the result of its strenuous labours will be recognized by the Parties as a just and equitable decision capable of putting an end to one of the longest and most complex controversies among Latin American States. If executed with goodwill and bona fides, we believe that this Judgment is going to be an important contribution for bringing peace, understanding and progress to a region of the American continent and to its people so often victimized by sufferings due to the scourge of conflicts and disputes.

Article 58 of the Statute of the Court to which I have already referred provides that the Judgment shall be read in open court. The Statute does not however require that every word of a judgment be read and the Court has over the years established a practice whereby certain parts of a judgment, for instance the *qualités* — which set out the procedural history of the case and the parties' submissions — are omitted altogether and other passages are summarized in order to make it possible for the essence of the judgment to be read in open court within the temporal limits of a single three-hour sitting.

In the present case in which the Judgment runs to a total of 183 pages of close typescript, the fullest advantage has to be taken of this wise practice of the Court. Much of what I am not going to read will therefore be summarized, though incorporating extensive quotations of the full text of key passages. The operative clauses will of course be read in full, including the detailed references which they contain of geographical co-ordinates and the maps attached to the Judgment.

[The President summarizes paragraphs 1 to 67<sup>1</sup>.]

Before summarizing the parts of the Judgment devoted to the six sectors of the land boundary, I should explain that the Judgment is illustrated by a number of sketch-maps showing in respect of each of the disputed sectors, of the land boundary, the claims of the Parties and illustrating various aspects of the argument. Also annexed is a map showing the whole frontier with a key to the position of the sketch-maps and the map of the Gulf of Fonseca. The operative part of the Chamber's Judgment defines the land boundary sectors by reference to co-ordinates of latitude and longitude and turning points identified by letters shown on maps to a scale of 1/50,000 attached to the Judgment. All reference to these maps will be omitted from this reading, except in the operative clauses.

[The President summarizes paragraphs 68 to 424<sup>2</sup>.]

<sup>1</sup> *I.C.J. Reports 1992*, pp. 356-401.

<sup>2</sup> *I.C.J. Reports 1992*, pp. 401-610.

I now come to the operative clauses of the Judgment which deal successively with the six sectors of the land boundary, the legal situation of the waters and the legal situation of the maritime spaces. After I have read each of these clauses in English, I shall ask the Registrar to read that clause in French according to the practice.

[The President of the Chamber and the Registrar alternatively read in English and in French the operative clauses (paras. 425 to 432)<sup>3</sup>.]

Vice-President Oda appends a declaration to the Judgment. Judges *ad hoc* Valticos and Torres Bernárdez append separate opinions. Vice-President Oda appends a dissenting opinion.

The Judgment has been read today from a typed text of which a limited number of copies have been reproduced. Copies of the maps of the land boundary sectors are also available for inspection by the press and the public. The usual printed version of the Judgment for inclusion in the Court's series of *Reports* will be published in due course. But as a result of the sheer size of the Judgment, this will take several weeks. The work of the Chamber formed to deal with this case is thus concluded and I declare the sitting closed.

(Signed) José SETTE-CAMARA,  
President of the Chamber.

(Signed) Eduardo VALENCIA-OSPINA,  
Registrar.

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<sup>3</sup> *I.C.J. Reports 1992*, pp. 610-617.