

**BELIZE**

THE PRIME MINISTER

8TH June, 2000

Your Excellency,

I have the honour to present you with the position of my Government with respect to the Republic of Guatemala's claim to Belizean territory.

I understand that it is the contention of your government that I have not replied to your predecessor's letter of 18 October, 1999, which sets out Guatemala's position on its territorial claim to Belize. My letter of 14th December 1999, in which I indeed reply to the letter referred to, is apparently seen by your government as not being exhaustive enough. At the same time, both our delegations at the recent Washington meeting committed themselves to presenting fuller explanations of their respective government's positions before the meeting at ministerial level set for 17 July in Washington.

Let me therefore attempt to set out the Belize position, and at the same time refer to certain positions held by your government as set out in the letter of 18 October, 1999.

1. Establishment and Legal Title of territory and its borders.

In Treaties (1763, 1783/86) between Spain and Britain, Spain granted to British settlers in Belize certain usufructuary rights from the Hondo to the Sibun rivers. Spanish authorities (from Yucatan, NOT from Guatemala) asserted their right to inspect the settlement between 1787 and 1796, but the outbreak of war in Europe in that year ended those visits. A Spanish attack on the settlement in 1798 was repulsed. Although Spain continued to claim sovereignty, the British settlers

Tel. 08-22345/22346

Office of The Prime Minister
Belmopan
Belize, C. A.

Fax: 08-23323

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established de facto sovereignty over the treaty areas and the unoccupied areas beyond during the first years of the 19th century.

By 1821, when Spain was ousted from the Americas, the settlers had long before penetrated as far south as the Sarstoon River. As early as 1825 the British settlers affirmed that for upwards of twenty years (or from at least 1805) they had been in occupation of the land up to the Sarstoon River to the south and west to the Garbutt's Falls – precisely the area agreed to in the 1859 Treaty (see below). Neither the United Provinces of Central America (1821-1839) nor Guatemala, which declared its independence in 1839, ever occupied that territory nor exercised any sovereignty over it. In the period up to 1859, the British continued to exercise exclusive jurisdiction over the settlement, further establishing administrative control and implementing a comprehensive legal and legislative system.

In 1859, a treaty between Britain and Guatemala defined the boundaries between Guatemala and the Belize settlement.

“beginning at the mouth of the River Sarstoon in the Bay of Honduras, and proceeding up the mid-channel thereof of Gracias a Dios Falls, then turning to the right and continuing by a line drawn direct from Gracias a Dios Falls to Garbutt's Falls on the River Belize, and from Garbutt's Falls due north until it strikes the Mexican frontier”.

2. Joint delimitation of Borders

From December 1860 until May 1861, a joint commission of British and Guatemalan surveyors marked out the border between British Honduras and Guatemala, in accordance with the 1859 Treaty.

In 1933, the two countries, through joint commissioners, placed concrete monuments on parts of the frontier to form the boundary line, as defined by the 1859 Treaty, between British Honduras and the Republic of Guatemala.

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Indeed, in 1933, a Guatemalan Foreign Ministry note to the British stated that "the Government of Guatemala accepts that the engineers of the Colony of Belize proceed with the demarcation of the boundary with Guatemala, precisely in the place established by the Convention of 1859".

It is precisely that boundary, established de facto in the early 19th century, agreed by Treaty in 1859, officially confirmed by Guatemala as late as 1933, respected in fact by both sides throughout all these years, that Belize accepted and assumed when it became independent in 1981.

3. Guatemala purports to void the Treaty

But in 1940 Guatemala declared the Treaty to be void, alleging failure to implement Article 7. By Article 7 of the Treaty, both parties undertook to jointly use their best efforts to establish communication by cart road and rivers from Guatemala City to a point on the coast near to the Belize settlement, as a means of improving trade and relations between them. The fact that this was not done cannot be blamed on Britain alone, as the wording of the article makes it clear that this was a joint responsibility, and the facts do not support the contention that Britain was responsible for its non-compliance. In any case, such non-compliance could not in any way affect the substance of the Treaty, which was clearly a boundary treaty by which the two parties agreed on pre-existing borders.

Furthermore, Guatemala cannot have properly declared the 1859 Treaty void by virtue of domestic legislation to that effect, especially when it is clear on the record that from 1859 until as late as March 1938, Guatemala insisted on British compliance with the Treaty. Two years later, and eighty years after the Treaty, it purported to declare the boundary treaty void! International law cannot countenance such a proposition.

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4. The Belizean People's Right to Self-Determination

From the early 18th century, meanwhile, history fashioned a new people in the territory: neither British nor Guatemalan, but Belizean. Already by the time the Anglo-Spanish treaties were signed more than 90% of the population was African and Maya, not British, and the British minority dwindled even further over the years with immigrants from the British Caribbean and from Mexico and Central America. During the early 20th century nationalist sentiments took shape, and in 1950 the Belizeans, a distinct people with their own culture, demanded independence from Britain. Self-government was achieved in 1964, but full independence was delayed until 1981 only because of the Guatemalan claim to the territory.

Beginning in 1961, elected representatives of Belize joined the British in attempting to negotiate a settlement to the dispute. In 1975, Belize decided to mount its own campaign to obtain the support of the world's nations. In 1975 the UN General Assembly passed a resolution affirming Belize's right to secure independence with all its territory and declared that any proposals emerging from negotiations between Britain and Guatemala must respect this right. In each following year, support for Belize's independence and territorial integrity grew.

Belize eventually gained the support of all the Latin American countries. In 1980, the UN resolution declared that Belize should become independent by the following year, and called on the UK, as well as on the relevant organs of the United Nations, to guarantee Belize's security and territorial integrity. Support for this resolution was virtually unanimous, and included all members of the Security Council. No country voted against it. The Organization of American States (OAS) endorsed the resolution.

Further negotiations in early 1981 proved fruitless, and Belize proceeded to independence with its territory intact and without arriving at a settlement with Guatemala.

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It is senseless to assert that the UN resolutions merely recognised the State of Belize but not its territory. Every resolution, from 1975 to 1981, affirmed the principle of maintaining Belize's territorial integrity, understood as the territory it had occupied from the early nineteenth century and agreed to by nineteenth century treaties by its neighbours.

5. The Legal Position

Guatemala erroneously asserts that the title to the territory of Belize – whether north or south of Sibun – automatically devolved on Guatemala through succession from Spain. British title to the territory was perfected through the process of acquisitive prescription, which is a recognized means in International Law for acquiring title to territory.

The rebellion against Spain in 1821 by its colonies in Central America did not by itself change the position regarding sovereignty over Belize. While for their own purposes, *inter se*, the countries of Central America relied on the doctrine of *uti possidetis* (by which the boundaries of the new republics should be those of the Spanish provinces they were succeeding), this did not affect the position of other sovereign States like Britain, for whom the question of sovereignty was determined by traditional international law, which related title to effective occupation.

Long before 1821 British settlers had gradually extended their settlements south of the Sibun River towards the Sarstoon. To the extent that the British settlers went beyond the Anglo-Spanish Treaty limits, their actions affected Spain, not Guatemala, because in international law the rebellions against Spain were operative only in the areas under control of the new States. Spain's reaction to the British expansion was one of acquiescence, and undoubtedly by 1839, when the Guatemalan State was born, British presence had crystallized into valid title.

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The position might have been different had there been any Guatemalan exercise of authority or control over the areas in question. But there was not. Guatemala never occupied, nor did it ever exercise any control or jurisdiction over, any part of the territory of Belize.

This real history of the legal position makes it abundantly clear that the 1859 Treaty was indeed a boundary treaty, as it clearly declared, and not, as the Guatemalan government purported to declare in 1940, a treaty of cession.

6. Developments since Independence.

The question of the certainty and internationally recognized borders of Belize, moreover, is put even more beyond question when we consider the facts of the relations between Belize and Guatemala since Belize's independence.

Even after the attainment of independence, it remained important for Belize to resolve the Guatemalan claim, since Belize depended on Britain's defence guarantee for its security and since Guatemala's non-recognition of Belize's sovereignty effectively blocked Belize's involvement in certain organizations such as the OAS.

As your Excellency is aware, Guatemala, throughout the period 1954 to 1985, had been characterized by military dictatorships. In 1985, with the election of a civilian government and the implementation of a new Constitution removing the clause declaring Belize to be Guatemalan territory, tentative approaches between the two governments began to materialize. In 1987 serious negotiations began focusing on issues like the maritime boundary and economic cooperation. The understanding developed that the essence of a negotiated solution lay in Guatemala accepting Belize's traditional borders and in Belize agreeing to limit its rights to territorial seas in the south.

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On August 14th, 1991 the Guatemalan government recognized the right of the Belizean people to self-determination. On August 16th, the Belize Government introduced the Maritime Areas Bill into its Parliament, allowing for the future negotiation of Guatemala's access to the high seas through its own territorial waters as a sign of good faith by Belize.

On September 5th, 1991 the Guatemalan Government recognized the independence of Belize (an act later upheld by the Constitutional Court of Guatemala). On September 11th the two countries announced their decision to establish full diplomatic relations with immediate effect and to exchange ambassadors.

However, in a retrograde step, Guatemala's claim to Belize was restated in 1994, after Britain, assuming Guatemala's good faith, retired its defence garrison from Belize. On 18th October 1999, in the letter under reference, Guatemala articulated its new position claiming more than half of Belize's territory.

Any proposition that Belize relinquish territory that has been in its undisturbed possession for almost two centuries would be utterly against the fundamental principles of International law, and the family of nations would denounce it as an unacceptable precedent.

Apart from the historical recognition in law and in fact by Guatemala of the present boundaries, recent statements and actions by the Guatemalan government clearly demonstrate the inadmissibility of Guatemala's present position:

- In July 1990, a meeting at the highest levels between Belize and Guatemala agreed that their land borders were as stated in the 1859 Treaty, and that negotiations would be pursued to agree on maritime boundaries. On the basis of this, Guatemala formally recognized Belize's sovereignty a year later, it being clearly understood that it was recognizing Belize's sovereignty over its traditional land territory.

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- In February 1992, the Foreign Minister of Guatemala wrote a note of apology to his Belizean counterpart after an advertisement for oil exploration by the Guatemalan Ministry of Energy of Mines in a trade journal erroneously included Belizean territorial waters. The Minister noted that his Ministry had not been consulted, that it was an involuntary error, and that it would not be repeated. Indeed, a July 1992 issue of the advertisement did not include that area.
- In a joint statement of July, 1992, the two governments agreed that any references to their respective territories "will be based on the existing reference monuments" i.e. those placed by British/Guatemalan teams in accordance with the 1859 Treaty.
- In a joint press release on 16 April, 1993, the two governments referred to the previous statement, and "agreed to jointly undertake any repair work necessary, as has been done in the past, and to clear an area of 50 feet radius around each of the monuments."
- In technical talks on 7 November, 1997, the Guatemalan officials emphasised that Guatemala was not looking for land cession, and that if Guatemala were to win a legal case on the claim, compensation would not involve the cession of land.

Given that history, the letter under reference claiming all land south of the Sibun, or more than half of Belize's territory, came as an intolerable aberration, and is recognized as such by the international community, Belize cannot therefore be expected to even consider the possibility of any land cession.

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Allow me therefore, Excellency, to set out the Belize position with regard to the territorial claims put forward by your government:

- 1. Belize's title to its territory is not founded on treaties between Britain and Spain but rather on effective occupation and prescriptive title. In this respect there is absolutely no distinction between the area up to and the area south of the Sibun river. It's borders with Guatemala were agreed by the 1859 Treaty and subsequently demarcated, and include all the islands adjacent to the coast, as clearly implied in Article 1 of the said Treaty ("all the territory to the north and east of the line of boundary above described, belongs to Her Britannic Majesty").**

- 2. Guatemala's territorial claim is therefore not based on juridical grounds, since there is no room for doubt on the legal and juridical elements of the case, but on political grounds. The solution cannot therefore be found by juridical means but by a political process of dialogue.**

- 3. Belize remains ready, as it has always been, to engage in a process of dialogue in order to enable our two countries to live in peace and harmony and to cooperate in the urgent task of ensuring the sustainable development of our countries and peoples. In particular, and in a spirit of good neighbourliness to assist in the development of Guatemala, Belize intends to remain true to its previous commitments, and remains prepared to restrict its rights to territorial seas in the south in order to assure Guatemala access to the high seas through its own territorial sea.**

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Your Excellency will I hope agree that it is essential for a process of dialogue to bear fruit that both sides act in good faith and remain true to the commitments made by our governments in the process of dialogue. Only thus can we hope to make progress and to achieve a peaceful and lasting solution. In this context I must tell you frankly that I am very distraught by the effect of the letter under reference and subsequent reiterations of your government supporting the positions therein established. They clearly go against the recent agreements and commitments of Guatemalan governments referred to above and unfortunately bring into the question the good faith of same.

Indeed, it has not escaped the attention of my government nor of the international community that this new Guatemalan position coincides with the withdrawal of Britain's formal defence presence in Belize, although it is my duty to inform you that the relevant UN resolution, 35/20 of 11 November, 1980, remains in force. It requests, as you will recall, "the relevant organs of the United Nations to take such actions as may be appropriate and as may be requested by the administering Power and the Government of Belize in order to facilitate the attainment of the independence of Belize AND TO GUARANTEE ITS SECURITY AND INDEPENDENCE THEREAFTER".

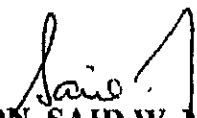
Allow me, however, to express the hope that the process of dialogue begun by your Government under your illustrious tenure as Foreign Minister will indeed be carried out in the required spirit of good faith and result in the peaceful and just resolution of our differences, which is ardently desired by both our peoples. I believe that the work done so far, with the meetings held in Washington with the good offices of the Secretary General of the OAS, augur well for a beneficial and orderly process of political dialogue that will result in a definitive settlement of the differences that still, at the dawn of the 21st century, unfortunately divide and distract us.

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I sincerely hope that the meeting at ministerial level scheduled to commence in Washington on 17 July will bear fruit. In accordance with our professed intention to make our positions known, I am copying this letter to the Secretary General of the OAS and to the co-facilitator named by Belize. As soon as I learn from you the name of your own appointee as co-facilitator I will also copy the letter to that person.

As a matter of course, I am by copy of this letter also keeping the Secretary General of the United Nations Organization informed of the present state of affairs in our relations.

Please accept, Your Excellency, the assurances of my highest consideration!


HON. SAID W. MUSA
PRIME MINISTER
MINISTER OF FOREIGN AFFAIRS

H.E. Gabriel Orellana Rojas
Minister of Foreign Affairs
Guatemala City
Guatemala, C.A

SWM/gsb